

## **JUAN ASONG, PETITIONER, VS. THE HONORABLE INTERMEDIATE APPELLATE COURT, ALBARO ALBANO, JR. AND SEVERINO BANASIG, RESPONDENTS.**

*G.R. No. 74461. May 12, 1989*

Ponente: MEDIALDEA, J.

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### **MEDIALDEA, J.:**

This is a petition for review under Rule 45 of the Rules of Court of the decision of the Intermediate Appellate Court (now Court of Appeals), dated March 31, 1986 in AC-G.R. CV. No. 63215 entitled "Juan Asong, plaintiff-appellant, vs. Albaro Albano, Jr., and Severino Banasig, defendants-appellees" which affirmed the judgment of the Court of First Instance (now Regional Trial Court) of Iloilo.

The antecedent facts are as follows:

On October 8, 1973, Severino Banasig (Banasig, for short) filed a case for forcible entry and damages against Juan Asong (Asong, for short) with the Municipal Court (now Municipal Circuit Trial Court) of Barotac Viejo, Iloilo, presided over by respondent Judge Albaro Albano, Jr., (p. 23, Records). Banasig alleged, inter alia, that he is the owner and the possessor of a parcel of land (Lot No. 14) covered by Tax Declaration No. 13635 which is situated at Barotac Viejo, Iloilo; that on September 27, 1973, Asong, by means of force and intimidation, took possession of one and a half hectares on the eastern portion thereof.

On December 4, 1973, the parties submitted to the Municipal Court on amicable settlement, as follows:

"1. That the defendant recognizes the ownership and possession of the plaintiff over Lot Nos. 2925 and 2654 of the Barotac Viejo Cadastre, Case 3;

2. The plaintiff recognizes that the boundary of the two (2) aforementioned lots which are his, in relation to the adjoining land of the defendant starts from a point on the 'Iniam' tree on the northern side going across another 'Iniam' tree on the other end;

3. Parties agree for dismissal of their claim and counterclaim on damages." (Exhibit "C", p. 5, Records)

On December 5, 1973, the Municipal Court approved the amicable settlement and rendered judgment based thereon (Exhibit "D", p. 6, Records).

On March 6, 1975, Asong filed a complaint before the Court of First Instance (now Regional Trial Court), Branch 4, at Iloilo City, against Judge Albaro Albano, Jr. and Banasig for recovery of ownership and annulment of amicable settlement and judgment. He averred, inter alia, that he is illiterate; that as such, he did not understand the contents of the amicable settlement; that he had no intention of giving up his right over Lot Nos. 2925 and 2654 but only with respect to Lot 2653; and that he discovered the defective agreement only on November 26, 1974 when he was cited for contempt by Judge Albano, Jr. for his refusal to vacate Lot Nos. 2925 and 2654.

On August 6, 1977, the Court of First Instance rendered a decision, the dispositive portion of which reads:

"Wherefore, judgment is rendered in favor of the defendant Severino Banasig and against the plaintiff Juan Asong, hereby dismissing plaintiff's complaint, and declaring the amicable settlement (Exh. 'C' or '3') to have been freely and voluntarily entered by both parties fully cognizant of its contents and implications and that the decision rendered thereunder (Exh. 'D' or '4') is valid and irrevocable and constitute a bar to the above-entitled case in so far as possession is concerned.

"The counterclaim is dismissed.

"Costs against the plaintiff.

"SO ORDERED." (p. 70, Rollo)

After his motion for reconsideration was denied, Asong appealed to the Intermediate Appellate Court, which, as earlier stated, subsequently affirmed the said decision. He now comes to Us and submits only one issue to be resolved, to wit:

"Whether or not the amicable settlement was voluntarily and freely entered into and fully explained to petitioner." (p. 77, Rollo)

Petitioner Asong contends that the amicable settlement should be annulled on the ground of mistake. He asserts that he is illiterate; that he was persuaded by his lawyer to enter into an amicable settlement with Banasig without fully informing him of the legal implications thereof; that "the effect of the amicable settlement (was) worse than a confession of judgment for under (it) he not only relinquishes possession but also recognizes the ownership of private respondent over the two lots subject of the forcible entry case thus the same would constitute a bar to a case for recovery of ownership as well." (pp. 79-80, Rollo)

In the resolution of May 14, 1986, We granted the motion of Asong to litigate as pauper. (p. 4, Rollo)

The instant petition is devoid of merit.

It is a fundamental and settled rule that conclusions and findings of fact by the trial court are entitled to great weight on appeal and should not be disturbed unless for strong and cogent reasons because the trial court is in a better position to examine real evidence, as well as to observe the demeanor of the witnesses while testifying in the case (*Chase vs. Buencamino, Sr.*, L-20395, May 13, 1985; 136 SCRA 365). We find no convincing reasons in the instant case to depart from this rule. The evidence on record shows that Asong was fully apprised of the legal consequences arising from the amicable settlement. Aside from his lawyer, Atty. Joelito Barrera who represented him in the Municipal Court, a friend of Atty. Barrera, Atty. Rex Salas who accidentally interrupted Barrera's meeting with Asong and Banasig regarding the amicable settlement at the former's law office and Municipal Judge Alvaro Albano before whom the amicable settlement was submitted, explained the terms thereof to Asong in the Hiligaynon dialect (see pp. 29-30, TSN, November 18, 1976; pp. 21-22, TSN, September 29, 1976 and pp. 41-42, TSN, January 10, 1977, respectively). We fail to find any tinge of bias or improper motive on their part to testify against Asong. On the other hand, Asong's vehement denial unsupported by any contrary evidence cannot rebut the positive testimonies of the aforesaid witnesses.

Moreover, We are not persuaded by Asong's argument that the amicable settlement should be voided because he did not gain anything from it and that such agreement was worse than a confession of judgment. The appellate court correctly ruled against Asong's supposition, as follows:

"Plaintiff-appellant argues that the defendant-appellee 'had the concession' while he 'never gained anything but on the contrary lost the case without even a fight,' citing Art. 2028 of the Civil Code which provides:

'A compromise is a contract whereby the parties by making reciprocal concessions avoid the litigation or put an

end to one already commenced.'

In *Berg vs. National City Bank of New York*, supra, the Supreme Court, speaking through Mr. Justice Felix Bautista Angelo, opined:

'hence, it is a general rule in this country that compromise are to be favored, without regard to the nature of the controversy compromised, and that they cannot be set aside because the event shows all the gain to have been on one side, and all the sacrifice on the other, if the parties have acted in good faith, and with a belief of the actual existence of the rights which they have respectively waived or abandoned; and if a settlement be made in regard to such subject, free from fraud or mistake, whereby there is a surrender or satisfaction, in whole or in part, of a claim upon one side in exchange for or in consideration of a surrender or satisfaction of a claim in whole or in part, or of something of value upon the other, however baseless may be the claim upon either side or harsh the terms as to either of the parties, the other cannot successfully impeach the agreement in a court of justice x x x x (underscoring supplied). Where the compromise is instituted and carried through in good faith, the fact that there was a mistake as to the law or as to the facts, except in certain cases where the mistake was mutual and correctable as such in equity, cannot afford a basis for setting a compromise aside or defending against a suit brought thereon x x x x' (citing *McCarthy vs. Barber Steamship Lines*, 45 Phil. 488, 498-499).

Appellant further maintains that the amicable settlement was more of a confession of judgment which was far from his mind. But, even conceding that it was a confession of judgment, it nevertheless partook of the nature of a compromise. As held in the case of *Republic vs. Caray*, L-21416, December 31, 1965:

'A compromise is a contract whereby the parties, by making reciprocal concessions, avoid a litigation or put an end to one already commenced (Art. 2028, Civil Code). It is obvious that the pleading entitled 'Confession of Judgment', x x x partook of the nature of a compromise, for, in consideration of defendant's recognition of his obligation and the Commissioner's willingness to allow its payment on installments, both had agreed to put an end to the litigation, through the rendition of a judgment incorporating said stipulations.'" (pp. 20-22, Rollo)

It is significant to note that Asong did not raise any objections to the terms of the amicable settlement until one year and three months later. His claim that he came to know of the defective agreement only when he was cited in contempt for his refusal to vacate the questioned lots is dubious. It appears from the uncontradicted testimony of Banasig that he took possession of the lots in controversy immediately after the promulgation of judgment based on the amicable settlement; and that, thereafter, he caused the plowing of the land and planted sugar cane thereon (p. 46, TSN, March 31, 1977). With such flurry of activities, Asong inevitably could have learned of Banasig's possession in no time at all - if not on his own, then, from his neighbors in the surrounding area.

ACCORDINGLY, the decision of the Intermediate Appellate Court dated March 31, 1986 is hereby AFFIRMED. No pronouncement as to costs.

**SO ORDERED.**

Narvasa, (Chairman), Cruz, and Grino-Aquino, JJ., concur.  
Gancayco, J., on leave.

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