

RUFINO MAGBALETA, ROMANA B. MAGBALETA, AND SUSANA G. BALDOVI, PETITIONERS, VS. HON. ARSENIO M. GONONG AND CATALINO MAGBALETA, RESPONDENTS.

G.R. No. L-44903. April 22, 1977

Ponente: BARREDO, J.

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BARREDO, J.:

Petition for certiorari, prohibition and mandamus, with preliminary injunction, against the orders of respondent judge in Civil Case No. 633-IV of the Court of First Instance of Ilocos Norte dated August 31, 1976 and October 8, 1976 denying petitioners' motion to dismiss the complaint filed against them notwithstanding that private respondent is the brother of petitioner Rufino Magbaleta, the husband of the other petitioner Romana B. Magbaleta, and the suit is to have a parcel of land, covered by a Free Patent Title in the name of Rufino, declared to be the property of private respondent, who claims in said complaint that the third petitioner Susana G. Baldovi is trying to take possession of said land from his representative, contending she had bought the same from the spouses Rufino and Romana, said orders having been issued allegedly in violation of Article 222 of the Civil Code and Section 1 of Rule 16 of the Rules of Court, there being no allegation in respondent's complaint that his suit, being between members of the same family, earnest efforts towards a compromise have been made before the same was filed.

Respondent judge premised his refusal to dismiss the complaint upon the sole ground that one of the defendants, petitioner Susana G. Baldovi, the alleged buyer of the land in dispute, is a stranger, hence the legal provisions above-mentioned do not apply.

The Court holds that this ruling of respondent judge is correct. While indeed, as pointed out by the Code Commission "it is difficult to imagine a sadder and more tragic spectacle than a litigation between members of the same family" hence, "it is necessary that every effort should be made toward a compromise before a litigation is allowed to breed hate and passion in the family" and "it is known that a lawsuit between close relatives generates deeper bitterness than between strangers" (Report of the Code Commission, p. 18), these considerations do not, however, weigh enough to make it imperative that such efforts to compromise should be a jurisdictional pre-requisite for the maintenance of an action whenever a stranger to the family is a party thereto, whether as a necessary or indispensable one. It is not always that one who is alien to the family would be willing to suffer the inconvenience of, much less relish, the delay and the complications that wranglings between or among relatives more often than not entail. Besides, it is neither practical nor fair that the determination of the rights of a stranger to the family who just happened to have innocently acquired some kind of interest in any right or property disputed among its members should be made to depend on the way the latter would settle their differences among themselves. We find no cause in the reason for being of the provisions relied upon by petitioners to give it broader scope than the literal import thereof warrants.

WHEREFORE, the petition is dismissed and the restraining order issued on November 3, 1976 is hereby lifted.

Costs against petitioners.

Fernando, (Chairman), Antonio, Aquino, and Concepcion, Jr., JJ., concur.

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