396 Phil. 533

THIRD DIVISION

[G.R. No. 138979, October 09, 2000]

ERNESTO BUNYE, PETITIONER, VS. LOURDES AQUINO, CITA AQUINO AND ROBERTO AQUINO, RESPONDENTS.

D E C I S I O N

GONZAGA-REYES, J.:

Assailed in this petition for review is the June 15, 1999 Decision of the Court of Appeals which modified its own decision promulgated on November 26, 1998 with regard to the size of the homelot awarded to respondents.[1]

Respondents Lourdes, Cita and Roberto, all surnamed Aquino, are the children of the late Bartolome Aquino who was instituted in 1967 as a tenant over a 16,974.50 square meter lot located at Ilaya street, Alabang, Muntinlupa, Metro Manila belonging to Zoilo Bunye, the father of petitioner Ernesto Bunye. Sometime in 1970, Zoilo Bunye told Bartolome Aquino to stop cultivating 14,474.50 square meters of the land since the former was going to devote the same to commercial uses. No disturbance compensation was paid to Bartolome Aquino, but Zoilo Bunye permitted Bartolome Aquino to continue cultivating the remaining 2,500 square meters and promised him a homelot within the said area. Considering himself aggrieved, Bartolome Aquino repaired to the Court of Agrarian Relations (CAR) in order to seek judicial recognition of his tenancy status over the remaining 2,500 square meters.[2] The CAR rendered judgment recognizing Bartolome Aquino as a tenant over 2,500 square meters of the subject property with a fixed annual rental of P140.00. On November 5, 1976, the Court of Appeals affirmed the CAR's decision.[3] Thus, Bartolome Aquino continued in the possession and cultivation of 2,500 square meters of Zoilo Bunye's land and he constructed his family home on a 500 square meter area thereon.

On February 20, 1986, the then Minister of Agrarian Reform Conrado Estrella approved Ernesto Bunye's petition for the conversion of the 2,500 square meters of land tenanted by respondents from agricultural land to residential and commercial land. Petitioner was able to eject respondents from 2,000 square meters of the converted land, leaving only 500 square meters in the possession of respondents. Since petitioner sought to eject respondents from even the 500 square meters of land they occupied, respondents filed a complaint with the Office of the Regional Agrarian Reform Adjudicator, insisting that they are entitled to the possession of the 500 square meters of land occupied as a homelot as part of the compensation for the deprivation of the 16,974.5 square meters of land originally tenanted by Bartolome Aquino.[4]

On April 11, 1996, the Regional Adjudicator Fe Arche-Manalang held that no tenurial relations could exist between the parties as the land had ceased to be agricultural by virtue of its conversion in 1986, even before Bartolome Aquino's death in 1988.

Correspondingly, respondents cannot claim entitlement to possession of the homelot originally granted to their father since the right to the same is co-terminous with the existence of an agricultural leasehold relationship. Petitioner was ordered to pay respondents disturbance compensation for the latter's dispossession from 2,500 square meters of tenanted land. The Regional Adjudicator also awarded a 75 square meter homelot to respondents but only as an alternative relief in the event that the disturbance compensation could not be computed. The factual findings and conclusions of the Regional Adjudicator are set out below -

> Before delving into the merits of the first issue cited above, the following undisputed facts must be borne in mind:
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> 1. Bartolome Aquino's tenancy status over a 2,500 sq. m. portion of the property presently registered in the name of Z. E. Bunye and Sons Realty Estate Corporation under TCT No-S-77427 was affirmed by the Court of Appeals in a decision rendered as early as November 5, 1976;
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> 2. On February 20, 1986, the said 2,500 sq. m. was approved for conversion subject to the payment of disturbance compensation to the affected tenant;
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> 3. As found in the ocular inspection and investigation report incorporated in the aforementioned Order of Conversion dated February 20, 1986, only about 500 sq. m. remained devoted to agricultural cultivation, the rest being utilized for residential use by the identified tenant Bartolome Aquino.
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> Against this backdrop, the only inevitable conclusions that can be drawn are: 1) at the time of the original tenant Bartolome Aquino's death in 1988, the property in question ceased to be agricultural in nature and character by virtue of its conversion to non-agricultural use in 1986; 2) since no valid tenurial relations can continue to exist on land that is no longer agricultural it follows that no tenancy relationship can possibly devolve by way of succession upon the tenant's surviving heirs with his death in 1988 as envisioned in Section 9 of RA 3844, as amended. As things now stand, Complainants cannot even demand the right to continue in the exclusive possession and enjoyment of any homelot awarded to their late father as the same is co-terminous with the existence of a legitimate tenancy or agricultural leasehold relationship (Vide, Section 22 (3), RA 1199 as amended) which is not the situation obtaining in the case at bar. All they can hope for is to claim payment of disturbance compensation which was denied in 1986 to their father during his lifetime equivalent to five times the average of the gross harvests on the landholding during the last preceding calendar years (Vide, Section 36 (1) of RA 3844 as amended). Even assuming arguendo that the late tenant was promised a homelot consisting of 500 sq. m. in lieu of a disturbance compensation, such verbal agreement is unenforceable as it is not contained in a public document as required by law.
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> Viewed in the light of the foregoing discussion, the first and second issues can only be resolved adversely against the Complainants EXCEPT

> in the matter of payment of disturbance compensation to which they are fully entitled. However, by way of alternative relief since no production data is extant in the records upon which the said computation can be based, this Office in the exercise of its equity jurisdiction, deems it appropriate to award to the Complainants in lieu thereof a homelot consisting of 75 sq. m. as originally offered by the Respondent in their initial exploratory talks on the possibility of an amicable settlement or compromise.[5]
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On June 10, 1998, the Department of Agrarian Reform Adjudication Board (DARAB) affirmed the Regional Adjudicator's decision.[6]

Respondents elevated the matter before the Court of Appeals. Although the Court of Appeals modified the DARAB's decision by providing that disturbance compensation should be paid for the entire 16,974.50 square meters of the subject property, it upheld the award of 75 square meters in favor of respondents in lieu of disturbance compensation. The appellate court explained in its November 26, 1998 decision that -

> There is nothing in the records to show that Zoilo Bunye granted Bartolome Aquino a homelot of 500 sq. m. as claimed by the heirs of the latter. The evidence shows that Bunye converted 14,474.50 out of his 16,924.50 sq. m. landholding for commercial purposes and left 2,500 sq. m. to be cultivated by his tenant Bartolome Aquino promising him a homelot therein without specifying the area. The fact that Aquino set aside and occupied upon his own decision 500 sq. m. as his homelot does not entitle him to the same area as a matter of right, absent a specific grant from Bunye.
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> However, there seems to be no question that Bartolome Aquino did not receive disturbance compensation for the 14,974.50 sq. m. of which he was dispossessed; neither were his heirs paid any such compensation for the 2,500 sq. m. left which Ernesto Bunye also had converted into a commercial lot.
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> The DARAB did not err when it affirmed the decision of the Regional Adjudicator granting the petitioners disturbance compensation. However, the decision did not specify the area for which such compensation is to be paid. We believe that the compensation should be for the entire 16,974.50 sq. m. previously tenanted by Bartolome Aquino and later by his heirs, since it is admitted that the tenant was not paid such disturbance compensation when the land was converted into a commercial area.
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> We likewise agree with the DARAB when it set aside an area of 75 sq. m. as the homelot for the heirs of Aquino. The area is reasonable enough considering the purpose for which it is intended.
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> The Aquinos, however, want the privilege to be able to choose whether they will avail of the 75 sq. m. homelot or the disturbance compensation

for the entire 16,974.50 to which they are entitled in the event that they are found not entitled to the 500 sq. m. homelot they claim. We think that this is reasonable and is not prohibited by any existing law.

WHEREFORE, premises considered, the judgment of the Department of Agrarian Reform Adjudication Board is AFFIRMED with the clarification that the disturbance compensation payable shall be for the whole area of 16,974.50 sq. m. and with the modification that the petitioners shall be allowed to choose whether they opt for the payment of disturbance compensation or for a homelot of 75 sq. m. .

No costs.

SO ORDERED.[7]

However, acting upon a motion for reconsideration filed by respondents, the Court of Appeals modified its decision by increasing the size of the homelot to 500 square meters. In its asssailed decision promulgated on June 15, 1999, the appellate court rationcinated that -

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The petitioners pointed out that at the time their father Bartolome Aquino gave up to his landowner the 14,974.50 sq. m. being worked by him which was converted to commercial use in 1970, their father was not paid any disturbance compensation, but was promised a homelot out of the 2,500 sq. m. left; that while it is true that the landowner had the right to choose which portion of the land tenanted should be used as a homelot, this right was not exercised by the landowner in this case and the choice was left to their father Bartolome Aquino which portion of the 2,500 sq. m. would be left as his homelot.

The petitioners further argue that since the tenancy of their father Bartolome Aquino over the land of respondent Bunye's predecessor took place before the approval of Republic Act 3844 on August 8, 1963, his right to a homelot was governed by Republic Act 1199 which was passed on August 30, 1954, Section 22 of which provides:

> "Sec. 22. Par. (3) - The tenant shall have the right to demand for a homelot suitable for dwelling with an area of not more than 3 percent of the area of his landholding provided that it does not exceed one thousand square meters and that it shall be located at a convenient and suitable place within the land of the landholder to be designated by the latter where the tenant shall construct his dwelling and may raise vegetables, poultry, pigs and other animals and engage in minor industries, the products of which shall accrue to the tenant exclusively. x x x "

Thus, they contend that three (3) percent of 16,924.80 is 507.75 sq. m. so that the area of 500 sq. m. occupied by the late Bartolome Aquino as a homelot is just right for the total area of 16,924.80 sq. m. being tenanted by him when 14,974.80 was converted for commercial