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FIRST DIVISION

[G.R. No. 107493, February 01, 1996]

NATIVIDAD CANDIDO, ASSISTED BY HER HUSBAND ALFREDO CANDIDO, AND VICTORIA C. RUMBAUA, ASSISTED BY HER HUSBAND AMOR RUMBAUA, PETITIONERS, VS. COURT OF APPEALS AND SOFRONIO DABU, RESPONDENTS.

D E C I S I O N

BELLOSILLO, J.:

This petition for review on certiorari was instituted for the re-examination of the decision of the Court of Appeals in CA-G.R. No. SP-24522 (CAR) affirming that of the trial court which dismissed the complaint of petitioners for failure to establish their cause of action.

Petitioners Natividad Candido and Victoria Rumbaua are co-owners of a first-class irrigated riceland with an area of 21,193 square meters located in Orion, Bataan. Respondent Sofronio Dabu served as their agricultural tenant. On 21 July 1986 petitioners lodged a complaint[1] with the Regional Trial Court of Bataan against respondent Dabu for termination of tenancy relationship and recovery of unpaid rentals from crop-year 1983 plus attorney's fees and litigation expenses.

Petitioners averred in their complaint below that a team from the Ministry of Agrarian Reform had fixed a provisional rental of twenty-six (26) and twenty-nine (29) sacks of palay for the rainy and dry seasons, respectively, which respondent failed to pay beginning the crop-year 1983 dry season up to the filing of the complaint.

Private respondent denied the material allegations of the complaint and claimed that until 1983 their sharing system was on a 50-50 basis; that his share in the crop year 1983 dry season was still with petitioner Natividad Candido who likewise retained his water pump. He denied any provisional rental allegedly fixed by the Ministry of Agrarian Reform and at the same time maintained that only a proposal for thirteen (13) cavans for the rainy season crop and twenty-five percent (25%) of the net harvest during the dry season was put forward. He claimed that he paid his rentals by depositing thirteen (13) cavans of palay for the 1984 rainy season crop, thirteen (13) cavans for 1985 and eight (8) cavans representing twenty-five percent (25%) of the dry season harvest.

On motion of respondent upon issues being joined, the case was referred to the Department of Agrarian Reform (DAR) for a preliminary determination of the existing relationship between the parties and for certification as to its propriety for trial. Thereafter the DAR certified that the case was proper for trial but only on the issue of non-payment of rentals and not on the ejectment of respondent Dabu. Accordingly trial proceeded on the issue of non-payment of rentals.

After finding that no evidence was adduced by petitioners to prove the provisional rental alleged to have been fixed by the Ministry of Agrarian Reform, the lower court dismissed the complaint. The counterclaim of respondent Dabu was likewise dismissed after it was established that the tenancy relationship prevailing between the parties was on a 50-50 basis.[2]

The Court of Appeals[3] confirmed the findings of the court *a quo* and affirmed its judgment thus-

> We have carefully examined the testimonial and documentary evidence on record and found nothing therein about the so-called provisional rates supposedly fixed by the DAR and allegedly breached by appellee. Indeed neither appellant herself Natividad C. Candido nor appellants' other witness Benjamin Santos ever mentioned in the course of their respective testimonies the alleged provisional rates fixed by the DAR. For sure, going by appellants' evidence it would appear that no such rates were in fact fixed by the DAR.[4]

The appellate court also found that no evidence was introduced to prove the expenses incurred by the parties for planting and harvesting hence the amount of the net harvest was never determined. Only the transfer certificate of title of the property and its corresponding tax declaration were offered in evidence.

The motion of petitioners for reconsideration[5] was merely noted considering that under Sec. 4. par. (d), Rule 6, of the Revised Internal Rules of the Court of Appeals (RJRCA), the filing of a motion for reconsideration in agrarian cases is not allowed. [6]

Petitioners would impress upon us that the verified complaint and the affidavit presented by petitioners to the DAR are proofs of the provisional rentals fixed by it and that it was error for the trial court not to have taken cognizance of these documents.

We are not persuaded. It is settled that courts will only consider as evidence that which has been formally offered.[7] The affidavit of petitioner Natividad Candido mentioning the provisional rate of rentals was never formally offered; neither the alleged certification by the Ministry of Agrarian Reform. Not having been formally offered, the affidavit and certification cannot be considered as evidence. Thus the trial court as well as the appellate court correctly disregarded them. If they neglected to offer those documents in evidence, however vital they may be, petitioners only have themselves to blame, not respondent who was not even given a chance to object as the documents were never offered in evidence.

A document, or any article for that matter, is not evidence when it is simply marked for identification; it must be formally offered, and the opposing counsel given an opportunity to object to it or cross-examine the witness called upon to prove or identify it.[8] A formal offer is necessary since judges are required to base their