

**LOURDES PEÑA QUA, ASSISTED BY HER HUSBAND, JAMES QUA,
PETITIONER, VS. THE HONORABLE COURT OF APPEALS (SECOND
DIVISION), CARMEN CARILLO, EDUARDO CARILLO, JOSEPHINE
CARILLO, REBEC...**

G.R. No. 95318. June 11, 1991

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

This case deals with the issue of whether or not private respondents possess the status of agricultural tenants entitled to, among others, the use and possession of a home lot.

Respondent Court of Appeals,[1] in denying due course to the petition for certiorari filed by petitioner, stated the antecedents of this case in the lower courts as follows:

x x x (O)n July 17, 1986, petitioner Lourdes Peña Qua filed a complaint for ejectment with damages against private respondents claiming that she is the owner of a parcel of residential land, Lot No. 2099 of the Malinao Cadastre, situated at Poblacion, Tinapi, Malinao, Albay, with an area of 346 square meters, which is registered in her name under TCT T-70368; that inside the land in question is an auto repair shop and three houses, all owned by private respondents; and that said respondents' stay in the land was by mere tolerance and they are in fact nothing but squatters who settled on the land without any agreement between her (sic), paying no rents to her nor realty taxes to the government.

In their answer, private respondent Carmen Carillo, surviving spouse of the late Salvador Carillo (and [respectively the] mother and mother-in-law of the other [private] respondents), alleged that the lot in question is a farm lot [home lot] because she and her late husband were tenants of the same including the two other lots adjoining the lot in question, Lots No. 2060 and 2446, which also belong to petitioner; that as tenants; they could not just be ejected without cause; that it was not petitioner who instituted them as tenants in the land in question but the former owner, Leovigildo Peña, who permitted the construction of the auto repair shop, the house of Carmen Carillo and the other two houses.

After trial, the Municipal Court [found private respondents to be mere squatters and] rendered judgment[2] ordering x x x [them] to vacate and remove their houses and [the] auto repair shop from the lot in question and to pay the petitioner attorney's fees and a monthly rental of P200.00.

On appeal to respondent [Regional Trial] Court, the judgment was modified by ordering the case dismissed [insofar as] Carmen Carillo [was concerned being qualified as an agricultural tenant and] declaring that the home lot and her house standing thereon should be respected.[3]

Believing that even private respondent Carmen Carillo does not qualify as an agricultural tenant, petitioner pursues her cause before this forum citing only one ground for the entertainment of her petition, to wit:

THAT PUBLIC RESPONDENT [Court of Appeals] COMMITTED GRAVE ABUSE OF DISCRETION
AND ACTED CONTRARY TO THE ADMITTED FACTS AND APPLICABLE JURISPRUDENCE,

AMOUNTING TO LACK OF JURISDICTION, FOR DENYING DUE COURSE TO THE PETITIONER'S CRY FOR JUSTICE AND FOR DISMISSING THE PETITION.[4]

The Court agrees and finds that respondent Court of Appeals committed a grave abuse discretion in dismissing the petition for review of the decision of the Regional Trial Court, the same being replete with inconsistencies and unfounded conclusions. Because of this jurisdictional issue raised by petitioner, the Court hereby treats this petition as a special civil action for certiorari under Rule 65 of the Rules of Court.[5]

The Regional Trial Court[6] made the following observations:

The land in question is a measly three hundred forty six (346) square meters and adjoining another two (2) lots which are separately titled having two thousand four hundred thirteen (2,413) square meters and eight thousand two hundred ninety eight (8,298) square meters - the three (3) lots having a total area of eleven thousand fifty seven (11,057) square meters, more or less, or over a hectare of land owned by the plaintiff or by her predecessors--interest.

In the 346 square meters lot stand (sic) four (4) structures, [to wit]: an auto repair shop, a house of [private respondent] Carmen Carillo and two (2) other houses owned or occupied by the rest of the [private respondents] x x x; in other words, the [private respondents] almost converted the entire area as their home lot for their personal aggrandizement, believing that they are all tenants of the [petitioner].

Claimed, the defendants planted five hundred (500) coconut trees and only fifty (50) coconut trees survived in the land in question and/or in the entire area of the three lots. Such an evidence (sic) is very untruthful, unless it is a seed bed for coconut trees as the area is so limited. But found standing in the area in question or in the entire three (3) lots are only seven (7) coconut trees, the harvest of which is [allegedly] 2/3 share for the [petitioner] and the 1/3 share for the [private respondents]. The share, if ever there was/were, could not even suffice [to pay] the amount of taxes of the land (sic) paid religiously by the [petitioner] yearly.[7] (Emphasis supplied.)

It is clear from the foregoing that the source of livelihood of private respondents is not derived from the lots they are allegedly tenancing. This conclusion is further supported by private respondent Carmen Carillo's assertion that the auto repair shop was constructed with the consent of petitioner's predecessor-in-interest for whom her husband served as a driver-mechanic.[8]

From private respondents' manner of caring for the lots, it is also apparent that making the same agriculturally viable was not the main purpose of their occupancy, or else they should have immediately replanted coconut trees in place of those that did not survive. Indeed, the location of their auto repair shop being near the poblacion and along the highway, private respondents chose to neglect the cultivation and propagation of coconuts, having earned, through the automobile repair shop, more than enough not only for their livelihood but also for the construction of two other dwelling houses thereon. It is also intimated by the Regional Trial Court that there is no direct evidence to confirm that the parties herein observed the sharing scheme allegedly set-up between private respondents and petitioner's predecessor-in-interest.

Notwithstanding the foregoing indicia of a non-agricultural tenancy relationship, however, the Regional Trial Court decided in favor of private respondent Carmen Carillo and ruled, thus:

In View of the Foregoing, and Premises considered, the Court renders Judgment:

1. Ordering defendants, namely: Eduardo Carillo, Josephine P. Carillo, Rebecca Carillo, Maria Cepres, Cecilio Cepres and Salvador Carillo, Jr., to vacate and remove their two (2) houses and the auto repair shop from the premises in question, and restoring the area to the lawful owner, the herein plaintiff;
2. Ordering said six defendants to pay the plaintiff jointly and severally the amount of Four Thousand

(P4,000.00) Pesos as attorney's fees and litigation expenses;

3. Ordering said six defendants to pay plaintiff the sum of One hundred Seventy One Pesos and Thirty Six Centavos (P171.36) monthly, for the use of the area in question, commencing July 17, 1986 the date the plaintiff filed this action in Court, up to the time the defendants vacate the area in question and restore the same to the plaintiff peacefully.

4. And ordering said six (6) defendants to pay the costs proportionately.

The case against defendant, Carmen Carillo, is hereby, ordered DISMISSED. The home lot and where her house stands is respected. And without pronouncement as to its costs (sic).

IT IS SO ORDERED.[9] (Emphasis supplied.)

Without explaining why, the Regional Trial Court chose not to believe the findings of the Municipal Circuit Trial Court and instead, adopted the recommendation of the Regional Director for Region V, acting for the Secretary of the Department of Agrarian Reform, without making separate findings and arriving at an independent conclusion as to the nature of the relationship between the parties in this case. This is evident in the following excerpt of the judgment of the Regional Trial Court:

The dispositive part of the Resolution of this Civil Case No. T-1317 for Ejectment with Damages, Referral Case No. 880054 states and is quoted verbatim:

"WHEREFORE, premises considered, we are constrained to issue the following resolutions:

- 1) Certifying this case as NOT PROPER FOR TRIAL in as far as the homelot and house built thereon by the spouses Carmen Carillo (sic);
- 2) Advising the plaintiff to institute proper cause of action in as far as the auto repair shop and the two (2) houses erected on her landholdings by the children of tenant-farmer Salvador Carillo since they appear as not the lawful tenants thereat.

SO RESOLVED.

x x x x x x x x"

From the foregoing dispositive part of the resolution penned down by the Regional Director, it defines and explains the status of each of the defendants.[10]

Time and again, the Court has ruled that, as regards relations between litigants in land cases, the findings and conclusions of the Secretary of Agrarian Reform, being preliminary in nature, are not in any way binding on the trial courts[11] which must endeavor to arrive at their own independent conclusions.

Had the Regional Trial Court hearkened to this doctrine, proceeded to so conduct its own investigation and examined the facts of this case, a contrary conclusion would have been reached, and the findings of the Municipal Circuit Trial Court, sustained, particularly when the circumstances obtaining in this case are examined in the light of the essential requisites set by law for the existence of a tenancy relationship, thus: (1) the parties are the landowner and the tenant; (2) the subject is agricultural land; (3) the purpose is agricultural production; and (4) there is consideration.[12] It is also understood that (5) there is consent to the tenant to work on the land, that (6) there is personal cultivation by him and that the consideration consists of sharing the harvest.[13]

It is contended by petitioner that the parcel of land occupied by private respondents, Lot No. 2099, with an area of only 346 square meters is residential in nature, being situated near the poblacion of Malinao, Albay, and as

evidenced by the tax declaration obtained by petitioner to this effect. Indeed, the municipal trial court judge ordered the ejectment of the private respondents on this basis. On the other hand, private respondents aver that the lot is agricultural being bounded by two other agricultural lands planted to coconuts titled in the name of petitioner and all three parcels being cultivated by them.

The Court is not prepared to affirm the residential status of the land merely on the basis of the tax declaration, in the absence of further showing that all the requirements for conversion of the use of land from agricultural to residential prevailing at the start of the controversy in this case have been fully satisfied.[14]

Be that as it may and recognizing the consent to the presence of private respondents on the property as given by petitioner's predecessor-in-interest, the situation obtaining in this case still lacks, as discussed earlier, three of the afore-enumerated requisites, namely: agricultural production, personal cultivation and sharing of harvests.

The Court reiterates the ruling in *Tiongson v. Court of Appeals*,[15] that

All these requisites are necessary in order to create tenancy relationship between the parties and the absence of one or more requisites do (sic) not make the alleged tenant a de facto tenant as contradistinguished from a de jure tenant. This is so because unless a person has established his status as a de jure tenant, he is not entitled to security of tenure nor is he covered by the Land Reform Program of the Government under existing tenancy laws.

Under the foregoing, private respondent Carmen Carillo is not entitled to be considered an agricultural tenant. Therefore, she may be not allowed the use of a home lot, a privilege granted by Section 35 of Republic Act No. 3844, as amended, in relation to Section 22 (3) of Republic Act No. 1199, as amended,[16] only to persons satisfying the qualifications of agricultural tenants of coconut lands.

WHEREFORE, the petition is GRANTED. The decision of respondent Court of Appeals is hereby SET ASIDE and a new one is issued REINSTATING the decision of the Municipal Circuit Trial Court of Malinao-Tiwi, Albay, Fifth Judicial Region dated 19 August 1987. No pronouncement as to costs.

SO ORDERED.

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] Second Division composed of Justices Jose A. R. Melo, Chairman, Antonio M. Martinez and Nicolas P. Lapeña, Jr., members. The latter was the ponente.

[2] See Rollo, p. 25. The decision was penned by the Hon. Juan C. Guillermo, Municipal Circuit Trial Court, Fifth Judicial Region, Albay.

[3] Rollo, pp. 45-46.

[4] Rollo, p. 10.

[5] *Dentech Manufacturing Corporation v. NLRC*, G.R. No. 81477, April 19, 1989, 172 SCRA 588.

[6] Branch 17, Regional Trial Court, Fifth Judicial Region, with the Hon. Milagros J. B. Marcaida, presiding.

[7] Rollo, pp. 30-31.

[8] Rollo, pp. 29-30.

[9] Rollo, p. 33

[10] Rollo, p. 31.

[11] See *De la Cruz v. Bautista*, G.R. No. 39695, June 14 1990, 186 SCRA 517, and the cases cited therein.

[12] *Hilario v. Intermediate Appellate Court*, G.R. No. 70736, March 16, 1987, 148 SCRA 573.

[13] See note 11, *supra*. See also *Caballes v. Department of Agrarian Reform*, G.R. No. 78214, December 5, 1988, 168 SCRA 247.

[14] See MAR Memorandum-Circular No. 11-79, Series of 1979, entitled "Guidelines Governing Conversion of Private Agricultural lands to Non-Agricultural Purposes or to Change/Shift to Other Agricultural Uses," in relation to Section 36 (1) of Republic Act 3844, as amended, which provides:

Section 36. Possession of landholding; exceptions. - Notwithstanding any agreement as to the period or future surrender of the land, an agricultural lessee shall continue in the enjoyment and possession of his landholding except when his dispossession has been authorized by the Court in a judgment that is final and executory if after due hearing it is shown that:

1) The landholding is declared by the department head upon recommendation of the National Planning Commission to be suited for residential, commercial, industrial or some other urban purposes: Provided, That the agricultural lessee shall be entitled to disturbance compensation equivalent to five times the average of the gross harvests on his landholding during the last five preceding calendar years;

xxx xxx xxx

[15] No. 62626, July 18, 1984, 130 SCRA 482, reiterated in *Hilario*, *supra* and *Caballes*, *supra*.

[16] Section 35, R.A. No. 3844, as amended, also known as the Code of Agrarian Reforms of the Philippines, provides:

Section 35. Exemption from leasehold of other kinds of lands. - Notwithstanding the provisions of the preceding Sections, in the case of fishponds, saltbeds, and lands principally planted to citrus, coconuts, cacao, coffee durian, and other similar permanent trees at the time of the approval of this Code, the consideration, as well as the tenancy system prevailing, shall be governed by the provisions of Republic Act Numbered Eleven hundred and ninety-nine, as amended. (Emphasis supplied.)

On the other hand, Section 22(3) of Republic Act No. 1199, as amended, also known as the Agricultural Tenancy Act of the Philippines, provides:

Sec. 22. Rights of the Tenant: --

x x x x x x x x

(3) The tenant shall have the right to demand for a home lot suitable for dwelling with an area of not more than 3 per cent of the area of his landholding provided that it does not exceed one thousand square meters and that it shall be located at a convenient and suitable place within the land of the landholder to be designated by the latter where the tenant shall construct his dwelling and may raise vegetables, poultry, pigs and other animals and engage in minor industries, the products of which shall accrue to the tenant exclusively. The tenant's dwelling shall not be removed from the lot already assigned to him by the landholder, except as provided in section twenty-six unless there is a severance of the tenancy relationship between them as provided under section nine, or unless the tenant is ejected for cause, and only after the expiration of forty-five days following such severance of relationship or dismissal for cause.

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