



Republic of the Philippines
 Supreme Court
 Manila

THIRD DIVISION

ROBERTO BACAR,

Petitioner,

G.R. No. 226098

- versus -

**PEOPLE OF THE PHILIPPINES and
 VICENTE TAN,**

Respondents.

X-----X

VICENTE TAN,

Petitioner,

G.R. No. 233817

Present:

CAGUIOA, J.,
 Chairperson,

- versus -

INTING,*
 GAERLAN,
 DIMAAMPAO, and
 SINGH, JJ.

MICHAEL MERCADO,

Respondent.

Promulgated:
August 23, 2023

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DECISION

GAERLAN, J.:

Before this Court are Petitions for Review on *Certiorari*,¹ filed by petitioners Roberto Bacar (Bacar) and Vicente Tan (Tan), respectively.

* On leave.

¹ *Rollo* (G.R. No. 226098), pp. 24-38; *rollo* (G.R. No. 233817), pp. 10-24.

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In G.R. No. 226098, Bacar assails the Decision² dated February 4, 2016 and the Resolution³ dated August 18, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 132904, which affirmed the Orders dated November 29, 2012⁴ and September 11, 2013⁵ of the Regional Trial Court (RTC) of Puerto Princesa City, Branch 95 in Criminal Case No. 23639, denying Bacar's Motion to Quash (Based on Lack of Jurisdiction).⁶

In G.R. No. 233817, Tan assails the Decision⁷ dated January 20, 2017 and the Resolution⁸ dated July 10, 2017 of the CA in CA-G.R. SP No. 132905, which ordered the RTC of Puerto Princesa City, Branch 95 to refer Criminal Case No. 23640 to the Department of Agrarian Reform Adjudication Board (DARAB) – Region VI-B – Office of the Provincial Adjudicator.

Antecedents for G.R. No. 226098

On August 7, 2008, Bacar and his brother-in-law, Michael Mercado (Mercado) filed before the Office of the Provincial Adjudicator of the DARAB a petition against Tan for the reinstatement of their tenancy status, docketed as DARAB Case Nos. R-0407-0008 to 0010-08, entitled "*Roberto Bacar and Michael Mercado v. Vicente Tan, Stephen Tan, and Lorenzo Tan Development Corporation.*"⁹

On October 8, 2008, Bacar was charged with the crime of Qualified Theft before the RTC, in an Information,¹⁰ which reads as follows:

That on or about the 24th day of February 2008, at around 10:30 o'clock in the morning, at Sitio Tagusao, Barangay Barong-Barong, Municipality of Brooke's Point, Province of Palawan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, being then a copra-maker, has free access in the coconut plantation belonging to one ATTY. VICENTE TAN, with grave abuse of confidence reposed on him, with intent to gain, did then and there willfully, unlawfully and feloniously take, steal and carry away two (2) sacks of copra, valued at ONE THOUSAND FOUR HUNDRED PESOS (PhP1,400.00), Philippine currency, without the knowledge and consent of its owner, to his damage and prejudice in the amount afore-stated.

² *Rollo* (G.R. No. 226098), pp. 9-18. Penned by Associate Justice Noel G. Tijam (former Member of this Court), with Associate Justices Francisco P. Acosta and Eduardo B. Peralta, Jr., concurring

³ *Id.* at 20-21.

⁴ *Id.* at 205-207. Penned by Presiding Judge Bienvenido C. Blancaflor.

⁵ *Id.* at 222-229.

⁶ *Id.* at 157-166.

⁷ *Rollo* (G.R. No. 233817), pp. 45-52. Penned by Associate Justice Leoncia Real-Dimagiba, with Associate Justices Ramon R. Garcia and Jhosep Y. Lopez (now a member of this Court), concurring.

⁸ *Id.* at 5-6.

⁹ *Rollo* (G.R. No. 226098), p. 10.

¹⁰ *Id.* at 127-128.

CONTRARY TO LAW.¹¹ (Emphasis and italics in the original)

On January 22, 2009, Bacar was arraigned and entered the plea of “not guilty.”¹²

Meanwhile, on December 12, 2011, the Office of the Provincial Adjudicator of the DARAB rendered a Decision¹³ in DARAB Case Nos. R-0407-0008 to 0010-08 (DARAB Decision), declaring Bacar and Mercado as tenants *de jure* of the landholdings owned by Tan, thus:

Based on the foregoing, all the essential requisites of tenancy were fully satisfied by complainants Bacar and Mercado. As such, they should be declared as tenants *de jure* over the properties subject matter of this case.

WHEREFORE, complainants Roberto Bacar and Michael Mercado are hereby declared as tenants *de jure* of the properties owned by respondents Vicente Tan and Tan Development Company, Incorporated (now respondent Lorenzo Tan Development Corporation) registered with the Registry of Deeds for the Province of Palawan under Transfer Certificates of Title Nos. 3810, 5610, and 5611.

As tenants *de jure*, they are entitled to reinstatement as they are hereby declared reinstated, to their respective areas of tillage, and must be maintained in the peaceful possession and enjoyment of the said landholdings.

Therefore, respondents Vicente Tan and Lorenzo Tan Development Corporation and their agents, successors-in-interest or assigns including respondent Stephen Tan, are hereby directed to respect the rights of complainants Bacar and Mercado as tenants *de jure*, accorded to them under Republic Act No. 3844, as amended and other related laws. They are directed to immediately reinstate complainants Bacar and Mercado on the subject landholdings and maintain them in peaceful possession of the same.

x x x x

SO ORDERED.¹⁴ (Emphases in the original)

Based on the DARAB Decision, Bacar filed a Motion to Quash¹⁵ the Information in Criminal Case No. 23639, arguing that, since he had been adjudged as a tenant *de jure* by the DARAB, the RTC has no jurisdiction to try his case as the same involves an agrarian dispute. Hence, Bacar claimed that the matter fell within the exclusive jurisdiction of the Department of

¹¹ Id. at 127.

¹² Id. at 10.

¹³ Id. at 129-146.

¹⁴ Id. at 145-146.

¹⁵ Id. at 157-166.

Agrarian Reform (DAR), in accordance with Section 50-A of Republic Act (R.A.) No. 6657, as amended by R.A. No. 9700.¹⁶

On November 29, 2012, the RTC issued an Order,¹⁷ which denied Bacar's Motion to Quash. In denying the same, the RTC held that it has jurisdiction over the case and ruled that the criminal case for Qualified Theft against Bacar did not pertain to the implementation of the Comprehensive Agrarian Reform Program (CARP) nor did it involve an agrarian dispute.¹⁸

Bacar moved for reconsideration,¹⁹ but the same was denied by the RTC in its Order²⁰ dated September 11, 2013. Thus, Bacar filed a Petition for *Certiorari* and Prohibition with Prayer for a Temporary Restraining Order and/or Issuance of a Writ of Prohibitory Injunction²¹ before the CA, primarily arguing that the RTC committed grave abuse of discretion amounting to lack or excess of jurisdiction when it denied Bacar's Motion to Quash, considering that the RTC has no jurisdiction over the case.²²

On February 4, 2016, the CA rendered its Decision,²³ which dismissed Bacar's Petition and affirmed the Orders²⁴ of the RTC:

WHEREFORE, premises considered, the *Petition for Certiorari and Prohibition with Prayer of Temporary Restraining Order and/or Issuance of a Writ of Prohibitory Injunction* is **DISMISSED**. The *Orders* dated November 29, 2012 and September 11, 2013 issued by the Public Respondent Judge Bienvenido C. Blancaflor are hereby **AFFIRMED**.

SO ORDERED.²⁵ (Emphases and italics in the original)

¹⁶ Section 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.

x x x x (Emphases supplied)

¹⁷ *Rollo* (G.R. No. 226098), pp. 205-207.

¹⁸ *Id.* at 207.

¹⁹ *Id.* at 195-217.

²⁰ *Id.* at 222-229.

²¹ *Id.* at 231-261.

²² *Id.* at 241.

²³ *Id.* at 9-18

²⁴ *Id.* at 205-207, 222-229.

²⁵ *Id.* at 17.

According to the CA, the present case involves an allegation of a violation of Article 310²⁶ of the Revised Penal Code for the crime of Qualified Theft, and the Information filed against Bacar neither involves any agrarian dispute nor any incident arising from the implementation of the CARP. Thus, the CA decreed that the RTC has criminal jurisdiction to hear and decide the case against Bacar. Further, the CA noted that while the DARAB Decision adjudged Bacar as a tenant *de jure*, such status does not prohibit Tan, as the landowner, from filing a criminal case against him.²⁷

After the denial of Bacar's Motion for Reconsideration²⁸ in the Resolution²⁹ dated August 18, 2016 of the CA, Bacar filed his Petition for Review on *Certiorari* with Application for the Issuance of a Temporary Restraining Order (TRO) and/or Writ of Preliminary Prohibitory Injunction³⁰ before this Court.

Antecedents for G.R. No. 233817

Mercado was, likewise, charged with the crime of Qualified Theft before the RTC, docketed as Criminal Case No. 23640. In the Information,³¹ Mercado was charged as follows:

That on or about the 25th day of February 2008, at around 4:30 o'clock in the morning at Sitio Tagusao, Barangay Barong-Barong, Municipality of Brook's Point, Province of Palawan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, being then a copra-maker, has free access in the coconut plantation belonging to one ATTY. VICENTE TAN, with grave abuse of confidence reposed upon him, with intent to gain, did then and there willfully, unlawfully and feloniously take, steal and carry away one (1) sack of copra, valued at SEVEN HUNDRED ELEVEN PESOS (PhP711.00), Philippine currency, without the knowledge and consent of its owner, to his damage and prejudice in the amount afore stated.

CONTRARY TO LAW.³² (Emphasis and italics in the original)

²⁶ Article 310. *Qualified theft*. – The crime of theft shall be punished by the penalties next higher by two degrees than those respectively specified in the next preceding article, if committed by a domestic servant, or with grave abuse of confidence, or if the property stolen is motor vehicle, mail matter or large cattle or consists of coconuts taken from the premises of the plantation or fish taken from a fishpond or fishery, or if property is taken on the occasion of fire, earthquake, typhoon, volcanic eruption, or any other calamity, venicular accident or civil disturbance. (As amended by R.A. No. 120 and B.P. Blg. 71, May 1, 1980).

²⁷ *Rollo* (G.R. No. 226098), pp. 16-17.

²⁸ *Id.* at 80-101.

²⁹ *Id.* at 20-21.

³⁰ *Id.* at 24-38.

³¹ *Rollo* (G.R. No. 233817), pp. 112-113.

³² *Id.* at 112.

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During arraignment, Mercado pleaded “not guilty.”³³

Notably, because of the DARAB Decision in DARAB Case Nos. R-0407-0008 to 0010-08, which declared both Bacar and Mercado as tenants *de jure* in the landholdings owned by Tan, Mercado filed before the RTC a Motion to Quash (Based on Lack of Jurisdiction). In his Motion to Quash, he averred that the RTC has no jurisdiction to hear and decide the case against him because it involves an agrarian dispute, which is within the exclusive jurisdiction of the DAR.³⁴

On December 26, 2012, the RTC denied Mercado’s Motion to Quash, ratiocinating that:

The case at bar for Qualified Theft under Article 310 of the Revised Penal Code was filed due to the alleged stealing by the accused of coconuts taken [from] the premises of a plantation of the private nominal complainant. Clearly, it is not a case pertaining to the implementation of the CARP. It does not [involve an] agrarian dispute as defined under Sec. 3(d) of R.A. No. 6657 because the taking of the coconut has nothing to do with tenurial arrangements, compensation of lands and other terms and conditions of transfer of ownership x x x It is the court which has jurisdiction over this criminal case and not the DARAB. As riled by DARAB-[Office of the Provincial Adjudicator], the reinstatement case ([D]ARAB Case No. R-0407-0008 to 0010-08) is different and foreign to the criminal case being tried by the Regional Trial Court, the resolution of which will be made by relying on the provisions of the Revised Penal Code x x x

In view of the foregoing, the Motion to Quash on the lack of jurisdiction filed by the accused is hereby denied for utter lack of merit.³⁵

Aggrieved, Mercado filed a Motion for Reconsideration, but the same was denied by the RTC in its Order dated September 11, 2013. Hence, Mercado elevated his case before the CA, ascribing grave abuse of discretion on the part of the RTC.³⁶

On January 20, 2017, the CA rendered its Decision,³⁷ which granted Mercado’s Petition and ordered the RTC to refer the case to the Office of the Provincial Adjudicator of the DARAB.³⁸

³³ Id. at 46.

³⁴ Id.

³⁵ Id. at 47.

³⁶ Id.

³⁷ Id. at 45-52.

³⁸ Id. at 51.

To support its ruling, the CA emphasized that under Section 50-A of R.A. No. 6657, as amended by R.A. No. 9700, a judge or prosecutor is mandated to refer the case to the DAR for the determination of the existence of an agrarian dispute if the same pertains to the implementation of the CARP, or if any of the parties allege that the case is agrarian in nature and one of the parties is a tenant.³⁹ Further, the CA observed that while the RTC has jurisdiction over a criminal case for Qualified Theft, the DARAB Decision adjudging Mercado as a tenant *de jure* reveals that the case is agrarian in nature, and therefore, must be referred to the DAR, in accordance with the law, thus:

While it is true that the RTC has jurisdiction over the qualified theft case filed under Article 310 of the Revised Penal Code, the DARAB decision adjudging Mercado as a *de jure* tenant has played a vital part in this case. From our careful scrutiny of the records of the case, we gather that the actual controversy between Mercado and Tan/Lorenzo Tan Development Corporation (formerly Tan Development Company, Inc.) is agrarian in nature brought about by the adverse relationship between the landowner and his tenant. Such being the case, it is within the jurisdictional domain of the DARAB, which has jurisdiction in *(c)ases involving the rights and obligations of persons engaged in the cultivation and use of agricultural land covered by the Comprehensive Agrarian Reform Program (CARP) and other agrarian laws*. This is in line with the doctrine of primary jurisdiction which precludes the regular courts from resolving a controversy over which jurisdiction has been lodged with an administrative body of special competence.

WHEREFORE, premises considered, the petition is **GRANTED** and the Regional Trial Court of Puerto Princesa City, Branch 95 is **ORDERED** to refer the case to the Department of Agrarian Reform Adjudication Board (DARAB)-Region IV-B (MIMAROPA) – Office of the Provincial Adjudicator.

SO ORDERED.⁴⁰ (Emphases and italics in the original)

The People of the Philippines, through the Office of the Solicitor General (OSG), moved for reconsideration. However, in its Resolution⁴¹ dated July 10, 2017, the CA denied the same. Hence, the instant Petition for Review on *Certiorari*⁴² filed by Tan before this Court.

³⁹ Id. at 49-50.

⁴⁰ Id. at 51.

⁴¹ Id. at 5 -6.

⁴² Id. at 10-24.

The Instant Petitions

In the G.R. No. 226098 Petition, Bacar primarily argues that the CA committed a grave error when it dismissed his Petition for *Certiorari*, considering that it is undisputed that the case involves an agrarian dispute. Thus, he prays that this Court: (1) declare that the RTC has no jurisdiction to try and decide Criminal Case No. 23639; (2) order the RTC to dismiss the criminal case against him; and (3) issue injunctive relief in his favor to enjoin the RTC from conducting any further proceedings in Criminal Case No. 23639.

On October 3, 2016, this Court rendered a Resolution,⁴³ issuing a TRO, effective immediately, enjoining the RTC from conducting further proceedings or hearings in Criminal Case No. 23639. In the same Resolution, this Court, likewise, directed the OSG and Tan to file their respective comments.

Thereafter, both the OSG and Tan filed their Manifestations,⁴⁴ stating that they are adopting the Comments⁴⁵ they filed before the CA as their Comments to the G.R. No. 226098 petition. In response thereto, on April 17, 2017 and October 2, 2017, Bacar filed his Replies⁴⁶ to the OSG and Tan's Comments.

In the meantime, on September 11, 2017, Tan filed the G.R. No. 233817 Petition, assailing the ruling of the CA, and arguing, in the main, that the RTC has jurisdiction to hear and decide the cases of Qualified Theft he filed. Likewise, he prayed for the consolidation of the G.R. No. 233817 and the G.R. No. 226098 petitions and for this Court to order the RTC to continue hearing the criminal cases of Qualified Theft he filed against both Bacar and Mercado.⁴⁷

The Issue

At the crux of the controversy is the determination of whether the RTC has jurisdiction to hear and decide the criminal cases of Qualified Theft filed against Bacar and Mercado, despite the DARAB Decision declaring them as tenants *de jure* of the landholdings owned by Tan.

⁴³ *Rollo* (G.R. No. 226098), pp. 340-347.

⁴⁴ *Id.* at 348-350, 369-371.

⁴⁵ *Id.* at 355-367, 372-385.

⁴⁶ *Id.* at 395-415, 430-454.

⁴⁷ *Rollo* (G.R. No. 233817), pp. 15-21.

The Court's Ruling

Section 50-A of R.A. No. 6657, as amended by R.A. No. 9700 provides:

Section 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.

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.

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 supplied)

From the aforecited provision, it is clear that when a case before a judge or a prosecutor involves the implementation of the CARP, or when the case is agrarian in nature and there is an allegation that one of the parties is a farmer, farmworker, or a tenant, the judge or prosecutor is mandated to refer the matter to the DAR for the determination of the existence of an agrarian dispute.

Notably, the said provision has already been expounded by this Court in numerous cases. In *Chailese Development Company, Inc. v. Dizon*,⁴⁸ this Court enumerated the requisites for a matter to be automatically referred to the DAR:

⁴⁸ 826 Phil. 51 (2018).

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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.⁴⁹

These twin requirements for the automatic referral to the DAR have been reiterated by this Court in *Dayrit v. Norquillas*⁵⁰ (*Dayrit*), to wit:

Then there is the more recent case of *Chailese Development Company, Inc. v. Dizon (Chailese)*, which clarifies the jurisdiction of the DARAB over agrarian disputes:

Thence, having settled that Section 19 of R.A. No. 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.

RA 9700 reinforced the jurisdiction of DAR as already provided in the original CARL. It made clear the requisites for a case to be considered to be an agrarian dispute. It also mandated the automatic referral upon concurrence of the requisites. In *Chailese*, the Court retroactively applied RA 9700 to the case and ruled that the RTC has jurisdiction over the possessory action due to absence of evidence on the existence of a tenancy relation, thus failing to satisfy the second requisite.⁵¹ (Citations omitted)

Invariably, upon the concurrence of the two requisites, a judge or prosecutor must refer the case to the DAR. To implement the same, this Court issued OCA Circular No. 62-10,⁵² which enjoined all courts and judges “to strictly observe Section 50-A of R.A. No. 6657, as amended by R.A. No.

⁴⁹ Id. at 62.

⁵⁰ G.R. No. 201631, December 7, 2021.

⁵¹ Id.

⁵² Implementation of Sections 7 and 50-A of R.A. No. 6657, Also Known as the Comprehensive Agrarian Reform Law of 1988, as Respectively Amended by Sections 5 and 19 of R.A. No. 9700 (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).

9700, and to refer all cases before it alleged to involve an agrarian dispute to the DAR for the necessary determination and certification.” At the same time, the DAR issued Administrative Order (A.O.) No. 04-09⁵³ and A.O. No. 03-11.⁵⁴

A.O. No. 03-11, which amended A.O. No. 04-09, in pertinent part, reads:

Section 2. *Cases Covered.* – These guidelines shall apply to the procedure on the referral of cases which are agrarian in nature to the DAR by the Prosecutor’s Office, the Municipal Circuit Trial Court, Municipal Trial Court, Metropolitan Trial Court and the Regional Trial Court (MCTC, MTC, MeTC, and RTC, respectively), **whether it be criminal or civil in nature**, except those involving issues of just compensation or the prosecution of criminal offenses as provided for by Section 57 of R.A. No. 6657, as amended by R.A. No. 9700.

Section 3. *When Automatic Referral Shall Be Made.* – The referral to the DAR of a case by the Prosecutor’s Office, MCTC, MTC, MeTC, or RTC, shall be made in accordance with Department of Justice (DOJ) Circular No. 40, dated 07 June 2010, Supreme Court Office of the Court Administrator (OCA) Circular No. 62-2010, dated 28 April 2010, and other related circulars and issuances.

x x x x

Section 5. *Issues to Be Determined.* – Upon referral, the PARO may only give a ruling as to two issues:

- (1) Whether or not the cause of action of the pending case with the referring Court or Office of the Public Prosecutor is **agrarian in nature, the jurisdiction of which is lodged exclusively with the DAR**; or
- (2) Whether or not a matter within the exclusive jurisdiction of the DAR is a prejudicial question to the issue pending with the referring Court or Office of the Public Prosecutor.

No other issue may be adjudicated or determined by the PARO.

x x x x

Section 8. *Prima Facie Presumption of an Existence of Agrarian Dispute or that the Case is Agrarian in Nature.* – **The presence of any of the following facts or circumstances shall automatically give rise to a**

⁵³ Rules and Regulations Implementing Section 19 of R.A. No. 9700 (Jurisdiction on and Referral of Agrarian Dispute).

⁵⁴ Revised Rules and Regulations Implementing Section 19 of R.A. No. 9700 (Jurisdiction on and Referral of Cases that are Agrarian in Nature).

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***prima facie* presumption that an agrarian dispute exists or that the case is agrarian in nature:**

- (a) **A previous determination by the DAR that an agrarian dispute exists or that the case is agrarian in nature, or the existence of a pending action with the DAR, whether an Agrarian Law Implementation (ALI) case or a case before the DAR Adjudication Board (DARAB), which involves the same landholding;**

x x x x

If there is a *prima facie* presumption that an agrarian dispute exists or that the case is agrarian in nature, the burden of proving the contrary shall be on the party alleging the same.

Section 9. *Facts Tending to Prove that a Case is Agrarian in Nature.* – In addition to the instances mentioned in Section 7 hereof, the Chief of the Legal Division, or the DAR lawyer or legal officer assigned, in determining whether the case is agrarian in nature, shall be guided by the following facts and circumstances:

1. **Existence of a tenancy relationship;**
2. The land subject of the case is agricultural;
3. Cause of action involves ejectment or removal of a farmer, farmworker, or tenant;
4. **The crime alleged arose out of or is in connection with an agrarian dispute (i.e., theft or qualified theft of farm produce, estafa, malicious mischief, illegal trespass, etc.).** Provided, that the prosecution of criminal offenses penalized by R.A. No. 6657, as amended, shall be within the original and exclusive jurisdiction of the Special Agrarian Courts;
5. The land subject of the case is covered by a Certificate of Land Ownership Award (CLOA), Emancipation Patent (EP), or other title issued under the agrarian reform program, and that the case involves the right of possession, use, and ownership thereof; or
6. The civil case filed before the court of origin concerns the ejectment of farmers/tenants/farmworkers, enforcement or rescission of contracts arising from, connected with, or pertaining to an Agribusiness Ventures Agreement (AVA), and the like.

The existence of one or more of the foregoing circumstances may be sufficient to justify a conclusion that the case is agrarian in nature. The Chief of the Legal Division, or the DAR lawyer or legal officer assigned, shall accordingly conclude that the case is agrarian in nature cognizable by the DAR, and thus recommend that the referred case is not proper for trial.

Section 10. *DAR Certification.* – The PARO shall issue the Certification within forty-eight (48) hours from receipt of the report of the Chief of the Legal Division, DAR lawyer, or legal officer concerned. Such Certification shall state whether or not the referred case is agrarian in nature, as follows:

(a) *Where the case is NOT PROPER for trial for lack of jurisdiction:*

After a preliminary determination of the relationship between the parties pursuant to Section 50-A of R.A. No. 6657, as amended, this Office hereby certifies that the case is **agrarian in nature within the primary and exclusive jurisdiction of the DAR. It is therefore recommended to the referring (court/prosecutor) that the case be dismissed for lack of jurisdiction.**

x x x x

The Certification shall state the findings of fact upon which the determination by the PARO was based. (Emphases supplied)

Applying the above disquisitions, it is evidently clear that the twin requisites for mandatory referral to the DAR are present in this case. To recall, both Bacar and Mercado alleged in their Motions to Quash that, as evinced by the DARAB Decision, the case involves an agrarian dispute, and that they are tenants *de jure* of Tan's landholdings. As a matter of fact, the DARAB Decision already provides a *prima facie* presumption that the case involves an agrarian dispute, which must be referred to the DAR.

Significantly, it must be underscored that the recommendation of the DAR is not automatically conclusive upon the courts because the same is still subject to judicial recourse. As provided in Section 12 of A.O. No. 03-11:

Section 12. *Recommendation of the PARO is Final.* – The recommendation of the PARO is final and non-appealable. **Any party who may disagree with the recommendation of the PARO has judicial recourse by submitting his/her/its position to the referring Court or Office of the Public Prosecutor in accordance with the latter's rules.** (Emphasis supplied)

Clearly, the courts are not automatically bound to accept the recommendations made by the DAR as the courts must still assess and determine whether the recommendation is based on and supported by evidence.

At this juncture, it must be emphasized that this Court acknowledges that the RTC has jurisdiction over criminal cases for Qualified Theft, in

accordance with Batas Pambansa (B.P.) Blg. 129.⁵⁵ However, B.P. Blg. 129 cannot be read in isolation. Instead, in dealing with cases such as the present case, B.P. Blg. 129 must be read in conjunction with R.A. No. 6657 as amended by R.A. No. 9700.

In *Dayrit*, this Court interpreted the provisions of B.P. Blg. 129 *vis-à-vis* R.A. No. 6657 as amended by R.A. No. 9700, and ruled that the DAR has jurisdiction over cases when an agrarian dispute exists.

Notably, *Dayrit* involves an action for forcible entry, which is an action cognizable by the first level courts pursuant to B.P. Blg. 129. Nevertheless, this Court ruled that the DAR, and not the Municipal Circuit Trial Court, has jurisdiction because an agrarian dispute exists in the case. Thus, this Court elucidated:

As can be gleaned from these laws, **the MCTC has exclusive original jurisdiction over cases of forcible entry, while the DARAB has primary jurisdiction over agrarian disputes.** An agrarian dispute refers to any controversy relating to, as related to the instant case, tenancy over lands devoted to agriculture and transfer of ownership from landowner to farmworkers, tenants, and other agrarian reform beneficiaries. The amended CARL adds that the judge or prosecutor shall automatically refer the case to the DAR 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.

Relevantly, in the case of *David v. Cordova (David)*, the Court upheld the jurisdiction of the MCTC over a complaint for forcible entry. The Court found that complainant therein sufficiently alleged in his complaint that he had prior physical possession of the property and that he was unlawfully deprived thereof. The Court also discussed that the alleged public character of the land does not deprive the first-level court of jurisdiction over the forcible entry case. x x x

x x x x

It must be stressed that *David* did not lay down the rule that all ejectment cases, whether involving an agrarian dispute or not, are cognizable by the first-level courts. As Justice Caguioa has pointed out, the reason why the Court sustained the MCTC's jurisdiction therein is not because the case is summary in nature, but because **it does not involve an agrarian dispute.** *David* clearly states that the dispute therein is not an agrarian matter. Also, there is indeed an allegation that the land is public in nature – this was even discussed in the ruling. However, the land being public in character is completely separate from the existence of an agrarian dispute. When a dispute involves a public land, it does not necessarily amount to an agrarian dispute; an agrarian dispute is specifically defined in the law.

⁵⁵ An Act Reorganizing the Judiciary, Appropriating Funds Therefor, and for Other Purposes, August 14, 1981.

Thus, *David* should not be understood that jurisdiction on ejectment cases of whatever nature falls on first-level courts; it should be read and understood to provide that **first-level courts have jurisdiction on ejectment cases even if the land is public in character as long as the case is not an agrarian dispute**. The public character of the land does not divest the courts of jurisdiction over ejectment cases. **However, if the ejectment case is found to be an agrarian dispute, the first-level courts will be divested of jurisdiction in accordance with the CARL, as amended. The controlling aspect, therefore, is the nature of the dispute (i.e., agrarian or not) and not the character of the subject land.**

Then there is the more recent case of *Chailese Development Company, Inc. v. Dizon (Chailese)*, which clarifies the jurisdiction of the DARAB over agrarian disputes[.]

x x x x

Based on the foregoing, *David* and *Chailese* can be viewed as guides for the courts in tackling ejectment and possessory actions allegedly involving agrarian disputes. ***David* instructs that not all ejectment cases are cognizable by the first-level courts — those involving agrarian disputes are not cognizable by the first-level courts. In this relation, *Chailese* clarifies the requisites for an agrarian dispute, and highlights the mandate of the amendatory law of automatic referral of cases involving agrarian disputes to the DAR.**⁵⁶ (Emphases supplied; citations omitted)

Similarly, in *CRC 1447, Inc. v. Calbatea*⁵⁷ (*CRC 1447*), this Court had the occasion to rule that while a case involving recovery of possession of property is within the jurisdiction of the regular courts, if the same involves an agricultural dispute, it must be dismissed or referred to the DAR. In particular, in *CRC 1447*, the respondents, in their Answer, alleged that the case involves an agrarian dispute because they are agrarian reform beneficiaries, and prayed that the case be dismissed for lack of jurisdiction, or be referred to the DAR. In ruling that the lower court correctly dismissed the case for being an agrarian dispute, this Court declared:

It is a basic rule that jurisdiction over the nature and subject matter of an action is conferred by law and determined by the allegations in the complaint. Further, jurisdiction should be determined by considering not only the status or the relationship of the parties, but also the nature of the issues or questions that is the subject of the controversy. Specifically in this case, if the issues between the parties are intertwined with the resolution of an issue within the exclusive jurisdiction of the DARAB, such dispute must be addressed and resolved by the DARAB.

x x x x

⁵⁶ *Dayrit v. Norquillas*, supra note 51.

⁵⁷ G.R. No. 237102, March 4, 2020.

In this case, the averments in the Complaint seemingly make out a case for recovery of property, which is clearly within the jurisdiction of the regular courts. Said Complaint, however, failed to mention that the subject property is an agricultural land, placed under the coverage of the CARP as stated in the Notice of Coverage. x x x

x x x x

In all, it is inaccurate to argue that the case simply involves an ordinary recovery of possession controversy. The subject of petitioner's Complaint undoubtedly involves the use of an agricultural land, which is the subject of the implementation of the CARP. Verily, the RTC and the CA correctly found that the case falls squarely within the jurisdictional ambit of the DARAB.

In these lights, the Court finds the RTC's dismissal of the petition *a quo*, as affirmed by the CA, in order.⁵⁸ (Emphasis supplied; citations omitted)

Indeed, the aforementioned cases involve civil cases, and not a criminal case, such as the case at bar. Nonetheless, the same ruling – that the case must be referred to the DAR when an agricultural dispute exists – is incontrovertibly applicable in this case. To reiterate, A.O. No. 03-11 covers cases both civil or criminal in nature, so long as the twin requisites of automatic referral are complied with. In fact, A.O. No. 03-11 explicitly provides that cases involving Qualified Theft are covered.

More, in *Ligtas v. People*⁵⁹ (*Ligtas*), a case with a similar factual milieu to the instant case, this Court pronounced that the DARAB's declaration that an accused is a tenant may negate the finding of guilt beyond reasonable doubt in the crime of theft because "[t]enants having rights to the harvest cannot be deemed to have taken their own produce."⁶⁰

In said case, Monico Ligtas was charged with the crime of theft for allegedly stealing crops in an abaca plantation. In the meantime, ruling on a Complaint filed by Monico Ligtas, the DARAB rendered a Decision holding that he was a *bona fide* tenant on the abaca plantation. Based on such DARAB Decision, this Court observed that the prosecution was unable to establish all the elements of the crime of theft beyond reasonable doubt, and therefore, resolved to acquit Monico Ligtas.

Thus, as demonstrated by *Ligtas*, referral to the DAR is even more imperative in criminal cases because the DAR's findings *vis-à-vis* the

⁵⁸ Id.

⁵⁹ 766 Phil 750 (2015).

⁶⁰ Id. at 754

existence of an agricultural dispute and a tenancy relationship may have an effect on the guilt or innocence of an accused.

Based on all the foregoing disquisitions, it is undeniable that all the requisites for the mandatory referral to the DAR have been satisfied. In fact, the DAR had already made a determination that both Bacar and Mercado are tenants *de jure* in Tan's landholdings and that an agrarian dispute exists.

True, the proceedings in this case did not strictly follow the procedure laid out in A.O. No. 03-11. To be clear, if A.O. No. 03-11 was strictly followed, the sequence of events would have been: (1) the case would immediately be referred to the DAR; (2) the DAR would issue a recommendation following a finding that an agrarian dispute exists; and (3) the court would review the recommendation and dismiss the case accordingly. In this case, however, the DARAB already made a determination that an agrarian dispute exists and that Bacar and Mercado are tenants *de jure* even before the matter could be referred to the DAR.

Notwithstanding the fact that the procedure for mandatory referral was not strictly complied with, this Court finds that a referral to the DAR in this case would be redundant and would serve no further purpose. Undoubtedly, a referral to the DAR in this case would unnecessarily prolong litigation, especially when all submissions before this Court are sufficient for the Court to proceed and resolve the case.

Thus, after a judicious scrutiny of all the submissions before this Court, this Court resolves to dismiss the criminal cases filed against Bacar and Mercado for Qualified Theft. To reiterate, the DARAB already declared that an agrarian dispute exists because Bacar and Mercado are considered tenants *de jure* in the landholdings of Tan. Such findings of the DARAB deserve respect and are binding upon this Court because, as borne by the records, these findings are supported and based on substantial evidence.⁶¹ More compellingly, it appears that the DARAB Decision, which contains such findings, had already attained finality.

These considered, the criminal cases against Bacar and Mercado for Qualified Theft must be dismissed. To be sure, the essential elements of Qualified Theft are: (1) there was a taking of personal property; (2) the said property belongs to another; (3) the taking was done without the consent of the owner; (4) the taking was done with intent to gain; (5) the taking was accomplished without violence or intimidation against person, or force upon things; and (6) the taking was done under any of the circumstances

⁶¹ See *Ligtas v. People*, 766 Phil 750 (2015).

enumerated in Article 310 of the Revised Penal Code, *i.e.*, with grave abuse of confidence.⁶² However, as it is established that both Bacar and Mercado are tenants *de jure*, it is implied that they have authority to harvest the produce in Tan's landholdings. To echo the pronouncements in *Ligtas*:

x x x [A] tenant is entitled to the products of the land he or she cultivates. The landowner's share in the produce depends on the agreement between the parties. Hence, the harvesting done by the tenant is with the landowner's consent.

The existence of the DARAB Decision adjudicating the issue of tenancy between petitioner and private complainant negates the existence of the element that the taking was done without the owner's consent. The DARAB Decision implies that petitioner had legitimate authority to harvest the abaca. The prosecution, therefore, failed to establish all the elements of theft.⁶³

All in all, Criminal Case Nos. 23639 and 23640 must be dismissed, and Bacar and Mercado should be acquitted of the crime of Qualified Theft. As a final note, however, this Court finds it necessary to remind the Bench, the Bar, and all party-litigants to comply with the procedure laid out in R.A. No. 6657, as amended by R.A. No. 9700, and the implementing rules. These have been issued to precisely avoid unnecessary and prolonged litigation. Again, compliance with the mandatory referral mechanism becomes even more imperative in criminal cases because a person's liberty is at stake.


WHEREFORE, the Petition for Review on *Certiorari* in **G.R. No. 226098** is **GRANTED** and the Petition for Review on *Certiorari* in **G.R. No. 233817** is **DENIED**. Roberto Bacar and Michael Mercado are **ACQUITTED** of the crime of Qualified Theft defined and penalized under Article 310 of the Revised Penal Code.

Let entry of judgment be issued immediately.

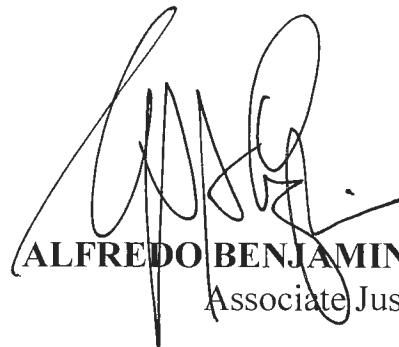
⁶² *Reside v. People*, 878 Phil. 122 (2020).

⁶³ *Ligtas v. People*, supra note 61 at 783.

SO ORDERED.


SAMUEL H. GAERLAN
Associate Justice

WE CONCUR:


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

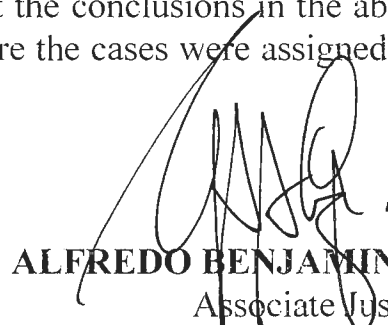
(On leave)
HENRI JEAN PAUL B. INTING
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice


MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third 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 cases were assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice

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