

THIRD DIVISION

[G.R. No. 181525, March 04, 2009]

**P'CARLO A. CASTILLO, PETITIONER, VS. MANUEL TOLENTINO,
RESPONDENT.**

DECISION

YNARES-SANTIAGO, J.:

This petition for review on certiorari assails the September 28, 2007 Decision^[1] of the Court of Appeals in CA-G.R. SP No. 88738,^[2] which declared as final and executory the January 22, 1999 Decision of the Presiding Adjudicator in DARAB Case No. IV-ORM-0064-95 and ordered the petitioner's ejectment from the subject leasehold, as well as the removal of the concrete reservoir and dike which the latter constructed thereon. Also assailed is the January 23, 2008 Resolution^[3] denying the motion for reconsideration.

The facts of the case as found by the Court of Appeals are as follows:

(*Manuel*) TOLENTINO (*herein respondent*) is the owner of two (2) parcels of agricultural land with a total area of 44,275 square meters situated at Sta. Isabel, Calapan, Oriental Mindoro and covered by Transfer Certificate of Title (TCT) No. RT-114 (T-71693) and TCT No. T-8989. He is also the administrator of another parcel of agricultural land, approximately 39,274 square meters in area owned and titled in the name of petitioner's brother Eliseo V. Tolentino.

(*Petitioner P'Carlo*) CASTILLO is an agricultural lessee of said parcels of land under an agreement that he will till and cultivate the land and pay (*TOLENTINO*) a total of eleven (11) cavaness per hectare every harvest season.

On April 25, 1995, x x x CASTILLO wrote a letter to the Provincial Agrarian Reform Office (PARO) informing the said office of (*his*) intention to construct a concrete water reservoir with a total area of 2,000 square meters together with a one-meter high dike.

x x x TOLENTINO was furnished a copy of the letter which he received three days thereafter or on April 28, 1995.

Immediately upon receipt of the letter, x x x TOLENTINO wrote the PARO informing the office of his opposition to the planned construction on the ground that it was totally unnecessary as the free-flowing well located at the said property was already a good source of irrigation and that the said permanent improvement might create problems in the future development of the property. x x x TOLENTINO prayed that the PARO disallow the proposed construction by the lessee CASTILLO of the concrete water reservoir and dike.

x x x CASTILLO, on the other (*hand*), went ahead with the construction of the reservoir and the dike.

Consequently, on May 23, 1995, x x x TOLENTINO filed a complaint for dispossession with a prayer for Preliminary Injunction and Temporary Restraining

Order (TRO) against x x x CASTILLO before the Office of the Provincial Agrarian Reform Adjudicator, Calapan, Oriental Mindoro.^[4]

In his complaint, x x x TOLENTINO averred that x x x CASTILLO's action against (*his*) express wishes and against the order of the PARO constitute nothing less than usurpation of x x x TOLENTINO's property and is an obvious conversion of the 2,000 square meter portion of the landholding for a purpose other than what had been previously agreed upon.

x x x x

Moreover, x x x TOLENTINO alleged that x x x CASTILLO owned 10.5084 hectares of agricultural land in Malvar, Naujan, Oriental Mindoro which was covered by TCT No. T-35182, thus, disqualifying lessee CASTILLO from being a beneficiary under the Comprehensive Agrarian Reform Program (CARP).

In his Reply, x x x CASTILLO alleged, as special and affirmative defenses, that (*he*) acted in good faith in the construction of the water reservoir since he firmly believed that such facilities will improve and increase productivity of the land. Lessee CASTILLO asserted that Section 26(1) of R.A. No. 3844 empowered and made it the obligation of the lessee to cultivate and take care of the farm, to grow crops and make other improvements thereon and perform all the necessary works therein in accordance with proven farm practice. Finally, x x x CASTILLO asserted that (*he*) cannot be dispossessed of the landholding except upon authorization by the court and with just cause pursuant to Sec. 31 of R.A. No. 3844, thus, he is entitled to be secure in his tenure.

On June 1, 1995, the Adjudication Board issued a temporary restraining order against x x x CASTILLO ordering him or any other person acting under his authority to desist from continuing with the construction of the water reservoir and dike on the subject landholding.

On January 22, 1999, the Presiding Adjudicator rendered a Decision ordering the ejectment of x x x CASTILLO and directing (*him*) to remove the concrete reservoir and dike.

Upon receipt of the decision, x x x CASTILLO filed on February 25, 1999 a Motion for Reconsideration of the decision and a Supplemental Motion for Reconsideration on March 24, 1999, all of which (*were*) denied. Hence, on September 27, 1999, x x x CASTILLO filed a Notice of Appeal (*to the Department of Agrarian Reform Adjudication Board, or DARAB*).

In a Decision^[5] dated February 7, 2001, x x x DARAB dismissed x x x CASTILLO's appeal and declared the January 22, 1999 Decision final and executory.

x x x x

Upon Motion for Reconsideration, however, the DARAB reversed its February 7, 2001 decision and issued the assailed Resolution dated August 28, 2002, the dispositive portion of which states:

"WHEREFORE, premises considered, the Motion for Reconsideration is hereby GRANTED. The Decision of the Adjudicator a quo dated 22 January 1999 is hereby SET ASIDE and new one is ENTERED ordering (*TOLENTINO*) to maintain (*CASTILLO*) in his peaceful possession and cultivation of the subject landholding including the 400 square meters

home lot assigned to him.

SO ORDERED."

Aggrieved, x x x TOLENTINO filed a Motion for Reconsideration which was denied in an Order dated December 29, 2004 for lack of merit.^[6] (Words in italics supplied)

TOLENTINO filed a petition for review with the Court of Appeals, which rendered the assailed September 28, 2007 Decision, the dispositive portion of which reads:

WHEREFORE, premises considered, petition is hereby GRANTED and the assailed August 28, 2002 Resolution of the Department of Agrarian Reform Adjudication Board is hereby REVERSED and SET ASIDE and a new one entered DECLARING as FINAL and EXECUTORY the January 22, 1999 decision of the Presiding Adjudicator (since notice of appeal having been filed out of time) and ORDERING the ejectment of herein private respondent lessee Pablo Carlo Castillo and directing Pablo Carlo Castillo to remove the concrete reservoir and dike, otherwise, petitioner landlord TOLENTINO may cause the removal of the reservoir and dike and bill private respondent lessee CASTILLO for reasonable expenses of removal.

SO ORDERED.^[7]

In holding that CASTILLO's September 27, 1999 notice of appeal was filed out of time, the appellate court found that:

As records indicate, x x x CASTILLO received a copy of the January 22, 1999 decision of the Provincial Adjudicator on February 12, 1999. Lessee CASTILLO filed a Motion for Reconsideration of the decision on February 25, 1999 or after the lapse of thirteen (13) days from receipt thereof. Lessee CASTILLO's Motion for Reconsideration was denied in a Resolution dated August 26, 1999 which he received on September 23, 1999. From lessee CASTILLO's receipt thereof, lessee CASTILLO has only two (2) days within which to file an appeal or until September 25, 1999 in accordance with the provisions of the Section 11 and paragraph 2 of Section 12 of Rule VIII of the DARAB New Rules of Procedure which provides as follows:

Section 11. Finality of Judgment. Unless appealed, the decision, order or ruling disposing of the case on the merits shall be final after the lapse of fifteen (15) days from receipt of a copy thereof by counsel or representative on record, or by the party himself who is appearing on his own behalf. In all cases, the parties themselves shall be furnished with a copy of the final decision.

x x x x

Section 12, paragraph 2. The filing of a motion for reconsideration shall suspend the running of the period within which the appeal must be perfected. If a motion for reconsideration is denied, the movant shall have the right to perfect the appeal during the remainder of the period for appeal, reckoned from the receipt of the resolution of the denial. If the decision is reversed on reconsideration, the aggrieved party shall have fifteen (15) days from receipt of the resolution of reversal within which to perfect his appeal.

Since private respondent lessee CASTILLO filed the appeal only on September 27, 1999, such appeal was therefore filed not within the reglementary period.^[8]

CASTILLO moved for reconsideration but it was denied. Hence, the instant petition raising the following issues:

[A]

WHETHER OR NOT THE FINDING OF THE HONORABLE COURT OF APPEALS DECLARING THAT PETITIONER HAS ONLY UNTIL SEPTEMBER 25, 1999, WHICH HAPPENS TO BE A SATURDAY, WITHIN WHICH TO FILE HIS SUBJECT NOTICE OF APPEAL IS IN ACCORDANCE WITH SECTION 1 OF RULE 22 OF THE 1997 REVISED RULES OF CIVIL PROCEDURE.

[B]

WHETHER OR NOT THE PROVISIONS OF THE 2003 DARAB NEW RULES OF PROCEDURE WHICH NOW AFFORDS AN AGGRIEVED PARTY A PERIOD OF NOT LESS THAN FIVE (5) DAYS AND NOT ONLY THE REMAINING PERIOD WITHIN WHICH TO PERFECT HIS APPEAL IN THE EVENT HIS MOTION FOR RECONSIDERATION IS DENIED, CAN BE GIVEN RETROACTIVE EFFECT TO ACTIONS PENDING AND UNDETERMINED AT THE TIME OF ITS PASSAGE.

[C]

WHETHER OR NOT DISMISSING THE CASE ON MERE TECHNICALITY SHOULD BE FAVORED OVER THE MERITS OF THE CASE.

The issues for resolution are: 1) Whether Castillo's appeal before the DARAB was timely filed; and, 2) Whether Castillo's construction of a water reservoir in the subject leasehold is proper.

CASTILLO claims that the Court of Appeals erred in finding that he had only until September 25, 1999, within which to perfect his appeal. He claims that since September 25, 1999 is a Saturday, then the last day to file his appeal falls on September 27, 1999. As such, his appeal was not belatedly filed.

TOLENTINO, on the other hand, argues that per Certification^[9] issued by the clerk of the DARAB, CASTILLO received a copy of the Provincial Agrarian Reform Adjudicator's January 22, 1999 decision on February 4, 1999 and he filed his motion for reconsideration only on February 26, 1999, or beyond the fifteen-day period allowed under the 1994 DARAB Rules of Procedure^[10] then applicable. As such, CASTILLO's motion for reconsideration - and consequently his appeal - should be deemed filed out of time. TOLENTINO argues further that, assuming *ex gratia argumenti* that CASTILLO filed his motion for reconsideration on time (or on February 26, 1999, using as basis the certification issued by the clerk of the DARAB, and not the date established by the Court of Appeals, which is February 25, 1999), he had just one (1) day to perfect his appeal - or up to September 24, 1999 (a Friday) - from September 23, 1999, which is the date he received the Resolution denying his motion for reconsideration.

We sustain CASTILLO in this respect. Indeed, the Court of Appeals erred in failing to take into account that September 25, 1999 was a Saturday. In computing any period of time prescribed or allowed by any applicable statute, the day of the act or event from which the designated period of time begins to run is to be excluded and the date of performance included; if the last day of the period, as thus computed, falls on a Saturday, a Sunday, or a legal holiday, the time shall not run until the next working day.^[11]

In this regard, it must be stated that a certain degree of circumspection is required of the lower courts in computing periods, bearing in mind not only to conduct a perfunctory or

mechanical counting of days, but more importantly a mindful determination as to what specific days the ends of these periods fall on.

As to the second issue for resolution whether Castillo's construction of a water reservoir in the subject leasehold is proper, CASTILLO argues that there is no written prohibition against construction of a water reservoir and dike; that said construction did not result in material conversion of TOLENTINO's landholding; as such the same should be allowed to complement the free-flowing artesian wells already existing on the leasehold.

On the other hand, TOLENTINO insists that CASTILLO's act of unilaterally constructing the reservoir and dike constitutes a valid ground for dispossession under Section 36 of Republic Act No. 3844, as amended by Republic Act No. 6389 (R.A. No. 3844),^[12] for the following specific reasons:

- 1) CASTILLO failed to comply with the provisions of R.A. No. 3844, as amended, in regard to obtaining consent of the agricultural lessor;
- 2) By constructing the reservoir and dike, CASTILLO used the landholding for a purpose other than what had been previously agreed upon in the lease contract;
- 3) CASTILLO failed to show that the construction and use of the reservoir and dike constitutes a "proven farm practice";
- 4) The reservoir and dike, apart from being expensive to build, are unnecessary and did not increase the yield of his rice land;
- 5) There is already an existing irrigation system in the form of two free-flowing artesian wells;
- 6) The construction violates the leasehold agreement which provides that "the free-flow artesian wells shall stay and be part of and shall service the landholding of 2.8 hectares",^[13]
- 7) CASTILLO's ownership of a ten-hectare farm land disqualifies him as tenant on TOLENTINO's land;
- 8) CASTILLO had been previously convicted by final judgment of the crime of less serious physical injuries by the Regional Trial Court of Calapan, Oriental Mindoro, Branch 40 in Criminal Case No. C-2933 entitled "People v. Pablo Carlo Castillo" for his attempt upon the life of TOLENTINO's son, George C. Tolentino; and,
- 9) CASTILLO's construction of the reservoir and dike despite being ordered by the PARO to discontinue constitutes usurpation and illegal conversion of the landholding for a purpose other than what had been agreed upon.

The petition lacks merit.

Section 32 of R.A. No. 3844^[14] specifically requires notice to and consent of the agricultural lessor before the agricultural lessee may embark upon the construction of a permanent irrigation system. It is only when the former refuses to bear the expenses of construction that the latter may choose to shoulder the same. More importantly, any change in the use of tillable land in the leasehold, e.g. through the construction of a sizeable water reservoir, impacts upon the agricultural lessor's share in the harvest, which is the only consideration he receives under the agrarian law. This being the case, before the agricultural lessee may use the leasehold for a purpose other than what had been agreed upon, the consent of the agricultural lessor must be obtained, lest he be dispossessed of his leasehold.^[15]