

**TERESITA E. AGBAYANI AND LUCAS F. AGBAYANI, PETITIONERS, VS.
THE HONORABLE ANTONIO M. BELEN, IN HIS CAPACITY AS
REGIONAL TRIAL JUDGE, BRANCH XXXVIII, REGIONAL TRIAL
COURT, FIRST...**

G.R. No. 65629. November 24, 1986

Ponente: NARVASA, J.

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NARVASA, J.:

Nullification is sought by petitioners of the Order of respondent Judge[1] dated September 28, 1983, dismissing the civil action instituted by said petitioners against private respondents and other persons for quieting of title and damages involving three (3) parcels of land in Dayomaca (Tobuan), Poblacion, Sual, Pangasinan.[2] The Court sustained the defendants' motion to dismiss "on the ground that x x x (it had) not yet acquired jurisdiction to try the case" because of the failure of the petitioners to submit the controversy to conciliation proceedings pursuant to P.D. No. 1508 before filing their complaint with the Court. The Trial Court justified its action as follows:

"The Court after carefully examining and studying the ground set forth by the defendants in their motion to dismiss, as well as the arguments advanced by the plaintiff, together with the pertinent provision of P.D. 1508 cited by the parties, hereby finds that the instant action falls within the authority of the Lupon Tagapayapa, and therefore the parties should first appear before the Lupon Chairman or the Pangkat of the barangay (Tobuan, Sual, Pangasinan) where the properties are located for confrontation as mandated in Section 6 of P.D. 1508. While it appears in the record that the parties reside in barangays of different cities or municipalities, the real property subject matter of the case are not however located in different barangays but in one and the same barangay, that is, Barangay Tobuan, Sual, Pangasinan. Based on these facts obtaining in this case, it is clear and clean that the present action is within the authority of the Lupon, hence the provision of P.D. 1508 should first be complied with before the complaint could be filed in court."[3]

The Order is incorrect and will have to be reversed.

PD 1508 declares that generally, disputes involving parties actually residing in the same city or municipality, or in adjoining barangays of different cities or municipalities, should first be brought before the appropriate Barangay Lupon which "shall have the authority to bring together the parties x x x for amicable settlement." [4] The proceedings before the Lupon are a "precondition" to the filing of any action or proceeding in court or other "government office," PD 1508 further declaring that "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." [5]

A Complaint or petition filed in court or other government office without compliance with the precondition may be dismissed on motion of any interested party on the ground that the complaint fails to state a cause of action. [6]

The defect may however be waived by failing to make seasonable objection, in a motion to dismiss or answer,[7] the defect being a mere procedural imperfection which does not affect the jurisdiction of the court.[8]

The venue of these pre-requisite proceedings for conciliation is the Lupon of the barangay: (1) in which the parties to the dispute are actually residing, or (2) where the respondent or any of the respondents actually resides, if the parties are actual residents of different barangays within the same city or municipality, or (3) where the real property or any part thereof is situated, if the dispute affects real property or any interest therein.[9]

But the "precondition" does not apply to disputes over which the Lupon has no authority, namely: those -

1)

"where one party is the government or any subdivision or instrumentality thereof;"

2)

"where one party is a public officer or employee, and the dispute relates to the performance of his official functions;"

3)

involving "offenses punishable by imprisonment exceeding 30 days or a fine exceeding P200.00," or "where there is no private offended party;"

4)

"which the Prime Minister may in the interest of justice determine, upon recommendation of the Minister of Justice and the Minister of Local Government;"[10]

5)

"involving parties who actually reside in barangays of different cities or municipalities, except where such barangays adjoin each other;" and

6)

"involving real property located in different municipalities."[11]

The question presented in this case is whether the "precondition", i.e., the prior submission of the dispute to the Barangay Lupon for conciliation, should apply to actions affecting real property situated in one city or municipality although the parties actually reside in barangays which are located in different cities or municipalities and do not adjoin each other.

The question has already been passed upon and answered by this Court. In *Tavora vs. Veloso, et al.*,[12] the Court en banc held that the "precondition" had no application to cases over which the Lupon had no authority. Specifically, the Court ruled that "by express statutory inclusion and exclusion, the Lupon shall have no jurisdiction over disputes where the parties are not actual residents of the same city or municipality, except where the barangays in which they actually reside adjoin each other." [13] In such a situation, where the Lupon is without jurisdiction of the controversy because the parties are not actual residents of the same city or municipality or of adjoining barangays, the nature of the controversy is of no moment - whether or not affecting real property or interest therein, located in the same city or municipality. And the principle is not at all altered by the proviso of Section 3 of PD 1508 (governing venue) that "disputes which involve real property or any interest therein shall be brought in the barangay where the real property or any part thereof is situated." The "quoted proviso should simply be deemed to restrict or vary the rule on venue prescribed in the principal clauses of the first paragraph of

Section 3";[14] but obviously, the rule on venue is utterly inconsequential as regards a case over which the Barangay Lupon does not, in the first place, have any jurisdiction.

Since the dispute between the parties in this case was never within the authority or jurisdiction of the Barangay Lupon, because the parties admittedly reside in different cities and municipalities (and not in adjoining barangays), there was no occasion or reason to invoke or apply the rule on venue governing disputes concerning real property. Petitioners were therefore under no obligation to comply with the "precondition" of first referring their dispute with private respondents to the Barangay Lupon for conciliation and amicable settlement, before instituting their suit in court. Hence, it was incorrect for the Trial Court to ascribe this obligation to them, and to dismiss their action for omission to fulfill it.

WHEREFORE, the Order of the Trial Court dated September 28, 1983 is hereby annulled and set aside, and the case is remanded to that Court for further proceedings, with costs against private respondents.

SO ORDERED.

Yap, (Chairman), Melencio-Herrera, Cruz, and Feliciano, JJ., concur.

[1] Presiding over Branch 38, 1st Judicial Region, RTC.

[2] Civil Case No. 15912.

[3] Underscoring supplied.

[4] Secs. 2 and 3.

[5] Sec. 6.

[6] Akin to failure to exhaust administrative remedies or undertake earnest efforts to compromise suits among members of the same family: *Peregrina vs. Panis*, 133 SCRA 72.

[7] *Royales vs. IAC, et al.*, 127 SCRA 470; *Ebol vs. Amin*, 135 SCRA 438.

[8] *Catorce vs. C.A.*, 129 SCRA 210.

[9] Sec. 3, PD 1508.

[10] See Sec. 2, PD 1508.

[11] See Sec. 3, PD 1508.

[12] 117 SCRA 613.

[13] *Id.*, p. 616.

[14] *Id.*, p. 617.

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