

THIRD DIVISION

[G.R. NO. 150646, August 15, 2005]

**ROLANDO DE TUMOL, PETITIONER, VS. JULIANA DE TUMOL
ESGUERRA, THE DEPARTMENT OF AGRARIAN REFORM
ADJUDICATION BOARD AND THE HONORABLE COURT OF
APPEALS, RESPONDENTS.**

D E C I S I O N

CARPIO-MORALES, J.:

Dionisio de Tumol, a farmer beneficiary of a landholding with a total area of about 2.7 hectares located in Aliaga, Nueva Ecija for which he was issued by the Department of Agrarian Reform (DAR) Certificate of Land Transfer (CLT) Nos. 0317975 and 0317976, died^[1] on February 15, 1979, leaving as heirs his wife Monica Sta. Ana de Tumol (Monica Vda. de Tumol) and his four children, namely, herein respondent Juliana de Tumol Esguerra, Francisca, Alejandro, and herein petitioner Rolando.

On the request of petitioner, the DAR Region III Director, noting that petitioner's co-heirs executed a document waiving their rights and interests over the farmholding covered by the CLTs in his favor as successor thereof, ordered the cancellation of the CLTs issued to his father Dionisio de Tumol, by Order^[2] of September 30, 1985.

The DAR accordingly issued on December 30, 1990 a Comprehensive Agrarian Reform Program (CARP) Beneficiary Certificate to petitioner.^[3]

On November 11, 1992, the Department of Agrarian Reform Adjudication Board (DARAB), Region III, Cabanatuan City received a petition^[4] dated November 5, 1992 of Monica Vda. de Tumol, represented by her daughter-herein respondent, against petitioner, docketed as DARAB Case No. 2057 NE'92, alleging:

x x x

That sometime in 197[9], Dionisio de Tumol died leaving behind him the 2.[7] hectares awarded to him pursuant to the laws on agrarian reform, and that the cultivation of which was continued by [Monica Vda. de Tumol], with the help of her son, the [petitioner] herein;

That without the knowledge and consent of [Monica Vda. de Tumol], [petitioner] Rolando de Tumol worked on with deceit, strategy, and with intent to gain to transfer in his name the ownership, possession and cultivation of the farmholding to the prejudice of his other co-heirs, the property being conjugal in nature;

x x x

That the matter was also brought before the BARC Chairman for settlement, but the disputes [are] still unresolved, that even the Chairman was reluctant to issue the certification required and the MARO of Aliaga, Nueva Ecija refused to provide the records of the late Dionisio de Tumol;

x x x

That as plain usurper, [petitioner] ha[s] no right whatsoever to security of tenure and cannot claim any benefit under the principle of social justice. That because the [petitioner] is the youngest among the children, he is last in the priority of succession as provided for by law, the wife having the first priority to succeed;

x x x (Underscoring supplied)

and praying that an order be issued:

x x x

2. Declaring the status of [petitioner] as a mere intruder and usurper without any color or right;

3. By placing [Monica Vda. de Tumol] in possession;

x x x (Underscoring supplied)

During the pendency of the above-said petition-DARAB Case No. 2057 NE'92, petitioner and his mother submitted a November 7, 1992 "*Kasunduan Pag-aayos o Kahilingan*"^[5] wherein they agreed to withdraw the petition.

In support of the *kasunduan*, Monica Vda. de Tumol submitted a December 3, 1992 "*Sinumpaang Salaysay*"^[6] stating that the filing of the petition was not to her "*tunay na kagustuhan*" as she was merely made to sign it upon the representation that there was no "*kabuluhan*" and that at her age (80), she could no longer appear in court or walk a distance, hence, her request to "*pawalan ng bisa ang demanda dahil hindi ko alam kung paano nangyari.*"

Finding the *Sinumpaang Salaysay*, which was subscribed and sworn to before the Municipal Mayor of Aliaga, Nueva Ecija to be in order, the Provincial Adjudicator, by Order^[7] of December 9, 1992, granted the withdrawal of Monica Vda. de Tumol's petition.

Subsequently or on December 29, 1992, petitioner's sister-herein respondent filed with the DARAB Regional Office a petition^[8] against petitioner, docketed as DARAB Case No. 2125 NE'92, the pertinent allegations of which read:

x x x

3. That, after the demise of the registered farmer beneficiary Dionisio de Tumol on February 15, 197^[9], respondent's mother Monica de Tumol **permitted temporarily the herein [petitioner] to cultivate** the said farmholding;

x x x

5. That, [petitioner] Rolando de Tumol, refused and still refusing to vacate the said farmholding and deliver the same to the [respondent] the proper person who has the right to succeed over the said farmholding;

6. That this case has been referred to the BARC of Brgy. Umangan, Aliaga, Nueva Ecija for several times but the BARC officials therein are very reluctant to entertain the complaint of the herein [respondent];

7. That, [respondent] being a compulsory heir and the eldest as among them and considering that the wife of the late farmer beneficiary Monica de Tumol is too old being 80 years of age or more [in] bringing this action, pursuant to Memorandum Circular No. 19, S[eries of] 1978 which provides in part [that] in the absence or due to permanent incapacity of the surviving spouse, priority shall be determined among the heirs according to age. (Emphasis and underscoring supplied)

Respondent thus prayed that judgment be rendered:

1. Ordering the [petitioner] to vacate the subject farmholding;
2. Declaring the [respondent] as the rightful successor over the same;
3. Placing the [respondent] in actual and physical possession of the said farmholding. (Underscoring supplied)

In support of her petition respondent submitted her *Sinumpaang Salaysay*^[9] dated June 8, 1993 claiming that she and her other siblings had no knowledge of the "Transfer Action" filed by petitioner; and that she and her other siblings did not sign any document bearing on the transfer.

To the petition of respondent-DARAB Case No. 2125 NE'92, petitioner by Answer^[10] dated June 23, 1993 raised the following defenses, among others, quoted *verbatim*:

x x x

5. That the [respondent] has no right to claim succession, because the surviving wife Monica Vda. de Tumol of the late tenant Dionisio de Tumol, is still living;

6. That this is the **second case filed by the [respondent]**, wherein in the first case the [respondent] used her mother Monica Vda. de Tumol as the petitioner which she represents, and of which case is known as Monica Vda. de Tumol, represented by Juliana de Tumol Esquerra v. Rolando de Tumol, DARAB Case No. 2057;

7. That aforesaid DARAB Case No. 2057 filed by [respondent] against the

[petitioner] was dismissed by PARAD Ernesto Tabara, x x x henceforth, it is proper that this case be dismissed on [the] ground of res judicata;

x x x

9. That Monica Vda. de Tumol the real party in interest had already executed an affidavit and documents to show that she has no interest in filing a case against the [petitioner], x x x so as manifested this case is an ill-desire by the [respondent] which has no right to own subject land;

x x x (Emphasis and underscoring supplied)

And petitioner submitted his Affidavit,^[11] as well as those of his mother Monica Vda. De Tumol,^[12] and one Francisco Magsakay^[13] (Magsakay). Petitioner's Affidavit and that of his mother alleged that ownership of the property in question had been settled and that respondent had been given her share which she, however, sold to Magsakay. Magsakay's Affidavit confirmed the sale to him of respondent's share.

By Decision^[14] of October 12, 1993, the Provincial Adjudicator ruled in favor of respondent, noting that, among other things, the estate of Dionisio de Tumol had not yet been settled and, therefore, his farmholding should be transferred and registered collectively in the names of all his heirs.

The Provincial Adjudicator thus ordered the Municipal Agrarian Reform Officer of Aliaga, Nueva Ecija "to **generate an Emancipation Patent in the names of all the heirs of the deceased** Dionisio de Tumol who shall divide equally the produce of the land after deducting the expenses in the cultivation thereof."

Before the DARAB to which petitioner appealed^[15] the Provincial Adjudicator's decision, he assigned the following errors:

I

THE LOWER BOARD ERRED AND HAS NO AUTHORITY IN NULLIFYING THE DAR REGIONAL ORDER DATED [SEPTEMBER 30,] 1985 PLACING THE APPELLANT AS THE SUCCESSOR AND/OR FARMER BENEFICIARY, AND

II

THE LOWER BOARD ERRED IN NOT TAKING INTO CONSIDERATION THE AFFIDAVIT/TESTIMONY OF THE WIDOW MONICA DE TUMOL, CERTIFYING THAT IN FACT THE APPELLANT HAS ALREADY BEEN THE SUCCESSOR AND BENEFICIARY OF THE SUBJECT LAND.^[16]

In the meantime or on February 20, 1997, Emancipation Patent Nos. 00716143, 00716144 and 00716145 were issued to petitioner by the DAR, pursuant to which Transfer Certificate of Title Nos. EP-00003, EP-00004 and 00015^[17] were issued in his name.

By Decision^[18] dated June 11, 1998, the DARAB affirmed with modification the Provincial Adjudicator's October 12, 1993 Decision.