

## THIRD DIVISION

[ G.R. No. 172849, December 10, 2008 ]

**MR. TERESO TAN, ANDRE T. ALMOCERA, FOR THEMSELVES AND IN BEHEL OF THE FIRST BUILDERS MULTI-PURPOSE COOPERATIVE (FBMPC), PETITIONERS, VS. MANUEL "GUY" LINK, ATTY. ARNOLD ARRIETA, ROSALIO T. KINTANAR, VIVIAN MAQUILING, LAND BANK OF THE PHILIPPINES (LBP), CIRILO YURO AND REINERIO CABANGBANG, MANUEL BARTOLABA AND THE PROVINCIAL REGISTER OF DEEDS OF THE PROVINCE OF CEBU, RESPONDENTS.**

### DECISION

**CHICO-NAZARIO, J.:**

This is an appeal by *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure seeking the reversal and setting aside of (1) the Decision<sup>[1]</sup> dated 21 February 2006 of the Court of Appeals in CA-G.R. SP No. 82957 dismissing the Petition for *Certiorari* under Rule 65 of herein petitioners for their failure to pay docket fees on time, and affirming the Orders dated 26 September 2003 and 23 December 2003 of the Regional Trial Court (RTC) of Bogo, Cebu, Branch 61, in Civil Case No. Bogo-00994; and (2) the Resolution<sup>[2]</sup> dated 12 May 2006 of the appellate court in the same case denying petitioners' Motion for Reconsideration.

The instant Petition arose from a complaint<sup>[3]</sup> for "Action Reindivicatoria (sic), Damages, *Certiorari*, Prohibition and *Mandamus* with Prayer for Writ of Preliminary Prohibitory Injunction and Restraining Order" filed on 19 November 2002 by petitioners First Builders Multi-Purpose Cooperative (FBMPC), Andre T. Almocera (Almocera), and Tereso C. Tan (Tan) against respondents Manuel "Guy" Link (Link), Arnold Arrieta (Arrieta),<sup>[4]</sup> Rosalio T. Kintanar (Kintanar), Vivian Maquiling (Maquiling),<sup>[5]</sup> Land Bank of the Philippines (LBP), Cirilo Yuro, Jr. (Yuro), Reinerio Cabangbang (Cabangbang),<sup>[6]</sup> Manuel Bartolaba (Bartolaba),<sup>[7]</sup> and the Register of Deeds of the Province of Cebu. Their complaint was docketed before the RTC as Civil Case No. Bogo-00994.

Petitioners made the following allegations in their complaint:

Respondent Link sold his eight parcels of land situated in *Barangays* Anonang and Binanag, Bogo, Cebu (subject properties), to petitioners FBMPC and Almocera, evidenced by a Deed of Absolute Sale dated 2 April 2002.<sup>[8]</sup> The certificates of title to the subject properties remained in the name of respondent Link.

Unknown to petitioners, respondent Link had voluntarily offered the subject properties for sale under the coverage of the Comprehensive Agrarian Reform Program (CARP) of Republic Act No. 6657 or the Comprehensive Agrarian Reform

Law (CARL). In accordance with the provisions of the CARL, the subject properties were valued by the Valuation Office of respondent Land Bank of the Philippines (LBP) in order to determine the just compensation for the same. The Notice of Valuation, stating the amounts at which the subject properties were valued and giving notice that such amounts had already been deposited with the LBP Branch in P. del Rostio St., Cebu City, was sent to respondent Link.

The subject properties were initially valued at around P2,000,000.00. Respondent Link, purportedly in connivance with officers of the Cebu Provincial Office of the Department of Agrarian Reform (DAR), who included respondent Bartolaba, filed with the Department of Agrarian Reform Adjudication Board (DARAB) an application for valuation of the subject properties. The petitions of respondent Link were docketed as DARAB Cases No. V11-1225-C-1997 and No. V11-1220-C-96 and assigned to respondent Kintanar, a Provincial Agrarian Reform Adjudicator.

Upon their discovery of the transgressions committed by Link, petitioners, through counsel, wrote a letter dated 12 August 2001 addressed to respondent Kintanar of the DARAB; with copy furnished respondent Yuro, an LBP officer. Petitioners claimed in their letter that the subject properties had already been sold to them by respondent Link. They further requested that any claim, request, or undertaking involving the subject properties by other individuals or entities be set aside.

Acting on petitioners' letter dated 12 August 2001, which he treated as a motion for the payment of just compensation, respondent Kintanar required the parties to file their respective position papers. Based on the submitted position papers, respondent Kintanar subsequently issued an Order dated 10 December 2001 denying for want of merit petitioners' letter/motion for payment of just compensation for the subject properties, based on the following reasoning:

A careful calibration of the evidence adduced herein, the claim of FBMPC as the lawful and absolute owner of the subject lots on the basis of an unregistered Deed of Sale dated April 2, 1995 is diametrically baseless, farfetched and preposterous for utter failure to register the said sale and secure the necessary Certificate of Title in its name as prescribed by law. No amount of rhetorical force could smokescreen the fatal flaw emanating from the defective sale as provided for by laws heretofore indicated.

Besides, it is significant to note that the subject properties are within the pale of CARP Coverage as enshrined under Republic Act 6657. CARP Law and these lots are purposely acquired by the government and intended solely and exclusively for distribution to farmer-beneficiaries, not to any private persons and/or associations like the FBMPC. x x x.<sup>[9]</sup>

Respondent Kintanar thus ordered:

WHEREFORE, premises considered, the Letter-Motion for Payment of Just Compensation over the subject properties by FBMPC is hereby DENIED DUE COURSE for want of merit. Accordingly, directing Land Bank Office, Cebu City to pay the just compensation to Mr. Manuel Link as warranted by law and evidence adduced hereof. Further still, ordering the DAR Provincial Office of Cebu through PARO Ma. Lourdes B. Mariano and

CARPO Operations to properly note the instant directive heretofore indicated.<sup>[10]</sup>

Petitioners filed a Motion for Reconsideration of respondent Kintanar's Order dated 10 December 2001. It was already respondent Arrieta, a Regional Agrarian Reform Adjudicator, who acted on petitioners' Motion for Reconsideration and denied the same in an Order dated 21 March 2002.<sup>[11]</sup>

Respondent Kintanar issued an Order dated 20 August 2002 inhibiting himself from resolving any further incident or motion in DARAB Cases No. V11-1225-C-1997 and No. V11-1220-C-96 and directing the DARAB Clerk of Court to immediately forward the records of the cases to respondent Maquiling, another Provincial Agrarian Reform Adjudicator.

Despite the foregoing attempts of petitioners to preclude any other action on the pending DARAB cases, petitioner Tan was informed by LBP officials that the release of funds to pay respondent Link just compensation for the subject properties was already imminent unless a restraining order or injunction would be issued by the regular courts.

Hence, petitioners instituted Civil Case No. Bogo-00994 before the RTC of Bogo, Cebu, Branch 61.

Respondent Link filed a Motion to Dismiss Civil Case No. Bogo-00994 on the following grounds:

- A) The Honorable Court has no jurisdiction over the person of [respondent Link];
- B) The Complaint states no cause of action;
- C) The Honorable Court has no appellate jurisdiction over DARAB cases; and
- D) This is patent case of forum shopping<sup>[12]</sup>

The RTC granted respondent Link's motion in an Order dated 8 April 2003. After recounting the proceedings before the DARAB, the RTC ruled that:

In view of this environmental milieu and the antecedent proceedings of this case which originated from the aforesaid DARAB Cases, this Court is constrained to respect the said DARAB proceedings and the Orders they had issued, for after all, this Court is not the appellate court of the DARAB.

Rule XIV (Judicial Review, Section 1, of the DARAB New Rules of Procedure provides that:

"SECTION 1. Certiorari to the Court of Appeals. Any decision, order, award or ruling by the Board or on any matter pertaining to the application, implementation of agrarian reform laws or rules and regulations promulgated thereunder,

may be brought within fifteen (15) days from receipt of a copy thereof, to the Court of Appeals by certiorari. x x x.

If [herein petitioners] want to set aside the DARAB Orders dated December 10, 2001, March 21, 2002 and August 20, 2002 which they are now asking from this Court, they should have directed their case to the Court of Appeals and not to this Court, pursuant to the aforementioned provision of the DARAB Rules of Procedure.

Certainly, this Court cannot be blinded by the instant Complaint which was filed under the guise of adding party plaintiffs and defendants, and adding a cause of action which is the reivindicatory action with damages, in order not to be detected and charged with violation of forum shopping. These additions cannot hide the fact that the main purpose of the [petitioner] FBMPIC in the instant complaint is to delay, if not to block, the payment of the just compensation in favor of [herein respondent] Manuel Link, which the DARAB, in its Order dated December 10, 2001, had already awarded in favor of the said [respondent]. This Court does not want to be party to this act of the [petitioners].<sup>[13]</sup>

And consequently decreed, thus:

WHEREFORE, premises considered, the instant MOTION TO DISMISS dated January 4, 2003 filed by [respondent] Manuel Link is hereby GRANTED.

Accordingly, the instant Complaint dated November 12, 2002, is hereby ordered DISMISSED.<sup>[14]</sup>

Petitioners filed a Motion for Reconsideration of the foregoing RTC Order but the same was denied by the same court in an Order dated 28 July 2003.<sup>[15]</sup> Petitioners received a copy of the 28 July 2003 Order of the RTC on 15 August 2003.

On 29 August 2003, petitioners filed their Notice of Appeal *via* registered mail, accordingly furnishing the respondents a copy of the same.<sup>[16]</sup>

On 1 September 2003, petitioner Tan had to travel from Cebu City to Bogu, Cebu. He arrived at Bogu already late in the afternoon, and unable to find an employee of the RTC, he left the amount for the payment of the docket fees for their appeal to Mrs. Estrella Nini, an employee of the Municipal Trial Court.

On 26 September 2003, the RTC issued an Order dismissing petitioners' Notice of Appeal. According to the RTC:

Considering that Tereso C. Tan is not a real party-in-interest in this case, neither was he specifically authorized by [herein petitioners] First Multi-Purpose Cooperative and Andre T. Almocera to institute an appeal from the Orders of this Court dated April 8, 2003 and July 8, 2003 and considering further that the corresponding appeal fee was paid by him only on September 2, 2003,<sup>[17]</sup> which is beyond the last day of the reglementary period of filing the appeal on August 30, 2003, the opposition of [herein respondent] Manuel Link to the said appeal is

hereby GRANTED.

WHEREFORE, premises considered, the NOTICE OF APPEAL dated August 29, 2003 filed by Tereso Tan is hereby ordered DISMISSED and NOT GIVEN DUE COURSE, for lack of merit.<sup>[18]</sup>

Petitioners' Motion for Reconsideration<sup>[19]</sup> of the afore-quoted Order was denied by the RTC in another Order dated 23 December 2003.<sup>[20]</sup>

Petitioners sought recourse from the Court of Appeals by filing a Petition for *Certiorari*, under Rule 65, docketed as CA-G.R. SP No. 82957.

The Court of Appeals, however, in a Decision dated 21 February 2006, affirmed the RTC Orders dated 26 September 2003 and 23 December 2003.

In its Decision, the appellate court found that contrary to the ruling of the RTC, petitioner Tan had authority to file the Notice of Appeal on behalf of petitioners FBMPC and Almocera:

The notarized Secretary'[s] Certificate signed by Jovita A. Padilla dated May 22, 2002 of FBMPC further shows that a resolution was passed by the cooperative on March 15, 2002 authorizing Tereso Tan to be their lawful attorney in fact; to act for their name, place and stead the filing of the necessary criminal, civil and administrative action against Manuel "Guy" Link and others; to prosecute, by himself and through authorized agents the said cases including the filing of whatever pleadings, motions, briefs, memoranda, including the pursuit of any appeal to any appellate body, including administrative agencies; and to do what is absolutely necessary and proper as required of in said cases. Clothed with the authority to act for and in behalf of the petitioners, Tereso Tan therefore had the right to file the notice of appeal.<sup>[21]</sup>

However, the Court Appeals agreed with the RTC on the issue of late payment of docket fees, to wit:

As to the issue on the late payment of docket fees, petitioner Tereso Tan contend that the notice of appeal was made on August 29, 2003 and the payment of docket fee was made on September 1, 2003, which is the last day for filing the notice of appeal because the 15<sup>th</sup> day of the period to file appeal fell on August 30, 2003, a Saturday.

Thus, on September 1, 2003, Tereso Tan traveled from Cebu City to Bogu, Cebu in order to pay the filing fee. "Due to traffic due to vehicular defect," Tereso Tan was not able to find any employee of the RTC when he arrived at the Palace of Justice of Bogu. With no RTC employee to entertain him, he asked Mrs. Estrella Nini, an employee of MTCC of Bogu, Medellin whose office is just at the ground floor of the same building of the RTC, to receive the payment of the docket fee for practical purposes. However, the appeal fee was paid only on September 3, 2003. x x x.

In the case of Lazaro, et al. v. Court of Appeals, et al., the Supreme Court time and again ruled that failure to pay docket and other lawful