593 Phil. 108

THIRD DIVISION

[G.R. No. 164340, November 28, 2008]

OTILIA STA. ANA, PETITIONER, VS. SPOUSES LEON G. CARPO AND AURORA CARPO, RESPONDENTS.

D E C I S I O N

NACHURA, J.:

Before this Court is a Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Civil Procedure seeking the reversal of the Court of Appeals (CA) Decision[2] dated March 5, 2004 which reversed and set aside the Decision[3] of the Department of Agrarian Reform Adjudication Board (DARAB) dated June 24, 1998 and reinstated the Decision[4] of the Provincial Agrarian Reform Adjudicator (PARAD) of Laguna dated October 12, 1993.

The Facts

Respondent Leon Carpo[5] (Leon) and his brother Francisco G. Carpo are the registered co-owners of a parcel of land designated as Lot No. 2175 of the Santa Rosa Estate Subdivision, situated at Sta. Rosa, Laguna, covered by Transfer Certificate of Title (TCT) No. T-17272[6] of the Register of Deeds of Laguna, with an area of 91,337 square meters, more or less. A portion thereof, consisting of 3.5 hectares, pertained to Leon and his wife, respondent Aurora Carpo. It was devoted to rice and corn production (subject land) and was tenanted by one Domingo Pastolero (Domingo), husband of Adoracion Pastolero (Adoracion).[7] When Domingo passed away, Adoracion together with her son Elpidio Pastolero, assumed the tenancy rights of Domingo over the subject land.

However, on December 29, 1983, Adoracion, by executing a notarized *Pinanumpaang Salaysay*[8] with the conformity of Leon, and for a consideration of P72,500.00, transferred her rights in favor of petitioner Otilia Sta. Ana[9] (petitioner) who, together with her husband, Marciano de la Cruz (Marciano), became the new tenants of the subject land.

At the outset, the parties had a harmonious tenancy relationship.[10] Unfortunately, circumstances transpired which abraded the relationship. The Department of Agrarian Reform (DAR) mediated in order to amicably settle the controversy, but no settlement was reached by the parties. Thus, the instant case.

In their Complaint for Ejectment due to Non-Payment of Lease Rentals[11] dated December 1, 1989, respondents alleged that it was their agreement with petitioner and Marciano to increase the existing rentals from 36 cavans to 45 cavans, and that, if respondents wanted to repossess the property, they only had to pay the petitioner

the amount of P72,500.00, the same amount paid by the latter to Adoracion. Respondents further averred that despite repeated demands, petitioner refused to pay the actual rentals from July 1985 to September 1989, in violation of Presidential Decree (P.D.) No. 817; and that the subject land had been declared, upon the recommendation of the Human Settlements Committee, suitable for commercial and industrial purposes, per Zoning Ordinance of 1981 of the Municipality of Sta. Rosa, Laguna. Respondents prayed that petitioner be ejected from the subject land and be directed to pay P75,016.00 as unpaid rentals.

In their Answer[12] dated January 26, 1990, petitioner and Marciano denied that there was an agreement to increase the existing rental which was already fixed at 36 cavans of palay, once or twice a year depending on the availability of irrigation water; that neither was there an agreement as to the future surrender of the land in favor of the respondents; that they did not refuse to pay the rentals because they even sent verbal and written notices to the respondents, advising them to accept the same; and that in view of the latter's failure to respond, petitioner and Marciano were compelled to sell the harvest and to deposit the proceeds thereof in Savings Account No. 9166 with the Universal Savings Bank at Sta. Rosa, Laguna under the names of Leon and Marciano. As their special affirmative defense, petitioner and Marciano claimed that Marciano is a farmer-beneficiary of the subject land pursuant to P.D. 27. Petitioner and Marciano prayed for the outright dismissal of the complaint and for the declaration of Marciano as full owner of the subject land.

Thereafter, trial on the merits ensued.

The PARAD's Ruling

On October 12, 1993, the PARAD ruled that petitioner and Marciano deliberately defaulted in the payment of the rentals due the respondents. The PARAD found that the deposit made with Republic Planters Bank was actually in the names of petitioner and Marciano, hence, personal to them. The PARAD also found that it was only during the hearing that petitioner and Marciano deposited the amount of P40,000.00 with the Universal Savings Bank for the unpaid rentals. As such the PARAD considered the deposits as late payments and as implied admission that indeed petitioner and Marciano did not pay the past rentals when they fell due. The PARAD further held and disposed thus:

The intent of the defendant to subject the said area under PD 27 should pass the criteria set. Foremost is the determination of the aggregate riceland of plaintiff. He must have more than seven (7) hectares of land principally devoted to the planting of palay. Area over seven (7) hectares shall be the one to be covered by PD 27 on Operation Land Transfer (OLT). In the case at bar, defendants failed to prove that plaintiff has more than the required riceland. In fact the subject 3.5 hectares are jointly owned by two. Hence, coverage for OLT is remote.

Defendant claimed that plaintiff is covered by LOI 474, and therefore, he is zero retention of area. In reference to said law, wherein it provides landowner with other agricultural land of more than 7 hectares, or have other industrial lands from where he and his family derived resources, then, the owner cannot retain any riceland. However, this is not applicable in the instant case, as the defendant failed to prove that plaintiff has other source of income from where they will derive their sustenance.

WHEREFORE, in view of the foregoing, Judgment is hereby rendered:

a) Ordering the ejectment of defendant from the subject landholding for non-payment of lease rentals;

b) Ordering the defendant Marciano de la Cruz to surrender the possession and cultivation of the subject land to herein plaintiffs;

c) Ordering the defendant to pay as actual damage the amount of P75,016.00 corresponding to the unpaid rentals from July 18, 1985 up to September 16, 1989[; and]

d) [D]eclaring the subject land not covered by Presidential Decree No. 27, Republic Act [No.] 6657, and Executive Order No. 228.

SO ORDERED.

Petitioner and Marciano sought relief from the DARAB.[13]

The DARAB's Ruling

On June 24, 1998, the DARAB held:

It is a fundamental rule in this jurisdiction that for non-payment of lease rentals to warrant the dispossession and ejectment of a tenant, the same must be made in a willful and deliberate manner (*Cabero v. Caturna*, et al., CA-G.R. 05886-R, March 10, 1977). For a valid ouster or ejectment of a farmer-tenant, the willful and deliberate intent not to pay lease rentals and/or share can be ascertained when there is a determination of will not to do a certain act.

Considering the circumstances obtaining in this case, it cannot be concluded that the defendants-appellants deliberately failed or refused to pay their lease rentals. It was not the fault of defendants-appellants herein that the rentals did not reach the plaintiffs-appellees because the latter choose to lend a deaf ear to the notices sent to them. Clearly, therefore plaintiffs-appellees failed to show by substantial evidence that the defendants-appellants deliberately failed or refused to pay their lease rentals. It has been held that the mere failure of a tenant to pay the landowner's share does not necessarily give the latter the right to eject the former when there is lack of deliberate intent on the part of the tenant to pay (*Roxas y Cia v. Cabatuando*, 1 SCRA 1106).

Thus:

WHEREFORE, finding the appeal interposed by the defendants-appellants to be meritorious, the Decision appealed from is hereby **SET ASIDE** and another judgment issued as follows:

1. Enjoining plaintiffs-appellees to respect the peaceful possession and cultivation of the land in suit by the defendants-appellants; and

2. Directing the MARO of Sta. Rosa, Laguna to assist the parties in the proper accounting of lease rentals to be paid by the defendants-appellants to the plaintiffs-appellees.

No costs.

SO ORDERED.

Aggrieved, respondents appealed to the CA. On April 16, 2003, Marciano passed away.[14]

The CA's Ruling

On March 5, 2004, the CA affirmed the factual findings of the PARAD that petitioner and Marciano failed to pay the rentals and that there was no valid tender of payment. The CA added that this failure to pay was tainted with bad faith and deliberate intent. Thus, petitioner and Marciano did not legally comply with their duties as tenants. Moreover, the CA held that the subject land was not covered by P.D. 27, Republic Act (R.A.) No. 6657 and Executive Order (E.O.) No. 228, since the same had become a residential, commercial and industrial land, to wit:

> In the case at bar, We opted to give more weight to the petitioners contention that the "subject landholding is for residential, commercial, and industrial purposes as declared by zoning ordinance of 1981 of the town of Sta. Rosa, Laguna upon recommendation of the Human Settlement Committee xxx." The vicinity map of the subject landholding shows that it is almost beside Nissan Motors Technopa[r]k and surrounded by the South Expressway and several companies such as the Coca-Cola Bottlers Philippines, Inc. and Toyota Motors Philippines along the Pulong Santa Cruz, National Road. The vicinity map shows therefore that the subject landholding is a residential, commercial, and industrial area exempted from the coverage of P.D. No. 27, Republic Act. No. 6657 and Executive Order No. 228.

The CA ruled in favor of the respondents in this wise:

> **WHEREFORE**, premises considered and pursuant to applicable law and jurisprudence on the matter, the present Petition is hereby **GRANTED**. Accordingly, the decision of the Department of Agrarian Reform Adjudication Board-Central Office, Elliptical Road, Diliman, Quezon City (promulgated on June 24, 1998) is hereby **REVERSED** and **SET ASIDE** and a new one entered**- REINSTATING** the decision of the Department of Agrarian Reform Adjudication Board-Region IV, Office of the Provincial Adjudicator, Sta. Cruz, Laguna (dated October 12, 1993). No pronouncement as to costs.
>
> **SO ORDERED**.

Petitioner filed a Motion for Reconsideration[15] assailing the aforementioned Decision which the CA, however, denied in its Resolution[16] dated June 28, 2004.

Hence, this Petition based on the following grounds:

THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN ARROGATING UPON ITSELF WHAT IS OTHERWISE DAR'S POWER TO DETERMINE WHETHER THE SUBJECT AGRICULTURAL LAND HAS BECOME RESIDENTIAL/INDUSTRIAL/COMMERCIAL.

THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED WHEN IT EQUATED "LAND RECLASSIFICATION" WITH "LAND CONVERSION" FOR PURPOSES OF DETERMINING THE PROPRIETY OF EJECTMENT OF AN AGRICULTURAL LESSEE.

THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED WHEN IT FAILED TO NOTE THAT AN EJECTMENT SUIT BASED ON A CLAIM OF NON-PAYMENT OF LEASE RENTAL IS DIAMETRICALLY ANTITHETICAL TO THE CLAIM THAT THE SUBJECT LAND IS NO LONGER AGRICULTURAL BUT "A RESIDENTIAL, COMMERCIAL AND INDUSTRIAL AREA EXEMPTED FROM THE COVERAGE OF P.D. NO. 27, REPUBLIC ACT NO. 6657 AND EXECUTIVE ORDER NO. 228.

THE DECISION DATED MARCH 5, 2004--INSOFAR AS IT ADOPTED THE FINDING OF DARAB-REGION IV, OFFICE OF THE PROVINCIAL ADJUDICATOR, STA. CRUZ, LAGUNA INSTEAD OF THAT OF THE DARAB-CENTRAL--IS VIOLATIVE OF SEC. 14, ART. VIII OF THE 1987 CONSTITUTION FOR HAVING DECIDED WITHOUT EXPRESSING THEREIN CLEARLY AND DISTINCTLY THE FACTS AND THE LAW ON WHICH SAID DECISION IS BASED.

THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN RESORTING TO SURMISES AND CONJECTURES WHEN IT RULED THAT THE FAILURE OF THE HEREIN PETITIONER AND HER DECEASED HUSBAND TO DELIVER THE LEASE RENTALS TO HEREIN RESPONDENTS, WAS DONE SO IN BAD FAITH AND WITH DELIBERATE INTENT TO DEPRIVE THE LAND OWNERS THEREOF.

Petitioner asseverates that there is no evidence to support respondents' claim that the failure to pay the lease rentals was tainted with malevolence, as the records are replete with acts indicative of good faith on the part of the petitioner and Marciano and bad faith on the part of respondents.

Moreover, petitioner claimed that the power to determine whether or not the subject land is non-agricultural, hence, exempt from the coverage of the Comprehensive Agrarian Reform Law (CARL), lies with the DAR, and not with the courts; that mere reclassification by way of a zoning ordinance does not warrant the dispossession of a tenant but conversion does, and entitles the tenant to payment of disturbance compensation; the legal concepts of reclassification and conversion are separate and distinct from each other; that respondents' complaint before the PARAD alleged and established the fact that the subject land is a riceland, therefore, agricultural; that the CA failed to explain why it upheld the findings of the PARAD on the issue of non-payment of lease rentals; and that though the issue of non-payment of lease rentals is a question of fact, due to the conflict of the factual findings of the PARAD and CA with those of the DARAB, petitioner asks that this Court review the evidence on record, and pursuant to the CA decision in *Cabero v. Caturna*, *et al.*,[17] rule on whether petitioner willfully and deliberately refused to pay lease rentals as to