

## FOURTH DIVISION

[ CA-G.R. SP. NO. 127599, March 27, 2015 ]

**SPOUSES ERLINDA PABLO AND HOSPICIO PABLO, PETITIONERS,  
VS. HON. VICENTO ASELO S. SICAT, PROVINCIAL ADJUDICATOR  
OF NUEVA ECIJA, DEPARTMENT OF AGRARIAN REFORM  
ADJUDICATION BOARD, HEIRS OF JUAN BUCANEG AND JAMES  
DEUS, RESPONDENTS.**

### D E C I S I O N

**BALTAZAR-PADILLA, J.:**

This is a petition for certiorari assailing the Order<sup>[1]</sup> dated June 6, 2012 of the Department of Agrarian Reform and Adjudication Board (DARAB) granting the Motion for Execution filed by Juan Bucaneg and Jaime Deus and the Resolution<sup>[2]</sup> dated September 5, 2012 denying Spouses Hospicio and Erlinda Pablo's motion for reconsideration thereof.

### FACTS

**Spouses Hospicio and Erlinda Pablo (Spouses Pablo)** and Spouses Danilo Carpio and Imelda Mariano, are co-owners of a parcel of land located at Brgy. Estrella, Rizal, Nueva Ecija covered by Transfer Certificate of Title No. NT-164520.

Spouses Hospicio and Erlinda Pablo and Spouses Danilo Carpio and Imelda Mariano will hereafter be collectively referred to as **spouses-owners**.

Sometime in 1985, **James Deus (Deus)** and **Juan Bucaneg (Bucaneg)** entered the subject lot and erected their houses on the same.

For failure of Deus and Bucaneg to vacate the property despite demand from the spouses-owners, the latter were constrained to file an ejectment case against Deus and Bucaneg before the Municipal Trial Court (MTC) docketed as Civil Case No. 903 on November 18, 1985. As their defense, Deus and Bucaneg alleged that they were in possession of the subject lot for several years as tenants of the late Maria Carmen Bucaneg, the former owner of the property.

On August 30, 1988, the MTC ruled in favor of spouses-owners, the fallo of which states:

"WHEREFORE, judgment is hereby rendered by applying the Rule on Summary Procedure in favor of the plaintiffs and against the defendants, to viz:

1. Ordering the defendants to vacate and to surrender the possession to the plaintiffs the residential lot covered by TCT No. NT-184520, with an

area of 2,415 square meters, more or less, situated at Estrella, Rizal, Nueva Ecija;

2. Ordering the defendants to pay plaintiffs jointly and severally litigation expenses of P1,000.00 plus attorney's fees of P2,000.00.

No pronouncement as to costs.”<sup>[3]</sup>

Deus and Bucaneg appealed to the Regional Trial Court (RTC) but to no avail. In a Decision<sup>[4]</sup> dated April 21, 1989, the RTC affirmed the decision of the MTC.

Deus and Bucaneg filed a petition for certiorari before this Court praying that the decision of the MTC which was affirmed by the RTC be set aside on the ground of lack of jurisdiction. Deus and Bucaneg alleged that the case involves an agricultural land which constitutes their homelots and are the subject of a pending application before the Department of Agrarian Reform (DAR), therefore, the case is within the jurisdiction of DAR and not the trial courts.

On August 29, 1990, this Court, through its Fourth Division, dismissed the petition based on this ground, to wit:

“That there is no doubt that the landholdings are not connected or adjacent to the residential lot being claimed by the plaintiffs. The lot in question is separate and distinct from the landholdings of the defendants. The physical situation and distances of the landholdings of the defendants on the lot is (sic) a (sic) very substantial evidence that cannot be rebutted by the defendants.

From the evidence submitted by the parties there are several facts and circumstances which negate the existence of tenancy relationship between the defendants and the late Maria Carmen Bucaneg. The evidence of the defendants failed to show how, as they claimed, that they are tenant-lessees. The unrebutted credible evidence on record is the joint sworn statement of Maria Carolina Rafael Bugayong and Pedro Carmen that defendants are lawful tenants of Petronila Carmen Rafael and Petronilla, Enrique, Pedro. Leonor and Clarita, all surnamed Carmen. The defendants cannot show any contract of tenancy between them and the deceased nor can they produce any receipt of payment of the rental on the land or for the delivery of the share of the owner of the land on the produce of the land. Death has already closed the lips of Maria Bucaneg to be able to deny the pretensions of the defendants, so that the latter under the circumstances are liable to commit against the estate of deceased persons the law prohibits testimony in support of the transaction of the witness with a person since the deceased, it being a policy of the law that when death has closed the lips of one party shall likewise remain closed (*Amante vs. Manzanero*, 71 Phil. 553; *Maximlomo vs. Tabotabo*, Phil. 390). The application for homelot transfer and mere presentation of a certificate by the defendants are not concrete evidence that they are in truth and in fact tenants of Maria Carmen Bucaneg.

These findings were affirmed by the Regional Trial Court in its decision of April 21, 1989. No further appeal was taken by the petitioners, with the

result that this decision of the Metropolitan Trial Court is now final. It would thus appear that, in questioning the jurisdiction of the MTC on the ground that this case involves the right of tenant farmers to their homelots, which pursuant to P.D. No. 946, sec. 12 (7) is vested in the then Regional Trial Court, petitioners are seeking to reopen a question already settled by final judgment. For the question of jurisdiction turns on a question of fact, i.e., whether the land in question is a farmlot and whether the petitioners are tenants entitled to such homelots. This question of fact was decided adversely against the petitioners by the MTC and the RTC which ruled that the land is not a farmlot and that petitioners are not tenants of the former owner, Maria Carmen Bucaneg. If petitioners did not agree with such finding of fact, they should have appealed from the decision of the Regional Trial Court. It is settled that a petition for certiorari is not a substitute for the right to appeal.”<sup>[5]</sup>

No appeal was taken by Deus and Bucaneg from the afore-quoted Decision of this Court.

Subsequently, the MTC issued a writ of execution for the implementation of its August 30, 1988 Decision.

On February 4, 1991, the writ was partially executed with Deus vacating the property and removing his house thereon. However, Bucaneg, represented by his daughter, refused to comply with the writ.<sup>[6]</sup>

As a result of Bucaneg's refusal to comply with the writ, a Special Order of Demolition was issued by the MTC on August 31, 1994. Bucaneg, represented by his daughter, Estelita Bucaneg, filed a petition for certiorari with preliminary injunction before the RTC questioning the Special Order.

On January 27, 1995, the RTC issued a Decision denying the petition for certiorari for being moot and academic as the assailed Special Order of Demolition was already implemented.<sup>[7]</sup>

It appears, however, that after the MTC promulgated its August 30, 1988 Decision, Deus and Bucaneg filed a complaint before the Regional Director of the Department of Agrarian Reform (DAR) on October 17, 1988. In their complaint, they alleged that they are tenant-beneficiaries of Maria Carmen Bucaneg and as such are entitled to homelots. Thus, they prayed that the sale of the subject lot to Spouses Pablo and Spouses Carpio be declared null and void.<sup>[8]</sup> On March 26, 1990, the Regional Director dismissed the complaint on the ground of the August 30, 1988 MTC Decision.

Deus and Bucaneg appealed the dismissal to the Department of Agrarian Reform Adjudication Board (DARAB).

On July 9, 1997, the DARAB granted Deus and Bucaneg's appeal, the dispositive portion of its Decision states:

“Wherefore, finding reversible errors committed by the Regional Director, the decision appealed from is hereby REVERSED by entering a new one as follows:

1. Declaring Plaintiffs-Appellants as the lawful tenants of the landholding in which their houses were erected;
2. Ordering the reinstatement of plaintiffs-appellants to their landholding. If they have been ejected, or maintaining them, if not;
3. Ordering the Provincial DARAB Sheriff of Nueva Ecija (North), with the assistance of the PNP in the locality, if necessary, to implement this decision;
4. Ordering the Municipal Agrarian Reform Officer (MARO) of the Municipality of Rizal to generate Certificate of Land Transfer (CLT) or Certificate of Land Ownership Award (CLOA) as the case may be over the landholding subject of controversy, and facilitate the redemption of the subject landholding which plaintiffs-appellants may exercise under Section 12 of Republic Act No. 3844.

SO ORDERED.”<sup>[9]</sup>

Spouses-owners filed a motion for reconsideration but the same was denied in a Resolution dated April 8, 2000.<sup>[10]</sup>

No further appeal was taken on the matter.

On August 27, 2010, Deus and Bucaneg filed before the DARAB, Office of the Provincial Adjudicator a Motion for Execution of the July 9, 1997 DARAB Decision. Spouses-owners filed their opposition to the motion citing the August 30, 1988 MTC Decision which had long attained finality and in fact, had already been executed.

On June 6, 2012, the Provincial Adjudicator issued an Order granting the Motion for Execution.<sup>[11]</sup> On June 21, 2012, a Writ of Execution was issued.

Spouses-owners filed a motion for reconsideration of the Order but the same was denied in a Resolution dated September 5, 2012.<sup>[12]</sup>

Hence, Spouses Pablo filed the extant petition.

Pending the resolution of the present petition, Bucaneg passed away and was substituted by his heirs Estelita Bucaneg dela Cruz, Magdalena Bucaneg Tulyao and Florida Bucaneg Co, collectively referred to as Heirs of Bucaneg. James Deus also passed away and was substituted by his heirs (Heirs of Deus).

On May 17, 2013, Hospicio Pablo passed away and was survived by his wife Erlinda and his children, Alejandro Pablo, Branda Magpantay, Cesar Pablo, Dennis Pablo and Edgar Pablo, collectively referred to as Heirs of Hospicio.

On November 13, 2013, as per Sheriff's Report dated November 20, 2013, the June 21, 2012 Writ of Execution was implemented.<sup>[13]</sup>

## **ISSUES**

Spouses Pablo raise a sole issue for OUR consideration, to wit:

**THE HONORABLE PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT GRANTED THE MOTION FOR EXECUTION OF THE HEREIN PRIVATE RESPONDENTS.**

**RULING**

The petition is impressed with merit.

When the DARAB issued its July 9, 1997 Decision, it was very much aware of the Decision of the MTC in ejectment case.

In deciding to take cognizance of the case, the DARAB ratiocinated in this wise:

"Before going to the main issue of the case, let us first examine the attendant circumstances that might affect the jurisdiction of this Board over the case.

A perusal of the records disclosed that on August 30, 1988, the Municipal Trial Court of Rizal rendered a decision involving the same issues, parties and subject matter. It simply means that at the time of filing which was on November 16, 1985, the regular courts had still jurisdiction over all agrarian cases. This is so because from 1980 which was the passage of Batas Pambansa Blg. 129, the Courts of Agrarian Relations were integrated into the Regional Trial Courts and the jurisdiction of the former was vested in the latter courts ( Romero, et. al., vs. CA, et. al., 147 SCRA 183). It was only withdrawn upon the passage of Executive Order No. 229 vesting jurisdiction with the DAR. The said law took effect on July 22, 1987. If we will anchor our adjudication from the foregoing facts, one will say that indeed the Department of Agrarian Reform has no jurisdiction. But the instant case should not be examined from that angle alone, other facts should also be considered.

The records further reveal that plaintiffs-appellants as per certification of the Municipal Agrarian Reform Officer (MARO) of the Municipality of Rizal, Nueva Ecija, are the registered tenants of Maria Carmen. Hence, the issue involved has agrarian complexity. Under Batas Pambansa Blg. 129, only the Regional Trial Courts (RTC) have jurisdiction over the cases of ejectment where the subject matter is agricultural land. The law never vested the Municipal Trial Courts (MTC) with such jurisdiction. Of course, if the issue involved was a simple ejectment case which involves residential lot, then the Municipal Trial Court would have been within its province in rendering the decision under question.

In the case at bar, the subject matter is an agricultural land so that the Municipal Trial Court of Rizal had overstepped its jurisdiction when it rendered its decision in Civil Case No. 903."

WE do not agree.