

**FLORANTE MEDINA, JOSEFA MEDINA, AND EXEQUIEL CASAUL, AS
GUARDIAN AD LITEM OF THE MINORS ANITA CASAUL AND
BERNARDA CASAUL, PETITIONERS, VS. THE HON. COURT OF FIRST
INSTANCE OF CA...**

G.R. No. 48681. December 13, 1941

Ponente: OZAETA, J.

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OZAETA, J.:

The petitioners seek to annul a judgment entered by the respondent Court of First Instance of Cavite and to require the said court to hear and decide the case on the merits.

It appears that in the month of March, 1938, the above-named petitioners, together with Cecilia Medina, who was assisted by her husband Estanislao Hernandez, instituted civil case No. 3459 of the Court of First Instance of Cavite against the herein respondent Calixto Ancayan and Constancio Medina to recover one-third of the estate left by Maxima Sismaet, deceased, which was said to be worth about P10,000. After several postponements, the trial of said cause was commenced one year later, that is to say, on April 24, 1939, when two witnesses were called by and testified for the plaintiffs. At that stage of the case the hearing was adjourned indefinitely, the next assignment being January 9, 1941, in the city of Tagaytay; but on said date the court did not hear the case "for lack of time." When the case was again called for trial on July 7, 1941, "the respondent Court presided over by Hon. Judge Roberto Regala made insistent efforts to bring the parties to an amicable settlement," according to the sworn allegation of the petition herein. In view of that suggestion, the following writing was submitted to the court on said date:

"Come now the parties in the above-entitled case, duly assisted by their respective attorneys, and to this Honorable Court respectfully submit, as an amicable settlement thereof, the following—

Agreement

"1. That the defendant Calixto Ancayan, in behalf of his minor children, will give one-half (1/2) of his land in Mabacao, Maragondon, Cavite, to the plaintiffs herein, which parcel of land is bounded on North by the Barrio road; on the East by Fausta Sismaet; on the South by a creek; and on the West by a creek and Modesto Rillo;

"2. That the defendant Calixto Ancayan, also in behalf of his minor children, will give the sum of One Hundred Pesos (F100) to the plaintiffs or their attorney payable until the next harvest or in or about March, 1942.

"Wherefore, it is respectfully prayed that the above or foregoing agreement be approved, without special pronouncement as to costs.

"City of Tagaytay, Philippines, July 7, 1941.

"Florante Medina, Cecilia Medina, Joseph Medina and Exequiel Casaul

"By: (Sgd.) Estanislao Hernandez
Plaintiffs

(Sgd.) E. A. Beltran
Attorney for the Plaintiffs

"(Sgd.) Calixto Ancayan et al.
Defendants

"(Sgd.) Hermogenes Arandia,
Attorney for the defendants."

It will be recalled that Estanislao Hernandez, who signed the foregoing agreement on behalf of the plaintiffs, was only a nominal plaintiff assisting his wife Cecilia Medina. On August 3, 1941, the herein petitioners, who were not present in court on July 7, 1941, informed the court by means of a sworn statement in Tagalog that they were not agreeable to the compromise agreement made by Estanislao Hernandez and Calixto Ancayan, assisted respectively by Attorneys E. A. Beltran and H. B. Arandia, because the same was very prejudicial to them (plaintiffs), and that they did not authorize Estanislao Hernandez to enter into such compromise. Wherefore, they asked the court to set the case for trial without further delay for the reason that they did not want to enter into any compromise that was prejudicial to their interests.

On August 15, 1941, Attorney Beltran withdrew from the case, informing the court:

"1. That his former clients represented by Estanislao Hernandez in the agreement terminating the above cause have informed me that they were not agreeable to the adjudication made, for which I admonished their representative Mr. Hernandez in not telling me what instructions he had from his principals and avoiding placing me in embarrassing situation with this Hon. Court and with the opposing parties;

"2. That when I was asked to continue representing them I told them outright that I cannot do so, thence I ceased voluntarily from continuing my connections with said case and that they have to get other attorney."

On August 22, 1941, Judge Regala denied the said petition of the herein petitioners, stating that the same "is, in effect, a petition against the agreement entered into between the parties on July 7, 1941," and that when it was set for hearing on August 22, 1941, neither the plaintiffs nor the defendants appeared. On the same date, said judge rendered his decision, in which he copied the above-quoted agreement and concluded as follows:

"No habiendo nada ilegal en dicho convenio, el Juzgado lo aprueba y dicta decision al tenor del mismo, ordenando a las partes que se atengan a dicho convenio, sin pronunciamiento en cuanto a las costas."

In the petition before this Court it is asserted that "by said decision the petitioners, including Cecilia Medina, were greatly prejudiced in their hereditary rights, for instead of receiving one-third of the estate, to them was adjudicated less than one-tenth thereof."

The respondents strenuously oppose the present petition for certiorari and mandamus, contending (1) that the petitioners are barred from instituting the present petition because they did not file a motion for reconsideration in the court below; (2) that the petition fails to show any meritorious and good cause of action or defense against the respondent Calixto Ancayan; (3) that the respondent court did not exceed its jurisdiction and committed no abuse of discretion in rendering the decision in question; and (4) that Attorney Beltran and Estanislao Hernandez were duly authorized by the petitioners to enter into the compromise agreement complained of.

We are of the opinion that the judgment in question is a nullity because it was based upon a compromise agreement which had been entered into in contravention of section 21 of Rule 127 and which had been repudiated by the petitioners on the ground that it was entered into without their consent. Under the rule just cited, attorneys

"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." The Civil Code defines a compromise to be "a contract by which each of the parties in interest, by giving, promising, or retaining something, avoids the provocation of a suit or terminates one which has already been instituted." (Article 1809.) There can be no contract without the consent of the contracting parties. (Article 1261.) Attorney Beltran admitted that he had no special authority from the herein petitioners to compromise the same. Estanislao Hernandez, who pretended to represent the petitioners and authorized Attorney Beltran to sign the compromise agreement, had no power of attorney from the petitioners. Since the petitioners did not sign the said compromise agreement, and were not even present in court when it was made and submitted, and since they repudiated it before the court had acted thereon, we are of the opinion and so hold that it was a grave abuse of discretion amounting to an excess of jurisdiction on the part of the respondent court to approve the said compromise agreement and base its judgment thereon.

The case out of which the present petition arose had been pending hearing in the court below for more than three years. It was no fault of the plaintiffs that the trial of said case was delayed for so long a time. As a matter of fact, the delay was to their prejudice because the defendants were in possession of the property in litigation. When at last the trial was resumed, the plaintiffs were not heard but a compromise to which they did not agree was imposed upon them. We cannot sanction such procedure.

The failure of the petitioners to present a motion for reconsideration of the decision of the trial court is not a sufficient ground to deny the relief herein prayed for under the facts and circumstances above stated. They had petitioned the court to set aside the compromise agreement; and the court having denied that petition, a further motion would have been a vain formality.

Wherefore, the decision rendered by the respondent court on August 22, 1941, in civil case No. 3459 is hereby annulled and set aside and the respondent court is hereby ordered to hear and decide the said case on the merits. The respondent Calixto Ancayan shall pay the costs. So ordered.

Abad Santos, C.J., Diaz, Moran, and Horrilleno, JJ., concur.

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