

**EDGARDO GUEVARA AND LOURDES GUEVARA, PETITIONERS, VS.
HON. HERMINIO I. BENITO, PRESIDING JUDGE OF BRANCH 132 OF
THE RTC OF MAKATI, AND FAR EAST BANK & TRUST CO.,
RESPONDENTS.**

G.R. No. 110401. August 23, 1995

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a petition for review on certiorari of the orders of March 17 and May 7, 1993 of the Regional Trial Court of Makati (Branch 132) in Civil Case No. 92-2818.

The facts are as follows:

On March 16, 1992, the herein petitioner spouses Edgardo and Lourdes Guevara and the private respondent Far East Bank & Trust Co. entered into a compromise agreement to settle Civil Case No. 87-4140 which petitioners had brought in the Regional Trial Court of Manila, for the recovery of property foreclosed by the bank. Attached to the agreement was a Deed of Conditional Sale executed by the parties and made a part of the agreement, whereby in consideration of the sum of P498,960.00 the bank agreed to resell to petitioners the property which the latter formerly owned, which had been foreclosed by the bank.

Under the compromise agreement, petitioners were to give a downpayment of P45,000.00 and pay the balance of P453,960.00 in twelve (12) monthly installments of P37,830.00 each, starting February 4, 1992, plus interest at the rate of 32%. Should petitioners fail to pay any installment on time, it was stipulated that they would forfeit all payments made and the bank would then be entitled to rescind the Deed of Conditional Sale.

On March 30, 1992, the RTC approved the compromise agreement and rendered judgment in accordance with its terms and conditions.

Petitioners paid the first three installments. On September 30, 1992, however, they filed a complaint, which they later amended on December 18, 1992, in the RTC of Makati, alleging that because of race rioting in Los Angeles, California following the acquittal of police officers involved in the manhandling of Rodney King, a black, petitioners' film business in California was disrupted, with consequent delay in payment by the State of petitioners' claim for film and television projects, and that petitioners requested and private respondent agreed to waive the time clause of the monthly installments, starting with the installment due on May 4, 1992. However, so it was alleged, the parties failed to fix the schedule of payment of the balance of the purchase price which then amounted to P386,605.78. Petitioners prayed that a new period for payment of the balance be fixed and that private respondent be ordered to reconvey the property to them upon full payment of the balance.

Private respondent denied that it had agreed to waive the time clause. It asked the court to dismiss petitioners' complaint on the ground that it was barred by the judgment in the prior case (Civil Case No. 87--4140) decided by the RTC of Manila.

On March 17, 1993, the RTC granted private respondent's motion and dismissed the case (Civil Case No. 92-2818). On May 7, 1993, it denied petitioner's motion for reconsideration. Hence, this petition for review on certiorari.

The only issue in this case is whether the judgment based on the compromise agreement in Civil Case No. 87-4140 constitutes *res judicata* in the subsequent case between the same parties. We hold that it does not.

For a judgment to constitute a bar to a subsequent case (1) it must be a final judgment; (2) the court which rendered it must have jurisdiction over the subject matter and the parties; (3) it must be on the merits; and (4) there must be between the two cases identity of parties, subject matter, and causes of action.

All elements of *res judicata*, except the last, are present here. For while there is an identity of parties, there is none as to subject matter and cause of action between Civil Case No. 87-4140 and Civil Case No. 92--2818.

The subject matter of the first case (Civil Case No. 87-4140) was the resale to petitioners of the property which the bank had acquired through foreclosure sale, whereas the subject matter of the second case (Civil Case No. 92-2818), is the rescheduling of payment of the property after the parties originally fixed it in their compromise agreement.

Nor are the causes of action in the two cases the same, so much so that the same evidence would not support both of them, which is the test of the identity of causes of action. Indeed the causes of action cannot be the same for the reason that, if true, the cause of action in the complaint in Civil Case No. 92-2818 only arose after the judgment in Civil Case No. 87-4140.

To be sure petitioners' later claim, if granted, would result in the modification of the judgment in the first case, but no more so than if on account of force majeure petitioners were granted further time within which to discharge their obligation under that judgment.

The principle of *res judicata* does not apply, since it extends only to the facts and conditions as they existed at the time the judgment was rendered. (*Caiña v. Court of Appeals*, 239 SCRA 252 (1994)) Petitioners' claim is that private respondent agreed to waive in their favor the time clause in the Deed of Conditional Sale starting with the installment which became due on May 4, 1992. They are thus alleging facts which did not occur until after the judgment by compromise had been rendered in Civil Case No. 87-4140 on March 30, 1992. This case is governed by the ruling in *Lao Lim v. Court of Appeals*, 191 SCRA 151 (1990) that a compromise agreement cannot cover any cause of action that might arise after the making of the agreement and that any cause of action which may arise from the application or violation of the compromise agreement is not barred by what was settled in the prior case.

It may very well be that petitioners are claiming novation of the compromise agreement merely to escape the effects of their noncompliance therewith or that if there is indeed any new contract it is unenforceable under the Statute of Frauds. This is, however, a matter of defense and proof which is properly left for determination by the trial court after trial.

WHEREFORE, the orders dated March 17, 1993 and May 7, 1993 issued in Civil Case No. 92-2818 of the Regional Trial Court of Makati (Branch 132) are REVERSED.

SO ORDERED.

Regalado, Puno, and Francisco, JJ., concur.

Narvasa, C.J., (Chairman), on leave.

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