

## THIRD DIVISION

[ G.R. No. 150305, November 22, 2007 ]

**HONOFRE FUENTES, PETITIONER, VS. FELOMINO CAGUIMBAL,  
RESPONDENT.\***

### DECISION

**AUSTRIA-MARTINEZ, J.:**

Honofre Fuentes (petitioner) is the owner of the property being claimed in this case. Said property is located in Calatagan, Batangas, covered by Transfer Certificate of Title No. T-51758. On January 18, 2000, petitioner filed an action for unlawful detainer against Felomino Caguimbal (respondent) with the Municipal Trial Court (MTC) of Batangas, alleging that in 1991, he allowed respondent to occupy the property rent-free, subject to the condition that the latter will vacate the property when petitioner returns from abroad. However, upon his return, respondent refused to vacate the property, forcing petitioner to file the case.

Respondent denied petitioner's allegations, claiming that his father started occupying the property in 1928 as agricultural tenant until his disability in 1976, after which he (respondent) took over.

In a Decision dated August 21, 2000, the MTC ruled in favor of petitioner. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff Honofre Fuentes and against the defendant Felomino Caguimbal ordering the latter and all persons claiming rights under him to vacate and surrender possession of the land covered by TCT No. T-51758 located at Barangay Sambungan, Calatagan, Batangas with an area of 12,382 square meters registered in the name of plaintiff, Honofre Fuentes.

Calatagan, Batangas, August 21, 2000.<sup>[1]</sup>

On appeal, the Regional Trial Court of Balayan, Batangas, Branch 11, in a Decision dated March 13, 2001, reversed and set aside the MTC Decision, and dismissed the case. The dispositive portion of the Decision reads:

WHEREFORE, under the foregoing, the decision of the Municipal Trial Court of Calatagan, Batangas is hereby reversed and set aside, thereby dismissing this case. Ordering Plaintiff-Appellee to pay Twenty Thousand Pesos (P20,000.00) as attorney's fee.

SO ORDERED.<sup>[2]</sup>

Petitioner then filed a petition for review with the Court of Appeals (CA), docketed as CA-G.R. SP No. 63990. On September 3, 2001, the CA rendered its Decision<sup>[3]</sup> denying due course to the petition. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, the present petition for review is hereby DENIED DUE COURSE and accordingly DISMISSED, for lack of merit. The Decision dated March 13, 2001 which was rendered by Branch XI of the Regional Trial Court of Balayan, Batangas in Civil Case No. 3782, dismissing the complaint for unlawful detainer in Civil Case No. 188, entitled "Honofre Fuentes v. Felomino Caguimbal," is hereby AFFIRMED and REITERATED.

No pronouncement as to costs.

SO ORDERED.<sup>[4]</sup>

His motion for reconsideration having been denied,<sup>[5]</sup> petitioner is now before us on a petition for review under Rule 45 of the Rules of Court, raising the following issues:

First Question of law:

Whether or not there is an agricultural tenancy relation between the appellant Honofre Fuentes and the respondent Felomino Caguimbal which materialy [sic] affects the cause of action of the plaintiff-appellant;

Second Question of law:

Whether or not the Regional Trial Court of Balayan, Batangas acted without or in excess of jurisdiction or with grave abuse of discretion tantamount to lack of jurisdiction when it failed to dismiss the defendant (respondent's) appeal despite the fact that the respondent failed to file his memorandum on appeal within the fifteen (15) days [sic] period provided for by law and in admitting and granting the respondent's motion to admit appeal memorandum and appeal memorandum which is not even verified, without any affidavit of merit, not even set for hearing and in immediately submitting the case for decision without even giving the plaintiff (Petitioner-Appellant) an opportunity to file appellee's memorandum on appeal;

Third Question of law:

Whether or not the appellate court have [sic] jurisdiction to award attorney's fee even if the same have [sic] not been assigned as an error in the respondent memorandum on appeal and no evidence was presented to show that the filing of this case was made in bad faith.

Fourth Question of law:

Whether or not the plaintiff-appellant as an owner of the lot in question have [sic] the right to eject the defendant-appellee on the premises in question;<sup>[6]</sup>

The MTC found that petitioner had a cause of action for ejectment against respondent on the sole ground that the property allegedly being cultivated by respondent as a tenant is not the property subject of the present controversy.

On appeal, the Regional Trial Court (RTC) reversed the MTC and dismissed the petition, finding that the property claimed by petitioner and the property allegedly being cultivated by respondent are one and the same; and that there exists an agricultural tenancy relationship between the parties.

While it is beyond question that under Republic Act (R.A.) No. 6657, it is the Department of Agrarian Reform Adjudication Board (DARAB) that has authority to hear and decide cases when the issue of tenancy is legitimately involved, the MTC does not lose jurisdiction over an ejectment case by the simple expedient of a party raising as a defense therein.<sup>[7]</sup> However, it is the duty of the MTC to receive evidence to determine the then allegation of tenancy; and if after hearing, tenancy had in fact been shown to be the real issue, the court should dismiss the case for lack of jurisdiction.<sup>[8]</sup>

There is no dispute that all the pleadings and the evidence necessary to prove the respective claims of the parties were submitted to the MTC.

The main issue raised in the present petition is whether the CA erred in affirming the RTC that respondent is an agricultural tenant of petitioner.

However, before proceeding to resolve said issue, it is necessary that we first clear the air on the matter involving the identity of the subject property. Contrary to the findings of the MTC, the RTC found that the property referred to by the MTC as being cultivated by respondent and his predecessor is actually the same property subject of this case, *viz.* :

x x x Culled from the records, there was an agrarian case before, between the father of defendant-appellant, Andres Caguimbal and the father of the plaintiff-appellee, Epifanio Caguimbal (sic), docketed as DAR Case No. 1438, Quezon City. Furthermore, a later or subsequent case was filed by plaintiff-appellee against the father of the defendant-appellant for Recovery of Possession at the former CFI, Br. VII, Balayan, Batangas, docketed as Civil Case No. 1083. (Annex "1", Position Paper of Defendant-Appellant). Said case was filed on March 24, 1977. It was, however, dismissed for non-suit on July 20, 1984. (Annex "2", Position Paper of Defendant-Appellant). In the said case, the title pleaded in the complaint was TCT No. T-34791 and not TCT No. T-31760 acquired by plaintiff-appellee way back in 1975. (Exhibit "A", Plaintiff-Appellee). The present title of plaintiff-appellee pleaded in the case is TCT No. T-51758, Exhibit "5", derived from TCT No. T-31760. Defendant-Appellant claims that plaintiff-appellee pleaded the wrong TCT number reason why he allowed the case to be dismissed for non-suit. The Court is inclined to believe such claim of defendant-appellant because the land covered by TCT No. T-34971 (subject of Civil Case No. 1083, for Recovery of Possession) was later sold by plaintiff-appellee in 1982 to a certain Florida Butiong, resident of Calatagan, Batangas. TCT No. T-34971 was cancelled by TCT No. 42785 in the name of said Florida Butiong. (Annex "D", Position Paper of Defendant-Appellant). Yet from 1982 to the

present, Florida Butiong never claimed ownership of the land subject of the case, neither did she demand share from the palay harvest of Defendant-Appellant. Thus, for the last 18 years, Florida Butiong never asserted ownership over the subject land simply because her land is different from and apart from the subject land. Error in the pleading was quite probable in the light of averment of Andres Caguimbal in the Answer in Civil Case No. 1083 that Honofre Fuentes had several applications at the DAR covering different parcels of land with a total area of eight (8) hectares.<sup>[9]</sup>

The CA found no cogent reason to disturb the RTC findings. Even as petitioner argues in his present petition that both the RTC and the CA failed to respect the finding of the MTC, petitioner failed to demonstrate any error committed by the RTC and the CA except to quote the pertinent portion of the MTC decision. Consequently, the Court finds no compelling reason to disturb the findings of the RTC and the CA on this matter.

As regards the RTC's non-dismissal of respondent's appeal due to his failure to file his memorandum appeal on time, the Court will not interfere with the RTC's exercise of its discretion.

True, Rule 40, Section 7(b) provides that "it shall be the duty of the appellant to submit a memorandum" and failure to do so "shall be a ground for dismissal of the appeal"; and that said provision uses the word "shall", which expresses a mandatory or compulsory duty to submit a memorandum. Nevertheless, it has also been held that the word "shall" does not always denote an imperative duty. It may also be consistent with an exercise of discretion. In this jurisdiction, the tendency has been to interpret "shall" as the context or a reasonable construction of the statute in which it is used demands or requires.<sup>[10]</sup> Inasmuch as the RTC already absolved respondent of his tardy filing of the memorandum appeal, then the Court will not substitute its judgment with that of the RTC's.

It cannot be said that petitioner was deprived of due process when he was not able to file his own memorandum, for as borne by the records, petitioner was able to ventilate his side anent the correctness of the RTC Decision from the CA up to this Court. The essence of due process is simply an opportunity to be heard or, as applied to administrative proceedings, an opportunity to seek a reconsideration of the action or ruling complained of. Due process is satisfied when the parties are afforded fair and reasonable opportunity to explain their side of the controversy or an opportunity to move for a reconsideration of the action or ruling complained of.<sup>[11]</sup>

Back to the main issue. Petitioner argues that there is no agricultural tenancy between him and respondent, as respondent failed to prove its existence. On the other hand, respondent insists that there is a tenancy relationship between them.

Both the CA and the RTC found that there exists an agricultural tenancy relationship between the parties. Quoting the RTC, the CA ruled -

At this juncture, the crucial reason why We are convinced that the complaint in *Civil Case No. 188* was correctly dismissed is the *rationale* made by the RTC anent the findings, which We are now upholding, on the

incidental issue of agricultural tenancy, which materially affects the cause of action of the plaintiff:

As to the issue of agricultural tenancy, based on the record of DAR Case No. 1438, the father of Defendant-Appellant, Andres Caguimbal, had been possessing and planting the land with palay even before 1976. According to the father, he had been possessing and cultivating the land since 1928 when the land was part of Hacienda Calatagan; that Defendant-Appellant had been helping his father since he was a young boy under (sic) his father became physically incapacitated to continue farming in 1976. Defendant-Appellant took over the possession and cultivation of land from his incapacitated father. **He continued the tenancy relationship of his father with Plaintiff-Appellee, however, the latter refused to recognize him as tenant and refused to receive his share from palay. These facts were not disputed by Plaintiff-Appellee** and his witnesses either in the pleadings or their affidavits. On the other hand, Defendant-Appellant and his witnesses are united to state that Defendant-Appellant had been cultivating the land since 1976, not since 1991 when he substituted his incapacitated father; that, prior to Defendant-Appellant **and his deceased father had no other land that they cultivate (sic) except the land subject of the case.** These lend credence to the claim of the Defendant-Appellant that he is the agricultural tenant of Plaintiff-Appellee through succession from his deceased father, Andres Caguimbal.<sup>[12]</sup> (Emphasis supplied)

The Court finds merit in the petition.

Section 3 of R.A. No. 1199 or The Agricultural Tenancy Act of the Philippines defines agricultural tenancy as "the physical possession by a person of land devoted to agriculture belonging to, or legally possessed by another, for the purpose of production through the labor of the former and of the members of his immediate farm household, in consideration of which the former agrees to share the harvest with the latter, or to pay a price certain, either in produce or in money, or in both."

In *Vda. de Victoria v. Court of Appeals*,<sup>[13]</sup> the Court enumerated the essential requisites of tenancy, to wit:

- (1) The parties are the landowner and the tenant or agricultural lessee;
- (2) The subject of the relationship is agricultural land;
- (3) There is mutual consent to the tenancy between the parties;
- (4) The purpose of the relationship is agricultural production;
- (5) There is personal cultivation by the tenant or agricultural lessee; and
- (6) There is a sharing of harvests between the parties.<sup>[14]</sup>