



Republic of the Philippines  
**Supreme Court**  
 Manila

SUPREME COURT OF THE PHILIPPINES  
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**FIRST DIVISION**

**JOSE AUDIE ABAGATNAN,**  
**JOSEPHINE A. PARCE,**  
**JIMMY ABAGATNAN,**  
**JOHN ABAGATNAN,**  
**JENALYN A. DE LEON,**  
**JOEY ABAGATNAN,**  
**JOJIE ABAGATNAN,**  
**and JOY ABAGATNAN,**  
*Petitioners,*

**G.R. No. 211966**

Present:

SERENO, *CJ.*, Chairperson,  
 LEONARDO-DE CASTRO,  
 DEL CASTILLO,  
 PERLAS-BERNABE, *and*  
 CAGUIOA, *JJ.*

- versus -

**SPOUSES JONATHAN CLARITO**  
**and ELSA CLARITO,**  
*Respondents.*

Promulgated:  
**AUG 07 2017**

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**DECISION**

**DEL CASTILLO, J.:**

We resolve the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, assailing the June 20, 2013 Decision<sup>1</sup> and the February 3, 2014 Resolution<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 03283 which dismissed, albeit without prejudice, the Complaint for Unlawful Detainer and Damages<sup>3</sup> filed by petitioners Jose Audie Abagatnan, Josephine A. Parce, Jimmy Abagatnan, John Abagatnan, Jenalyn A. De Leon, Joey Abagatnan, Jojie Abagatnan and Joy Abagatnan against respondents spouses Jonathan Clarito and Elsa Clarito, for failure to comply with the mandatory requirement of resorting to prior *barangay* conciliation, as required under Section 412 of Republic Act No. 7160, or the Local Government Code (LGC).

**The Antecedent Facts**

Wenceslao Abagatnan (Wenceslao) and his late wife, Lydia Capote (Lydia), acquired a parcel of land designated as Lot 1472-B, with a total land area

<sup>1</sup> *Rollo*, pp. 158-171; penned by Associate Justice Carmelita Salandanan-Manahan and concurred in by Associate Justices Ramon Paul L. Hernando and Ma. Luisa C. Quijano-Padilla.

<sup>2</sup> *Id.* at 178-180.

<sup>3</sup> *Id.* at 28-33.

of 5,046 square meters, and located at *Barangay* Cogon, Roxas City from Mateo Ambrad (Mateo) and Soteraña Clarito (Soteraña), by virtue of a Deed of Absolute Sale<sup>4</sup> executed on August 1, 1967.<sup>5</sup>

On October 4, 1999, Lydia died, leaving her children, who are co-petitioners in this case, to succeed into the ownership of her conjugal share of said property.<sup>6</sup>

In 1990, respondents allegedly approached Wenceslao and asked for permission to construct a residential house made of light materials on a 480-square meter portion of Lot 1472-B (subject property). Because respondent Jonathan Clarito (Jonathan) is a distant relative, Wenceslao allowed them to do so subject to the condition that respondents will vacate the subject property should he need the same for his own use.<sup>7</sup>

In September 2006, petitioners decided to sell portions of Lot 1472-B, including the subject property which was then still being occupied by respondents. They offered to sell said portion to respondents, but the latter declined.<sup>8</sup>

Consequently, petitioners sent respondents a Demand Letter<sup>9</sup> dated October 2, 2006 requiring the latter to vacate the subject property within fifteen (15) days from receipt of the letter. The respondents, however, refused to heed such demand.<sup>10</sup>

On November 10, 2006, petitioners filed a Complaint for Unlawful Detainer and Damages<sup>11</sup> against respondents before the Municipal Trial Court in Cities (MTCC), Branch 2, Roxas City, where they claimed to have been unlawfully deprived of the use and possession of a portion of their land.

Notably, the Complaint alleged that prior *barangay* conciliation proceedings are not required as a pre-condition for the filing of the case in court, given that not all petitioners are residents of Roxas City. Specifically, petitioner Jimmy C. Abagatnan (Jimmy) resided in Laguna, while petitioner Jenalyn A. De Leon (Jenalyn) resided in Pasig City.<sup>12</sup>



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<sup>4</sup> Id. at 37.

<sup>5</sup> Id.

<sup>6</sup> Id. at 159.

<sup>7</sup> Id.

<sup>8</sup> Id. at 159-160.

<sup>9</sup> Id. at 38.

<sup>10</sup> Id. at 160.

<sup>11</sup> Id. at 28-32.

<sup>12</sup> Id. at 28-29.

In their Answer with Counterclaim,<sup>13</sup> respondents argued that prior *barangay* conciliation is a mandatory requirement that cannot be dispensed with, considering that Jimmy and Jenalyn had already executed a Special Power of Attorney<sup>14</sup> (SPA) in favor of their co-petitioner and sister, Josephine A. Parce (Josephine), who is a resident of Roxas City.<sup>15</sup>

Respondents also insisted that Lot 1472-B is only a portion of Lot 1472 which is covered by its mother title, Original Certificate of Title (OCT) No. 9882, under the name of Nicolas Clarito, et al., Jonathan's predecessors-in-interest. Unfortunately, said title was lost or destroyed during the war, but a copy of the owner's duplicate copy was presented before the trial court and made part of the records.<sup>16</sup>

### ***The Municipal Trial Court in Cities Ruling***

In its Decision<sup>17</sup> dated August 17, 2007, the MTCC rendered judgment in favor of petitioners and ordered respondents to remove the structures they erected on the subject property and to vacate the same. It also directed respondents to pay petitioners the amount of ₱500.00 per month as reasonable compensation for the use and occupancy of the subject property from the date of the filing of the action up to and until the structures on the property have been removed, as well as the cost of suit.<sup>18</sup>

The MTCC ruled that by preponderance of evidence, petitioners have a better right of material possession over the subject property. It gave merit to petitioners' proof of purchase of Lot 1472-B from Mateo and Soteraña, the Demand Letter dated October 2, 2006 that they sent to respondents, and respondents' refusal to vacate the property.<sup>19</sup>

Respondents thereafter appealed the MTCC Decision to the Regional Trial Court (RTC), Branch 19, Roxas City.

### ***The Regional Trial Court Ruling***

In its Decision<sup>20</sup> dated January 15, 2008, the RTC denied the appeal for lack of merit. It ruled that since the parties raised the issue of ownership to justify

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<sup>13</sup> Id. at 40-44

<sup>14</sup> Id. at 34-35.

<sup>15</sup> Id. at 40.

<sup>16</sup> Id. at 41.

<sup>17</sup> Id. at 80-89; penned by Presiding Judge Elias A. Conlu.

<sup>18</sup> Id. at 89.

<sup>19</sup> Id. at 87-88.

<sup>20</sup> Id. at 110-113; penned by Presiding Judge Esperanza Isabele E. Poco-Deslate.



their claims of possession, and the evidence of ownership is preponderant on petitioners, the MTCC was justified in ruling the case in the latter's favor.<sup>21</sup>

The RTC, too, held that the lack of *barangay* conciliation proceedings cannot be brought on appeal because it was not made an issue in the Pre-Trial Order.<sup>22</sup>

Following the denial, respondents filed a Petition for Review<sup>23</sup> before the CA, assailing the RTC's January 15, 2008 Decision.

### ***The Court of Appeals Ruling***

In its Decision dated June 20, 2013, the CA ruled that the findings of fact of both the MTCC and the RTC are supported by the evidence on record. It gave more probative value to the tax declarations and the Deed of Absolute Sale submitted by petitioners, considering that only a copy of OCT No. 9882 was presented by respondents in court and said copy contained clouded and blurred characters. The name of the alleged registered owner, Francisco Clarito (Jonathan's father), is also not decipherable on the title.<sup>24</sup>

Nevertheless, the CA granted the Petition and dismissed the petitioners' Complaint, albeit without prejudice, for lack of prior referral to the *Katarungang Pambarangay*.<sup>25</sup> It pointed out that majority of petitioners actually resided in *Barangay Cogon*, Roxas City, while the two non-residents of Roxas City already executed an SPA in favor of Josephine, whom they authorized, among others, to enter into an amicable settlement with respondents. Since respondents also reside in the same *barangay*, the dispute between the parties is clearly within the ambit of the *Lupon Tagapamayapa's (Lupon)* authority.<sup>26</sup>

The CA thus concluded that petitioners' Complaint had been prematurely filed with the MTCC, as it should have been first brought before the *Lupon* for mandatory conciliation to accord the parties the chance for amicable settlement.<sup>27</sup>

Petitioners moved for reconsideration, but the CA denied the motion in its Resolution dated February 3, 2014. As a consequence, petitioners filed the present Petition for Review on *Certiorari* before the Court on April 14, 2014, assailing the CA's June 20, 2013 Decision and February 3, 2014 Resolution.

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<sup>21</sup> Id. at 113.

<sup>22</sup> Id. at 112.

<sup>23</sup> Id. at 115-127.

<sup>24</sup> Id. at 165.

<sup>25</sup> Id. at 170-171.

<sup>26</sup> Id. at 170.

<sup>27</sup> Id.

### The Issue

Petitioners raise the sole issue of whether the CA correctly dismissed the Complaint for failure to comply with the prior *barangay* conciliation requirement under Section 412 of the LGC, despite the fact that not all real parties in interest resided in the same city or municipality.<sup>28</sup>

### The Court's Ruling

The Petition is impressed with merit.

x x x Section 412(a) of the LGC requires the parties to undergo a conciliation process before the *Lupon* Chairman or the *Pangkat* as a pre-condition to the filing of a complaint in court, thus:

SECTION 412. *Conciliation*. – (a) *Pre-condition to Filing of Complaint in Court*. No complaint, petition, action, or proceeding involving **any matter within the authority of the *lupon*** shall be filed or instituted directly in court or any other government office for adjudication, unless there has been a confrontation between the parties before the *lupon* chairman or the *pangkat*, and that no conciliation or settlement has been reached as certified by the *lupon* or *pangkat* secretary and attested to by the *lupon* or *pangkat* chairman [or unless the settlement has been repudiated by the parties thereto. x x x]<sup>29</sup> (Emphasis supplied)

The LGC further provides that “the *lupon* of each *barangay* shall have authority to bring together the parties **actually residing** in the same city or municipality for amicable settlement of all disputes,” subject to certain exceptions enumerated in the law.<sup>30</sup>

One such exception is in cases **where the dispute involves parties who actually reside in barangays of different cities or municipalities**, *unless* said *barangay* units adjoin each other and the parties thereto agree to submit their differences to amicable settlement by an appropriate *lupon*.<sup>31</sup>

Thus, parties who do not actually reside in the same city or municipality or adjoining *barangays* are not required to submit their dispute to the *lupon* as a pre-condition to the filing of a complaint in court.



<sup>28</sup> Id. at 15-17.

<sup>29</sup> *Zamora v. Heirs of Izquierdo*, 485 Phil. 416, 423 (2004).

<sup>30</sup> LOCAL GOVERNMENT CODE of 1991, Section 408.

<sup>31</sup> LOCAL GOVERNMENT CODE of 1991, Section 408(f).

In *Pascual v. Pascual*,<sup>32</sup> the Court ruled that the express statutory requirement of actual residency in the LGC pertains specifically to the *real parties in interest* in the case. It further explained that said requirement cannot be construed to apply to the attorney-in-fact of the party-plaintiff, as doing so would abrogate the meaning of a “real party in interest” as defined in Section 2,<sup>33</sup> in relation to Section 3, of Rule 3 of the Rules of Court.

The same ruling was reiterated in *Banting v. Spouses Maglapuz*<sup>34</sup> where the Court held that “the requirement under Section 412 of the [LGC] that a case be referred for conciliation before the *Lupon* as a precondition to its filing in court applies only to those cases **where the real parties-in-interest actually reside in the same city or municipality.**”

In the present case, the Complaint filed before the MTCC specifically alleged that not all the real parties in interest in the case actually reside in Roxas City:<sup>35</sup> Jimmy resided in Poblacion, Siniloan, Laguna, while Jenalyn resided in Brgy. de La Paz, Pasig City.<sup>36</sup> As such, **the *lupon* has no jurisdiction over their dispute, and prior referral of the case for barangay conciliation is not a precondition to its filing in court.**

This is true regardless of the fact that Jimmy and Jenalyn had already authorized their sister and co-petitioner, Josephine, to act as their attorney-in-fact in the ejectment proceedings before the MTCC. As previously explained, the residence of the attorney-in-fact of a real party in interest is *irrelevant* in so far as the “actual residence” requirement under the LGC for prior *barangay* conciliation is concerned.

Besides, as the RTC correctly pointed out, **the lack of *barangay* conciliation proceedings cannot be brought on appeal because it was not included in the Pre-Trial Order**, which only enumerates the following issues to be resolved during the trial:

The following issues to be resolved by plaintiffs:

1. Whether or not the defendants have unlawfully withheld the portion of Lot 1472 over which were occupied by them, particularly Lot 1472-B;
2. Whether or not the defendants can be lawfully ejected from that portion of Lot 1472-B which are occupied by them;

<sup>32</sup> 511 Phil. 700, 706-707 (2005).

<sup>33</sup> Section 2 of the Rules of Court provides:

SEC. 2. Parties in interest. – A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. x x x

<sup>34</sup> 531 Phil. 101, 115 (2006).

<sup>35</sup> *Rollo*, p. 29.

<sup>36</sup> *Id.* at 28.

3. Whether or not the prevailing parties can recover damages.

For the defendants, the issues to be resolved are as follows:

1. Whether or not the plaintiffs have a cause of action for unlawful detainer against the defendants; and,
2. Whether or not the prevailing parties are entitled to an award of damages.<sup>37</sup>

On this point, it is important to stress that the issues to be tried between parties in a case is **limited** to those defined in the pre-trial order<sup>38</sup> as well as those which may be *implied* from those written in the order or *inferred* from those listed by *necessary implication*.<sup>39</sup>

In this case, a cursory reading of the issues listed in the Pre-Trial Order easily shows that the parties never agreed, whether expressly or impliedly, to include the lack of prior *barangay* conciliation proceedings in the list of issues to be resolved before the MTCC.

In effect, **the non-inclusion of this issue in the Pre-Trial Order barred its consideration during the trial.** This is but consistent with the rule that parties are bound by the delimitation of issues that they agreed upon during the pre-trial proceedings.<sup>40</sup>

**WHEREFORE**, we **GRANT** the Petition for Review on *Certiorari*. The Decision dated June 20, 2013 and the Resolution dated February 3, 2014 of the Court of Appeals in CA-G.R. SP No. 03283 are **REVERSED** and **SET ASIDE**. The Decision dated January 15, 2008 of the Regional Trial Court, Branch 19, Roxas City in Civil Case No. V-47-07 is **REINSTATED**.

**SO ORDERED.**

  
**MARIANO C. DEL CASTILLO**  
*Associate Justice*

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<sup>37</sup> Id. at 65-66.

<sup>38</sup> See RULES OF COURT, Rule 18, Section 7.


<sup>39</sup> See *LICOMCEN, Inc. v. Engr. Abairza*, 704 Phil. 166, 174 (2013), citing *Villanueva v. Court of Appeals*, 471 Phil. 394, 407 (2004).

<sup>40</sup> Id.

WE CONCUR:

  
**MARIA LOURDES P. A. SERENO**  
*Chief Justice*  
*Chairperson*

  
**TERESITA J. LEONARDO-DE CASTRO**  
*Associate Justice*

  
**ESTELA M. PERLAS-BERNABE**  
*Associate Justice*

  
**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*

### CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**MARIA LOURDES P. A. SERENO**  
*Chief Justice*

