

## THIRD DIVISION

[ G.R. No. 167891, January 15, 2010 ]

**SPOUSES JESUS FAJARDO AND EMER FAJARDO, PETITIONERS,  
VS. ANITA R. FLORES, ASSISTED BY HER HUSBAND,  
BIENVENIDO FLORES, RESPONDENT.**

### D E C I S I O N

**NACHURA, J.:**

Before us is a petition for review of the Decision<sup>[1]</sup> of the Court of Appeals (CA) dated October 28, 2004 and its Resolution dated April 19, 2005, denying the motion for reconsideration thereof.

The facts are as follows:

Leopoldo delos Reyes owned a parcel of land, denominated as Lot No. 2351 (Cad. 320-D), with an area of 25,513 square meters (sq m), located in Barangay Sumandig in Hacienda Buenavista, San Ildefonso, Bulacan. In 1963, he allowed petitioner Jesus Fajardo to cultivate said land. The net harvests were divided equally between the two until 1975 when the relationship was converted to leasehold tenancy. Per Order<sup>[2]</sup> from the Department of Agrarian Reform (DAR), Regional Office, Region III, San Fernando, Pampanga, rent was provisionally fixed at 27.42 cavans per year, which Jesus Fajardo religiously complied with. From the time petitioner cultivated the land, he was allowed by Leopoldo delos Reyes to erect a house for his family on the stony part of the land, which is the subject of controversy.

On January 26, 1988, Leopoldo delos Reyes died. His daughter and sole heir, herein respondent Anita Flores, inherited the property. On June 28, 1991, Anita Flores and Jesus Fajardo executed an agreement, denominated as "KASUNDUAN NG PAGHAHATI NG LUPA AT PAGTATALAGA NG DAAN UKOL SA MAGKABILANG PANIG."

<sup>[3]</sup> This was followed by another agreement, "KASUNDUAN SA HATIAN SA LUPA," executed on July 10, 1991, wherein the parties agreed to deduct from Lot No. 2351 an area of 10,923 sq m, allotting the same to petitioner. Apparently, there was a conflict of claims in the interpretation of the *Kasunduan* between Anita Flores and Jesus Fajardo, which was referred to the DAR, Provincial Agrarian Reform Office, Baliuag, Bulacan.<sup>[4]</sup> In the Report and Recommendation dated May 3, 2000, the Legal Officer advised the parties to ventilate their claims and counterclaims with the Department of Agrarian Reform Adjudication Board (DARAB), Malolos, Bulacan.<sup>[5]</sup>

On December 22, 2000, a complaint for ejectment was filed by herein respondent Anita Flores, assisted by her husband Bienvenido Flores, against petitioners with the Municipal Trial Court (MTC), San Ildefonso, Bulacan. In the complaint, she alleged that, as the sole heir of the late Leopoldo delos Reyes, she inherited a parcel of land

consisting of stony land, not devoted to agriculture, and land suitable and devoted to agriculture located in Barangay Sumandig, San Ildefonso, Bulacan; that, sometime in the 1960s, during the lifetime of Leopoldo delos Reyes, Jesus Fajardo requested the former to allow him to work and cultivate that portion of land devoted to agriculture; that Jesus Fajardo was then allowed to erect a house on the stony part of the land, and that the use and occupation of the stony part of the land was by mere tolerance only; and that the land, which was divided equally between the two parties, excluded the stony portion. In February 1999, respondent approached petitioners and verbally informed them of her intention to repossess the stony portion, but petitioners refused to heed the request.

Petitioners filed a Motion to Dismiss, alleging that Lot No. 2351, with an area of 25,513 sq m, was agricultural land; that they had been continuously, uninterruptedly, and personally cultivating the same since 1960 up to the present; that the MTC had no jurisdiction over the case, considering that the dispute between the parties, regarding the *Kasunduan*, was referred to the DARAB; and that the assumption by the DARAB of jurisdiction over the controversy involving the lot in question therefore precluded the MTC from exercising jurisdiction over the case.

Resolving the Motion to Dismiss, the MTC ruled that, while at first glance, the court did not have jurisdiction over the case, considering that it was admitted that petitioner was allowed to cultivate the land, a closer look at the *Kasunduan*, however, revealed that what was divided was only the portion being tilled. By contrast, the subject matter of the complaint was the stony portion where petitioners' house was erected. Thus, the court ruled that it had jurisdiction over the subject matter.<sup>[6]</sup>

On April 25, 2001, the MTC rendered judgment in favor of respondent. The dispositive portion reads as follows:

WHEREFORE, premises considered, judgment is hereby rendered in favor of plaintiff (respondent), ORDERING defendants (petitioners) -

1) and all persons claiming rights under them to VACATE the subject premises where they have erected their house, which is a portion of Lot No. 2351, Cad-320-D situated [in] Barangay Sumandig, San Ildefonso, Bulacan;

2) to DEMOLISH their house on the subject premises;

3) to PAY plaintiff the sum of P400.00 a month by way of reasonable compensation for their use and occupation of the subject premises starting [in] June 2000 and every month thereafter until they finally vacate the same; and

4) to PAY attorney's fees of P10,000.00 and the cost of suit.<sup>[7]</sup>

On appeal, the Regional Trial Court (RTC), Branch 16, Third Judicial Region, Malolos, Bulacan, affirmed the MTC Decision *in toto* upon a finding that no reversible error was committed by the court *a quo* in its Decision<sup>[8]</sup> dated August 29, 2002.

On motion for reconsideration, however, the RTC issued an Order on December 10, 2002, reversing its decision dated August 29, 2002. The RTC found that the issue involved appeared to be an agrarian dispute, which fell within the contemplation of Republic Act (R.A.) No. 6657, otherwise known as the Comprehensive Agrarian Reform Law of 1988, and thus ordered the dismissal of the case for lack of jurisdiction.

A petition for review was then filed by respondents with the CA to annul the Order of the RTC dated December 10, 2002.

On October 28, 2004, the CA rendered the assailed decision, which reinstated the MTC decision. It disagreed with the findings of the RTC and ruled that the part of Lot No. 2351 where petitioners' house stood was stony and residential in nature, one that may not be made to fall within the ambit of the operation of Philippine agrarian laws, owing to its non-agriculture character. The CA explained that, on the strength of the two instruments, the parties made a partition and divided the agricultural portion of Lot No. 2351 equally among themselves. By virtue of said division, the parties effectively severed and terminated the agricultural leasehold/tenancy relationship between them; thus, there was no longer any agrarian dispute to speak of. Fajardo had already acquired the benefits under the Comprehensive Agrarian Reform Law when one-half of the agricultural portion of Lot No. 2351 was allotted to him. Petitioners cannot, therefore, be allowed to continue possession of a part of the stony portion, which was not included in the land he was cultivating.<sup>[9]</sup> The dispositive portion of the CA Decision reads as follows:

**WHEREFORE,** premises considered, finding that the court a quo seriously erred when it reversed itself, its Order dated December 10, 2002 is **REVERSED and SET ASIDE**. Accordingly, the Decision dated April 25, 2001 of the MTC of San Ildefonso, Bulacan is hereby **REINSTATED**.<sup>[10]</sup>

The subsequent motion for reconsideration was denied; hence, this petition.

The issue in this case is whether it is MTC or the DARAB which has jurisdiction over the case.

There is no dispute that, on June 28, 1991, the parties executed an agreement, denominated as "KASUNDUAN NG PAGHAHATI NG LUPA AT PAGTATALAGA NG DAAN UKOL SA MAGKABILANG PANIG." Therein, it was admitted that Jesus Fajardo was the tiller of the land. This *Kasunduan* was subsequently followed by another agreement, "KASUNDUAN SA HATIAN SA LUPA," whereby an area of 10,923 sq m of Lot No. 2351 was given to petitioners. The portion of the land where petitioners' house is erected is the subject of the instant case for unlawful detainer. Respondent argues that this portion is not included in the deed of partition, while petitioners insist that it is.

We agree with the RTC when it clearly pointed out in its Order dated December 10, 2002 that the resolution of this case hinges on the correct interpretation of the contracts executed by the parties. The issue of who has a better right of possession