

**LEONIDA LANTICAN AND JOSELITO DE LA PEÑA, PETITIONERS, VS.
THE HONORABLE COURT OF APPEALS, SIXTH DIVISION, DURANTE L.
UBEDA AND GAUDENCIA MERCADO VDA. DE LA PEÑA,
RESPONDENTS.**

G.R. No. 97929. October 22, 1993

Ponente: ROMERO, J.

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ROMERO, J.:

Petitioners Leonida Lantican and Joselito de la Peña filed this petition for review on certiorari of a decision^[1] of the Court of Appeals affirming the order of the Regional Trial Court dismissing the petition for prohibition filed by herein petitioners.

The antecedent facts of the case are as follows:

On February 25, 1986, Marcos de la Peña died leaving behind him his wife, private respondent Gaudencia Mercado and daughter Camila de la Peña, on the one hand, and his common law wife petitioner Leonida Lantican, and children Joselito (co-petitioner), Abella, Cornelio, Diomedes and Simeon, all surnamed de la Peña, on the other. At the time of his death, he was a tenant on a riceland owned by one Rufina Lim and was about to be issued a Certificate of Land Transfer. Rufina Lim chose Gaudencia Mercado as the successor to the land, which choice was opposed by petitioners. The controversy as to who had a better right over the land was brought by Camila de la Peña before the Agrarian Reform District Office which recommended that the disputants divide the land equally between them. However, the Department of Agrarian Reform through Minister Heherson Alvarez, in an order dated May 13, 1986, ruled that Gaudencia Mercado had the sole right to be the beneficiary of the Certificate of Land Transfer.

To enforce the above order, private respondent Gaudencia Mercado and Rufina Lim filed Civil Case No. 987-86-C before Branch 36 of the Regional Trial Court of Laguna.

On the other hand, Leonida Lantican and Joselito de la Peña filed a motion to set aside the above order on the ground that, not only is it contrary to the actual facts relative to the land in question but it is not supported by the evidence and the applicable law. Moreover, there seemed to be undue and startling haste in the implementation of said order which would, in effect, violate legal and established rules of procedure. This motion was dismissed for lack of merit on February 13, 1987.

On March 16, 1987, petitioners filed a motion for reconsideration of the above order on the ground that the Department of Agrarian Reform had no jurisdiction over the case. On January 8, 1988, the DAR issued an order denying the motion for lack of merit.

Recourse was subsequently had to the Office of the President which rendered a decision affirming the DAR orders on May 20, 1988 through Deputy Executive Secretary Magdangal Elma.

Thereafter, petitioners filed before the Supreme Court a petition for certiorari and prohibition docketed as G.R. No. 83925, entitled Leonida Lantican, et al. v. The Honorable Magdangal B. Elma, et al. raising the following issue:

"Whether or not it is the Regional Trial Courts taking over the functions of the defunct Courts of Agrarian Reform that has jurisdiction over the subject matter of the present case and whether or not petitioners are in estoppel in not invoking the issue of jurisdiction in the first instance, i.e., when they filed their motion to set aside the May 13, 1986 order." [2]

On January 30, 1989, the Supreme Court issued a resolution dismissing the petition, hereunder quoted to wit:

"The initial issue in this case was - who should be substituted for a tenant farmer as beneficiary of a certificate of land transfer (CTA) in the event of his death - his legitimate widow from whom he was separated or the 'common law wife' with whom he lived while farming the land?

The petitioners question the jurisdiction of the Department of Agrarian Reform (DAR) to resolve this issue. The public respondents point out that P.D. 946 vests exclusive authority in the DAR to ascertain who should be issued CTAs; that 'surviving spouse' under Republic Act 3844 means the legitimate spouse and not a 'common law wife', and that the petitioners themselves invoked the jurisdiction of DAR in their two motions for reconsideration where they asked for affirmative relief. Moreover, the decision of an administrative agency can be elevated for judicial review if a proper case is filed.

CONSIDERING the failure of the petitioners to show that the public respondents acted with grave abuse of discretion - the COURT RESOLVED to DISMISS the petition for certiorari and prohibition." [3]

On the basis of the statement: "Moreover, the decision of an administrative agency can be elevated for judicial review if a proper case is filed," petitioners filed before the Regional Trial Court of Laguna SP Case No. 1364-89 for prohibition with application for preliminary injunction to restrain the enforcement of the May 13, 1986 order of the DAR and for its annulment. Upon its dismissal by the RTC, it was appealed to the Court of Appeals which affirmed the same. The pertinent portion of the decision is hereby quoted, to wit:

"Nonetheless, We are affirming the dismissal of the petition for prohibition filed by appellant in the lower court on the ground that the same is barred by prior judgment. All the essential elements of res judicata are present in the instant case. It is of record that appellants filed a petition for certiorari and prohibition against the DAR officials and herein defendant appellee Mercado with the Supreme Court x x x questioning the jurisdiction of the DAR to resolve the issue as to who should be substituted for a tenant farmer as beneficiary of the certificate of land transfer in the event of his death - his legitimate widow from whom he was separated or the 'common law wife' with whom he lived while farming the land? The Supreme Court resolved to dismiss the said petition and this judgment has already become final and executory on February 23, 1989 x x x while the instant case was pending before the lower court. In view of the fact that the instant case has already been the subject of a final judgment of the Supreme Court in a similar petition between the same parties involving the same cause of action, the instant petition for prohibition must necessarily be dismissed." [4]

Petitioners now come to this Court to assail once again the jurisdiction of the DAR, arguing that there can be no res judicata because one of its elements, i.e., jurisdiction of the tribunal or agency to decide the case, was lacking.

We find no merit in this petition.

The issue regarding the jurisdiction of the DAR has long been settled by this Court in G.R. No. 83925.

It will be recalled that the issue raised by petitioners in G.R. No. 83925 was the jurisdiction of the Department of Agrarian Reform over the subject matter of the controversy. This Court resolved to dismiss the petition for failure of petitioners to prove grave abuse of discretion on the part of public respondents. In effect, we affirmed the

ruling of the DAR and its jurisdiction to issue the order. Noteworthy is our statement finding "that the petitioners themselves invoked the jurisdiction of the DAR in their two motions for reconsideration where they asked for affirmative relief." Hence they are now estopped from assailing such lack of jurisdiction.[5] Our ruling in *Abalos v. Court of Appeals*,[6] still stands, to wit:

"Once a party to a case submits to the jurisdiction of the Court and participates in the trial on the merits of the case, he cannot thereafter, upon a judgment unfavorable to his cause, take a total turn about and say that the condition precedent of compliance with P.D. 1508 has not been met. One cannot have the cake and eat it, too."

In this petition, however, petitioners assert for the first time that they could not be said to have actively participated in the proceedings before the DAR because the one who filed the Motion to Set Aside the May 13, 1986 order was not a lawyer. It is too late in the day for them to impugn the jurisdiction of the DAR. It should have been seasonably raised in the first petition for certiorari, or in a motion for reconsideration of the resolution rendered by this Court. Without taking any countervailing moves, they simply allowed the decision to become final and executory. What they did was to file another action in the trial court to assail once again the jurisdiction of the DAR and to prevent it from enforcing its order. We ruled, thus:

"Verily, there can be no dispute on the well-entrenched rule that every litigation must come to an end. Access to the Court is guaranteed. But there must be a limit to it. Once a right has been adjudicated in a valid final judgment, one should not be granted an unbridled license to come back for another try even at the risk of legal infirmities to errors that the judgment may contain.

In the same breath, the prevailing party x x x ought not to be harassed by subsequent suits. For, if endless litigations were to be encouraged, unscrupulous litigants will multiply in number to the detriment of the administration of justice."[7]

Considering the foregoing, we affirm the decision of the Court of Appeals that the action of petitioners has been barred by *res judicata*.

In filing this petition, petitioners desperately tried to circumvent our final resolution and delay the execution of the decision of the DAR to the prejudice of private respondents. We likewise frown upon the filing of the petition for prohibition with the RTC to enjoin the execution of the DAR order after this Court has pronounced that the DAR had not gravely abused its discretion in issuing the same. It is tantamount to asking a lower court to review the decision of the Highest Tribunal of the land. We cannot sanction such procedure.

WHEREFORE, the assailed decision is hereby **AFFIRMED** and this petition **DENIED** for lack of merit. This decision is immediately executory. With costs against petitioners.

SO ORDERED.

Feliciano, (Chairman), Bidin, Melo, and Vitug, JJ., concur.

[1] CA-G.R. SP No. 22024, March 21, 1991; penned by Justice Filemon H. Mendoza, concurred in by Justices Jose C. Campos, Jr. and Venancio D. Aldecoa, Jr.

[2] Rollo, p. 8.

[3] *Leonida Lantican, et al. v. Hon. Magdangal B. Elma, et al.*, G.R. No. 83925, January 30, 1989.

[4] Rollo, p. 28.

[5] See *Salen v. Dinglasan*, G.R. No. 59082, June 28, 1991, 198 SCRA 623.

[6] G.R. No. 94436, April 30, 1991, 196 SCRA 596.

[7] Shell Company of the Philippines v. Presiding Judge, G.R. No. 64149, June 19, 1991, 198 SCRA 254.

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