

BASILIO BORJA, SR., PETITIONER, VS. SULYAP, INC. AND THE COURT OF APPEALS, RESPONDENTS.

G.R. No. 150718. March 26, 2003

Ponente: YNARES-SANTIAGO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-150718/>

YNARES-SANTIAGO, J.:

This is a petition for review assailing the April 20, 2001 Decision[1] of the Court of Appeals in CA-G.R. CV No. 62237, and its October 31, 2001 Resolution[2] denying petitioner's motion for reconsideration.

The antecedent facts reveal that petitioner Basilio Borja, Sr., as lessor, and private respondent Sulyap Inc., as lessee, entered into a contract of lease involving a one-storey office building owned by the petitioner and located at 12[th] Street, New Manila, Quezon City. Pursuant to the lease, private respondent paid, among others, advance rentals, association dues and deposit for electrical and telephone expenses. Upon the expiration of their lease contract, private respondent demanded the return of the said advance rentals, dues and deposit but the petitioner refused to do so. Thus, on October 5, 1995, the former filed with the Regional Trial Court of Quezon City, Branch 80, a complaint for sum of money against the petitioner.[3] Subsequently, the parties entered into and submitted to the trial court a "Compromise Agreement" dated October 16, 1995.[4] On the basis thereof, the trial court, on October 24, 1995 rendered a decision[5] approving the compromise agreement. The full text of the said decision reads:

Parties thru counsel submitted the following compromise agreement:

"1. That the parties agree that defendant is the LESSOR and owner of the premises subject of the herein complaint and that herein plaintiff is the LESSEE thereof who is to vacate the leased premises peacefully on November 7, 1995;

2. That in the possession of defendant are the following amounts:

a)

P20,000.00 – deposited by plaintiff to defendant on June 7, 1994 for utilities;

b)

5,400.00 – as returnable association dues to plaintiff;

c)

30,000.00 – deposited by the plaintiff to defendant on August 30, 1994, for telephone [expenses];

d)

55,000.00 – ... [rental] deposit [to be applied as rental payment] for the period of October 7 to November 7, 1995.

3. That likewise plaintiff paid for the 5% withholding taxes to the Bureau of Internal Revenue for the rentals which is due from the defendant amounting to P25,175.00 covering the period from July 1994, to July of 1995, whereon plaintiff is hereto attaching proof of payment or receipts as annexes "A" and "B" of said withholding taxes and had been credited to the defendant entitling plaintiff to full reimbursement;
4. That it is expressly agreed that prior to or on November 7, 1995, defendant will reimburse to plaintiff the withholding taxes paid to the Bureau of Internal Revenue in the name of defendant upon signing of the herein compromise agreement plus the association dues of P5,400.00 or a total of P30,575.00;
5. That with the P55,000.00 consumed by way of rentals up to November 7, 1995, there will be left in the possession of defendant of plaintiff's money in the amount of P50,000.00; said amount shall be turned over by defendant to plaintiff within 5 days from arrival of billings for telephone, electrical and water charges only;
6. That the amount shall be subject to actual billings ending November 7, 1995 only and shall immediately as stated, be hand[ed] over to plaintiff;
7. That it is expressly agreed that the parties shall comply in good faith to the terms of the herein compromise agreement and that any amount due not paid within the period stated in this agreement shall earn 2% interest per month until fully paid plus twenty five 25% attorney's fees of the amount collectible and that writ of execution shall be issued as a matter of right. (*Italics supplied*)

WHEREFORE, in light of the above, it is respectfully prayed of this Honorable Court that judgment be rendered on the basis of the above compromise agreement.

Manila for Quezon City

October 16, 1995."

Finding the foregoing compromise agreement to be not contrary to law, morals and public policy, the same is hereby APPROVED.

WHEREFORE, judgment is hereby rendered in accordance with the terms and conditions set forth in the compromise agreement and the parties are hereby enjoined to comply with and abide by the said terms and conditions thereof.

SO ORDERED.[6]

Petitioner, however, failed to pay the amounts of P30,575.00 and P50,000.00 stated in the judicial compromise. Hence, private respondent filed a motion for the issuance of a writ of execution for the total amounts of P30,575.00 and P50,000.00 or a total of P102,733.12, inclusive of 2% interest and 25% attorney's fees.[7] The trial court, in its February 7, 1996 order,[8] granted the motion over the opposition[9] of the petitioner. On May 24, 1996, the latter filed a motion to quash the writ of execution, contending that the penalty of 2% monthly interest and 25% attorney's fees should not be imposed on him because his failure to pay the amounts of P30,575.00 and P50,000.00 within the agreed period was due to private respondent's fault.[10]

On February 20, 1997, petitioner filed another motion praying for the quashal of the writ of execution and modification of the decision.[11] This time, he contended that there was fraud in the execution of the compromise agreement. He claimed that 3 sets of compromise agreement were submitted for his approval. Among them, he allegedly chose and signed the compromise agreement which contained no stipulation as to the payment of 2% monthly interest and 25% attorney's fees in case of default in payment. He alleged that his former counsel, Atty. Leonardo Cruz, who assisted him in entering into the said agreement, removed the page of the genuine

compromise agreement where he affixed his signature and fraudulently attached the same to the compromise agreement submitted to the court in order to make it appear that he agreed to the penalty clause embodied therein.

Private respondent, on the other hand, vehemently denied the contention of the petitioner. To refute the latter's claim, he presented Atty. Leonardo Cruz, who declared that the petitioner gave his consent to the inclusion of the penalty clause of 2% monthly interest and 25% attorney's fees in the compromise agreement. He added that the compromise agreement approved by the court was in fact signed by the petitioner inside the courtroom before the same was submitted for approval. Atty. Cruz stressed that the penalty clause of 2% interest per month until full payment of the amount due, plus 25% thereof as attorney's fees, in case of default in payment, was actually chosen by the petitioner over another proposed more burdensome penalty clause which states – "That it is expressly agreed that the parties shall comply in good faith to the terms of the herein compromise agreement and that any violation thereof shall automatically entitle the aggrieved party to damages in the amount of P250,000.00 plus P50,000.00 attorney's fees." [12]

On October 26, 1998, the trial court issued the assailed order denying petitioner's motion seeking to quash the writ of execution and to modify the judgment on compromise. It gave credence to the testimony of Atty. Leonardo Cruz that petitioner consented to the penalty clause in the compromise agreement. The court further noted that it was only on February 20, 1997, or more than one year from receipt of the judgment on compromise on October 25, 1995, when he questioned the inclusion of the penalty clause in the approved compromise agreement despite several opportunities to raise said objection. The dispositive portion of the said order states:

WHEREFORE, premises considered, and as earlier stated, the defendant's motion to quash the writ of execution and modification of judgment is denied.

SO ORDERED. [13]

On appeal by the petitioner to the Court of Appeals, the latter affirmed the challenged order of the trial court.

Hence, the instant petition.

Is the petitioner bound by the penalty clause in the compromise agreement?

The settled rule in criminal as well as in civil cases is that, in the matter of credibility of witnesses, the findings of the trial courts are given great weight and highest degree of respect by the appellate court considering that the latter is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial, unless it plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case.

In the case at bar, we are faced with the conflicting claim of the petitioner that the questioned penalty clause was fraudulently added to the compromise agreement approved by the court, and the assertion of private respondent that the petitioner consented to the inclusion thereof in the compromise agreement. A scrutiny of the records reveal that the trial court correctly sustained the claim of private respondent. While a judicial compromise may be annulled or modified on the ground of vitiated consent or forgery, [14] we find that the testimony of the petitioner failed to establish the attendance of fraud in the instant case. Indeed, the testimony of Atty. Leonardo Cruz is worthy of belief and credence. We are inclined to believe that the petitioner had knowledge of and consented to the penalty clause embodied in the agreement considering that the same is less burdensome than the automatic imposition of the penalty of P250,000.00 and attorney's fees of P50,000.00 in case of violation of the terms of the agreement or default in payment. Moreover, we see nothing irregular in the compromise agreement approved by the trial court. No evidence was presented by petitioner other than his bare allegation that his former counsel fraudulently attached the page of the genuine compromise agreement where he affixed his signature to the

compromise agreement submitted to the court.

What further militates against the claim of the petitioner is his conduct after receiving the judgment based on the compromise agreement. From October 25, 1995, when he received the judgment reproducing the full text of the compromise agreement, to February 19, 1997, he never raised the issue of the fraudulent inclusion of the penalty clause in their agreement. We note that petitioner is a doctor of medicine. He must have read and understood the contents of the judgment on compromise. In fact, on November 13, 1995, he filed, without the assistance of counsel, a motion praying that the amounts of P50,000.00 and P37,575.00 be withheld from his total obligation and instead be applied to the expenses for the repair of the leased premises which was allegedly vandalized by the private respondent.[15] He did not question the penalty clause in the compromise agreement. Even when the petitioner was already represented by his new counsel, Atty. Felixberto F. Abad, to whom he allegedly confided his former counsel's fraudulent inclusion of the penalty clause, the issue of fraud was never brought to the trial court's attention. On January 31, 1996, when petitioner filed an opposition to the private respondent's motion for the issuance of a writ of execution, he likewise failed to mention the fraud complained of. On May 24, 1996, petitioner filed a motion to quash the writ of execution but based on a different ground. He argued that the penalty of 2% monthly interest and 25% attorney's fees cannot be imposed on him considering that his failure to pay on time was due to the fault of the private respondent. He allegedly refused to pay because the person sent by private respondent to collect payment did not present a special power of attorney authorizing him to receive said payment.[16] In effect, therefore, petitioner acknowledged the validity of the penalty clause.

Evidently, petitioner cannot feign ignorance of the existence of the penalty clause in the compromise agreement approved by the court. Even assuming that Atty. Leonardo Cruz exceeded his authority in inserting the penalty clause, the status of the said clause is not void but merely voidable, i.e., capable of being ratified.[17] Indeed, petitioner's failure to question the inclusion of the 2% monthly interest and 25% attorney's fees in the judicial compromise despite several opportunities to do so was tantamount to ratification. Hence, he is estopped from assailing the validity thereof.[18]

Finally, we find no merit in petitioner's contention that the compromise agreement should be annulled because Atty. Leonardo Cruz, who assisted him in entering into such agreement, was then an employee of the Quezon City government, and is thus prohibited from engaging in the private practice of his profession. Suffice it to state that the isolated assistance provided by Atty. Cruz to the petitioner in entering into a compromise agreement does not constitute a prohibited "private practice" of law by a public official. "Private practice" of a profession, specifically the law profession does not pertain to an isolated court appearance; rather, it contemplates a succession of acts of the same nature habitually or customarily holding one's self to the public as a lawyer.[19] Such was never established in the instant case.

WHEREFORE, in view of all the foregoing, the instant petition is DENIED. The Decision of the Court of Appeals in CA-G.R. CV No. 62237, which sustained the trial court's denial of petitioner's motion to quash the writ of execution and to modify the compromise judgment, is AFFIRMED.

SO ORDERED.

Davide, Jr., C.J., Vitug, Carpio and Azcuna, JJ., concur.

[1] Penned by Associate Justice Buenaventura J. Guerrero (Chairman), concurred in by Associate Justices Eriberto U. Rosario, Jr., and Alicia L. Santos (members).

[2] Rollo, p. 16.

[3] Records, p. 2.

[4] Exhibit “F”, Rollo, p. 92.

[5] Penned by Judge Agustin S. Dizon.

[6] Decision, Records, pp. 99-100.

[7] Records, p. 136.

[8] Records, p. 154.

[9] Records, p. 148.

[10] Records, p. 161.

[11] Records, p. 185.

[12] Records, p. 190.

[13] Records, p. 280.

[14] Republic of the Philippines v. Court of Appeals, 357 Phil. 174, 184 (1998); citing De Guzman v. Court of Appeals, G.R. No. L-52733, 23 July 1985, 137 SCRA 730; Hagosojos v. Court of Appeals, G.R. No. L-59690, 28 October 1987, 155 SCRA 175; Article 2038 of the Civil Code.

ART. 2038. A compromise in which there is mistake, fraud, violence, intimidation, undue influence, or falsity of documents, is subject to the provisions of Article 1330 of this Code.

However, one of the parties cannot set up a mistake of fact as against the other if the latter, by virtue of the compromise, has withdrawn from a litigation already commenced.

Art. 1330. A contract where consent is given through mistake, violence, intimidation, undue influence, or fraud is voidable.

[15] Records, p. 101.

[16] Rollo, p. 163.

[17] Lim Pin v. Liao Tan, 200 Phil. 685, 694 (1982); citing Duñgo v. Lopena, 116 Phil. 1305, 1312 (1962), Salazar v. Jarabe, 91 Phil. 596, 599-600 (1952), citing Rivero v. Rivero, 59 Phil. 15 (1933); Banco Español Filipino v. Palanca, 37 Phil. 921 (1918); Uy Chico v. Union Life Assurance Society, 29 Phil. 163 (1915).

[18] Estate of the Late Mena Bolanos v. Court of Appeals, G.R. No. 122950, 20 November 2000, 345 SCRA 125, 133; Seechung-Federis v. Suñga, G.R. No. L-34803, 17 January 1985, 134 SCRA 16, 26.

[19] Office of the Court Administrator v. Ladaga, A.M. No. P-99-1278, 26 January 2001, 350 SCRA 326, 331.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.