

JAIME D. REYES, ET AL., PLAINTIFFS-APPELLEES, VS. SPOUSES BONIFACIO AND SABINA DE CASTRO, DEFENDANTS-APPELLANTS.

Ponente: ROMILLA-LONTOK, J.

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ROMILLA-LONTOK, J.:

Before Us is an appeal from the Decision rendered by the Regional Trial Court, Branch 12, Lipa City, Batangas the dispositive portion of which reads as follows, to wit:

“WHEREFORE, judgement is hereby rendered in favor of the plaintiffs and against the defendants ordering the latter and other persons claiming under them to vacate the land subject hereof and to surrender peaceful possession of the same to the former, to pay the sum of P249.00 monthly as reasonable rentals for the use and occupation of the land, from January 16, 1967 until she vacates the premises, to pay the sum of P10,000.00, as attorneys fees and the costs.

Having been declared as builders in bad faith, the defendants are also ordered to remove and/or demolished or caused to be removed and/or demolished, at their own expense, their house and all structures they have built on the land.

Defendants' counterclaim is dismissed for lack of merit.

Anent the third party complaint, judgment is also rendered in favor of the Spouses Bonifacio de Castro and Sabina Matanguihan and against Antonio Sauz, ordering the latter to reimburse for the sum of P207.88 they have paid to Maria Briones, to pay whatever amount they pay to the plaintiffs as reasonable rentals and/or damages for the use and occupation of the land to pay the sum of P10,000.00 as attorney's fees and the costs.

Third party defendant's counterclaim is dismissed for lack of merit.

IT IS SO ORDERED.” [1]

On September 19, 1990, Jaime D. Reyes, Isabel R. Lontok, Gloria R. Altamirano, Rolando D. Reyes, Dolores R. Cabal, Shirley R. Garcia, Pablo M. Reyes, Jr., Thomas M. Reyes and Patricia M. Reyes, all of Sabang, Lipa City, as the registered owners of a real property located in Lipa City and covered by TCT No. 75124 filed against spouses Bonifacio de Castro and Sabina Matanguihan, a complaint for Recovery of Possession with Damages over a portion thereof with an area of Two Hundred Twenty Nine (229) square meters. Said complaint alleges that plaintiffs acquired the entire property with an area of 16, 666 square meters, by inheritance, from the late Ignacia Saludo. Defendants, without the knowledge and consent of plaintiffs, unlawfully occupied aforesaid portion with an area of 229 square meters, constructed and continue to construct thereon structures and other improvements. Since January 16, 1967, plaintiffs formally informed defendants of their ownership coupled with a demand to vacate. Despite repeated demands, the latest being on July 7, 1988 defendants failed and refused to vacate, to the prejudice of plaintiffs. Reasonable compensation for the use of the premises is P229.00 a month. Plaintiffs pray that defendants be ordered to vacate the premises; to pay the sum of P63,204.00 as reasonable compensation for the use of the premises from 1967 up to the filing of the complaint and the further sum of P229.00 monthly until they vacate the premises; to pay P10,000.00 as attorney's fees; P1,000.00 per appearance and the costs of suit; and

be declared as builders in bad faith.

Defendants, in their answer, alleged as Special and Affirmative Defenses that plaintiffs have no cause of action against them; the trial court had no jurisdiction over the nature or subject matter of the action; that since 1965, they have been in possession of Lot 4, Block No. 3 of Dolor Subdivision, by virtue of a purchase agreement from Mr. Faustino Dolor, the attorney-in-fact of Mr. Antonio Sauz, its owner; they introduced improvements thereon worth P100,000.00; plaintiff has to establish that the lot is within the property of the plaintiff and that the matter was not brought for conciliation proceedings at the barangay level in violation of PD No. 1508.

Incorporated in said answer, by way of compulsory counterclaim, are claims for moral and exemplary damages of P100,000.00; expenses of P10,000.00 and attorney's fees of P10,000.00.

Defendants also filed a third party complaint against Antonio Sauz, doing business under the name Dolor Subdivision. It alleged that defendants-third party plaintiffs have been in actual possession of subject property for more than 25 years prior to the filing of the complaint pursuant to a purchase agreement with Dolor Subdivision. Said purchase agreement was originally in favor of Florita Manalo who assigned her rights therein to spouses de Castro for valuable consideration and with the approval/conformity of Dolor Subdivision.

The third party complaint prays that the third party defendants be ordered to pay third party plaintiffs moral damages; attorney's fees of P10,000.00; litigation expenses and costs of suit; that third-party plaintiffs be declared to have the right to acquire the property in litigation; and, in the event third party plaintiffs be adjudged to pay plaintiffs any amount, third party defendant be ordered to pay said amount to third party plaintiffs as damages.

Pre-trial was conducted.

The parties, except third-party defendant Antonio Sauz who did not appear, agreed on the following issues:

- Whether or not this court has jurisdiction over this case;
- Whether or not the plaintiffs have the right to recover possession of the portion of land occupied and possessed;
- Whether or not defendant is a possessor in bad faith of the land subject hereof;
- Whether or not defendant is liable to pay damages and/or reasonable rentals; and
- Whether or not defendant is liable to pay attorney's fees and other litigation expenses.[2]

A decision was rendered by the trial court on June 16, 1997 in favor of the plaintiffs. Defendants filed a motion for reconsideration which was denied.

Defendants appealed on the following assigned errors:

I

THE TRIAL COURT ERRED IN NOT DISMISSING THE INSTANT CASE FOR LACK OF CAUSE OF ACTION HAVING BEEN FILED WITHOUT OBSERVING THE PRE-CONDITIONED REQUIREMENT OF PD 1508.

II

THE TRIAL COURT ERRED IN FINDING AND CONCLUDING THAT DEFENDANT-APPELLANT WAS A BUILDER IN BAD FAITH THERE BEING NO EVIDENCE IN SUPPORT THEREOF.

III

THE TRIAL COURT ERRED IN NOT DECLARING THE DEFENDANT-APPELLANT AS THE TRUE AND LAWFUL OWNER OF THE LOT IN QUESTION UNDER THE PRINCIPLE OF LACHES.

IV

THE TRIAL COURT ERRED IN ORDERING THE DEFENDANT-APPELLANT TO VACATE THE LOT IN QUESTION, TO PAY MONTHLY RENTAL FROM JANUARY 1967, TO PAY ATTORNEY'S FEES, COSTS, AND TO DEMOLISH ALL THE STRUCTURES BUILT BY DEFENDANT-APPELLANT ON THE SAID LOT.

PD 1508 declares that generally, disputes involving parties actually residing in the same city or municipality, or in adjoining barangays or different cities or municipalities, should first be brought before the appropriate Barangay Lupon which "shall have the authority to bring together the parties . . . for amicable settlement." The proceedings before the Lupon are a "precondition" to the filing of any action or proceeding in court or other "government office," PD 1508 further declaring that "No complaint, petition, action or proceeding involving any matter within the authority of the Lupon as provided in Section 2 hereof shall be filed or instituted in court or any other government office for adjudication unless there has been a confrontation of the parties before the Lupon Chairman or the Pangkat and no conciliation or settlement has been reached as certified by the Lupon Secretary or the Pangkat Secretary, attested by the Lupon or Pangkat Chairman, or unless the settlement has been repudiated." [3]

The primordial objective of Presidential Decree No. 1508 (the Katarungang Pambarangay Law), now included under R.A. No. 7160 (the Local Government Code of 1991), is to reduce the number of court litigations and prevent the deterioration of the quality of justice which has been brought about by the indiscriminate filing of cases in the courts. To attain this objective, Section 412(a) of R.A. No. 7160 requires the parties to undergo a conciliation process before the Lupon Chairman or the Pangkat as a precondition to filing a complaint in court.

While P.D. No. 1508 has been repealed by the Local Government Code of 1991, the jurisprudence built thereon regarding prior referral to the lupon as a pre-condition to the filing of an action in court remains applicable because its provisions on prior referral were substantially reproduced in the Code. In *Peregrina vs. Panis*, [4] the High Court stated:

"Thus, *Morata vs. Go*, 125 SCRA 444 (1983), and *Vda. de Borromeo vs. Pogoy*, 126 SCRA 217 (1983) have held that P.D. No. 1508 makes the conciliation process at the Barangay level a condition precedent for the filing of a complaint in Court. Non-compliance with that condition precedent could affect the sufficiency of the plaintiff's cause of action and make his complaint vulnerable to dismissal on the ground of lack of cause of action or prematurity. The condition is analogous to exhaustion of administrative remedies, or the lack of earnest efforts to compromise suits between family members, lacking which the case can be dismissed. The parties herein fall squarely within the ambit of P.D. No. 1508. They are actual residents in the same barangay and their dispute does not fall under any of the excepted cases." Such non-compliance is not, however, jurisdictional. This Court said so in *Garces vs. Court of Appeals* (162 SCRA 504, 511 [1988]): "In fine, we have held in the past that prior recourse to the conciliation procedure required under P.D. 1508 is not a jurisdictional requirement, non-compliance with which would deprive a court of its jurisdiction either over the subject matter or over the person of the defendant. Where, however, the fact of non-compliance with and non-observance of such procedure has been seasonably raised as an issue before the court first taking cognizance of the complaint, dismissal of the action is proper. . . . The precise technical effect of failure to comply with the requirement of P.D. 1508 where applicable is much the same effect produced by non-exhaustion of administrative remedies; the complaint becomes afflicted with the vice of pre-maturity; the controversy there alleged is not ripe for judicial determination. The complaint becomes vulnerable to a motion to dismiss." There were, of course, cases where this Court ruled that the failure of the defendant to seasonably invoke non-referral to the appropriate lupon operated as a waiver thereof.

The conciliation procedure required under PD 1508 is not a jurisdictional requirement in the sense that failure to have prior recourse to it does not deprive a court of its jurisdiction, either over the subject matter or over the person of the defendant. Non-compliance with the condition precedent under said law does not prevent a court of competent jurisdiction from exercising its power of adjudication over a case where defendants fail to object to such exercise of jurisdiction. But such objection should be seasonably made before the court first taking cognizance of the complaint, and must be raised in the Answer, or in such other pleading allowed under the Rules of Court.[5]

A complaint or petition filed in court or other government office without compliance with the precondition may be dismissed on motion of any interested party on the ground that the complaint fails to state a cause of action. The defect may however be waived by failing to make seasonable objection, in a motion to dismiss or answer, the defect being a mere procedural imperfection which does not affect the jurisdiction of the court.[6]

In the case at bench, defendant-appellants seasonably made their objection to lack of prior referral for proper conciliation proceedings at the barangay level. The filing of instant case is, thus, premature. The case is not ripe for judicial determination.

It is not without reluctance that we reach the conclusion set forth above which would require petitioner to start again from the beginning, considering that the Regional Trial Court had rendered a decision on the merits of the case. The facts of the present case, however, do not leave us any choice. Not to allow the appeal under these circumstances would amount to refusal to give effect to P.D. 1508, now Section 412(a) of R.A. No. 7160, and to wiping it off the statute books. This Court has no authority to do that.

WHEREFORE, the Appeal is GRANTED. The Decision of Branch 12, Lipa City, Batangas dated 16 June 1997 is SET ASIDE and the Complaint in Civil Case No. 3445 is hereby DISMISSED, without prejudice.

SO ORDERED.

Barrios, (Chairman) and Guariña, III, JJ., concur.

[1] Rollo, pp. 22-26.

[2] Pre-Trial Order, Records, p. 58.

[3] Agbayani vs Belen, G.R. No. L-65629, November 24, 1986.

[4] 133 SCRA 72, 75 [1984].

[5] Junson vs. Martinez, G.R. No. 141324, July 8, 2003.

[6] Agbayani vs. Belen, G.R. No. L-65629, November 24, 1986.

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