

ALEGRIA E. GARCIA, WILLIAM R. GARCIA AND CARMELITA B. ORDINARIO, PLAINTIFFS. VS. JOSEFINA BRES, FELICIANO GAROTE, JOSE BRES AND ROLANDO BRES, DEFENDANTS.

Ponente: BALTAZAR-PADILLA, J.

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BALTAZAR-PADILLA, J.:

Submitted to this Court is a Compromise Agreement signed by plaintiffs Alegria E. Garcia, William R. Garcia and Carmelita B. Ordinario and defendant Feliciano Garote who signed the same for himself and as Attorney-in-Fact of defendants Josefina Bres and Rolando Bres as per the Special Power of Attorney the two said defendants separately executed in his favor. The said proofs of authority were submitted to the Court subsequent to the Compromise Agreement and pursuant to the directive of this Court as embodied in its November 8, 2013 Resolution.

With respect to defendant Jose Bres, what was submitted to the Court was a photocopy of his Certificate of Death . Considering the death of the said defendant, his counsel was ordered by this Court as per its Minute Resolution of September 12, 2014 to submit certified true copy of the said defendant's death certificate, the names and addresses of Jose Bres' heirs, proofs of their filiation, proof of authority of Feliciano Garote to sign for the heirs of Jose Bres and a currently issued Special Power of Attorney by Josefina Bres in favor of Feliciano Garote.

In response thereto, the counsel for defendants filed a Manifestation on October 23, 2014 alleging the following:

“THAT, the Undersigned Counsel, could not anymore contact the Defendants-Appellees who according to their relatives they have already executed, signed, filed and submitted their Compromise Agreement without informing the Undersigned Counsel.

That said Compromise Agreement be approved and the PARTIES be ordered to comply.

THAT, the Defendants-Appellees be furnished copy of the approval of their Compromise Agreement.”[1]

Considering the foregoing Manifestation of the counsel for defendants and considering further that as per the joint Answer filed by the said defendants before the trial court, they alleged that defendant Jose Bres and Rolando Bres “are mere laborers and therefore not indispensable or necessary parties”[2] and that with respect to the right of way being claimed by herein plaintiffs, the right of indemnity belongs to defendant Josefina Bres[3] and considering finally that this case has been pending since February 7, 2007, the Court will now act on the aforementioned Compromise Agreement . The Court finds that the Special Power of Attorney executed by defendant Josefina Bres although dated December 7, 2006 would suffice in the absence of any showing of revocation of the same. The said Special Power of Attorney was the same Special Power of Attorney attached to the Answer that Josefina Bres and her co-defendants filed before the lower court.

The Compromise Agreement of the parties provides the following:

“WITH ALL DUE RESPECT TO THE HONORABLE COURT

The PARTIES, by themselves and/or their duly authorized representative, most respectfully submit for approval this Compromise Agreement containing the following terms and conditions:

WHEREAS, this Honorable Court issued a Decision dated January 25, 2012, declaring that no encroachment of the right-of-way was affected by the construction of a concrete fence by Defendant Josefina Bres on Lot 898-A registered in her name, thereby dismissing the above mentioned case;

WHEREAS, by will and for the benefit of the Parties, a “pathway or passage” for exit and ingress of persons is however requested to the established over Lot 898-A;

WHEREAS, Defendant Josefina Bres is willing that such easement of right-of-way be granted and established over Lot 898-A;

IN CONSIDERATION OF THE FOREGOING PREMISES and of the terms and conditions hereinafter set forth, the Parties hereby agree on the following terms and conditions:

1. That the width of the easement of right-of-way to be established at Lot 898-A shall be TWO (2) METERS;
2. That the width of the easement is sufficient for the needs of the Parties, particularly the Plaintiffs;
3. That of the 2 meter easement a strip of ONE AND A HALF (1.5) METER shall be given and established without indemnity;
4. That the remaining HALF (.5) METER strip shall be subject to a lump sum compensation/indemnity in the amount of SEVENTY FIVE THOUSAND PESOS (75,000.00) to cover the value of the land occupied and the damages that may be caused to the subject lot;
5. That the Parties hereby agree that the amount indicated above shall be the true and final compensation/indemnity for the subject .5 meter strip of the easement;
6. That the above-mentioned compensation/indemnity shall be paid in Philippine currency and in full IMMEDIATELY UPON THE APPROVAL of this Compromise Agreement;
7. That Defendant retains the ownership of the 2 meter portion on which the easement of right-of-way is established, and may use the same in such a manner as not to affect the exercise of the easement;
8. That the Parties agree that the easement of right-of-way is established at the point least prejudicial to the subject property;
9. That if the easement of right-of-way granted ceases to be necessary Defendant may demand that the easement be extinguished, returning what she may have received by way of indemnity;
10. That Plaintiffs shall pay any taxes that may be due the National Government or Local Government Unit as a result of this Agreement;
11. That Plaintiffs shall cause the annotation and registration of this Agreement with the Office of the Register of Deeds and shoulder the cost thereof;
12. That the Parties shall not obstruct the total area of the right-of-way nor use the same except for the purpose originally contemplated. Neither can they exercise the same in any other manner than that previously established.
13. That the Plaintiffs may make, upon notice to the Defendant and at their own expense, on the subject property any works necessary for the use and preservation of the easement, but without altering or rendering it more burdensome;
14. That if the reason of the place originally assigned, or of the manner established for the use of the easement, the same should become very inconvenient to the Defendant, or should prevent her from making any important works, repairs or improvements thereon, it may be changed at her expense, provided she offered another place or manner equally convenient and in such a way that no injury is caused thereby to the Plaintiffs;
15. That the easement of right-of-way may be extinguished in accordance with the modes provided for by law.

PRAYER

WHEREFORE, premises considered it is most respectfully prayed of this Honorable Court that the foregoing Compromise Agreement be approved and judgment be rendered on the basis of its covenants and conditions, without pronouncement as to costs.

IN WITNESS WHEREOF, the Parties have hereunto affixed their signatures this 23rd day of October, 2013 at

Urdaneta City.

ALEGRIA E. GARCIA

Plaintiff

JOSEFINA BRES

WILLIAM R. GARCIA

By:

Plaintiff

FELICIANO GAROTE”[4]

CARMELITA B. ORDINARIO

Atty.-In-Fact

Plaintiff

WHEREFORE, finding the said Compromise Agreement not to be contrary to law, morals, good customs, public order, and public policy, the same is hereby approved and a Judgment is rendered on the basis thereof .

Accordingly, the parties are hereby enjoined to comply with the terms and conditions thereof strictly and in utmost good faith.

The extant case is now considered CLOSED and TERMINATED.

SO ORDERED.

Tijam, N.G. (Chairperson) and Garcia-Fernandez, M.V.,[*] JJ., concur.

[*] Vice J. Reyes-Carpio as per Office Order No. 511-14-RSF dated Dec. 5, 2014

[1] Rollo p. 81

[2] Original Record, p. 23

[3] I.d.

[4] Rollo pp. 44-46

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