

SECOND DIVISION

[G.R. No. 183923, November 27, 2013]

**GENEROSO ENESIO, PETITIONER, VS. LILIA TULOP,
SUBSTITUTED BY HER HEIRS, NAMELY: MILAGROS T. ASIA,
MATTHEW N. TULOP AND RESTITUTO N. TULOP, JR.,
RESPONDENTS.**

DECISION

BRION, J.:

Petitioner Generoso Enesio seeks – through this petition for review on *certiorari*^[1] filed under Rule 45 of the Rules of Court – the reversal of the decision^[2] dated October 25, 2006 and the resolution^[3] dated May 29, 2008 of the Court of Appeals (CA) in CA-G.R. CEB-SP No. 01662.

THE FACTS

On August 4, 2003, Lilia Tulop (substituted by her heirs, namely: Milagros T. Asia, Matthew N. Tulop, and Restituto N. Tulop, Jr., on appeal before the Court) sued petitioner Generoso Enesio for “*Ejectment, Damages, and Other Relief*” before the Municipal Trial Court (MTC) of San Fernando, Cebu.

Lilia alleged that she was the owner of the lot in possession of the petitioner whose possession was by her (the respondent’s) mere tolerance. When Lilia notified the petitioner that she needed the property for the construction of a store, the petitioner ignored her demands. As a result, on June 18, 2003, Lilia, through her lawyer, formally sent the petitioner a letter demanding that the petitioner vacate the premises. A case arose before the MTC because of the petitioner’s continued refusal to vacate the premises.

The petitioner filed his Answer before the MTC and claimed that he had been an agricultural tenant of the land; that the case was an agrarian dispute cognizable by the Department of Agrarian Reform Adjudication Board; and hence, the MTC must dismiss the case for lack of jurisdiction.

At the preliminary conference, the parties agreed on the following stipulation of facts: 1) the petitioner was not registered as a tenant as shown by the certification from the Municipal Agrarian Reform Officer of San Fernando, Cebu; 2) the petitioner was occupying a portion of the lot subject matter of the case; 3) the petitioner recently planted bananas in a small portion of the lot but he had been occupying the lot as a tenant and planted crops thereon with the consent of the previous owner; 4) the petitioner had not given any share of the harvest to Lilia but had been sharing his harvest with the original owner, Gregorio Navarro (father of Lilia), then to Margarita Navarro, the caretaker, and eventually to Emilio Navarro;

and 5) the title of the subject lot was issued in December 1994.

THE MTC's AND THE RTC's RULINGS

In its February 24, 2004 decision,^[4] the MTC exercised jurisdiction over the case and held that the petitioner was not Lilia's agricultural tenant. As the petitioner's possession was by Lilia's mere tolerance, the petitioner must vacate the property when so required by her. The Regional Trial Court (RTC) fully affirmed the MTC's decision.^[5]

THE CA's RULING

The petitioner appealed the RTC's ruling to the CA.

In its October 25, 2006 decision,^[6] **the CA affirmed the RTC's ruling.** The CA ruled that the MTC does not lose jurisdiction over ejectment cases simply because tenancy relationship has been raised as a defense. It is only upon determination, after hearing, that tenancy relationship exists that the MTC must dismiss the case for want of jurisdiction.

The MTC concluded, after hearing, that tenancy *did not exist* between the parties. In fact, the petitioner himself admitted that he had never shared any of his harvests with Lilia. Thus, sharing of harvest, an important element of tenancy relationship, was missing.

On May 29, 2008, the CA denied the petitioner's motion for reconsideration.

On August 18, 2009, the petitioner died. No substitution has been made up to this date.

THE PARTIES' ARGUMENTS

The petitioner filed the present petition for review on *certiorari* to challenge the CA rulings. The petitioner pointed out that the MTC merely proceeded with the pre-trial conference and required the parties to submit position papers. He posited that the MTC should have conducted a preliminary hearing and received evidence to determine the existence of a tenancy relationship between the parties. The petitioner cited in this regard the procedures laid down by the Court in *Bayog v. Hon. Natino*.^[7]

The petitioner also claimed that the lower tribunals misappreciated the established facts clearly brought out and recorded during the pre-trial conference, to wit: 1) the petitioner had shared harvests with the previous owners of the land; and 2) there had been tenancy relationship between the previous owners of the land and the petitioner. These facts point to the conclusion that Lilia must respect the tenancy relationship between the previous landowner, the respondent's predecessor, and the petitioner, as provided for in Section 10^[8] of Republic Act No. 3844.

In her comment to the petition,^[9] Lilia reiterated that the petitioner himself admitted that he never shared harvests with her. While the petitioner shared the produce with the relatives and with the caretaker of Lilia, such sharing was not with