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THIRD DIVISION

[G.R. No. L-36378. January 27, 1992]

PIO BALATBAT, *petitioner, vs.* **COURT OF APPEALS and DOMINGO PASION,** *respondents.*

SYLLABUS

LABOR AND SOCIAL LEGISLATION; AGRARIAN REFORM CODE (R.A. NO. 6389); RULE ON THE DISPOSSESSION OF AGRICULTURAL LESSEE ON THE GROUND OF PERSONAL CULTIVATION BY THE AGRICULTURAL LESSOR-OWNER; CANNOT BE GIVEN RETROACTIVE EFFECT.— Since under the original provision of Section 36(1) of R.A. No. 3844, the dispossession of the agricultural lessee on the ground of personal cultivation by the agricultural lessor-owner can only take place when "authorized by the Court in a judgment that is final and executory," it follows then that since the repeal of the provision took effect before the judgment in this case became final and executory, private respondent may no longer dispossess petitioner on that ground because it had been removed from the statute books. Counsel for petitioner, Atty. Greta-Diosa Quitorio, Trial Attorney of the Bureau of Agrarian Legal Assistance, made a thorough study of the history of R.A. No. 6389 and came up with the conclusion that, as gathered from the questions and answers of Senators Diokno and Laurel, the legislative intent to give retroactive effect to said law or to make it applicable to pending cases of ejectment on ground of personal cultivation, appeared clear. She further summoned to the aid of petitioner an arsenal of impressive doctrines in statutory construction to protect the cause and strengthen the case of the petitioner. All of her efforts, which are undoubtedly commendable, are futile. As early as 1984, in *Nilo vs. Court of Appeals, et al.*, and *Castro vs. Castro*, this Court, per Justice Hugo E. Gutierrez, Jr., ruled that Section 7 of R.A. No. 6389 cannot be given retroactive effect because, while during the debates on the bill which was eventually enacted into Republic Act No. 6389, there were statements made on the floor that "the owner will lose the right to eject after the enactment of this measure" even in cases where the owner

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has not really succeeded in ejecting the tenants, Congress failed to express an intention to make Republic Act No. 6389 retroactive and to cover ejectment cases on the ground of personal cultivation then pending adjudication by the courts.

APPEARANCES OF COUNSEL

Bureau of Agrarian Legal Assistance for petitioner.
Roberto Y. Miranda for private respondent.

D E C I S I O N

DAVIDE, JR., *J.*:

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court filed by an agricultural lessee who was ordered ejected in an action for ejectment filed by the new owner of the landholding on the basis of the latter's claim that he will personally cultivate the land pursuant to Section 36 (1) of R.A. No. 3844.

The antecedent facts, as gathered from the pleadings, are not controverted.

Petitioner is the agricultural lessee of a parcel of land located at Santiago, Sta. Ana, Pampanga containing an area of 18,490 square meters, more or less, which is owned by Daniel Garcia. The latter sold the land to private respondent Domingo Pasion and had it declared for taxation purposes under Tax Declaration No. 126. Sometime after the sale, Domingo Pasion, on a claim that he will personally cultivate the land, filed on 15 June 1970 with the Court of Agrarian Relations, Fifth Regional District, Branch II at San Fernando, Pampanga, a complaint to eject petitioner alleging therein that he had notified petitioner of his intention to personally cultivate the landholding, but despite the lapse of one (1) agricultural year from receipt of the notice thereof, petitioner refused to vacate the land.

In his amended answer with counterclaim, petitioner denied having received any notice from the private respondent and by way of special and affirmative defenses, he alleged that: (a) the

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jurisdictional requirements of the law have not been complied with by private respondent; (b) the latter has another palay landholding situated at Santiago, Sta. Ana, Pampanga with an area of 2 ½ hectares which is being worked by a hired helper; (c) private respondent is physically unfit to perform the different phases of farm work; and (d) that private respondent filed the case merely to harass petitioner because of the latter's adoption of the agricultural leasehold system and refusal to shift back to the 50-50 sharing arrangement with the former. In his counterclaim, petitioner sought to exercise his right of redemption over the subject landholding pursuant to the provisions of R.A. No. 3844 in view of the failure of the former owner, Daniel Garcia, to notify him beforehand of the intended sale of the landholding. Private respondent filed his Answer to the Counterclaim.

At the pre-trial conference of the case, the parties could only stipulate on their being of legal age, their residences and on the fact that private respondent is the owner of the landholding in question, which is cultivated by petitioner under the leasehold system.

After trial on the merits, the agrarian court rendered a decision against petitioner, the dispositive portion of which reads:

"IN VIEW OF ALL THE FOREGOING, judgment is hereby rendered granting authority to plaintiff Domingo Pasion to eject defendant Pio Balatbat from the landholding in question described in the complaint and to personally cultivate his landholding, and ordering said defendant to vacate the said premises and to deliver the possession thereof to the said plaintiff, subject, however, to the second proviso contained in Section 36(1) and to the provisions of Section 25 of Republic Act No. 3844.

The claim for damages of plaintiff is DENIED for lack of basis.

The counterclaim of the defendants is hereby DISMISSED for lack of merit.

No pronouncement as to costs.

SO ORDERED."[1]

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[1] *Rollo,* 9-10.

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Petitioner appealed the decision to the Court of Appeals which docketed it as C.A.-G.R. No. 00479-R; he urged said court to reverse it because the agrarian court gravely erred in: (a) ordering his ejectment, completely denying the fact that private respondent, due to his sickness, is physically incapable of personally cultivating the subject landholding and that private respondent filed the complaint out of vindictiveness, and (b) in dismissing the counterclaim for redemption, contrary to the facts and law.[2]

On 16 December 1972, the Court of Appeals promulgated its decision[3] in C.A.-G.R. No. 00479-R affirming the decision of the agrarian court. In disposing of the assigned errors, said Court ruled that private respondent complied with the requirement of notice of at least one (1) agricultural year. And although private respondent was already 69 years old at the time he testified, there is nothing on record to indicate that he is suffering from any physical ailment; besides, in this age of advanced technology, most of the back-breaking processes of farming have been lightened by machinery. As regards the asserted right of redemption pursuant to Section 11 of R.A. No. 3844, the Court held that the petitioner "failed to comply with the requirements" and took note of petitioner's petition before the lower court to litigate as pauper as "a circumstance that is highly indicative of lack of funds on his part."[4] His motion to reconsider[5] the decision having been denied in the resolution of 25 January 1973,[6] petitioner took the instant recourse to present the following legal issues for this Court's resolution:

"1. What is the effect of Section 7 of R.A. No. 6389, abolishing personal cultivation by landowners as a ground for dispossession of tenants from their landholdings, on pending appealed cases?

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[2] *Id.*, 10.

[3] *Per* Associate Justice Hermogenes Concepcion, Jr., concurred in by Associate Justices Andres Reyes and Luis B. Reyes.

[4] *Id.*, 29.

[5] *Id.*, 30.

[6] *Id.*, 41.

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2. Should pending appealed cases on personal cultivation be decided in the light of Section 7 of R.A. No. 6389?"

Expectedly, petitioner maintains that this case should have been decided in the light of Section 7 of R.A No. 6389 since, in view of the appeal, the private respondent did not yet acquire a vested right to personally cultivate the landholding. In short, the application of the repealing law warrants the dismissal of the action for ejectment.

Republic Act No. 6389 took effect on 10 September 1971, during the pendency of this case before the Court of Appeals.

After private respondent filed his Comment[7] in compliance with the resolution of 13 March 1973, this Court resolved to give due course to the petition[8] and thereafter required the petitioner to file his Brief,[9] which he complied with on 22 June 1973;[10] he makes the following assignment of errors:

"I

The Court a quo gravely erred in ordering the ejectment of herein petitioner on the ground of personal cultivation.

II

The Honorable Court of Appeals erred in not dismissing private respondent's complaint for cultivation in view of the repeal of Section 36(1) Rep. Act 3844 by Section 7 of Rep. Act 6389."

Private respondent filed his Brief on 25 September 1973.

In support of the first assigned error, petitioner asserts that during the pendency of the appeal in the Court of Appeals, Congress passed Republic Act No. 6389, Section 7 of which amended Section 36(1) of R.A. No. 3844. As amended, personal cultivation is no longer a ground to dispossess an agricultural

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[7] *Rollo,* 44.

[8] *Id.,* 50.

[9] *Id.,* 57.

[10] *Id.,* 63.

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lessee of his landholding. Section 36(1) of R.A. No. 3844 originally read as follows:

"SECTION 36. *Possession of Landholding; Exceptions*.— Notwithstanding any agreement as to the period or future surrender of the land, an agricultural lessee shall continue in the enjoyment and possession of his landholding except when his dispossession has been authorized by the Court in a judgment that is final and executory if after due hearing it is shown that:

> (1) The agricultural lessor — owner or a member of his immediate family will personally cultivate the landholding or will convert the landholding, if suitably located, into residential, factory, hospital or school site or other useful non-agricultural purposes: Provided, That the agricultural lessee shall be entitled to disturbance compensation equivalent to five years rental on his landholding in addition to his rights under Sections twenty-five and thirty-four, except when the land owned and leased by the agricultural lessor, is not more than five hectares, in which case instead of disturbance compensation the lessee may be entitled to an advance notice of at least one agricultural year before ejectment proceedings are filed against him: *Provided, further*, That should the landholder not cultivate the land himself for three years or fail to substantially carry out such conversion within one year after the dispossession of the tenant, it shall be presumed that he acted in bad faith and the tenant shall have the right to demand possession of the land and recover damages for any loss incurred by him because of said dispossessions."

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Section 7 of R.A. No. 6389 reads as follows:

"SECTION 7. Section 36(1) of the same Code is hereby amended to read as follows:

'(1) The landholding is declared by the department head upon recommendation of the National Planning Commission to be suited for residential, commercial, industrial or some other urban purposes: Provided, That the agricultural lessee shall be entitled to disturbance compensation equivalent to five times the average of the gross harvests

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on his landholding during the last five preceding calendar years;'"

Since under the original provision of Section 36(1) of R.A. No. 3844, the dispossession of the agricultural lessee on the ground of personal cultivation by the agricultural lessor-owner can only take place when "authorized by the Court in a judgment that is final and executory," it follows then that since the repeal of the provision took effect before the judgment in this case became final and executory, private respondent may no longer dispossess petitioner on that ground because it had been removed from the statute books. Counsel for petitioner, Atty. Greta-Diosa Quitorio, Trial Attorney of the Bureau of Agrarian Legal Assistance, made a thorough study of the history of R.A. No. 6389 and came up with the conclusion that, as gathered from the questions and answers of Senators Diokno and Laurel, the legislative intent to give retroactive effect to said law or to make it applicable to pending cases of ejectment on ground of personal cultivation, appeared clear. She further summoned to the aid of petitioner an arsenal of impressive doctrines in statutory construction to protect the cause and strengthen the case of the petitioner. All of her efforts, which are undoubtedly commendable, are futile. As early as 1984, in *Nilo vs. Court of Appeals, et al., and Castro vs. Castro*,[11] this Court, per Justice Hugo E. Gutierrez, Jr., ruled that Section 7 of R.A. No. 6389 cannot be given retroactive effect because, while during the debates on the bill which was eventually enacted into Republic Act No. 6389, there were statements made on the floor that "the owner will lose the right to eject after the enactment of this measure" even in cases where the owner has not really succeeded in ejecting the tenants,[12] Congress failed to express an intention to make Republic Act No. 6389 retroactive and to cover ejectment cases on the ground of personal cultivation then pending adjudication by the courts. This Court thus stated:

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[11] 128 SCRA 519.

[12] Senate Journal, Nos. 43 and 44, 30 and 31 March 1971, 2nd Regular Session — 7th Congress).

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"Article 3 of the old Civil Code (now Article 4 of the New Civil Code) provides that: 'Laws shall not have a retroactive effect unless therein otherwise provided.' According to this provision of law, in order that a law may have retroactive effect it is necessary that an express provision to this effect be made in the law, otherwise nothing should be understood which is not embodied in the law. Furthermore, it must be borne in mind that a law is a rule established to guide our actions with no binding effect until it is enacted, wherefore, it has no application to past times but only to future time, and that is why it is said that the law looks to the future only and has no retroactive effect unless the legislator may have formally given that effect to some legal provisions (*Lopez and Lopez v. Crow*, 40 Phil. 997).

As early as 1913, this Court with Justice Moreland as ponente announced:

> 'The Act contains, as is seen, no express words giving it a retrospective or retroactive effect, nor is there anything found therein which indicates an intention to give it such an effect. Its effect is, rather, by clear intendment, prospective.

It is a rule of statutory construction that all statutes are to be construed as having only a prospective operation unless the purpose and intention of the Legislature to give them a retrospective effect is expressly declared or is necessarily implied from the language used. In every case of doubt, the doubt must be solved against the retrospective effect. The cases supporting this rule are almost without number xxx'

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The doctrine of non-retroactivity was reiterated in the case of *Segovia v. Noel* (47 Phil. 543). Thus —

> 'A sound canon of statutory construction is that a statute operates prospectively only and never retroactively, unless the legislative intent to the contrary is made manifest either by the express terms of the statute or by necessary implication. Following the lead of the United States Supreme Court and putting the rule more strongly, a statute ought not to receive a construction making it act retroactively, unless the words used are so clear, strong, and imperative that no other meaning can be annexed to them, or unless the intention of the legislature cannot be otherwise satisfied. No court will hold a statute to

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be retroactive when the legislature has not said so xxx '(*Farrel v. Pingree* (1888), 5 Utah, 443; 16 Pac., 843; *Greer v. City of Asheville* [1894], 114 N.C., 495; *United States Fidelity & Guaranty Co. v. Struthers Wells Co*. [1907], 209 U.S., 306)'

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Our decision to deny retroactive effect to the amendatory provision gains added strength from later developments.

Under the 1973 Constitution, it is even more emphasized that property ownership is impressed with a social function. This means that the owner has the obligation to use his property not only to benefit himself but society as well. Hence, the Constitution provides under Section 6 of Article II that in the promotion of social justice, the State 'shall regulate the acquisition, ownership, use, enjoyment, and disposition of private property, and equitably diffuse property ownership and profits.' The Constitution also ensures that the worker shall have a just and living wage which should assure for himself and his family an existence worthy of human dignity and give him opportunities for a better life (Sections 7 and 9, Article II) (*Alfanta vs. Noe*, 53 SCRA 76; *Almeda vs. Court of Appeals*, 78 SCRA 194).

In line with the above mandates, this Court upheld the constitutionality of Presidential Decree No. 27, which decrees the emancipation of tenants from the bondage of the soil and transferred to them the ownership of the land they till, in *Gonzales v. Estrella* (91 SCRA 294). We noted the imperative need for such a decree in *Chavez v. Zobel* (55 SCRA 26). We held in the latter case that 'on this vital policy question, one of the utmost concern, the need for what for some is a radical solution in its pristine sense, one that goes at the root, was apparent. Presidential Decree No. 27 was thus conceived xxx There is no doubt then, as set forth expressly therein, that the goal is emancipation. What is more, the decree is now part and parcel of the law of the land according to the present Constitution.'

Significantly, P.D. No. 27, which decrees the emancipation of the tenant from the bondage of the soil, transfers to him the ownership of the land he tills, and provides instruments and mechanisms therefor, has (sic) recognized personal cultivation as a ground for retention and, therefore, exemption from the land transfer decree. Personal cultivation cannot be effected unless the tenant gives up the land to the owner.

Presidential Decree No. 27 provides:

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'In all cases, the landowner may retain an area of not more than seven (7) hectares if such landowner is cultivating such area or will now cultivate it.'

The redistribution of land, restructuring of property ownership, democratization of political power, and implementation of social justice do not require that a landowner should be deprived of everything he owns and that even small parcels as in these two cases now before us may not be worked by the owner himself. The evil sought to be remedied by agrarian reform is the ancient anachronism where one person owns the land while another works on it. The evil is not present in cases of personal cultivation by the owner.

Taking over by the landowner is subject to strict requirements. In addition to proof of ownership and the required notices to the tenant, the bona-fide intention to cultivate must be proved to the satisfaction of the court. And as earlier stated, the tenant is protected in case the owner fails to cultivate the land within one year or to work the land himself for three years.

The seven hectares retention under P.D. No. 27 is applicable only to landowners who do not own other agricultural lands containing an aggregate of more than seven hectares or lands used for residential, commercial, industrial, or other urban purposes where they derive adequate income to support themselves and their families. (Letter of Instruction No. 472 dated October 21, 1976)."

The subsequent cases of *Diga vs. Adriano, et al.*[13] and *Gallardo vs. Borromeo*[14] reiterated the rule We laid in the Nilo and Castro cases.

WHEREFORE, for want of merit, the instant petition is hereby *DISMISSED*.

No pronouncement as to costs.

IT IS SO ORDERED.

Gutierrez, Jr. (Chairman), Feliciano, Bidin, and *Romero, JJ.*, concur.

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[13] 133 SCRA 421 (1984).

[14] 161 SCRA 500 (1988).