

**FELICTANA BUMANLAG AND FLAVIANO BUMANLAG, PETITIONERS,
VS. HON. ANACLETO B. ALZATE, AS PRESIDING JUDGE, BRANCH IF,
COURT OF FIRST INSTANCE OF TARLAC, TOMASA BUMANLAG, AND
SILVIN...**

G.R. NO. L-39119. September 26, 1986

Ponente: PARAS, J.

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PARAS, J.:

On January 21, 1976, this Court declared as submitted for decision a case where the principal issue was the validity of a compromise agreement (which subsequently was embodied in a judgment by compromise) where the agreement was signed (on behalf of one of the parties thereto) by a lawyer who did so without authorization of said party or client. We hold that such a compromise agreement is merely unenforceable^[1] (not void) and may therefore be ratified by said party expressly or implicitly.^[2]

In the instant case (which has been brought to Us by certiorari assailing an Order of the Court of First Instance of Tarlac in Civil Case No. 4912 entitled "Bumanlag et al. v. Bumanlag, et al.") herein petitioners sued herein private respondents for partition of the lots inherited by both parties from their deceased father; respondents however moved to dismiss on the ground that some years before a final and executory judgment (based on a compromise agreement) involving the same parties, same subject matter, and same causes of action had already been rendered by a court of competent jurisdiction and that therefore the doctrine of res judicata clearly bars the present case; petitioners contend that said judgment is void because the compromise agreement had been signed in their behalf by their lawyer who had not been authorized by them to enter into such agreement, consequently there can be no res judicata.

As already intimated herein above, the compromise agreement is not void but merely unenforceable. The petitioners by their silence for sixteen (16) years and by their overt acts of exchanging or bartering some of the lots awarded to them with some of the lots of the private respondents have doubtless ratified the act of their attorney; ergo, the requisites of res judicata being all present, the principle applies to the instant case.

One final point. The argument that the partition in the first case was not one with metes and bounds is bankrupt. There was such a physical and actual partition, not merely a metaphysical one.

WHEREFORE, this petition is DISMISSED, and the assailed Order is hereby AFFIRMED, with costs against petitioners.

SO ORDERED.

Feria (Chairman), Fernan, Alampay and Gutierrez Jr., JJ., concur.

[1] Art. 1403 (no. 1) Civil Code.

[2] Art. 1403 (!st sentence), Civil Code.

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