

**EUTQUIANO PAGARA, ALEJANDRO BUTOHAN, JUANITO ARJA,
REMIGIO SARONA, BALDOMERO MONTALBO, RAYMUNDO MUNOZ,
BERNARDO LIMBAGA, ANDRES PROCORATO, CRISPOLO AMAGA,
EUTQUIO AMATANIS, SE...**

G.R. No. 96882. March 12, 1996

Ponente: VITUG, J.

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VITUG, J.:

The Court of Appeals, in its resolution of 18 October 1990, denied due course to the special civil action of certiorari interposed to it by petitioners assailing the decision of the Regional Trial Court of Pagadian City, Branch 18,[1] that ordered petitioners to vacate the parcels of land here in dispute and the cancellation of the Operation Land Transfer ("OLT") Certificates of Title issued to them by the Department of Agrarian Reform ("DAR").

The instant petition for review on certiorari questions the above resolution[2] of the appellate court.

In 1967, private respondents acquired from Santiago Ceniza parcels of land, each with an average area of five (5) hectares, in Taguitic, Aurora, Zamboanga del Sur, evidenced by transfer certificates of title. Originally, the parcels were part of a large tract of land covered by Original Certificate of Title No. P-9515. The property was later subdivided into twenty-four (24) sub-lots under Subdivision Plan (LRC) Psd-187203 which, on 10 September 1973, was approved by the Land Registration Commission.

On 22 December 1973, the Department of Agrarian Reform, through a certain Honorio Tequero, sent a telegram to private respondent Jorge C. Paderanga informing him that the several parcels had been placed under the Operation Land Transfer of the Land Reform Program of the government. In February 1974, a parcellary map was prepared by the Department of Agrarian Reform in collaboration with the Bureau of Lands. Forthwith, the parcels were adjudicated to private petitioners and corresponding OLT certificates were issued to them.

Private respondents thereupon filed their complaint with the then Ministry of Agrarian Reform office in Pagadian City and Molave, Zamboanga del Sur, vehemently contesting the issuance of the OLT certificates. On 23 October 1978, after the local agency had failed to act on the protest, private respondents elevated their case to the Minister of Agrarian Reform. The matter remained pending with the agency.

On 03 September 1986, private respondents finally decided to file a complaint against petitioners before the Regional Trial Court of Pagadian City to regain possession of the parcels of land, as well as for the annulment and/or cancellation of the OLT certificates, and for recovery of damages. Private respondents averred that private petitioners were mere "opportunistic and/or squatters" who took advantage of the government's operation land transfer program; that private petitioners were not qualified under the program with each of them already owning over four (4) hectares of agricultural land; that, not being tenanted, the land was not covered by the land reform program and thus beyond the jurisdiction of the Ministry of Agrarian Reform; and that, even assuming that private

petitioners were tenants, the property should still be deemed excluded from the program since the parcels of land averaged less than five (5) hectares each.

Petitioners moved for the dismissal of the complaint due allegedly to the failure of private respondents "to (first) refer the matter to the Department of Agrarian Reform." The motion was denied by the trial court. Petitioners thereupon filed their answer reiterating, by way of affirmative defenses, the grounds that they relied on in their motion to dismiss.

The court found for private respondents and, on 26 March 1990, it rendered a decision disposing of the case; thus:

"WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against the defendants:

"1. Ordering the defendants to vacate and relinquish their respective possessions over the lands subject of this case to the plaintiffs and to pay yearly rentals of 18 cavans of palay or its equivalent based on the government support price for every hectare from the filing of this complaint on August 25, 1986, and until the said possession is returned to the plaintiffs;

"2. Ordering the Secretary of Department of Agrarian Reform to cancel the OLT Certificates as issued to the defendants;

"3. Ordering the Registry of Deeds of Zamboanga del Sur to cancel the annotations of the OLT liens in the titles of the plaintiffs over the lands subject of this case;

"4. Ordering the defendants Eutiquiano Paraga, Juanito Aroja and Alejandro Butohan to pay the plaintiffs the value of the coconut trees, approximately 150 coconut trees, cut or uprooted at P150.00 per tree;

"5. Ordering the defendants to jointly and severally pay attorney's fees of P10,000.00, plus expenses of litigation in the amount of P10,000.00, and to pay the costs.

"SO ORDERED." [3]

Grappling initially with the issues raised in the affirmative defenses, the lower court ruled (a) that private respondents had substantially complied with the requirement of having the case first referred to the Department of Agrarian Reform, and (b) that the latter's recommendatory resolution that found the existence of a tenant-landlord relationship was not binding on the court, citing *Graza vs. Court of Appeals*, [4] as well as the last paragraph of Section 2 of Presidential Decree No. 1038 providing that-

"The preliminary determination of the relationship between the contending parties by the Secretary of Agrarian Reform, or his authorized representative, is not binding upon the court, judge or hearing officer to whom the case is certified as a proper case for trial. Said court, judge or hearing officer may, after due hearing, confirm, reverse or modify said preliminary determination as the evidence and substantial merits of the case may warrant."

The lower court went on to hold that private petitioners, having failed to prove the existence of a tenancy relationship with private respondents, as well as their membership in the Samahang Nayon, were disqualified from the land reform program. In the case of petitioners Pagara, Mapa and Torres, furthermore, the court said that they were also disqualified as beneficiaries for being themselves owners of other agricultural lands.

A copy of the court's decision was received on 03 April 1990 by private petitioners. A motion for its reconsideration [5] was denied in the court's order of 15 May 1990 which private petitioners received on 28 May 1990. A notice of appeal was filed by public petitioner on 14 May 1990 and that of private petitioners on 15 May 1990. The notices of appeal were both denied in two separate orders, dated 30 May 1990 and 31 May 1990, of the court for having been filed out of time.

Upon motion of private respondents to have the structures found on the property removed or demolished, the lower court, on 29 August 1990, issued a writ of demolition. The Sheriff's Report, dated 27 September 1990, would show that the writs of execution and of demolition were satisfied except for the payment of rentals and other money judgments awarded to private respondents. On 26 September 1990, the OLT liens annotated on the titles of private respondents were voided. Likewise cancelled were the OLT certificates issued to private petitioners by the Secretary of Agrarian Reform through the Zamboanga del Sur Agrarian Reform Office.

Petitioners sought the extraordinary remedy of certiorari before the respondent Court of Appeals (CA-G.R. SP No. 23111). On 18 October 1990, however, the appellate court dismissed the petition for its failure to comply with the requirement set forth in Section 2, Rule 6, of the Revised Internal Rules^[6] of the Court of Appeals and for its lack of sufficient legal basis. The appellate court held that the court a quo had lawfully acquired jurisdiction over the case for recovery of possession and annulment of titles.

There is no merit in the instant petition for review on certiorari.

Petitioners, proceeding from the premise that a tenancy relationship existed between the private parties, would posit that the court of origin was devoid of jurisdiction and thus all its acts, including the issuance of the writs of execution and demolition, were null and void on the basis of Section 12^[7] of P.D. No. 946 which withdrew from regular courts jurisdiction over issues relating to the administrative implementation of land-transfer under P.D. 27, along with its amendatory and related laws, and conferred the matter on the Department of Agrarian Reform whose authority, petitioners added, remained unaffected by the passage of Batas Pambansa Blg. 129 or the Judiciary Reorganization Act of 1981. Moreover, petitioners averred, the lower court was in error when it applied the Rules of Court in holding that the notices of appeal were filed out of time.

It should be said at the outset that the present petition can outrightly be discarded (a) for its failure to have a verified statement of material dates and an affidavit of service in violation of Circular No. 1-88,^[8] and (b) because of the pendency of another petition with the Court of Appeals (docketed CA-G.R. SP No. 23993), filed by petitioners, for annulment of the same decision of the lower court in disregard of No. 17 of the Interim Rules which prohibits forum-shopping.^[9]

Even on merits, the instant petition must still be denied.

The primordial issue is whether or not the Regional Trial Court has acquired jurisdiction to take cognizance of the action taken by private respondents against petitioners.

Section 12 of Presidential Decree No. 946,^[10] promulgated on 17 June 1976, expressed the original and exclusive jurisdiction of the Court of Agrarian Relations.^[11] On 14 August 1981, the Judiciary Reorganization Act of 1980, also known as Batas Pambansa Blg. 129, took effect and vested on Regional Trial Courts exclusive original jurisdiction in all civil actions and special proceedings theretofore falling under the exclusive original jurisdiction of the Court of Agrarian Relations.^[12] When, accordingly, the complaint was filed by private respondents on 03 September 1986, jurisdiction thereover was already and appropriately with the Regional Trial Court.^[13]

Petitioners assail, nevertheless, the exercise of jurisdiction by the court a quo on the ground of non-exhaustion of administrative remedies and for failure to secure a referral from the Secretary of Agrarian Reform pursuant to Section 12 of P.D. 946. The court, however, has correctly pointed out that-

"The rule regarding exhaustion of administrative remedies is not a hard and fast rule. It is not applicable (1) where the question in dispute is purely a legal one, or (2) where the controverted act is patently illegal or was performed without jurisdiction or in excess of jurisdiction; or (3) where the respondent is a department

secretary, whose acts as an alter ego of the President bear the implied or assumed approval of the latter, unless actually disapproved by him, or (4) where there are circumstances indicating the urgency of judicial intervention, - *Gonzales vs. Hechanova*, L-21897, October 22, 1963, 9 SCRA 230; *Abaya vs. Villegas*, L-25641, December 17, 1966, 18 SCRA; *Mitra vs. Subido*, L-21691, September 15, 1967, 21 SCRA 127.

"Said principle may also be disregarded when it does not provide a plain, speedy and adequate remedy, (*Cipriano vs. Marcelino*, 43 SCRA 291), when there is no due process observed (*Villanos vs. Subido*, 45 SCRA 299), or where the protestant has no other recourse (*Sta. Maria vs. Lopez*, 31 SCRA 637).

"The foregoing jurisprudence when applied to the case at bar will point out that exhaustion of administrative remedies is not applicable. First, the issue of tenancy involves legal questions as 'tenancy is not purely factual relationship dependent on what the alleged tenants does upon the land, but it is also a legal relationship' (*Tuazon vs. Court of Appeals*, 118 SCRA 484). Second, one of the principal respondents herein is the Secretary of Agrarian Reform who acts as the alter ego of the President, and whose act of issuing land transfer certificate is the subject matter of this case. Third, plaintiffs' claims of denial of due process in the issuance of the land transfer certificates finds merit in this case for it was only after the certificates were issued that they were able to protest. Finally, there is an exhaustive presentation of evidence that plaintiffs availed of the administrative processes, (testimonies of Attys. Jorge and Goering Paderanga and exhibits 'J', 'K', 'L', 'L-1' to 'L-3' and 'L-4' to 'L-11' that fourteen (14) years had already elapsed and the Department Secretary had not yet resolved plaintiffs' protest leaving plaintiffs with no other recourse but to seek the relief of this Court as there is no other plain, speedy and adequate remedy in law." [14]

Relative to the question of prior referral to the Department of Agrarian Reform, it would appear that there was substantial compliance with the requirements of P.D. 946. In fact, Exhibit 6 is a resolution of the DAR Regional Director, finding, although recommendatory in nature, a tenancy relationship between the parties.

Having arrived at the foregoing conclusions, the Court need not further delve on the other issues raised by the parties.

WHEREFORE, the petition is DENIED. Costs against petitioner.

SO ORDERED.

Padilla, Bellosillo, Kapunan, and Hermosisima, Jr., JJ., concur.

[1] Presided by Judge Fausto H. Imbing.

[2] Penned by Associate Justice Luis L. Victor and concurred in by Associate Justices Vicente V. Mendoza and Segundino Chua.

[3] Rollo, p. 42.

[4] 163 SCRA 39.

[5] According to petitioners, their motion for reconsideration was filed on 17 April 1990. However, the court order denying said motion states that it was dated 27 April 1990, which means it could not have been filed on an earlier date (Rollo, p. 43).

[6] Sec. 2. Special Civil Action. - Original verified petitions for certiorari, prohibition, mandamus, habeas corpus, quo warranto and other writs maybe filed in the Court of Appeals.

Except in cases involving execution of judgment pending appeal, the verification of petitions for certiorari, prohibition, mandamus, habeas corpus, quo warranto and other writs shall include a certification that no other

similar petition involving the same subject matter has been previously filed, withdrawn or dismissed in the Supreme Court or in the Court of Appeals.

a. What Should be Filed. - The petition shall be filed in seven (7) legible copies and a copy thereof shall be served on each of the respondents, and must be accompanied by a certified true copy of the decision or order complained of and true copies of the pleadings and other pertinent documents and papers. (As amended by S. Ct. Res., dated November 24, 1992)

b. Processing of Petition. -The provisions of Section 1(b) of this rule shall apply to petitions in special civil actions.

c. Judicial Action. - The Court may either deny due course or dismiss the petition outright, or require the private respondent or respondents to comment on the petition, or give due course thereto.

(1) If the petition is denied due course or dismissed outright, the reasons for such dismissal shall be stated in a resolution. If the resolution is reconsidered, the subsequent disposition shall be embodied in an amended resolution. (As amended by S. Ct. Res., October 20, 1988)

(2) The Court may, without giving due course to the petition, require the private respondent to comment within ten (10) days from notice.

(3) If the petition is given due course, the private respondent shall be required to answer the petition within ten (10) days from receipt of notice which shall be served on the respondent either by personal service when he is easily accessible or otherwise by registered mail and to serve a copy of his answer on the petitioner. The public respondent shall be served a copy of the petition but need not file an answer unless so required by the Court.

(4) After the expiration of the period for filing the answer or the reply, the case shall be deemed submitted for resolution. (As amended by S. Ct. Res., October 20, 1988).

(5) If it appears that there is need for reception of evidence, the Division to which the Justice to whom the case is assigned for study and report belongs shall conduct the hearing. The Division shall have the power to perform any acts necessary to resolve the factual issues raised in the case.

[7] SEC. 12. Jurisdiction over Subject Matter. - The Courts of Agrarian Relations shall have original and exclusive jurisdiction over:

(a) Cases involving the rights and obligations of persons in the cultivation and use of agricultural land except those cognizable by the National Labor Relations Commission; Provided, That no case involving the determination of rentals over any kind of tenanted agricultural land shall be taken cognizance of by the Courts of Agrarian Relations unless there has been a prior fixing of provision rental by the Department of Agrarian Reform, except that the tenant-farmer may directly bring the case for immediate determination by the Courts of Agrarian Relations.

(b) Questions involving rights granted and obligations imposed by laws, Presidential Decrees, Orders, Instructions, Rules and Regulations issued and promulgated in relation to the agrarian reform program;

Provided, however, That matters involving the administrative implementation of the transfer of the land to the tenant-farmer under

Presidential Decree No. 27 and amendatory and related decrees, orders, instructions, rules and regulations, shall be exclusively cognizable by the Secretary of Agrarian Reform, namely:

(1) classification and identification of landholdings;

- (2) identification of tenant-farmers and landowners, and determination of their tenancy relationship;
- (3) parcellary mapping;
- (4) determination of the total production and value of the land to be transferred to the tenant-farmer;
- (5) issuance, recall or cancellation of certificates of land transfer in cases outside the purview of Presidential Decree No. 816;
- (6) right of retention of the landowner;
- (7) right of the tenant-farmer to a home lot;
- (8) disposition of the excess area in the tenant's farmholding;
- (9) change of crop from rice and/or corn to any other agricultural crop;
- (10) issuance of certification for the conversion of tenanted rice and/or corn land for residential, commercial, industrial, or other urban purposes, it being understood that the authority to issue certificates for conversion of other kinds of tenanted agricultural land for the same purposes remains vested in the Secretary of Agrarian Reform;
- (11) transfer, surrender or abandonment by the tenant-farmer of his farmholding and its disposition; and
- (12) increase of tillage area by a tenant-farmer;

Provided, further, That the decision of the Secretary of Agrarian Reform may be appealed to the President of the Philippines.

(c) Cases involving the collection of amortizations on payments for lands acquired under Presidential Decree No. 27, as amended, Commonwealth Act Numbered twenty, as amended, Commonwealth Act Numbered five hundred thirty-nine, as amended, Republic Act Numbered eleven hundred and sixty, as amended, Republic Act Numbered fourteen hundred, as amended, Republic Act Numbered thirty-eight hundred and forty-four, as amended, and other related laws, decrees, orders, instructions, rules and regulations, as well as payment for residential, commercial and industrial lots within the settlement and resettlement areas under the administration and disposition of the Department of Agrarian Reform;

(d) Cases involving collection of amortizations on payments for farm machineries and implements distributed and sold by the Department of Agrarian Reform and the Land Bank of the Philippines to tenant-farmers, agricultural lessees, settlers, owner-cultivators, amortizing owner-cultivators, the Samahang Nayon, compact farms, farmers' cooperatives, and other registered farmers' associations or organizations, as well as payment for indebtedness of settlers by reason of the assistance given them by the Department of Agrarian Reform in the form of seeds, work animals, houses, subsistence, transportation, medicines, farm implements, tools, and the like;

(e) Cases involving collection of amortizations on payments for irrigation systems and/or water rights grants, as well as irrigation fees, charge and/or rentals;

(f) Cases involving collection of rentals on agricultural lands leased by the Department of Agrarian Reform or Land Bank and collection of agricultural loans granted to tenant-farmers, agricultural lessees, settlers, owner-cultivators, amortizing owner-cultivators, the Samahang Nayon, compact farms, farmers' cooperatives and other registered farmer associations or organizations;

(g) Cases involving the annulment or rescission of lease contracts and deeds of sale, and the cancellation or amendment of titles pertaining to agricultural lands under the administration and disposition of the Department of

Agrarian Reform and the Land Bank, as well as emancipation patents issued under Presidential Decree No. 266, homestead patents, free patents, and miscellaneous sales patents to settlers in settlement and resettlement areas under the administration and disposition of the Department of Agrarian Reform;

(h) Cases involving boundary disputes over lands under the administration and disposition of the Department of Agrarian Reform and the Land Bank, which are transferred, distributed and/or sold to tenant-beneficiaries and are covered by deeds of sale, patents and certificates of titles;

(i) Cases arising out of, or in connection with, membership in the Samahang Nayon, compact farms, farmers' cooperatives and other registered farmers' associations or organizations, and the rights and obligations arising from such membership;

(j) Cases arising directly or indirectly between corporations or Partnerships covered by General Order No.47 and tenant-farmers, agricultural lessees, settlers, owner-cultivators, amortizing owner-cultivators, the Samahang Nayon, compact farms, farmers' cooperatives, and other registered farmers' associations or organizations, and between such corporation or partnerships and other corporations, partnerships, associations or single proprietorships where the question involved affects the rights and interests of the persons herein mentioned;

(k) Cases involving the determination of title to agricultural lands where this issue is raised in an agrarian dispute by any of the parties or a third person in connection with the possession thereof for the purpose of preserving the tenure of the agricultural lessee or actual tenant-farmer and effecting the ouster of the interloper or intruder in one and the same proceeding;

(l) Cases involving the sale, alienation, mortgage foreclosure, preemption and redemption of tenanted agricultural land;

(m) Cases involving expropriation of all kinds of land in furtherance of the agrarian reform program;

(n) Expropriation proceedings for public purpose of all kinds of tenanted agricultural land, whether instituted by the State, its political subdivisions and instrumentalities, or corporations and entities authorized by law to expropriate;

(o) Cases involving acquisition by the Department of Agrarian Reform of irrigation systems and/or water rights grants for the benefit of tenant-farmers, agricultural lessees, settlers, owner-cultivators, amortizing owner-cultivators, the Samahang Nayon, compact farms, farmers' cooperatives, and other registered farmers' associations or organizations, the Department of Agrarian Reform being hereby vested with the authority to construct irrigation systems and apply for water rights grants for the purpose herein provided;

(p) Ejectment proceedings instituted by the Department of Agrarian Reform and the Land Bank involving lands under their administration and disposition, except urban properties belonging to the Land Bank;

(q) Cases involving violations of the penal provisions of Republic Act Numbered eleven hundred and ninety-nine, as amended, Republic Act Numbered thirty eight hundred and forty-four, as amended, Presidential Decrees and laws relating to agrarian reform; Provided, however, That violations of the said penal provisions committed by any Judge shall be tried by the courts of general jurisdiction; and r) Violations of Presidential Decrees Nos. 815 and 816.

No tenant-farmer in agricultural lands primarily devoted to rice and! or corn shall be ejected or removed from his farmholding until such time as the respective rights of the tenant-farmer and the landowner shall have been determined in accordance with the rules and regulations implementing Presidential Decree No. 27.

No Judge of the Courts of Agrarian Relations, Courts of First Instance, municipal or city courts, or any other

tribunal or fiscal shall take cognizance of any ejectment case or any other case designed to harass or remove a tenant of an agricultural land primarily devoted to rice and/or corn, unless certified by the Secretary of Agrarian Reform as a proper case for trial or hearing by a court or judge or other officer of competent jurisdiction, and if any such case is filed, the case shall first be referred to the Secretary of Agrarian Reform or his authorized representative in the locality for a preliminary determination of the relationship between the contending parties. If the Secretary of Agrarian Reform or his authorized representative in the locality finds that the case is a proper case for the Court or Judge or other hearing officer to hear, he shall so certify and such court, Judge or other hearing officer may assume jurisdiction over the dispute or controversy.

The preliminary determination of the relationship between the contending parties by the Secretary of Agrarian Reform or his authorized representative, is not binding upon the court, Judge or hearing officer to whom the case is certified as a proper case for trial. Said court, Judge or hearing officer, after hearing, may confirm, reverse or modify said preliminary determination as the evidence and substantial merits of the case may warrant.

[8] Circular No. 19-91, which was issued on 13 August 1991 after the petition here was filed, explicitly requires that "(I)f service is made by registered mail, proof shall be made by such affidavit and the registry receipt issued by the mailing office."

[9] Circular No. 28-91, which was issued on 03 September 1991 subsequent to the filing of the petition at bench, expressly requires a certification under oath from the petitioner that he has not commenced any other action or proceeding involving the same issues in any other court.

[10] Reorganizing the Courts of Agrarian Relations, Streamlining their procedures, and for Other Purposes.

[11] See Footnote No. 6.

[12] Section 19, paragraph 7.

[13] Jurisdiction should be determined by the statute in force at the time of the commencement of the action. (Philippine-Singapore Ports Corporation vs. National Labor Relations Commission, 218 SCRA 79).

[14] Rollo, pp. 35-36.

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