

## THIRD DIVISION

[ G.R. NO. 169193, November 30, 2006 ]

**SPOUSES ILUMINADA CAPITLE AND CIRILO CAPITLE,  
PETITIONERS, VS. FORTUNATA ELBAMBUENA AND ROSALINDA  
C. OLAR, RESPONDENTS.**

### D E C I S I O N

**CARPIO MORALES, J.:**

The parcel of agricultural land subject of the present controversy contains 1.8144 hectares, identified as Lot 1849 (the lot), and situated in Barangay Valle, Talavera, Nueva Ecija.

A Certificate of Land Ownership Award (CLOA) was issued to Cristobal Olar (Olar) covering the lot on account of which he was issued Transfer Certificate of Title No. CLOA-0-3514.

Respondents Fortunata Elbambuena (Fortunata) and Rosalinda Olar (Rosalinda), spouse and daughter-in-law, respectively, of Olar, now deceased, claim that Olar relinquished one-half or 0.9072 hectare of the lot to Rosalinda by a "*Kasunduan*"<sup>[1]</sup> dated July 17, 1992 the execution of which was witnessed by petitioner Cirilo Capitle; and that the remaining portion of the lot was surrendered to Fortunata by an undated document.<sup>[2]</sup>

Respondents, alleged that on petitioners' request, petitioners were allowed to occupy the lot to pursue a means of livelihood. Since 1990, however, petitioners did not pay rentals despite demand therefor, and neither did they heed the demand to return the possession of the lot, drawing respondents to file a Petition for Recovery of Possession and Payment of Back Rentals<sup>[3]</sup> against petitioners before the Department of Agrarian Reform Adjudication Board (DARAB) Regional Office in Talavera, Nueva Ecija, docketed as DARAB Case No. 5987'NNE'96.

Petitioners, on the other hand, claiming that they have been in possession of the lot since 1960, presented a "Waiver of Rights"<sup>[4]</sup> executed by Olar wherein he renounced in their favor his rights and participation over the lot; a "*Sinumpaang Salaysay*"<sup>[5]</sup> wherein Olar acknowledged that he co-possessed the lot with petitioner Capitle since 1960; and a *Pinagsamang Patunay* <sup>[6]</sup> from the Barangay Agrarian Reform Committee (BARC) Chairman and barangay chairman of Valle certifying that they (petitioners) are the actual tillers and possessors of the lot.

Petitioners further claim that since 1959, respondent Fortunata was already separated from Olar and she even remarried, thus giving her no right to inherit from Olar.

While respondents' petition in DARAB Case No. 5987'NNE'96 was pending before the Provincial Agrarian Reform Adjudicator (PARAD), petitioners filed before the Municipal Agrarian Reform Officer (MARO) of Talavera, Nueva Ecija a petition for cancellation of the CLOA issued to Olar, docketed as DARAB Case No. 6261'NNE'97, claiming that they are the new farmer-beneficiaries as shown by, among other things, the "Waiver of Rights" executed by Olar.

By Decision<sup>[7]</sup> dated August 20, 1997 which jointly resolved DARAB Case Nos. 5987'NNE'96 and 6261'NNE'97, the PARAD ruled in favor of petitioners, the decretal portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered:  
ORDERING AND DECLARING

1. DARAB Case No. 5987'NNE'96 DISMISSED for lack of merit;
2. The recall/cancellation of TCT No. CLOA-0-3514 previously issued to the late Cristobal Olar;
3. The PARO, DAR-North, Talavera, Nueva Ecija thru the Chief, Landed Estate Section to cause the issuance of a new CLOA in the name of Iluminada Capitle married to Cirilo Capitle;
4. The Register of Deeds of Nueva Ecija to cancel TCT No. CLOA-0-3514 adverted to if the same is already registered and cause the registration of a new CLOA in the name of Iluminada Capitle married to C[i]rilo Capitle; and
5. Other claims and counterclaims likewise DISMISSED for lack of legal basis.<sup>[8]</sup>

Respondents appealed the decision to the DARAB, arguing that the PARAD erred in holding that:

I.

. . . PETITIONERS FORTUNATA ELBAMBUENA AND ROSALINDA OLAR CAN NO LONGER RECOVER POSSESSION OVER THE SUBJECT FARM LOT, MUCH LESS DEMAND PAYMENT OF LEASE RENTALS FROM THE RESPONDENTS.

II.

. . . THE PETITION FOR RECALL/CANCELLATION OF TCT NO. CLOA-0-3514 PREVIOUSLY ISSUED TO THE LATE CRISTOBAL OLAR WOULD PROSPER.<sup>[9]</sup>

By Decision<sup>[10]</sup> of December 29, 2003, the DARAB set aside the PARAD's decision, disposing as follows:

WHEREFORE, premises considered, the appealed decision is SET ASIDE and a new judgment is hereby rendered:

1. Ordering Spouses Capitle and any or all persons acting in their behalf to immediately vacate the subject landholding and deliver the same to Fortunata Elbambuena and Rosalinda C. Olar;
2. Ordering the issuance of CLOA in favor of Fortunata Elbambuena and Rosalinda C. Olar as legal heirs of Cristobal Olar.
3. Setting aside the decision of the Adjudicator a quo in DARAB Regional Case No. 6261'NNE'97 for lack of jurisdiction over the persons of the Heirs of Cristobal Olar;
4. The demand for back lease rentals by [respondents] is denied for lack of merit.<sup>[11]</sup>

Petitioners elevated the case to the Court of Appeals via petition for review, arguing that the DARAB erred:

1. IN CONCLUDING THAT THE POSSESSION OF LOT NO. 1849 since 1960 DESERVES NO MERIT THERE BEING NO BASIS BOTH IN FACT AND IN LAW;
2. THAT THE PRESUMPTION, THE CLOA WAS ISSUED TO CRISTOBAL OLAR IN THE REGULAR COURSE [OF] OFFICIAL FUNCTION WAS NEVER OVERCOME BY CONTRARY EVIDENCE;
3. THAT THE WAIVER EXECUTED BY CRISTOBAL OLAR IN FAVOR OF SPS. CAPITLE IS VOID FOR BEING CONTRARY TO LAW AND PUBLIC POLICY;
4. IN CONCLUDING THAT THE TRANSFER ACTION CONDUCTED BY THE SAMAHANG NAYON OF VALLE, TALAVERA, NUEVA ECIJA CONTAINS SUBSTANTIAL AND MATERIAL DEFECTS; [and]
5. IN CONCLUDING THAT THE CANCELLATION OF TCT No. CLOA-0-3514 DOES NOT BIND FORTUNATA ELBAMBUENA AND ROSALINDA OLAR BECAUSE THEY WERE NOT MADE PARTY TO DARAB CASE NO. 6261'NNE'97.<sup>[12]</sup>

By the challenged Decision of November 23, 2004,<sup>[13]</sup> the appellate court affirmed *in toto* the DARAB decision, ratiocinating as follows:

The DARAB correctly found that petitioners-appellants' possession of the questioned property since 1960 is of dubious legality. No amount of possession under whatever claim (actual tilling and actual possession) can clothe petitioner-appellants with any lawful right over the questioned property. Reason: It can be gleaned from the factual antecedents that petitioners-appellants' stay in Cristobal Olar's property was, or had been , by mere tolerance of respondents-appellees. Indeed, so much is clear from the averments on page 5 of their petition: "*xxx; that Cristobal Olar beginning 1959 up to the time of his death in 1995 **lived all alone by himself** and his companions **in his house** are the Spouses Iluminada and Cirilo Capitle xxx.*" These averments, being in the nature of judicial