

**FRANCISCO S. DIZON, PETITIONER, VS. SEBASTIAN GONZAGA,
ELISEO GONZAGA, PRESCILO GONZAGA AND ESPIRITU GONZAGA,
RESPONDENTS.**

G.R. No. 138863. January 23, 2002

Ponente: BUENA, J.

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BUENA, J.:

This is a petition for review on certiorari under Rule 45 seeking to set aside the decision of the Court of Appeals, dated 13 January 1999, in CA G.R. CV No. 25531,[1] entitled “Sebastian Gonzaga, et al. vs. Francisco Dizon,” affirming the decision of the Regional Trial Court of Davao, Branch 10, in Civil Case No. 9848, the dispositive portion of which reads:

“WHEREFORE, judgment is hereby rendered ordering the defendant –

“1.

On the first cause of action, to vacate lot 529-B-5 and surrender possession thereof to the plaintiffs to whom it belongs, including all existing improvements thereon which also belong to the plaintiffs by virtue of Art. 449 of the Civil Code;

“2.

On the second cause of action, to vacate that section of the abandoned river bed adjoining points 3 to 4 of the southwestern boundary of lot 529-B-5 and to surrender possession thereof to the plaintiffs to whom it belongs by operation of Article 461 of the Civil Code; but the defendant may remove all his improvements thereon if the same can be done without destroying them, otherwise he may either buy the land from the plaintiffs or enter into a lease agreement with them in accordance with Article 448 of the Civil Code; and

“3.

On the third cause of action, to pay to the plaintiffs the sum of PhP1,000.00 as litigation expenses in connection with the relocation survey and PhP5,000.00 for and attorney’s fees, and also to pay the costs of suit.

The counterclaim is dismissed.

SO ORDERED.”[2]

On 28 September 2001, after an exchange of pleadings and while the above-entitled case was pending resolution before the Second Division of this Court, the Petitioner and the Respondents,[3] by their respective Attorneys-in-Fact, entered into a compromise agreement.[4] On even date, the parties filed a Joint Motion to

Admit and Approve Compromise Agreement and for Judgment Based Thereon.[5]

The Compromise Agreement reads as follows:

“COMPROMISE AGREEMENT

“KNOW ALL MEN BY THESE PRESENTS:

“This Compromise Agreement (hereinafter referred to as the ‘Agreement’) executed this 28[th] day of September 2001 in the City of Davao, by and between:

“FRANCISCO S. DIZON, of legal age, Filipino, married and a resident of Davao City, Philippines (hereinafter referred to as ‘FSDizon’), represented herein by his attorney-in-fact, Atty. Enrique M.O. Diola Jr., of ACCRALAW, 11[th] Floor, Pryce Tower, Pryce Business Park, J.P. Laurel Avenue, Davao City

- and -

“The HEIRS OF PRESCILO GONZAGA, namely, Josefina Basalo Gonzaga (surviving spouse), Arnaldo B. Gonzaga, Gloria Gonzaga Buli, Vicente B. Gonzaga, and Lourdes Gonzaga- Cabrera; The HEIRS OF SEBASTIAN GONZAGA, namely Conrada Gonzaga Musketer (surviving spouse), Carmelita Gonzaga-Oliva, Lorna Gonzaga-Niere, Raul M. Gonzaga, Teresa Gonzaga-Española, Efren M. Gonzaga, Norita Gonzaga-Cabaluna, Diana Gonzaga-Padilla, and Petronilo M. Gonzaga; The HEIRS OF ELISEO GONZAGA, namely Elsie de Lumbar Gonzaga- Ginlo and Esther de Lumbar Gonzaga-Cadilo; and The HEIRS OF ESPIRITU GONZAGA, namely Resurreccion Gonzaga (surviving spouse), Ramir Gonzaga, Lily Gonzaga-Laput, Imelda Gonzaga-Gumapo, Eric Gonzaga, Elma Gonzaga, and Fe Gonzaga-Arañez, all of legal age, Filipino, and residents of Davao City, Philippines (hereinafter collectively referred to as the ‘Gonzaga Heirs’), represented herein by their duly-authorized attorneys-in- fact, Engr. Arnaldo B. Gonzaga and Atty. Bienvenido D. Cariaga, both of legal age, Filipino, and for this purpose with address at c/o Cariaga Law Offices, Mt. Apo Street, Davao City, Philippines:

“WITNESSETH: That –

“WHEREAS, the Gonzaga Heirs, by themselves and in representation of any and all those who are or may be juridically incapacitated as of the date of these presents, have represented and warranted and do hereby represent and warrant that they, and none other, are all the sole heirs of the late Sebastian, Prescilo, Eliseo and Espiritu all surnamed Gonzaga who were, in turn, the direct and only heirs of the late Petronilo Gonzaga;

“WHEREAS, the Gonzaga Heirs’ predecessors-in-interest, the late Prescilo, Sebastian, Eliseo and Espiritu Gonzaga, before their demise, and in representation, and as the heirs and successors-in-interest, of the late Petronilo Gonzaga, have either separately or collectively, whether personally by each or jointly, or through his/their respective/common representative/s or assigns, caused to be instituted several claims, complaints, actions, petitions, controversies, disputes, applications, protest or charges, now pending before various fora, which claims, complaints, actions, petitions, controversies, disputes, applications, protest or charges arose out of, are in connection with, or, in any manner, involve the parcels of land or portions thereof (hereinafter collectively referred to as the ‘Subject Properties’), described as follows:

“1. Lot No. 529-B-5-A, covered by Transfer Certificate of Title (TCT) No. T-135250, with an area of 636 square meters, more or less, more particularly described as follows:

“A parcel of land (Lot 529-B-5-A, Psd-11-021072 being a portion of Lot 529-B-5, (LRC) Psd-244453), situated in the Barrio of Buhangin, City of Davao, Island of Mindanao. Bounded on the NE., along line 3-1 by Lot 529-B-5-B (National Highway) of the subdivision plan; on the SE., along line 1-2 by Lot 529-C, Psd-24381; on the SW., along line 2-3 by Davao River. Beginning at a point marked ‘a’ on plan being S. 05 deg. 34’W.,

1115.98 m. from BLLM No. 18, Cad-102.

“Thence:

S. 52 deg. 01’W., 42.98m. to point 2;

N. 24 deg. 00’W., 30.50 m. to point 3;

S. 88 deg. 15’E., 46.31 m. to point of beginning.

“2.

That section of the old course/abandoned river bed of the Davao River adjoining points 3 to 4 of the southwestern boundary of Lot No. 529-B-5 (LRC) Psd-244453, TCT No. 51624, located at Barangay Ma-a, Talomo District, Davao City, bounded on the SW., along line 3-4 N. 24° 00’ W., 76.68 m. containing an area of 6,000 square meters, more or less; and,

as well as that parcel of land more particularly described as:

“a.

That section of Lot Si-112402 (E) 000017-D, Kaloob na Patente Blg. 112402 (E) 95-13, Katibayan ng Original na Titulo Blg. P-14207 located at Barangay Ma-a, Talomo District, Davao City containing an area of 25,187 square meters more or less. Bounded along Line 1-2 by Public Land; along lines 2-3-4-5-6-7 by Lot 529, Cad 102; along line 7-8 by Public Land; along lines 8-9-10-11-12 by Lot 430-A, Psd-23270; and along lines 12-13-1 by F (VII-1) 015312. Beginning from point marked ‘1’ on plan being S. 09 deg. 56’W., 1114.59 m. from BLLM No. 18, Cad. 102.

Thence:

1-2

N.

63 deg. 03’E.,

30.18 m.

2-3

S.

24 deg. 00’E.,

58.00 m.

3-4

S.

40 deg. 48’E.,

44.24 m.

5-6

S.

46 deg. 55' E.,

70.91 m.

7-8

S.

09 deg. 26' E.,

128.54 m.

8-9

N.

67 deg. 37'W.,

44.44 m.

9-10

N.

43 deg. 57'W.,

188.19 m.

10-11

N

41 deg. 08'W.,

94.17 m.

11-12

N.

21 deg. 56'W.,

50.35 m.

12-13

N.

55 deg. 56'E.,

47.97 m.

13-1

N

86 deg. 46'W.,

6.81 m.

which hereafter shall be referred to as Lot Si-112402 (E) 000017-D.

“WHEREAS, for value which the Gonzaga Heirs have acknowledged, as they do hereby acknowledge to have received in full, and in full recognition of the rights, interests and title of FSDizon, or the latter’s heirs, successors-in-interest, agents or assigns, to any portion of the Subject Properties, or any other person or entity with claims to Lot Si-112402 (E) 000017-D, the Gonzaga Heirs have proposed and the parties have voluntarily agreed, as by these presents they confirm their proposal and agreement, to amicably settle, for valuable consideration and under the terms and conditions specified hereunder, any and all of the aforesaid claims, complaints, actions, petitions, controversies, disputes, applications, protests or charges which arose out of, are in connection with, or, in any manner involve, the Subject Properties.

“WHEREAS, for and in consideration of the valuable services rendered by the late Prescilo Gonzaga, by himself and/or through his son, Engr. Arnaldo Gonzaga and/or Atty. Bienvenido Cariaga, the benefits of which the Gonzaga Heirs have also acknowledged having received in full, the Gonzaga Heirs have constituted and appointed ENGR. ARNALDO GONZAGA, of legal age, Filipino, married and a resident of Davao City, Philippines and ATTY. BIENVENIDO CARIAGA, to be the Gonzaga Heirs’ true and lawful attorneys-in-fact, for them and in their name, place and stead, to do the following acts and things, to wit:

“1.

To enter into, sign and execute any and all contracts, agreements, or any and all instruments, documents, or writings, any or all of which shall embody, or into which shall be deemed incorporated as integral portions thereof the representations, warranties, waiver, release and quitclaim subject of these presents, to acknowledge the rights of prior ownership of FSDizon to the Subject Properties and/or for the purpose of transferring, ceding, or in any manner disposing of any and all of such rights, interests, prior occupancy, title, or claims over the Subject Properties or any portion thereof in favor of FSDizon, the latter’s heirs, successors- in-interest, agents or assigns, as well as a waiver and representation of withdrawal of protest or adverse claim over Lot Si -112402 (E) 000017-D.

“2.

To forthwith cause the withdrawal, abatement, dismissal or settlement of any and all claims, complaints, actions, petitions, controversies, disputes, applications, protest or charges before the Supreme Court, any court or any other tribunal, or any agency or instrumentality, which any of the Gonzaga Heirs or their predecessors-in-interest may have, ever had, or which the Gonzaga Heirs’ own heirs, executors, administrators and assigns can or shall have arising out of, in connection with or, in any manner, involving any or all of the Subject Properties, which shall also include Lot Si -112402 (E) 000017-D; and to sign and execute any contract, agreement, document, instrument or writing necessary for and in relation to any and all such withdrawal, abatement, or dismissal.

“3.

To receive any and all payments, compensations, considerations which are due, or may still be due to the Gonzaga

Heirs, as settlement of any and all claims, complaints, actions, petitions, controversies, disputes, applications, protests or charges which the Gonzaga Heirs or their predecessors-in-interest may have, ever had, or which the Gonzaga Heirs' own heirs, executors, administrators and assigns can or shall have arising out of, in connection with or, in any manner, involving any or all of the Subject Properties.

"Giving and granting unto the said attorneys-in-fact full power and authority whatsoever requisite or proper to be done in or about the premises, as fully to all intents and purposes as the Gonzaga Heirs might or could lawfully do if personally present, with power of substitution, and ratifying and confirming all that said attorneys-in-fact or his/their substitute/s shall do or cause to be done under and by virtue of such presents.

while Atty. Enrique M. O. Diola Jr. is duly authorized to enter into this Agreement in behalf of FSDizon. Copies of the Special Powers of Attorney executed by the Heirs of Prescilo Gonzaga, Eliseo Gonzaga, Espiritu Gonzaga and Sebastian Gonzaga are attached with Annexes A, B, C, and D, while a copy of the Special Power of Attorney issued by FSDizon to Atty. Enrique M.O. Diola is attached as Annex E; and all these Special Powers of Attorney are incorporated into and made an integral part of this Agreement.

"WHEREFORE, the parties hereto agree as follows:

"1.

The Gonzaga Heirs no longer have any claims, demands or causes of action whether direct, contingent, subsidiary, or otherwise, against FSDizon, the latter's heirs, successors-in-interest, agents or assigns, to any portion of the Subject Properties, and to any claim with regard to Lot Si-112402 (E) 000017-D.

"Accordingly, the Gonzaga Heirs have waived, and do by these presents waive, and authorize the full transfer, cession or disposition to and in favor of FSDizon or any of the latter's heirs, successors in interest, agents or assigns, and the third party any and all rights, interests, claims, or title which the Gonzaga Heirs or any or all of the latter's predecessors-in-interest, successors-in-interest, heirs, agents or assigns may have, ever had, or shall have, over any or all of the Subject Properties. The Gonzaga Heirs acknowledge the rights of ownership of FSDizon over the Subject Properties.

"2.

The Gonzaga Heirs have remised, released and forever discharged, and do by these presents release, remise and forever discharge FSDizon, the latter's heirs, successors-in-interest, agents or assigns, binding likewise the Gonzaga Heirs' own heirs, successors, administrators and assigns, from any claims, complaints, actions, petitions, controversies, disputes, applications, protests or charges before the Supreme Court, any court or any other tribunal, or any agency or instrumentality, which the Gonzaga Heirs or any or all of their predecessors-in-interest may have, ever had, or which the Gonzaga Heirs' own heirs, executors, administrators and assigns can or shall have, arising from, in relation to, or in any manner, involving any or all of the Subject Properties. This undertaking shall likewise cover any and all such claims against Lot Si-112402 (E) 000017-D.

"3.

In view of the foregoing, the Gonzaga Heirs have warranted, as they do hereby warrant and confirm, that they, whether individually or jointly, separately or in common, binding themselves, their own heirs, successors, administrators and assigns, as well as their other co-heirs who, at the time of these presents may be juridically incapacitated, will not continue to prosecute, and hereby desist from further prosecuting and will abate and/or move for the dismissal of any and all claims, complaints, actions, petitions, controversies, disputes, applications,

protests or charges before the Supreme Court, any court or any other tribunal, or any agency or instrumentality, which the Gonzaga Heirs or any or all of their predecessors-in-interest may have, ever had, or which the Gonzaga Heirs' own heirs, executors, administrators and assigns can or shall have arising out of, in connection with or in any manner involving any or all of the Subject Properties.

“4.

The Gonzaga Heirs have further warranted, as they do hereby further warrant that they, whether individually or jointly, separately or in common, will institute no claims, complaints, actions, petitions, controversies, disputes, applications, protests or charges of any kind, in any form and with any forum, against FSDizon, the latter's heirs, successors-in-interest, agents or assigns, hereby binding likewise the Gonzaga Heirs' own heirs, successors, administrators and assigns. This undertaking shall likewise cover any and all such claims involving Lot Si-112402 (E) 000017-D.

“5.

In order to secure the approval of this Agreement from the Supreme Court, the parties hereto agree as follows:

“Upon the signing of this Agreement:

- The Gonzaga Heirs, through the attorney-in-fact named above, shall cause the necessary pleadings to be filed in the Supreme Court in G.R. No. 138863 (“Francisco S. Dizon vs. Sebastian Gonzaga, Eliseo Gonzaga, Prescilo Gonzaga and Espiritu Gonzaga, et al.”), formerly CA-G.R. CV No. 25531, RTC Civil Case No. 9848, RTC Branch 10, Davao City, to notify the Supreme Court of the deaths of Sebastian, Eliseo, Prescilo and Espiritu Gonzaga and to secure the Court's approval for the Gonzaga Heirs to be substituted for the deceased, in compliance with the requirements of the Rules of Court.
- Together with the filing of the pleading referred to in sub-paragraph (a) above, the Gonzaga Heirs, through the above-named attorneys-in-fact, shall file the necessary pleadings in the Supreme Court in G.R. No. 138863 to admit, approve and adopt this Agreement as the full and complete disposition of the said pending case.

6. Settlement consideration/schedule of payment:

As full and complete consideration for this settlement, without any admission of liability but solely for the purpose of buying peace, FSDizon shall pay to the Gonzaga Heirs the total amount of Three Million Five Hundred Thousand Pesos (P3,500,000.00), Philippine currency, the manner and mode of payment of which shall be, as follows:

- Upon the signing of this Agreement, FSDizon shall pay to the Gonzaga Heirs, through the attorneys-in-fact named above by virtue of the SPAs executed to them, the amount of Three Million Pesos (P3,000,000.00) in cash. The signatures affixed by the said attorneys-in-fact on this Agreement shall suffice as proof that the Gonzaga Heirs have received the aforesaid amount in full.
- The balance of Five Hundred Thousand Pesos (P500,000.00), which shall be for the fees of Atty. Bienvenido Cariaga, shall be deposited in an escrow account, in a bank to be agreed upon by the parties, with the condition

that the said account in escrow shall be released by the escrow bank only upon the approval by the Supreme Court of this Agreement, and its adoption of the same as the decision in this case.

- FSDizon, his assigns, successors-in-interest, and heirs hereby waive and quitclaim any and all claims they have, had, or may have against any or all of the Gonzaga Heirs, arising out of or in connection with the filing of claims, complaints, civil or criminal actions, petitions, controversies, disputes, applications, protest or charges and suits, and the like against FSDizon in connection with any of the Subject Properties, including charges for malicious suit, perjury and the like, if any. FSDizon likewise acknowledges that he has no claims of ownership over that parcel of land, which is a portion of Lot 529-B-5-C which is not covered by the riverbed, located at the right side of the diversion road coming from Buhangin to Ma-a, immediately after the diversion bridge.

- This Agreement constitutes the entire agreement between the parties with regard to G.R. No. 138863 and the Subject Properties, and it may not be substituted, modified, or amended in any manner, except upon a written agreement executed by the duly- authorized representative/s of the parties.

- The parties hereby agree to execute such other documents, instruments, and/or papers as may be necessary or proper to fully implement and carry out this Agreement.

IN WITNESS WHEREOF, the parties have duly affixed their signatures on the date and at the place first stated above.

For Francisco S. Dizon

For the Gonzaga Heirs:

(signed)

(signed)

ATTY. ENRIQUE M.O. DIOLA JR.

ENGR. ARNALDO B. GONZAGA

Attorney-in-Fact

Attorney-in-Fact

(signed)

ATTY. BIENVENIDO D. CARIAGA

Attorney-in-Fact”[6]

Clearly, the parties have chosen to preserve the peace by resolving the dispute among them. Withal, We auspiciously put our judicial imprimatur on this agreement in accordance with Article 2037 of the Civil Code.

Finding the same to be in order and not contrary to law, morals, good customs and public policy, this compromise agreement is hereby approved.

WHEREFORE, judgment is rendered in accordance with the above quoted Compromise Agreement dated 28 September 2001. The parties are hereby enjoined to comply strictly and in good faith, as well as with sincerity and honesty of purpose, with the terms, conditions and stipulations therein contained.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and De Leon, Jr., JJ., concur.

[1] Annex “A”/ CA Decision, p. 68, ROLLO.

[2] Annex “E”/ RTC Decision, pp. 85-86, ROLLO.

[3] All the original respondents, are dead and are now substituted by their respective heirs as per MANIFESTATION On The Death of Respondents and MOTION To Allow Substitution of Heirs dated 28 September 2001 and filed 30 October 2001.

[4] Annex “2”/ Compromise Agreement, pp. 360-365, ROLLO.

[5] Motion, pp. 341-343, ROLLO.

[6] Annex “2”/ Compromise Agreement, pp. 360-365, ROLLO.

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