

FIRST DIVISION

[G.R. No. 128118, February 15, 2002]

**GOVERNMENT SERVICE INSURANCE SYSTEM, PETITIONER, VS.
THE HONORABLE COURT OF APPEALS AND CONRADO O.
COLARINA, RESPONDENTS.**

D E C I S I O N

YNARES-SANTIAGO, J.:

This is a petition for review under Rule 45 of the Rules of Court assailing the October 28, 1996 Decision^[1] and the January 29, 1997 Resolution^[2] of the Court of Appeals^[3] in CA-G.R. SP. No. 40610, which set aside the March 13, 1996^[4] and the April 24, 1996^[5] Orders^[6] of the Regional Trial Court of Masbate, Branch 48, in Spec. Civil Case Nos. 4242-43.

The instant controversy stemmed from a complaint^[7] for "Determination and Payment of Just Compensation" filed by private respondent against petitioner Government Service Insurance System (GSIS), the Secretary of Agrarian Reform and the Land Bank of the Philippines (LBP). The instant case involves fifteen (15) parcels of land^[8] originally titled in the name of Associated Agricultural Activities, Inc. (AAA), with a total land area of 32,398,264 square meters, situated in Barrio Malaran and Lamintao, Municipality of Dimasalang (now Uson), Masbate. These parcels of land were mortgaged by AAA to petitioner GSIS as security for the payment of its loan. When AAA failed to pay the loan, petitioner foreclosed the mortgage constituted on the lots. Petitioner was the highest bidder at the foreclosure sale. Thereafter, the corresponding certificates of sale were issued, and subsequently registered on May 19, 1988, in the name of petitioner.

On December 8, 1988, within the one-year redemption period, private respondent purchased subject lots from AAA.^[9] On April 25, 1989, he voluntarily offered to sell the said properties to the Department of Agrarian Reform (DAR).

In a letter dated May 6, 1989, private respondent informed petitioner of his offer to sell the properties to the DAR. Private respondent manifested that since the properties in question were already under the coverage of the Comprehensive Agrarian Reform Program (CARP), the payment of the redemption price to the GSIS shall be assumed by the government through the DAR and the LBP. Likewise, in a letter dated May 18, 1989, private respondent informed petitioner of its willingness to pay 20% of the repurchase price within 30 days from receipt of the acceptance of his offer. He added that the balance shall be paid by him within one (1) year from payment of the aforesaid amount. Private respondent, however, received no reply from the petitioner.

After the lapse of the redemption period without a redemption of the subject lots

being effected, petitioner consolidated ownership over the subject lots in its name. Thereafter, on November 5, 1990, petitioner executed a Deed of Transfer of said lots in favor of the DAR pursuant to Executive Order No. 407,^[10] which mandates all government owned and controlled corporations to transfer to the DAR all landholdings suitable for agriculture. By virtue of the transfer, the Register of Deeds of Masbate issued on December 11, 1990, TCT Nos. T-7882 to T-7891, in the name of the Republic of the Philippines, and thereafter, on April 16, 1991, Transfer Certificate of Title No. 94 to TCT No. T-103, in the names of farmer beneficiaries to whom the lots were subsequently awarded.

Despite repeated demands of private respondent, the LBP and the DAR refused to determine and pay the just compensation for the controverted lots. Hence, on November 3, 1993, private respondent filed the instant case.

In its Answer,^[11] petitioner alleged that it is the lawful owner of the lots in question; that the failure to redeem the said lots within the redemption period has the effect of consolidating the titles thereof in its name; that being the lawful owner of the lots, it can validly transfer said lots to the DAR in compliance with E.O. No. 407.

On September 19, 1995, petitioner filed a motion to dismiss^[12] on the ground of failure to state a cause of action. Petitioner argued that private respondent had no right to sell the lots to the DAR because what it acquired from AAA was only the right to redeem the lots in question. Failing to so redeem, he never became the owner of said lots and therefore was not a real party in interest in the instant case for determination and payment of just compensation.

In his Opposition to the Motion to Dismiss,^[13] private respondent did not dispute the claim of petitioner that he failed to redeem the properties within the allotted period. He simply declared that petitioner was a necessary party in this case being the mortgagee of the disputed lots.

On March 13, 1996, the trial court dismissed private respondent's complaint for failure to state a cause of action. The dispositive portion thereof reads:

WHEREFORE, in view of the foregoing, the complaints of the above-entitled cases are hereby ordered DISMISSED with costs against the plaintiff.

SO ORDERED.^[14]

With the denial of his motion for reconsideration on April 24, 1996, private respondent appealed to the Court of Appeals. On October 28, 1996, the respondent court set aside the assailed orders of the trial court and directed it to proceed with the trial on the merits. The decretal portion thereof states:

Viewed from the foregoing, petition is hereby given due course and the Orders of respondent Court dated March 13, 1996 and April 24, 1996, respectively are hereby set aside. Respondent Court is hereby directed to proceed with the hearing of Spec. Civil Case No. 4243.

SO ORDERED.^[15]

Hence, the instant petition on the following alleged errors:

I

THE COURT OF APPEALS ERRED WHEN IT FAILED TO TAKE JUDICIAL NOTICE THAT ONLY REGISTERED LANDOWNERS CAN AVAIL THEMSELVES OF VOLUNTARY OFFER TO SELL (VOS) UNDER THE COMPREHENSIVE AGRARIAN REFORM PROGRAM (CARP).

II

THE COURT OF APPEALS ERRED IN RULING THAT THE DECISION OF THE TRIAL COURT WAS BASED ON CONCLUSION DESPITE THE CLEAR ADMISSION BY RESPONDENT COLARINA IN THE COMPLAINT THAT THE SUBJECT PROPERTIES IN QUESTION HAVE BEEN FORECLOSED BY THE PETITIONER AND THERE WAS FAILURE TO EXERCISE THE RIGHT OF REDEMPTION DURING THE ONE (1) YEAR REGLEMENTARY PERIOD OF REDEMPTION BY THE MORTGAGOR OR HIS SUCCESSORS-IN-INTEREST, AS SPECIFICALLY REQUIRED UNDER ACT 3135 as amended.

III

THE COURT OF APPEALS ERRED WHEN IT RULED THAT THE TRIAL COURT "DOUBTED" THE VERACITY OF THE COMPLAINT. ON THE CONTRARY, THE TRIAL COURT BASED ON THE ALLEGATIONS IN THE COMPLAINT AND NO OTHER, DISMISSED THE COMPLAINT FOR FAILURE TO STATE A CAUSE OF ACTION.

IV

THE COURT OF APPEALS ERRED WHEN IT CONSIDERED ANNEX "C-1" OF THE RESPONDENT'S PETITION, WHICH WAS NOT AMONG THE EVIDENCE ALLEGED, MUCH LESS ADDUCED IN THE TRIAL COURT.^[16]

The decision of the Court of Appeals is premised on the ratiocination that since the motion to dismiss of petitioner is based on failure to state a cause of action, the evaluation of the court *a quo* should be limited to the complaint itself. Thus, it set aside the assailed orders of the trial court because the latter went beyond the allegations in the complaint in determining whether private respondent's complaint states a cause of action. Indeed, the rule is that, when the motion to dismiss is based on lack of cause of action, only the statements in the complaint may be properly considered, and the court cannot take cognizance of external facts or hold preliminary hearings to ascertain their existence.^[17]

It must be noted, however, that the motion to dismiss in the case at bar was filed by petitioner after it has filed an answer. The motion was allowed and favorably acted upon by the trial court. Admittedly, the court *a quo* considered facts not stated in the complaint in assessing whether it states a cause of action. In effect, therefore, it treated the motion to dismiss as a motion for summary judgment. This is tenable under the circumstances, inasmuch as the opposition to the motion to dismiss filed by private respondent did not tender a genuine issue.^[18] Private respondent offered absolutely no denial to the averment that what he acquired from AAA was merely