

GLORIA A. ANACLETO, petitioner, vs. ALEXANDER VAN TWEST and/or EUROCEANIC RAINBOW ENTERPRISES PHILIPPINES, INC., respondents.

G.R. No. 131411. August 29, 2000

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a petition for review on certiorari of the decision of the Court of Appeals, dated June 20, 1997. The facts are not disputed. They are as follows:

On February 6, 1995, a complaint for reconveyance of title was filed in the name of Alexander Van Twest and Euroceanic Rainbow Enterprises Philippines, Inc. (Euroceanic) against petitioner Gloria A. Anacleto and Isaias M. Bongar. The complaint filed by Atty. Ernesto V. Perez stated that Alexander Van Twest “has been reported missing since June 16, 1992 but is duly represented herein by undersigned counsel as his agent and/or general counsel.”

On March 31, 1995, Atty. Perez, in representation of Van Twest, entered into a compromise agreement with Anacleto and Bongar, then represented by Atty. Diosdado M. Allado. The text of the agreement reads:[1]

COMPROMISE AGREEMENT

This Agreement executed this 31st day of March, 1995 at Makati, Metro Manila, by and between:

ALEXANDER VAN TWEST, Belizean, of legal age with address at 29 Montclair Street, Merville Park, Parañaque, Metro Manila, represented herein by Atty. Ernesto V. Perez (hereinafter referred to as “the plaintiff”).

-and-

GLORIA A. ANACLETO and ISAIAS M. BONGAR, Filipinos, of legal age with address at c/o 3rd Floor, Tower B, Gold Loop Twin Towers, #1 Gold Loop Street, Ortigas Center, Pasig, Metro Manila, represented herein by Atty. Diosdado Jose M. Allado (hereinafter referred to as “the defendants”).

WITNESSETH: That -

WHEREAS, the plaintiff Van Twest and defendant Anacleto have instituted several actions against each other in the past.

WHEREAS, the plaintiff Van Twest instituted the present action for reconveyance of real property, annulment of deed of sale and accounting of income of property.

WHEREAS, the parties desire to buy peace and wish to avoid a protracted litigation in this case.

NOW THEREFORE, in consideration of the foregoing and the further covenants hereinafter set forth, the parties agree as follows:

1. Plaintiff shall be paid the sum of FOUR MILLION EIGHT HUNDRED THOUSAND PESOS (P4,800,000.00) in accordance with the following schedule:

a. Initial payment - FIVE HUNDRED THOUSAND PESOS (P500,000.00) shall be paid to the plaintiff by defendant BONGAR upon the signing and due execution of this Compromise Agreement, Provided, however, that the initial payment by defendant BONGAR shall be delivered into the custody and possession of a third party, Atty. Crispulo C. Rosacia, who shall act as escrow-trustee of the parties and who shall only deliver the said initial payment to the plaintiff through plaintiff's counsel upon the filing in Court of this Compromise Agreement.

b. The balance of FOUR MILLION THREE HUNDRED THOUSAND PESOS (P4,300,000.00) shall be paid by defendant ANACLETO as follows:

Second payment - ONE MILLION THREE HUNDRED THOUSAND PESOS (P1,300,000.00) within sixty (60) days after the date of the first payment.

Third payment - ONE MILLION PESOS (P1,000,000.00) within forty-five (45) days after the date of the second payment.

Fourth payment - ONE MILLION PESOS (P1,000,000.00) within forty-five (45) days after the date of the third payment.

Fifth payment - ONE MILLION PESOS (P1,000,000.00) within forty-five (45) days after the date of the fourth payment.

2. The initial payment by defendant BONGAR shall be made in cash. The five payments on the balance shall be covered by post-dated checks drawn by defendant ANACLETO as payable to ATTY. ERNESTO V. PEREZ who shall hold and account for said payments in trust for plaintiff Van Twest.

3. This Compromise Agreement shall not affect nor prejudice any case or cases between the parties not specifically referred to herein.

4. Upon delivery of the initial payment made by defendant BONGAR and delivered to the escrow-trustee of the parties, the parties shall seek Court approval of this Compromise Agreement and the cancellation or lifting of the notice of lis pendens issued by the Court over the property subject of the action.

5. The signatories to this Agreement hereby represent and warrant that they are duly authorized to execute this Agreement.

6. The parties or their assigns hereby waive, renounce and forever quitclaim all their respective claims and counterclaims subject of the instant action as well as those that may arise therefrom, in connection therewith or in relation thereto.

7. The foregoing covenants are not contrary to law, morals, or public policy and the parties bind themselves to comply strictly with their undertakings.

On April 6, 1995, the trial court rendered judgment based on the compromise agreement. Petitioner later filed a manifestation, submitting a copy of a special power of attorney (SPA).

On June 2, 1995, petitioner, represented by new counsel, Atty. Marvin L. Herrera, filed an urgent omnibus motion asking the court to order Atty. Perez to submit an SPA and, in the meantime, to defer petitioner's compliance with her obligation under the compromise agreement.

In his comment dated June 23, 1995, Atty. Perez admitted he had no SPA from Van Twest to enter into a

compromise agreement. However, he claimed that petitioner's former counsel, the law firm of Salonga, Hernandez and Allado, had been informed of this fact.

In an order dated March 17, 1996, the trial court denied petitioner's motion on the ground that she was estopped to question the validity of the compromise agreement considering that, during the negotiations which led to the signing of the compromise agreement, Atty. Perez had disclosed the fact that he had no SPA.

On May 10, 1996, petitioner filed a motion to vacate the judgment, but her motion was denied by the trial court. Her motion for reconsideration was likewise denied. She then filed a notice of appeal, but it was denied by the trial court on the ground that the notice of appeal was filed twelve days late. Petitioner filed a petition for certiorari in the Court of Appeals questioning the denial of her notice of appeal and asking that the order of the trial court denying her motion to vacate the compromise agreement be set aside. As her petition was dismissed by the appellate court, petitioner filed this petition for review on certiorari.

We find the petition meritorious.

The basic issue to be resolved here is whether a party who enters into a compromise agreement with another allegedly represented by a lawyer who has no authority to institute a litigation, much less enter into a compromise agreement, is estopped from questioning the validity of such agreement.

Under the facts of this case, and for reasons to be hereafter discussed, we hold that she is not.

First. A compromise is a contract whereby parties, by making reciprocal concessions, avoid a litigation or put an end to one already commenced.[2] Like any other contract, therefore, it must comply with the requisites provided in Art. 1318 of the Civil Code, to wit: (1) consent of the contracting parties; (2) object certain which is the subject matter of the contract; and (3) cause of the obligation which is established.[3]

Now, it is admitted by Atty. Perez that his only authority to represent Van Twest and Euroceanic is the retainer agreement he had with Van Twest. This agreement reads:[4]

11 July 1990

MR. ALEXANDER VAN TWEST

Manila

Dear. Mr. Van Twest:

Thank you for deciding to retain our law firm as general counsel to handle your civil and criminal cases.

The retainer will amount to P7,500.00 per month. In order to facilitate your account, we shall bill this retainer monthly, starting July, 1990, if agreeable to you.

The retainer will cover office conferences, drawing of ordinary business documents, contracts, deeds, and the like as well as legal advise not requiring substantial time expense on our part. The retainer will not cover the trial of any litigated matters in court or before any administrative body. The cases that we will handle for you shall be subject of a separate progressive billings. In such cases we cannot usually determine in advance the amount of work that will be required. However, any extraordinary matters will be discussed with you in advance so that you may have an estimate of the amount that might be involved before making any commitments.

If the above arrangement is acceptable to you, please sign, date and return the enclosed duplicate copy of this letter for our file.

Very truly yours,

MARTINEZ & PEREZ
LAW OFFICES

by:

(Signed)
ERNESTO V. PEREZ

The above arrangement is acceptable:

(Signed)
10 July 1990

It is clear from this agreement that Atty. Perez's authority to represent Van Twest does not include a special authority to enter into the questioned compromise agreement as required by Rule 138, §23 which provides:

Authority of attorneys to bind clients. -Attorneys have authority to bind their clients in any case by any agreement in relation thereto made in writing, and in taking appeals, and in all matters of ordinary judicial procedure. But they cannot, without special authority, compromise their client's litigation, or receive anything in discharge of a client's claim but the full amount in cash.

Indeed, a special power of attorney constituting Atty. Perez as attorney-in-fact is necessary. Art. 1878 of the Civil Code provides:

ART. 1878. Special powers of attorney are necessary in the following cases:

- (1) To make such payments as are not usually considered as acts of administration;
- (2) To effect novations which put an end to obligations already in existence at the time the agency was constituted;
- (3) To compromise, to submit questions to arbitration, to renounce the right to appeal from a judgment, to waive objections to the venue of an action or to abandon a prescription already acquired;

. . . .

It is noteworthy that the action for reconveyance filed by Atty. Perez was brought not only in behalf of Van Twest but also of Euroceanic, a juridical person from which he should have secured the necessary authority to institute this case and enter into a compromise agreement. The law specifically requires that juridical persons may enter into a compromise only in the form and with the requisites which may be necessary to alienate their property.[5] The power to compromise or settle claims in favor of or against the corporation is vested in the board of directors.[6] Hence, in the absence of any authorization from the board of directors of Euroceanic, Atty. Perez could not file any suit in its behalf, regardless of the fact that Van Twest was the former chairman of its board.

As Atty. Perez had no authority to litigate or enter into a compromise agreement in behalf of Van Twest or Euroceanic, the compromise agreement is void. In *Quiban v. Butalid*,[7] it was held that a compromise agreement entered into by a person not duly authorized to do so by the principal is void and has no legal effect.

The same is true as regards the judgment based on the compromise agreement. In *Alviar v. Court of First Instance of La Union*,[8] it was held that a judgment based upon a compromise entered by an attorney without a special authority from the client is null and void. Such judgment may be impugned and its execution may be enjoined in any proceeding by the party against whom it is sought to be enforced. This principle was reiterated in *Jacinto v. Montesa*[9] and *Cosmic Lumber Corporation v. Court of Appeals*. [10]

Second. The Court of Appeals held that petitioner is estopped to deny the authority of Atty. Perez to represent Van Twest because petitioner knew from the start of the negotiations for the compromise agreement that Atty. Perez had no special power of attorney.

The appellate court appears to have based its finding on the affidavit of Atty. Crispulo C. Rosacia, the lawyer who mediated the compromise agreement between Atty. Perez and petitioner's former counsel, Atty. Diosdado M. Allado. The affidavit states:[11]

AFFIDAVIT

I, CRISPULO C. ROSACIA, Filipino, of legal age and with offices at Penthouse, Northeast Tower, the Goldloop towers, One Goldloop Plaza, Ortigas Center, Pasig City, after being duly sworn, depose and state that:

1. I was served a subpoena from Branch 7 of the Regional Trial Court of Manila to appear and testify in the case entitled: Alexander Van Twest vs. Gloria Anacleto and Isaias Bongar, Civil Case No. 95-72826 pending before said Court. In obedience to the subpoena, I appeared before the said Court on December 6, 1995 and learned that I was subpoenaed to attest regarding the events and discussions prior to the execution of the compromise agreement among the parties in said case, particularly on the matter of the representation of the plaintiff by Atty. Ernesto V. Perez. I have been asked to execute an affidavit in lieu of testimony regarding the aforesaid matter. Hence, this affidavit.
2. I am a practicing lawyer and partner at the Villareal Rosacia Diño Samson and Patag Law Offices with offices at the Penthouse, Northeast Tower, the Goldloop Towers, One Goldloop Plaza, Ortigas Center, Pasig City.
3. Sometime around February or March 1995, I was requested by Atty. Ernesto V. Perez, counsel of Alexander Van Twest, to check with Atty. Roberto L. Mendoza, a partner of the Salonga Hernandez and Allado Law Offices if their clients, Gloria Anacleto and Isaias Bongar, would consider amicable settlement in the case of Alexander Van Twest vs. Gloria Anacleto and Isaias Bongar, Civil Case No. 95-72826 of the Regional Trial Court of Manila.
4. Atty. Mendoza informed me over the telephone that they are open to settlement and Atty. Allado came up to our office to discuss it. I then set up a meeting between Atty. Perez and Atty. Allado at my office.
5. During the initial meeting in my office, Atty. Allado asked Atty. Perez as to the person he would be talking to regarding settlement. Atty. Perez said that his client Van Twest is missing as he alleged in the complaint and that he is the representative of Van Twest as to the latter's properties in the Philippines involved in pending litigation. Asked if he holds a special power of attorney, Atty. Perez said that he does not have one and that he acts on the basis of his retainer agreement as legal counsel but he could secure a special power of attorney from the heirs of Van Twest if such is required by the defendants for the settlement. Atty. Allado replied that a special power of attorney from the heirs would be an admission that Van Twest is dead. Atty. Perez insisted that he is the only general counsel or representative as regards Van Twest's properties in the Philippines involved in litigation and could warrant that his acts will not be repudiated especially if the terms of the settlement are reasonable, the same is approved by the court and judgment based on compromise is issued. With the assurances made by Atty. Perez that his acts will not be repudiated by Van Twest or his heirs, Atty. Allado appeared satisfied and we proceeded to discuss the terms of the settlement.
6. Atty. Allado later suggested that the terms of settlement be discussed with his clients, Ms. Anacleto and Engr. Bongar. Attys. Perez, Allado and myself met with Ms. Anacleto and Engr. Bongar. Ms. Anacleto and Engr. Bongar also inquired as to the authority of Atty. Perez. Atty. Perez told Ms. Anacleto and Engr. Bongar the same explanation he gave to Atty. Allado. Apparently satisfied, the terms of settlement were discussed. No agreement

came out of the first meeting. Another meeting was held at which Atty. Perez, Atty. Allado, Ms. Anacleto and myself were present. Atty. Perez and Ms. Anacleto were not able to agree on the terms during the second meeting.

7. After another meeting between Atty. Perez and Ms. Anacleto, I was informed that the talks bogged down.

8. Atty. Perez called later and asked me to make another proposal with Atty. Allado, more particularly on the amount, terms and manner of payment. The proposal was eventually accepted and the Compromise Agreement was executed by Attys. Allado and Perez on behalf of their respective clients.

9. I execute this affidavit to attest to the truth of the foregoing.

19 January 1996 at Makati City, Philippines.

(SGD.) CRISPULO C. ROSACIA, JR.

We hold that estoppel does not apply. The affidavit of Atty. Rosacia shows that although petitioner's former counsel knew that Atty. Perez had no SPA, said counsel nonetheless negotiated with him because of his representation that he was the representative of Van Twest as to the latter's properties in the Philippines and that he could secure an SPA from the heirs of Van Twest. This is why the negotiations did not fall through. Petitioner was thus well within her right in relying upon this representation of Atty. Perez.

Of importance is paragraph 5 of the compromise agreement which provides that "[t]he signatories to this Agreement hereby represent and warrant that they are duly authorized to execute this Agreement." By virtue of this provision, petitioner had the right to require Atty. Perez to secure the necessary authority from Van Twest or the latter's heirs as well as from Euroceanic. Indeed, petitioner cannot be faulted for treating this warranty as a condition precedent to her compliance with the compromise agreement since the requirement of special authority is mandatory^[12] and a lawyer's authority to compromise cannot simply be presumed.^[13] This is the thrust of the urgent omnibus motion^[14] filed by petitioner in the trial court in which she asked that the court require Atty. Perez to show an SPA in accordance with paragraph 5 of their agreement. That this was done by petitioner after the compromise agreement was approved by the court is of no moment for, as just stated, it was the nullity of the judgment itself that was put in issue by petitioner.

Indeed, it may be asked, what injury will result in nullifying a contract in which one of the parties is not represented and where the only claim of the opposing counsel is that the contracting party knew of such fact and belatedly raised such issue? Equity, on which the principle of estoppel is based, is simply not on the side of Atty. Perez. The risk of sustaining the decision of the Court of Appeals is that of requiring petitioner to pay a debt to a stranger,^[15] and we cannot just rely on the guaranty of Atty. Perez that he would hold any money he receives in the cases he has filed in trust for Van Twest and/or Euroceanic. In addition, there is no stopping Van Twest and/or Euroceanic from suing petitioner again for the same cause of action if they are unable to recover the money from Atty. Perez. In fact, the law does not even require them to recognize the trust unilaterally created by Atty. Perez or first seek to recover from him.

Third. It is nonetheless contended that, under the law, the compromise agreement, once approved by the court, becomes executory in the absence of a motion to set aside the judgment thereon on the ground of fraud, mistake, etc. and that a party questioning the judgment on compromise must not only move to set aside the judgment but must also move to set aside or annul the compromise agreement itself.^[16]

This contention has no merit. The principles cited refer to the annulment of voidable compromise agreements. But here, the compromise agreement is void. A void contract does not become valid and enforceable merely because it is based on a judgment upon compromise, and, as we have held, can be impugned in any proceeding. We see no need for petitioner to wait until a writ of execution is issued against her before resorting to certiorari or petition

for annulment of judgment to impugn the validity of the compromise agreement.

Fourth. It is true that petitioner tried to appeal to the Court of Appeals from the order of the trial court denying her motion to vacate the judgment based on the compromise agreement and that petitioner's notice of appeal was filed twelve days late. It was for this reason that the trial court denied petitioner's appeal. Petitioner, therefore, filed a petition for certiorari.

It is within the inherent power of the Court to suspend its own rules in a particular case in order to do justice.[17] Considering the obvious merit of petitioner's cause and the unusual circumstances present in this case, the procedural miscalculation on the part of petitioner may be overlooked. For equitable considerations, we have relaxed the application of otherwise stringent rules by giving due course to appeals filed out of time,[18] treating petitions for certiorari as petitions for review,[19] and remanding cases for trial even though their previous dismissal had become final.[20] In the case at bar, the fact that, for all intents and purposes, this case has been litigated up to this Court with only one party being properly represented and the alleged counsel for the other admits he has no authority to litigate this case is a good reason for a liberal application of the rules.

WHEREFORE, the decision of the Court of Appeals dismissing petitioner's action for certiorari is hereby REVERSED and, consequently, the decision of the Regional Trial Court, Branch 7, Manila, based on the compromise agreement of the parties, is ANNULLED and SET ASIDE and the compromise agreement itself is declared without force and effect.

SO ORDERED.

Quisumbing, Buena, and De Leon, Jr., JJ., concur.
Bellosillo, (Chairman), J., no part. Related to one of parties.

[1] CA Rollo, pp. 16-20.

[2] CIVIL CODE, ART. 2028.

[3] CIVIL CODE, ART. 1318.

[4] CA Rollo, p. 56.

[5] CIVIL CODE , ART. 2033.

[6] Vicente v. Geraldez, 52 SCRA 210 (1973).

[7] 189 SCRA 107 (1990).

[8] 64 Phil. 301 (1937).

[9] 19 SCRA 513 (1967).

[10] 265 SCRA 172 (1996).

[11] CA Rollo, pp. 52-55.

[12] Supra note 9.

[13] Home Insurance Co. v. United States Lines Co., 21 SCRA 863 (1967).

[14] Records, pp. 28-30.

[15] See CIVIL CODE, ARTS. 1240 & 1241.

[16] Mobil Oil, Inc. v. CFI, 208 SCRA 523 (1992); Arkoncel v. Lagamon, 204 SCRA 560 (1991).

[17] Ordoveza v. Raymundo, 63 Phil. 275 (1936); Sollorano v. Court of Appeals, 62 SCRA 478 (1975); Banez v. Court of Appeals, 94 SCRA 756 (1979).

[18] Velasco v. Gayapa, 152 SCRA 440 (1987); Siguenza v. Court of Appeals, 137 SCRA 570 (1985); Ramos v. Bagasao, 96 SCRA 395 (1980); Republic v. Court of Appeals, 83 SCRA 453 (1978); Rodriguez v. Court of Appeals, 68 SCRA 262 (1975); Reyes v. Court of Appeals, 74 Phil. 235 (1943).

[19] Nerves v. Civil Service Commission, 276 SCRA 610 (1997).

[20] Rafael Reyes Trucking Corporation v. People, G.R. No.129029, April 3, 2000.

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