

SAN MIGUEL VILLAGE SCHOOL, PETITIONER, VS. HONORABLE AMIR PUKUNUM D. PUNDOGAR AND CHRISTINA TRIÑO, RESPONDENTS.

G.R. No. 80264. May 31, 1989

Ponente: FELICIANO, J.

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FELICIANO, J.:

On 2 October 1985, petitioner San Miguel Village School filed a complaint for breach of contract with damages against respondent Christina Triño, before the Regional Trial Court, Branch 3, Lanao del Norte, the complaint being docketed as Civil Case No. 111-577. A Certificate to File Action, signed by the Barangay Captain of Barangay Palao, Iligan City, dated 17 September 1985, bearing the notation that the "respondent cannot be contacted," was filed along with the complaint.

Summons was served upon the private respondent through her husband. On 22 November 1985, private respondent having failed to file an answer within the reglementary period, the petitioner School moved to declare her in default. The trial court granted the motion, declared private respondent in default and designated the Branch Clerk of Court to receive the evidence of the petitioner and thereafter to report back to the court.

From the evidence received by the Branch Clerk of Court from the petitioner, the following facts emerged:

On 9 May 1985, petitioner, a duly accredited private school located at Barangay Palao, Iligan City, entered into a contract of services with private respondent Christina Triño. Under that contract, Christina Triño would teach at the petitioner School during the schoolyear 1985-1986, which would commence in June 1985 and end in March 1986. She was assigned to take charge of Grade VI, Intermediate Department. The contract also provided that any party desiring to terminate the contract before its scheduled expiration, would give the other party at least one month notice of termination in writing. Sometime in August 1985, while the contract was in full force and effect, and during a final examination period, private respondent suddenly stopped teaching at the petitioner School, without giving notice of termination and thereby causing not inconsiderable difficulties for the School. Petitioner School immediately sought the assistance of the Barangay Captain of Palao and the commencement of conciliation proceedings. This attempt failed because private respondent could not be contacted, she having left Iligan City and having secured a better paying job at the Philippine Refugee Center based in Manila.

On 26 January 1986, the trial court then presided over by Judge Magadapa Rasuman rendered a decision against private respondent, the dispositive portion of which read as follows:

"WHEREFORE, based on the foregoing consideration, judgment is hereby rendered in favor of the plaintiff, San Miguel Village School and against defendant, Christina Triño, as follows:

1. Ordering defendant to pay all compensatory damages to the plaintiff, the amount of P8,400.00;
2. To pay plaintiff, the amount of P5,000.00, as moral damages;

3. To pay attorney's fees of P5,000.00, and

4. To pay the costs of this suit.

SO ORDERED."

Four (4) months later, on 15 May 1986, private respondent filed a Petition for Relief from Judgment with the trial court, alleging that the court had no jurisdiction to render its decision dated 26 January 1986 for failure of petitioner to go through the mandatory conciliation procedure prescribed by Sections 2 and 6 of P.D. No. 1508. Private respondent argued that the certification of the Barangay Captain of Palao dated 17 September 1985 was inadequate compliance with P.D. No. 1508, private respondent being a resident, not of Barangay Palao, Iligan City, but rather of Barangay Tomas Cabili, Iligan City.

Almost a year later, on 6 April 1987, the trial court, this time presided over by respondent Judge Amir Pukunum D. Pundogar, issued an order upholding private respondent's contentions and setting aside the assailed decision of 26 January 1986. In his order, while Judge Pundogar acknowledged the impropriety of the Petition for Relief from Judgment, he nonetheless in effect granted the relief sought, holding that the Regional Trial Court in rendering the decision dated 26 January 1986, acted without jurisdiction "over the parties and the subject matter of the action"[1] for failure of petitioner to comply with the requirements of P.D. No. 1508. A Motion for Reconsideration by petitioner was denied by the respondent Judge.

In the instant Petition, it is vigorously contended by petitioner that the trial court had jurisdiction to render its decision of 26 January 1986.

The Court notes, at the outset, that respondent Judge in fact granted the Petition for Relief from Judgment not because he found one or more of the grounds specified in Section 2 of Rule 38 of the Revised Rules of Court (fraud, accident, mistake or excusable negligence) but rather because respondent Judge found his predecessor in the same court to have acted without jurisdiction.

It is, however, firmly settled[2] that failure of a plaintiff to comply with the requirements of P.D. No. 1508 does not affect the jurisdiction of the court that tried the action. In e.g., *Millare v. Hernando*, the Court stressed that "the conciliation procedure required under P.D. No. 1508 is not a jurisdictional requirement in the sense that failure to have prior recourse to such procedure would not deprive a court of its jurisdiction either over the subject matter or over the person of the defendant." [3] Failure of a plaintiff to go through the conciliation procedure established by P.D. No. 1508 merely affects the sufficiency, or the maturity or ripeness of the plaintiff's cause of action and the complaint becomes vulnerable to a motion to dismiss, not on the ground of lack of jurisdiction, but rather for want of cause of action or for prematurity. [4] Respondent Judge was thus in palpable error in holding his predecessor without jurisdiction to render the assailed decision.

Respondent Judge was equally in error when he either disregarded or misconstrued the Certificate to File Action, dated 17 September 1985, which had been issued by the Barangay Captain of Barangay Palao.

Respondent Judge simply said apropos this Certificate to File Action, that no "confrontation" had taken place between petitioner and private respondent before the Barangay authorities and immediately concluded that the requirements of P.D. No. 1508 had been violated. There is no question that the "confrontation" or conciliation proceedings did not materialize here, since private respondent did not appear before the Lupon. Where, however, the defendant in an action fails for one reason or another to respond to a notice to appear before the Lupon, the requirement of P.D. No. 1508 must be regarded as having been satisfied by the plaintiff. A defendant cannot be allowed to frustrate the requirements of the statute by her own refusal or failure to appear before the Lupon and then later to assail a judgment rendered in such action by setting up the very ground of non-compliance with P.D.

No. 1508. In simplest terms, a defendant cannot be allowed to profit by her own default.

In the instant case, private respondent, as noted earlier, had stated in her subsequent Petition for Relief from Judgment that she resided not in Barangay Palao but in Barangay Cabili, in effect suggesting that she had not received notice to appear before the Lupon of Barangay Palao. We do not believe that the statement and suggestion of private respondent should be given much credence. In the first place, the Barangay authorities of Barangay Palao must be presumed to have performed their official duties and to have acted regularly in issuing the Certificate to File Action. They must be presumed to have sent a notice to Christina Triño to appear before the Lupon; otherwise, they could not reasonably have stated that Christina "could not be contacted." Secondly, petitioner School had already presented evidence during the hearing before the Commissioner appointed by Judge Rasuman that both petitioner and private respondent were residents of Palao, Iligan City.

Finally, and in any event, the alleged failure on the part of a plaintiff to comply with the procedural requirement established by P.D. No. 1508 must be raised in a timely manner, that is, at the first available opportunity, if such alleged failure is to provide legal basis for dismissal of the complaint. Such failure must be pleaded, in other words, in a timely motion to dismiss or in the answer. Failure to so set up that defense produces the effect of waiver of such defense. In the instant case, private respondent was declared in default and that default order was never set aside. Accordingly, private respondent must be held to have waived whatever right she may have had to raise the defense of failure to comply with the compulsory conciliation procedure under P.D. No. 1508. Indeed, that was not the only thing she waived; she also waived the right to appear and to file an answer and there to set up that and other defenses that she might have had. It is simply too late to demand conciliation under P.D. No. 1508 after a judgment on the merits (albeit by default) has been rendered and become final and executory.

ACCORDINGLY, the Orders of respondent Judge Amir Pukunum D. Pundogar dated 6 April 1987 and 15 June 1987 in Civil Case No. 111-577 are hereby REVERSED and SET ASIDE and the Decision dated 26 January 1986 of Judge Magadapa Rasuman is hereby REINSTATED. Costs against private respondent.

SO ORDERED.

Fernan, C.J., (Chairman), Gutierrez, Jr., Bidin, and Cortes, JJ., concur.

[1] Rollo, p. 17.

[2] *Royales v. IAC*, 127 SCRA 470 (1984); *Peregrina v. Panis*, 133 SCRA 72 (1984); *Gonzales v. Court of Appeals*, 151 SCRA 289 (1987); *Ebol v. Amin*, 135 SCRA 438 (1985); *Millare v. Hernando*, 151 SCRA 484 (1987); *Fernandez v. Militante*, G.R. No. 59801, 31 May 1988; *Spouses Bejer v. Court of Appeals*, G.R. Nos. 79404 and 80045, 27 January 1989.

[3] 151 SCRA at 489.

[4] *Fernandez v. Militante*, G.R. No. 59801, 31 May 1988 at p. 3.

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