Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

ROMEO T. CALUZOR, Petitioner,	**G.R. No. 155580**
	Present:
- versus -	SERENO, *C.J.*, LEONARDO-DE CASTRO, BERSAMIN, PEREZ, and PERLAS-BERNABE, *JJ.*
DEOGRACIAS LLANILLO and THE HEIRS OF THE LATE LORENZO LLANILLO, and MOLDEX REALTY CORPORTATION, Respondents.	Promulgated: JUL 0 1 2015

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DECISION

BERSAMIN, *J.*:

Agricultural tenancy is not presumed. It is established only by adducing evidence showing that all the essential requisites of the tenancy relationship concur, namely: (a) the parties are the landowner and the tenant or agricultural lessee; (b) the subject matter of the relationship is an agricultural land; (c) there is consent between the parties to the relationship; (d) the purpose of the relationship is to bring about agricultural production; (e) there is personal cultivation on the part of the tenant or agricultural lessee; and (f) the harvest is shared between the landowner and tenant or agricultural lessee.[1]

Antecedents

Lorenzo Llanillo (Lorenzo) owned the parcel of land (land) with an area of 90,101 square meters, more or less, known as Lot 4196 and situated in Loma de Gato, Marilao, Bulacan. The land was covered by Transfer Certificate of Title No. 25864 of the Registry of Deeds of Bulacan.

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[1] *Tarona v. Court of Appeals (Ninth Division)*, G.R. No. 170182, June 18, 2009, 589 SCRA 474, 483.

The petitioner averred that Lorenzo took him into the land as a tenant in 1970, giving to him a sketch that indicated the boundaries of the portion he would be cultivating. To effectively till the land, the petitioner and his family were allowed to build a makeshift shanty thereon. Even after the death of Lorenzo, the petitioner continued giving a share of his produce to the family of Lorenzo through Ricardo Martin (Ricardo), Lorenzo's overseer. In 1990, respondent Deogracias Lanillo (Deogracias), the son of Lorenzo, offered to pay the petitioner ₱17,000.00/hectare of the cultivated land in exchange for turning his tillage over to Deogracias. In the end, Deogracias did not pay the petitioner. Instead, on August 5, 1994, Deogracias and persons acting under his orders forcibly ejected the petitioner and his family by levelling their shanty and plantation with the use of a bulldozer. The efforts of the Barangay Agrarian Reform Council to conciliate failed; hence, the authority to file a case was issued to the petitioner.

On September 9, 1994, the petitioner instituted this case against Deogracias in the Office of the Provincial Agrarian Reform Adjudicator (PARAD) in Malolos, Bulacan,[2] demanding the payment of disturbance compensation. He amended his complaint to implead Moldex Realty Corporation (Moldex) as an additional defendant upon discovering that the latter had entered the land to develop it into a residential subdivision. He prayed for the restoration of his possession of the tilled land, and the payment of disturbance compensation.

In his answer,[3] Deogracias denied that any tenancy relationship between him and the petitioner existed; and that to show that the land in controversy had not been tenanted, he presented several documents, namely: (1) the certification dated May 26, 1994 issued by Municipal Agrarian Region Office (MARO) Eleanor T. Tolentino;[4] (2) the certification dated September 13, 1978 issued by Team Leader I Armando C. Canlas of Meycauayan, Bulacan;[5] (3) the Masterlist of Tenants and Landowners as of March 1984;[6] and (4) the Letter dated July 17, 1981 of Lorenzo Llanillo to the Provincial Assessor's Office requesting a change in the classification of the land.[7]

Meanwhile, on April 12, 1995, the Secretary of the Department of Agrarian Reform (DAR) granted the application for the conversion of the land from agricultural to residential and commercial uses filed by Deogarcias, through Moldex as his attorney-in-fact.

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2 DARAB *rollo*, pp. 3-9.
3 Id. at 37-46.
4 *Rollo*, p. 98.
5 Id. at 94.
6 Id. at 95-97.
7 Id. at 99.

Ruling of the PARAD

On December 13, 1996, the PARAD dismissed the complaint of the petitioner,[8] pertinently ruling:

> The essential requisites of a tenancy relationship x x x are as follows:
>
> 1. [There] is consent given
> 2. The parties are landholder and tenants
> 3. There is personal cultivation;
> 4. The subject is agricultural land;
> 5. The purpose is agricultural production;
> 6. There is showing of harvest or payment of fixed amount in money or produces.
>
> x x x x
>
> After a perusal of the records and evidence presented by both parties, requisites No. 1 and 6 are wanting. Complainant failed to submit any evidence to prove that the landowners gave their consent for him to work on the land except the sketch of the land (Exh. "A") which he alleged that Lorenzo Llanillo gave him. A careful scrutiny of the sketch, however, show that it may be prepared by a surveyor because even the technical description of the land were indicated therein and the allegation of Romeo Calusor that the landowner drew the sketch before him is therefore untenable. Complainant failed to submit any certification from the Municipal Agrarian Reform Officer that he is listed as tenants [sic] of the landowners. He also failed to submit any evidence that he has a leasehold contract with the landowners. Complainant also failed to submit any receipt of payments of his alleged leasehold rentals. The house of the complainant which he alleged to have been destroyed by the respondent is a makeshift shanty.
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> It is a well settled doctrine that mere cultivation without proof of the conditions of tenancy does not suffice to establish tenancy relationship. (*Gepilan vs. Lunico,* CA-G.R. SP No. 06738, CAR June 5, 1978). In the case at bar, complainant Romeo Calusor marked on the land without the express consent of the landowners, represented by Deogracias Llanillo and without the benefit of any leasehold agreement between the landowners and the complainant. Consequently, there is a complete absence of landlord-tenant relationship. In the case of Gonzales vs. Alvarez (G.R. No. 77401, February 1, 1990), the Supreme Court held that:
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> > "The protective mantle of the law extending to legitimate farmers is never meant to cover intruders and squatters who later on claim to be tenant on the land upon which they squat."
>
> The mere fact that Romeo Calusor works on the land does not make him ipso facto a tenant. It has been ruled that tenancy cannot be created nor depend upon what the alleged tenant does on the land.

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8 CA *rollo,* pp. 29-39.

> Tenancy relationship can only be created with the consent of the true and lawful landholders through lawful means and not by imposition or usurpation (*Hilario vs. IAC*, 148 SCRA 573).[9]

Decision of the DARAB

Aggrieved, the petitioner appealed to the DAR Adjudication Board (DARAB),[10] which, on June 26, 2000, reversed the PARAD,[11] opining and holding thusly:

> The vortex of the controversy is the issue of whether or not tenancy relationship exists between the parties.
>
> We rule in the affirmative. Complainant-Appellant Romeo Calusor is a de jure tenant of a portion of the subject land with an area of three (3) hectares thereof.
>
> In the case at bar, Complainant-Appellant maintained that he has been instituted as an agricultural lessee of the subject land by the landowner Deogracias Llanilo; that he has been delivering the landowner's share through an overseer in the person of Ricardo Martin. A receipt is presented to bolster Complainant-Appellant's claim (Annex "B", p. 127, rollo); that he has been in peaceful possession of the subject parcel of land until it was disturbed by herein Respondent-Appellees by bulldozing and levelling the subject land thereby destroying the fruit-bearing trees planted by herein Complainant-Appellant.
>
> Justifying his position, Respondent–Appellees argued that Complainant-Appellant is a mere squatter in the subject landholding; that there is no sharing of the produce between the parties; that the subject property is untenanted as certified by Municipal Agrarian Reform Officer (MARO) for Marilao, Bulacan.
>
> After weighing the parties' contrasting arguments and after a close scrutiny of the pieces of evidence adduced, we are constrained to rule in favor of Complainant-Appellant .
>
> In the case at bar, Complainant-Appellant is a tenant\cultivator of the subject property, having been verbally instituted as such by Deogracias Llanillo. Sec. 166 (25) R.A. 3844, as amended provides:
>
> > (25) shared tenancy exists whenever two persons agree on a joint undertaking for agricultural production wherein one party furnishes the land and the other his labor, with either or both contributing any one or several of the items of production, the tenant cultivating the land personally with the aid available from members of his immediate household and the produce thereof to be divided between the landholder and the tenant.

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9 Id. at 37-38.
10 DARAB *rollo*, pp. 472-487.
11 *Rollo*, pp. 26-33.

Clearly, the institution of Complainant-Appellant as a tenant in the subject land by Deogracias Llanillo and the sharing of the produce between the parties sufficiently established tenancy relation between the parties. The subsequent conveyance or transfer of legal possession of the property from Deogracias Llanillo in favor of his children does not extinguish Complainant-Appellant's right over his tillage. Section 10, R.A. 3844, as amended finds application in this case, it provides:

> Sec. 10 Agricultural Leasehold Relation Not Extinguished by the 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 landholding, the purchaser or transferee thereof shall be subrogated to the rights and substituted to the obligations of agricultural lessor.

Again, the Supreme Court in several cases has sustained the preservation of an agricultural leasehold relationship between landholder and tenant despite the change of ownership or transfer of legal possession from one person to another.

Verily, Complainant-Appellant cannot be validly ejected from the subject premises.

It may be worthy to emphasize that Respondents-Appellants act in bulldozing and levelling the subject property without securing the prior approval/clearance from the government agencies concerned (HLURB, DENR, DAR) tantamounts to illegal conversion. Hence, Respondent-Appellees are criminally liable for such act. Since, there is no legal conversion in the present case, it would be futile to dwell on the issue of award of just compensation.

WHEREFORE, from all the foregoing premises, the appealed decision dated December 13, 1996 is hereby REVERSED ad SET ASIDE. A new judgment is rendered:

1. Ordering the reinstatement of Complainant-Appellant to the subject premises; and

2. Ordering Respondents-Appellees to maintain Complainant-Appellant in peaceful possession and cultivation of tillage.

SO ORDERED.[12]

Decision of the CA

On appeal by Deogracias and Moldex, the CA reversed the ruling of the DARAB and reinstated the PARAD's decision through the decision

[12] Id. at 30-32.

promulgated on August 30, 2002,[13] *viz.*:

> Per Order of Conversion dated April 12, 1995, the DAR, through then Undersecretary Jose Medina, approved the application for conversion of the subject landholding (ANNEX 'E" petition, Rollo, pp. 56-58). The application was granted based on the facts that 1.) the property is no longer suitable for agricultural production as per Certification dated 8 November 1994 issued by Mr. Renato N. Bulay, Regional Director, Department of Agriculture, sa Fernando, Pampanga; 2.) the area where the property is located had already been classified as residential/commercial as per Municipal Ordinance No. 43, Series of 1988; and 3) the MARO, PARO, RD and CLUPPI recommended its approval. x x x In fact the subject property is now a developed subdivision (ANNEXES "G", - "G-1" & "H" – "H-1") with individual lots having been sold to different buyers (ANNEXES ""I"-"I-1"). Under such circumstances, there can be no agricultural tenant on a residential land.
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> On the issue of whether or not respondent is entitled to disturbance compensation under Section 36(1) of Republic Act No. 3844 as amended by R.A. 6389, he must be an agricultural lessee as defined under Section 166 (2) of R.A. 3844. However, the records are bereft of any evidence showing that he is a tenant of petitioner Llanilo.
>
> WHEREFORE, premises considered, the petition is hereby GRANTED. The assailed Decision of the DARAB dated 26 June 2000 and its Resolution dated 20 December 2001 are reversed and set aside. Accordingly, the Decision of the PARAB dated December 13, 1996 is hereby AFFIRMED.
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> SO ORDERED. (citations omitted)

Issues

Hence, this special civil action for *certiorari* commenced by the petitioner on the ground that the CA had gravely abused its discretion amounting to lack or in excess of jurisdiction when: firstly, it heavily relied on documents that had not been presented in the PARAD proceedings; and, secondly, it disregarded altogether the evidence on record proving his tenancy and entitlement to disturbance compensation.[14] He points out that the CA gravely abused its discretion in considering the order of conversion as its basis for concluding that there was no agricultural tenant on the land despite the order being presented for the first time only on appeal; and in denying his right to the disturbance compensation despite abundant showing that he was a tenant.

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[13] Id. at 19-23; penned by Associate Justice Eliezer R. De Los Santos (retired/deceased) with Acting Presiding Justice Cancio C. Garcia (retired) and Associate Justice Marina L. Buzon (retired) concurring.

[14] Id. at 10-11.

In its comment,[15] Moldex insists that the petitioner resorted to the wrong remedy, arguing that the assailed decision of the CA, being one determining the merits of the case, was subject to appeal by petition for review on *certiorari* within 15 days from notice of the decision; that the petition for *certiorari* was an improper remedy; that after the lapse of the 15-day period, he could not substitute his lost appeal with the special civil action for *certiorari*; and that the CA did not commit any grave abuse of discretion amounting to lack or in excess of jurisdiction considering that he had not been a tenant on the land.

On his part, Deogracias adopted the comment of Moldex.[16]

Ruling of the Court

The petition for *certiorari* is bereft of merit.

First of all, we declare to be correct the respondents' position that the petitioner should have appealed in due course by filing a petition for review on *certiorari* instead of bringing the special civil action for *certiorari*.

It is clear that the CA promulgated the assailed decision in the exercise of its appellate jurisdiction to review and pass upon the DARAB's adjudication by of the petitioner's appeal of the PARAD's ruling. As such, his only proper recourse from such decision of the CA was to further appeal to the Court by petition for review on *certiorari* under Rule 45 of the *Rules of Court*.[17] Despite his allegation of grave abuse of discretion against the CA, he could not come to the Court by special civil action for *certiorari*. The remedies of appeal and *certiorari* were mutually exclusive, for the special civil action for *certiorari*, being an extraordinary remedy, is available only if there is no appeal, or other plain, speedy and adequate remedy in the ordinary course of law.[18] In *certiorari*, only errors of jurisdiction are to be addressed by the higher court, such that a review of the facts and evidence is not done; but, in appeal, the superior court corrects errors of judgment, and in so doing reviews issues of fact and law to cure

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15 Id. at 130-148.

16 Id. at 124.

17 *Malayang Manggagawa ng Stayfast Phils., Inc. v. National Labor Relations Commission*, G.R. No. 155306, August 28, 2013, 704, SCRA 24, 35-36, where the Court pointed out:

> "The proper remedy to obtain a reversal of judgment on the merits, final order or resolution is appeal. This holds true even if the error ascribed to the court rendering the judgment is its lack of jurisdiction over the subject matter, or the exercise of power in excess thereof, or grave abuse of discretion in the findings of fact or of law set out in the decision, order or resolution. The existence and availability of the right of appeal prohibits the resort to *certiorari* because one of the requirements for the latter remedy is that there should be no appeal. "

18 Section 1, Rule 65 of the *Rules of Court.*

errors in the appreciation and evaluation of the evidence.[19] Based on such distinctions, *certiorari* cannot be a substitute for a lost appeal.

It is obvious that all that the petitioner wants the Court to do is to revisit and review the facts and records supposedly substantiating his claim of tenancy and his demand for consequential disturbance compensation. He has not thereby raised any jurisdictional error by the CA, and has not shown how the CA capriciously or whimsically exercised its judgment as to be guilty of gravely abusing its discretion. It is not amiss to point out that the settled meaning of *grave abuse of discretion* is the arbitrary or despotic exercise of power due to passion, prejudice or personal hostility; or the whimsical, arbitrary, or capricious exercise of power that amounts to an evasion or refusal to perform a positive duty enjoined by law or to act at all in contemplation of law.[20] In that regard, the abuse of discretion must be shown to be patent and gross in order for the act to be struck down as having been done with grave abuse of discretion.[21] Yet, none of such categories characterized the act of the CA.

Neither did the petitioner's averment of the denial of due process – predicated on the CA's reliance on the conversion order despite said order not being among the documents presented during the trial[22] – justify the resort to *certiorari*. It appears that the CA cited the conversion order not to deny his claim of being the tenant but only to accent the land conversion as a fact. Indeed, as the CA found, he presented nothing to substantiate his claim of having been the tenant of Leonardo. Under the circumstances, the CA did not act either arbitrarily or whimsically.

Secondly, the petitioner's insistence on his being the tenant of Leonardo and on his entitlement to disturbance compensation required factual and legal bases. The term *tenant* has a distinct meaning under the law. Section 5 subparagraph (a) of R.A. No. 1199 provides:

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19 *People v. Sandiganbayan (Fifth Division*), G.R. No. 173396, September 22, 2010, 631 SCRA 128, 133, with the Court holding:

> "It is a fundamental aphorism in law that a review of facts and evidence is not the province of the extraordinary remedy of *certiorari*, which is *extra ordinem* - beyond the ambit of appeal. In *certiorari* proceedings, judicial review does not go as far as to examine and assess the evidence of the parties and to weigh the probative value thereof. It does not include an inquiry as to the correctness of the evaluation of evidence. Any error committed in the evaluation of evidence is merely an error of judgment that cannot be remedied by *certiorari***.** An *error of judgment* is one which the court may commit in the exercise of its jurisdiction. An *error of jurisdiction* is one where the act complained of was issued by the court without or in excess of jurisdiction, or with grave abuse of discretion, which is tantamount to lack or in excess of jurisdiction and which error is correctible only by the extraordinary writ of *certiorari*. *Certiorari* will not be issued to cure errors of the trial court in its appreciation of the evidence of the parties, or its conclusions anchored on the said findings and its conclusions of law. It is not for this Court to re-examine conflicting evidence, re-evaluate the credibility of the witnesses or substitute the findings of fact of the court *a quo*."

20 *Republic v. Sandiganbayan* (*Second Division*), G.R. No. 129406, March 6, 2006, 484 SCRA 119.

21 *Beluso v. Commission on Elections*, G.R. No. 180711, June 2010, 621 SCRA 450, 456.

22 *Rollo*, pp. 11-13.

> A *tenant* shall mean a person who, himself and with the aid available from within his immediate farm household cultivates the land belonging to, or possessed by another, with the latter's *consent* for purposes of production, sharing the produce with the landholder under the share tenancy system, or paying to the landholder a price certain or ascertainable in produce or in money or both, under the leasehold tenancy system.

For tenancy relationship to exist, therefore, the following elements must be shown to concur, to wit: (1) the parties are the landowner and the tenant; (2) the subject matter is agricultural land; (3) there is consent between the parties to the relationship; (4) the purpose is 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 landowner and tenant or agricultural lessee.[23] The presence of all these elements must be proved by substantial evidence;[24] this means that the absence of one will not make an alleged tenant a *de jure* tenant.[25] Unless a person has established his status as a *de jure* tenant, he is not entitled to security of tenure or to be covered by the Land Reform Program of the Government under existing tenancy laws.[26]

Being the party alleging the existence of the tenancy relationship, the petitioner carried the burden of proving the allegation of his tenancy.[27] According to *Berenguer, Jr. v. Court of Appeals*,[28] to wit:

> It is a matter of jurisprudence that tenancy is not purely a factual relationship dependent on what the alleged tenant does upon the land but more importantly a legal relationship. (Tuazon v. Court of Appeals, 118 SCRA 484) Under Section 3 of Republic Act No. 1199, otherwise known as the Agricultural Tenancy Act, the term "agricultural tenancy" is defined as –
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> > [T]he physical possession by a person of land devoted to agriculture belonging to, or legally possessed by, another for the purpose of production through the labor of the former and with the members of his immediate farm household, in consideration of which the former agrees to share the harvest with the latter, or to pay a price certain or ascertainable, either in produce or in money, or in both.

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23 *Tarona v. Court of Appeals (Ninth Division)*, supra, note 1; *Landicho v. Sia*, G.R. No. 169472, January 20, 2009, 576 SCRA 602, 619; *Dalwampo v. Quinocol Farm Workers and Settlers' Association*, G.R. No. 160614, April 25, 2006, 488 SCRA 208, 221.

24 *Soliman v. Pampanga Sugar Development Company (PASUDECO), Inc.*, G.R. No. 169589, June 16, 2009, 589 SCRA 236, 249.

25 *Heirs of Barredo v. Besañes*, G.R. No. 164695, December 13, 2010, 637 SCRA 717, 723.

26 *Ambayec v. Court of Appeals*, G.R. No. 162780, June 21, 2005, 460 SCRA 537, 543.

27 *Cortes v. Court of Appeals*, G.R. No. 121772, January 13, 2003, 395 SCRA 33, 38.

28 G.R. No. L-60287, August 17, 1988, 164 SCRA 431, 438.

In establishing the tenancy relationship, therefore, independent evidence, not self-serving statements, should prove, among others, the consent of the landowner to the relationship, and the sharing of harvests.[29]

The third and sixth elements of agricultural tenancy were not shown to be presented in this case.

To prove the element of consent between the parties, the petitioner testified that Lorenzo had allowed him to cultivate the land by giving to him the sketch[30] of the lot[31] in order to delineate the portion for his tillage. Yet, the sketch did not establish that Lorenzo had categorically taken the petitioner in as his agricultural tenant. This element demanded that the landowner and the tenant should have agreed to the relationship freely and voluntarily, with neither of them unduly imposing his will on the other. The petitioner did not make such a showing of consent.

The sixth element was not also established. Even assuming that Lorenzo had verbally permitted the petitioner to cultivate his land, no tenancy relationship between them thereby set in because they had not admittedly discussed any fruit sharing scheme, with Lorenzo simply telling him simply that he would just ask his share from him.[32] The petitioner disclosed that he did not see Lorenzo again from the time he had received the sketch until Lorenzo's death.[33] Although the petitioner asserted that he had continued sharing the fruits of his cultivation through Ricardo, Lorenzo's caretaker, even after Lorenzo's death, producing the list of produce to support his claim,[34] the list did not indicate Ricardo's receiving the fruits listed therein. The petitioner did not also contain Ricardo's authority to receive Leonardo's share.

We underscore that harvest sharing is a vital element of every tenancy. Common sense dictated, indeed, that the petitioner, if he were the *de jure* tenant that he represented himself to be, should fully know his arrangement with the landowner. But he did not sufficiently and persuasively show such arrangement. His inability to specify the sharing arrangement was inconceivable inasmuch as he had depended on the arrangement for his own sustenance and that of his own family. The absence of the clear-cut sharing agreement between him and Lorenzo could only signify that the latter had merely tolerated his having tilled the land sans tenancy. Such manner of tillage did not make him a *de jure* tenant, because, as the Court observed in *Estate of Pastor M. Samson v. Susano*:[35]

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29 *De Jesus v. Moldex Realty, Inc.*, G.R. No. 153595, November 23, 2007, 538 SCRA 316, 322.
30 DARAB *rollo*, p. 128 (Annex A).
31 TSN, December 12, 1994, p. 10.
32 Id. at 16.
33 Id. at 19.
34 DARAB *rollo*, p. 127 (Annex B).
35 G.R. No. 179024 and G.R. No. 179086, 30 May 2011, 649 SCRA 345, 367.

> It has been repeatedly held that occupancy and cultivation of an agricultural land will not *ipso facto* make one a *de jure* tenant. Independent and concrete evidence is necessary to prove personal cultivation, sharing of harvest, or consent of the landowner. Substantial evidence necessary to establish the fact of sharing cannot be satisfied by a mere scintilla of evidence; there must be concrete evidence on record adequate to prove the element of sharing. To prove sharing of harvests, a receipt or any other credible evidence must be presented, because self-serving statements are inadequate. Tenancy relationship cannot be presumed; the elements for its existence are explicit in law and cannot be done away with by conjectures. Leasehold relationship is not brought about by the mere congruence of facts but, being a legal relationship, the mutual will of the parties to that relationship should be primordial. For implied tenancy to arise it is necessary that all the essential requisites of tenancy must be present.

Consequently, the CA rightly declared the DARAB to have erred in its appreciation of the evidence on the existence of the tenancy relationship.

With the restoration of his possession having become physically impossible because of the conversion of the land being already a fact, could the petitioner be granted disturbance compensation?

If tenanted land is converted pursuant to Section 36 of Republic Act No. 3844, as amended by Republic Act No. 6389, the dispossessed tenant is entitled to the payment of disturbance compensation.[36] Reflecting this statutory right, the conversion order presented by Moldex included the condition for the payment of disturbance compensation to any farmer-beneficiary thereby affected.

Yet, the query has to be answered in the negative because the petitioner was not entitled to disturbance compensation because he was not the *de jure* tenant of the landowner.

It is timely to remind that any claim for disturbance compensation to be validly made by a *de jure* tenant must meet the procedural and substantive conditions listed in Section 25 of Republic Act No. 3844, to wit:

> Section 25. *Right to be Indemnified for Labor* - The agricultural lessee shall have the right to be indemnified **for the cost and expenses incurred in the cultivation, planting or harvesting and other expenses incidental to the improvement of his crop in case he surrenders or abandons his landholding for just cause or is ejected therefrom**. In addition, he has the right to be **indemnified for one-half of the necessary and useful improvements made by him on the landholding**: **Provided,**

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[36] *Bunye v. Aquino*, G.R. No. 138979, October 9, 2000, 342 SCRA 360, 370.

> **That these improvements are tangible and have not yet lost their utility at the time of surrender and/or abandonment of the landholding, at which time their value shall be determined for the purpose of the indemnity for improvements.** (Emphasis supplied)

In short, the *de jure* tenant should allege and prove, firstly, the cost and expenses incurred in the cultivation, planting or harvesting and other expenses incidental to the improvement of his crop; and, secondly, the necessary and useful improvements made in cultivating the land. Without the allegation and proof, the demand for indemnity may be denied.

In fine, the CA did not err in reversing and setting aside the decision of the DARAB and reinstating the decision of the PARAD.

WHEREFORE, the Court **DISMISSES** the petition for *certiorari* for lack of merit; and **ORDERS** the petitioner to pay the costs of suit.

SO ORDERED.

LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

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