EN BANC

G.R. No. 201631 – ANGELINA DAYRIT, represented by JULIE DAYRIT v. JOSE I. NORQUILLAS, ROGELIO I. NORQUILLAS, ROMIE I. NORQUILLAS, HERDANNY I. NORQUILLAS, DANILO M. NORQUILLAS, ANTHONY APUS, TECLO P. MUGOT, ALLAN A. OMPOC, JONI CLARIN, CANDELARIA MEJORADA, LILIA O. TAGANAS, SYLVIA SABAYANON, ARSENIO CATIIL, VERONICO MAESTRE, and MARIO TAGAYLO

Promulgated:

December 7, 2021

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CONCURRING OPINION

LAZARO-JAVIER, *J.*:

I agree with the *ponencia* that the Department of Agrarian Reform (DAR), not the Municipal Circuit Trial Court (MCTC) of Opol and El Salvador, Misamis Oriental, has jurisdiction over petitioner's complaint against respondents for forcible entry, considering that the case involves an agrarian dispute. This is in accordance with ***Chailese Development Co., Inc. v. Dizon***[1] and the amendment introduced in 2009 by Republic Act No. 9700[2] (RA 9700) to Republic Act No. 6657[3] (RA 6657). ***Chailese*** pertinently ordained:

> x x x x
>
> The **jurisdiction of the DAR** is laid down in **Section 50 of R.A. No. 6657**, otherwise known as the [Comprehensive Agrarian Reform Law] CARL, which provides:
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> Section 50. Quasi-Judicial Powers of the DAR. — The DAR is hereby vested with the **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 (Emphases added)

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1 G.R. No. 206788, February 14, 2018.

2 AN ACT STRENGTHENING THE COMPREHENSIVE AGRARIAN REFORM PROGRAM (CARP), EXTENDING THE ACQUISITION AND DISTRIBUTION OF ALL AGRICULTURAL LANDS, INSTITUTING NECESSARY REFORMS, AMENDING FOR THE PURPOSE CERTAIN PROVISIONS OF REPUBLIC ACT NO. 6657, OTHERWISE, KNOWN AS THE COMPREHENSIVE AGRARIAN REFORM LAW OF 1988, AS AMENDED, AND APPROPRIATING FUNDS THEREFOR.

3 AN ACT INSTITUTING A COMPREHENSIVE AGRARIAN REFORM PROGRAM TO PROMOTE SOCIAL JUSTICE AND INDUSTRIALIZATION, PROVIDING THE MECHANISM FOR ITS IMPLEMENTATION, AND FOR OTHER PURPOSES

x x x x

By virtue of Executive Order No. 129-A, the DAR Adjudication Board (DARAB) was designated to assume the powers and functions of the DAR with respect to the **adjudication of agrarian reform cases**, and **matters relating to the implementation of the CARP and other agrarian laws.**

The **exclusive jurisdiction of the DAR over agrarian cases** was **further amplified by the amendment** introduced by Section 19 of RA 9700 to **Section 50**. The provision reads:

> Section 19. Section 50 of Republic Act No. 6657, as amended, is hereby further amended by adding Section 50-A to read as follows:
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> SEC. 50-A. Exclusive Jurisdiction on Agrarian Dispute. — **No court** or prosecutor's office **shall take cognizance of cases pertaining to the implementation of the CARP** except those provided under Section 57 of Republic Act No. 6657, as amended. **If there is an allegation from any of the parties that the case is agrarian in nature and one of the parties is a farmer, farmworker, or tenant, the case shall be automatically referred by the judge or the prosecutor to the DAR** which shall **determine and certify** within fifteen (15) days from referral **whether an agrarian dispute exists**: Provided, that from the determination of the DAR, an aggrieved party shall have judicial recourse. In cases referred by the municipal trial court and the prosecutor's office, the appeal shall be with the proper regional trial court, and in cases referred by the regional trial court, the appeal shall be to the Court of Appeals.
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> In cases where regular courts or quasi-judicial bodies have competent jurisdiction, agrarian reform beneficiaries or identified beneficiaries and/or their associations shall have legal standing and interest to intervene concerning their individual or collective rights and/or interests under the CARP.
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> The fact of non-registration of such associations with the Securities and Exchange Commission, or Cooperative Development Authority, or any concerned government agency shall not be used against them to deny the existence of their legal standing and interest in a case filed before such courts and quasi-judicial bodies. (Emphases added)
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> x x x x

In this regard, it must be said that there is **no merit in the contention of petitioner that the amendment introduced by RA 9700 cannot be applied retroactively** in the case at bar. Primarily, a cursory reading of the provision readily reveals that **Section 19 of RA 9700 merely highlighted the exclusive jurisdiction of the DAR to rule on agrarian cases by adding a clause which mandates the automatic referral of cases upon the existence of the requisites therein stated**. Simply, **RA 9700 does not deviate but merely reinforced the jurisdiction of the DAR** set forth under Section 50 of RA 6657. More, in the absence of any stipulation to the contrary, **as the**

amendment is essentially procedural in nature it is deemed to apply to all actions pending and undetermined at the time of its passage.

Thence, having settled that Section 19 of RA 9700 is applicable in this controversy, the Court now proceeds with the examination of such amendment. **Based on the said provision, the judge or prosecutor is obligated to automatically refer the cases pending before it to the DAR when the following requisites are present:**

a. There is **an allegation from any one or both of the parties that the case is agrarian in nature**; and

b. **One of the parties is** a farmer, farmworker, or **tenant.**

In this case, the presence of the first requisite is satisfied by the allegations made by the respondents in their Answer with Counterclaim.

The allegations in petitioner's complaint make a case for recovery of possession, over which the regular courts have jurisdiction. In response thereto, however, **the respondents filed their Answer with Counterclaim, assailing the jurisdiction of the regular court to rule on the matter on the ground that it is agrarian in nature**, which **thus complies with the first requisite**, *viz.*:

> x x x x
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> Anent the second requisite, the Court finds that the respondents failed to prove that they are farmers, farmworkers, or are agricultural tenants.
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> Section 3 of R.A. No. 6657 defines farmers ... as follows:
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> (f) Farmer refers to a **natural person whose primary livelihood is cultivation of land or the production of agricultural crops, either by himself**, or primarily with the assistance of his immediate farm household, whether the land is owned by him, or by another person under a leasehold or share tenancy agreement or arrangement with the owner thereof.
>
> x x x x

An agricultural tenancy relation, on the other hand, is established by the concurrence of the following elements enunciated by the Court in ***Chico v. CA***,[4] *viz.*:

> x x x (1) that the parties are the landowner and the tenant or agricultural lessee; (2) that the subject matter of the relationship is an agricultural land; (3) that there is consent between the parties to the relationship; (4) that the purpose of the relationship is to bring about agricultural production; (5) that there is personal cultivation on the part of the tenant or agricultural lessee;

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[4] 348 Phil. 37, 43 (1998)

> and (6) that the harvest is shared between the landowner and the tenant or agricultural lessee.
> x x x x

Contrary to the Court of Appeal's conclusion and as opposed to the first requisite, mere allegation would not suffice to establish the existence of the second requirement. Proof must be adduced by the person making the allegation as to his or her status as a farmer, farmworker, or **tenant.**

The pertinent portion of Section 19 of RA 9700 reads:

> x x x If there is an allegation from any of the parties that the case is agrarian in nature and one of the parties is a farmer, farmworker, or tenant, the case shall be automatically referred by the judge or the prosecutor to the DAR x x x.

The use of the word "an" prior to "allegation" indicate that the latter qualifies only the immediately subsequent statement, *i.e.*, that the case is agrarian in nature. Otherwise stated, an allegation would suffice only insofar as the characterization of the nature of the action.

Had it been the intention that compliance with the second element would likewise be sufficient by a mere allegation from one of the parties that he or she is a farmer, farm worker, or tenant, the legislature should have used the plural form when referring to "allegation" as the concurrence of both requisites is mandatory for the automatic referral clause to operate.

Further instructive is this Court's ruling in the previously cited case of ***Chico***. Therein, the Court held that **for the purpose of divesting regular courts of its jurisdiction in the proceedings lawfully began before it and in order for the DARAB to acquire jurisdiction, the elements of a tenancy relationship must be shown by adequate proof.** It is **not enough that the elements are alleged.**[5] Likewise, self-serving statements in the pleadings are inadequate.

Section 3 (d) of RA 6657 as amended defines an "agrarian dispute" as:

> x x x **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 this Act 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. (Emphases added)

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[5] See supra note 4.

x x x x

Here, respondents consistently maintained that the case is **agrarian** in nature. This consistent argument is well documented in the *ponencia* itself. Hence, the **first requisite** is **complied** with. It is also **clear** that respondents are **tenants-farmers** of petitioner.

Their **action to sneak into the landholdings** and petitioner's **court case** involved **incidents arising from their landlord-tenant** relationship.[6] This too is amply documented in the *ponencia*. Thus, the **second requisite** is present.

Indeed, there **would have been no dispute** between the parties and no present cases before us (before the Court resolved to deconsolidate G.R. No. 201076 from G.R. No. 201631) **had it not been** for their **agrarian relationship** and **agrarian contest** at the DAR through the DARAB.

Under the 2009 amendment to RA 6657, it is the DAR through the DARAB that has **subject-matter jurisdiction** over petitioner's ejectment case.

It may be **true** that **respondents** had been **issued Certificates of Land Ownership Award (CLOAs). Ordinarily**, they **would have already acquired vested rights of absolute ownership** over the landholdings and **would have already ceased to be mere tenants.**[7] **But** the CLOAs did **not** attain **finality**. Petitioner initiated and **in fact won** a petition for annulment of these CLOAs at the PARAD level. She also **applied for exemption** of the landholdings from CARP coverage at DAR. This application has been **granted**. Just like the CLOAs, nonetheless, the **annulment** of the CLOAs and the **exemption** of the landholdings from CARP coverage have **not** become final and executory. All these incidents mean that the **agrarian relationship** and **agrarian dispute** have **not been terminated**. As long as the **subject matter of the dispute** is the **legality of the termination of the relationship**, or if the **dispute originates from such relationship**, the case is **cognizable** by the DAR through the DARAB.[8]

Insofar as the case is concerned, **neither** the first **nor** the second level courts had then the benefit of Section 50-A of RA 6657 as amended – they **did not have then the mandate to refer** the dispute to the DAR for certification as an agrarian or non-agrarian dispute. **In any event**, our **doctrine** is that this type of jurisdiction **cannot be waived** by the **parties** or by the **courts**.[9] As we have consistently held: "Laws can only be amended by a subsequent law, and nothing that parties do in any case can change it. Thus, the **question of jurisdiction over the subject matter** can be **raised even for**

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6 See *Ofilada v. Spouses Andal*, 752 Phil. 27 (2015).
7 See *Bumagat v. Arribay*, 735 Phil. 27 (2014).
8 *Spouses Amurao v. Spouses Villalobos*, 524 Phil. 762, 773 (2006).
9 See *Republic v. Mangotara*, 638 Phil. 353 (2010).

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the first time on appeal, not simply because it is jurisdiction over the subject matter, but mainly **because it is the law that prescribes it**."[10]

THUS, I vote to **DISMISS** the Petition in G.R. No. 201631 and **AFFIRM** the January 27, 2012 Decision and March 28, 2012 Resolution of the Court of Appeals in CA-G.R. SP No. 03121. I also vote to **reverse** and **set aside** the April 17, 2007 Decision of the 7th Municipal Circuit Trial Court of Opol and El Salvador, Misamis Oriental in Civil Case No. 2000-09-16, as well as the December 10, 2008 Decision of the Regional Trial Court, Branch 39, Cagayan de Oro City in Civil Case No. 2007-116 affirming the 7th Municipal Circuit Trial Court's (MCTC) Decision.

AMY C. LAZARO-JAVIER
Associate Justice

[10] *Philippine Long Distance Telephone Corporation v. Citi Appliance M.C. Corporation*, G.R. No. 214546, October 9, 2019.