

BENJAMIN AND ROSENDA ESPINO, PETITIONERS, VS. CARMITA LEGARDA, RESPONDENT

G.R. NO. 149266. March 17, 2006

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Before us is a Petition for Review on Certiorari[1] assailing the Decision[2] of the Court of Appeals dated May 10, 2001 and its Resolution dated July 27, 2001 in CA-G.R. CV No. 54196, entitled "CARMITA LEGARDA, plaintiff-appellee, v. JAIME ABEJA, together with all persons claiming rights under him, defendant, BENJAMIN AND ROSENDA ESPINO, defendants-appellants."

On August 1, 1986, Carmita Legarda, respondent, filed with the Regional Trial Court, Manila, three separate complaints[3] for accion publiciana[4] against Benjamin Espino, Rosenda Espino, petitioners, and Jaime Abeja. Respondent alleged that she is the owner of three lots[5] situated on Altura St., Sta. Mesa, Manila. Petitioners clandestinely entered the premises and constructed their houses thereon without the knowledge and consent of her late father, Benito F. Legarda. Despite demand, petitioners refused to vacate the premises and remove their improvements. Respondent reported the matter to Barangay Chairman Epifania Atienza, but petitioners ignored the summonses issued to them. Respondent prayed that petitioners be ordered to vacate the lots and to pay reasonable compensation for the use and occupancy of the premises.

In their separate Answers, petitioners alleged that they cannot be evicted because the lots are covered by the Urban Land Reform Act and, therefore, they have priority to buy the lots; that the complaints failed to allege the dates of respondent's demands to vacate; and that respondent did not resort to conciliation proceedings before the barangay prior to the filing of the complaints.

After the trial, the lower court rendered a Decision against petitioners, ordering them to vacate the lots and deliver possession thereof to respondent, remove all improvements constructed thereon, and pay reasonable compensation for the use and occupancy of the premises.

Aggrieved, petitioners, with the exception of Abeja, interposed their joint appeal to the Court of Appeals. On May 10, 2001, the Appellate Court promulgated its assailed Decision affirming in toto the Decision[6] of the lower court, holding that:

Defendants-appellants vigorously assert that the case did not undergo conciliation proceedings in violation of the provisions of Presidential Decree No. 1508 or the Katarungang Pambarangay Law. However, plaintiff-appellee presented as evidence a Certification from Barangay Chairman Epifania Atienza to prove otherwise. Hence, the act of the barangay chairman in issuing the Certification enjoys the presumption that his official duty has been regularly performed, absent any evidence to the contrary. Further, the defendants-appellants did not object to the presentation of the Certification. Neither did they question said Certification.

Petitioners filed a Motion for Reconsideration but was denied by the Court of Appeals on July 27, 2001.[7]

Hence, this Petition for Review on Certiorari.

The main issue for our resolution is whether respondent complied with the Katarungang Pambarangay Law[8] providing for a conciliation before any complaint, petition, action or proceeding involving any matter within the authority of the Lupon of the barangay shall be filed or instituted in court.

Petitioners contend that while it is true that the complaints alleged that the barangay chairman issued a Certification to File Action (attached to the complaints), however, it was not identified or marked, and worst, not offered as evidence during the trial.

Upon the other hand, respondent maintains that the Certification need not be formally offered in evidence since it was deemed admitted by petitioners when they failed to deny the same under oath in their Answer.

We agree with respondent.

Records show that respondent referred the dispute to the barangay for conciliation proceedings prior to the filing of the complaints with the lower court. In fact the Certification to File Action[9] dated June 21, 1985 states:

This is to certify that the undersigned, in her capacity as Barangay Chairman of Barangay No. 581, Zone 57, Sampaloc, Manila, exerted efforts within the last twelve (12) months to bring to an amicable settlement the controversy between Miss CARMITA LEGARDA of 1011 R. Hidalgo, Quiapo, Manila and Mrs. ROSENDA ESPINO of 618 Altura Street, Sampaloc, Manila, Mr. BENJAMIN ESPINO, also of 618 Altura Street, Sampaloc, Manila, and Mr. JAIME ABEJA of 620 Altura Street, Sampaloc, Manila, in respect to the occupancy of the three (3) last named persons of Miss LEGARDA's property which makes up the sites of the houses of said persons.

Nevertheless, no such settlement took place or was possible in view of the repeated refusal of the same persons to meet with Miss LEGARDA or her personal representative, Mr. ANTONIO O. SINON, despite several summons issued to them by the undersigned.

THIS CERTIFICATION is therefore issued to serve as a basis for the filing of the corresponding complaint or complaints by Miss CARMITA LEGARDA.

(Sgd.) Epifania Atienza.

As correctly observed by the Court of Appeals, petitioners did not object to the presentation of the Certification to File Action during the hearing, thus:

Defendants-appellants vigorously assert that the case did not undergo conciliation proceedings in violation of the provisions of P.D. No. 1508 or the Katarungang Pambarangay Law. However, plaintiff-appellee presented as evidence a certification from Barangay Chairman Epifania Atienza to prove otherwise. Hence, the act of the barangay chairman in issuing the certification enjoys the presumption that his official duty has been regularly performed, absent any evidence to the contrary. Further, the defendants-appellants did not object to the presentation of the certification. Neither did they question said certification. In the separate Answer of defendants-appellants, they alleged that the owner of the property was not Don Benito Legarda but Benito Legarda Incorporated. Assuming this to be true, then barangay conciliation proceedings becomes truly unnecessary since one of the parties to the case is a judicial person.

Even assuming that respondent did not refer the dispute to the barangay for conciliation, still, the trial court could take cognizance of the case considering that petitioners here did not object to such lack of conciliation during the hearing.

In *Junson v. Martinez*[[10]] we ruled that non-compliance with the condition precedent under Presidential Decree No. 1508 does not prevent a court of competent jurisdiction from exercising its power of adjudication over a case

where the defendants fail to object to such exercise of jurisdiction. But such objection should be seasonably made before the court first taking cognizance of the complaint,[11] and must be raised in the Answer, or in such other pleading allowed under the Rules of Court.[12]

Evidently, respondent has satisfactorily shown that she complied with the mandate of the law by referring the dispute to the barangay for amicable settlement before filing her complaints with the court.

WHEREFORE, this Court DENIES the petition. The challenged Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 54196 are AFFIRMED.

Costs against petitioners.

SO ORDERED.

Puno, (Chairperson), Azcuna, and Garcia, JJ., concur.

Corona, J., on sick leave

[1]Under Section 1, Rule 45 of the 1997 Revised Rules of Civil Procedure, as amended.

[2] Penned by Justice Remedios A. Salazar-Fernando and concurred in by Justice Romeo A. Brawner (retired, now Commissioner, Commission on Elections) and Justice Rebecca de Guia-Salvador.

[3] Docketed as Civil Case Nos. 86-36939, 86-36941, and 86-36940, respectively, and were consolidated in Branch 38.

[4]A plenary action to recover the right of possession when dispossession has lasted for more than one year.

[5]Rollo, pp. 5-6.

[6] Annex "A," rollo, pp. 15-30.

[7]Annex "B," id., p. 32.

[8]Presidential Decree No. 1508, Establishing a System of Amicably Settling Disputes at the Barangay Level, which took effect on December 11, 1978; now repealed by Republic Act No. 7160, The Local Government Code of 1991, Sections 399-422 and 515, which took effect on January 1, 1992.

Section 3. Venue. — Disputes between persons actually residing in the same barangay shall be brought for amicable settlement before the Lupon of said barangay. Those involving actual residents of different barangays within the same city or municipality shall be brought in the barangay where the respondent or any of the respondents actually resides, at the election of the complainant.

Section 6. Conciliation, pre-condition to filing of complaint. — No complaint, petition, action or proceeding involving any matter within the authority of the Lupon as provided in Section 2 hereof shall be filed or instituted in court or any other government office for adjudication unless there has been a confrontation of the parties before the Lupon Chairman or the Pangkat and no conciliation or settlement has been reached as certified by the Lupon Secretary or the Pangkat Secretary, attested by the Lupon or Pangkat Chairman, or unless the settlement has been repudiated.

[9] Rollo, p. 36.

[10] G.R. No. 141324, July 8, 2003, 405 SCRA 390, citing *Gonzales v. Court of Appeals*, 151 SCRA 289 (1987).

[11] *Id.*, citing *Royales v. Intermediate Appellate Court*, 127 SCRA 470 (1984).

[12] *Id.*, citing *Garces v. Court of Appeals*, 162 SCRA 504 (1988).

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