

**ROMULA MABALE, FILOMENO TAMALA, FE MANGOMPIT TAMALA,
GENARA MANGOMPIT ETOC AND NESTOR MANGOMPIT,
PETITIONERS, VS. HON. SIMPLICIO M. APALISOK, PRESIDING JUDGE
CFI, BRANCH I, DIPO...**

G.R. No. L-46942. February 06, 1979

Ponente: AQUINO, J.

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AQUINO, J.:

Romula Mabale and her children, Nestor Mangompit, Genara Mangompit-Etoc and Fe Mangompit-Tamala, and her son-in-law, Filomeno Tamala, appealed under Republic Act No. 5440 from the resolution or order dated July 6, 1977 of the Court of First Instance of Zamboanga del Norte in Civil Case No. 2711 entitled "Tan Tian Tiong vs. Romula Mabale".

In that order, the lower court ordered Romula Mabale and her children and children-in-law to vacate Lot No. 1592, a homestead or coconut land, with an area of eleven hectares located at Baliangao, Misamis Occidental, and not to disturb Tan Tian Tiong "from the enjoyment" of the lot.

It may be observed that since the petitioners imputed to the trial court grave abuse of discretion amounting to lack of jurisdiction, their petition also partakes of the nature of a special civil action of certiorari.

The disposition of this case was rendered difficult by the failure of the parties to make an orderly and chronological statement of the antecedental facts. A time-consuming and laborious examination of the pleadings had to be made in order to ascertain the factual bases for this adjudication.

The record discloses that Romula Mabale, a widow and a resident of Barrio Sinaad, Sapang Dalaga, Misamis Occidental, was the registered owner of Lot No. 1592 as shown in Transfer Certificate of Title No. T-943 issued to her in 1966. On May 10, 1973 she sold that lot under pacto de retro for P10,000 to Lagrimas Lim, the wife of Tan Tian Tiong.

Romula was also the owner of an eight-hectare lot located at Barrio Sipaon, Rizal, Zamboanga del Norte which she also sold under pacto de retro to Lagrimas Lim for P14,000 on July 11, 1969.

Romula failed to exercise her right of redemption under the two pacto de retro sales. To consolidate their ownership over those two lots, the spouses Tan Tian Tiong and Lagrimas Lim sued Romula Mabale in September, 1975 in Civil Case No. 2710 of the Court of First Instance of Zamboanga del Norte (referring to the Sipaon lot) and in Civil Case No. 3131 of the Court of First Instance of Misamis Occidental (referring to Baliangao Lot No. 1592).

Also in September, 1975, Tan Tian Tiong sued Romula in the Court of First Instance of Zamboanga del Norte for the recovery of the sum of P22,250 representing the amounts which she received from Tan Tian Tiong in 1972, 1973 and 1974 for the purchase of copra. The suit was filed because she did not deliver to Tan Tian Tiong any

copra nor returned the money to him.

That third case, Civil Case No. 2711, did not reach the trial stage because the parties and their lawyers submitted to the lower court a compromise agreement dated April 22, 1976. The compromise purported to settle not only Civil Case No. 2711 but also the aforementioned Civil Cases Nos. 2710 and 3131. For reference, the compromise is reproduced below:

"Republic of the Philippines
IN THE COURT OF FIRST INSTANCE OF ZAMBO. NORTE
16th Judicial District
BRANCH I – DIPOLOG
TAN TIAN TIONG,
Plaintiff, CIVIL CASE NO. 2711
-versus- For: RECOVERY OF
ROMU LA MABALE, SUM OF MONEY
Defendant.
X ----- X

AMICABLE SETTLEMENT

COME now parties with assistance of their counsel and to this Honorable Court, respectfully allege:

1. That the parties herein are likewise parties in Civil Case No. 2710, entitled Lagrimas Lim Tan and Tan Tian Tiong vs. Romula Mabale for Consolidation of Ownership pending before the Court of First Instance of Zamboanga del Norte, Branch III, and in Civil Case No. 3131, entitled Lagrimas Lim Tan and Tan Tian Tiong vs. Romula Mabale for Consolidation of Ownership, pending before the Court of First Instance of Misamis Occidental, 16th Judicial District, Branch I, Oroquieta City;

2. That the parties in these three (3) cases have hereby agreed to consolidate its settlement under the following terms and conditions:

A. That the defendant Romula Mabale herein hereby agrees to fully pay and settle the sum of FORTY SIX THOUSAND (P46,000.00). PESOS, Philippine Currency on or before July 22, 1976, at Dipolog City, Philippines, to the spouses Tan Tian Tiong and Lagrimas Lim Tan;

B. That should defendant Romula Mabale herein fail to fully pay and settle the sum of P46,000.00 on or (before) July 22, 1976 to the spouses Tan Tian Tiong and Lagrimas Lim Tan, she hereby agrees to cede, transfer, and convey a parcel of land, Lot No. 1592 (Baliangao) situated at Sinang, Sapang Dalaga, Misamis Occidental, which is fully planted to coconuts that are fully fruit-bearing, under Transfer Certificate of Title No. T-943, containing an area of 11.0391 hectares, registered in the Office of the Register of Deeds of Misamis Occidental registered in the name of Romula Mabale, to the spouses Tan Tian Tiong and Lagrimas Lim Tan;

PROVIDED, that the spouses Tan Tian Tiong likewise agree to fully pay and settle the accounts of Romula Mabale to the Development Bank of the Philippines, Ozamiz City Branch, at Ozamiz City, in the sum of P20,000.00 together with all the interests thereon;

PROVIDED, FURTHER, that should the spouses Tan Tian Tiong and Lagrimas Lim Tan become the absolute owner of the parcel of land described herein they hereby agree to resell, recede, retransfer and reconvey the said parcel of land to Romula Mabale or to any or all of her children upon payment of the sum of P46,000.00 and all amounts which the spouses Tan Tian Tiong and Lagrimas Lim Tan pay to the Development Bank of the Philippines, Ozamiz City Branch, at Ozamiz City as full payment and settlement of the outstanding accounts of Romula Mabale thereat, within the period of FIVE (5) YEARS;

PROVIDED, FINALLY, that if Romula Mabale or any or all of her children will fail to fully pay the spouses Tan Tian Tiong and Lagrimas Lim Tan the sum of P46,000.00 and the amount which the said spouses, pay to the Development Bank of the Philippines, Ozamiz City Branch, at Ozamiz City, within the period of FIVE (5) YEARS the title of said land shall then become absolutely vested in the names of the spouses Tan Tian Tiong and Lagrimas Lim Tan;

3. That by virtue of the agreement entered into between the parties mentioned above-they hereby agree to respectively withdraw their actions, claims or counterclaims against each other in Civil Case No. 2710, entitled Lagrimas Lim Tan and Tan Tian Tiong vs. Romula Mabale, pending in the Court of First Instance of Zamboanga del Norte, Branch III, Dipolog City and Civil Case No. 3131, entitled Lagrimas Lim Tan and Tan Tian Tiong vs. Romula Mabale pending before the Court of First Instance of Misamis Occidental, Branch I, Oroquieta City.

WHEREFORE, it is most respectfully prayed of this Honorable Court:

1. That Romula Mabale be ordered to fully pay and settle the sum of P46,000.00 to the spouses Tan Tian Tiong and Lagrimas Lim Tan on or before July 22, 1976; or

2. That should Romula Mabale fail to fully pay and settle the sum of P46,000.00 to the spouses Tan Tian Tiong and Lagrimas Lim Tan on or before July 22, 1976 at Dipolog City, to order the cancellation of Transfer Certificate of Title No. T-943 which was issued in the name of Romula Mabale by the Register of Deeds of Misamis Occidental at Oroquieta City and to issue in lieu thereof Transfer Certificate of Title in the names of the spouses Tan Tian Tiong and Lagrimas Lim Tan; to order the spouses Tan Tian Tiong and Lagrimas Lim Tan to fully pay and settle the accounts of Romula Mabale to the Development Bank of the Philippines, Ozamiz City Branch, at Ozamiz City in the sum of P20,000.00 together with all interest thereof; and to order the annotation at the back of said Transfer Certificate of Title to be issued in the names of the spouses Tan Tian Tiong and Lagrimas Tan the following terms:

That if Romula Mabale or any or all her children pay to the spouses Tan Tian Tiong and Lagrimas Lim Tan the sum of P46,000.00 and the amount which the spouses Tan Tian Tiong and Lagrimas Lim Tan pay to the Development Bank of the Philippines, Ozamiz City Branch, at Ozamiz City, within the period of FIVE (5) YEARS from the issuance of said Transfer Certificate of Title in their names, the ownership of the said parcel of land shall automatically be vested in Romula Mabale, or any or all of her children; and that should Romula Mabale or any or all of her children fail to fully pay the spouses Tan Tian Tiong and Lagrimas Lim Tan the sum of P46,000.00 and the amount which the said spouses pay to the Development Bank of the Philippines, Ozamiz City Branch, Ozamiz City, within a period of 5 years the title to said land shall then become absolutely vested in the names of the spouses Tan Tian Tiong and Lagrimas Lim Tan; and

3. To render judgment pursuant to this amicable settlement and without cause.

Dipolog City, Philippines, April 22, 1976.

(SGD) LAGRIMAS LIM TAN (SGD) TAN TIAN TIONG

Wife of the Plaintiff Plaintiff

(SGD) ROMULA MABALE

Defendant

(SGD) PACIFICO C. CIMA FRANCA (SGD) FRANCISCO REALIZA, Jr.

Atty. for the plaintiff Counsel for the Defendant

Pinana, Zamboanga del Norte Dipolog City"

On that date, April 22, 1976, when the compromise agreement was signed, it was submitted to the Court of First Instance of Misamis Occidental which in its order issued on April 28, dismissed Civil Case No. 3131, a case for consolidation of ownership over Lot No. 1592, one of the three cases compromised by Romula Mabale and Tan Tian Tiong.

The record does not show whether the compromise was submitted in Civil Case No. 2710 of the Court of First Instance of Zamboanga del Norte, another case for consolidation of ownership over another lot of Romula Mabale.

The compromise was submitted to that same court in Civil Case No. 2711. In that case, the lower court, pursuant to the compromise, rendered a judgment dated June 18, 1976, ordering Romula Mabale to pay the spouses Tan Tian Tiong and Lagrimas Lim Tan the sum of P46,000 on or before July 22, 1976. If no payment was made and Romula failed to transfer to the Tan Tian Tiong spouses Lot No. 1592, then the spouses may file a motion for the cancellation of TCT No. T-943 and for the issuance to them of a new title for that lot.

It was further ordered in that judgment based on the compromise that after a new title is issued to the spouses, they would pay to the Development Bank of the Philippines (DBP) Romula's debt amounting to P20,000 plus interest and other charges and that she and any of her children could repurchase the said lot within five years from April 22, 1976 by paying P46,000 plus the expenses incurred by the spouses in settling Romula's obligation to the DBP.

At this juncture, it should be emphasized that, by virtue of that compromise and the judgment approving it, Romula Mabale was given three months (April 22 to July 22, 1976) within which to settle her total indebtedness of P46,000 to the spouses Tan Tian Tiong and Lagrimas Lim. In case of non-payment, Lot No. 1592 would be transferred to the said spouses as a payment of that debt and Romula's debt of P20,000 to the DBP, or as a dacion en pago, but she could repurchase that lot from the said spouses within a five-year period ending on April 21, 1981.

In other words, Lot No. 1592, instead of being conveyed to the spouses Tan Tian Tiong and Lagrimas Lim for P10,000, the price at which Romula sold it in 1973 under pacto de retro to Lagrimas Lim, would in effect be sold to them for more than P66,000. As noted above, she had failed to redeem Lot No. 1592 from Lagrimas Lim. Consequently, Civil Case No. 3131 was filed against her for the consolidation of the ownership over that lot by the vendee a retro, Lagrimas Lim.

The compromise enabled Romula to reacquire her eight-hectare lot (distinct from Lot No. 1592) which she had sold under pacto de retro to Lagrimas Lim for P14,000 and which she had not redeemed within the stipulated period (Civil Case No. 2710).

We should not lose sight of these aspects of the compromise in order to dispel the erroneous impression that it was unduly favorable to the spouses Tan Tian Tiong and Lagrimas Lim and prejudicial to Romula Mabale.

Romula did not pay the sum of P46,000 as stipulated in the compromise agreement. To enforce the judgment based on that compromise, the lower court issued on September 1, 1976 a writ of execution requiring the DBP to accept from Tan Tian Tiong the payment of Romula's debt and ordering the register of deeds of Misamis Occidental to issue a new title to Tan Tian Tiong for Lot No. 1592 with the annotation of her right to repurchase it.

Tan Tian Tiong paid to the DBP on September 7, 1976 the sum of P21,101.81 on account of Romula's debt of P20,000. Because of that payment and in conformity with the writ of execution, Romula's title to Lot No. 1592 was cancelled and a new one, TCT No. T-5815 (5818) was issued to Tan Tian Tiong on September 10, 1976.

The lower court also issued a writ of possession dated November 8, 1976 commanding the sheriff to eject Romula Mabale from Lot No. 1592 (p. 59, Rollo). The sheriff turned over the possession of the lot to a representative of Lagrimas Lim. However, because Romula did not vacate Lot No. 1592, Tan Tian Tiong filed a petition dated December 31, 1976 to declare her and "all the persons acting under her" in contempt of court.

She opposed that petition on the grounds that the compromise was vitiated by fraud; that Tan Tian Tiong, being an alien, was disqualified to acquire Lot No. 1592; that the transfer to him of that lot, which originally was a homestead, was in violation of the Public Land Law, and that the said lot was owned by her children.

The record further discloses that Romula's eight children, Fe, Amador, Napoleon, Luisa, Genara, Conrado, Nestor and Jesus, all surnamed Mangompit, filed a complaint dated December 3, 1976 in the Court of First Instance of Misamis Occidental, praying that the spouses, Tan Tian Tiong and Lagrimas Lim, be ordered to reconvey to them Lot No. 1592 (Civil Case No. 3216).

About six months later, Romula Mabale and her eight children filed in the same court an action to rescind the amicable settlement and annul the judgment based thereon which was rendered in Civil Case No. 2711 (Civil Case No. 3256).

Thereafter, Romula Mabale filed in Civil Case No. 2711 a petition to suspend the contempt proceeding on the ground that it is criminal in nature and, consequently, a prejudicial question is allegedly involved in Civil Case No. 3256.

As already stated, the lower court in its order of July 6, 1977 ordered Romula Mabale and all the persons claiming under her (including her children and son-in-law) to vacate Lot No. 1592 for which a new title had already been issued to Tan Tian Tiong. The lower court held that the judgment based on the compromise was not tainted with fraud and that a contempt charge is not a criminal offense. It announced that if the lot is not vacated within thirty days from notice, it would continue with the contempt proceeding.

A copy of that order was received by Romula Mabale on August 5, 1977. On September 3, 1977, she mailed to this Court her petition under Republic Act No. 5440 for the review of the said order of the lower court.

The issues are (1) whether the lower court's judgment based on the compromise is valid and executory and (2) whether a contempt proceeding is proper in view of the failure of Romula Mabale, her children and son-in-law to vacate Lot No. 1592.

We hold that that judgment is binding and conclusive upon her. Its enforcement or execution, already begun, may be completed. Of course, the compromise in question is not a flawless agreement. Its caption should have included Civil Cases Nos. 2710 and 3131. Its terms could have been couched in less involuted language. Its provisions could have been simpler and more concise. And before rendering judgment, the trial court should have held a hearing and asked Romula Mabale categorically in open court whether she understood the stipulations of

the compromise.

We have underscored time and again that the trial court should scrutinize a compromise agreement with utmost care and circumspection so as to obviate misunderstanding and controversy when later on it is sought to be implemented (*Rañeses vs. Teves*, L-26854, March 4, 1976, 70 SCRA 4).

Notwithstanding those deficiencies, the compromise and the judgment based thereon are valid and effective. Romula was assisted by her lawyer when she signed the compromise. She was personally furnished with a copy of the judgment approving it. As already noted, that judgment, which was rendered on June 18, 1976, had already been partly executed.

"A compromise has upon the parties the effect and authority of *res judicata*." A judicial compromise may be enforced by writ of execution. However, a compromise in which there is mistake, fraud, violence, intimidation, undue influence, or falsity of documents may be annulled. If a party fails or refuses to abide by the compromise, the other party may either enforce the compromise or regard it as rescinded and insist upon his original demand (Arts. 2037, 2038 and 2041, Civil Code).

A judgment based upon a compromise is more than a mere contract and, with more reason, it has also the force of *res judicata*. Without legal cause, it cannot be unilaterally repudiated by a party (*Katipunan Labor Union vs. Caltex [Philippines], Inc.*, 101 Phil. 1224).

As a rule, "a judgment on compromise is not appealable and is immediately executory unless a motion is filed to set aside the compromise on the ground of fraud, mistake or duress, in which event an appeal may be taken from the order denying the motion" (*De los Reyes vs. Ugarte*, 75 Phil. 505 and *Enriquez vs. Padilla*; 77 Phil. 373).

As noted in the *Ugarte* case, the reason for the rule is that when both parties enter into an agreement to end a pending litigation and request that a decision be rendered approving said agreement, it is only natural to presume that such action constitutes an implicit waiver of the right to appeal from the decision which waiver is as undeniable as an express waiver. For a party to a compromise to reserve the right to appeal from the said decision "is to adopt an attitude of bad faith which courts cannot countenance."

To be entitled to appeal from a judgment approving a compromise, a party must move not only to set aside the judgment but also to annul or set aside the compromise itself on the ground of fraud, mistake or duress vitiating his consent to the compromise (*Serrano vs. Reyes*, 110 Phil. 536, 542). To set it aside under Rule 38 of the Rules of Court, the petition for relief must be filed within six months from the date the judgment was entered (*Bodiogan vs. Ceniza*, 102 Phil. 750).

Romula Mabale did not seasonably move for the setting aside of the compromise and the judgment based upon it. Instead, her children pretending to be the unregistered owners of Lot No. 1592, filed a separate action against Tan Tian Tiong and his wife for the recovery of Lot No. 1592 (Civil Case No. 3216). Romula and her children filed a second case to rescind the compromise and annul the judgment (Civil Case No. 3256).

In this appeal from respondent Judge's order in Civil Case No. 2711, upholding the compromise and the judgment based thereon, Romula Mabale contends that Tan Tian Tiong, being an alien, was incapacitated to acquire Lot No. 1592. That contention is wrong.

Before approving the compromise, the trial court required Tan Tian Tiong to prove his Philippine citizenship. He submitted to the court a certified copy of his Certificate of Naturalization No. 32 issued by the clerk of court of the lower court on March 18, 1968 in Naturalization Case No. R-50 together with his oath of allegiance of the same date. His Philippine citizenship is an indisputable fact.

Another contention of Romula Mabale is that as a member of the cultural minority she could not be divested of Lot No. 1592 without the intervention of the proper government agency. She submitted a certification of the provincial development officer of the governor's office of Misamis Occidental stating that she belongs to the Subanon tribe and, as such, she is a member of the National Cultural Communities.

Without so specifying, Romula Mabale's counsel is referring to section 145(b) of the Administrative Code of Mindanao and Sulu and section 120 of the Public Land Law which require approval by the competent authority of conveyances of real property made by non-Christians. (See *Mangayao vs. Lasud*, 120 Phil. 154.)

That question was not raised in the lower court. It is not adequately argued in petitioner's memorandum. The fact is that in Romula's prior transactions regarding Lot No. 1592 she did not regard herself as a Non-Christian who should be assisted by the provincial governor.

Thus, she mortgaged that lot to the Philippine National Bank and the DBP without the intervention and assistance of any government agency. Her verification of the pleadings in this case shows that she can legibly sign her name. She does not appear to be illiterate. The compromise in question was approved by the lower court. Under these circumstances, Romula is estopped to invoke section 145 of the Administrative Code of Mindanao and Sulu.

Another contention of Romula Mabale is that her children were the owners of Lot No. 1592 which they had in fact partitioned. That alleged partition was not annotated on TCT No. T-943 where-in it is indubitably indicated that Romula was the registered owner of Lot No. 1592. That title was superseded by the new title issued to Tan Tian Tiong.

The contention of Romula Mabale that fraud vitiated her consent to the compromise cannot be taken seriously. She raised that question for the first time in her petition dated June 27, 1977 to suspend the contempt proceeding and in her complaint dated June 17, 1977 in Civil Case No. 3256. She raised that issue after the judgment based on the compromise had been partly executed.

Her present counsel conjectured that there was fraud because Civil Case No. 2711 involved only the sum of P22,250 whereas Romula's total obligation, as set forth in the compromise agreement, amounted to P46,000. Her counsel overlooked that, aside from the sum of P22,250, Romula had contracted to redeem for P24,000 from Lagrimas Lim (Tan Tian Tiong's wife) Lot No. 1592 and another lot. Consequently, in the compromise agreement, her obligation was computed at P46,000. Tan Tian Tiong condoned the sum of P250.

With respect to the contempt proceeding, the question is whether under the judgment based on the compromise the lower court could issue a writ of possession (as distinguished from a writ of execution) so as to eject from Lot No. 1592 Romula Mabale and "all the persons acting under her".

The compromise and the judgment are silent as to the transfer of possession to Tan Tian Tiong in the event that Lot No. 1592 is registered in his name.

In that connection, it should be borne in mind that the law specifies when a writ of possession may be issued. That writ is available (1) in a land registration proceeding, which is a proceeding in rem (Sec. 17, Act No. 496; *Estipona vs. Navarro*, L-41825, January 30, 1976, 69 SCRA 285, 291); (2) in an extrajudicial foreclosure of a realty mortgage (Sec. 7, Act No. 3135); (3) in a judicial foreclosure of mortgage, a quasi in rem proceeding, provided that the mortgagor is in possession of the mortgaged realty and no third person, not a party to the foreclosure suit, had intervened (*Rivera vs. Court of First Instance of Nueva Ecija and Rupac*, 61 Phil. 201; *Ramos vs. Mañalac and Lopez*, 89 Phil. 270, 275) and (4) in execution sales (last par. of sec. 35, Rule 39, Rules of Court).

Since the instant case does not fall among the cases mentioned above, the issuance of the writ of possession was not proper (*Gatchalian vs. Arlegui*, L-35615 and L-41360, February 17, 1977, 75 SCRA 234, 244).

Moreover, the writ of possession was addressed to the sheriff (p. 59, Rollo). Hence, the petitioners herein could not have been guilty of disobeying that writ and, therefore, they could not be held liable for contempt of court (*Gatchalian vs. Arlegui*, supra; *Mendoza vs. Alano and Salceda*, 112 Phil. 445; *U.S. vs. Ramayrat*, 22 Phil. 183).

In the ultimate analysis, the issue is whether because Tan Tian Tiong is now the registered owner of Lot No. 1592 by virtue of the judgment based on the compromise, the Court of First Instance of Zamboanga del Norte in Civil Case No. 2711 can order Romula Mabale to deliver the possession of that lot to Tan Tian Tiong in spite of the pendency of Civil Case No. 3256 in the Misamis Occidental Court for the annulment of the said judgment.

We hold that if the claim of Romula Mabale, her children and son-in-law to retain possession of Lot No. 1592 is based merely on her ownership, which was terminated by the issuance of a new title to Tan Tian Tiong, then the trial court, to avoid multiplicity of suits, may order her, her children and son-in-law (the petitioners herein) to vacate that lot. Squarely applicable to the situation herein is the following ruling:

"Judgment; When Adjudication of Ownership does not Include Possession; Case at Bar. - The adjudication of ownership does not include possession of the property where the actual possessor has a valid right over the property enforceable even against the owner thereof. An example is the case of tenants and lessees. This doctrine, however, may not be invoked in instances where no such right may be appreciated in favor of the possessor.

"In the instant case, considering that appellants have no other claim to the possession of the property in question, apart from their claim of ownership which was rejected by the lower court and, consequently, have no right to remain therein after such ownership was adjudged to appellees, the delivery of possession of the land should be considered included in the adjudication.

"Indeed, it would be defeating the ends of justice should the appellees be required to submit to court litigations anew in order to obtain possession of the property duly adjudged to be theirs, from those who have no right to remain therein." (*Syllabus, Perez and Alcantara vs. Evite and Manigbas*, 111 Phil. 564).

In the instant case, there is no showing that the petitioners can justify their right to possess Lot No. 1592 on a ground distinct from their claim of ownership which claim, as noted above, cannot be sustained because the title over that lot is now in Tan Tian Tiong's name.

Petitioners' last contention is that a prejudicial question is involved in Civil Case No. 3256 because the contempt proceeding against them is criminal in nature. We have already ruled that the contempt proceeding is not proper against the petitioners since the writ of possession was directed to the sheriff and not to them.

Moreover, the supposed contempt is not criminal in nature. It is civil in nature because it consists in the failure to do something for the benefit of a party (3 *Moran's Comments on the Rules of Court*, 1970 Ed., p. 343). Petitioners' theory that a prejudicial question is involved in Civil Case No. 3256 and that, for that reason, the contempt proceeding in Civil Case No. 2711 should be suspended, is not correct.

WHEREFORE, the lower court's resolution ordering Romula Mabale and all those holding under her to vacate Lot No. 1592 is affirmed but with the modification that they should deliver the possession of the said lot to Tan Tian Tiong within sixty (60) days from the date this judgment becomes final. No costs.'

SO ORDERED.

Fernando, J., (Chairman), concurs with the main opinion and the reservation in the concurrence of J. Barredo.

Barredo, J., concur subject to the terms of the compromise agreement reserving certain rights to the petitioners.

Antonio, Concepcion, Jr., and Santos, JJ., concur.

Abad Santos, J., abstain.

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