



Republic of the Philippines  
 Supreme Court  
 Manila

CERTIFIED TRUE COPY  
  
 WILFREDO V. LAPIDAN  
 Division Clerk of Court  
 Third Division  
 MAR 10 2017

THIRD DIVISION

**SPOUSES AMADO O. IBAÑEZ**    **G.R. No. 194272**  
**and ESTHER R. IBAÑEZ,**

Petitioners,    Present:

-versus-

**BERSAMIN, J.,\*** *Acting Chairperson,*  
**REYES,**  
**PERLAS-BERNABE,\*\***  
**JARDELEZA, and**  
**CAGUIOA,\*\*\* JJ.**

**JAMES HARPER**    **as**  
**Representative of the Heirs of**  
**FRANCISCO MUÑOZ, SR., the**  
**REGISTER OF DEEDS OF**  
**MANILA and the SHERIFF OF**  
**MANILA,**

Promulgated:

Respondents.    February 15, 2017

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**DECISION**

**JARDELEZA, J.:**

This is an Amended Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Revised Rules of Court assailing the Decision<sup>2</sup> dated October 29, 2009 (assailed Decision) and Resolution<sup>3</sup> dated September 29, 2010 (assailed Resolution) of the Court of Appeals (CA) in CA-G.R. SP No. 98623. The CA set aside the Orders dated August 11, 2006<sup>4</sup> and February 20, 2007<sup>5</sup> and reinstated the Order dated March 24, 2006<sup>6</sup> of the Regional Trial Court (RTC) of Manila, Branch 40, in Civil Case No. 97-86454.

**I**

Sometime in October 1996, spouses Amado and Esther Ibañez (spouses Ibañez) borrowed from Francisco E. Muñoz, Sr. (Francisco), Consuelo Estrada (Consuelo) and Ma. Consuelo E. Muñoz (Ma. Consuelo) the amount of ₱1,300,000, payable in three months, with interest at the rate

\* Associate Justice Presbitero J. Velasco, Jr. inhibited himself due to close association to one of the parties.

\*\* Designated as Additional Member per Raffle dated February 13, 2017.

\*\*\* Designated as Fifth Member of the Third Division per Special Order No. 2417 dated January 4, 2017.

<sup>1</sup> *Rollo*, pp. 146-178.

<sup>2</sup> *Id.* at 10-24, penned by Associate Justice Vicente S.E. Veloso with Associate Justices Andres B. Reyes, Jr. and Marlene Gonzales-Sison, concurring.

<sup>3</sup> *Id.* at 37-39.

<sup>4</sup> *Id.* at 125-126.

<sup>5</sup> *Id.* at 127-128.

<sup>6</sup> *Id.* at 208-209.

of 3% a month.<sup>7</sup>

On October 14, 1996, the spouses Ibañez issued a Promissory Note<sup>8</sup> binding themselves jointly and severally to pay Ma. Consuelo and Consuelo the loan amount with interest, to wit:

FOR VALUE RECEIVED, I jointly and severally, promise to pay to MA. CONSUELO E. MUÑOZ & CONSUELO C. ESTRADA, at their office at x x x, the principal sum of ONE MILLION THREE HUNDRED THOUSAND ONLY (P1,300,000.00), Philippine Currency, with interest thereon at the rate of three percent (3%) per month, subject to one (1%) percent penalty if not paid on monthly due date. Interest not paid when due shall be added to and become part of the principal and shall likewise bear interest at the same rate compounded monthly. Payable within a period of three (3) months from the date hereof, beginning Nov. 14, 1996 and every month thereafter, until the whole sum of principal and interest shall have been fully paid.

Upon default of three (3) monthly installments when due, all the other installments shall become due and payable. Interest not paid when due shall be added to, and become part of the principal and shall likewise bear interest at the same rate, compounded monthly.<sup>9</sup>

As security, on October 17, 1996, the spouses Ibañez executed a Deed of Real Estate Mortgage<sup>10</sup> in favor of Ma. Consuelo and Consuelo over a parcel of land and its improvements covered by Transfer of Certificate Title (TCT) No. 202978. The mortgage contained the same terms as the promissory note. It further stipulated that Ma. Consuelo and Consuelo shall have the right to immediately foreclose the mortgage upon the happening of the following events: (1) filing by the mortgagor of any petition for insolvency or suspension of payment; and/or (2) failure of the mortgagor to perform or comply with any covenant, agreement, term or condition of the mortgage.<sup>11</sup>

On September 23, 1997, alleging that the conditions of the mortgage have been violated since November 17, 1996 and that all check payments were dishonored by the drawee, Ma. Consuelo and Consuelo applied for foreclosure of the real estate mortgage.<sup>12</sup>

On December 8, 1997, the spouses Ibañez filed in the RTC of Manila a Complaint<sup>13</sup> for injunction and damages with prayers for writ of

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<sup>7</sup> Records, Vol. I, p. 5.

<sup>8</sup> *Id.* at 18-19.


<sup>9</sup> *Id.* at 18.

<sup>10</sup> *Id.* at 20-23.

<sup>11</sup> *Id.* at 21.

<sup>12</sup> *Id.* at 24-25.

<sup>13</sup> *Id.* at 3-14.



preliminary injunction and temporary restraining order against Francisco, Ma. Consuelo, Consuelo, the Clerk of Court and *Ex-Officio* Sheriff, Sheriff-in-Charge and Register of Deeds of the City of Manila. Docketed as Civil Case No. 97-86454, the Complaint alleged that there is no reason to proceed with the foreclosure because the real estate mortgage was novated.<sup>14</sup> They prayed that the public auction of the property be enjoined and that Francisco, Ma. Consuelo and Consuelo be held liable for actual and compensatory, moral and exemplary damages, as well as attorney's fees and costs of suit.<sup>15</sup>

On December 12, 1997, the spouses Ibañez filed an Amended Complaint.<sup>16</sup> They alleged that the public auction was conducted, with Francisco, Ma. Consuelo and Consuelo as the highest bidders<sup>17</sup> and prayed that the *Ex-Officio* Sheriff and the Sheriff-in-Charge be enjoined from executing the certificate of sale in favor of Francisco, Ma. Consuelo and Consuelo. In the event the certificate of sale is already issued, they alternatively prayed for that the Register of Deeds of Manila be enjoined from registering the certificate of sale.<sup>18</sup>

On December 16, 1997, the RTC issued a *status quo* order.<sup>19</sup>

On June 11, 2002, the parties filed a Joint Motion for Approval of Amended Compromise Agreement.<sup>20</sup> The Amended Compromise Agreement,<sup>21</sup> signed by the spouses Ibañez and Francisco, for himself and on behalf of Ma. Consuelo and Consuelo, reads:

#### **AMENDED COMPROMISE AGREEMENT**

**PARTIES PLAINTIFFS and DEFENDANTS,** assisted by their respective counsels, unto this Honorable Court, most respectfully submit this **AMENDED COMPROMISE AGREEMENT**, to wit:

#### **I- STIPULATIONS OF THE PARTIES:**

1.1. On October 16, 1996, plaintiffs obtained a loan from the defendants, in the principal amount of **P1,300,000.00**, with interest thereon, **payable within three (3) months therefrom;**

1.2. The loan has been secured by a Real Estate Mortgage, constituted on a parcel of land, situated in the District of Singalong, Malate, Manila, containing an area of **135.70 Square Meters**, registered in the name of **Amado O. Iba[ñ]ez, married to Esther R.**

<sup>14</sup> *Id.* at 7.

<sup>15</sup> *Id.* at 11-12.

<sup>16</sup> *Id.* at 31-43.

<sup>17</sup> *Id.* at 39.

<sup>18</sup> *Id.* at 39-40.

<sup>19</sup> *Id.* at 60.

<sup>20</sup> *Id.* at 309-310.

<sup>21</sup> *Id.* at 311-314.

**Ibañez**, embraced under Transfer **Certificate of Title No. [202978]**, of the Registry of Deeds for the City of Manila;

1.3. Thereafter, the mortgage was extra-judicially foreclosed by the defendants, for failure to pay the loan obligation, plus interests due thereon, within the agreed period;

1.4. The property in question was not redeemed within the period prescribed by law. Hence, on **December 10, 1997**, after **Notice**, the Office of the Clerk of Court and Ex-Officio Sheriff of Manila, **sold the same property at public auction** where defendant Francisco E. Munoz, Sr. was the highest bidder;

1.5. However, the **Certificate of Sale**, was not issued in view of the institution by plaintiffs of the present case.

## **II- TERMS AND CONDITIONS:**

2.1. The plaintiffs shall pay unto the defendants, the total sum of **THREE MILLION PESOS (P3,000,000.00)**, Philippine Currency, portion of which shall be paid through the proceeds of a real estate loan, being secured from the Government Service[] Insurance System (GSIS), and the remaining balance, from such other sources determined by the plaintiffs, subject to the conformity of the defendants;

2.2. The defendants accept, as initial payment, the amount of **PESOS: TWO MILLION (P2,000,000.00) Philippine Currency**, from the proceeds of the said real estate loan to be released by the **Government Service[] Insurance System (GSIS)**, which amount is hereby unconditionally committed by the plaintiffs to be paid in full to the defendants, immediately upon release thereof, or within a period of three (3) months from date of this agreement;

2.3. The amount to be released by the **Government Service Insurance System (GSIS)**, representing proceeds of the above-stated loan **shall be assigned by the plaintiffs, in favor of the defendants, upon execution of this agreement;**

2.4. The **remaining balance** of the total obligation stated in paragraph 2.1 above, amounting to **One Million (P1,000,000.00)**, shall be payable **within one (1) year from date hereof, with interest at the rate of two (2%) per month, and to be secured by a real estate mortgage**, to be constituted on a property registered in the names of the plaintiffs, situated at **Puerto Azul, Brgy. Zapang, Ternate, Cavite**, identified as **Lot 1-J of the subdivision plan Psd-04-**

**133674, portion of Lot 1, (LRC) Psd-88692, L.R.C. Record No. N-33296, containing an area of Twenty (20) hectares, more or less;**

2.5. In the event, that the above-mentioned GSIS loan application will not materialize, parties hereby agree to **immediately cause the lifting or recall of the Status Quo Order issued by this Honorable Court, on December 16, 1997. Thereafter, the defendants shall immediately cause the issuance of the Certificate of Sale over the subject property in their favor, and the plaintiffs agree not to further delay the same, with any Court action or otherwise;**

2.6. Parties hereby agree to **WAIVE** such other claims by one party against the other, relative to or connected with the instant case;

2.7. In the event of failure of the plaintiffs to comply with any of the terms and conditions of this agreement, the defendants shall be entitled to a **Writ of Execution**, to implement this agreement of the parties.

**IN WITNESS WHEREOF**, parties have hereunto signed this **Compromise Agreement**, this x x x, in the City of Manila.

(Signed)  
**AMADO O. IBANEZ**  
Plaintiff

(Signed)  
**FRANCISCO E. MUNOZ, SR.**  
Defendant  
For himself and on behalf of his  
Co-defendants

(Signed)  
**ESTHER R. IBANEZ**  
Plaintiff

**ASSISTED BY:**

(Signed)  
**ATTY. CESAR G. VIOLA**  
Counsel for the Plaintiffs

(Signed)  
**ATTY. PROSPERO A. ANAVE**  
Counsel for the Defendants

x x x<sup>22</sup> (Emphasis and underscoring in the original.)

On June 17, 2002, the RTC approved the Amended Compromise Agreement and adopted it as its *Hatol*.<sup>23</sup>

On September 24, 2002, the spouses Ibañez manifested that: (1) there will be a slight delay in their compliance due to new loan requirements of the Government Service Insurance System (GSIS);<sup>24</sup> and (2) they have

<sup>22</sup> *Id.*  
<sup>23</sup> Records, Vol. I, pp. 315-318.  
<sup>24</sup> *Id.* at 319-320.

executed a Real Estate Mortgage<sup>25</sup> dated August 10, 2002 in favor of Ma. Consuelo and Consuelo over a property covered by TCT No. T-77676, as per the parties' Amended Compromise Agreement.

On February 28, 2006, Atty. Roberto C. Bermejo (Atty. Bermejo), representing himself as collaborating counsel for Francisco, Ma. Consuelo and Consuelo, filed an Omnibus Motion for Execution and Lifting of the *Status Quo* Order of December 16, 1997 and for the Issuance of Writ of Possession.<sup>26</sup> Atty. Bermejo alleged that the spouses Ibañez failed to comply with their obligation under the Amended Compromise Agreement. Consequently, and following the terms of the Amended Compromise Agreement, the RTC's *status quo* order must be lifted and a certificate of sale over the subject property be immediately issued.<sup>27</sup>

On March 24, 2006, the RTC granted Atty. Bermejo's motion. It found that the spouses Ibañez have yet to pay the amount due, in violation of the terms of the Amended Compromise Agreement.<sup>28</sup> The Order dated March 24, 2006 reads:

WHEREFORE, in view of the foregoing, Order is issued: (1) lifting the status quo order of December 16, 1997; (2) directing the issuance of a writ of possession directing the private defendant[s] be placed in possession of the subject property; and (3) directing the Office of the Sheriff of Manila to issue a certificate of sale in favor of the private defendant[s].<sup>29</sup> (Emphasis omitted.)

The spouses Ibañez moved to reconsider<sup>30</sup> this order on the following grounds: (1) Francisco died in June 2004; (2) Atty. Prospero A. Anave (Atty. Anave), counsel on record of Francisco, Ma. Consuelo and Consuelo, failed to inform the court of such fact; thus, there was no valid substitution of parties; and (3) Atty. Bermejo had no authority to file the omnibus motion as it is without knowledge, approval and consent of Atty. Anave.<sup>31</sup>

On June 15, 2006, the RTC granted the spouses Ibañez' Motion for Reconsideration.<sup>32</sup> It held that: (1) Atty. Anave's failure to report Francisco's death to the court for purposes of substitution rendered the proceedings thereat null and void; (2) Atty. Anave's subsequent conformity to Atty. Bermejo's actions did not cure the initial defect in the filing of the Omnibus Motion; neither did it mean the withdrawal, dismissal or substitution of Atty. Anave by Atty. Bermejo; and (3) a formal entry of appearance with Atty. Anave's conformity is necessary before Atty. Bermejo can legally act as

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<sup>25</sup> *Id.* at 321-322.

<sup>26</sup> Records, Vol. II, pp. 1-3.

<sup>27</sup> *Id.* at 1-2.

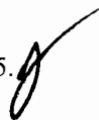
<sup>28</sup> *Id.* at 6-7.

<sup>29</sup> *Id.* at 7.

<sup>30</sup> *Id.* at 10-18.

<sup>31</sup> *Id.* at 10.

<sup>32</sup> *Id.* at 104-105.



collaborating counsel.

On June 29, 2006, the spouses Ibañez filed a Motion for the Implementation of the Amended Compromise Agreement.<sup>33</sup> They argued that since there was no proper substitution of the heirs of Francisco, the proper parties to substitute him are Ma. Consuelo and Consuelo. They also argued that the Amended Compromise Agreement had already been partially complied with: (1) they have already executed a Deed of Assignment assigning to Ma. Consuelo and Consuelo the proceeds of the GSIS loan pursuant to paragraph 2.3; and (2) on May 19, 2006, they have already executed the Real Estate Mortgage provided under paragraph 2.4.<sup>34</sup> They further allege that the delay in the implementation of the assignment was due to the assignees' failure to deliver to the GSIS the owner's copy of TCT No. 202978 (the same lot which served as security for the Promissory Note executed by the spouses Ibañez on October 14, 1996) and the discharge of the corresponding Real Estate Mortgage executed by the spouses Ibañez on October 17, 1996.

The spouses Ibañez thus prayed that the Amended Compromise Agreement be considered initially implemented and that Ma. Consuelo and Consuelo be ordered to surrender the owner's copy of TCT No. 202978 or to consider the title lost should the same not be surrendered.<sup>35</sup>

On July 5, 2006, citing irreconcilable differences, Atty. Anave filed his Notice of Withdrawal of Appearance<sup>36</sup> as counsel for Francisco, Ma. Consuelo and Consuelo.

On even date, Atty. Bermejo filed a Notice of Death<sup>37</sup> of Francisco and named James Harper (James) as Francisco's legal representative. Atty. Bermejo also filed his Entry of Appearance<sup>38</sup> as counsel for James, Ma. Consuelo and Consuelo.

On July 31, 2006, the spouses Ibañez filed a Motion to Adopt/Consider the Judicial Compromise Agreement dated June 17, 2002 Designated as "*Hatol*" as the Final and Executory Decision.<sup>39</sup> The motion prayed that since all the stipulations in the Amended Compromise Agreement have been complied with to the entire satisfaction of all the contending parties, the Compromise Agreement should be considered and adopted as the trial court's decision on the merits.<sup>40</sup> The motion was signed by Amado Ibañez with the conformity of Consuelo, signing for herself and

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<sup>33</sup> *Id.* at 108-111.

<sup>34</sup> *Id.* at 110-111.

<sup>35</sup> *Id.* at 111.

<sup>36</sup> *Id.* at 121.

<sup>37</sup> *Id.* at 119-120.

<sup>38</sup> *Id.* at 122.

<sup>39</sup> *Id.* at 125-130.

<sup>40</sup> *Id.* at 129.

Ma. Consuelo.<sup>41</sup> Atty. Anave and the Branch Clerk of Court were notified of the hearing. Only Atty. Anave, Ma. Consuelo and Consuelo were, however, furnished copies of the motion.<sup>42</sup>

In an Order dated August 11, 2006,<sup>43</sup> the RTC granted the spouses Ibañez' motion, thus:

x x x It appearing that all the stipulations in the "*Hatol*", dated June 10, 2002, have been complied with accordingly to the entire satisfaction of each one of the contending parties and the terms and conditions set forth therein were duly performed and satisfied. As prayed for, the said "*Hatol*", dated June 10, 2002, is considered, regarded and adopted as this Court's decision on the merits with finality which was approved by this Court on June 17, 2002.

SO ORDERED.<sup>44</sup>

On same date, the RTC issued an Order<sup>45</sup> noting Atty. Anave's withdrawal as counsel and Atty. Bermejo's entry of appearance.

On August 18, 2006, Ma. Consuelo and Consuelo filed a Manifestation<sup>46</sup> disclaiming Atty. Bermejo as their counsel and naming Atty. Marigold Ana C. Barcelona (Atty. Barcelona) as their counsel. Attached to the Manifestation is Atty. Barcelona's Entry of Appearance.<sup>47</sup>

On August 24, 2006, James, as Francisco's legal representative, and through Atty. Bermejo, sought reconsideration<sup>48</sup> of the RTC's August 11, 2006 Order. He argued that the trial court erred in holding that all the stipulations in the *Hatol* have been complied with to the satisfaction of all the parties. According to James, the spouses Ibañez made it appear that only Ma. Consuelo and Consuelo remained as parties after Francisco's death. Since James, as Francisco's representative, was excluded from the Deed of Assignment, the Amended Compromise Agreement could not have been completely complied with.

On February 20, 2007, the RTC denied<sup>49</sup> James' motion for reconsideration of the trial court's August 11, 2006 Order, to wit:

A judicial compromise, once stamped with judicial approval becomes more than a contract binding upon the

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<sup>41</sup> *Id.*

<sup>42</sup> Records, Vol. II, p. 130.

<sup>43</sup> *Id.* at 134-135.

<sup>44</sup> *Id.*

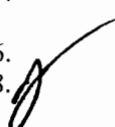
<sup>45</sup> Records, Vol. II, p. 132.

<sup>46</sup> *Id.* at 138-139.

<sup>47</sup> *Id.* at 140.

<sup>48</sup> *Id.* at 143-146.

<sup>49</sup> *Id.* at 177-178.





parties and having the sanction of the Court and entered as its determination of the controversy, it has the force and effect and (*sic*) any other judgment. It has also the effect of *res judicata* and it is immediately executory and not appealable (*sic*).

In this case, the judicial compromise agreement entered into by the parties was already approved by this Court in its HATOL, dated June 17, 2002 and considered it as its decision on the merits with finality. Therefore, the same has become immediately final and executory and could no longer be reconsidered and set aside.

Moreover, there is no reason to disturb this Court's finding that all the stipulations in the HATOL have already been complied with according to the entire satisfaction of each one of the contending parties. James Harper cannot be made a party thereto, there being no valid substitution of parties made.

**WHEREFORE**, James Harper, through counsel's motion for reconsideration is **DENIED** for lack of merit.<sup>50</sup> (Emphasis in the original, citations omitted.)

Aggrieved, the heirs of Francisco, identified as Maria C. Muñoz, Angelina M. Crocker and Maria Elena M. Webster and represented by James Harper, filed before the CA a Petition for *Certiorari*<sup>51</sup> under Rule 65 of the Revised Rules of Court. They assailed the Orders dated August 11, 2006 and February 20, 2007 of the trial court and clarified that contrary to the findings of the trial court, they are pushing for the execution of the Amended Compromise Agreement. The heirs emphasized that under the terms of the Compromise Agreement, the obligations of the spouses Ibañez are as follows: (1) To pay ₱2,000,000 to be sourced from the proceeds of a GSIS loan and released three months from the date of the agreement; and (2) to pay ₱1,000,000 within one year from the date of the agreement and secured by a real estate mortgage on the spouses Ibañez' property in Puerto Azul. The heirs are of the view that since the spouses Ibañez have not complied with any of the foregoing stipulations, the December 16, 1997 *status quo* order of the trial court should already be lifted. They likewise argue that the trial court gravely and seriously erred when it disregarded Francisco and his heirs by holding that there was no proper substitution of parties.<sup>52</sup>

Meanwhile, on April 17, 2007, the spouses Ibañez filed a Motion for Execution<sup>53</sup> and prayed that Ma. Consuelo and Consuelo be ordered to surrender to them the owner's copy of TCT No. 202978. In case of failure to surrender, they alternately prayed that the Register of Deeds of Manila be ordered to declare the owner's copy lost for purposes of subsequent

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<sup>50</sup> *Id.* at 178.

<sup>51</sup> *Id.* at 193-203.

<sup>52</sup> *Id.* at 197-202.

<sup>53</sup> *Id.* at 183-186.

reconstitution.<sup>54</sup>

On May 18, 2007, James filed his Opposition<sup>55</sup> to the Motion for Execution and moved to suspend further proceedings in the trial court due to the pendency of his petition for *certiorari* in the CA.

On May 31, 2007, the trial court issued its Order<sup>56</sup> granting the Motion for Execution and denying James' motion to suspend. According to the trial court, there was no valid substitution; thus, it did not acquire jurisdiction over James. On June 26, 2007, the trial court issued a Writ of Execution.<sup>57</sup>

On September 20, 2007, Sheriff Gavin P. Reyala (Sheriff Reyala) filed his Return<sup>58</sup> indicating that Consuelo failed to surrender the owner's copy of TCT No. 202978 as it was allegedly in James' possession. Thus, the Registry of Deeds of Manila, in compliance with the Writ of Execution, issued a new owner's copy of TCT No. 202978 which Sheriff Reyala delivered to the spouses Ibañez.

On October 29, 2009, the CA resolved James' petition for *certiorari*, the dispositive portion of which states:

**WHEREFORE**, the instant petition is **GRANTED**. **Setting aside** the assailed Orders dated August 11, 2006 and February 20, 2007, the RTC's March 24, 2006 Order granting the February 28, 2006 Omnibus Motion for Execution and the Lifting of the RTC's December 16, 1997 Status Quo Order is hereby Reinstated.

**SO ORDERED.**<sup>59</sup> (Emphasis in the original.)

The CA ruled that the Amended Complaint and the *Hatol* identified Francisco, Ma. Consuelo and Consuelo as the creditors and the parties who were supposed to receive the proceeds of the Amended Compromise Agreement. Since the Deed of Assignment was executed only in favor of Ma. Consuelo and Consuelo, the loan obligation of the spouses Ibañez to *Francisco* remained unsettled. The heirs of Francisco thus retain the right to invoke paragraph 2.5 of the Compromise Agreement which provides for the lifting of the trial court's *status quo* order.<sup>60</sup> The CA disagreed that there was no valid substitution of parties and noted from the records that the RTC was notified of Francisco's death on June 29, 2006. The late filing of the notice of death did not divest the RTC of jurisdiction to favorably act on the heirs' motion to lift the *status quo* order and issue the writ of execution. Based on

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<sup>54</sup> *Id.* at 184-185.

<sup>55</sup> *Id.* at 205-207.


<sup>56</sup> *Id.* at 234-235.

<sup>57</sup> *Id.* at 241-242.

<sup>58</sup> *Id.* at 275.

<sup>59</sup> *Rollo*, p. 23.

<sup>60</sup> *Id.* at 21-22.



Section 16, Rule 3 of the Revised Rules of Court, it is the counsel, not the heirs of the deceased, who will be penalized for the failure to comply with the duty to notify the court of the client's death.<sup>61</sup>

The CA denied the spouses Ibañez' Urgent Motion for Reconsideration<sup>62</sup> via its assailed Resolution.

Hence, this petition. The issues presented are:

1. Whether Francisco was a real party in interest;
2. Whether there was valid substitution of parties; and
3. Whether all the provisions of the Amended Compromise Agreement have been complied with.

## II

In their Amended Petition for Review on *Certiorari*,<sup>63</sup> the spouses Ibañez claim that neither James nor Francisco, the person he seeks to substitute, are parties in interest in Civil Case No. 97-86454. As such, James has no personality to file the petition for *certiorari* in the CA and the issue of whether Francisco was validly substituted is moot and academic.<sup>64</sup> Alternatively, the spouses Ibañez argue that the CA erred in ruling that James has validly substituted Francisco as the notice of death and substitution was made beyond the mandatory 30-day period.<sup>65</sup>

Section 2, Rule 3 of the Revised 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. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest.

“Interest,” within the meaning of the rule, means material interest, an interest in issue and to be affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest.<sup>66</sup>

In their Complaint and Amended Complaint, the spouses Ibañez impleaded Francisco as a defendant and described him as the capitalist. They also alleged that they took a loan from Francisco, Ma. Consuelo and Consuelo.<sup>67</sup> They also narrated that a public auction over the mortgaged

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<sup>61</sup> *Id.* at 22-23.

<sup>62</sup> *Id.* at 25-30.

<sup>63</sup> *Supra* note 1.

<sup>64</sup> *Rollo*, pp. 170, 172-173.

<sup>65</sup> *Id.* at 170-172.

<sup>66</sup> *Republic v. Coalbrine International Philippines, Inc.*, G.R. No. 161838, April 7, 2010, 617 SCRA 491, 497.

<sup>67</sup> Records, Vol. I, pp. 3-5, 31-33.

property was conducted where Francisco, Ma. Consuelo and Consuelo emerged as the highest bidders.<sup>68</sup>

Further, attachments to the Complaint and Amended Complaint show that Amado Ibañez and Francisco communicated with each other regarding the payment of the loan.<sup>69</sup> The Amended Compromise Agreement, approved by the trial court and which served as the basis for the *Hatol*, referred to the spouses Ibañez as the plaintiffs while the defendants they covenanted to pay are Francisco, Consuelo and Ma. Consuelo. It was signed by the spouses Ibañez and Francisco, for himself and on behalf of Ma. Consuelo and Consuelo.<sup>70</sup> These facts indicate that Francisco has a material interest in the case as it is in his interest to be paid the money he lent the spouses Ibañez. Any judgment which will be rendered will either benefit or injure Francisco; thus, he is a real party in interest.

We now resolve whether Francisco's heirs have validly substituted him as parties in the case.

Section 16, Rule 3 of the Revised Rules of Court provides:

Sec. 16. *Death of party; duty of counsel.* – Whenever a party to a pending action dies, and the claim is not thereby extinguished, it shall be the duty of his counsel to inform the court within thirty (30) days after such death of the fact thereof, and to give the name and address of his legal representative or representatives. Failure of counsel to comply with this duty shall be a ground for disciplinary action.

The heirs of the deceased may be allowed to be substituted for the deceased, without requiring the appointment of an executor or administrator and the court may appoint a guardian *ad litem* for the minor heirs.

The court shall forthwith order said legal representative or representatives to appear and be substituted within a period of thirty (30) days from notice.

If no legal representative is named by the counsel for the deceased party, or if the one so named shall fail to appear within the specified period, the court may order the opposing party, within a specified time, to procure the appointment of an executor or administrator for the estate of the deceased and the latter shall immediately appear for and on behalf of the deceased. The court charges in procuring such appointment, if defrayed by the opposing party, may be recovered as costs.

The rationale behind the rule on substitution is to apprise the heir or

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<sup>68</sup> *Id.* at 38.

<sup>69</sup> *Id.* at 27-28, 57-58.

<sup>70</sup> *Supra* note 21.

the substitute that he is being brought to the jurisdiction of the court in lieu of the deceased party by operation of law.<sup>71</sup> It serves to protect the right of every party to due process. It is to ensure that the deceased party would continue to be properly represented in the suit through the duly appointed legal representative of his estate. Non-compliance with the rule on substitution would render the proceedings and the judgment of the trial court infirm because the court acquires no jurisdiction over the persons of the legal representatives or of the heirs on whom the trial and the judgment would be binding.<sup>72</sup>

Nevertheless, there are instances when formal substitution may be dispensed with. In *Vda. de Salazar v. Court of Appeals*,<sup>73</sup> we ruled that the defendant's failure to effect a formal substitution of heirs before the rendition of judgment does not invalidate the court's judgment where the heirs themselves appeared before the trial court, participated in the proceedings, and presented evidence in defense of the deceased defendant. The court there found it undeniably evident that the heirs themselves sought their day in court and exercised their right to due process.<sup>74</sup>

Similarly, in *Berot v. Siapno*,<sup>75</sup> we ruled that the continued appearance and participation of Rodolfo, the estate's representative, in the proceedings of the case dispensed with the formal substitution of the heirs in place of the deceased.<sup>76</sup>

Here, while there may have been a failure to strictly observe the provisions of the rules and there was no formal substitution of heirs, the heirs of Francisco, represented by James, voluntarily appeared and actively participated in the case, particularly in the enforcement of the *Hatol*. As the records show, they have filed multiple pleadings and moved several times to implement the *Hatol* to protect Francisco's interest. Following our rulings in *Vda. de Salazar* and *Berot*, a formal substitution of parties is no longer required under the circumstances.

The trial court therefore committed grave abuse of discretion when it declared that Harper cannot be made a party in the case because of the lack of a valid substitution.<sup>77</sup> Its refusal to recognize Francisco's heirs deprived them of the opportunity to exact compliance with whatever rights they may have under the terms of the Amended Compromise Agreement.

Anent the third issue, the spouses Ibañez argued that the CA erred in reversing the August 11, 2006 and February 20, 2007 Orders of the trial

<sup>71</sup> *Cardenas v. Heirs of the Late Spouses Aguilar*, G.R. No. 191079, March 2, 2016, 782 SCRA 405, 411.

<sup>72</sup> *Heirs of Bertuldo Hinog v. Melicor*, G.R. No. 140954, April 12, 2005, 455 SCRA 460, 477-478, as cited in *Cardenas v. Heirs of the Late Spouses Aguilar*, *supra*.

<sup>73</sup> G.R. No. 121510, November 23, 1995, 250 SCRA 305.

<sup>74</sup> *Id.* at 311.

<sup>75</sup> G.R. No. 188944, July 9, 2014, 729 SCRA 475.

<sup>76</sup> *Id.* at 488-491.

<sup>77</sup> *Rollo*, p. 128.

court. They claim that since the *Hatol*, rendered by the RTC based on the Amended Compromise Agreement, is already final, executory and, in fact, partially executed,<sup>78</sup> Harper cannot anymore file a petition for *certiorari* to assail them.<sup>79</sup>

A compromise agreement is a contract whereby the parties, make reciprocal concessions to avoid a litigation or put an end to one already commenced. In a compromise, the parties adjust their difficulties in the manner they have agreed upon, disregarding the possible gain in litigation and keeping in mind that such gain is balanced by the danger of losing.<sup>80</sup> It encompasses the objects stated, although it may include other objects by necessary implication. It is binding on the contractual parties, being expressly acknowledged as a juridical agreement between them, and has the effect and authority of *res judicata*.<sup>81</sup>

Here, the spouses Ibañez agreed to pay Francisco, Ma. Consuelo and Consuelo the total amount of ₱3,000,000, with the initial payment of ₱2,000,000 to be sourced from the proceeds of a GSIS loan and secured by the spouses Ibañez while the remaining balance of ₱1,000,000 to be paid one year from the date of the Amended Compromise Agreement.

As correctly identified by the CA, the Amended Compromise Agreement clearly refers to the spouses Ibañez as plaintiffs and Francisco, Consuelo and Ma. Consuelo as the defendants they covenanted to pay. There is nothing in the *Hatol*, and the Amended Compromise Agreement it is based on, which shows a declaration that the obligation created was solidary.

In any case, solidary obligations cannot be inferred lightly. They must be positively and clearly expressed.<sup>82</sup> Articles 1207 and 1208 of the Civil Code provide:

**Art. 1207. The concurrence of two or more creditors or of two or more debtors in one and the same obligation does not imply that each one of the former has a right to demand, or that each one of the latter is bound to render, entire compliance with the prestations.** There is a solidary liability only when the obligation expressly so states, or when the law or the nature of the obligation requires solidarity.

**Art. 1208. If from the law, or the nature or the wording of the obligations to which the preceding article refers the contrary does not appear, the credit or debt shall be presumed to be divided into as many equal shares as there are creditors or debtors, the credits or debts being**

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<sup>78</sup> *Id.* at 173.

<sup>79</sup> *Id.*

<sup>80</sup> *Magbanua v. Uy*, G.R. No. 161003, May 6, 2005, 458 SCRA 184, 190.

<sup>81</sup> *Chu v. Cunanan*, G.R. No. 156185, September 12, 2011, 657 SCRA 379, 387.

<sup>82</sup> *PH Credit Corporation v. Court of Appeals*, G.R. No. 109648, November 22, 2001, 370 SCRA 155, 165.

**considered distinct from one another, subject to the Rules of Court governing the multiplicity of suits.**  
(Emphasis supplied.)

In this case, given that solidarity could not be inferred from the agreement, the presumption under the law applies—the obligation is joint.

As defined in Article 1208, a joint obligation is one where there is a concurrence of several creditors, or of several debtors, or of several debtors, **or of several creditors and debtors**, by virtue of which **each of the creditors has a right to demand, and each of the debtors is bound to render compliance with his proportionate part of the prestation** which constitutes the object of the obligation.<sup>83</sup> Each debtor answers only for a part of the whole liability **and to each obligee belongs only a part of the correlative rights**<sup>84</sup> as it is only in solidary obligations that payment made to any one of the solidary creditors extinguishes the entire obligation.<sup>85</sup> This means that Francisco, Ma. Consuelo and Consuelo are each entitled to equal shares in the ₱3,000,000 agreed upon in the Amended Compromise Agreement and that payment to Consuelo and Ma. Consuelo will not have the effect of discharging the obligation with respect to Francisco.

The spouses Ibañez assigned the proceeds of the GSIS loan and executed a real estate mortgage over the Puerto Azul property only in Ma. Consuelo and Consuelo's favour. By doing so, they did not discharge their obligation in accordance with the terms of the Amended Compromise Agreement and left their loan obligation to Francisco unsettled. Thus, and as correctly held by the CA, it was gravely erroneous for the trial court to rule that all the stipulations in the *Hatol* have been complied with. Under the circumstances, the obligations to Francisco, and consequently, his heirs, have clearly not been complied with.

The trial court deprived the heirs of Francisco of the opportunity to assert their rights under the Amended Compromise Agreement not only in its August 11, 2006 and February 20, 2007 Orders finding that the stipulations in the Amended Compromise Agreement have been complied with to the satisfaction of all parties, but also in its June 15, 2006 Order which set aside

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<sup>83</sup> *Philippine Commercial International Bank v. Court of Appeals*, G.R. No. 121989, January 31, 2006, 481 SCRA 127, 135. Emphasis supplied.

<sup>84</sup> *Industrial Management International Development Corp. v. National Labor Relations Commission*, G.R. No. 101723, May 11, 2000, 331 SCRA 640, 646. Emphasis supplied.

<sup>85</sup> Art. 1216. The creditor may proceed against any one of the solidary debtors or some or all of them simultaneously. The demand made against one of them shall not be an obstacle to those which may subsequently be directed against the others, so long as the debt has not been fully collected.

Art. 1217. Payment made by one of the solidary debtors extinguishes the obligation. If two or more solidary debtors offer to pay, the creditor may choose which offer to accept.

He who made the payment may claim from his co-debtors only the share which corresponds to each, with the interest for the payment already made. If the payment is made before the debt is due, no interest for the intervening period may be demanded.

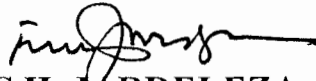
When one of the solidary debtors cannot, because of his insolvency, reimburse his share to the debtor paying the obligation, such share shall be borne by all his co-debtors, in proportion to the debt of each.

the March 24, 2006 Order granting the motion filed by the counsel for Francisco's heirs.

As earlier discussed, while there might have been a failure to strictly observe the rule on formal substitution of heirs, the trial court's refusal to recognize the heirs of Francisco even after their voluntary appearance and active participation in the case constitutes grave abuse of discretion. Thus, in addition to the August 11, 2006 and February 20, 2007 Orders of the RTC, its June 15, 2006 Order must also be set aside.

**WHEREFORE**, the petition is **DENIED**. The Decision dated October 29, 2009 and Resolution dated September 29, 2010 of the CA in CA-G.R. SP No. 98623 which **REINSTATED** the RTC's March 24, 2006 Order and **SET ASIDE** the August 11, 2006 and February 20, 2007 Orders of the RTC, Manila, Branch 40, in Civil Case No. 97-86454 are hereby **AFFIRMED with the MODIFICATION** that the June 15, 2006 Order of the RTC is likewise **ANNULLED** and **SET ASIDE**.

**SO ORDERED.**



**FRANCIS H. JARDELEZA**  
*Associate Justice*

WE CONCUR:



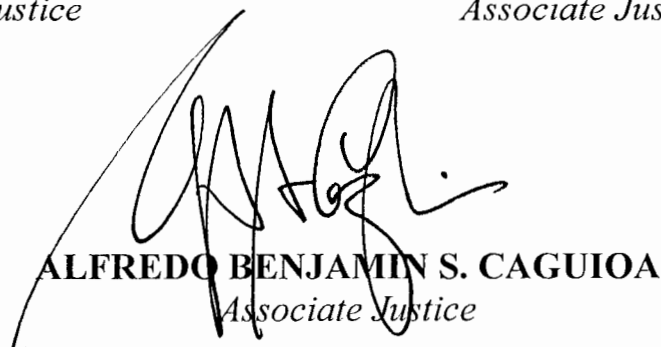
**LUCAS P. BERSAMIN**  
*Associate Justice*  
*Acting Chairperson*



**BIENVENIDO L. REYES**  
*Associate Justice*



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

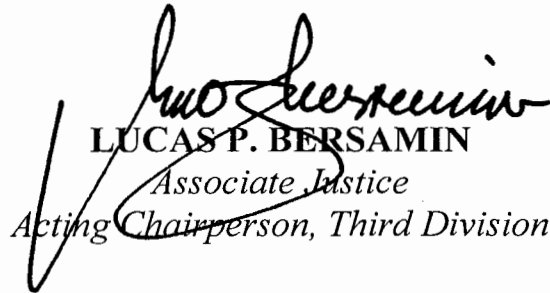


**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*




**ATTESTATION**

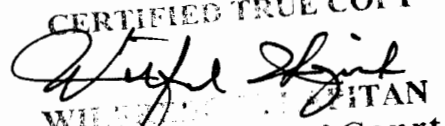
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**LUCAS P. BERSAMIN**  
*Associate Justice*  
*Acting Chairperson, Third Division*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting Chairperson's attestation, it is hereby certified 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*

**CERTIFIED TRUE COPY**  
  
**WILFREDO M. BITAN**  
**Division Chairperson of Court**  
**Third Division**  
**MAR 10 2017**

