Supreme Court E-Library

to be illegal. The "Motion to Declare in Contempt" filed by petitioner Judge is referred to the Regional Trial Court of Pagadian City, Branch 18 in Civil Case No. 3156 for appropriate action.

SO ORDERED.

Narvasa, C.J., Melencio-Herrera, Cruz, Paras, Feliciano, Padilla, Bidin, Griño-Aquino, Medialdea, Regalado, Davide, Jr., Romero, and *Nocon, JJ.*, concur.

Bellosillo, J., on leave.

FIRST DIVISION

[G.R. No. 98258. May 8, 1992]

TIRSO OPORTO and LYDIA OPORTO, and Hon. Fausto H. Imbing, Judge, Regional Trial Court, Pagadian City, *petitioners, vs.* **HON. COURT OF APPEALS, LEOPOLDO CLARITO and FILOMENA CLARITO,** *respondents.*

SYLLABUS

1. **REMEDIAL LAW; APPEALS; FACTUAL CONCLUSIONS OF THE COURT OF APPEALS ARE BINDING ON THE SUPREME COURT; EXCEPTION.—** There is, no question that ordinarily the factual conclusions of the Court of Appeals are binding on, and not reviewable by, this Court. The rule admits of exceptions, however, one of which is when facts of substance were overlooked which, if correctly considered, might have changed the outcome of the case.

2. **ID.; ID.; ID.; ID.; CASE AT BAR.—** Overlooked by the Court of Appeals is evidence on record, including Clarito's own admissions, persuasively establishing that Leopoldo Clarito

Supreme Court E-Library

was at all times material to the inquiry at bar engaged in the cultivation and management of several fishponds, including one with an area of twenty-three (23) hectares, registered in his name and obviously much larger than the Oportos' fishpond, and that he was a partner in at least two aquaculture ventures in addition to his own fishponds. There is evidence satisfactorily proving that the work on the Oportos' fishpond had not been done by Clarito with the aid of his "immediate farm household," as is legally required of an agricultural tenant, but with the assistance of his partners, Denosta and Benosa, and other persons who were paid wages. He is a businessman, pure and simple, who has absolutely no claim to that security of tenure guaranteed by the law to tenants or owners-cultivators of family-size farms.

3. LABOR AND SOCIAL LEGISLATION; AGRICULTURAL REFORM CODE; POLICY; TO CONSIDER ONE AN AGRICULTURAL LESSEE DESPITE THAT HE DOES NOT CULTIVATE THE LAND PERSONALLY RENDERS NUGATORY LETTER AND INTENT OF CODE.— As this Court has had occasion to observe in a strikingly similar case, (*De Jesus v. IAC*, 175 SCRA 559 (1989), in ruling on the assertion "that the cultivation of another fishpond is irrelevant as the law does not require or prohibit the total absence of other sources of income." "xxx it is of much significance to look into the spirit of the Agricultural Land Reform Code. First and foremost, the law is meant to assist and help the small farmers as enunciated in its Declaration of Policy. In the case at bar, petitioner de Jesus is not a small farmer but a businessman. To consider him an agricultural lessee despite the fact that he does not cultivate the fishpond personally/or with the help of his immediate farm household as defined by law, would render nugatory the letter and intent of the Agricultural Reform Code."

D E C I S I O N

NARVASA, *C.J.*:

Whether or not the Spouses Leopoldo Clarito and Filomena Clarito are agricultural tenants of the Spouses Tirso Oporto and Lydia Oporto is the chief issue in the appellate proceeding at bar.

Supreme Court E-Library

The Oportos are the owners in fee simple of a piece of land with an area of 114,392 square meters. They acquired the land by purchase sometime in 1965, at the time already registered under the Torrens Act, covered by Original Certificate of Title No. P-17585.

In 1975 the Oportos decided to convert the land into a fishpond. They shopped around for an expert in the aquaculture business to whom they could entrust the conversion and development of their property. It happened that at that time, Tirso Oporto's father, Isidro Oporto, was managing a fishpond belonging to a relative, Quintin Oporto, which fishpond was adjacent to the land owned by Tirso and Lydia Oporto. That fishpond of Quintin Oporto had been developed by Leopoldo Clarito, who was reputed to be an expert in fishpond development and management, having had a hand in the initiation and growth of several successful fishpond operations in the area. This is why, on learning of Tirso's inquiries, Isidro introduced Leopoldo Clarito to his son.

After conferring with Clarito, Tirso Oporto decided to have the conversion and development of his land into a fishpond handled by Clarito, together with two others, Primitivo Benosa and Abelardo Denosta. A contract entitled "Agreement for a Joint Venture" was accordingly executed on December 31, 1975 by Tirso Oporto and Leopoldo Clarito, married to Filomena Clarito.[1] For some reason, Primitivo Benosa and Abelardo Denosta were not made parties in this written contract, but it seems that the understanding among them was that they would later sign a separate agreement with Leopoldo Clarito as partners in the enterprise. Benosa and Denosta nevertheless signed the "Agreement for a Joint Venture," as witnesses.

The agreement contained the following provisions, *viz*:

"1. That xxx (Leopoldo Clarito) will contribute in the development of the premises by employing the best of his talents, energies and skill in completing the dike construction to enclose the whole of said Lot No. 1 on Plan Psu-145968, and will manage, maintain and raise fish and other products therein in return for the

[1] *Rollo*, pp. 42-44.

Supreme Court E-Library

compensation he will receive in the amount hereinbelow fixed and determined;

2. That xxx (Oporto) shall advance upon the request by xxx (Clarito), the necessary sum as may be needed in order to complete the construction of dikes along the West and Southern borders of Lot No. 1 xxx;

3. That the undertaking of xxx (Oporto) to advance the sum needed for the construction of the dikes xxx shall cease as soon as the same shall have been fully enclosed by adequate dikes, and thereafter all expenses for the construction of the nursery and rearing pond within the premises as well as all expenses for further development and improvement of the area including its dependencies shall be taken from the proceeds of the sale of fish or other fishpond products raised, produced and harvested within the premises;

4. That as soon as the income derived from the proceeds of the sales of fishpond and other products shall permit, xxx (Oporto) shall be reimbursed of all sums which he may have advanced for the initial development of the fishpond, specifically with respect to the expenses mentioned in condition no. 2 hereof;

5. That after all expenses for the initial development of the premises are fully paid up and reimbursed, the net products or proceeds thereof which are periodically harvested from the fishpond shall be divided in equal proportion between xxx (Oporto) and xxx (Clarito) for the duration of the life span of this contract;

6. That the term of this contract shall be for a period of TEN (10) years to be reckoned from and as of the date of the execution of this instrument, renewable upon the expiration of the original term hereof by mutual agreement of the parties under the same terms and conditions herein expressed or with such additional terms and conditions as the parties hereto may stipulate; and

7. That upon termination of the joint venture by expiration of the term fixed, dissolution or other causes not imputable to the fault of either party, the parties hereto agreed as they hereby mutually agree to renounce and waive all claims and counterclaims which they may ordinarily have against each other, either for sums advanced or labor performed, save only as to the value of any residential house which xxx (Clarito) may construct within the premises to which he shall be entitled to at least one-half (½) of the value thereof to be paid to xxx (Clarito) by xxx (Oporto), and the fishpond premises

Supreme Court E-Library

shall peacefully revert to xxx (Oporto) in full and exclusive possession, ownership and dominion."

In about two years, or by 1978, Leopoldo Clarito had completed the development of the Oportos' fishpond and succeeded in producing two harvests, albeit unprofitably. In that time, he also put up a concrete house on the property, installed an artesian well and made provisions for electric lighting. These he did without the assistance of the two persons who had originally agreed to be his partners, Primitivo Benosa and Abelardo Denosta. It appears that Benosa and Denosta abandoned the project in favor of Clarito who, alone, continued in the operation and management of the Oportos' fishpond. According to Clarito, he spent ₱287,000.00 for the development of the fishpond, and an additional sum of ₱90,000.00 for the construction of the concrete house; and that these funds had come if not from his own pocket, from parties from whom he obtained financing at ten percent (10%) interest per annum.

In the years that followed, Leopoldo Clarito paid several amounts to the Oportos, derived from the fishpond's harvests.

On December 8, 1985 — shortly before the expiration on December 31, 1985 of the ten-year term stipulated in the parties' aforesaid "Agreement for a Joint Venture" — the Oporto Spouses, thru Lydia Oporto, sent a letter to Leopoldo Clarito and his wife advising them that their agreement of joint venture would not be renewed or extended and that they (the Oportos) had decided to manage the fishponds themselves. One of the factors which apparently influenced the Oportos' decision not to renew their contract with Clarito was their discovery that the latter was the registered owner, among others, of a fishpond even larger than theirs.

The Claritos refused to vacate the premises, contending that they had not been "refunded xxx the one half share of the ₱287,000.00 expenditures in the construction of the subject fishpond xxx in accordance with the terms stipulated in the contract," and they were, in any case, agricultural tenants who were entitled to security of tenure and could not consequently be evicted from their landholding.

Supreme Court E-Library

The matter was referred to the *Lupong Pambarangay* concerned but since the controversy could not there be resolved, the Oportos filed with the Municipal Trial Court of Aurora, Zamboanga del Sur an action denominated by them as one of "Unlawful Detainer with Application for Preliminary Injunction, Collection of Unpaid Rents and Damages," against the Clarito Spouses, Leopoldo and Lydia.

The Municipal Court dismissed the suit in a Decision rendered on November 29, 1989.[2] That decision was later reversed on appeal by the Regional Trial Court of Pagadian City in a Decision rendered on March 30, 1990.[3] However, the Regional Trial Court's decision was, in turn, reversed by the Court of Appeals by its own judgment, promulgated on February 8, 1991,[4] in an appeal taken by the Claritos.[5]

The Court of Appeals opined that the Municipal Trial Court had correctly dismissed the Oportos' complaint against the Claritos on the ground of lack of jurisdiction. Invoking *COCOMA v. Court of Appeals*,[6] decided in 1988 by this Court, the Appellate Tribunal ruled that "under the circumstances in the case at bar xxx there exists a tenancy relationship between the parties notwithstanding the label of 'joint venture' used in the written agreement. It set out its reasons as follows:

"The records of this case show sufficient evidence to support such a conclusion. It is undisputed that the land involved in this case is a fishpond which is considered under the law as an agricultural land (Section 166 [1], RA 3844, as amended) xxx Moreover, as to the fish and other fishpond products raised, produced and harvested in the premises, the contract states that these 'shall be divided in

[2] *Id*., pp. 53 *et seq*.; the Decision was written by Judge Antonio V. Din in Civil Case No. 20.

[3] *Id*., pp. 63 *et seq*.; the Decision was written by Judge Fausto H. Imbing, Branch 18 in Civil Case No. 3040.

[4] *Id*., pp. 30 *et seq*.; the Decision, was written by Mendoza, F., J., with whom concurred Magsino and Garcia, *JJ*.

[5] Docketed in that Court as CA-G.R. SP No. 20782.

[6] 164 SCRA 568 (Aug. 19, 1988).

Supreme Court E-Library

equal proportion' between the contracting parties xxx. Furthermore having granted to the petitioners (Claritos) the use or cultivation of their fishpond for a consideration in shares of the harvests thereof the petitioners are considered in law as landholders [Section 5 [b] of R.A. 1199). Lastly, since petitioners by themselves and with the aid of their immediate family household occupied the land of the private respondents (Oportos), converted and developed the same into a fishpond, cultivated the same by raising and maintaining fish and other fishpond products therein, all these with the owner's consent, and the net produce or harvest from said fishpond is, by agreement, shared equally between the parties, the petitioners (Claritos) are undoubtedly *de jure* tenants on the land subject of the dispute and therefore they are entitled to security of tenure (Section 5 [a] of R.A. 1199)."

From this judgment the Oportos have appealed to this Court on *certiorari*. They seek reversal of said judgment on the theory that the Court of Appeals had committed serious error in interpreting the contract for a joint venture in a manner "outside and foreign to what had been clearly expressed," and in finding that Leopoldo Clarito is an "agricultural tenant xxx entitled to security of tenure instead of xxx a businessman engaged in (the) fishpond business;" and they assert that the latter "is not the small farmer envisioned by law to be entitled to the protection of security of tenure;" he is a business entrepreneur engaged in the fishpond industry.[7]

For their part, the Claritos contend that the Oportos raise "mere questions of fact xxx conclusive and binding" on this Court, and that, in any case, "the Court of Appeals did not commit reversible errors" in its decision which, on the contrary, is "in accordance with the true facts therein and xxx with law."[8]

There is, of course, no question that ordinarily the factual conclusions of the Court of Appeals are indeed binding on, and not reviewable by, this Court. The rule admits of exceptions, however, one of which is when facts of substance were overlooked

---

[7] *Rollo*, p. 21.

[8] *Id.*, p. 116.

Supreme Court E-Library

which, if correctly considered, might have changed the outcome of the case.[9]

Overlooked by the Court of Appeals is evidence on record, including Clarito's own admissions, persuasively establishing that Leopoldo Clarito was at all times material to the inquiry at bar engaged in the cultivation and management of several fishponds, including one with an area of twenty-three (23) hectares, registered in his name and obviously much larger than the Oportos' fishpond, and that he was a partner in at least two aquaculture ventures in addition to his own fishponds.

Among the proofs on record are authentic copies of original certificates of title issued in the name of Leopoldo Clarito (Exhibits E, E-1, E-2, F, F-1), and a certification from the Municipal Assessor of Aurora, Zamboanga (Exhibit H), to the effect that Clarito has four (4) parcels of land declared in his name for taxation purposes. There is, too, the statement of Clarito himself on the witness stand that he was a partner in the fishpond business of a certain Atty. Paderanga, and a brother of Tirso Oporto, Quintin Oporto.[10]

There is evidence satisfactorily proving that the work on the Oportos' fishpond had not been done by Clarito with the aid of his "immediate farm household," as is legally required of an agricultural tenant,[11] but with the assistance of his partners, Denosta and Benosa, and other persons who were paid wages.

---

[9] SEE, *e.g.*, *Hernandez v. Court of Appeals*, 160 SCRA 821, citing *Clanor Vda. de Portugal, et al. v. IAC and Portugal*, 159 SCRA 178; *People v. Rosario*, 159 SCRA 192; *People v. Ibal*, 143 SCRA 317; *People v. Bautista*, 142 SCRA 649; *People v. Olalia, Jr.*, 128 SCRA 139.

[10] TSN, April 13, 1989, pp. 7, 40-41.

[11] By "immediate farm household" is meant "the members of the family of the tenant, and such other person or persons, whether related to the tenant or not who are dependent upon him for support and who usually help him operate the farm enterprise" (Sec. 5 [o], R.A. No. 1199 and Sec. 166 (8), R.A. No. 3844, as amended; SEE also *Carag v. C.A.*, 151 SCRA 44 [1987], and *de Jesus v. IAC*, 175 SCRA 559 [1989], citing a Minute Resolution of the Second Division of this Court dated December 8, 1986 in G.R. No. 28231 [*Isidro v. Santiago*]).

Supreme Court E-Library

This was testified to by Leopoldo Clarito's partner, Abelardo Denosta;[12] and this was admitted by Leopoldo Clarito in his own testimony. He said that there "were many cultivating the land because I paid hired laborers," who were paid "by cubic meter xxx (or) by station:" that he and his partners, Denosta and Primitivo Benosa, had also taken part in the construction of the fishpond of Quintin Oporto and thereafter operated the same; and that he was receiving income from the fishponds of Quintin Oporto and Isidro Oporto, as well as from the fishponds of a certain Paderanga, aside from his own fishponds.[13]

What is thus depicted by the evidence is not the figure of "a mere tenant of the land," as the Court of Appeals characterizes Leopoldo Clarito, but of an entrepreneur or independent contractor, developing and managing fishponds belonging to other persons, hiring and paying wages to laborers for the purpose, and who is himself the owner of a fishpond larger than that of the Oportos, his latest clients. And in the process receiving not inconsiderable revenue, either as co-partner of the fishpond owners or in some other manner. Leopoldo Clarito is not in any sense a small farmer within the contemplation of the Agricultural Reform Code, entitled to its beneficent provisions. His activities cannot in any sense be described as owner-cultivatorship by a small farmer of a family-size farm for his economic upliftment, the establishment and protection of which is among the objectives of the law. He is a businessman, pure and simple, who has absolutely no claim to that security of tenure guaranteed by the law to tenants or owners-cultivators of family-size farms. As this Court has had occasion to observe in a strikingly similar case,[14] in ruling on the assertion "that the cultivation of another fishpond is irrelevant as the law does not require or prohibit the total absence of other sources of income" —

"xxx it is of much significance to look into the spirit of the Agricultural Land Reform Code. First and foremost, the law is meant

---

[12] Testimony of Denosta: TSN, Oct. 20, 1988, p. 7.

[13] TSN, April 13, 1989, pp. 40-41.

[14] *De Jesus v. IAC*, 175 SCRA 559 (1989), *supra*.

Supreme Court E-Library

to assist and help the small farmers as enunciated in its Declaration of Policy. In the case at bar, petitioner de Jesus is not a small farmer but a businessman. To consider him an agricultural lessee despite the fact that he does not cultivate the fishpond personally and/or with the help of his immediate farm household as defined by law, would render nugatory the letter and intent of the Agricultural Reform Code."

It is therefore the Court's conclusion that the dispositions of the Regional Trial Court in Civil Case No. 3040 involving the private petitioners and private respondents are correct,[15] and there is sufficient evidence justifying the award of damages made by it.

WHEREFORE, the petition is *GRANTED*; the decision of the Court of Appeals in CA-G.R. SP No. 20782 dated February 8, 1991 is *REVERSED AND SET ASIDE*; and the Decision of the Regional Trial Court in Civil Case No. 3040 dated March 30, 1990 is *REINSTATED AND AFFIRMED.*

Conformably with said Regional Trial Court's Decision, the private respondents, Leopoldo Clarito and Filomena Clarito, are hereby *ORDERED*:

1) forthwith to vacate the areas in question and restore the possession thereof to the petitioners, Tirso Oporto and Lydia Oporto;

2) to pay solidarily to the petitioners, rentals at the rate of ₱200,000.00 per harvest at two harvests per year, from 1986 until the petitioners have been fully restored in the possession of their property;

3) to pay solidarily to the petitioners the sum of ₱3,661.56, representing the unremitted share of the petitioners in the harvest as of February 10, 1985; and

4) to pay solidarily to petitioners the amount of ₱3,500.00 as attorney's fees, and ₱25,000.00 as expenses of litigation, aside from costs of suit.

---

[15] SEE footnote 3 and related text, *supra*.

Supreme Court E-Library

The petitioners, the Oporto Spouses, on the other hand, are hereby *ORDERED*, again conformably with the same judgment of the Trial Court, to reimburse to the private respondents the sum of ₱45,000.00, representing one-half (½) of the value of the house constructed on the former's property in accordance with Condition No. 7 of the Joint Venture Agreement.

SO ORDERED.

Cruz, Griño-Aquino, Medialdea, and *Bellosillo, JJ.*, concur.

SECOND DIVISION

[G.R. No. 98334. May 8, 1992]

MANUEL D. MEDIDA, Deputy Sheriff of the Province of Cebu, CITY SAVINGS BANK (formerly Cebu City Savings and Loan Association, Inc.) and TEOTIMO ABELLANA, *petitioners, vs.* **COURT OF APPEALS and SPS. ANDRES DOLINO and PASCUALA DOLINO,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; EXECUTION OF JUDGMENT; REDEMPTIONER; DEFINED.— A redemptioner is defined as a creditor having a lien by attachment, judgment or *mortgage* on the property sold, or on some part thereof, *subsequent* to the judgment under which the property was sold. Of course, while in extrajudicial foreclosure the sale contemplated is not under a judgment but the proceeding pursuant to which the mortgaged property was sold, a subsequent mortgage could nevertheless be legally constituted thereafter with the subsequent mortgagee becoming and acquiring the rights of a redemptioner, aside from his right against the mortgagor.