536 Phil. 765

THIRD DIVISION

[G.R. NO. 129165, October 30, 2006]

SPOUSES RODRIGO COLOSO AND ELISA COLOSO, REPRESENTED BY THEIR SON FREDERICK COLOSO, PETITIONERS, VS. HON. SECRETARY ERNESTO V. GARILAO, IN HIS CAPACITY AS THE SECRETARY OF THE DEPARTMENT OF AGRARIAN REFORM, THE PROVINCIAL AGRARIAN REFORM OFFICER OF THE PROVINCE OF BATAAN, THE MUNICIPAL AGRARIAN REFORM OFFICER OF THE MUNICIPALITY OF SAMAL, PROVINCE OF BATAAN, RESPONDENTS.

D E C I S I O N

VELASCO, JR., J.:

The Case

Can a final judgment of a trial court which was affirmed by this Court be disregarded by the Department of Agrarian Reform (DAR) Secretary? This is the kernel controversy in this Petition for Certiorari, Prohibition, and Mandamus under Rule 65 which seeks to annul the DAR June 17, 1996 Order issued by respondent—then DAR Secretary Ernesto V. Garilao, denying the petition for exemption from the Comprehensive Agrarian Reform Program (CARP) of seven (7) parcels of land with an aggregate area of 25.5954 hectares located at Gugo, Samal, Bataan, filed by petitioners Colosos.

The Facts

Petitioners Rodrigo and Elisa Coloso (Colosos) are the registered owners of a parcel of land situated in Samal, Bataan with an area of approximately 300 hectares covered by Transfer Certificate of Title (TCT) No. 13845 registered in the Registry of Deeds of Bataan.

Petitioners invested substantial sums, bought the necessary equipment, obtained the requisite permits and authority, and successfully converted a fifty (50)-hectare portion of their property into a subdivision called the Bataan Bayview Subdivision Complex. Of the 945 titled lots in the existing subdivision, 650 to 700 lots had already been contracted for sale as of July 1971. The success of their venture prompted them to consider expanding their subdivision to eventually cover the entire 300-hectare property. Specifically, petitioners considered the gradual expansion of the subdivision in several phases, with each phase covering approximately fifty (50) hectares. It was not disputed that the property was suitable for conversion into a subdivision considering that it was advantageously traversed by the Bataan Super Highway.

After acquiring the necessary permits for conversion of the second fifty (50)-hectare

portion of their property, including approval of the local government unit concerned, the petitioners notified the agricultural leasehold tenants occupying parts of the second fifty (50)-hectare portion, namely: Vicente Ravago, Casimiro Tallorin, Celestino Valenzuela, Roberto Valenzuela, Ricardo Valenzuela, and Pascual Valenzuela (Ravago Group) of their intention to convert the land into the next phase of the subdivision project. Petitioners entered into negotiations with the Ravago Group for payment of the requisite disturbance compensation, but were unable to agree on the disturbance compensation.

Accordingly, on September 8, 1969, petitioners Colosos filed a Complaint for ejectment with the then Balanga, Bataan Branch IV Court of First Instance, acting as a Court of Agrarian Relations (CAR), against the Ravago Group, docketed as CAR Case No. 266-Bataan '69, based on the conversion of petitioners' agricultural landholdings into a residential subdivision. The Colosos averred that they were the registered owners of a 300-hectare land under TCT No. 13845 and the defendants Ravago Group were leasehold tenants—there having an implied tenancy relationship between the parties under the leasehold tenancy system; and that said defendants paid annual lease rentals for the land they were cultivating. In addition, they expressed their desire to expand their subdivision project; whereas phase II of the project involved the land occupied and cultivated by defendants—the Ravago Group. The Colosos further averred that they were more than willing to pay the disturbance compensation and relocate the Ravago Group in the subsequent phases of their subdivision project. They prayed in the Complaint that the tenants vacate the subject landholding after payment of the required disturbance compensation to be fixed by the CAR.[1]

On February 8, 1972, the CAR ultimately rendered a Decision[2] in favor of the petitioners. The dispositive portion reads:

> IN VIEW OF THE FOREGOING, judgment is hereby rendered:
>
> 1. ordering defendants to vacate their respective landholdings situated in Samal, Bataan, owned by plaintiffs and covered under T.C.T. No. 13845 of the Office of the Register of Deeds of Bataan, and deliver possession thereof to plaintiffs;
>
> 2. authorizing plaintiffs to convert defendants' landholdings into a residential subdivision;
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> 3. ordering plaintiffs to pay as disturbance compensation the amounts of one hundred (100) cavans of palay to defendants Celestino, Roberto, Ricardo and Pascual, all surnamed Valenzuela, and ten (10) cavans of palay each to defendants Casimiro Tallorin and Vicente Ravago, of the variety of palay usually planted by defendants in the landholdings in question, or their equivalent in money at the government support price of Twenty (P20.00) Pesos per cavan;
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> 4. ordering plaintiffs to pay, pursuant to Sec. 25 of Rep. Act. No. 3844, the amount of Two Thousand Five Hundred Pesos (P2,500.00) to defendant Celestino Valenzuela for the cost and expenses incurred in clearing and leveling his landholding; and

5. denying defendants' claim for moral damages and litigation expenses.

No pronouncement as to costs.

Dissatisfied with the CAR February 8, 1972 Decision, the Ravago Group appealed it to the Court of Appeals (CA), and such appeal was docketed as CA-G.R. No. SP-01005-R.

The Ravago Group questioned the CAR ruling claiming that it disregarded the provisions of Section 7 of R.A. 6389 converting their landholdings into a residential subdivision and in ordering them to vacate the same lot.

The Ruling of the Court of Appeals in CA-G.R. No. SP-01005-R

The CA Special Seventeenth (17th) Division, through then CA Justice Ameurfina M. Herrera, rejected in its May 22, 1975 Decision[3] the Ravago Group's appeal, ratiocinating that when the Complaint for ejectment was filed on September 8, 1969, the law in force then—authorizing lessees on ground of conversion of a landholding to a subdivision—was Section 36 Republic Act (RA) No. 3844, which provided:

> *Possession of Landholding; Exceptions.* - Notwithstanding any agreement as to the period or future surrender of the land, an agricultural lessee shall continue in the enjoyment of and possession of his landholding except when his dispossession has been authorized by the Court in a judgment that is final and executory if after due hearing it is shown that:
>
> (1) The agricultural lessor-owner or a member of his immediate family will personally cultivate the landholding **or will convert the landholding, if suitably located, into residential**, factory, hospital or school site or other useful non-agricultural purposes: Provided , That the agricultural lessee shall be entitled to disturbance compensation equivalent to five years rental on his landholding in addition to his rights under Sections twenty-five and thirty-four, except when the land owned and leased by the agricultural lessor is not more than five hectares, in which case instead of disturbance compensation[,] the lessee may be entitled to an [advance] notice of at least one agricultural year before ejectment proceedings are filed against them: Provided, further, That should the landholder not cultivate the land himself for three years or fail to substantially carry out such conversion within one year after the dispossession of the tenant, it shall be presumed that he acted in bad faith and the tenant shall have the right to demand possession of the land and recover damages for any loss incurred by him because of said dispossession (emphasis supplied).

However, according to the CA, on September 10, 1971, pending the said case, Republic Act No. 6389, also known as the *Code of Agrarian Reforms of the Philippines*, took effect—which amended the aforequoted Section 36 (1) of RA 3844. RA 6389 provided:

> Sec. 7. Section 36(1) of the same Code is hereby amended to read as follows:
>
> The landholding is declared by the department head upon recommendation of the National Planning Commission to be suited for residential, commercial, industrial or some other urban purposes; Provided, That the agricultural lessee shall be entitled to disturbance compensation equivalent to five times the average of the gross harvests on his landholding during the last five preceding calendar years.

In this Decision, the CA noted that the Ravago Group contended that "since Section 7 of RA 6389 repealed Section 36 (1) of RA 3844, [Section 7 of RA 6389] should be given retroactive application following the ruling laid down in *Arambulo vs. Canicon*, CA-G.R. No. 46727-R, January 26, 1972, 68 O.G. No. 26, p. 5153." It was also noted that the Ravago Group maintained that "there being no previous declaration by the department head, upon recommendation of the National Planning Commission, that the landholding in question [was] suited for residential purposes, this action for ejectment must fail."

The CA further held that

> [t]he case of *Arambulo vs. Canicon* is not in point, not to speak of the divergence of opinion in this Tribunal on the question of the retroactive application of RA 6389. Said case involved the ejectment of an agricultural lessee on the ground that the agricultural lessor will personally cultivate the landholding, which ground has been eliminated by RA 6389 as a valid cause for the dispossession of an agricultural lessee of his landholding. As thus pointed out in said case, "upon effectivity of Republic Act No. 6389 on September 10, 1971, during the pendency of the case at bar, plaintiff-appellant has lost his right to eject the defendant-appellee from the landholding in question on the ground that the former and his son will personally cultivate the same. For this reason, appellant has no more right of action against the appellee and the present appeal should hence be dismissed."

More so, the CA argued that the case at bar involved "the dispossession of an agricultural lessee of his landholding on the ground that the agricultural lessors will convert said landholding into a subdivision." The question of whether Section 7 of RA 6389 should be retroactively applied to cases under RA 3844 was, according to the CA, disapproved in "*Santos vs. Bundoc*, CA-G.R. No. SP-01419-R, October 9, 1974." The CA, in the said case, held that:

> In the first place, the factual situations herein presented are very similar, and the legal question posed analogous, to the case of *Tolentino vs. Alzate* (98 Phil. 781) relied upon by the court below. In that case, the Supreme Court held - by coincidence on an issue also of dispossession on the ground of mechanization - that RA 1199, approved on August 30, 1954 or subsequent to the filing of the said case on August 12 - or only eighteen (18) days previous - should not be held to have retroactive application, pursuant to the provision of Article 4, the New Civil Code to the effect that "Laws shall have no retroactive effect unless the contrary is provided"; and that the act specifically the requisites for mechanization is substantive in nature and therefore, should be given prospective

> effect. The *Tolentino* decision, on the principle of *stare decisis*, is binding in the present one and to refuse to apply it now would be reversible error on our part.
>
> In the second place, appellant's claim that Sec. 7 of RA 6389 repeals Sec.36 (1) of RA 3844, is clearly erroneous. That the former does not repeal the latter but merely amends it is the inescapable fact that conversion into a subdivision as a ground for ejectment - unlike personal cultivation which has been deleted and, therefore, repealed - is still recognized as such. And since the amendment is substantive in nature - as it specifies the requisite condition to conversion and not merely lay down a procedural norm - the same cannot and should not be accorded retroactive application upon a petition which has been filed in February 4, 1971, or several months prior to the amendment on September 10, 1971, upon a cause of action recognized under the then existing legislation, i.e. Sec.36 (1) of RA 3844.

Thus, the CAR February 8, 1972 Decision, being rooted in law and evidence, was affirmed *in toto* by the CA with costs against the Ravago Group.[4]

The Ravago Group did not anymore challenge the May 22, 1975 Decision of the CA, and it became final and executory on June 16, 1975.

Meanwhile, on August 13, 1975, the petitioners filed a Motion for Execution with the Balanga, Bataan CAR. However, the CAR deferred action on the said motion and instead referred the matter to the Secretary of Agrarian Reform, pursuant to Presidential Decree No. 316, which required the secretary's opinion on the conversion of the disputed landholdings to determine whether the Ravago Group were already recipients or beneficiaries of land transfer certificates (LTCs).

The August 8, 1974 DAR Order of Conversion

Oddly, on August 8, 1974, or even prior to the May 22, 1975 Decision of the Court of Appeals in CA-G.R. No. SP-01005-R, the DAR, through then Acting Secretary Ernesto Valdez, already issued an Order approving the conversion of approximately 230.5385 hectares of the said land, located at Bo. Calaguiman, Samal, Bataan, into a subdivision, including the land occupied by the Ravago Group, and also certifying that said tenants were not recipients of LTCs. The records of this case do not disclose why the DAR August 8, 1974 Order was not submitted for the consideration of the Balanga, Bataan CAR when the August 13, 1975 motion for execution was filed.

On May 12, 1976, petitioners moved for execution of the CAR February 8, 1972 Decision for the second time. However, the action on the second motion for execution was again deferred by the CAR pursuant to General Order No. 53 dated August 21, 1975, the pertinent portion of which states as follows:

> NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, do hereby declare a moratorium on the ejectment of bona fide tenants or lessees in agricultural and residential lands converted or proposed to be converted into subdivisions or commercial centers and establishments. To obviate the proliferation of social problems and to