

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**DEOGRACIAS MUSA, ROMEO and
ANDRO MUSA, as represented by their
Attorney-in-fact, MARILYN MUSA,
*Petitioners,***

-versus-

**G.R. No. 141396
April 9, 2002**

**SYLVIA AMOR,
*Respondent.***

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D E C I S I O N

KAPUNAN, J.:

Assailed in this Petition for Review on *Certiorari* is the Decision of the Court of Appeals dated September 27, 1999 in CA-G.R. S.P. No. 49263 which modified in part the decision of the Department of Agrarian Reform Adjudication Board (DARAB) and ruled that herein petitioners Deogracias, Romeo and Andro Musa are not tenants of the subject land holding; as well as the Resolution dated December 29, 1999 denying petitioners' motion for reconsideration.

This case involves an agricultural land holding with a total area of 9.9611 hectares located at Dancalan, Donsol, Sorsogon formerly owned by one Antonio Dasig, two hectares of which are ricelands and

the rest are devoted to coconuts. When Antonio Dasig migrated to the United States, his mother, Rosario Dasig, acted as administratrix of the said property.

On March 5, 1993, Rosario, representing her son, sold the subject property to herein respondent Sylvia Amor for the total amount of P300,000.00. This prompted petitioners, claiming to be tenants of the landholding, to file a case for redemption against respondent and Rosario Dasig with the Department of Agrarian Reform Regional Adjudicator. Later on, respondent tried to eject petitioners from the property so the latter withdrew the case for redemption and filed against respondent a complaint for annulment of sale, reinstatement and damages with a prayer for preliminary injunction, docketed as DARAB Case No. 05-154-S.

In their complaint, petitioners averred that in 1979, Deogracias Musa entered into a verbal tenurial arrangement with Antonio Dasig, through Rosario Dasig. Deogracias' tenancy continued uninterrupted under a 2/3-1/3 sharing arrangement per harvest on the riceland portion and a 60-40 sharing in the produce of the coconut plantation. Deogracias was helped by his two sons, Andro and Romeo Musa. When Deogracias fell ill due to a stroke in 1990, his sons took over the cultivation and continued the previous arrangement with Rosario Dasig who duly acknowledged the same and received the share pertaining to her as landowner. Petitioners were thus surprised when the landholding was later on sold by Rosario Dasig to respondent without their knowledge and consent. They tried to redeem the property as tenants but during the pendency of the case, a notice dated September 8, 1993 was issued by the Department of Agrarian Reform placing the entire property under the Comprehensive Agrarian Reform Program (CARP). This prompted petitioners to file a complaint for annulment of the sale. Finally, petitioners asseverated that the sale of the land to private respondent was illegal and void since the land was subject to the Voluntary Offer To Sell scheme of the DAR as evidenced by the CARP VOS Form No. 1 signed by Antonio Dasig.

Rosario Dasig, though impleaded as a party, did not participate in the proceedings before the Regional Adjudicator. Only respondent Amor filed an answer. Respondent maintained that the sale of the subject

landholding was valid because petitioners were not bona-fide tenants of the same but merely worked thereon as hired workers on a “pakyaw” basis; that Deogracias Musa admitted in an affidavit executed on July 4, 1982 that he was a hired worker; that the CARP Voluntary Offer To Sell allegedly executed by Antonio Dasig was forged as attested to by the latter in his affidavit dated November 23, 1993; and that petitioners are not qualified beneficiaries under P.D. 27 and R.A. 6637 because they are landowners themselves.

On June 30, 1994, the Regional Adjudicator of DAR ruled in favor of petitioners declaring them as tenants of the subject landholding and nullifying the deed of absolute sale between Rosario Dasig and respondent. The dispositive portion of the said decision reads:

WHEREFORE, judgment is hereby rendered:

- 1) Declaring complainant as tenants in the subject landholding;
- 2) Declaring the Deed of Absolute Sale Null and Void without prejudice to the filing with another forum of appropriate jurisdiction for the parties thereto to recover whatever rights that may pertain to them;
- 3) Ordering respondent and all persons acting in their behalf to reinstate complainants in the subject landholding and to maintain the latter in peaceful possession therein; and
- 4) Directing the PARO of Sorsogon, the Regional Director DAR Region V to generate transfer action on the portion of land in question covered by Operation Land Transfer subject to matter of this case.
- 5) No pronouncement as to Costs and Damages.

SO ORDERED.^[1]

On appeal, the Department of Agrarian Reform Adjudication Board (DARAB) modified the ruling of the Regional Adjudicator by

declaring that petitioners are bona-fide tenants of the land in question and are thus entitled to security of tenure.^[2] Not satisfied with the ruling of the DARAB, respondent brought the case on appeal to the Court of Appeals alleging that DARAB erred in declaring that petitioners are bona-fide tenants of the subject landholding and in holding that the Secretary of Agrarian Reform has authority to determine whether the said land is covered by P.D. No. 27 and R.A. 6657.

In their Comment on the petition, petitioners pointed out that the petition should not be given due course since (1) it was not accompanied by a written explanation why the petition was not served personally to them and (2) the certification on non-forum shopping was inadequate for failure to conform with the prescribed contents set forth under Section 2, Rule 42 of the Revised Rules of Court.

On September 27, 1999, the Court of Appeals rendered a decision modifying the DARAB's ruling only insofar as petitioners' status is concerned and holding that they "should not be considered tenants of the subject landholding."^[3] The decision of the DARAB was affirmed in all other respects.^[4] As to whether or not the subject landholding is covered by P.D. 27 and R.A. 6657, the Court of Appeals sustained the DARAB's ruling that the matter involves an administrative determination within the exclusive jurisdiction of the Secretary of the Department of Agrarian Reform. With regard to the procedural error raised by petitioners, the Court of Appeals held that the Rules of Court, particularly on modes of service and filing of pleadings, does not apply to agrarian cases.

Petitioners sought a reconsideration of the above ruling but the Court of Appeals denied the motion and affirmed its decision. In rejecting petitioners' contention that the case has been rendered moot and academic by the declaration of the Department of Agrarian Reform that the subject landholding is covered by CARP, the Court of Appeals reasoned that such development has no significance because petitioners "have already been declared not to be tenants of the landowner and therefore not qualified beneficiaries of the provisions of CARP."^[5]

Petitioners thus found their way to this Court through the present petition praying for the reversal of the Court of Appeals' decision and resolution. They assigned the following errors:

THE HONORABLE COURT OF APPEALS ERRED IN DECLARING THAT SINCE PETITIONERS HAVE ALREADY BEEN DECLARED NOT TO BE TENANTS OF THE LANDOWNER, THEY ARE NOT QUALIFIED BENEFICIARIES OF THE PROVISIONS OF THE CARP.

THE HONORABLE COURT OF APPEALS ERRED IN NOT DISMISSING RESPONDENTS PETITION FILED BEFORE SAID FORUM FOR FAILURE TO CITE AN EXPLANATION AS TO THE MODES OF SERVICE.^[6]

First, as to the issue of tenancy, we find no reason to depart from the findings of the Court of Appeals that herein petitioners were not bona-fide tenants of the landholding. Petitioners gave conflicting statements as to their alleged tenancy over the landholding. At first, they maintained that they had been tilling the land since 1979. However, Deogracias Musa executed an affidavit on July 4, 1982 attesting the contrary that he was not a tenant of Rosario Dasig.^[7] Later on, petitioners admitted the execution of such affidavit and claimed that there was no inconsistency because their cultivation of the subject property was commenced after the execution of affidavit.^[8] In another instance, petitioners alleged that they took over the cultivation of the land from Juan Manlangit in 1984.^[9] These conflicting assertions detract from the veracity of petitioners' claim of tenancy.

The Court of Appeals also noted that the testimony of Juan Manlangit, presented by petitioners, cannot be given credence because he varied his statements three times. On June 21, 1994, he executed an affidavit attesting to the tenancy of Deogracias Musa over the landholding. He retracted his statement on July 29, 1994 claiming that he was misled into signing his June 24, 1994 affidavit. On August 24, 1994, Manlangit executed another affidavit re-affirming his first statement. The vacillating attitude of the witness does not help petitioners any. As correctly ruled by the Court of Appeals,

petitioners' evidence failed to substantially prove their claim of tenancy over the subject landholding.

Petitioners dispute the Court of Appeals' statement in its resolution denying petitioners' motion for reconsideration that since they are not tenants of the subject landholding, they are not qualified beneficiaries under CARP.^[10] They argue that such a conclusion is contrary to the Court of Appeals' pronouncement that the issue of whether the subject landholding is covered by P.D. 27 or R.A. 6657 is within the exclusive jurisdiction of the Secretary of the Department of Agrarian Reform. Moreover, assuming *arguendo* that petitioners are not tenants of the landholding, they are still qualified beneficiaries as farmworkers because R.A. 6657 does not limit the scope of qualified beneficiaries to tenants^[11] On this score, the Court of Appeals itself stated in its decision that it is "in full accord with [the DARAB] ruling that the DAR Secretary has authority to determine whether the subject landholding is subject to the provisions of P.D. No. 27 or R.A. 6657."^[12]

It should be pointed out that identification of actual and potential beneficiaries under CARP is vested in the DAR Secretary. Administrative Order No. 10, Series of 1989 provides:

ADMINISTRATIVE ORDER NO. 10
Series of 1989

***SUBJECT: RULES AND PROCEDURES GOVERNING
THE REGISTRATION OF BENEFICIARIES***

I. PREFATORY STATEMENT

Pursuant to Section 15, Chapter IV, of the Comprehensive Agrarian Reform Law of 1988, the DAR, in coordination with the Barangay Agrarian Reform Committee (BARC), as organized pursuant to R.A. 6657, shall register all agricultural lessees tenants and farmworkers who are qualified beneficiaries of the CARP. This Administrative Order provides the Implementing Rules and Procedures for the said registration.

II. OBJECTIVES.

A. General

1. Develop a data bank of potential and qualified beneficiaries of the CARP for the effective implementation of the program.

B. Specific

1. Identify the actual and potential farmer-beneficiaries of the CARP. (Emphasis ours.)

X X X

It is significant to note that on September 3, 1993, the DAR Secretary through the Municipal Agrarian Reform Office (MARO) issued a Notice of Coverage placing the entire agricultural landholding, including the subject property, under CARP. Such being the case, the appellate court's pronouncement that petitioners are not qualified beneficiaries under CARP is just an obiter dictum and not necessary in the resolution of the issues.

Petitioners also allege that the Court of Appeals should not have given due course to the petition because the respondent failed to attach thereto a written explanation why personal service was not done, thereby violating Section 11, Rule 13, of the Rules of Court. The Court of Appeals found the service of petition by registered mail sufficient notwithstanding the absence of an explanation why service by mail was resorted to. Citing the case of Reyes vs. Court of Appeals,^[13] it declared that "the Rules of Court shall not be applicable in agrarian cases even in suppletory character."

The issue of sufficiency of service of pleadings pertains to the proceedings of the Court of Appeals which are governed by the Rules of Court. Section 11, Rule 13 of said Rules provides:

SEC. 11. Priorities in modes of service and filing. — whenever practicable, the service and filing of pleadings and other papers shall be done personally. Except with respect to papers

emanating from the court, a resort to other modes must be accompanied by a written explanation why the service or filing was not done personally. A violation of this Rule may be cause to consider the paper as not filed.

As the above-quoted provision requires, service and filing of pleadings must be done personally whenever practicable. The Court notes that in the present case, personal service would not be practicable. Considering the distance between the Court of Appeals and Donsol, Sorsogon where the petition was posted, clearly, service by registered mail would have entailed considerable time, effort and expense. A written explanation why service was not done personally might have been superfluous. In any case, as the rule is so worded with the use of “may,” signifying permissiveness, a violation thereof gives the court discretion whether or not to consider the paper as not filed. While it is true that procedural rules are necessary to secure an orderly and speedy administration of justice,^[14] rigid application of Section 11, Rule 13 may be relaxed in this case in the interest of substantial justice.

WHEREFORE, the Petition is hereby **DENIED** and the Decision of the Court of Appeals in CA-G.R. S.P. No. 49263 dated September 27, 1999 is **AFFIRMED**.

SO ORDERED.

Davide, Jr., C.J., Puno and Ynares-Santiago, JJ., concur.

[1] Rollo, pp. 25-26

[2] Id., at 59-67.

[3] Id., at 22-34.

[4] Id., at 34.

[5] Id., at 37; (p. 2 of the Resolution of the Court of Appeals denying herein petitioners' Motion for Reconsideration)

[6] Id., at 14.

[7] id., at 29.

[8] id.

[9] Id., at 63.

[10] supra Note 5

- [11] Sec. 22. QUALIFIED BENEFICIARIES — The lands covered by the CARP shall be distributed as much as possible to landless residents of the same barangay, or in the absence thereof, landless residents of the same municipality in the following order of priority:
- a.) agricultural lessees and share tenants;
 - b.) regular farmworkers;
 - c.) seasonal farmworkers;
 - d.) other farmworkers;
 - e.) actual tillers or occupants of public lands;
 - f.) collective or cooperatives of the above beneficiaries; and
 - g.) others directly working on the land.

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[12] Rollo, p. 31.

[13] 216 SCRA 25 (1992).

[14] Fortich vs. Corona, 298 SCRA 678 (1998).