THIRD DIVISION

HEIRS OF TEODORO CADELIÑA, represented by SOLEDAD CADIZ VDA. DE CADELIÑA,
Petitioners,

- versus -

FRANCISCO CADIZ, CELESTINO DELA CRUZ, ANTONIO VICTORIA, HEIRS OF TELESFORO VILLAR represented by SAMUEL VILLAR, FRANCISCO VICTORIA and MAGNO GANTE,
Respondents;

HON. JOSE C. REYES, JR., in his capacity as Presiding Justice, HON. NORMANDIE PIZARRO, in his capacity as Member, and HON. RICARDO R. ROSARIO, in his capacity as Member of the Court of Appeals Special Former Third Division,
Public Respondents.

G.R. No. 194417

Present:
VELASCO, JR., *J.*, *Chairperson,*
PERALTA,*
PEREZ,
REYES, and
JARDELEZA, *JJ.*

Promulgated:
November 23, 2016

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D E C I S I O N

JARDELEZA, *J.*:

This is a petition for *certiorari*[1] under Rule 65 of the Revised Rules of Court seeking to nullify the Court of Appeals' (CA) May 25, 2009 Resolution[2] and September 22, 2010 Resolution[3] in CA-G.R. SP No. 108414

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* On official leave.
1 *Rollo*, pp. 4-18.
2 *Id.* at 97-98; penned by Associate Justice Jose C. Reyes, Jr., and concurred in by Associate Justices

(collectively, Assailed Resolutions). The Assailed Resolutions dismissed the petition for review under Rule 43 of the Revised Rules of Court filed by the Heirs of Teodoro Cadeliña represented by Soledad Cadiz Vda. De Cadeliña (petitioners), against the July 5, 2006 Decision[4] and the March 11, 2009 Resolution[5] of the Department of Agrarian Reform Adjudication Board (DARAB) in DARAB Cases Nos. 10543 and 10554.[6] The DARAB granted the complaint[7] filed by Francisco Cadiz, Celestino Dela Cruz, Antonio Victoria and heirs of Telesforo Villar, represented by Samuel Villar, (respondents) for reinstatement of possession as farmer tenants.

The Facts

Respondents filed complaints for reinstatement of possession as farmer tenants against petitioners with the DARAB-Region 2, San Fermin, Cauayan, Isabela docketed as DARAB Cases Nos. II-2063-ISA 2000 and II-2064-ISA 2000.[8] Respondents alleged that they were the farmers/tillers of portions[9] of Lot No. 7050, Cad. 211, Santiago Cadastre (properties), "ownership then claimed by Nicanor Ibuna, Sr. [who is] their landowner," since 1962 until around the end of 1998 when they were deprived of their respective possessions, occupations and tillage of the properties.[10] This was allegedly brought about by the execution of the decision of the CA in a previous case (CA-G.R. CV No. 42237)[11] ordering the transfer of the properties to Teodoro Cadeliña (Teodoro) and his heirs, petitioners herein.

Petitioners moved to dismiss the complaint on the ground that respondents cannot be considered as tenants under land reform law because they were instituted by Nicanor Ibuna, Sr. (Ibuna) whose rights were declared by the court illegal and unlawful in CA-G.R. CV No. 42237 and that the DARAB has no jurisdiction to entertain the case for lack of tenancy relationship between the parties.[12]

In its Decision[13] dated October 24, 2000, the DARAB, Region 2, San Fermin, Cauayan, Isabela ruled in favor of respondents. The DARAB declared Ibuna as legal possessor of the properties who had the right to institute respondents as tenants of the properties. The DARAB said, "[w]hile the title of the late Nicanor Ibuna was subsequently declared null and void

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Martin S. Villarama, Jr. and Normandie B. Pizarro.

3 *Id.* at 99-101; penned by Associate Justice Jose C. Reyes, and concurred in by Associate Justices Normandie B. Pizarro and Ricardo R. Rosario.

4 CA *rollo*, pp. 14-20.

5 *Rollo*, pp. 91-93.

6 The May 25, 2009 Resolution of the CA identified the DARAB cases as DARAB Cases Nos. 1053-1043. *Id.* at 97.

7 *Id.* at 73-76.

8 *Id.* at 8; 94.

9 The portions are the following: (1) Francisco Cadiz – Lot A since 1962; (2) Celestino Dela Cruz – Lot B since 1972; (3) Antonio Victoria – Lot E since 1962; (4) Teodoro Villar – Lot 1 since 1972. *Id.* at 73-74.

10 *Id.*

11 *Id.* at 19-62.

12 *Id.* at 79.

13 *Id.* at 78-83.

by the [CA in CA-G.R. CV No. 42237], he is deemed considered as legal possessor of the subject land" and "[a]s legal possessor, the late Ibuna has the right to grant to the herein plaintiffs the cultivation of the land pursuant to Section 6 of [Republic Act (RA) No.] 3844, as amended, otherwise known as the Agricultural Land Reform Code."[14] As a result, respondents are entitled to security of tenure in working on the properties. Thus, the DARAB: (1) declared respondents the tenants of the properties; (2) ordered petitioners, their heirs, agent, or any person(s) acting on their behalf to vacate the land in issue and to deliver the possession and cultivation of said lands to respondents; (3) ordered respondents to pay lease rentals to petitioners in accordance with Section 34 of RA No. 3844; and (4) ordered petitioners to pay respondents attorney's fees and honoraria in the amount of ₱20,000.00.[15]

This was appealed before the DARAB Quezon City (DARAB Cases Nos. 10543-10544) which denied the appeal in its Decision dated July 5, 2006. A motion for reconsideration was also denied in the March 11, 2009 Resolution. Thereafter, petitioners filed the petition for review under Rule 43 before the CA.

On May 25, 2009, the CA dismissed the petition for not being sufficient in form and in substance.[16] In their Motion for Reconsideration,[17] petitioners attached the missing special power of attorney in favor of Enor C. Cadeliña and the certified original copies of the pertinent DARAB decisions and resolution, and cited inadvertence and excusable negligence for the other procedural lapses. The CA, however, denied the motion in the September 22, 2010 Resolution which petitioners received on September 29, 2010.[18]

Hence, this petition filed on November 26, 2010,[19] where petitioners argue that the CA committed grave abuse of discretion in dismissing the petition based on procedural grounds, and for ignoring the merits of the petition. According to them, there is a conflict between the decision in CA G.R. CV No. 42237 annulling the titles of respondents and declaring the homestead patents of Teodoro lawful, and the DARAB Decision dated October 24, 2000 declaring respondents as tenants.[20]

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14 *Id.* at 80.

15 *Id.* at 83.

16 *Id.* at 97-98.The CA dismissed the petition for the following reasons: (1) no special power of attorney was attached to the petition showing that the signatory, Enor C. Cadeliña, was authorized to sign the verification and certification against forum shopping for and on behalf of petitioners; (2) no concise statement of facts and issues involved and grounds relied upon for the review as required by Section 6(b) Rule 43 of the Revised Rules of Court; (3) the petition was not accompanied by pertinent and important documents and pleadings to support its allegations thereof as required by Section 6(c) Rule 43 of the Revised Rules of Court; (4) the attached assailed decision and resolution of the DARAB were mere photocopies; (5) no explanation as to why personal service of the petition was not resorted as required by Section 11, Rule 13 of the Revised Rules of Court; and (6) the addresses of the parties were not indicated in the petition.

17 CA *rollo*, pp. 124-142.

18 *Rollo*, p. 5.

19 *Id.* at 4.

20 *Id.* at 13.

The Issue

Whether the CA committed grave abuse of discretion in dismissing the petition for review based on procedural grounds.

Our Ruling

We grant the petition.

Technical rules of procedure may be set aside in order to achieve substantial justice.

It does not escape us that the right recourse against the dismissal of petitioners' appeal with the CA is an appeal by *certiorari* under Rule 45, and not *certiorari* under Rule 65, of the Revised Rules of Court.[21] The Assailed Decisions were final and appealable judgments, which disposed of petitioners' appeal in a manner left nothing more to be done by the CA.[22] As a rule, the existence and availability of this right to appeal precludes the resort to *certiorari* since a petition for *certiorari* under Rule 65 of the Revised Rules of Court may only be resorted to in the absence of appeal or any plain, speedy and adequate remedy in the ordinary course of law.[23] Corollarily, we have repeatedly ruled that *certiorari* is not and cannot be made a substitute for a lost appeal. As such, this case would have been dismissed outright for failure of petitioners to avail of the proper remedy.

Nevertheless, when we are convinced that substantial justice will be defeated by the strict application of procedural rules that are, ironically, intended for the *just*, speedy and inexpensive disposition of cases on the merits, we will not hesitate to overlook the procedural technicalities. While ordinarily, *certiorari* is unavailing where the appeal period has lapsed, there are exceptions, as when: (a) the public welfare and the advancement of public policy dictates; (b) *the broader interest of justice so requires*; (c) the writs issued are null and void; or (d) the questioned order amounts to an oppressive exercise of judicial authority.[24] Thus, we said in *Pahila-Garrido v. Tortogo*:[25]

> We also observe that the rule that a petition should have been brought under Rule 65 instead of under Rule 45 of the *Rules of Court* (or *vice versa*) is not inflexible or rigid. The inflexibility or rigidity of application of the rules of procedure is eschewed in order to serve the higher ends of justice. Thus, substance is given primacy over form, for

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21 See *Dycoco v. Court of Appeals*, G.R. No. 147257, July 31, 2013, 702 SCRA 566, 577-579.

22 *Id.* at 577.

23 *Id.* at 576-578.

24 *Associated Anglo-American Tobacco Corporation v. Court of Appeals*, G.R. No. 167237, April 23, 2010, 619 SCRA 250, 257.

25 G.R. No. 156358, August 17, 2011, 655 SCRA 553.

> it is paramount that the rules of procedure are not applied in a very rigid technical sense, but used only to help secure, not override, substantial justice. **If a technical and rigid enforcement of the rules is made, their aim is defeated. Verily, the strict application of procedural technicalities should not hinder the speedy disposition of the case on the merits.** To institute a guideline, therefore, the *Rules of Court* expressly mandates that the rules of procedure "shall be liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding."[26] (Emphasis supplied.)

The record shows that the facts of this case are undisputed and we are only presented with questions of law which we are readily able to decide. The issues only involve the determination of whether respondents are *de jure* tenants entitled to security of tenure under our land reform laws, and consequently, of the jurisdiction of the DARAB to order the restoration of possession of petitioners' properties to respondents. After review, we hold that since the merits of the petition far outweigh the rigid application of the rules, there is a need to suspend the rules in this case to achieve substantial justice.

This is all the more true when the strict application of technical rules of procedure will result in a decision that will disturb already settled cases. We are mindful of the impact that the dismissal of this petition may have on the final and executory decisions not only in CA-G.R. CV No. 42237 (declaring Ibuna's title as void, and upholding petitioners' homestead over the properties), but also in a much earlier case involving the denial of the free patent application of Ibuna over the properties (which also declared his title void) in Department of Agriculture and Natural Resources (DANR) Case No. 2411.[27] We take notice that we affirmed this order of the Secretary of DANR in DANR Case No. 2411 in our Resolution in G.R. No. L-30916 dated April 25, 1988.[28]

Respondents are not agricultural leasehold lessees entitled to security of tenure.

We first address petitioners' claim that there is inconsistency between respondents' position of claiming ownership in CA-G.R. CV No. 42237, and their claim of tenancy relationship in this case. While we have previously held that "[t]enancy relationship is inconsistent with the assertion of ownership,"[29] this is not applicable in the case of respondents. Records show that respondents were previously issued title (albeit nullified in CA-G.R. CV

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[26] *Id.* at 572, citing *Salinas, Jr. v. National Labor Relations Commission*, G.R. No. 114671, November 24, 1999, 319 SCRA 54; *Ramiscal, Jr. v. Sandiganbayan*, G.R. Nos. 140576-99, December 13, 2004, 446 SCRA 166; and *Caraan v. Court of Appeals*, G.R. No. 124516, April 24, 1998, 289 SCRA 579.

[27] *Rollo*, pp. 23-24.

[28] *Id.* at 25-26.

[29] *Arzaga v. Copias*, G.R. No. 152404, March 28, 2003, 400 SCRA 148, 153.

No. 42237) under Section 3[30] of Presidential Decree No. 152,[31] which gives a share tenant actually tilling the land the preferential right to acquire the portion actually tilled by him.[32] Respondents' assertions of ownership over the properties in CA-G.R. CV No. 42237 were only but a consequence of their previous status as alleged tenants of Ibuna; their claims of tenancy status and ownership were successive, and not simultaneous. Thus, particular to the circumstances of their case, there was no conflict between their assertion of ownership in CA-G.R. CV No. 42237 and of tenancy in this case.

Nevertheless, respondents' claim of tenancy relationship fails.

Under RA No. 3844,[33] otherwise known as the Agriculture Land Reform Code, which superseded RA No. 1199,[34] the determination of the existence of an agricultural leasehold relation is not only a factual issue, but is also an issue determined by the terms of the law. RA No. 3844 provides that agricultural leasehold relation is established: (1) by operation of law in accordance with Section 4 of the said act as a result of the abolition of the agricultural share tenancy system under RA No. 1199, and the conversion of share tenancy relations into leasehold relations; or (2) by oral or written agreement, either express or implied.[35] While petitioners Cadiz and Victoria claim to be instituted as tenants in 1962 or during the effectivity of RA No. 1199, and petitioners Villar and Dela Cruz claim to be instituted in 1972 or during the effectivity of RA No. 3844, the principles in establishing such relationship in cases before us have been the same for both laws.

For agricultural tenancy or agricultural leasehold to exist, the following requisites must be present: (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 landowner and tenant or agricultural lessee.[36] The absence of any of the requisites does not make an occupant, cultivator, or a planter, a *de jure* tenant which entitles

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[30] 3. Lands covered by application or grants that have been rejected, cancelled or revoked for violation of this Decree shall be disposed of to other qualified persons who will till the land themselves but **the share tenant actually tilling the land shall be entitled to preferential right to acquire the portion actually tilled by him if he is not otherwise disqualified to apply for the same** under the provisions of the Public Land Act. (Emphasis supplied.)

[31] Prohibiting the Employment or the Use of Share Tenants in Complying with Requirements of Law Regarding Entry, Occupation, Improvement and Cultivation of Public Lands, Amending for the Purpose Certain Provisions of Commonwealth Act No. 141, as amended, Otherwise Known as the Public Land Act (1973).

[32] *Rollo*, p. 48.

[33] RA No. 3844 took effect on August 8, 1963.

[34] An Act to Govern the Relations Between Landholders and Tenants of Agricultural Lands (Leaseholds and Share Tenancy) (1954).

[35] *Soliman v. Pampanga Sugar Development Company (PASUDECO), Inc.*, G.R. No. 169589, June 16, 2009, 589 SCRA 236, 247-248. Citations omitted.

[36] *Rodriguez v. Salvador,* G.R. No. 171972, June 8, 2011, 651 SCRA 429, 437.

him to security of tenure or to coverage by the Land Reform Program of the government under existing tenancy laws.[37]

In *Cunanan v. Aguilar*,[38] we held that a tenancy relationship can only be created with the true and lawful landowner who is the owner, lessee, usufructuary or legal possessor of the land, to wit:

> Under the foregoing factual milieu, private respondent's claims—(1) that petitioner was not agricultural tenant, and (2) that the recognition by the Court of Agrarian Relations of his alleged tenancy status has been secured thru misrepresentation and suppression of facts—must prevail.
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> (1) By petitioner's own claim filed with the CAR in 1970 he was constituted as tenant on the land by Pragmacio Paule. Paule was, however, ordered to vacate the holding and surrender the same to private respondents herein, the heirs of Ciriaco Rivera, as early as December 8, 1964 by the final and executory judgment in Civil Case No. 1477. Therefore, Paule's institution of petitioner as tenant in the holding did not give rise to a tenure relationship. **Tenancy relationship can only be created with the consent of the true and lawful landowner who is the owner, lessee, usufructuary or legal possessor of the land. It cannot be created by the act of a supposed landowner, who has no right to the land subject of the tenancy, much less by one who has been dispossessed of the same by final judgement.**[39] (Emphasis supplied; citations omitted.)

In this case, Ibuna's institution of respondents as tenants did not give rise to a tenure relationship because Ibuna is not the lawful landowner, either in the concept of an owner or a legal possessor, of the properties. It is undisputed that prior to the filing of the complaint with the DARAB, the transfers of the properties to Ibuna and his predecessor, Andres Castillo, were declared void in separate and previous proceedings.[40] Since the transfers were void, it vested no rights whatsoever in favor of Ibuna, either of ownership and possession. It is also for this reason that the DARAB erred in declaring Ibuna as a legal possessor who may furnish a landholding to respondents. That which is inexistent cannot give life to anything at all.[41]

Notably, upholding Ibuna as the legal possessor of the properties is inconsistent with petitioners' homestead since a homestead applicant is required to occupy and cultivate the land for his own and his family's

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37 *Reyes v. Heirs of Pablo Floro*, G.R. No. 200713, December 11, 2013, 712 SCRA 692, 705.
38 G.R. No. L-31963, August 31, 1978, 85 SCRA 47.
39 *Id.* at 58.
40 *Rollo*, p. 80.
41 See *Tongoy v. Court of Appeals,* G.R. No. L-45645, June 28, 1983, 123 SCRA 99, 121.

benefit, and not for the benefit of someone else.[42] Also, it must be recalled that the CA, in CA-G.R. CV No. 42237, ordered respondents to reconvey the properties to petitioners herein.[43] Upholding respondents' claim for tenancy, and consequently their possession of the properties, would frustrate this final and executory decision of the CA.

There being no agricultural tenancy relationship between petitioners and respondents, the DARAB acted beyond its jurisdiction when it ordered petitioners, among other things, to restore possession of the lands to respondents.

WHEREFORE, the petition is **GRANTED**. The DARAB Quezon City Decision dated July 5, 2006 and the Resolution dated March 11, 2009 in DARAB Cases Nos. 10543 and 10544, as well as the affirmed Decision of the DARAB-Region 2 dated October 14, 2000, are hereby **SET ASIDE**. The complaints in DARAB Case Nos. II-2063-ISA 2000 and II-2064-ISA 2000 are **DISMISSED**.

No costs.

SO ORDERED.

FRANCIS H. JARDELEZA
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

(On Official Leave)
DIOSDADO M. PERALTA
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

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[42] *Saltiga de Romero v. Court of Appeals*, G.R. No. 109307, November 25, 1999, 319 SCRA 180, 190-191, citing Section 90(e) of the Public Land Act. Section 90(e) provides:

> Sec. 90. Every application under the provisions of this Act shall be made under oath and shall set forth: x x x
>
> (e) That the application is made for the exclusive benefit of the application and not, either directly or indirectly, for the benefit of any other person or persons, corporation, association, or partnership.

[43] *Rollo*, p. 61.

BIENVENIDO L. REYES
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.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's attestation, it is hereby certified 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

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WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
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