



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

ANTONIO G. NGO,

Petitioner,

G.R. No. 207707

- versus -

Present:

VISITACION GABELO,  
ERLINDA ABELLA, PETRA  
PEREZ, EDUARDO  
TRAQUENA, ERLINDA  
TRAQUENA, ULISYS\*  
MATEO, ALFONSO PLACIDO,  
LEONARDO TRAQUENA,  
SUSANA\*\* RENDON, and  
MATEO TRINIDAD,

Respondents.

PERLAS-BERNABE., J.,  
Chairperson,  
HERNANDO,  
INTING,  
DELOS SANTOS, and  
BALTAZAR-PADILLA, JJ.

Promulgated:

24 AUG 2020

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DECISION

HERNANDO, J.:

Before Us is a *Petition for Review on Certiorari*<sup>1</sup> filed by herein petitioner Antonio G. Ngo (Ngo) assailing the January 8, 2013 Decision<sup>2</sup> and June 19, 2013 Resolution<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. S.P. No. 117120 which nullified and set aside the April 5, 2010<sup>4</sup> and October 15, 2010<sup>5</sup> Orders of the Regional Trial Court (RTC) of Manila, Branch 45 and dismissed

\* Also spelled as Ulysis in some parts of the records.

\*\* Also spelled as Susan in some parts of the records.

<sup>1</sup> *Rollo*, pp. 3-14.

<sup>2</sup> *Id.* at 19-25; penned by Associate Justice Amelita G. Tolentino and concurred in by Associate Justices Ramon R. Garcia and Danton Q. Bueser.

<sup>3</sup> *Id.* at 26-27.

<sup>4</sup> *Id.* at 109-110; penned by Judge Marcelino L. Sayo, Jr.

<sup>5</sup> *Id.* at 114.

Ngo's complaint for recovery of possession of a parcel of land for his failure to refer the case to prior barangay conciliation.

### ***Factual Antecedents***

On September 24, 2008, Ngo filed before the RTC of Manila, Branch 45, a complaint<sup>6</sup> for recovery of possession of a parcel of land covered by Transfer Certificate of Title (TCT) No. 250439 (subject property) against herein respondents Visitacion Gabelo, Erlinda Abella, Petra Perez, Eduardo Traquena, Erlinda Traquena, Ulysis Mateo, Alfonso Placido, Leonardo Traquena, Susana Rendon and Mateo Trinidad (Gabelo, *et al.*).<sup>7</sup>

In his complaint, Ngo alleged that he is the lawful and absolute owner of the subject property by virtue of the Deed of Absolute Sale between himself and Philippine Realty Corporation (PRC) and pursuant to this Court's ruling in GR. No. 111743. He averred that despite several demands, Gabelo, *et al.* refused to vacate the subject property.

On the other hand, Gabelo, *et al.*, in their Answer with special Affirmative Defenses and Compulsory Counterclaims<sup>8</sup> maintained that Ngo has no legal personality to sue. Moreover, the Court did not declare him in G.R. No. 111743 as the absolute owner of the subject property but merely identified him as one of those who could buy the lot from PRC. They insisted that Ngo failed to comply with the condition precedent for filing the action since he failed to bring the matter to the barangay for conciliation. Additionally, they averred that the validity of the alleged TCT No. 250439 under the name of Ngo is already being assailed before RTC of Manila Branch 37 and docketed as Civil Case No. 00-98807.<sup>9</sup>

### ***Ruling of the Regional Trial Court:***

After pre-trial, the RTC issued an Order<sup>10</sup> dated April 17, 2009 directing the dismissal of the complaint for lack of cause of action, *viz.*:

WHEREFORE, premises considered: the subject Answer With Special/Affirmative Defenses and Compulsory Counterclaims of the defendants shall not be expunged from the records and shall remain as validly filed; the Pre-Trial Brief of the said defendants is hereby ordered EXPUNGED from the records of this case for its failure to comply with the MCLE requirement; and the Complaint is hereby DISMISSED for lack of cause of action for the plaintiff's failure to comply with the barangay law requirements.

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<sup>6</sup> Id. at 28-31.

<sup>7</sup> Id. at 28.

<sup>8</sup> Id. at 95-103.

<sup>9</sup> Id. at 97-98.

<sup>10</sup> Id. at 105-106; penned by Judge Marcelino L. Sayo, Jr.

SO ORDERED.<sup>11</sup>

The trial court held that, considering that Ngo admitted that the case did not undergo the required barangay conciliation proceedings before it was filed with the court, the complaint should be dismissed accordingly for lack of cause of action. Necessarily, the trial court was empowered to *motu proprio* dismiss the complaint for Ngo's failure to comply with the rules.<sup>12</sup>

Ngo filed his Motion for Reconsideration<sup>13</sup> and alleged that while the trial court indeed had the power to dismiss the complaint due to his failure to refer the case to barangay conciliation, the RTC also had the discretion to simply suspend the proceedings and to refer the case to barangay conciliation instead of dismissing outright the complaint.<sup>14</sup>

Persuaded by Ngo's arguments, the RTC in its Order<sup>15</sup> dated April 5, 2010 granted the supplication of Ngo. The dispositive portion of the Order reads:

**WHEREFORE**, premises considered, the plaintiff's subject MOTION FOR RECONSIDERATION is hereby GRANTED and the Order of this Court dated April 17, 2009 in so far as it ordered the dismissal of the Complaint for lack of cause of action for the plaintiff's failure to comply with the Barangay law requirements is hereby reconsidered and set aside.

Accordingly, the Complaint in this case is hereby reinstated and this case is hereby referred to the Barangay Court/authorities concerned where the herein parties are directed to undergo the proper Barangay conciliation proceedings.

In the meanwhile, the proceedings in this Court are hereby suspended pending the submission of this Court of the corresponding Barangay Certification/Report with regard to the result of said Barangay proceedings.

SO ORDERED.<sup>16</sup>

Gabelo, *et al.* thus filed their Motion to Set Aside/Reconsider Order dated April 5, 2010,<sup>17</sup> arguing that reinstating the complaint of Ngo was a miscarriage of justice because any complaint that failed to comply with the barangay conciliation requirement does not deserve to be given due course or be entertained.<sup>18</sup>

The trial court in its Order<sup>19</sup> dated October 15, 2010 denied the motion for reconsideration filed by Gabelo, *et al.* Thus, the latter filed a Petition for

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<sup>11</sup> Id. at 106.

<sup>12</sup> Id.

<sup>13</sup> Id. at 107-108.

<sup>14</sup> Id. at 107.

<sup>15</sup> Id. at 109-110.

<sup>16</sup> Id. at 110.

<sup>17</sup> Id. at 111-113.

<sup>18</sup> Id. at 112.

<sup>19</sup> Id. at 114.

*Certiorari*<sup>20</sup> before the CA assailing the April 5, 2010 and October 15, 2010 Orders of the RTC sustaining the reinstatement of the complaint and the referral of the case to barangay conciliation.<sup>21</sup>

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

The appellate court granted Gabelo, *et al.*'s Petition. It found that indeed, the RTC committed grave abuse of discretion in issuing the assailed Orders.

The CA ratiocinated that the barangay justice system was established primarily as a means of easing up the congestion of cases in judicial courts and for it to be truly effective it should be made compulsory. Moreover, the Local Government Code expressly mandated resort to that barangay conciliation proceedings is a precondition to the filing of complaints for disputes between parties actually residing in the same city or municipality and non-compliance therewith could affect the sufficiency of the plaintiff's cause of action. Even after Gabelo, *et al.* filed their Answer and raised as an affirmative defense Ngo's failure to comply with the condition precedent of barangay conciliation, the RTC did not dismiss the complaint but merely suspended the proceedings and referred the case to barangay conciliation, which amounts to grave abuse of discretion.

The dispositive portion of the assailed January 8, 2013 Decision of the CA states:

**WHEREFORE**, premises considered, the petition is **GRANTED**. The orders dated April 5, 2010 and October 15, 2010, both issued by the Regional Trial Court (RTC), Branch 45 of Manila are **NULLIFIED** and **SET ASIDE**. The complaint for recovery of possession is dismissed for failure to comply with the Barangay Justice Law.

**SO ORDERED.**<sup>22</sup>

Unsatisfied with the ruling of the CA, Ngo filed his Motion for Reconsideration<sup>23</sup> but it was denied by the appellate court.<sup>24</sup> Hence, this Petition for Review on *Certiorari* before this Court.

### ***Our Ruling***

The petition is denied.

Ngo asserts that the CA erred in nullifying the Orders of the RTC and in dismissing the complaint for recovery and possession of property because of his

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<sup>20</sup> CA rollo, pp. 3-10.

<sup>21</sup> Id. at 5-6.

<sup>22</sup> Rollo, p. 24.

<sup>23</sup> CA rollo, pp. 135-139.

<sup>24</sup> Rollo, pp. 26-27.

failure to comply with the barangay conciliation requirement. He argues that the CA failed to apply this Court's ruling in *Sps. Santos v. Sps. Lumbao*<sup>25</sup> which provided that failing to file a Motion to Dismiss on account of failure to comply with a condition precedent constitutes waiver on the part of the defendant. Finally, he asserts that considering his subsequent compliance with the barangay conciliation requirement during the pendency of the case in the CA, the petition in the appellate court was rendered moot and academic.<sup>26</sup>

The arguments of Ngo deserve scant consideration.

We emphasize at the outset that procedural rules are essential in the administration of justice. They do not exist for the convenience of the litigants and they were established primarily to provide order to, and enhance the efficiency of, our judicial system.<sup>27</sup> These rules exist for a reason and were not merely invented out of whims. In *Santos v. Court of Appeals*,<sup>28</sup> this Court held that:

Procedural rules are not to be disdained as mere technicalities that may be ignored at will to suit the convenience of a party. Adjective law is important in insuring the effective enforcement of substantive rights through the orderly and speedy administration of justice. These rules are not intended to hamper litigants or complicate litigation but, indeed, to provide for a system under which suitors may be heard in the correct form and manner and at the prescribed time in a peaceful confrontation before a judge whose authority they acknowledge. The other alternative is the settlement of their conflict through the barrel of a gun.<sup>29</sup>

Republic Act No. 7160 (RA 7160), or the Local Government Code of 1991, provides that barangay conciliation proceedings is a pre-condition to filing a complaint in court between persons actually residing in the same barangay to explore possible amicable settlement. The relevant provisions of RA 7160 in the conduct of barangay conciliation are as follows:

Section 409. Venue. – (a) Disputes between persons actually residing in the same barangay **shall** be brought for amicable settlement before the lupon of said barangay.

(b) Those involving actual residents of different barangays within the same city or municipality shall be brought in the barangay where the respondent or any of the respondents actually resides, at the election of the complainant.

(c) All disputes involving real property or any interest therein shall be brought in the barangay where the real property or the larger portion thereof is situated.

(d) Those arising at the workplace where the contending parties are employed or at the institution where such parties are enrolled for study, shall be brought in the barangay where such workplace or institution is located.

Objections to venue shall be raised in the mediation proceedings before the punong barangay; otherwise, the same shall be deemed waived. Any legal

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<sup>25</sup> 548 Phil. 332, 345-346 (2007).

<sup>26</sup> *Rollo*, pp. 7-11.

<sup>27</sup> See *Malixi v. Baltazar*, G.R. No. 208224, November 22, 2017, 846 SCRA 244, 256-258.

<sup>28</sup> 275 Phil. 894 (1991).

<sup>29</sup> *Id.* at 898.

question which may confront the punong barangay in resolving objections to venue herein referred to may be submitted to the Secretary of Justice or his duly designated representative, whose ruling thereon shall be binding. [Emphasis Ours]

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* secretary or *pangkat* secretary as attested to by the *lupon* or *pangkat* chairman or unless the settlement has been repudiated by the parties thereto.** [Emphasis Ours]

Administrative Circular No. 14-93<sup>30</sup> enumerated the cases which are not covered by the mandatory barangay conciliation, to *wit*:

1. Where one party is the government, or any subdivision or instrumentality thereof;
2. Where one party is a public officer or employee, and the dispute relates to the performance of his official functions;
3. Where the dispute involves real properties located in different cities and municipalities, unless the parties thereto agree to submit their difference to amicable settlement by an appropriate *Lupon*;
4. Any complaint by or against corporations, partnership or juridical entities, since only individuals shall be parties to Barangay conciliation proceedings either as complainants or respondents (Sec. 1, Rule VI, Katarungang Pambarangay Rules);
5. Disputes involving parties who actually reside in barangays of different cities or municipalities, except where such barangay units adjoin each other and the parties thereto agree to submit their differences to amicable settlement by an appropriate *Lupon*;
6. Offenses for which the law prescribes a maximum penalty of imprisonment exceeding one (1) year or a fine over five thousand pesos (P5,000.00);
7. Offenses where there is no private offended party;
8. Disputes where urgent legal action is necessary to prevent injustice from being committed or further continued, specifically the following:
  - a. Criminal cases where accused is under police custody or detention (see Sec. 412 (b) (1), Revised Katarungang Pambarangay Law);
  - b. Petitions for *habeas corpus* by a person illegally deprived of his rightful custody over another or a person illegally deprived or on acting in his behalf;
  - c. Actions coupled with provisional remedies such as preliminary injunction, attachment, delivery of personal property and support during the pendency of the action; and
  - d. Actions which may be barred by the Statute of Limitations.
9. Any class of disputes which the President may determine in the interest of justice or upon the recommendation of the Secretary of Justice;
10. Where the dispute arises from the Comprehensive Agrarian Reform Law (CARL) (Sec. 46 & 47, R.A. 6657);

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<sup>30</sup>Guidelines on the Katarungang Pambarangay Conciliation Procedure to Prevent Circumvention of the Revised Katarungang Pambarangay Law [ Sections 399-342, Chapter VII, Title I, Book III, R.A. No. 7160, otherwise known as the Local Government Code of 1991] issued by the Supreme Court on 15 July 1993.

11. Labor disputes or controversies arising from employer-employee relations (Montoya vs. Escayo, *et al.*, 171 SCRA 442; Art. 226, Labor Code, as amended, which grants original and exclusive jurisdiction over conciliation and mediation of disputes, grievances or problems to certain offices of the Department of Labor and Employment);
12. Actions to annul judgment upon a compromise which may be filed directly in court (See Sanchez vs. Tupaz, 158 SCRA 459).

Subject to the above exemptions, a party's failure to comply with the requirement of prior barangay conciliation before filing a case in court would render his complaint dismissible on the ground of failure to comply with a condition precedent,<sup>31</sup> pursuant to Section 1 (j), Rule 16 of the Rules of Court *viz.*:

Section 1, Rule 16 of the Rules of Court provides for the grounds that may be raised in a motion to dismiss a complaint, to wit:

Section 1. *Grounds.* – Within the time for but before filing the answer to the complaint or pleading asserting a claim, a motion to dismiss may be made on any of the following grounds:

X X X X

(j) **That a condition precedent for filing the claim has not been complied with.** (Emphasis and underscoring supplied)

Moreover, as a general rule, grounds for dismissal must be invoked by the party-litigant at the earliest opportunity, as in a motion to dismiss or in the answer; otherwise, such grounds are deemed waived.<sup>32</sup>

Notably however, such non-compliance of the condition precedent is not jurisdictional. In *Uy v. Judge Contreras*,<sup>33</sup> We held:

In fine, we have held in the past that prior recourse to the conciliation procedure required under P.D. 1508 is not a jurisdictional requirement, non-compliance with which would deprive a court of its jurisdiction either over the subject matter or over the person of the defendant. Where, however, the fact of non-compliance with and non-observance of such procedure has been seasonably raised as an issue before the court first taking cognizance of the complaint, dismissal of the action is proper.

XXX XXX XXX

**The precise technical effect of failure to comply with the requirement of P.D. 1508 where applicable is much the same effect produced by non-exhaustion of administrative remedies; the complaint becomes afflicted with the vice of pre-maturity; the controversy there alleged is not ripe for judicial determination. The complaint becomes vulnerable to a motion to dismiss.**<sup>34</sup>[Emphasis Ours]

<sup>31</sup> *Lansangan v. Caisip*, G.R. No. 212987, August 6, 2018.

<sup>32</sup> *Id.*

<sup>33</sup> 307 Phil. 176 (1994).

<sup>34</sup> *Id.* at 189-190.

Here, it is undisputed that Ngo failed to submit the matter to prior barangay conciliation before the filing of his complaint in court. Moreover, the case is not among those exempted from the requirement of prior conciliation. Gabelo, *et al.* timely and consistently raised such omission and vigorously invoked the dismissal of the complaint. All these circumstances justified the dismissal of Ngo's complaint.

We thus quote with approval the findings of the CA, to *wit*:

Based on the aforecited provisions, all disputes between parties actually residing in the same city or municipality are subject to *barangay* conciliation. A prior recourse thereto is a pre-condition before filing a complaint in court or any government office. Non-compliance with the said condition precedent could affect the sufficiency of the plaintiff's cause of action and make his complaint vulnerable to dismissal on ground of lack of cause of action or prematurity; but the same would not prevent a court of competent jurisdiction from exercising its power of adjudication over the case before it, where the defendants failed to object to such exercise of jurisdiction.

**In the instant case, while no motion to dismiss was filed, the petitioners had been constantly pleading for dismissal of the case in their answer and their subsequent pleadings submitted to the lower court.** This is allowed under Section 6, Rule 16 of the Rules of Court which provides that if no motion to dismiss has been filed, any grounds for dismissal provided for in the Rules may be pleaded as an affirmative defense in the answer and, in the discretion of the court, a preliminary hearing may be had thereon as if a motion to dismiss had been filed.

**It is undisputed that the case was never referred to the Lupong Tagapayapa for conciliation. The petitioners successfully prevented the trial court from exercising jurisdiction over the case by timely invoking the ground in their answer as an affirmative defense.** Thus, the complaint is dismissible for failure to comply with the mandatory requirement of *barangay* conciliation as a condition precedent before filing an action.<sup>35</sup> [Emphasis and underscoring Ours]

Finally, petitioner, at this juncture, argues that the issue was rendered moot due to the referral of the case to barangay conciliation proceedings and issuance of Certificate to File Action.<sup>36</sup> However, a careful review of the said undated Certificate to File Action<sup>37</sup> reveals that the same was irregularly issued as the same merely certified that:

- 1) There has been a personal confrontation between the parties before the punong Barangay/Pangkat Tagapagkasundo;
- 2) A settlement was reached;
- 3) The settlement has been repudiated in a statement sworn to before the Punong barangay by \_\_\_\_\_ on ground on \_\_\_\_\_.

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<sup>35</sup> *Rollo*, pp. 24.

<sup>36</sup> *Id.* at 12.

<sup>37</sup> *Id.* at 120.



Therefore the corresponding complaint (sic) for the dispute may now be filed in Court/government office.

Verily, Ngo's admission that none of the respondents appeared is materially inconsistent with the statement in the Certification that there has been personal confrontation between the parties. Moreover, based on the copy of the summons attached, only respondents Spouses Gabelo and Erlinda Abella were able to receive the same. The foregoing clearly does not satisfy the requirement of the law. Moreover, the Certification mentioned that a settlement has been reached by the parties. If this is so, then there would have been no need for referral of the matter to the court/government office, contrary to the statement in the Certification.

Finally, petitioner cites the case of *Bonifacio Law Office v. Bellosillo*<sup>38</sup> where this Court allegedly pronounced that suspending a case and referring the same to the barangay for conciliation was not an abuse of discretion on the part of the trial court. Hence, the RTC was correct in doing so in the case at bar.<sup>39</sup> This argument fails to persuade. In the instant case, there is a complete failure on the part of Ngo to refer the case to the barangay for prior conciliation. The cited case is not on all fours with the case at bar because there was a prior barangay conciliation therein but the trial court merely referred it back for completion. The relevant findings of the Court in said case held that:

Evidently, the barangay failed to exert enough effort required by law to conciliate between the parties and to settle the case before it. Hence, respondent judge was not incorrect in remanding the case to it for completion of the mandated proceedings. We cannot fault him for seeking to promote the objectives of barangay conciliation and for taking to heart the provisions of Supreme Court Circular No. 14-93. His referral of the case back to the barangay cannot be equated with gross ignorance of the law. Neither does it constitute grave abuse of discretion or obvious partiality.<sup>40</sup>

All told, this Court finds no reason to overturn the ruling of the CA as to its finding that the RTC gravely abused its discretion in remanding the case for barangay conciliation and for revoking the dismissal of the complaint. All the substantive and procedural issues raised in this Petition were squarely addressed in the assailed judgment of the appellate court in accordance with law and existing jurisprudence and with due regard to extant facts and evidence.

**WHEREFORE**, the Petition for Review on *Certiorari* is hereby **DENIED**, there being no reversible error on the part of the Court of Appeals. The January 8, 2013 Decision and June 19, 2013 Resolution of the Court of Appeals in CA-G.R. S.P. No. 117120 are **AFFIRMED**. Costs on petitioner.

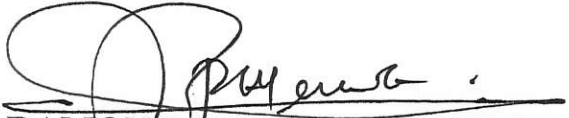
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<sup>38</sup> 442 Phil 257 (2002).


<sup>39</sup> *Rollo*, p. 11.

<sup>40</sup> *Bonifacio Law Office v. Judge Bellosillo*, supra at 266.

**SO ORDERED.**

  
**RAMON PAUL L. HERNANDO**  
Associate Justice

WE CONCUR:

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


  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

  
**EDGARDO L. DELOS SANTOS**  
Associate Justice

On official leave  
**PRISCILLA J. BALTAZAR-PADILLA**  
Associate Justice


**ATTESTATION**

I attest 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.

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

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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.

  
**DIOSDADO M. PERALTA**  
Chief Justice