SUPREME COURT
SECOND DIVISION

FILEMON DAVID,
***Petitioner*,**

-versus-

G.R. No. L-49360
December 14, 1979

HON. GREGORIO U. AQUILIZAN, FELOMENO JUGAR and RICARDO JUGAR,
***Respondents*.**
x----------x

D E C I S I O N

SANTOS, *J.*:

Petition for *Certiorari* with Prayer for a Writ of Preliminary Injunction filed November 27, 1978 to set aside the decision dated September 29, 1978 of the Court of Agrarian Relations (CAR), 16th Regional District, Branch II at Cotabato City, presided by Judge Gregorio U. Aquilizan.[1]

We resolved on April 10, 1979, finding the verified petition sufficient in form and substance, to require respondents to answer, not to move to dismiss.[2] On June 9, 1979, respondent Judge after an extension of 20 days, filed an answer.[3] Private respondents did not answer notwithstanding due and proper notice.[4]

The factual and procedural antecedents which gave rise to this petition follow.

Earlier or on February 17, 1976, the herein private respondents, Felomeno and Ricardo Jugar, brothers, filed against Felimon C. David, herein petitioner, a "Petition for Reinstatement" in the CAR, 15th Regional District, Branch II, Cotabato City.

They alleged, inter alia, that sometime in 1971, they were installed as share tenants by petitioner over separate portions of the latter's landholding situated at Polomolok, South Cotabato, each portion having a seeding capacity of two (2) hectares, more or less, their sharing agreement being 50-50% of the net produce; that the parcels they were cultivating are devoted to the production of corn crops, the produce per hectare being 60 to 70 cavans in corn cobs; that sometime in the middle part of 1973, private respondents were no longer allowed to continue their cultivation of the subject lots as petitioner-landholder prohibited them from doing so and took possession of said lots for no reason at all; that the Department of Agrarian Reform (DAR) Team Office at General Santos intervened for the immediate reinstatement of private respondents to their respective portions, but such intervention was to no avail as petitioner-landholder refused and still refuses to reinstate them, and that because of such unlawful act, private respondents suffered and will continue to suffer damages and litigation expenses.[5]

In herein petitioner's answer, as respondent below, he denied that herein private respondents were his tenants. He claimed that "Ricardo David (should be Jugar) who was then the tractor driver of respondent (now petitioner herein) was given additional incentive to work on a one hectare portion of respondent's land which he surrendered after resigning as tractor driver and after he worked with the Dolefil and as a farm tenant of his father; Felomeno Jugar, truly

worked with the respondent (herein petitioner) on share basis until the petitioner Felomeno Jugar (now private respondent) sold his working animals and resumed his faith-healing and later worked, as in fact to the present is working, with his father."[6] He further averred that the average harvest per hectare is not only 60 to 70 sacks of corn on cobs, but if properly cultivated the land would easily yield no less than 120 sacks of corn on cobs at 4 cans each sack; that the truth is that private respondents voluntarily surrendered their landholdings as follows: "Ricardo, in September, 1972, after he resigned as tractor driver of respondent know petitioner), due to ill health; and later on as farm tenant of his father; Felomeno Jugar, voluntarily surrendered his landholdings after he sold his working animals, and later, he continued his religious faith healing occupation and as farm tenant of his father."[7]

As affirmative defense, petitioner alleged that private respondents lodged their petition with the DAR, now Ministry of Agrarian Reform (MAR), and after a thorough investigation, the Hearing Officer of said Department, Guillermo Tanawit, rendered a Report (DAR ARDO # 11-38-000, Koronadal, South Cotabato) on April 12, 1976 containing the following findings and recommendation, to wit:

> "There was no dispute that Ricardo was installed on a 1.0 hectare land, so also there was no dispute that Felomeno Jugar was installed on 2.0 hectare land.
>
> "The allegation however, that both were 'illegally ejected' is belied by the admission in their position paper termed as 'memorandum' that the landowner ONLY BORROWED their land for a short period to time. Noted with all aspect that Ricardo even employed himself with the DOLE which only but confirm the stand of voluntary surrender by his landlord. Not only that he even worked on his father's land. He claimed that he resigned as a tractor driver because he was sick and then later claimed that he was reinstalled on another 2.0 hectare augmenting his 1.0 hectare into 2.0 hectare as claimed. But the fact remain thereafter he relinquished his rights thereat because of sickness and work on his father's land.

> "So also with his brother Felomeno Jugar, he claimed that his lot of 2.0 hectare was only borrowed by his landlord the latter part of 1925 because of their (David) debt with the bank, and work with his father.
>
> "Taken as a whole, there could not be unlawful ejectment contrary to PD No. 316 dated October 26, 1973, because during that particular time, Ricardo is either working with the Dole, supplemented by his farming with his father and Felomeno Jugar with his laymen (religious) activities supplemented with his farming with his father's land.
>
> "The above foregoing, the undersigned observation (sic), when the conducted this hearing, can not but penned this dictum that there was no unlawful ejectment but indeed petitioners had summarily surrendered their landholdings separately, on their own will and without any duress (unlawful).
>
> "Accordingly, for want of merit, the case is hereby dropped from the undersigned roster of legal (mediation) case."[8] (Emphasis supplied.)

On June 29, 1978, after the issues were joined, the respondent Judge issued an order directing the Department (now Ministry) of Agrarian Reform "to cover the land in area under operation Land Transfer (sic)." This order is worded as follows:

> "When CAR Case No. 43-South Cot. '76 was called, plaintiffs and counsel appeared as well as the defendant and counsels.
>
> "In view of the recent ruling of the Court of Appeals with respect to land devoted primarily to rice and/or corn and as of October 21, 1972, said land is automatically covered by operation Land Transfer.
>
> "WHEREFORE, in view of the revelation gathered in open court, the Department of Agrarian Reform is hereby directed to cover the land in area under operation Land Transfer."[9]

Three months later, or on September 29, 1979, respondent Judge without conducting any hearing rendered judgment for private respondents and against herein petitioner finding that "plaintiffs Ricardo and Felomeno, both surnamed Jugar (now private respondents) were tenants of defendant Filemon C. David (petitioner herein) at the time PD 27 was promulgated on October 21, 1972,"[10] and thereafter declared them "owners" thereof. Thus —

> "WHEREFORE, premises considered judgment is rendered:
>
> 1. Plaintiffs (private respondents herein) are hereby 'deemed owners' of the land they were cultivating when P.D. 27 was decreed;
>
> 2. The Ministry of Agrarian Reform is hereby directed to cover the land point of controversy under Operation Land Transfer;
>
> 3. Directing the provincial Commander, Philippine Constabulary of South Cotabato to install peacefully plaintiffs to the land covered by operations Land Transfer after the Ministry of Agrarian Reform shall have identified and sketched them, in conformity with the DND/DAR Memorandum Agreement of September 18, 1975; and
>
> 4. Let a copy of this Decision be furnished the Hon. Secretary, Ministry of Agrarian Reform for his guidance and easy reference for similar cases.
>
> "No pronouncement as to cost or damages."[11]

On the bases of the foregoing factual and procedural antecedents, petitioners seek to annul and set aside the aforesaid order and decision of respondent Judge Aquilizan on the grounds that; (a) he was denied due process of law; (b) the respondent Judge has no jurisdiction over the instant case, jurisdiction being legally lodged with the Ministry of Agrarian Reform; (c) assuming respondent Judge has jurisdiction thereof, the order of June 29, 1978 has already become final and no new decision novating the same may be

rendered; and (d) the findings of facts, arrived at without hearing, are contrary to the evidence (sic).[12]

In his Answer, respondent Judge Aquilizan did not deny the lack of hearings alleged in the petition, but interposed the defense that the subject decision has already become "final and executory after the lapse of the period for the perfection of an appeal" and "there is no showing that an appeal was brought to the Appellate Court in accordance with the provisions of PD 946 and the Uniform Rules of Procedure of the Court of Agrarian Relations."[13] That instead, the respondent (should be petitioner) filed the instant "*Certiorari* with Preliminary Injunction" to review the "Decisions of the Honorable Court of Agrarian Relations dated September 29, 1978", and "that *Certiorari* cannot be substituted for an appeal."[14]

On June 22, 1979, We considered the case submitted for decision.

This petition is quite obviously invested with merit. In the light of the foregoing factual and procedural milieu and since, admittedly, respondent judge did not conduct any hearing in the case prior to issuance of the challenged decision, the ineluctible conclusion is that the challenged decision is null and void for want of due process. The following requisites, as set forth in a leading case before the 1935 Constitution took effect, must concur for procedural due process in civil cases: "(1) There must be a court or tribunal clothed with judicial power to hear and determine the matter before it; (2) jurisdiction must be lawfully acquired over the person of the defendant or over the property which is the subject of the proceeding; (3) the defendant must be given an opportunity to be heard; and (4) judgment must be rendered upon lawful hearing."[15] Thus, it is well-settled rule that "no one shall be personally bound until he has had a day in court", by which is meant, until he has been duly cited to appear, and has been afforded an opportunity to be heard. Judgment without such citation and opportunity lacks all the attributes of a judicial determination; it is a judicial usurpation and oppression, and can never be upheld where justice is justly administered. (Ong Su Han vs. Gutierrez David, 76 Phil. 546, etc.; Moran Comments on the Rules of Court, Vol. I, 1957 ed., p. 476). And it has been held that a final and executory judgment may be set aside with a view to the renewal of the litigation when the judgment is void for lack of due process of law. (Moran,

Comments on the Rules of Court, supra, p, 523; Banco Español-Filipino vs. Palanca, 37 Phil. 921).[16] Being null and void from its inception, the decision sought to be set aside does not exist in the eyes of the law because it is "as though it had not been done."[17] In legal contemplation, it is no judgment at all.[18] "By it, no rights are divested. From it, no rights. Can be obtained. Being worthless in itself, all proceedings founded upon it are equally worthless. It neither binds nor bars anyone. All acts performed under it and all claims flowing out of it are void."[19] It may be attacked directly or collaterally, and the action therefor may be brought even after the time for appeal or review has lapsed. The judgment is vulnerable to attack even when no appeal has been taken.[20] Hence, such judgment does not become final in the sense of depriving a party of his right to question its validity.[21]

WHEREFORE, petition is **GRANTED** and the challenged order and decision are hereby **SET ASIDE**. Respondent judge is hereby directed to conduct appropriate proceedings in the case. This decision is immediately executory. No costs.

SO ORDERED.

Barredo, *J.*, *(Chairman)*, Antonio, Aquino, Concepcion, Jr. and Abad Santos, *JJ.*, concur.

---

[1] Rollo, p. 10.
[2] Id., p. 35.
[3] Id., p. 40.
[4] Id., p. 35; Registry return card, June 4, 1979.
[5] Id., pp. 12-13.
[6] Id. at pp. 17-18.
[7] Id., at page 18.
[8] Id., pp. 15-16.
[9] Id., p. 22.
[10] Id., p. 25.
[11] Id., at p. 25.
[12] Id., p. 8.
[13] Id., p. 40.
[14] Id., p. 41.
[15] Banco Español-Filipino vs. Palanca, 37 Phil. 921, 934 (1918);Fernando, The Constitution of the Philippines (1947 ed.), pp. 543-544.

[16] Rueda vs. Juan, L-13764, Jan. 30, 1960, 57 O.G. 5236, 5238.B. Angelo, Jr., 106 Phil. 1069, 1073.
[17] Herrera vs. Barretto, 25 Phil. 252.
[18] Chavez vs. CA, et al., L-29169, August 19, 1968, 24 SCRA 663, 685.
[19] Planas vs. Collector of Int. Rev., et al., L-15934, Oct. 31, 1961, 3 SCRA 395; Comia vs. Nicolas, L-26079, Sept. 30, 1969, 29 SCRA 492, 503.
[20] Hatib Abbarn vs. Longham Chaw, et al., L-24241, Feb. 26, 1968, 22 SCRA 748, 754.
[21] Director of Lands vs. Abada, 41 Phil. 71.