

SECOND DIVISION

[G.R. No. 169122, February 02, 2010]

MARCELINO DOMINGO, PETITIONER, VS. COURT OF APPEALS, AGAPITA DOMINGO, ANA DOMINGO, HEIRS OF GAUDENCIO DOMINGO, NAMELY: DOROTEO DOMINGO, JULITA DOMINGO, AMANDO DOMINGO, AND ARCEL DOMINGO; HEIRS OF JULIAN DOMINGO, NAMELY: JULIAN DOMINGO, JR. AND PONCIANO DOMINGO; HEIRS OF EDILBERTA DOMINGO, NAMELY: ANITA DOMINGO AND ROSIE DOMINGO; HEIR OF FELIPE DOMINGO, NAMELY: LORNA DOMINGO; AND HEIRS OF GERONIMO DOMINGO, NAMELY: EMILY DOMINGO AND ARISTON DOMINGO REPRESENTED BY ROLANDO DOMINGO, RESPONDENTS.

R E S O L U T I O N

CARPIO, J.:

This is a petition^[1] for certiorari under Rule 65 of the Rules of Court. The petition challenges the 5 April^[2] and 10 June^[3] 2005 Resolutions of the Court of Appeals in CA-G.R. SP No. 89023. The Court of Appeals dismissed the petition^[4] for certiorari, with prayer for issuance of a temporary restraining order, filed by Marcelino Domingo (Marcelino) for failure to serve the pleadings personally and for failure to provide a written explanation why the service was not done personally.

Before he died, Julio Domingo (Julio) allegedly executed a Deed of Absolute Sale over a 4.1358-hectare parcel of land in favor of Marcelino's wife, Carmelita Mananghaya (Mananghaya). The property was situated in Burgos, Sto. Domingo, Nueva Ecija, and was covered by Transfer Certificate of Title No. NT-87365.

Agapita and Ana Domingo, and the heirs of Gaudencio, Julian, Edilberta, Modesta, Felipe, and Geronimo Domingo (the Domingos) filed before the Regional Trial Court (RTC), Judicial Region 3, Branch 37, Baloc, Sto. Domingo, Nueva Ecija, a complaint against Marcelino and Mananghaya for the annulment of the Deed of Absolute Sale. The Domingos alleged that Julio's signature in the deed was forged.

In its 3 November 1993 Decision,^[5] the RTC held that Julio's signature in the Deed of Absolute Sale was forged; thus, the deed was void. The RTC ordered Marcelino and Mananghaya to deliver possession of the property to the Domingos.

Marcelino and Mananghaya appealed the 3 November 1993 Decision to the Court of Appeals. In its 14 July 2000 Decision, the Court of Appeals dismissed the appeal. The 14 July 2000 Decision became final and executory. Thus, on 4 August 2003, the RTC issued a writ of execution. On 25 August 2003, the Domingos gained possession of the property.

Marcelino filed with the Department of Agrarian Reform (DAR) a petition^[6] dated 25 August 2003 praying that he be declared the tenant-beneficiary of the property.

Around April 2004, Marcelino reentered and retook possession of the property. The Domingos filed before the RTC a motion to cite Marcelino in contempt. Marcelino and Mananghaya filed before the Court of Appeals a petition,^[7] dated 28 April 2004, for certiorari, prohibition and mandamus. They prayed that:

1. Pending hearing a preliminary injunction be issued against the [RTC] enjoining and prohibiting to implement the writ of executed [sic] (Exh. M);
2. Annuling the writ of execution dated August 23, 2003;
3. Annuling the last portion of the decision in Civil Case No. 1218 which states: ["]to deliver the possession of the land in question to the plaintiffs. (par. 5 Decision dated November 3, 1993)."
4. Ordering the denial and or dismissal of the motion for contempt filed by the private respondent against the petitioners.^[8]

In its 26 May 2004 Order, the RTC found Marcelino in contempt, fined him P25,000 and ordered his arrest and imprisonment. However, the sheriff of the RTC no longer served the 26 May 2004 Order because Marcelino declared in writing that he would deliver possession of the property to the Domingos. In its 8 June 2004, Resolution,^[9] the Court of Appeals dismissed outright Marcelino and Mananghaya's 28 April 2004 petition.

Later, however, Marcelino employed six men to reenter the property. On 14 June 2004, the RTC issued warrants of arrest against Marcelino and the six men. Marcelino and a certain Genero Salazar (Salazar) were arrested and were detained at the Philippine National Police station in Sto. Domingo, Nueva Ecija. On 17 and 23 June 2004, Genero and Marcelino, respectively, were released after declaring in writing that they would no longer interfere with the Domingos' possession of the property. The RTC warned Marcelino that a warrant for his arrest shall be deemed automatically issued if he reenters the property.

In its 4 October 2004 Order,^[10] the DAR granted Marcelino's 25 August 2003 petition, placed 10.0108 hectares of land -- including the property -- under the coverage of Republic Act (RA) No. 6657, and named Marcelino as one of the tenant-beneficiaries. Agapita Domingo (Agapita) filed a motion for reconsideration of the 4 October 2004 Order. Marcelino reentered and retook possession of the property.

The Domingos filed before the RTC another motion to cite Marcelino in contempt, and for the issuance of a warrant for his arrest. In its 23 December 2004 Order,^[11] the RTC stated that:

In the partial return, dated December 9, 2004, of Sheriff Crispino Magbitang acting per order, dated December 1, 2004 of this Court, he confirmed that when he went to the subject property on December 7, 2004, about 3:00 p.m., he saw six (6) men "tilling and plowing the land-in-question" but who, upon seeing him, stopped working, gathered their agricultural implements and left. x x x Dorenzo Domingo, brother of defendant Marcelino Domingo, confirmed to the sheriff the re-entry on the land in question by his brother, the barangay captain of the place where said land is situated, who bragged of an alleged decision of the DARAB regional office in San Fernando City, Pampanga, making him the legal owner of the subject land.

The evidence of the plaintiffs also showed that defendant Marcelino Domingo had actually fenced the subject property.

This Court, notwithstanding its already final order of May 26, 2004, finding and declaring defendant Marcelino Domingo in contempt of court as well as the order of June 23, 2004 wherein it warned of the automatic re-issuance of a warrant of arrest against him and any other acting in his behalf in the event of reentry and retaking possession of the subject property, set the present motion for hearing on December 15, 2004 to afford defendant Marcelino Domingo the opportunity to explain his side even only for the purpose of mitigating the legal consequences of his very stubborn arrogance that amounted to open defiance of the power of contempt of this Court.

Unfortunately, not only did defendant Marcelino Domingo refuse to receive the notice of the hearing set on December 15, 2004, but he actually disregarded it by failing to appear on said date.

Again, to give the defendant another chance, the hearing set on December 15, 2004 was reset to December 20, 2004, as requested by defendant's counsel Atty. Restituto M. David x x x but again, none of them appeared on said date nor file [sic] any comment on the same.

With defendant Marcelino Domingo's cavalier attitude towards it, this Court now feels its authority ignored and belittled and its power of contempt challenged and tested of its worth by said defendant who, ironically, as barangay head and, as such, a person in authority himself, should first be the paragon in upholding the rule of law.

Even if granted that defendant Marcelino Domingo had awarded [sic] ownership of the subject land by the DARAB, still he could not have taken the law in his own hands by simply taking over thereof without any judicial order and thereby ousting therefrom the plaintiffs who [sic], this Court, had given legal possession thereof pursuant to a decision of the Court of Appeals which had already long become final and executory.

WHEREFORE, premises considered, the present motion is granted:

1. Ordering the issuance of a continuing warrant of arrest and detention of defendant Marcelino Domingo at the Nueva Ecija Provincial Jail, Caalibangbangan, Cabanatuan City for a period of Thirty (30) days until further order from this Court;
2. Ordering defendant Marcelino Domingo's further detention at the said jail until he shall have effectively surrendered and redelivered possession of the subject property to the plaintiffs;
3. Ordering the forfeiture in favor of the plaintiffs of all the movable improvements put or introduced on the subject property by defendant Marcelino Domingo;
4. Ordering the issuance of a writ of execution for the satisfaction of the fine of P25,000.00 per the Order, dated May 26, 2004[;]
5. Ordering the issuance of a [sic] continuing warrants for the arrest of all other persons working, cultivating, tilling and planting on the subject landholding in behalf of defendant Marcelino Domingo, and under his control, direction and supervision.^[12]

Marcelino filed a motion for reconsideration of the 23 December 2004 Order.

In its 17 February 2005 Order,^[13] the DAR granted Agapita's motion for reconsideration and set aside the 4 October 2004 Order. The DAR held that the property was not covered by RA No. 6657 because it was less than five hectares. The DAR stated that:

From the documents submitted by the movant, it appears that the subject property of 4.1358 hectares covered by TCT No. 87365 is the only landholdings owned by Julio Domingo. He was only an administrator of the 5.8831 hectares, therefore, the 4.1358 hectares cannot be covered by land reform law either under PD 27/RA 6657 since the same is way below the ceiling mandated by agrarian reform law.^[14]

In its 4 March 2005 Order,^[15] the RTC denied Marcelino's motion for reconsideration. The RTC held that:

In his Sinumpaang Salaysay of June 22, 2004 on the basis of which this Court ordered his release from jail, defendant Marcelino never mentioned anything about the distinction of his possession of the subject property between that in the concept of owner and in the concept of a tenant-lessee. Even if he did, that would not have mattered because the concept of possession in the instance [sic] case was never in issue. Besides, his undertaking in the said sworn statement was clearly worded that he would never again re-enter or retake possession of the subject land either by himself of [sic] by his agents and he would bar others from entering the same.

It will now appear that he had foisted a contumacious lie to this Court with his declaration in the said sworn statement to obtain his release from jail. This warrant his being cited for another contempt of this Court.

Actually even if defendant Marcelino had been awarded ownership of the subject land by the DARAB, still he could not have taken the law in his own hands by simply taking over thereof without any judicial order and thereby ousting therefrom the plaintiffs who [sic], this Court, had given legal possession thereof pursuant to a decision of the Court of Appeals which had already long become final and executory.

But the fact is, the Order of the DARAB relied upon by the defendant Marcelino did not grant him any specific portion of the land declared to be within the coverage of PD27/RA 6657 because the same was yet, by its terms, to be distributed to the qualified beneficiaries thereof and defendant Marcelino being only one of such beneficiaries.

What accentuates defendant Marcelino contemptuous [sic] act of reentering and retaking possession of the subject land was the fact that he did so without even waiting for the finality of the order relied upon by him. As it has turned out the DAR - Region III had reversed its order of October 4, 2004 in another order, dated February 17, 2005, copy of which was presented by the plaintiff to this Court by way of manifestation filed on February 23, 2005, "SETTING ASIDE the Order, dated October 4, 2004, and a new one is hereby issued DENYING the petition for coverage filed by Marcelino Domingo for utter lack of merit".

It is now very clear to this Court that defendant Marcelino's re-entry and retaking possession and cultivation of the subject land was sheer display of stubborn arrogance and an open, deliberate and contemptuous defiance of its order and processes.

WHEREFORE, premises considered, the Motion for Reconsideration of defendant Marcelino Domingo is hereby denied and further ordering that:

1. The order granting the issuance of a warrant of arrest against defendant Marcelino Domingo is hereby maintained;
2. Defendant Marcelino Domingo is again found and declared in contempt of Court and penalized with imprisonment of Twenty (20) days;
3. Defendant Marcelino Domingo's further detention at the Nueva Ecija Provincial Jail until he shall have effectively surrendered and redelivered possession of the subject land to plaintiffs;
4. Ordering the forfeiture in favor of the plaintiffs of all the movable improvements put or introduced on the subject property by defendant Marcelino Domingo[;]