

THIRD DIVISION

[G.R. No. 104774-75, October 08, 1997]

**ZACARIAS OARDE AND PRESENTACION MOLAR, PETITIONERS,
VS. COURT OF APPEALS, SPOUSES WILFREDO AND LOURDES
GUERRERO AND SPOUSES ROGELIO AND VILMA MOLAR,
RESPONDENTS.
D E C I S I O N**

PANGANIBAN, J.:

Trial and appellate courts determine the existence (or nonexistence) of a tenancy relationship on the basis of the evidence presented by the parties. Certifications of administrative agencies and officers declaring the existence of a tenancy relation are merely provisional. They are persuasive but not binding on courts, which must make their own findings.

The Case

This principle is stressed by this Court as it rules on the instant petition for review on certiorari under Rule 45 of the Rules of Court assailing the February 26, 1992 Decision^[1] of Respondent Court of Appeals^[2] in CA G.R. CV No. 29453-54, the dispositive portion of which reads:^[3]

“WHEREFORE, the judgment appealed from is set aside and another one entered as follows:

In Civil Case No. 7975:

(1) Plaintiff Zacarias Oarde is ordered reinstated as lawful tenant-tiller of Lot 17 of the Agrarian Reform Project for Barangay Gotob, Camalig, Albay and restored immediately to the possession thereof.

(2) Defendants Rogelio Molar and Vilma Molar are ordered to pay damages to plaintiff Zacarias Oarde in the sum of P5,850.00.

The decision of the court a quo dismissing the complaint of Presentacion Molar in Civil Case No. 7960 is hereby affirmed.

No pronouncement as to costs.”

Although Oarde was reinstated as tenant by the Court of Appeals, he is nonetheless dissatisfied and claims a larger amount of damages. On the other hand, Molar desires to be recognized as a tenant of private respondents and to be granted

damages for her eviction. Hence, this recourse to this Court.

The Facts

The Court finds that the facts and allegations of the contending parties are fairly recited in the trial court's decision, viz.:^[4]

"The plaintiffs [petitioners herein] seek to enjoin the defendants [private respondents herein] from removing the former as tenant-tillers of the land in question and are likewise requesting for damages, as a result of their dislocation from the land.

The following facts are admitted by the parties:

1. Their identity;
2. That the original tenant-tiller of the land was Francisco Molar, father of the plaintiff Presentacion Molar, and father-in-law of the other plaintiff Zacarias Oarde;
3. That the eldest and only son of Francisco Molar is Basilio Molar;
4. That defendant Rogelio Molar is the grandson of Francisco Molar, the former being the son of Basilio Molar;
5. That defendant spouses Wilfredo Guerrero and Lourdes Guerrero sold the herein involved parcels of land to the defendant spouses Rogelio Molar and Vilma Molar sometime in October 1987.

The issue to be determined as per order of the Court dated 15 September 1988 in Civil Case No. 7975, and order dated 27 June 1988 in Civil Case No. 7960, is whether plaintiffs in both cases are tenants of defendants in possession of the land and cannot be ejected therefrom except for cause.

It is the claim of the plaintiffs that they are [tenant-tillers] of the land in question.

Plaintiff Zacarias Oarde, testified that he began to till the land in question on April 29, 1964 when he got married to the daughter of Francisco Molar, and to substantiate his claim, he presented as one of his witnesses Gregorio Magnaye, an employee of the Bureau of Lands. He was the Chief of a Survey Team that conducted the survey in Gotob. The other members were technicians from the DAR.

He testified on cross-examination that in preparing the Summary Lists of the tenant-tillers in Gotob, Camalig, Albay, they conducted a barrio assembly. They arrived at the conclusion that certain persons were tilling certain properties owned by other persons because that was the listing of

the DAR technicians (p. 11, tsn, Nov. 16, 1988). Before the survey was conducted, they gathered the tenants together with the barangay officials and interviewed them if they are the ones cultivating the property. The ones listed in the Summary Lists were the ones whose names were given by the barrio officials (p. 13, tsn. Nov. 16, 1988). Based on their survey, Zacarias Oarde was tilling two lots, Lots 17 and 18. These were the areas pointed to by Pedro Cervantes (p. 15, tsn. Nov. 16, 1988). (Zacarias, however, when he testified claims that he is tilling only one lot, Lot 17) Witness Magnaye alleged that as far as the property being tilled by Zacarias is concerned, information was given by Pedro Cervantes (p. 19). During the survey, Zacarias Oarde was not around. Zacarias admitted that when the survey was made, he was not present.

Another witness presented was Gregorio Medina. He was the President of the Samahang Nayon of Gotob in 1977. He knows the plaintiff Zacarias Oarde because the latter is a member of the Samahang Nayon. He alleged that he is not very particular about the land that the farmer-members till, but when they register for membership, he is informed that they are leaseholders (p. 2, tsn. 8 Dec. 1988). He signed this Exhibit A, in 1977, when he was called by the DAR personnel to their office. The document was already prepared. He did not read the contents. He really does not know if Zacarias was doing the farming all by himself because several people are tilling the land aside from Zacarias. Zacarias likewise works on the field of others. He had no hand in the preparation of the lists and he was not present when the persons included therein signed their names. He likewise did not verify whether the persons in the list were really farmers of the landholdings as mentioned therein. He knows for a fact that the former farmer of these lands in question was Francisco Molar.

Another witness presented was Gil Nabio. He testified that he personally knows Zacarias Oarde being a neighbor. Zacarias is tilling a land owned by Atty. Wilfredo Guerrero and saw him working on the field.

The wife, Melicia Oarde, likewise took the witness stand and testified that as tenant-tillers, they gave the owner's share to Atty. Wilfredo Guerrero.

On the claim of plaintiff Presentacion Molar in Civil Case 7960, she alleged that she is a tenant-lessee of the land in question previously owned by Atty. Wilfredo Guerrero. She started tilling the land in 1965. Before, she owned a carabao but sold it. She caused the land to be worked on 'Pakyaw' basis, hiring different persons for different work. She actually does not till the land (p. 16, tsn. July 11, 1989).

According to Zacarias Oarde who testified in behalf of Presentacion (sic), the latter began tilling in 1968. She is not married and she only hires laborers to till the land. It was Francisco Molar who distributed to his children the land they are farming. Presentacion hires laborers to prepare and plant the land. She does not actually till the land (p. 18, tsn. May 16, 1989).

Jose Neo, an employee of the DAR, testified that he did not in any way

participate in the preparation of the document presented in evidence. He did not know whether it is genuine or a tampered one.

On the other hand, defendants in both cases claim that plaintiffs Presentacion Molar and Zacarias Oarde are not tenant-tillers of the land in question.

Basilio Molar, a witness for the defendants testified that Atty. Wilfredo Guerrero owns only one parcel of land in Gotob and this was previously farmed by his father Francisco Molar. After Francisco Molar's death, the land was tilled by witness Basilio Molar. Presentacion Molar and Zacarias Oarde are only helpers. From the share of the tenant-tiller Francisco Molar, Presentacion and Zacarias get their share.

Another witness was Ernesto Nares. He was one of the buyers of the property together with Rogelio Molar.

On cross-examination he stated that Zacarias Oarde and Presentacion Molar are not tillers of any land, whether coconut or riceland (p. 6, tsn, Nov. 3, 1989).

Rogelio Molar and defendant Wilfredo Guerrero likewise took the witness stand but their testimony centered on the denials that Presentacion Molar and Zacarias Oarde are tenants of the land."

The trial court held that Petitioners Molar and Oarde were not lawful tenants of private respondents. As noted above, public respondent affirmed the trial court's ruling in regard to Petitioner Molar, but reversed it with respect to Petitioner Oarde. It ordered the reinstatement of Oarde as a tenant and awarded him damages in the sum of P5,850.00.

Before us, Petitioner Molar prays that she be declared as a lawful tenant, and Petitioner Oarde asks that the damages awarded to him be increased from P5,850.00 to P13,850.00. Private respondents do not question the Decision of public respondent.

The Issues

Petitioners list the following assignment of errors in their petition^[5] and memorandum:^[6]

I. The appellate court erred in not giving credence and probative value to the official and public documents showing Presentacion Molar as the registered tenant-tiller of the lot in question.

II. The appellate court erred in not considering (sic) substantial facts, the testimonial evidence and admissions that greatly affected the result of this case.

III. The appellate court erred in not applying the provisions (sic) of the New CARP^[7] Law (RA 6657) and other applicable laws and jurisprudence favorable to tenant-tiller, Presentacion Molar.

IV. The appellate court erred in not computing correctly the total share that Zacarias Oarde was deprived of since October 1987 to the present.

V. The appellate court erred in not awarding actual damages, attorney's fees, litigation expenses, moral and exemplary damages to plaintiffs."

To avoid needless repetition, the Court believes that the issues may be condensed into three:

1. Is Petitioner Molar a lawful tenant?
2. Is the award to Petitioner Oarde of P5,850 as his lawful share in the harvests of his tilled land from October 1987 to May 1991 correct?
3. Are petitioners entitled to moral and exemplary damages as well as attorney's fees and litigation expenses?

The Court's Ruling

The appeal has no merit.

First Issue: Is Petitioner Molar a

Lawful Tenant-Tiller?

The essential requisites of a tenancy relationship are the following: (1) the parties are the landowner and the tenant; (2) the subject is agricultural land; (3) there is consent; (4) the purpose is agricultural production; (5) there is personal cultivation; and (6) there is sharing of harvests. All these must concur to establish the juridical relationship of tenancy.^[8]

Markedly absent in the case of Petitioner Molar is the element of "personal" cultivation. Both the trial court and the Court of Appeals found that Molar herself did not actually cultivate the land, nor did her immediate family or farm household. Instead, she hired other people to do all phases of farm work.^[9] Even her co-petitioner testified that she did not actually till the land and that she merely paid laborers to perform such task.^[10] Thus, public respondent aptly held:^[11]

"The trial court noted that Presentacion made inconsistent answers when asked when she began tilling the land, before she finally declared that she started tilling the property way back in 1965 (tsn, July 1, 1989). However, the element of personal cultivation is essential for an agricultural leasehold; that is, that there should be personal cultivation by the tenant or by his immediate farm household or members of the