

SECOND DIVISION

[G.R. No. 135999, April 19, 2002]

**MILESTONE REALTY AND CO., INC. AND WILLIAM L. PEREZ,
PETITIONERS, VS. HON. COURT OF APPEALS, DELIA RAZON
PEÑA AND RAYMUNDO EUGENIO, RESPONDENTS.**

D E C I S I O N

QUISUMBING, J.:

Petitioners Milestone Realty & Co., Inc. ("Milestone" for brevity) and William Perez seek the reversal of the decision^[1] dated May 29, 1998 of the Court of Appeals in CA-G.R. SP NO. 39987. Said decision affirmed that of the Department of Agrarian Reform Adjudication Board (DARAB),^[2] which had declared respondent Delia Razon Peña as the *bona fide* tenant of a lot in Bulacan, and voided the sale of said lot thereby reversing the decision of the Provincial Agrarian Reform Adjudicator (PARAD).^[3]

The facts as culled from the records are as follows:

Spouses Alfonso Olympia and Carolina Zacarias and Spouses Claro Zacarias and Cristina Lorenzo were the co-owners of an agricultural land identified as Lot 616 of the Malinta Estate. Said lot has an area of 23,703 square meters, covered by Transfer Certificate of Title (TCT) No. 26019, located at Karuhatan, Valenzuela, Bulacan, now Valenzuela City. Eventually, Carolina became the owner of the property by virtue of a Deed of Extrajudicial Settlement executed on October 17, 1976 by the heirs of Alfonso Olympia, one of whom is Francisco Olympia, on their respective shares after Alfonso's death and by an Affidavit of Settlement executed on June 24, 1992 by the spouses Claro and Cristina Zacarias on their shares in the property.

Meanwhile, Anacleto Peña who was a tenant of the property and a holder of a Certificate of Agricultural Leasehold issued on February 23, 1982, had a house constructed on the lot. He had several children on the first marriage, among whom are Emilio Peña and Celia Segovia, who also had their houses constructed on the property. On February 4, 1986, Anacleto, who was already 78 years old and a widower, married Delia Razon, then only 29 years old. On February 17, 1990, Anacleto died intestate and was survived by Delia and his children in his first marriage, including Emilio.

Emilio and Delia, the latter with the help of respondent Raymundo Eugenio, her son-in-law, continued tilling and cultivating the property. On January 22, 1992, Emilio signed a handwritten declaration that he was the tenant in the land and he was returning the landholding to Carolina Zacarias in consideration of the sum of P1,500,000 as "disturbance compensation". He initially opted for a 1,000 square meter homelot but later changed his mind. After receipt of the money, he executed

a "*Katibayang Paglilipat ng Pag-mamay-ari*".

In the meantime, petitioner William Perez, Joseph Lim, Willy Lim, Winston Lim, Edgar Lim, and Jaime Lim established Milestone as incorporators, in order to acquire and develop the aforesaid property and the adjacent parcel, Lot No. 617 of the Malinta Estate.

On July 30, 1992, Carolina Zacarias executed a deed of sale transferring the Lot No. 616 to petitioner Milestone for P7,110,000. TCT No. 26019 was cancelled and *in lieu* thereof, TCT No. 25433 was issued in the name of Milestone. On the same date, the adjoining Lot No. 617 covered by TCT No. V-25431 was issued under the name of petitioner William Perez who subsequently sold the same to Milestone on the basis of which TCT No. V-26481 was issued to it. Thus, Milestone became the owner of the adjoining lots, Lot Nos. 616 and 617 of the Malinta Estate with a total area of three (3) hectares. Development of the property then commenced.

On October 13, 1992, private respondents Delia Razon Peña and Raymundo Eugenio filed a complaint against Emilio Peña, Carolina Zacarias and her brother Francisco Olympia, and William Perez with the PARAD, which was amended on January 6, 1993 to implead Milestone as respondent, praying *inter alia* to declare as null and void the sale by Carolina to Perez and by the latter to Milestone, and to recognize and respect the tenancy of private respondents Delia and Raymundo.

In her answer, Carolina Zacarias declared that she chose Emilio Peña as her tenant-beneficiary on the said property within 30 days after the death of Anacleto, conformably with Section 9 of Republic Act No. 3844.^[4] On July 28, 1993, the PARAD rendered a decision dismissing the complaint as follows:^[5]

WHEREFORE, upon the foregoing premises, judgment is hereby rendered:

1. Dismissing the instant complaint;
2. Dissolving the writ of Preliminary Injunction issued on May 24, 1993;
3. Directing the Cashier of the DAR Regional Office at Pasig, Metro Manila to release to the Petitioners or their duly authorized representative, the cash bond posted in the amount of Fifteen Thousand Pesos [P15,000.00].
4. No pronouncement as to costs.

SO ORDERED.

In the decision, the PARAD ruled that the order of preference cited in Section 9 of Republic Act 3844 is not absolute and may be disregarded for valid cause.^[6] It also took note that Emilio's two siblings have openly recognized Emilio as the legitimate successor to Anacleto's tenancy rights.^[7]

Delia Razon Peña and Raymundo Eugenio appealed from the PARAD's decision to the

DARAB. On September 5, 1995, the DARAB reversed the decision of PARAD, the dispositive portion of which reads as follows:

WHEREFORE, premises considered, the instant appeal is hereby GRANTED. The Decision dated July 28, 1993 is REVERSED.

Judgment is issued:

1. Declaring Delia Razon Peña the bona-fide tenant over the landholding in question;
2. Declaring the series of purchase and sale of the landholding in question as illegal, hence, null and void;
3. Directing the Register of Deeds to cancel TCT No. V-26485 and all subsequent titles obtained thereafter over the landholding named under William L. Perez and Milestone Realty and Co., Inc.;
4. Allowing Delia Razon Peña to exercise her right of redemption over the land within the prescribed period granted by law;
5. Enjoining all Respondents-Appellees to desist from further disturbing Delia Razon Peña in the peaceful possession and cultivation of the land;
6. Directing the DAR-DOJ Task Force on Illegal Conversion to file appropriate charges before the Special Agrarian Court as regards the criminal aspect of this case.

SO ORDERED. [8]

In reversing the PARAD's decision, the DARAB noted that Carolina's affidavit did not show any categorical admission that she made her choice within the one (1) month period except to state that "when Anacleto died, the right of the deceased was inherited by Emilio Peña" which could only mean that she recognized Emilio Peña by force of circumstance under a nebulous time frame. [9]

In a petition for review to the Court of Appeals, the latter affirmed the DARAB's decision, thus:

We are convinced, beyond cavil, in the present recourse, that the Petitioners Carolina Olympia and Francisco Olympia failed to choose, within the statutory period therefor, any tenant in substitution of Anacleto Peña, the erstwhile deceased tenant on the landholding, and that, without prior or simultaneous notice to Private Respondent Delia Peña, the Petitioners made their choice of Petitioner Emilio Peña as substitute tenant only in January, 1992, after they had agreed to sell the property to the Petitioner Milestone Realty & Co., Inc.

IN SUM, then, We find no reversible error committed by the DARAB under its oppunged Decision.

IN THE LIGHT OF ALL THE FOREGOING, the Petition is denied due course

and is hereby dismissed. The appealed Decision is hereby AFFIRMED.
With costs against the Petitioners.

SO ORDERED.^[10]

Subsequently, petitioners filed a Motion for Reconsideration of the CA's decision. Said motion was denied on October 12, 1998.

Hence, this petition assigning the following errors allegedly committed by respondent Court of Appeals:^[11]

I

THE RESPONDENT COURT OF APPEALS ERRED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN THE CONSTRUCTION AND APPLICATION OF SECTION 9 OF REPUBLIC ACT 3844 BY HOLDING THAT PRIVATE RESPONDENT DELIA RAZON PEÑA HAS SUCCEEDED TO HER DECEASED HUSBAND'S LEASEHOLD RIGHT BY OPERATION OF LAW.

II

THE RESPONDENT COURT OF APPEALS ERRED IN DECLARING THE SALE BY THE LANDOWNER TO PETITIONER WILLIAM L. PEREZ, AND BY THE LATTER TO PETITIONER MILESTONE REALTY & CO., INC. AS NULL AND VOID, AND IN ORDERING THE CANCELLATION OF THEIR RESPECTIVE TITLES.^[12]

These two assigned errors tendered issues articulated in petitioners' memorandum as follows:

1. Whether or not Emilio Peña was validly chosen by Carolina Zacarias as the new tenant over the landholding under dispute within one (1) month from the death of his father Anacleto, as prescribed by Section 9 of R.A. 3844, as amended;
2. Whether or not Delia Razon Peña was a *bona fide* or *de jure* tenant over the landholding in question to be accorded the alleged rights to security of tenure and of redemption under the agrarian reform laws;
3. Whether or not Emilio Peña validly renounced or otherwise caused the extinction of his tenancy rights over the subject property;
4. Whether or not the sales of the subject property by Carolina Zacarias to William Perez and by the latter to Milestone were null and void, hence merited the declaration of nullity and cancellation of the respondents' respective titles;
5. Whether or not illegal conversion was committed by Milestone.

In sum, we find the following relevant issues now for our resolution:

1. Whether or not Delia Razon Peña has a right of first priority over Emilio Peña in succeeding to the tenancy rights of Anacleto over the subject landholding.

2. Whether or not the sales of the subject lots by Carolina Zacarias to William Perez and then to Milestone are null and void.

At the outset, it bears stressing that there appears to be no dispute as to tenancy relationship between Carolina Zacarias and the late Anacleto Peña. The controversy centers on who is the rightful and legal successor to Anacleto's tenancy rights. Relevant to the resolution of the first issue is Section 9 of Republic Act No. 3844, otherwise known as the Code of Agrarian Reforms, which provides as follows:

SEC. 9. Agricultural Leasehold Relation Not Extinguished by Death or Incapacity of the Parties. - In case of death or permanent incapacity of the agricultural lessee to work his landholding, the leasehold shall continue between the agricultural lessor and the person who can cultivate the landholding personally, chosen by the agricultural lessor within one month from such death or permanent incapacity, from among the following: (a) the surviving spouse; (b) the eldest direct descendant by consanguinity; or (c) the next eldest descendant or descendants in the order of their age: *Provided*, That in case the death or permanent incapacity of the agricultural lessee occurs during the agricultural year, such choice shall be exercised at the end of that agricultural year: *Provided, further*, That in the event the agricultural lessor fails to exercise his choice within the periods herein provided, the priority shall be in accordance with the order herein established.

In case of death or permanent incapacity of the agricultural lessor, the leasehold shall bind his legal heirs.

Petitioners contend that Section 9 does not require any form or manner in which the choice should be made.^[13] They assail the Court of Appeals for heavily relying on the findings of the DARAB that there was no convincing proof that Carolina exercised her right to choose from among the qualified heirs a replacement for the deceased tenant,^[14] when in fact a choice was made. In support thereof, petitioners invoke Carolina's affidavit and her Answer to the complaint in the PARAD, both dated November 16, 1992 where Carolina recognized Emilio Peña as the successor to Anacleto's tenancy rights. Petitioners argued that Delia could not have qualified as a successor-tenant to Anacleto due to lack of personal cultivation.^[15] Further, she had not been paying rent on the land.

Responding to petitioners' contentions, respondents argue that Carolina did not choose the successor to Anacleto's tenancy rights within one month from the death of Anacleto. Respondents note that it was only after the lapse of two (2) years from the death of Anacleto on February 17, 1990, that both Carolina and Emilio claimed in their respective affidavits that Emilio inherited the rights of Anacleto as a tenant.^[16] According to respondents, such inaction to make a choice within the time frame required by law is equivalent to waiver on Carolina's part to choose a substitute tenant.^[17] Also, it appears that Carolina made the choice in favor of Emilio Peña only by force of circumstance, i.e., when she was in the process of negotiating the sale of the land to petitioners Perez and Milestone.^[18]

On this score, we agree with private respondents. As found by both the DARAB and