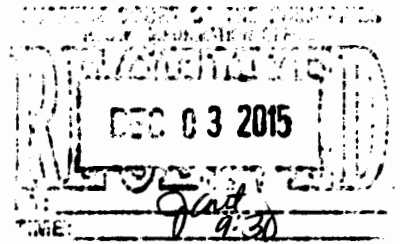




Republic of the Philippines
Supreme Court
 Manila



FIRST DIVISION

JESUS VELASQUEZ,
 Petitioner,

G.R. No. 191479

Present:

-versus-

SERENO, C.J.,
Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 PEREZ, and
 JARDELEZA,* JJ.

SPOUSES PATERNO C. CRUZ
and ROSARIO CRUZ,
 Respondents.

Promulgated:

SEP 21 2015

X-----X

DECISION

PEREZ, J.:

Before us is a Petition for Review of the Decision¹ dated 12 August 2009 and Resolution² dated 24 February 2010 of the Court of Appeals in CA G.R. SP No. 105140 which ordered the Regional Trial Court (RTC) of Malolos City, Branch 79 to assume jurisdiction over the complaint in Civil Case No. 264-M-2007 for recovery of possession with damages.

The facts are as follows:

Respondents Spouses Paterno and Rosario Cruz are the registered owners of a parcel of land situated at *Barangay* Sta. Monica in Hagonoy, Bulacan with an area of four hectares, more or less, and covered by Tax Declaration No. 020-10-022-11-027. On 7 May 2007, respondents filed a

* Acting member per Special Order No. 2188 dated 16 September 2015.

¹ *Rollo*, pp. 29-47; Penned by Associate Justice Jose Catral Mendoza (now Supreme Court Associate Justice) with Associate Justices Sesinando E. Villon and Romeo F. Barza concurring.

² *Id.* at 48-49.

Complaint for Recovery of Possession with Accounting and Damages against petitioner Jesus Velasquez. Respondents alleged in their Complaint that petitioner's father-in-law, Bernabe Navarro (Navarro) was a tenant in said lot until 6 April 1985 when the latter relinquished his tenancy rights by virtue of a *Sinumpaang Salaysay*; that no other person was installed as tenant of the farmland; that they discovered that petitioner entered the farmland without their knowledge and consent; that from 1985 up to the time of the filing of the complaint, petitioner never paid a single centavo as rent for the use of the land; and that they leased the farmland to a certain Godofredo Tosco in 1995 but petitioner refused to vacate the property. Respondents prayed for the surrender of possession of the property to them and for accounting and damages.³

In his Answer with Motion to Dismiss, petitioner contended that jurisdiction pertains to the Department of Agrarian Reform Adjudication Board (DARAB) because in the instant controversy is an agrarian dispute. Petitioner asserted that he was assisting Navarro in tilling the land since 1975. He claimed that continued working on the land after the death of Navarro. Petitioner defended his non-payment of rentals due to the fact that the subject land has lost its suitability for agricultural production, thus, his non-payment is not a ground for dispossession. As a further justification to the non-payment of rentals, petitioner emphasized that since the implementation of the Operation Land Transfer, he is deemed to be the owner of the subject land and respondents had no more right to demand rentals. Petitioner claimed that he was identified as a farmer-beneficiary and has since been paying amortizations to Land Bank of the Philippines (LBP).⁴

On 15 April 2008, the RTC issued an Order⁵ dismissing the case for want of jurisdiction. On 27 June 2008, the trial court denied the motion for reconsideration filed by respondents for violation of the three-day notice rule.⁶

Respondents filed a Petition for *Certiorari* before the Court of Appeals arguing that the elements of tenancy, which would vest jurisdiction on the DARAB, were not sufficiently established. Respondents also assailed the denial of their motion for reconsideration for violation of the three-day notice rule. Respondents explained that the motion for reconsideration was served on 5 May 2008 and the hearing was set on 9 May 2008. Respondents averred that they had no intention to violate the said rule because they were

³ Id. at 154-160; Complaint.

⁴ Id. at 168-178; Answer.

⁵ Id. at 97-103; Presided by Presiding Judge Olivia V. Escubio-Samar.

⁶ Id. at 112.

of the belief that the motion for reconsideration would be received by respondents' counsel on the following day, 6 May 2008.⁷

During the pendency of the petition before the appellate court, petitioner became the registered owner of the subject land under Original Certificate of Title No. EP-992-C.⁸

Before petitioner could inform the appellate court of this significant development, the Court of Appeals, on 12 August 2009, found merit in respondents' petition. The dispositive portion of the Court of Appeals' Decision reads:

WHEREFORE, the petition is **GRANTED**. The April 15, 2008 Order of the Regional Trial Court , Malolos City, Branch 79, is hereby **REVERSED** and **SET ASIDE**. The Regional Trial Court is hereby ordered to assume jurisdiction over the case and act on it with dispatch.⁹

The appellate court ruled that petitioner failed to establish tenancy relationship between the parties. According to the appellate court, the elements of consent and sharing of harvest are lacking. Moreover, petitioner was held as unqualified to be a successor-tenant by virtue of hereditary succession because he is not among those listed under Section 9 of Republic Act (R.A.) No. 3844, he being only a relative by affinity.

In his motion for reconsideration, petitioner claimed absolute ownership over the disputed land by virtue of the issuance of an emancipation patent in his favor and the corresponding registration of the same with the Register of Deeds of Bulacan on 19 September 2008. Resultantly, petitioner argued that the issue of tenancy is now immaterial and any and all matters relating to the identification, qualification or disqualification of petitioner as a farmer-beneficiary, as well as the validity of his emancipation patent are in the nature of an agrarian dispute, hence, beyond the jurisdiction of the trial court.

On 24 February 2010, the Court of Appeals denied the motion for reconsideration for lack of merit.¹⁰

⁷ Id. at 113-141; Petition for *Certiorari* before the Court of Appeals.

⁸ Id. at 59-60.

⁹ Id. at 46.

¹⁰ Id. at 48-49.

Aggrieved, petitioner filed the instant Petition for Review on *Certiorari* contending that the award of an emancipation patent in the name of petitioner is the best proof that Department of Agrarian Reform (DAR) has identified him as the bonafide successor of his deceased father-in-law, Navarro. Petitioner adds that by becoming the farmer-beneficiary and registered owner of the subject lot, the issue of the existence or non-existence of tenancy relationship between the parties has become moot and academic. Petitioner maintains that since Original Certificate of Title No. EP-992-C was issued pursuant to Presidential Decree (P.D.) No. 27 and Operation Land Transfer, any and all actions pertaining to the right and obligation of petitioner in connection thereto is vested in DARAB which has primary and exclusive original and appellate jurisdiction. Similarly, any and all matters relating to the identification, qualification or disqualification of petitioner as a farmer-beneficiary over the subject land and the validity of his emancipation patent over the same land are in the nature of an agrarian dispute beyond the jurisdiction of the RTC. Lastly, petitioner asserts that respondents had clearly recognized the authority of the DAR to take cognizance of the dispute between the parties when they had previously submitted the matter involved herein with the various DAR offices.

Respondents counter that not all the elements of agricultural tenancy are present in this case. Petitioner could not have succeeded Navarro as tenant of respondents because he is not among those listed under Section 9 of R.A. No. 3844. Respondents cite the Court of Appeals observation that it has not come across any official document from the DAR expressly identifying petitioner as Navarro's successor. Respondents insist that a tenancy relationship cannot be presumed.

The core of this dispute is the question of whom between the DARAB and the RTC, has jurisdiction over the case.

Section 50 of R.A. No. 6657 provides:

Section 50. *Quasi-Judicial Powers of the DAR* – The DAR is hereby vested with primary jurisdiction to determine and adjudicate agrarian reform matters and shall have exclusive original jurisdiction over all matters involving the implementation of agrarian reform, except those falling under the exclusive jurisdiction of the Department of Agriculture (DA) and the Department of Environment and Natural Resources (DENR).

x x x x

Rule II, Section 1(1.1) of the DARAB 2003 Rules of Procedure:

RULE II

Jurisdiction of the Board and its Adjudicators

SECTION 1. *Primary and Exclusive Original Jurisdiction.* — The Adjudicator shall have primary and exclusive original jurisdiction to determine and adjudicate the following cases:

1.1 The rights and obligations of persons, whether natural or juridical, engaged in the management, cultivation, and use of all agricultural lands covered by Republic Act (RA) No. 6657, otherwise known as the Comprehensive Agrarian Reform Law (CARL), and other related agrarian laws;

Based on the above-cited rules, only DARAB can adjudicate an agrarian dispute.

Section 3(d) of R.A. No. 6657 defines an agrarian dispute in this wise:

x x x x

(d) Agrarian dispute refers to any controversy relating to tenurial arrangements, whether leasehold, tenancy, stewardship or otherwise, over lands devoted to agriculture, including disputes concerning farmworkers' associations or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of such tenurial arrangements.

It includes any controversy relating to compensation of lands acquired under R.A. 6657 and other terms and conditions of transfer of ownership from landowners to farmworkers, tenants and other agrarian reform beneficiaries, whether the disputants stand in the proximate relation of farm operator and beneficiary, landowner and tenant, or lessor and lessee.

For DARAB to have jurisdiction over the case, there must be tenancy relationship between the parties.

Tenancy relationship is a juridical tie which arises between a landowner and a tenant once they agree, expressly or impliedly, to undertake jointly the cultivation of a land belonging to the landowner, as a result of which relationship the tenant acquires the right to continue working on and cultivating the land. The existence of a tenancy relationship cannot be

presumed and allegations that one is a tenant do not automatically give rise to security of tenure.¹¹

In order for a tenancy agreement to arise, it is essential to establish all its indispensable elements, viz.: (1) the parties are the landowner and the tenant or agricultural lessee; (2) the subject matter of the relationship is an agricultural land; (3) there is consent between the parties to the relationship; (4) the purpose of the relationship is to bring about agricultural production; (5) there is personal cultivation on the part of the tenant or agricultural lessee; and (6) the harvest is shared between the landowner and the tenant or agricultural lessee. All these requisites are necessary to create a tenancy relationship, and the absence of one or more requisites will not make the alleged tenant a *de facto* tenant.¹²

The Court of Appeals anchored its ruling on the absence of the consent and sharing of harvests as indispensable elements of a tenancy relationship. We agree with the appellate court's disquisition. The appellate court held in this wise:

It appears that the element of consent and sharing of harvests are clearly lacking. [Petitioner] merely alleged that he was verbally asked by all the heirs of Guillerma Coronel to continue working on the land. The fact that [petitioner] was allowed to stay on the property does not mean that [respondents] impliedly recognized the existence of a leasehold relation with [petitioner]. Occupancy and continued possession of the land will not *ipso facto* make one a *de jure* tenant.

X X X X

In this case, [petitioner] could not present any evidence showing that [respondents] had recognized him as tenant. The other pieces of evidence submitted by the [petitioner] do not prove the alleged tenancy relationship as the certifications he presented could only show that he is the actual occupant of the land, a fact recognized by the [respondents] and the reason why they instituted an action for recovery of possession. Being an actual occupant of the land is definitely different from being a tenant thereof.

More importantly, [petitioner] was not able to show that he shared his harvests, not even once, with the [respondents]. He just reasoned out that he was not able to remit his dues because the land became unproductive due to the intrusion of saline waters. No explanation was

¹¹ *Adriano v. Tanco*, G.R. No. 168164, 5 July 2010, 623 SCRA 218, 228 citing Republic Act No. 1199, Section 6, (Agricultural Tenancy Act of the Philippines) and *De Jesus v. Moldex Realty Inc.*, 563 Phil. 625, 629 (2007).

¹² *Jopson v. Mendez*, G.R. No. 191538, 11 December 2013, 712 SCRA 509, 517.

offered to show that he exerted efforts to make the land productive for agricultural production. Instead, he took the opportunity to release bangus fingerlings but without giving any share of this income to the [respondents].¹³

According to the Court of Appeals, petitioner's claim that he succeeded Navarro as tenant is questionable. Section 9 of RA 3844 provides an exclusive enumeration of those who are qualified to succeed to the leasehold rights of a deceased or incapacitated tenant, to wit:

Section 9. Agricultural Leasehold Relation Not Extinguished by Death or Incapacity of the Parties - In case of death or permanent incapacity of the agricultural lessee to work his landholding, the leasehold shall continue between the agricultural lessor and the person who can cultivate the landholding personally, chosen by the agricultural lessor within one month from such death or permanent incapacity, from among the following: (a) the surviving spouse; (b) the eldest direct descendant by consanguinity; or (c) the next eldest descendant or descendants in the order of their age: Provided, That in case the death or permanent incapacity of the agricultural lessee occurs during the agricultural year, such choice shall be exercised at the end of that agricultural year: Provided, further, That in the event the agricultural lessor fails to exercise his choice within the periods herein provided, the priority shall be in accordance with the order herein established.

In case of death or permanent incapacity of the agricultural lessor, the leasehold shall bind his legal heirs.

Petitioner, a relative by affinity of Navarro, is, to the Court of Appeals, not qualified to succeed as tenant.

The Court of Appeals cited additional reasons, based on standing rulings and administrative issuances, which support petitioner's disqualification as successor of the deceased tenant, thus:

Neither can this Court recognize him as the bona fide successor of Navarro's Certificate of Land Transfer (CLT) award under P.D. 27. The ruling in the case of *Tumol vs. Esguerra*, G.R. No. 150646, July 15, 2005, is instructive:

Pursuant to the provisions of the Presidential Decree No. 27, and the Policy of the Government laid down in the Code of Agrarian Reforms to establish owner-cultivatorship and the economic family size farm as the basis of agricultural development of the country, the

¹³ *Rollo*, pp. 41-42.

following rules and regulations shall be observed in the event of death of a tenant-beneficiary:

Succession to the farmholding covered by Operation Land Transfer, shall be governed by the pertinent provisions of the New Civil Code of the Philippines subject to the following limitations:

x x x x

2. For the purpose of determining who among the heirs shall be the sole owner-cultivator, the following rules shall apply:

x x x x

b. Where there are several heirs, and in the absence of extra-judicial settlement or waiver of rights in favor of one heir who shall be the sole owner and cultivator, the heirs shall within one month from death of the tenant-beneficiary be free to choose from among themselves one who shall have sole ownership and cultivation of the land, subject to Paragraph 1(b) and (c) hereof: Provided, however, That the surviving spouse shall be given first preference; otherwise, in the absence or due to the permanent incapacity of the surviving spouse, priority shall be determined among the heirs according to age.

In fact, Ministry Memorandum Circular No. 19, Series of 1978 also provides:

Where there are several heirs, and in the absence of extra judicial settlement or waiver of rights in favor of the one heir who shall be the sole owner and cultivator, the heirs shall[,] within one month themselves one who shall have sole ownership and cultivation of the land, x x x Provided, however, That [sic] the surviving spouse shall be given first preference; otherwise, in the absence or due to the permanent incapacity of the surviving spouse, priority shall be determined among the heirs according to age (emphases and underlining omitted).

Moreover, the ministry memorandum circular specifically provides that:

1. Succession to the farmholding covered by Operation Land Transfer shall be governed by the pertinent provisions of the New Civil Code of the Philippines subject to the following limitations:

a. The farmholding shall not be partitioned or fragmented.

b. The ownership and cultivation of the farmholding shall ultimately be consolidated in one heir who possesses the following qualifications:

(1) being a full-fledged member of a duly recognized farmer's cooperative;

(2) capable of personally cultivating the farmholding; and

(3) willing to assume the obligations and responsibilities of a tenant-beneficiary.

c. Such owner-cultivator shall compensate the other heirs to the extent of their respective legal interest in the land, subject to the payment of whatever outstanding obligations of the deceased tenant-beneficiary.

Again, being a relative only by affinity of the deceased Bernabe Navarro, [petitioner] cannot lay claim as his successor. The (c)ourt cannot accept his assertion that he was already identified by the DAR as the successor on the basis of land amortization receipts. Said receipts merely show that [petitioner] was the payor but these do not, in any way, recognize him as the tenant-beneficiary of the land. It could be that it was in the account of Bernabe Navarro. The [c]ourt has not come across any official document from the DAR that expressly identified him as Bernabe Navarro's successor.¹⁴

We also note the appellate court's reference to the well-entrenched principle that the jurisdiction of the court over the subject matter on the existence of the action is determined by the material allegations of the complaint and the law, irrespective of whether or not the plaintiff is entitled to recover all or some of the claims or reliefs sought therein.¹⁵ A court does not lose its jurisdiction over a case by the simple expedient of a party raising as a defense therein the alleged existence of a tenancy relationship between the parties. The court continues to have the authority to hear and evaluate the evidence, precisely to determine whether or not it has jurisdiction, and, if, after hearing, tenancy is shown to exist, it shall dismiss the case for lack of jurisdiction.¹⁶

¹⁴ Id. at 43-45.

¹⁵ *Sumawang v. De Guzman*, 481 Phil. 239, 245 (2004) citing *Cruz v. Torres*, 374 Phil. 529, 533 (1999).

¹⁶ *Cano v. Spouses Jumawan*, 517 Phil. 123, 129-130 (2006) citing *De la Cruz v. Bautista*, 264 Phil. 915, 924 (1990) and *Ignacio, et al. v. CFI of Bulacan, et al.*, 149 Phil. 137, 144 (1971).

It was mentioned by the appellate court that the Complaint alleged the following material facts:

x x x x

3. Plaintiffs are the registered owners of a parcel of farmland located at Brgy. Sta. Monica, Hagonoy, Bulacan with an area of four (4) hectares, more or less, under Tax Declaration Property Index No. 020-10-022-11-027, which they acquired from Guillerma Coronel Vda. de Cruz, plaintiff Paterno's mother. x x x

4. For a long period of time, the said farmland was tenanted by Bernabe Navarro;

5. On April 6, 1985, tenant Bernabe Navarro voluntarily surrendered his tenancy rights over the aforesaid lot through a Sinumpaang Salaysay. x x x

6. After Bernabe Navarro relinquished his tenancy rights in favor of [respondents'] predecessor-in-interest, no other person was installed as tenant of the farmland;

7. Not long thereafter, [respondents] discovered that [petitioner] Jesus Velasquez entered the farmland without their consent and without the knowledge of their predecessor-in-interest. Thus, they confronted [petitioner] for his actuations.

8. However, from 1985 up to the present, [petitioner] Jesus Velasquez never paid even a single centavo to [respondents] as rent for the use of the land. Worse, [petitioner] converted the farmland into a fishpond without notice and consent of the [respondents] or their predecessor-in-interest;

9. Sometime in 1988 and 1989 Fernando Cruz and Jose Cruz, brothers of [Paterno Cruz], attempted to visit the farmland but they were menacingly denied entry by the [petitioner];

10. Considering that [respondents] never received any rental payment from [petitioner], they sought means on how to earn income therefrom. Hence, on July 6, 1995, [respondent] Paterno Cruz, together with his siblings, entered into a lease contract over the premises subject matter of this action with Godofredo M. Tosco. x x x

11. Unfortunately, [petitioner] unjustifiably refused the entry of and surrender to Mr. Godofredo Tosco the peaceful possession of the farmland. This, [petitioner] did, despite receipt from [respondent] Rosario Cruz a letter informing him that Mr. Tosco would be the lawful possessor of the lot by virtue of his lease contract with [respondents]. x x x

x x x x

14. On account of [petitioner's] illegal occupancy of the lot in controversy, [respondents] were deprived of their income that could be derived from the rental thereof, the amount of which is submitted to the sound discretion of this Honorable Court, after [petitioner] is ordered to account for all the benefits he derived from use of the premises.¹⁷

Reading the material allegations of the Complaint, the decision under review concluded that the case below was for recovery of possession or an *accion publiciana*, a plenary action to recover the right of possession which should be brought in the proper regional trial court when dispossession has lasted for more than one year. It is an ordinary civil proceeding to determine the better right of possession of realty independently of title. In other words, if at the time of the filing of the complaint more than one year had elapsed since defendant had turned plaintiff out of possession or defendant's possession had become illegal, the action will be an *accion publiciana*.¹⁸

The averments of respondents' complaint, taken as true, establish the nature of the action which the court has jurisdiction to determine, precisely, whether or not tenancy exist between the parties. Thus did respondents as plaintiffs aver that they are the registered owners of the subject property which they acquired from Guillerma Coronel Vda. de Cruz; that their tenant, Navarro, relinquished his tenancy rights on 6 April 1985, and since then, no one was installed as tenant; that in 1995, respondents were dispossessed of their property when petitioner refused the entry of and surrender the possession of farmland to Mr. Godofredo Tosco, a lessee of respondents. Jurisdiction pertains to the RTC where an ordinary civil proceeding to determine the better right of possession of realty independently of title takes place.

The issuance of the emancipation patent was brought to the attention of the Court of Appeals through a motion for reconsideration, which was denied by the appellate court and rightfully so. Our discussion is and should be limited only on the issue of tenancy, which is determinative of jurisdiction. The validity of the emancipation patent, which may or may not involve tenancy, cannot be decided by this Court. We can only resolve said issue if brought before us on appeal and only after the exhaustion of administrative remedies.¹⁹

¹⁷ *Rollo*, pp. 155-157.

¹⁸ *Spouses Valdez v. Court of Appeals*, 523 Phil. 39 (2006).

¹⁹ Note that under Section 24 of R.A. No. 6657, as amended by Section 9 of R.A. No. 9700, the jurisdictional situs is before the Secretary of DAR. Thus:

Section 9. Section 24 of Republic Act No. 6657, as amended, is hereby further amended to read as follows:

x x x x

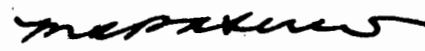
To reiterate, the RTC retains jurisdiction over the instant action for recovery of possession.

WHEREFORE, the petition is **DENIED**. The Decision and Resolution dated 12 August 2009 and 24 February 2010, respectively of the Court of Appeals in CA-G.R. SP No. 105140, are **AFFIRMED**.


SO ORDERED.



JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice

XXXX

“All cases involving the cancellation of registered emancipation patents, certificates of land ownership award, and other titles issued under any agrarian reform program are within the exclusive and original jurisdiction of the Secretary of the DAR.”

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice