

PETRA VDA. DE BORROMELO, PETITIONER, VS. HON. JULIAN B. POGOY, MUNICIPAL/CITY TRIAL COURT OF CEBU CITY, AND ATTY. RICARDO REYES, RESPONDENTS.

G.R. No. 63277. November 29, 1983

Ponente: ESCOLIN, J.

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ESCOLIN, J.:

Petitioner herein seeks to stop respondent Judge Julian B. Pogoy of the Municipal Trial Court of Cebu City from taking cognizance of an ejectment suit for failure of the plaintiff to refer the dispute to the Barangay Lupon for conciliation.

The intestate estate of the late Vito Borromeo is the owner of a building bearing the deceased's name, located at F. Ramos St., Cebu City. Said building has been leased and occupied by petitioner Petra Vda. de Borromeo at a monthly rental of P500.00 payable in advance within the first five days of the month.

On August 28, 1982, private respondent Atty. Ricardo Reyes, administrator of the estate and a resident of Cebu City, served upon petitioner a letter demanding that she pay the over-due rentals corresponding to the period from March to September 1982, and thereafter to vacate the premises. As petitioner failed to do so, Atty. Reyes instituted on September 16, 1982 an ejectment case against the former in the Municipal Trial Court of Cebu City. The complaint was docketed as Civil Case No. R-23915 and assigned to the sala of respondent judge.

On November 12, 1982, petitioner moved to dismiss the case, advancing, among others, the want of jurisdiction of the trial court. Pointing out that the parties are residents of the same city, as alleged in the complaint, petitioner contended that the court could not exercise jurisdiction over the case for failure of respondent Atty. Reyes to refer the dispute to the Barangay Court, as required by PD No. 1508, otherwise known as Katarungang Pambarangay Law.

Respondent judge denied the motion to dismiss. He justified the order in this wise:

"The Clerk of Court when this case was filed accepted for filing same. That from the acceptance from (sic) filing, with the plaintiff having paid the docket fee to show that the case was docketed in the civil division of this court could be considered as meeting the requirement or pre-condition for were it not so, the Clerk of Court would not have accepted the filing of the case especially that there is a standing circular from the Chief Justice of the Supreme Court without even mentioning the Letter of Instruction of the President of the Philippines that civil cases and criminal cases with certain exceptions must not be filed without passing the barangay court." (Order dated December 14, 1982, Annex "c", P. 13, Rollo).

Unable to secure a reconsideration of said order, petitioner came to this Court through this petition for certiorari. In both his comment and memorandum, private respondent admitted not having availed himself of the barangay conciliation process, but justified such omission by citing paragraph 4, section 6 of PD 1508 which allows the direct filing of an action in court where the same may otherwise be barred by the Statute of Limitations, as applying to the case at bar.

The excuse advanced by private respondent is unsatisfactory. Under Article 1147 of the Civil Code, the period for filing actions for forcible entry and detainer is one year,[1] and this period is counted from demand to vacate the premises.[2]

In the case at bar, the letter-demand was dated August 28, 1982, while the complaint for ejectment was filed in court on September 16, 1982. Between these two dates, less than a month had elapsed, thereby leaving at least eleven (11) full months of the prescriptive period provided for in Article 1147 of the Civil Code. Under the pro-cedure outlined in Section 4 of PD 1508,[3] the time needed for the conciliation proceeding before the Barangay Chairman and the Pangkat should take no more than 60 days. Giving private respondent nine (9) months - ample time indeed - within which to bring his case before the proper court should conciliation efforts fail. Thus, it cannot be truthfully asserted, as private res-pondent would want Us to believe, that his case would be barred by the Statute of Limitations if he had to course his action to the Barangay Lupon.

With certain exceptions, PD 1508 makes the conciliation process at the Barangay level a con-dition precedent for filing of actions in those instances where said law applies. For this reason, Circular No. 22 addressed to "ALL JUDGES OF THE COURTS OF FIRST INSTANCE, CIRCUIT CRIMINAL COURTS, JUVENILE AND DOMESTIC RELATIONS COURT, COURTS OF AGRARIAN RELATIONS, CITY COURTS, MUNICIPAL COURTS AND THEIR CLERKS OF COURT" was issued by Chief Justice Enrique M. Fernando on November 9, 1979. Said Circular reads:

"Effective upon your receipt of the certification by the Minister of Local Government and Community Development that all the barangays within your respective jurisdictions have organized their Lupons provided for in Presidential Decree No. 1508, otherwise known as the Katarungang Pambarangay Law, in implementation of the barangay system of settlement of disputes, you are hereby directed to desist from receiving complaints, petitions, actions or proceedings in cases falling within the authority of said Lupons."

While respondent acknowledged said Circular in his order of December 14, 1982, he nevertheless chose to overlook the failure of the complaint in Civil Case No. R-23915 to allege compliance with the requirement of PD 1508. Neither did he cite any circumstance as would place the suit outside the operation of said law. Instead, he insisted on relying upon the pro tanto presumption of regu-larity in the performance by the clerk of court of his official duty, which to Our mind has been su-ficiently overcome by the disclosure by the Clerk of Court that there was no certification to file action from the Lupon or Pangkat secretary attached to the complaint.[4]

Be that as it may, the instant petition should be dismissed. Under Section 4(a) of PD No. 1508, referral of a dispute to the Barangay Lupon is required only where the parties thereto are "individuals". An "individual" means "a single human being as contrasted with a social group or institution." [5] Obviously, the law applies only to cases involving natural persons, and not where any of the parties is a juridical person such as a corporation, partnership, cor-poration sole, testate or intestate, estate, etc.

In Civil Case No. R-23915, plaintiff Ricardo Reyes is a mere nominal party who is suing in behalf of the Intestate Estate of Vito Borromeo. While it is true that Section 3, Rule 3 of the Rules of Court allows the adminis-trator of an estate to sue or be sued without joining the party for whose benefit the action is presented or defended, it is indisputable that the real party in interest in Civil Case No. R-23915 is the intestate estate under administration. Since the said estate is a juridical person[6] plaintiff administrator may file the complaint directly in court, without the same being coursed to the Barangay Lupon for arbitration.

ACCORDINGLY, the petition is hereby dismissed. Respondent judge is ordered to try and decide Civil Case No. R-23915 without unnecessary delay. No costs.

SO ORDERED.

Makasiar, (Chairman), Concepcion, Jr., Guerrero, Abad Santos, and De Castro, JJ., concur.
Aquino, J., in the result.

[1] Article 1147 of the Civil Code.

[2] Desbarat vs. Vda. de Laureano, 18 SCRA 116, Calubayan vs. Pascual, 21 SCRA 146, Development Bank of the Philippines vs. Canonoy, 35 SCRA 197.

[3] SECTION 4. Procedure for amicable settlement. -

a) Who may initiate proceedings. - Any individual who has a cause of action against another individual involving any matter within the authority of the Lupon as provided in Section 2 may complain orally or in writing, to the Barangay Captain of the barangay referred to in Section 3 hereof.

b) Mediation by Barangay Captain. - Upon receipt of the complaint, the Barangay Captain shall within the next working day summon the respondent/s, with notice to the complainant/s for them and their witnesses to appear before him for a mediation of their conflicting interests. If he fails in his effort within fifteen (15) days from the first meet-ing of the parties before him, he shall forthwith set a date for the constitution of the Pangkat in accordance with the provisions of Section 1 of this Decree.

c) Hearing before the Pangkat. - The Pangkat shall convene no later than three (3) days from its constitution on the day and hour set by the Barangay Captain, to hear both parties and their witnesses, simplify issues and explore all possibilities for amicable settlement. x x x

x x x

e) Time limit. - The Pangkat shall arrive at a settlement/resolution of the dispute within fifteen (15) days from the day it convenes in accordance with paragraph (c) hereof. This period, shall at the discretion of the Pangkat, be extendible for another period which shall not exceed fifteen (15) days except in clearly merit-orious cases."

[4] Annex D, p. 16, Rollo.

[5] Webster's 3rd New International Dictionary.

[6] Limjoco vs. Intestate of Fragante, 80 Phil. 776

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