

SECOND DIVISION

[G.R. No. 147216, April 15, 2004]

**ROSALIE ODERON VDA. DE CARDONA, PETITIONER, VS.
MARCELINO AMANSEC, RESPONDENT.**

R E S O L U T I O N

CALLEJO, SR., J.:

This is a petition for review on certiorari seeking the reversal of the Resolution^[1] of the Court of Appeals, dismissing the petition for review in CA-G.R. SP No. 60684 and its resolution denying the petitioner's motion for reconsideration of its first resolution.

The Antecedents

On July 16, 1999, petitioner Rosalie Oderon Vda. de Cardona, filed a Complaint for Ejectment against Marcelino Amansec with the Municipal Trial Court of Alaminos, Pangasinan, with a prayer for a writ of preliminary injunction. The case was docketed as Civil Case No. 1878. The petitioner, the plaintiff therein, alleged, *inter alia*, that her son, Ronald Cardona was the owner of a residential lot with an area of 1,654 square meters, located in Barangay Cabalera, Alaminos, Pangasinan, covered by Transfer Certificate of Title (TCT) No. 12797 and declared for taxation purposes in his name under Tax Declaration No. 227 of the Municipal Assessor of Alaminos. Ronald Cardona died intestate on February 18, 1997 and was survived by the petitioner, as his sole heir. According to the petitioner, respondent Marcelino Amansec entered the property without authority therefor and started erecting residential houses. The petitioner, thereafter, sent a formal demand letter^[2] dated May 3, 1999, for the respondent to vacate the property which the latter received on May 5, 1999.^[3] However, the respondent failed and refused to vacate the property.

In his answer to the complaint, the respondent averred that he was the tenant of Isabel Raroque on the latter's three (3) parcels of land covered by TCT No. 10163 and by Original Certificates of Title (OCT) Nos. 1559 and 1379. The lots had a land area of 1,654 square meters, 41,176 square meters and 3,799 square meters, respectively. The said parcels of land were classified as riceland, as per the Certification^[4] dated August 13, 1999, issued by Jose A. Camero, Municipal Agrarian Reform Office (MARO) and the Department of Agrarian Reform (DAR), District of Alaminos, Pangasinan. Sometime in 1978, he constructed a house on the parcel of land covered by TCT No. 10163 with the permission of Isabel Raroque. Emancipation Patents were thereafter issued to him in 1992 covering the parcels of land covered by OCT Nos. 1559 and 1379. He later discovered that sometime in 1989, Isabel Raroque had sold the parcel of land covered by TCT No. 10163 without his knowledge. According to the respondent, considering the existence of a tenancy relationship between him and Isabel Raroque, the petitioner's predecessor-in-interest, the municipal trial court had no jurisdiction over the complaint.

To prove that the property was agricultural and not residential, the respondent adduced in evidence the Deed of Absolute Sale over the property executed by Isabel Raroque on February 27, 1989, and Tax Declaration No. 6385 for 1990 under her name. He also adduced in evidence the MARO Certification dated August 13, 1999, that the property was classified as riceland and tenanted by the defendant who had been granted Emancipation Patent No. 181144 over Lot 2057-B, Cad-325-D with an area of 11,176 square meters and Emancipation Patent No. 151895 over Lot No. 57-D of the same cadastre. The respondent alleged, thus:

10. That as early as 1978 up to the present my possession over the landholding of Isabel Raroque, particularly the subject property was never disturbed until the filing of Civil Case No. 1878 in the guise that Isabel Raroque had transferred to plaintiff's son via Deed of Absolute Sale the said (sic) property is disregard (sic) of my rights as agricultural lessee under R.A. 3844, as amended by R.A. 6389, otherwise known as Agricultural Land Reform Code, and for other purposes;^[5]

Meanwhile, on January 20, 2000, the respondent filed a petition with the DARAB, Region I, Lingayen, Pangasinan, against Rosalie de Cardona, praying for the (a) nullification of the Deed of Sale dated February 27, 1989 executed between Isabel Raroque, as seller, and Ronald Cardona, as buyer, with respect to Lot No. 2055 covered by TCT No. 10163, and (b) issuance of an emancipation patent in his favor over the said Lot No. 2055.

On March 30, 2000, the MTC rendered a Decision^[6] in Civil Case No. 1878, dismissing the complaint for ejectment filed by the petitioner, on the ground of the existence of a tenancy relationship between the respondent and Isabel Raroque. The plaintiff appealed the decision to the regional trial court, docketed as Civil Case No. A-2668.

In a parallel development, Provincial Agrarian Reform Adjudicator Roberto Caoayan, rendered a Decision dated August 7, 2000^[7] granting the petition of the respondent. The Deed of Absolute Sale executed by Isabel Raroque in favor of Ronald Cardona was declared *void ab initio* and the DAR Provincial Office was ordered to fast track the granting of the emancipation patent in respondent's favor over the land in question.

Aggrieved by the decision, the petitioner decided to appeal the decision. However, instead of perfecting her appeal to the Department of Agrarian Reform Adjudication Board (DARAB) in Quezon City, she filed on September 6, 2000 a motion for extension of time to file a petition for review with the Court of Appeals. She averred therein that she received a copy of the decision of the PARAD on August 7, 2000 and, thus, had until August 30, 2000 to file the petition. She, likewise, prayed that she be given an extension of fifteen days or until September 15, 2000 within which to file her petition. According to the computation of the petitioners, the last day of the 15-day extension would fall on September 15, 2000. Thus, the petitioner filed the petition for review on the said date.

On September 25, 2000, the Court of Appeals issued a Resolution^[8] granting the petitioner's motion for extension of 15 days. It, however, clarified that the last day of the additional 15-day extension would fall on September 15, 2000 as counted by