

**CLAUDIA RIVERA SANCHEZ, PETITIONER, VS. HONORABLE
MARIANO C. TUPAS, PRESIDING JUDGE OF THE REGIONAL TRIAL
COURT, BRANCH XII OF DAVAO CITY AND PRIVATE RESPONDENT,
ALFONSO ESCOVIL...**

G.R. No. 76690. February 29, 1988

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review on certiorari seeking to set aside the October 10, 1986 Order of the Regional Trial Court of Davao[**] in Civil Case No. 17383 dismissing herein petitioner's action for annulment of judgment on the ground of lack of cause of action or prematurity, the same not having been passed upon by the Barangay Court as mandated in Section 12, Rule VI, of P.D. 1508.

Herein petitioner and private respondent are both occupants of a public agricultural land identified as Lot 595, Cad-102 located at Budbud, Tibungco, Davao City. Petitioner claims that the area of 450 square meters, more or less, has been in her possession since 1947, long before private respondent came in and occupied another portion of Lot 595. On the other hand, private respondent claims that the area being claimed by petitioner is a part of his three-fourth (3/4) of a hectare parcel, the right to which he acquired from its former possessor and owner of the improvements thereon. Sometime in 1966, out of charity and upon their agreement that petitioner will vacate the premises upon demand, he granted petitioner's request to build her house inside the land occupied by him.

On September 18, 1980, private respondent filed with the City Court of Davao an ejectment case against petitioner. The case was docketed therein as Civil Case No. 1710-D.

On March 26, 1982, the City Court of Davao rendered a "Judgment by Compromise".

On January 25, 1985, petitioner filed with the Regional Trial Court of Davao a petition to annul the aforesaid judgment of the City Court of Davao (Rollo, pp. 8-10). Said petition was docketed therein as Civil Case No. 17383. In the same, petitioner alleged, among others, that she is an illiterate; that sometime before March 26, 1982, her lawyer, Atty. Jose M. Madrazo came to her residence at Budbud, Bunawan, Davao City, bringing a certain document which she signed by her thumbmark after being told that she cannot be ejected anymore during her life-time; that thereafter, her lawyer came back to her residence and furnished her a copy of the said decision of the City Court of Davao; that it is only on March 30, 1984 when she learned for the first time that what she had signed with her thumbmark was a compromise agreement, wherein she recognized private respondent's prior occupancy of the land in question, when she received an Order of Guillermo C. Ferraris, OIC Regional Director of Lands, dropping her petition, together with the petitions of three others, based, allegedly, on their withdrawal of their claims over the disputed land; that she had never intended to recognize the private respondent as having prior possession and occupancy of the land, the truth of the matter being that she had been in possession of the area of 450 square meters, more or less, since 1947, long before private respondent came in and occupied another portion of Lot 595; that in sheer bad faith, private respondent caused the survey of the entire Lot No. 595 sometime in

1980, which survey became null and void after the same was formally opposed by Eufemio Escovilla, brother of private respondent, before Atty. Uldarico G. Aquino, then District Officer, Bureau of Lands, Davao City; that on January 21, 1982, petitioner and the other occupants Eufemio Escovilla, Damaso Escovilla and Emiliana Monleon, requested the Land District Officer to authorize Geodetic Engineer Timoteo D. Cajipe of the same Office to execute a segregation survey; that the request was granted and the District Land Officer, Atty. Bienvenido Sambrano, directed Engr. Timoteo D. Cajipe to survey the land; that Engr. Cajipe was not able to conduct the segregation survey because private respondent threatened bodily harm on and even death to the survey team, especially against the petitioner and the other actual occupants; and that pursuant to the Ist Indorsement of the District Land Officer dated January 21, 1982, Land Investigator Manuel Flores conducted an investigation of the disputed area. (Rollo, pp. 8-10)

Private respondent, in a Motion to Dismiss dated May 7, 1986 (Ibid., pp. 14-16), moved for the dismissal of the complaint on the grounds that (1) the records of the case do not show that the same has been referred to the barangay court for confrontation, conciliation or settlement of the parties concerned as required under the provisions of Section 6 of PD 1508, and as ruled by the Supreme Court in *Spouses Maria Luisa P. Morata, et al. vs. Spouses Victor Go, et al.*, G.R. L-62339, October 27, 1983; 125 SCRA 444; and (2) the complaint does not state a cause of action.

On May 12, 1986, petitioner filed an Opposition to the Motion to Dismiss (Ibid., pp. 17-21) on the grounds that (1) the motion to dismiss was filed beyond the period prescribed by the Rules of Court; and (2) the petition states a cause of action.

On the same date, May 12, 1986, private respondent filed his Answer (Ibid., pp. 22-24) and his Reply to Opposition to Motion to Dismiss, Opposition to Prayer therein to Declare Defendant in Default, and Manifestation, dated May 12, 1986 (Ibid., pp. 25--26).

On May 26, 1986, petitioner filed a Supplemental Opposition to Motion to Dismiss (Ibid., pp. 27-36).

Respondent Judge, in an Order dated May 16, 1986 (Ibid., p. 37), granted the prayer of counsel for private respondent to be allowed one (1) week to file a memorandum in support of his stand, which was to be commented upon within like period by petitioner's counsel; after which, all the pending incidents are to be deemed submitted for the resolution of the Court.

On May 29, 1986, private respondent submitted his Memorandum (Ibid., pp. 29-36).

In an Order dated October 10, 1986 (Ibid., pp. 38-39, respondent Judge sustained private respondent's Motion to Dismiss by dismissing the case for lack of cause of action or prematurity for not having passed the Barangay Court.

Hence, the instant petition (Ibid., pp. 3-7).

The Second Division of this Court, in a Resolution dated January 7, 1987 (Ibid., p. 41), required respondent to comment. In compliance therewith, private respondent filed his Comment (Ibid., pp. 83-91) on February 18, 1987.

In the Resolution of March 9, 1987 (Ibid., p. 93), petitioner was required to reply. The same was filed (Ibid., pp. 94-96) on April 23, 1987.

In the Resolution of June 3, 1987 (Ibid., p. 98), the petition was given due course and the parties were required to submit their respective memoranda.

On July 23, 1977, private respondent filed a Manifestation (Ibid., p. 106) submitting his Comment of February 5, 1987 to the petition as his memorandum.

On August 25, 1987, petitioner filed her Memorandum (Ibid., pp. 109-115).

Petitioner raised two (2) issues, to wit:

- WHETHER OR NOT THE JUDGMENT BY COMPROMISE IS NULL AND VOID; AND
- WHETHER OR NOT THE REGIONAL TRIAL COURT GRAVELY ERRED IN DISMISSING THE PETITION FOR ANNULMENT OF JUDGMENT.

Petitioner contends that respondent Judge erred in dismissing petitioner's action for annulment of judgment simply because said action did not pass the Barangay Court.

This contention is impressed with merit.

Presidential Decree No. 1508 requires that the parties who actually reside in the same city or municipality should bring their controversy first to the Barangay Court for possible amicable settlement before filing a complaint in court. This requirement is compulsory (as ruled in the cited case of *Morato vs. Go*, 125 SCRA 444), [1983] and non-compliance of the same could affect the sufficiency of the cause of action and make the complaint vulnerable to dismissal on the ground of lack of cause of action or prematurity (*Peregrina vs. Panis*, 133 SCRA 75). [1984] It must be borne in mind that the purpose of the conciliation process at the barangay level is to discourage indiscriminate filing of cases in court in order to decongest the clogged dockets and in the process enhance the quality of justice dispensed by courts (*Morato vs. Go*, supra).

In the instant case, it will be noted that the ejectment case in the City Court of Davao, Civil Case No. 17-10-D, was filed on September 18, 1980, when Presidential Decree No. 1508 was already en-forced. However, the records do not show that there was an opposition to the filing of the said ejectment case on the ground that the dispute had not been submitted to the Barangay Court for possible amicable settlement under P.D. 1508. The only logical conclusion therefore is that either such requirement had already been complied with or had been waived. Under either circumstance, there appears to be no reason, much less a requirement that this case be subjected to the provisions of P.D. 1508. In fact, the present controversy is an action for annulment of a compromise judgment which as a general rule is immediately executory (*De Guzman vs. Court of Appeals*, 137 SCRA 730, [1985], and accordingly, beyond the authority of the Barangay Court to change or modify.

Normally, the instant case should be remanded to the lower court for further proceedings. Nevertheless, a close examination of the records shows that such time-consuming procedure may be dispensed with in resolving the issue at hand. Thus, this Court, in the case of *Velasco, et al. vs. Gayapa* (G.R. No. 58651, promulgated on July 30, 1987), ruled:

"Since the main case is manifestly without merit, the order of the lower court dismissing the appeal cannot be impugned. As held in *Castro vs. Court of Appeals* (supra), 'a remand for further proceedings therefore, would only result in needless delays - a few more years perhaps of a tortuous journey; through new proceedings in the trial court, the intermediate appeal and another resort to this Court through a petition for review to finally achieve the same result.'"

Petitioner's action for annulment of judgment is based on the ground of extrinsic fraud allegedly committed by her own lawyer by telling her "that she cannot be ejected any more during her lifetime" from the land in dispute, but did not disclose to her that at the same time she would have to recognize the prior possession of private respondent.

While there can be no question as to the right of any person adversely affected by a judgment to maintain an action and to have the decision declared a nullity, such an action to annul a judgment upon the ground of fraud, will not lie unless the fraud be extrinsic or collateral and committed by the adverse party, not by one's own

counsel. Said ruling was reiterated in a subsequent case where it was stressed that the fraud mentioned in Rule 38 is the fraud committed by the adverse party (*Velayo vs. Shell Company of the Philippines, Ltd., et al.*, 105 Phil. 1114, [1959]).

In the instant case, petitioner, in her action for annulment of judgment, never made any allegation that private respondent had anything to do with such actuation of her lawyer. Such being the case, the most that she has is an action against her own lawyer and not against the private respondent.

Moreover, miscalculation or misappreciation of the legal import of the compromise agreement, where the party is assisted by counsel, will not provide basis for setting aside agreement on the ground of mistake or error. A compromise, entered into and carried out in good faith, will not be discarded even if there was a mistake of law or fact. (*Periquet vs. Reyes* (21 SCRA 1503, [1967]).

PREMISES CONSIDERED, the instant petition is DISMISSED without prejudice to petitioner's action against her own lawyer.

SO ORDERED.

Yap, (Chairman), Melencio-Herrera, Padilla, and Sarmiento, JJ., concur.

[**] Presided over by herein respondent Judge Mariano C. Tupas.

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