

JESUS C. EBOL, ROSA E. BERNARDO, AMADEO RIZAN, IGNACIO EBOL, MELCHOR EBOL AND LUCILA E. CICHON, PETITIONERS, VS. JUDGE OMAR U. AMIN AND WILFREDO SAN LUIS, SR., RESPONDENTS.

G.R. No. 70237. March 18, 1985

Ponente: AQUINO, J.

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AQUINO, J.:

The petitioners sued in 1982 Wilfredo San Luis, Sr. for the recovery of the value of their house allegedly destroyed by the latter. San Luis did not plead in a motion to dismiss or in his 1983 answer the defense that the plaintiffs did not comply with the conciliation process provided for in the Katarungang Pambarangay Law, Presidential Decree No. 1508.

He raised it only in a motion to dismiss filed in 1984 when the case was set for trial.

The trial court dismissed the action. The petitioners appealed to this Court.

We hold that San Luis waived that condition precedent (*Royales vs. Intermediate Appellate Court*, 127 SCRA 470). It is not jurisdictional. Jurisdiction is conferred by the Judiciary Revamp Law, Batas Pambansa Blg. 129, and the Judiciary Act of 1948 as amended.

The petition for certiorari is granted. Judge Amin's order of dismissal dated July 25, 1984 is set aside. He is directed to try the case. No costs.

SO ORDERED.

Concepcion, Jr., Abad Santos, Escolin, and Cuevas, JJ., concur.

Makasiar, (Chairman), J., no part.

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