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 v. Carling Cervantes and Celia Cervantes Santos and all persons claiming rights under them, respondents.***

Promulgated:

April 19, 2022

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CONCURRENCE

LAZARO-JAVIER, *J.*:

I concur.

Petitioners inherited a 2,702.10-square meter (sqm.) parcel of land from their parents Spouses Cruz. Respondents, on the other hand, are the heirs of Isidro Cervantes who **tilled** a 300-sqm. portion of the land **upon the permission of Spouses Cruz and later on, upon the tolerance of petitioners**.

When petitioners decided to sell the property, they asked respondents to formally vacate and turn over to them the possession of the portion they were occupying. Respondents refused.

Consequently, petitioners filed a **complaint for unlawful detainer** before the Municipal Trial Court (MTC). Their theory was that they had merely **permitted,** and later on, **tolerated** the construction of respondents' **residential house on the property.** But when they sent to the respondents a demand letter to vacate, and thereafter filed the complaint for unlawful detainer they were deemed to have already terminated their permission or tolerance of respondent's occupation of the land.

Respondents, however, alleged that the MTC had no jurisdiction over the complaint for unlawful detainer **because the subject property is an agricultural land and they are tenants thereof**, having succeeded their father who was then a tenant of Spouses Cruz. As such, it is the Department of Agrarian Reform Adjudication Board (DARAB) which should determine the rights and obligations of the parties over the subject property.

To prove their tenancy relationship, respondents showed documents allegedly indicating petitioners' acceptance of their share in the land's produce. But these documents were not authenticated by the supposed recipients of the produce.

The Court of Appeals affirmed the lower courts' ruling in dismissing the case for **lack of jurisdiction by both the MTC and the RTC** based alone on the certification by the Provincial Agrarian Reform Office (PARO) to the effect that the case is **agrarian in nature** because *it involves an agricultural land and the cause of action is the ejectment of a farmer, farmworker, or a tenant which is within the primary and exclusive jurisdiction of the DAR.*

The *Court*, too, affirms this ruling, noting that the MTC correctly relied **solely and exclusively** on the PARO's finding when it **dismissed the complaint for unlawful detainer on the ground of lack of jurisdiction.**

I agree with the reflections of Senior Associate Justice Perlas-Bernabe and Justice Zalameda.

The issue is not novel.

First. In ***Dayrit v. Norquillas***[1] which also involved the jurisdiction of the Municipal Circuit Trial Court (MCTC) over a complaint for **forcible entry**, the Court already took the opportunity to clarify the **DARAB's jurisdiction in relation to possessory and ejectment actions involving agricultural lands** – which can squarely apply here.

In ***Dayrit***, petitioner Angelina Dayrit owned two parcels of land which got subjected to the government's Comprehensive Agrarian Reform Program (CARP). Once her titles were cancelled, new ones were issued pursuant to Certificate of Land Ownership Awards (CLOA).

Later on, respondents Jose Norquillas, et al. surreptitiously entered petitioner's property and refused to vacate the same despite repeated demands. This prompted petitioner to file a forcible entry case against them.

Ruling that the MCTC **had no jurisdiction** over the action for forcible entry, the Court noted:

> In contention here is the conflict of jurisdiction between the MCTC and the DARAB: Angelina maintains that the MCTC has jurisdiction over the instant complaint for forcible entry, while respondents maintain that the DARAB has jurisdiction as the action is considered as an agrarian dispute stemming from the enforcement of the CLOAs issued to them.
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> The Court takes this opportunity to clarify this seeming overlap.
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> 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

[1] G.R. No. 201631.

> 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*.** (Emphases and underscoring supplied)

Significantly, ***Dayrit*** reconciled the two important cases of ***David v. Cordova***[2] and ***Chailese Development Company, Inc. v. Dizon***,[3] which also distinguished the DARAB's jurisdiction from that of the first level courts *viz.*:

> 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. The appellate court held that the courts lack jurisdiction because the land in question is allegedly a public agricultural land.
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> 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.**
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> 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.
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> 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:

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[2] 502 Phil. 626 (2005).
[3] 826 Phil. 51 (2018).

> 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:
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> **a. There is an allegation from any one or both of the parties that the case is agrarian in nature; and**
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> **b. One of the parties is a farmer, farmworker, or tenant.**
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From this, the Court rules that the MCTC has no jurisdiction on the instant complaint for forcible entry. As pointed out by Associate Justice Amy C. Lazaro-Javier, ***this case meets the two requirements for automatic referral, as set out by RA 9700 and as summarized in Chailese. Thus, the Court finds that the case is cognizable by the DAR through the DARAB.***

The first requirement is the **presence of an allegation from any one or both of the parties that the case is agrarian in nature.** Here, despite the filing of the forcible entry case, respondents have been **consistent on alleging that the controversy is agrarian in nature.** In their answer filed before the MCTC, they alleged that the land in dispute were awarded to them as CARP beneficiaries. The RTC, on appeal, also touched upon matters of allegations of agrarian dispute in relation with jurisdiction of the courts. The CA also did the same and in fact dismissed the complaint after finding that the issue of possession was linked to an agrarian dispute brought by the issuance of CLOAs to respondents. In their comment filed before this Court, respondents maintain that the case is an agrarian dispute.

As stated by RA 9700, **mere allegation of the existence of an agrarian dispute is enough.** In this case, this requirement was met when respondents made consistent allegations of the existence of an agrarian dispute pursuant to the CLOAs issued to them.

As to the second requirement, *Chailese* adds that **proof must be adduced as to the person's status as farmer, farmworker, or tenant.** In this case, it is undisputed that respondents are farmers of the subject lands. Indeed, the records did not expressly show any agreement of whatever kind that respondents were farmers of Angelina's lands. However, the CA and the DAR Secretary (in the exemption from CARP case) here recognized the status of respondents as farmers. This was not disputed by Angelina. Further, their status as farmers was cemented by the subsequent award of Angelina's lands to them by virtue of CLOAs. This is also shown by the cases Angelina initiated regarding the annulment of CLOAs, exemption from CARP coverage, and this forcible entry case. Thus, the second requirement is met.

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The Court, therefore, agrees with the CA in dismissing the complaint for lack of jurisdiction. **The DAR, through the DARAB, has jurisdiction over the instant case for forcible entry for being an agrarian dispute.** (Emphases and underscoring supplied)

Indeed, the dispute is agrarian in nature when: **(i) there is an allegation from any one or both of the parties that the case is agrarian in nature; and (ii) one of the parties is a farmer, farmworker, or agricultural tenant.** Conversely, when either of these two elements is absent, the dispute ***cannot be referred to the DAR for the requisite certification*** and ***is not agrarian in nature***, and thus ***remains under the jurisdiction of the regular courts***.

In ***David***, the Court ruled that respondents did not qualify as an agrarian dispute since they failed to show that they were farmers, farmworkers, or agricultural tenants. While in ***Chailese***, the second requirement necessary to confer jurisdiction in the DAR was similarly absent.

Second. The *Court* holds that the MTC correctly dismissed the complaint for unlawful detainer on the ground of lack of jurisdiction and in view of the doctrine of primary jurisdiction. It has essentially relied on Section 9, DAR AO No. 03-11, *viz.*:

> 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:
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> 1. Existence of a tenancy relationship;
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> 2. The land subject of the case is agricultural;
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> 3. Cause of action involves ejectment or removal of a farmer, farmworker, or tenant;
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> 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;
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> 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
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> 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 *draft ponencia* thus holds:

> 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.
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> **In this case, the tax declaration of the subject property indicates that the same is agricultural in nature. Furthermore, the allegations in the complaint bear out that the cause of action is the ejectment of respondents who claim to be the present tenants engaged in the cultivation of the land and the successors-in-interest of their father Isidro who was allegedly engaged as tenants by spouses Cruz. Based on the foregoing, the PARO of Bulacan correctly concluded that the case is agrarian in nature and is thus, within the competence and expertise of the DAR.**
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> As a final note, when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action, as any act it performs without jurisdiction is null and void, and without any binding legal effects.
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> WHEREFORE, the Petition for Review on Certiorari is DENIED. The Decision dated September 27, 2018 and Resolution dated January 21, 2019, of the Court of Appeals, Manila in CA-G.R. SP. No. 155023, are AFFIRMED.
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> SO ORDERED. (Emphasis supplied)

Section 50 of the Comprehensive Agrarian Reform Law of 1988 (CARL), as amended, provides for the quasi-judicial powers of the DAR, *viz.*:

> Section 50. Quasi-Judicial Powers of the DAR. — The DAR is hereby vested with 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).

In 2009, the CARL was amended by Republic Act No. (RA) 9700. Section 50 of the CARL now provides:

> 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."

To recall, **two elements** must concur for **automatic referral** to the DAR, (1) **there is an allegation** from any one or both of the parties that the case is agrarian in nature; **and** (2) **there is proof** that one of the parties is a farmer, farmworker, or tenant.

The **automatic referral** to the DARAB was ***incorrect***. While **respondents' allegation** that the case is agrarian in nature was **sufficient to fulfill** the **first requirement**, the **second requirement** was not **satisfied**. There is **no proof** of the status of respondents as **farmers**.

Section 3 (f) of RA 6557 as amended defines a farmer as –

> (f) ... a **natural person** whose **primary livelihood is cultivation of land or the production of agricultural crops**, livestock and/or fisheries **either by himself/herself, or primarily with the assistance of his/her immediate farm household**, whether the land is owned by him/her, or **by another person under a leasehold or share tenancy agreement or arrangement with the owner** thereof.

But there is **no evidence** of cultivation of the land much less of respondents' cultivation thereof, as there is **no evidence** of **any tenurial arrangement** with petitioners as owners of the land. The documents presented by respondents **mean nothing**. They were **not authenticated** by petitioners' predecessors. They **cannot prejudice** the rights of third parties who were **not** proven to have executed them.

As things stand, therefore, the **referral** to the DAR was **erroneously** done by the MTC. The DAR certification which was issued as a result of the **faulty** referral bears **no probative value** whatsoever. It is in fact **void** for having been executed contrary to the express requirements of Section 50-A and case law which forms part of the law of the land.

Even if the Court were to consider the referral and certification to be valid, petitioners timely questioned the correctness of the certification. It must be stressed that though the DAR has **primary jurisdiction** over the determination of the existence or absence of an agrarian dispute, this jurisdiction **can actually be reviewed by courts** as this is expressly conferred

under Section 50-A. The standard of review for this **judicial recourse** is **correctness** because the certification deals with a **question of law** and especially of **jurisdiction**.

In this light, there is **no evidence** of the elements of an agrarian dispute. There is absolutely **no basis** for the certification to claim that the complaint for unlawful detainer was all about an agrarian dispute. The elements have been explained as follows:

> (a) the parties being landowner and tenant; (b) the subject matter is agricultural land; (c) there is consent by the landowner; (d) the purpose is agricultural production; (e) there is personal cultivation by the tenant; and, (f) there is sharing of harvests between the parties. An **allegation that an agricultural tenant tilled the land in question does not make the case an agrarian dispute. Claims that one is a tenant do not automatically give rise to security of tenure.** The elements of tenancy must first be proved in order to entitle the claimant to security of tenure. A tenancy relationship cannot be presumed. There must be evidence to prove this allegation. Hence, a perusal of the records and documents is in order to determine whether there is substantial evidence to prove the allegation that a tenancy relationship does exist between petitioner and private respondents. **The principal factor in determining whether a tenancy relationship exists is intent.** Tenancy is not a purely factual relationship dependent on what the alleged tenant does upon the land. It is also a legal relationship. **The intent of the parties, the understanding when the farmer is installed, and their written agreements, provided these are complied with and are not contrary to law, are even more important.** In Caballes v. DAR the Court held that **all these requisites must concur in order to create a tenancy relationship**. The absence of one does not make an occupant or a cultivator thereof or a planter thereon a de jure tenant. This is so because unless a person has established his status as a de jure tenant he is not entitled to security of tenure nor is he covered by the Land Reform Program of the Government under existing tenancy laws.[4]

Clearly, the courts below were all in error of law and jurisdiction in dismissing petitioners' complaint for unlawful detainer. This error is being corrected in this proceeding. So must it be.

AMY C. LAZARO-JAVIER
Associate Justice

[4] *Valencia v. Court of Appeals*, 449 Phil. 711, 736 (2003).

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