

## SECOND DIVISION

[ G.R. NO. 137881, August 19, 2005 ]

**ISAAC DELGADO AND FERNANDO DELGADO, PETITIONERS, VS.  
COURT OF APPEALS, ZACARIAS LIMPANGOG, REMEGIO LAGUNA,  
SANTIAGO BALORO, CAMILO EVANGELISTA, NEMESIO AMORES  
AND RUSTICO RUIZO, RESPONDENTS.**

### R E S O L U T I O N

**AUSTRIA-MARTINEZ, J.:**

For resolution is petitioners' motion for reconsideration of the Court's Decision<sup>[1]</sup> dated December 21, 2004, which dismissed petitioners' petition assailing the Resolutions of the Court of Appeals (CA) dated November 18, 1998, which outrightly dismissed CA-G.R. SP No. 49074 on the ground of insufficiency of form and substance; and, March 4, 1999, denying petitioners' motion for reconsideration.

Let us revisit the antecedents that brought the instant case to the fore.

On July 27, 1998, private respondents filed a complaint for Reinstatement with Damages against petitioners before the Department of Agrarian Reform (DAR) Provincial Agrarian Reform Adjudication Board (PARAB), Tacloban City, docketed as Reg. Case No. 08-023-88.

They alleged that: in 1962, they became tenants of petitioners on a parcel of riceland situated at Barangay Tabunok, Palompon, Leyte; after the effectivity of Presidential Decree No. 27 on October 21, 1972, Certificates of Land Transfer (CLTs), were issued to them as qualified beneficiaries on their respective portion of the riceland; in 1987, the DAR issued to the private respondents their Emancipation Patents (EPs) covering their respective portion; the issuance of EPs, in their respective names, is a recognition of the fact that they are the *de jure* tenants on the subject land but they cannot exercise their rights of possession and cultivation thereon because petitioners are preventing them from doing so.

In their Answer dated December 27, 1998, petitioners denied private respondents right over the parcel of riceland, claiming that private respondents Remegio Laguna, Camilo Evangelista and Rustico Ruizo abandoned their cultivation in 1971 and returned only in 1987 while private respondents Zacarias Limpangog, Santiago Baloro and Nemesio Amores left their respective tillage in 1984 after they received P3,000.00 plus 6 months *palay* harvest. They further argued that private respondents acquired their respective CLTs and EPs fraudulently and in bad faith. Finally, they alleged that the action should be dismissed on the ground of *res judicata* since private respondents filed on June 18, 1987 the same case for Reinstatement with Damages before the Regional Trial Court (RTC), Branch 17, Palompon, Leyte, but it was dismissed on June 28, 1988.

On July 27, 1993, the PARAB rendered a decision adverse to the petitioners, finding private respondents as lawful tenant-beneficiaries and owners of the subject riceland.

Upon petitioners' motion for reconsideration, the PARAB, on February 9, 1994, modified its previous decision and declared that private respondents have abandoned their rights and obligations relative to the subject riceland by virtue of the prior dismissal of the action in the RTC.

On appeal, the Department of Agrarian Reform Adjudication Board (DARAB), in its decision dated January 9, 1998, held that private respondents did not abandon the possession and cultivation of the subject riceland; set aside the challenged order dated February 9, 1994; and reinstated and affirmed the decision dated July 27, 1993 issued by the PARAB.

Dissatisfied, petitioners filed a petition for review with the CA, docketed as CA-G.R. SP No. 49074, which was dismissed outright in a Resolution dated November 18, 1998 for being insufficient in form and substance as (a) the Verification and Certification of non-forum shopping is signed by counsel, not by the parties; (b) there are no affidavit of service and explanation on mode of service; and, (c) the copy of the assailed decision attached as Annex "A" is a mere xerox copy.

Petitioners filed a motion for reconsideration but it was denied in the Resolution dated March 4, 1999. The CA held that there was no attempt on the part of the petitioners to rectify the above-mentioned insufficiencies; that although in their Supplement to Motion for Reconsideration, petitioners attempted to comply with the verification and certification on non-forum shopping requirements, only Fernando signed the same; and that the petition for review was not accompanied by pleadings and other material portions of the records as would support the allegations of the petitions.

On petition for review on *certiorari*, the Court, in its assailed Decision dated December 21, 2004, held that the petition is not meritorious since petitioners failed to attach the pertinent pleadings and other material portions of the records that would support the allegations of the petition and their motion for reconsideration. The CA would have been able to determine whether the petition deserved to be given due course if the required attachments were appended to the petition or in the motion for reconsideration.

The Court further held that, in any case, even if petitioners' procedural *faux pas* is disregarded, the assailed Decision dated January 9, 1998 of the DARAB is correct because the dismissal by the RTC, Branch 17, Palompon, Leyte was without prejudice and did not amount to *res judicata*; and that private respondents are not guilty of abandonment as they filed the proper case with the PARAB.

Dissatisfied, petitioners filed the present motion for reconsideration on the following grounds:

## I

THE LAPSES SPECIFIED BY THE COURT OF APPEALS WHICH BECAME THE GROUND FOR THE DISMISSAL OF THE PETITION FOR CERTIORARI MAY

BE JUSTIFIED.

## II

SUPERVENING EVENTS THAT MAY AFFECT THE MERITS OF THE CASE  
ENSUED DURING THE PENDENCY OF THE CASE AT BAR BEFORE THE  
HONORABLE TRIBUNAL.<sup>[2]</sup>

Anent the first ground, petitioners contend that the verification in their petition was signed by counsel because the petitioners reside in Palompon, Leyte and not financially well off to commute to Manila, while the verification in their motion for reconsideration was signed only by Fernando because Isaac died after the case was filed. As to the matter of explanation on mode of service, they aver that the requirement was newly implemented by the Court in 1988 when the petition was filed in the CA. As to the xerox copy of the DARAB Decision dated January 9, 1998 attached to the petition, they aver that it was the original copy received by counsel from the DARAB. Petitioners thus invoke liberal construction of the rules.

As to the second ground, petitioners contend that supervening events overtook the instant case when: on January 31, 2002, the Application for Retention of petitioners under P.D. No. 27 and Republic Act No. 6657 was granted by the Regional Director, DAR, Tacloban City; on March 14, 2003, a Certificate of Retention was issued by the DAR, Region VIII, Tacloban City; a Decision dated December 12, 2003 was rendered by DARAB, Tanghas, Tolosa, Leyte granting the cancellation of the EPs that were previously awarded to the private respondents; for failure of the private respondents to interpose an appeal therein, the decision became final and executory; on July 2, 2004, a Writ of Execution was issued by the DARAB.

In their Opposition/Comment,<sup>[3]</sup> private respondents insist that the arguments raised in the motion for reconsideration are but a rehash of those raised in the petition and memorandum which have been exhaustively and fully adjudicated by the Court. Moreover, they point out that the decision of the Court delved not only on the procedural aspects of the petition but also on the merits of the case. As to the alleged supervening events, private respondents submit that the supervening events do not affect in any manner the instant case and are simply meant to harass the private respondents.

On the first ground, it is noted that in its assailed decision, the Court did not pass upon petitioners' arguments with regard to the defects in verification, explanation on mode of service and the xerox copy of the DARAB decision. This was so because the Court considered that petitioners have substantially complied with the requirements of the Rules in these aspects.

However, the Court could not simply excuse and disregard petitioners' failure to attach the necessary pleadings, such as the Motion for Reconsideration dated January 31, 1998 of the DARAB Decision dated January 9, 1998, the PARAB Order dated February 9, 1994, the PARAB Decision dated July 27, 1993, the DARAB Resolution dated June 29, 1998, the Complaint for Reinstatement with Damages dated May 27, 1987, the Reply on the Complaint, and the Motion for Reconsideration of the PARAB Decision dated July 27, 1993.

It must be remembered that liberal construction of the Rules may be invoked in