

**APOLINAR R. ROYALES AND PRESENTACION GREGORIO,
PETITIONERS, VS. HON. INTERMEDIATE APPELLATE COURT, JOSE
PLANAS, HON. J. CESAR SANGCO, ETC., ET AL., RESPONDENTS.**

G.R. No. 65072. January 31, 1984

Ponente: ESCOLIN, J.

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ESCOLIN, J.:

Sought to be annulled in this petition for review is a final and executory judgment rendered by the City Court [now Metropolitan Trial Court] of Manila in Civil Case No. 057662-CV on ground of lack of jurisdiction. Petitioners contend that the Court did not acquire jurisdiction over the case for failure of respondent Jose Planas, plaintiff therein, to avail of the barangay conciliation process before the filing of the case in court, as required by P.D. 1508, otherwise known as the "Katarungang Pambarangay Law."

The facts upon which this issue rests are the following: The spouses Apolinar R. Royales and Presentacion Gregorio, petitioners herein, are the lessees of a residential house owned by respondent Jose Planas located at No. 1866 Int. I, Oroquieta St., Manila. On August 25, 1980, Planas instituted before the then City Court of Manila an ejectment suit against petitioners, docketed as Civil Case No. 057662-CV and assigned to the sala of Judge J. Cesar Sangco.

Issues having been joined, trial on the merits ensued. Respondent Planas testified on his own behalf and was cross-examined by petitioners' counsel.

On November 10, 1981, when neither petitioners nor their counsel appeared at the hearing despite due notice, the case, on motion of respondent Planas, was considered submitted for decision. On November 26, 1981, the trial court rendered a decision, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby accordingly rendered ordering defendants and all persons holding or claiming under them to immediately vacate the house located at No. 1866 Int. I Oroquieta Street, Sta. Cruz, Manila, subject of this action and restore possession thereof to the plaintiff and to pay the latter;

"1. The sum of P1,000.00 as and for attorney's fees; and

"2. The costs of suit."

After the decision had become final and executory, Planas filed a motion for execution and the same was granted by the court. Execution of the judgment was however restrained by the Regional Trial Court of Manila upon the filing by petitioners of a petition for certiorari and prohibition with preliminary injunction, wherein they assailed the said decision on ground of lack of jurisdiction, allegedly arising from failure of respondent Planas to submit the dispute to the Barangay Lupon for conciliation as required by P.D. 1508.

After due hearing, the Regional Trial Court handed down a decision declaring the judgment of the trial court null and void for having been rendered without jurisdiction. Having found that "the parties in the case are residents not

only of the same city, but of the same barangay, i.e., Bgy. 336, Zone 34, District 2, City of Manila," the Court ruled:

"Like the court of origin, this court is equally barren of jurisdiction to take cognizance of the subject controversy which was prematurely filed with the city court, even before it could be referred to the barangay authorities for conciliation, as explicitly required under P.D. 1508, something the private respondent admittedly failed to do. The failure to allow the LUPON to act on the controversy at bar prior to the institution of the instant ejectment case did render the city court, and even this court, devoid of competence and jurisdiction to pass upon the present complaint of private respondent. There is, therefore, no recourse left but to dismiss it, without prejudice to refileing it after due observance of the formalities prescribed by law on the matter."

Reconsideration of the decision having been denied, respondent Planas appealed to the Intermediate Appellate Court, which on July 12, 1982 promulgated a decision vacating the judgment of the Regional Trial Court, thus confirming the decision of the City Court of Manila. Unable to obtain a reconsideration thereof, petitioners filed the instant petition before this Court.

The petition is devoid of merit.

In disputes covered by P.D. 1508, as in the case at bar, the barangay conciliation process is a pre-condition for the filing of an action in court. This is so provided by Section 6 of the said law:

"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 Pangkat and no conciliation or settlement had 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. x x x."

There is no dispute that prior to the filing of the complaint, the case was never referred to the Barangay Lupon for conciliation. In fact, respondent Planas failed to allege in his complaint compliance with this condition precedent. But is this omission fatal?

Ordinarily, non-compliance with the condition precedent prescribed by P.D. 1508 could affect the sufficiency of the plaintiff's cause of action and make his complaint vulnerable to dismissal on ground of lack of cause of action or prematurity^[1]; but the same would not prevent a court of competent jurisdiction from exercising its power of adjudication over the case before it, where the defendants, as in this case, failed to object to such exercise of jurisdiction in their answer and even during the entire proceedings *a quo*.

While petitioners could have prevented the trial court from exercising jurisdiction over the case by seasonably taking exception thereto, they instead invoked the very same jurisdiction by filing an answer and seeking affirmative relief from it. What is more, they participated in the trial of the case by cross-examining respondent Planas. Upon this premise, petitioners cannot now be allowed belatedly to adopt an inconsistent posture by attacking the jurisdiction of the court to which they had submitted themselves voluntarily. As this Court ruled in *Tijam vs. Sibonghanoy*:^[2]

". a party cannot invoke the jurisdiction of a court to secure affirmative relief against his opponent and, after obtaining or failing to obtain such relief, repudiate or question that same jurisdiction (*Dean vs. Dean*, 136 Or. 694, 86, A.L.R. 79).

"In the case just cited, by way of explaining the rule, it was further said that the question whether the court had jurisdiction either of the subject-matter of the action or the parties was not important in such cases because the

party is barred from such conduct not because the judgment or order of the court is valid and conclusive as an adjudication, but for the reason that such a practice can not be tolerated -- obviously for reasons of public policy.

"Furthermore, it has also been held that after voluntarily submitting a cause and encountering an adverse decision on the merits, it is too late for the loser to question the jurisdiction or power of the court And in *Littleton vs. Burges*, 16 Wyo. 58, the Court said that 'it is not right for a party who has affirmed and invoked the jurisdiction of a court in a particular matter to secure an affirmative relief, to afterwards deny that same jurisdiction to escape a penalty.'"

WHEREFORE, the petition is hereby dismissed and the decision of the respondent Intermediate Appellate Court in AC-G.R. -SP-00342 is hereby affirmed. Costs against petitioners. SO ORDERED.

Fernando, C.J., Teehankee, Makasiar, Aquino, Concepcion, Jr., Guerrero, De Castro, Melencio-Herrera, Plana, Relova, and Gutierrez, Jr., JJ., concur.

Abad Santos, J., see separate concurrence.

[1] *Johnston Lumber Co. vs. Court of Tax Appeal*, 101 Phil. 151; *De Guzman vs. J.M. Tuason & Co., Inc.*, 30 SCRA 857.

[2] 23 SCRA 29.

CONCURRING OPINION

ABAD SANTOS, J.:

A simple ejectment case has gone all the way to this Court and assigned not to a Division thereof but to the Banc on what appears to be a legal question of some novelty but which to me does not deserve the treatment accorded to it. I think it is enough that the case has gone before the City Court, the Court of First Instance and the Court of Appeals. But having reached this Court and for this Court only to affirm the decision of the Court of Appeals, a simple denial of the petition instead of the full treatment given to it would have been sufficient and more appropriate.

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