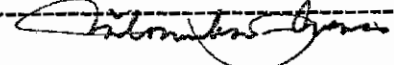


EN BANC

G.R. No. 244433 — ANTONIO R. CRUZ AND LORETA TERESITA CRUZ-DIMAYACYAC, AS HEIRS OF THE LATE SPOUSES DR. PROGEDIO R. CRUZ AND TERESA REYES, *petitioners, versus* CARLING CERVANTES AND CELIA CERVANTES SANTOS AND ALL PERSONS CLAIMING RIGHTS UNDER THEM, *respondents*;

Promulgated:

April 19, 2022

X----------X

CONCURRING OPINION

LEONEN, J.:

I concur with the *ponencia's* finding that the Municipal Trial Court correctly referred the case to the Provincial Agrarian Reform Office of the Department of Agrarian Reform. This mandatory referral mechanism under Section 50-A of Republic Act No. 6657 or the Comprehensive Agrarian Reform Law of 1988, as amended,¹ provides substantial mitigation against dilatory lawsuits filed against legitimate agrarian beneficiaries under the guise of unlawful detainer actions. That the Department of Agrarian Reform is given the initial opportunity to determine the existence of an agrarian dispute affords beneficiaries additional protection against suits that prevent them from enjoying their rights under our agrarian reform programs.² This is the very rationale of the amendment, as well as of the prior enlightened cases before such amendment.

I also concur with the *ponencia's* pronouncement, citing the observation of Associate Justice Alfredo Benjamin Caguioa, that “any kind of evidence which, on its face, tends to show that one of the parties is indeed a farmer, farmworker, or tenant”³ is sufficient to trigger the mandatory referral mechanism. This is a very wise interpretation which augurs well with the requirement of social justice found in our Constitution.

Likewise, I concur with the finding that the Certification issued by the Provincial Agrarian Reform Office failed to expound on the factual and legal basis for the finding of tenancy. The Certification violated the Department of Agrarian Reform Administrative Order No. 03-11, as amended, which requires the Certification to state the following:

¹ Republic Act No. 9700 (2009).

² See J. Leonen, Concurring Opinion in *Dayrit v. Norquillas*, G.R. No. 201631, December 7, 2021, <<https://sc.judiciary.gov.ph/28294/>> [Per J. Hernandez, *En Banc*].

³ *Ponencia*, p. 9.



SECTION 9. 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.

....

The Certification shall state the findings of fact upon which the determination by the PARO was based.⁴

The Certification in this case did not meet the rules' requirements. While it followed the contents as required by Section 9(a), it only declared that "the case is agrarian in nature for it involves an agricultural land and the cause of action is ejectment of a farmer, farmworker or tenant which is within the primary and exclusive jurisdiction of the [Department of Agrarian Reform]"⁵ without stating the basis for its determination that the case involves an agrarian dispute as required by the last paragraph. Its brevity was inordinate and clearly arbitrary.

However, I disagree with the *ponencia's* characterization that the findings of the Department of Agrarian Reform's Provincial Agrarian Reform Office are only recommendatory. The mandatory referral mechanism under Section 50-A is a recognition of the Department of Agrarian Reform's unique and integral role in the resolution of agrarian disputes. Describing its findings as only recommendatory forecloses any further administrative remedy within the Department of Agrarian Reform should there be a factual finding based on substantial evidence at the Provincial Agrarian Reform Office's level. Such a strong and broad characterization of the Provincial Agrarian Reform Office's role as merely recommendatory weakens the agency's primary administrative jurisdiction.

⁴ Department of Agrarian Reform Administrative Order No. 04-11 (2011), sec. 9. Formerly Section 10 in Department of Agrarian Reform Administrative Order No. 03-11 (2011).

⁵ *Ponencia*, p. 13. The Certification, as quoted in the *ponencia*:

CERTIFICATION

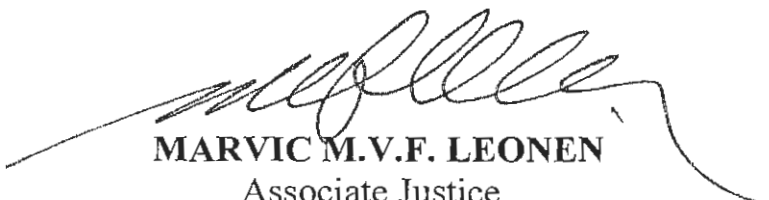
After a preliminary determination of the relationship between the parties in Civil Case No. 139-16 entitled Antonio R. Cruz et al. vs. Carling Cervantes et al., pursuant to Section 50-A of R.A. 6657 as amended, this Office hereby certifies that the case is agrarian in nature for it involves an agricultural land and the cause of action is ejectment of a farmer, farmworker or tenant which is within the primary and exclusive jurisdiction of the DAR. It is therefore recommended to the referring MTC of Plaridel, Bulacan, that the case be dismissed for lack of jurisdiction.

Any consideration on this specific point should be done in an appropriate case where this issue is squarely raised.

In this case, however, the issue is the Certification's lack of articulation of its factual basis. Its mere pronouncement that the case is agrarian in nature without stating the basis violates the requirement of the Department of Agrarian Reform's rules. This error is what made the Certification defective and unreliable. A further declaration on whether the Provincial Agrarian Reform Office's findings are recommendatory or conclusive on the courts is therefore unnecessary in this case.


In all other points of the *ponencia*, I concur.

ACCORDINGLY, I vote to **GRANT** the Petition.



MARVIC M.V.F. LEONEN
Associate Justice

CERTIFIED TRUE COPY



MARIA LUISA M. SANTILLA
Deputy Clerk of Court and
Executive Officer
OCC-En Banc, Supreme Court