

THIRD DIVISION

[G.R. No. 171346, October 19, 2007]

**JAIME SANCHEZ, JR., PETITIONER, VS. ZENAIDA F. MARIN,
JESUS NICASIO F. MARIN, JOSE DAVID F. MARIN, MARIA
BERNADETTE F. MARIN, PAUL PETER F. MARIN AND PHILIP LUIS
F. MARIN, RESPONDENTS.**

D E C I S I O N

CHICO-NAZARIO, J.:

This is a Petition for Review on *Certiorari* under Rule 45 of the 1997 Revised Rules of Civil Procedure seeking to reverse and set aside (1) the Decision^[1] of the Court of Appeals in CA-G.R. SP No. 61955, dated 23 May 2005, which granted in part the petition filed before it by herein respondents and thereby annulled and set aside the Decision^[2] rendered by the Department of Agrarian Reform Adjudication Board (DARAB) dated 25 September 2000 in DARAB Cases No. 3799 (Reg. Case No. IV-QI-0175-91) and No. 3800 (Reg. Case No. IV-QI-0167-91); and (2) the Resolution^[3] of the appellate court, dated 25 January 2006, which denied herein petitioner's Motion for Reconsideration.

Herein petitioner Jaime Sanchez, Jr. is an agricultural tenant of a 10-hectare fishpond sited at Barangay Talao-Talao, Lucena City, which was previously owned by David Felix, the ascendant of herein respondents. Herein respondent Zenaida F. Marin is the civil law lessee of the subject fishpond and the mother of respondents Jesus Nicasio, Jose David, Maria Bernadette, Paul Peter and Philip Luis, all surnamed Marin, who are now the registered owners^[4] of the said fishpond.

The controversy in this case arose from the following facts:

In 1977, the petitioner was instituted as a tenant of the subject fishpond by its previous registered owner David Felix. The sharing agreement was on a 50/50 basis after deducting the expenses from the gross harvest. A few years thereafter, David Felix sold and transferred ownership of the subject fishpond to respondents Jesus Nicasio, Jose David, Maria Bernadette, Paul Peter and Philip Luis, all surnamed Marin, to whom a Transfer Certificate of Title (TCT) No. T-43289,^[5] covering the subject fishpond, was issued. The aforesaid respondents, as the new owners of the fishpond, entered into a civil law lease agreement dated 24 June 1985 with their mother and co-respondent Zenaida F. Marin, which was renewable yearly.

Subsequently, Zenaida F. Marin, as a lessee of the subject fishpond, made an arrangement with the petitioner wherein the latter would receive a regular salary and a 20% share in the net profit of the fishpond from January 1985 to June 1986. The reason why the agreement was with a period was to be consistent with the lease agreement entered into between respondent Zenaida F. Marin and her

children, herein respondents Jesus Nicasio, Jose David, Maria Bernadette, Paul Peter and Philip Luis, all surnamed Marin.^[6] However, after the expiration of the first lease agreement between respondent Zenaida F. Marin and her children, and before a new lease agreement could be made, the petitioner was ordered by Zenaida F. Marin to vacate the premises but he refused to do so. He asserted that he was a tenant of the fishpond and not a mere contractual worker; hence, he had the right to its peaceful possession and security of tenure.

On 21 July 1986, the petitioner filed a Complaint before the Regional Trial Court (RTC) of Lucena City, Branch 53, which was docketed as Agrarian Case No. 86-8, in which he asked the court to declare him as a tenant of the subject fishpond. On 20 July 1987, the RTC of Lucena City rendered a Decision^[7] in favor of the petitioner, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered **declaring the [herein petitioner] as the agricultural tenant, not a hired contractual worker on the [subject fishpond]**, and therefore, entitled to the security of tenure under Section 7^[8] of Republic Act No. 1199^[9] and to continue possession of the premises and shall enjoy the rights and privileges accorded by law.^[10] (Emphasis supplied.)

Dissatisfied, the aforesaid Decision was appealed by respondent Zenaida F. Marin to the appellate court, in which it was docketed as CA-G.R. SP (CAR) No. 14421. In a Decision^[11] dated 11 September 1989, the appellate court affirmed *in toto* the Decision of the RTC of Lucena City. No other recourse being taken therefrom, the said Decision of the Court of Appeals later became final and executory.

Having been declared as an agricultural tenant on the subject fishpond, the petitioner, on 15 March 1991, filed before the Provincial Agrarian Reform Adjudicator (PARAD) Region IV a Petition for the fixing of the leasehold rentals for his use of the subject fishpond at ₱30,000.00 per annum, docketed as DARAB Case No. IV-QI-0175-91. It was alleged therein by the petitioner that under Section 12 of Republic Act No. 6657^[12] and Department of Agrarian Reform (DAR) Administrative Order No. 4, Series of 1989, he had the option to convert his status as share-crop tenant into an agricultural lessee by paying a fixed lease rental on the fishpond. He further claimed that the respondents posited no objection to the amount of ₱30,000.00 as a yearly lease rental. Yet, in an Answer filed by the respondents, they insisted that fishponds, like the subject matter of this case, were not yet within the purview of the law on leasehold. They likewise refuted the fact that they agreed to fix the lease rental at ₱30,000.00 per annum. Although they admitted that the petitioner was indeed declared as an agricultural tenant of the fishpond, they, however, argued that the petitioner should already be ejected therefrom for his failure to pay the rent.

Thus, on 17 April 1991, respondent Zenaida F. Marin filed a Complaint before the PARAD Region IV, docketed as DARAB Case No. IV-QI-0167-91, primarily to eject the petitioner from the fishpond because of the latter's failure to pay the rent and to make an accounting, in violation of Sections 17 and 50 of Republic Act No. 1199. She also sought to compel the petitioner to pay the total amount of ₱650,000.00 representing the lease rentals from 1 July 1985 to 30 June 1991 and to make an accounting of the total production or income of the subject fishpond from 1 August

1987 to 25 October 1991.

The petitioner denied having any liability to respondent Zenaida F. Marin in the amount of P650,000.00 as rental arrears. He stressed that he failed to pay the lease rentals from July 1987 to July 1989 because he failed to harvest anything from the fishpond during the said period due to respondent Zenaida F. Marin's refusal to defray the expenses of production. Accordingly, he cannot be evicted on the basis of non-payment of rent because his obligation to pay the same merely depends on the actual harvest made. Similarly, the petitioner emphasized that from March 1989 to September 1990, he deposited the rent due respondent Zenaida F. Marin in Philippine National Bank (PNB) Account No. 66375^[13] under the name of the Deputy Sheriff of the RTC of Lucena City, Branch 53, and respondent Zenaida F. Marin withdrew the said amount.

Considering that the two cases involved the same parties and the same subject matter, the Provincial Adjudicator consolidated the same. On 2 March 1993, he rendered a Decision^[14] in favor of the petitioner. Its dispositive portion reads:

WHEREFORE, premises considered, judgment is hereby rendered:

x x x x

3. Ordering that [petitioner] be maintained in the peaceful possession of subject farm-holding.^[15]

Respondents moved for the reconsideration of the aforementioned Decision but the same was denied in a Joint Order,^[16] dated 15 May 1995, rendered by the Regional Agrarian Reform Adjudicator (RARAD).

Aggrieved, respondents appealed the PARAD Decision dated 2 March 1993 to the DARAB, reiterating their position that the fishpond was excluded from the coverage of the Comprehensive Agrarian Reform Program (CARP) of the government. The cases before the DARAB were docketed as DARAB Cases No. 3799 (Reg. Case No. IV-QI-0175-91) and No. 3800 (Reg. Case No. IV-QI-0167-91).

On 25 September 2000, the DARAB rendered a Decision affirming *in toto* the Decision of the Provincial Adjudicator dated 2 March 1993.

Still refusing to admit defeat, respondents filed with the Court of Appeals a Petition for Review of the aforesaid DARAB Decision maintaining that the DARAB grossly erred in not finding that substantial evidence exists to warrant the dispossession of the petitioner from the subject fishpond.

On 23 May 2005, the appellate court rendered its assailed Decision wherein it granted in part the Petition of the respondents by annulling and setting aside the DARAB Decision dated 25 September 2000 on the ground of lack of jurisdiction. The appellate court ruled that Section 2 of Republic Act No. 7881,^[17] amending Section 10 of Republic Act No. 6657, excluded private lands actually, directly and exclusively used for prawn farms and fishponds from the coverage of the Comprehensive Agrarian Reform Law (CARL); clearly then, the operation of a fishpond is no longer considered an agricultural activity, and a parcel of land devoted to fishpond

operation is not anymore an agricultural land. Additionally, the appellate court declared that under Section 1, Rule II of the 2003 DARAB Rules of Procedure, governing proceedings before the DARAB and its different regional and provincial adjudicators, the DARAB et al.'s jurisdictions were limited only to agrarian disputes or controversies and matters or incidents involving the implementation of Republic Act No. 6657, Republic Act No. 3844 and other agrarian laws. Consequently, the disputes involved in DARAB Cases No. 3799 and No. 3800 were not agrarian disputes, and since the DARAB, et al. then acted without jurisdiction when they heard and adjudicated the aforesaid cases, their decisions and orders therein were null and void. There is, however, no obstacle for the opposing parties to institute the proper action before the regular courts. Lastly, the appellate court held that the petitioner cannot avail himself of the protection under Section 2(b) of Republic Act No. 7881, which protects vested rights of those who have already been issued a CLOA, for the reason that the petitioner had not shown that he had been issued a CLOA to the subject fishpond as an agrarian reform beneficiary.

Petitioner moved for the reconsideration of the aforesaid Decision, but it was denied in a Resolution dated 25 January 2006.

Hence, this Petition.

Petitioner presents the following issues for this Court's resolution:

- I. Whether the burden of proof to show that a fishpond is not an agricultural land rests on the agricultural lessor.**
- II. Whether this burden was sufficiently discharged by the respondents.**
- III. Whether the Office of the Secretary of the Department of Agrarian Reform should first determine the exclusion of a fishpond from the coverage of CARP before it could be finally said that it is indeed excluded therefrom.**
- IV. Whether the subject fishpond is covered by the [CARL].**
- V. Assuming that the fishpond is not covered by the CARL, whether the [DARAB] has jurisdiction over the case.**

Petitioner maintains his contention that Section 10 of Republic Act No. 6657, as amended by Republic Act No. 7881, which was the basis of the appellate court in declaring that the subject fishpond was not an agricultural land, does not mention any presumption as regards the exemption of prawn farms and fishponds from the coverage of the CARL. According to him, before a fishpond can be considered exempted from the coverage of Republic Act No. 6657, two things must concur, to wit: (1) the fishpond has not been distributed; and (2) a CLOA has been issued to the agrarian reform beneficiaries under the CARP. And the burden of proof to establish the existence of the aforesaid elements falls upon the agricultural lessor. Absent any of these two elements, the fishpond will remain within the coverage of Republic Act No. 6657. He also argues that Section 10 of Republic Act No. 6657, as amended by Republic Act No. 7881, cannot be given retroactive effect. Neither can it prevail over a right which has already been vested in him by virtue of the final and

executory Decision dated 11 September 1989 of the Court of Appeals, affirming the Decision dated 20 July 1987 of the Lucena City RTC, which declared him as an agricultural tenant of the subject fishpond and therefore entitled to security of tenure. Similarly, petitioner contends that respondents' unsubstantiated claim that no CLOA had been issued to him was not enough to discharge their burden of proving that the subject fishpond was already exempted from the coverage of the CARL.

Petitioner further avers that although Section 10 of Republic Act No. 6657 already provides that prawn farms and fishponds are exempted from the coverage of the CARL, the said provision of law still has to be construed in relation to Section 3, Rule II of the 2003 DARAB Rules of Procedure, which requires an application for exemption to be filed before the Office of the Secretary of the DAR to determine if prawn farms and fishponds are indeed excluded from the coverage of the CARL. And considering that the respondents failed to file the said application for exemption, petitioner then alleges that the subject fishpond cannot be considered excluded from the coverage of the CARL.

Finally, petitioner argues that granting *arguendo* that the subject fishpond was excluded from the coverage of the CARL, still, the DARAB had jurisdiction over his case. Petitioner asserts that his status as an agricultural tenant of the subject fishpond has long been settled. And being a tenant, he has various rights which are recognized and protected under the law, among which is his right to security of tenure. Thus, when the respondents filed a Complaint before DARAB Region IV to eject him from the fishpond, in violation of his rights, it cannot be denied that an agrarian dispute arose between him and the respondents and the same properly fell within the jurisdiction of the DARAB. And so, even though the fishpond was excluded from the coverage of the CARL, the petitioner asserts that it does not necessarily follow that no tenancy relation existed between him and the respondents and it cannot be used as basis to deprive the DARAB of its jurisdiction over the present case.

In sum, the issues in this case may be summarized as follows:

- I. Whether the subject fishpond is exempted/excluded from the coverage of the Comprehensive Agrarian Reform Program of the government by virtue of the amendments introduced by R.A. No. 7881 to R.A. No. 6657.
- II. Granting that the subject fishpond is exempted/excluded from the coverage of the CARL, whether the DARAB has jurisdiction over the case.

The Petition is meritorious.

The Court of Appeals grounded its Decision on this Court's pronouncements in *Romero v. Tan*.^[18] In the said case, this Court traced the classification of fishponds for agrarian reform purposes. Section 166(1) of Republic Act No. 3844^[19] defined an agricultural land as land devoted to any growth, including but not limited to crop lands, salt beds, **fish ponds**, idle land and abandoned land. Thus, it is beyond cavil that under this law, fishponds were considered agricultural lands. Even when Republic Act No. 6657 entitled, "Comprehensive Agrarian Reform Law of 1988," took