

**LEONARDO MIÑANO, ANTONINO MIÑANO, RICARDO MIÑANO,
BENITO MIÑANO, RAUL MIÑANO, LORETO MIÑANO, LOURDEZ
MIÑANO, SALVACION MIÑANO, AND FELISA MIÑANO, HEIRS OF THE
DECEASED, PASCUAL ...**

G.R. No. L-29255. September 21, 1982

Ponente: FERNANDO, C.J.

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FERNANDO, C.J.:

The dismissal by the lower court of a complaint found defective in that (1) the question of title is involved in the action for the annulment for a deed of transfer and assumption of obligation and that, therefore, the suit must be filed where the property is located resulted in the matter being elevated to this Court; (2) the parties to the case being brothers and sisters, there should have been earnest efforts being exercised to settle the matter without resorting to the courts;^[1] and (3) the venue being improperly laid as none of the parties were residents of Manila^[2] is assailed in this proceeding.

The complaint on its face made manifest such defects leading to the challenged order issued after a motion to dismiss was filed by counsel for defendant Alberto Miñano, attention being likewise called to the existence of another action pending between the same parties for the same cause of action in the Court of First Instance of Romblon. In the brief filed with this Court, it was contended that one of the principal defendants, Attorney Cesar R. del Rosario is a non member of the Miñano family, who, as alleged, had a hand in the perpetration of irregularities. In a motion filed with this Court, Attorney del Rosario pointed out that his only participation was "of having notarized the document conveying the property to my co-defendant, for which I was paid a notarial fee of P5.00; * * *."^[3] Moreover, according to him "aside from the notarial fee, [he] did not receive any benefit whatsoever from the transaction, which [he believed] to be fair and legal, by virtue of the circumstances that attended it; that from all appearances the plaintiffs have lost their interest in pursuing the above entitled case, perhaps, because they realized that both reason and the law can not sustain their stand, considering that a number of years have passed, and they have not taken any step to press for the termination of the case."^[4] The prayer was that he be dropped from the above entitled case. The Court granted such motion in a resolution of June 7, 1982.

From what has been stated thus far, it would appear, therefore, that the appeal lacks merit. Its dismissal is in order.

WHEREFORE, the order of dismissal of the lower court is affirmed.

Barredo, Aquino, Concepcion, Jr., Guerrero, Abad Santos, De Castro, and Escolin, JJ., concur.

[1] The plaintiffs Leonardo, Antonino, Ricardo, Benito, Raul, Loreto, Lourdez, Salvacion and Felisa are brothers and sisters. Defendant Alberto Miñano is a brother. Another defendant is included, Attorney Cesar R. del Rosario.

[2] Record on Appeal, 31-32.

[3] Motion, 2.

[4] Ibid.

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