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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

GENEROSO ENESIO,
Petitioner,

- versus -

LILIA TULOP, substituted by her heirs, namely: MILAGROS T. ASIA, MATTHEW N. TULOP and RESTITUTO N. TULOP, JR.,
Respondents.

G.R. No. 183923

Present:

CARPIO, *J.*,
Chairperson,
BRION,
DEL CASTILLO,
ABAD,* and
PEREZ, *JJ.*

Promulgated:

NOV 27 2013

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DECISION

BRION, *J.*:

Petitioner Generoso Enesio seeks – through this petition for review on *certiorari*[1] filed under Rule 45 of the Rules of Court – the reversal of the decision[2] dated October 25, 2006 and the resolution[3] dated May 29, 2008 of the Court of Appeals *(CA)* in CA-G.R. CEB-SP No. 01662.

THE FACTS

On August 4, 2003, Lilia Tulop (substituted by her heirs, namely: Milagros T. Asia, Matthew N. Tulop, and Restituto N. Tulop, Jr., on appeal before the Court) sued petitioner Generoso Enesio for *"Ejectment,*

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* Designated as Acting Member in lieu of Associate Justice Estela M. Perlas-Bernabe, per Special Order No. 1619 dated November 22, 2013.

1 *Rollo*, pp. 2-16.

2 Id. at 19-26; penned by Associate Justice Agustin S. Dizon, and concurred in by Associate Justices Pampio A. Abarintos and Priscilla Baltazar-Padilla.

3 Id. at 34-35.

and Other Relief" before the Municipal Trial Court (*MTC*) of San Fernando, Cebu.

Lilia alleged that she was the owner of the lot in possession of the petitioner whose possession was by her (the respondent's) mere tolerance. When Lilia notified the petitioner that she needed the property for the construction of a store, the petitioner ignored her demands. As a result, on June 18, 2003, Lilia, through her lawyer, formally sent the petitioner a letter demanding that the petitioner vacate the premises. A case arose before the MTC because of the petitioner's continued refusal to vacate the premises.

The petitioner filed his Answer before the MTC and claimed that he had been an agricultural tenant of the land; that the case was an agrarian dispute cognizable by the Department of Agrarian Reform Adjudication Board; and hence, the MTC must dismiss the case for lack of jurisdiction.

At the preliminary conference, the parties agreed on the following stipulation of facts: 1) the petitioner was not registered as a tenant as shown by the certification from the Municipal Agrarian Reform Officer of San Fernando, Cebu; 2) the petitioner was occupying a portion of the lot subject matter of the case; 3) the petitioner recently planted bananas in a small portion of the lot but he had been occupying the lot as a tenant and planted crops thereon with the consent of the previous owner; 4) the petitioner had not given any share of the harvest to Lilia but had been sharing his harvest with the original owner, Gregorio Navarro (father of Lilia), then to Margarita Navarro, the caretaker, and eventually to Emilio Navarro; and 5) the title of the subject lot was issued in December 1994.

THE MTC's AND THE RTC's RULINGS

In its February 24, 2004 decision,[4] the MTC exercised jurisdiction over the case and held that the petitioner was not Lilia's agricultural tenant. As the petitioner's possession was by Lilia's mere tolerance, the petitioner must vacate the property when so required by her. The Regional Trial Court (*RTC*) fully affirmed the MTC's decision.[5]

THE CA's RULING

The petitioner appealed the RTC's ruling to the CA.

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4 Penned by Judge Glenda C. Go, MTC of San Fernando, Cebu; id. at 151-157.

5 Id. at 22.

In its October 25, 2006 decision,[6] **the CA affirmed the RTC's ruling.** The CA ruled that the MTC does not lose jurisdiction over ejectment cases simply because tenancy relationship has been raised as a defense. It is only upon determination, after hearing, that tenancy relationship exists that the MTC must dismiss the case for want of jurisdiction.

The MTC concluded, after hearing, that tenancy *did not exist* between the parties. In fact, the petitioner himself admitted that he had never shared any of his harvests with Lilia. Thus, sharing of harvest, an important element of tenancy relationship, was missing.

On May 29, 2008, the CA denied the petitioner's motion for reconsideration.

On August 18, 2009, the petitioner died. No substitution has been made up to this date.

THE PARTIES' ARGUMENTS

The petitioner filed the present petition for review on *certiorari* to challenge the CA rulings. The petitioner pointed out that the MTC merely proceeded with the pre-trial conference and required the parties to submit position papers. He posited that the MTC should have conducted a preliminary hearing and received evidence to determine the existence of a tenancy relationship between the parties. The petitioner cited in this regard the procedures laid down by the Court in *Bayog v. Hon. Natino.*[7]

The petitioner also claimed that the lower tribunals misappreciated the established facts clearly brought out and recorded during the pre-trial conference, to wit: 1) the petitioner had shared harvests with the previous owners of the land; and 2) there had been tenancy relationship between the previous owners of the land and the petitioner. These facts point to the conclusion that Lilia must respect the tenancy relationship between the previous landowner, the respondent's predecessor, and the petitioner, as provided for in Section 10[8] of Republic Act No. 3844.

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6 *Supra* note 2.

7 327 Phil. 1019 (1996).

8 Section 10. *Agricultural Leasehold Relation Not Extinguished by Expiration of Period, etc.* - The agricultural leasehold relation under this Code shall not be extinguished by mere expiration of the term or period in a leasehold contract nor by the sale, alienation or transfer of the legal possession of the landholding. In case the agricultural lessor sells, alienates or transfers the legal possession of the

In her comment to the petition,[9] Lilia reiterated that the petitioner himself admitted that he never shared harvests with her. While the petitioner shared the produce with the relatives and with the caretaker of Lilia, such sharing was not with Lilia in the absence of proof to that effect. In the absence of sharing of harvests between Lilia and the petitioner, tenancy cannot exist.

THE COURT'S RULING

We resolve to deny the petition for lack of merit.

Bayog v. Hon. Natino is not applicable; in ejectment cases, hearing is summary

As the CA correctly held, the petitioner's reference to *Bayog* is misplaced as the factual situation in that case does not obtain in the present case.

In *Bayog*, the Court faulted the Municipal Circuit Trial Court (*MCTC*) for not receiving the defendant's belated Answer. As ruled by the Court, had the MCTC not refrained from receiving the defendant's Answer, the MCTC would have found that the defendant raised tenancy as an issue. While tenancy as a defense in ejectment cases does not automatically divest the MCTC of its jurisdiction over ejectment cases, the MCTC should have heard and received evidence to determine whether the MCTC had jurisdiction over the case. If tenancy had indeed been an issue, the MCTC had no option but to dismiss the case for lack of jurisdiction.[10]

In the present case, the MTC correctly observed the proper procedure in ejectment cases. As expressly provided in the Revised Rules on Summary Procedure, ejectment cases merely require the submission by the parties of affidavits and position papers. The rule directs courts to conduct hearings only when necessary to clarify factual matters. "This procedure is in keeping with the objective of the Rule of promoting the expeditious and inexpensive determination of cases."[11]

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landholding, the purchaser or transferee thereof shall be subrogated to the rights and substituted to the obligations of the agricultural lessor.

9 *Rollo*, pp. 178-181.

10 *Supra* note 7, at 1037.

11 *Odsigue v. Court of Appeals*, G.R. No. 111179, July 4, 1994, 233 SCRA 626, 630.

Therefore, the petitioner's assertion that the MTC did not receive testimonial or documentary evidence in resolving the case is not correct. In fact, it is from the evidence furnished by the parties that the MTC concluded that the petitioner never shared his produce with Lilia. Expectedly, the MTC ruled that the petitioner was not Lilia's tenant and in this light, it had jurisdiction over the case.

Absence of harvest sharing belies claim of tenancy relationship; issues never raised before the trial court may not be ruled upon

The issue of sharing of harvests between the petitioner and Lilia is a factual issue the Court should not bother in a Rule 45 petition. Nevertheless, if only to lay this issue to rest, the Court confirms that there was never any harvest sharing between the parties to make the petitioner the tenant of Lilia; this has been the consistent factual finding in the courts below and this finding binds this Court in the absence of any compelling reason showing that it is tainted with infirmity. The Court has repeatedly emphasized that sharing of produce must exist between the tenant and the landowner for tenancy relationship to exist.[12] In the absence of this factual basis, the lower tribunals were correct in upholding the jurisdiction of the MTC over the ejectment case.

The Court may not entertain the petitioner's *new theory* that there existed tenancy relationship between him and the previous owners of the land, and that Lilia must respect and continue that tenancy relationship. The petitioner never raised this issue before the lower tribunals, save in his motion for reconsideration before the CA. For the Court to accept the petitioner's new theory runs counter to the rule we have held in the past: "*points of law, theories, issues and arguments not brought to the attention of the trial court will not be and ought not to be considered by a reviewing court, as these cannot be raised for the first time on appeal. Basic consideration of due process impels this rule*."[13]

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[12] See *Gelos v. Court of Appeals*, G.R. No. 86186, May 8, 1992, 208 SCRA 608, 614; and *De la Cruz v. Bautista*, G.R. No. 39695, June 14, 1990, 186 SCRA 517, 527.

[13] *Mark Anthony Esteban, etc. v. Spouses Rodrigo C. Marcelo and Carmen T. Marcelo*, G.R. No. 197725, July 31, 2013, citing *Nunez v. SLTEAS Phoenix Solutions, Inc.*, G.R. No. 180542, April 12, 2010, 618 SCRA 134, 145; italics ours.

WHEREFORE, in light of these considerations, the Court **DENIES** the petition for review on *certiorari*. The decision dated October 25, 2006 and the resolution dated May 29, 2008 of the Court of Appeals in CA-G.R. CEB-SP No. 01662 are hereby **AFFIRMED.**

SO ORDERED.

ARTURO D. BRION
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

MARIANO C. DEL CASTILLO
Associate Justice

ROBERTO A. ABAD
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

ATTESTATION

I attest 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.

ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, 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