

SECOND DIVISION

[G. R. No. 137881, December 21, 2004]

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

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court which assails the resolution^[1] of the Court of Appeals (CA) promulgated on November 18, 1998, outrightly dismissing CA-G.R. SP No. 49074 on ground of insufficiency in form and substance, and the resolution^[2] dated March 4, 1999 denying petitioners' motion for reconsideration.

The factual background of the case is aptly stated by the Department of Agrarian Reform Adjudication Board (DARAB) in its decision dated January 9, 1998, as follows:

Plaintiffs^[3] alleged that they are duly registered and recognized, as tenants, by the Department of Agrarian Reform (DAR), Region VIII, Tacloban City on parcel of ricelands owned by defendant Isaac Delgado, duly administered by his son, defendant Fernando Delgado^[4] and situated at Barangay Tabunok, Palompon, Leyte. They started plowing and tilling these ricelands sometime in 1962 upon the authorization of defendant Isaac Delgado wherein they were appointed as tenants.

From 1962 up to 1981, plaintiffs and defendant Isaac Delgado shared the produce of the ricelands through their labor and hardship on a 50-50 basis. The sharing arrangement was, later on, changed, sometime in 1982, to 1/4-3/4 basis, in favor of the plaintiffs. The new sharing agreement, however, was not accepted by the defendants inspite (sic) of the fact that it was in accordance with the provisions of Republic Act (RA) 3844, as amended by Republic Act (RA) 6389. Because of defendants' refusal, plaintiffs were compelled to sell their share and deposited the proceeds with the Philippine National Bank (PNB), Ormoc City Branch, for its safekeeping.

After the effectivity of Presidential Decree (PD) 27 on October 21, 1972, the subject land being devoted to the production of rice, was covered by Operation Land Transfer for distribution to qualified beneficiaries. Plaintiffs were identified by the DAR as the qualified beneficiaries on their respective portion of the land. As a consequence, Certificates of Land Transfer (CLT's), in their respective names, were generated and issued

(see Annexes A to F, pp. 52-A to 52-E, Rollo).

Last January 1985, for no apparent reason, defendants destroyed and razed to the grounds the newly sprouted rice plants, which they planted, to their great prejudice and embarrassment. Defendant Fernando Delgado threatened them, by pointing a gun, and warned them to stop tilling and cultivating the subject land resulting in their ejectment thereon. Because of these unlawful acts, plaintiffs were deprived of their share of the produce of the land.

In 1987, the DAR issued to the plaintiffs their Emancipation Patents (EP's) covering their respective portion of the land (see Annexes G to L, pp. 3-F to 53-L). The issuance of EP's, 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, until now, defendants are preventing them from doing so. This prompted plaintiffs to file the present action against defendants for Reinstatement with Damages.

In their Answer, defendants contended that as early as 1972, the land in question was sold to and partitioned by the children of defendant Isaac Delgado. They denied that plaintiffs Remegio Laguna, Camilo Evangelista and Rustico Ruizo are tenants on the subject land because they abandoned their landholdings sometime in the year 1971 when they left for Butuan, Agusan. The three (3) plaintiffs never returned to work again to their respective landholdings.

On the other hand, respondents also controverted the claim of plaintiffs Zacarias Limpangog, Santiago Baloro and Nemesio Amores. According to them, these three (3) remaining plaintiffs voluntarily left their respective landholding sometime in the year 1984 after they each received the sum of Three Thousand Pesos (P3,000.00) from the children of defendant Isaac Delgado. In addition, they illegally appropriated the six (6) cavans of palay harvested without giving any share to the landowners.

Moreover, defendants argued that all the plaintiffs acquired their respective CLT's and EP's fraudulently and in bad faith.

Finally, defendants raised that the present action should be dismissed on ground of *res judicata*. Defendants pointed out that plaintiffs, on June 18, 1987, filed before the Regional Trial Court of Palompon, Leyte a case for Reinstatement with Damages against them involving the subject land (see Exhibit I, pp. 81-A to 81-D, Rollo). This case was subsequently dismissed on June 28, 1988 (see Exhibit 2, p. 81-E, Rollo). Thereafter, on May 27, 1987, plaintiffs filed the same action for Reinstatement with Damages before the Lower Board.

On July 27, 1993, after careful perusal of the evidence adduced by the parties, the Provincial Adjudicator *a quo* rendered a decision adverse the defendants, the dispositive portion of which is reproduced in full as follows:

WHEREFORE, premises considered, decision is hereby rendered, to wit:

1. Finding plaintiffs as lawful tenant-beneficiaries and now owners of the lands in question located at Barangay Tabunok, Palompon, Leyte, to wit:

a). Zacarias Limpangog-OCT No. OE-1186 and EP No. A-045799, with an area of .3836 ha.

b). Remegio Laguna – OCT No. OE-1189 and EP No. A-045800, with an area of .4169 ha.

c). Santiago Baloro – OCT No. OE-1193 and EP No. A-045796, with an area of .3770 ha.

d). Camilo Evangelista – OCT No. OE-1192 and EP No. A-045798, with an area of .3690 ha.

e). Nemesio Amores – OCT No. OE-1183 and EP No. A-045451, with an area of .3698 ha.

f). Rustico Ruizo – OCT No. OE-1184 and EP No. A-045453, with an area of .3929 ha., all issued and registered with the Register of Deeds of Leyte on October 7, 1987 and April 22, 1988, respectively.

2. Ordering defendants and their agents or persons in possession to vacate from the landholding in question and to place thereon plaintiffs in peaceful possession and cultivation.

SO ORDERED.

On August 16, 1993, defendants seasonably filed a Motion for Reconsideration. The Lower Board, on February 9, 1994, granted the Motion for Reconsideration and modified its previous decision as follows:

*In fine, this Office holds that **by virtue of the dismissal of the action in the RTC, Branch 17, Palompon, Leyte, at the instance of the complainant, the latter, in legal contemplation have abandoned their rights and obligations relative to their farmholding**, the consequence is the forfeiture of their titles and the landholding covered and reallocation of the land to other tenant farmer in accordance with aforesaid guidelines.*

WHEREFORE, premises considered, the Decision of July 27, 1993 is hereby reconsidered and modified as follows:

1. *Finding that the complainants^[5] have forfeited their rights to the land in question as tenant beneficiaries; and*
2. *Ordering the Municipal Agrarian Reform Officer (MARO) of DAR, Palompon, Leyte, to effect the reallocation of the subject landholding to other tenant-farmers in accordance with the provisions of PD 27, and Memorandum Circulars and Rules and Regulations.*

SO ORDERED.^[6] (Emphasis supplied)

Respondents appealed to the DARAB. Reversing the Provincial Adjudicator, the DARAB, in its decision dated January 9, 1998, ruled that herein respondents did not abandon the possession and cultivation of the subject land; set aside the challenged order dated February 9, 1994; reinstated the decision dated July 27, 1993 issued by the Provincial Adjudicator and affirmed the same.

Petitioners then filed in the CA, a petition for review under Rule 45 of the Rules of Court, docketed as CA-G.R. SP No. 49074. It was dismissed outright per the CA's herein assailed resolution promulgated on November 18, 1998, to wit:

It appearing that the petition for review is insufficient in form and substance:

1. Verification and Certification of non-forum shopping is signed by counsel, not by the parties (Rollo, p. 18);
2. There are no affidavit of service and explanation on mode of service; and
3. Copy of the assailed decision attached as Annex "A" is a mere Xerox copy (Rollo, p. 20).

the Court resolves to DISMISS this case outright.

SO ORDERED.^[7]

On petitioners' motion for reconsideration, the appellate court denied the same, ruling 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 petitioner Fernando Delgado 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, such as the motion for reconsideration dated January 31, 1998 of the Decision of January 9, 1998, Order dated February 9, 1994 and the Decision of July 27, 1993 of the DARAB Board, Tacloban City; Resolution dated June 29, 1998 of DARAB, Diliman, Quezon City; the Complaint for Reinstatement with Damages dated May 27, 1987; the Reply on the Complaint, and the Motion for Reconsideration of DARAB, Tacloban City Decision of July 27, 1997.^[8]

Petitioners filed herein petition raising the sole issue, thus: