

**[ SP No. 95855, November 07, 2007 ]**

**JESSE CO SAY, MICHAEL T. CO SAY, ERIC C. COSAY, YVETTE CO SAY, MA. EDITHA C. QUINTO AND ABIGAIL C. LITAM, HEREIN REPRESENTED BY: EMELITA N. DE JESUS, PETITIONERS, VS. ANGEL BUENA, JR., RESPONDENT.<sup>[\*]</sup>**

The plaintiffs come to this Court by petition for review, praying for the reversal of the decision dated July 10, 2006 rendered by the Regional Trial Court (RTC), Branch 31, in Pili, Camarines Sur,<sup>[1]</sup> affirming the decision dated January 31, 2006 of the Municipal Trial Court (MTC) of Ocampo, Camarines Sur,<sup>[2]</sup> dismissing their complaint for unlawful detainer against the respondent for lack of jurisdiction.

On September 7, 2005, the petitioners commenced this action for unlawful detainer in the MTC,<sup>[3]</sup> alleging that they were the lawful and registered absolute co-owners of a parcel of agricultural land located in Mabatobato, Pili (now Ocampo), Camarines Sur; that they acquired the property from the heirs of the late Teofilo Yamson, by virtue of which acquisition Transfer Certificate of Title No. 39613 was issued in their names; that they were paying the real property tax on the property; that the respondent occupied and possessed the property since December 2004 by their tolerance with the implied promise to vacate the property upon demand; and that demand to vacate was made upon the respondent on June 10, 2005 but he refused to vacate the property.

In his answer with counterclaim,<sup>[4]</sup> the respondent averred that he and his wife, Jovita Yamson-Buena, were the legitimate agricultural tenants in the property since the lifetime of Jovita's mother, Severa Lanozga-Yamson, to whom they paid the land share; that when the property was transferred to the petitioners, the respondent tried to remit the succeeding land shares but was refused by Maximo Co Say, the petitioner's predecessor-in-interest; that the respondent saved the money value of the land shares for remittance to the petitioners should they be willing to accept it; that on September 18, 2003, a demand letter to vacate was sent to Jovita Yamson-Buena, to which a reply dated October 15, 2003 was made; that on June 8, 2004, another demand letter to vacate was sent to Jovita, which was responded to in a letter dated June 20, 2004; that Jovita filed in the Office of the Registry of Deeds of the Province of Camarines Sur an affidavit of her adverse claim as agricultural tenant in the property; and that the Barangay Agrarian Reform Committee (BARC) Chairman had no authority to pass upon the issue of agricultural tenancy relations between the parties in this case because jurisdiction on the matter was vested in the Department of Agrarian Reform Adjudication Board (DARAB).

On January 31, 2006, the MTC rendered a decision in favor of the respondent, viz:

Under the rules, ejectment cases should be filed in court within one (1) year after such unlawful deprivation or withholding of possession of the land-in-question. It is also settled rule that demand to vacate is jurisdictional in unlawful detainer. While it is the general rule that where several demands are made, the running of the one-year period starts

only from the date of the last demand but is admits of exception. As enunciated in the case of Desbaras v. Laureano, 18 SCRA 116. "However, the nature of the demand must be determined if the demand to vacate is only in the nature of a reminder of previous standing demand already made upon the lessee then there is no second or another demand to speak of. The one year period must still be counted from the date of the original demand was made.

The first demand letter (Exh "1") to Jovita Yamson-Buena was dated September 18, 2003 receipt of which was duly acknowledge in her response letter (Exh "2") dated October 15, 2003. The Second demand letter (Exh "3") to Jovita Yamson-Buena was dated June 8, 2004 receipt of which was duly acknowledged in her response letter (Exh. "4") dated June 20, 2004. From the text of both letters (Exhs. "1" and "3") are the latter letter (Exh. "3") is just a reiteration of the former letter (Exh. "1"). Even if the plaintiffs on June 10, 2005 sent a letter (Exh. "d" to Angel Buena, Jr., this time, which was unresponded, the nature of the demand is the same, for him to vacate the land-in-question, plainly reiteration of the previous demands. (Exhs. "1" and "3")

Considering that the first demand letter (Exh. "1") was made on September 18, 2003 and the instant case was filed on September 7, 2005 almost two (2) years had elapsed, in violation of the one-year limitation as jurisdictional requirement in unlawful detainer case. For lack of jurisdiction instant case for unlawful detainer is hereby ordered dismissed.

The counterclaim is likewise dismissed.

SO ORDERED.<sup>[5]</sup>

On appeal, the RTC affirmed the MTC,<sup>[6]</sup> decreeing:

WHEREFORE, for lack of sufficient merit, the herein appeal is DISMISSED. The decision of the Court a quo is hereby AFFIRMED in toto.

SO ORDERED.<sup>[7]</sup>

Aggrieved, the petitioners appeal, insisting that:<sup>[8]</sup>

## I

THE APPELLATE COURT ERRED IN AFFIRMING IN TOTO THE DECISION OF THE LOWER COURT

## II

THE APPELLATE COURT ERRED IN HOLDING THAT THE ONE YEAR PERIOD IS COUNTED FROM THE FIRST DEMAND LETTER AND HOLDING THAT THE LAST DEMAND LETTER IS JUST A MERE REITERATION OF THE FIRST DEMAND LETTER