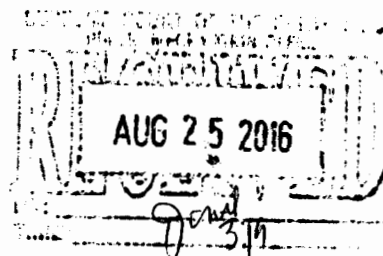




Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION



**SPOUSES ERNESTO
 TATLONGHARI and EUGENIA
 TATLONGHARI,**

Petitioners,

- versus -

**BANGKO KABAYAN-IBAAN
 RURAL BANK, INC.,**

Respondent.

G.R. No. 219783

Present:

SERENO, *C.J.*, Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 PERLAS-BERNABE, and
 CAGUIOA, *JJ.*

Promulgated:

AUG 03 2016

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DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*¹ are the Decision² dated January 29, 2015 and the Resolution³ dated August 5, 2015 rendered by the Court of Appeals (CA) in CA-G.R. SP No. 126390, finding no grave abuse of discretion on the part of the Regional Trial Court of Pallocan West, Batangas City, Branch 7 (RTC) in denying petitioners' motion for leave to file third amended complaint.

The Facts

On August 3, 2004, a certain Pedro V. Ilagan (Pedro) filed a complaint⁴ for annulment of special power of attorney (SPA), promissory notes, and real estate mortgage (civil case) against respondent Bangko

¹ *Rollo*, pp. 10-34.

² *Id.* at 36-45. Penned by Associate Justice Ramon A. Cruz with Associate Justices Rebecca De Guia-Salvador and Marlene Gonzales-Sison concurring.

³ *Id.* at 47-48. Penned by Associate Justice Ramon A. Cruz with Associate Justices Marlene Gonzales-Sison and Leoncia R. Dimagiba concurring.

⁴ Dated August 3, 2004. *Id.* at 49-56.

Kabayan-Ibaan Rural Bank, Inc. (the bank) and the Provincial Sheriff of Batangas Province (defendants) before the RTC.⁵ He alleged that the Office of the Ex-Officio Sheriff of the RTC had posted and published notices of Sheriff's Sale against him as the attorney-in-fact of a certain Matilde Valdez (Valdez), married to Crispin Brual (Brual), and herein petitioners spouses Ernesto and Eugenia Tatlonghari (Sps. Tatlonghari), setting the auction sale of properties belonging respectively to the said couples allegedly for the satisfaction of Pedro's indebtedness to the bank amounting to ₱3,000,000.00.⁶ Among others, Pedro denied that he obtained a loan from the bank and that Sps. Tatlonghari or Valdez constituted him as an attorney-in-fact for the purpose of mortgaging their respective properties as collateral to the bank.⁷

After the original complaint was filed, Pedro convinced Sps. Tatlonghari to join him in the civil case against the bank. He informed them that the bank used a falsified SPA and made it appear that they had authorized him to obtain a loan from it, secured by a real estate mortgage on their property which was the subject of foreclosure proceedings.⁸ As Sps. Tatlonghari did not issue any SPA or authorization in favor of Pedro, they agreed to join him as plaintiffs in the civil case against the bank and likewise accepted the offer for Pedro's counsel, Atty. Bienvenido Castillo (Atty. Castillo), to represent them.⁹ On August 11, 2004, Sps. Tatlonghari and Pedro, together with Valdez and Brual, as plaintiffs, filed an amended complaint¹⁰ (First Amended Complaint) against defendants.

On September 21, 2004, the defendants filed their answer.¹¹

On July 22, 2005, Atty. Eliseo Magno Salva (Atty. Salva) of the Salva Salva & Salva Law Office entered¹² the appearance of the law firm as collaborating counsel for plaintiffs. Thereafter, plaintiffs, through Atty. Salva, filed a Manifestation and Motion for Leave to File and to Admit Second Amended Complaint¹³ asserting the need to file a Second Amended Complaint for the purpose of, *inter alia*, including as additional plaintiffs Sps. Tolentino A. Sandoval (Tolentino) and Evelyn C. Sandoval (Evelyn; collectively, Sps. Sandoval), who had previously purchased the mortgaged property of Valdez. Incidentally, Valdez and Brual had since died; thus, the Second Amended Complaint also sought to include their estate and heirs as defendants, as the latter's consent to substitute their predecessors could not

⁵ Id. at 36-37.

⁶ Id. at 50-51.

⁷ Id. at 51-52.

⁸ Id. at 37.

⁹ Id.

¹⁰ Id. at 61-69.

¹¹ Id. at 204-210.

¹² Id. at 74-75.

¹³ Id. at 76-78.

be secured.¹⁴ Additionally, Eugenia Ilagan (Eugenia), Pedro's spouse, was included as plaintiff.¹⁵

Subsequently, the RTC admitted the Second Amended Complaint.¹⁶

While the case was pending, Sps. Tatlonghari allegedly discovered evidence which led them to believe that it was Tolentino, one of their co-plaintiffs, who was responsible for involving their property in the purportedly anomalous transactions with the bank. As Attys. Castillo and Salva, the collaborating counsels of record, were both hired by Pedro and Tolentino, Sps. Tatlonghari decided to engage the services of their own counsel. Thus, on August 3, 2011, Atty. Marlito I. Villanueva (Atty. Villanueva) entered¹⁷ his appearance as counsel for Sps. Tatlonghari.¹⁸

Subsequently, Atty. Villanueva filed a motion for leave to file third amended complaint¹⁹ on behalf of Sps. Tatlonghari. In their motion, they alleged that the title to their property had already been consolidated in favor of the bank, and that the original and amended complaints contained no allegations or prayer pertaining specifically to their cause of action against the bank, which might bar them from getting complete relief in the civil case. Particularly, the Third Amended Complaint²⁰ fully described the property in question and stated that it was an entirely different property from the one covered by the real estate mortgage in favor of the bank. In view thereof, Sps. Tatlonghari prayed, *inter alia*, for the reconveyance of their property, which the bank maliciously and unlawfully foreclosed and transferred in its name, and for the award of damages.²¹

The RTC Ruling

In an Order²² dated December 5, 2011, the RTC denied Sps. Tatlonghari's motion, explaining that while it graciously allowed the second amendment of the complaint, it can no longer allow a *third* amendment in view of the delay in the adjudication of the merits of the case. Moreover, it noted that Sps. Tatlonghari's motion did not bear the signature of Atty. Salva, the current counsel of record of all the plaintiffs. Since records are bereft of evidence that Atty. Salva had withdrawn as counsel, he is still the Sps. Tatlonghari's counsel as far as the RTC was concerned,

¹⁴ Id. at 77-78.

¹⁵ Id. at 37.

¹⁶ Id.

¹⁷ Id. at 111-113.

¹⁸ Id. at 38.

¹⁹ Id. at 117-121.

²⁰ Id. at 122-144.

²¹ Id. at 38.

²² Id. at 270-271. Penned by Presiding Judge Aida C. Santos.

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notwithstanding Atty. Villanueva's entry of appearance on behalf of Sps. Tatlonghari.²³

Sps. Tatlonghari moved for reconsideration,²⁴ which was, however, denied in the Order²⁵ dated August 6, 2012. Thus, they elevated the matter to the CA *via* petition for *certiorari*.²⁶

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The CA Ruling

In a Decision²⁷ dated January 29, 2015, the CA found no grave abuse of discretion on the part of the RTC in denying Sps. Tatlonghari's motion, citing Section 3, Rule 10 of the Rules of Court, which states in part:

Section 3. *Amendments by leave of court.* – Except as provided in the next preceding section, substantial amendments may be made only upon leave of court. But such leave may be refused if it appears to the court that the motion was made with intent to delay. x x x

In view thereof, it found that the RTC did not commit grave abuse of discretion when it considered inexcusable delay in denying Sps. Tatlonghari's motion for leave of court to file third amended complaint. Anent the issue of whether Atty. Villanueva had validly replaced Atty. Salva as Sps. Tatlonghari's counsel of record, the CA likewise concurred with the RTC in finding that Atty. Salva had neither been relieved nor replaced; therefore, he remains the counsel of record of Sps. Tatlonghari.²⁸

Sps. Tatlonghari's motion for reconsideration²⁹ was denied in a Resolution³⁰ dated August 5, 2015; hence, this petition.

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA erred in upholding the denial of Sps. Tatlonghari's motion for leave to file third amended complaint and in finding that there was no valid substitution of counsels of record insofar as Sps. Tatlonghari were concerned.

²³ Id.

²⁴ Id. at 39.

²⁵ Id. at 272-274.

²⁶ Not attached to the *rollo*.

²⁷ *Rollo*, pp. 36-45.

²⁸ Id. at 43.

²⁹ Not attached to the *rollo*.

³⁰ *Rollo*, pp. 47-48.

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The Court's Ruling

The petition has merit.

Our rules of procedure allow a party in a civil action to amend his pleading as a matter of right, so long as the pleading is amended only once and before a responsive pleading is served (or, if the pleading sought to be amended is a reply, within ten days after it is served). Otherwise, a party can only amend his pleading upon prior leave of court.³¹

As a matter of judicial policy, courts are impelled to treat motions for leave to file amended pleadings with liberality. This is especially true when a motion for leave is filed during the early stages of proceedings or, at least, before trial. Jurisprudence states that *bona fide* amendments to pleadings should be allowed in the interest of justice so that every case may, so far as possible, be determined on its real facts and the multiplicity of suits thus be prevented. Hence, as long as it does not appear that the motion for leave was made with bad faith or with intent to delay the proceedings, courts are justified to grant leave and allow the filing of an amended pleading. Once a court grants leave to file an amended pleading, the same becomes binding and will not be disturbed on appeal unless it appears that the court had abused its discretion.³²

In this case, Sps. Tatlonghari alleged³³ that the First and Second Amended Complaints did not contain certain material averments that were necessary to establish their own causes of action against the bank, and that it did not contain a prayer seeking the reconveyance of their property from the bank to them. Indeed, a meticulous inspection of the records reveal that other than the allegation that they did not execute any SPA in favor of Pedro authorizing him to use their property as collateral for his loan with the bank, the First and Second Amended Complaints are bereft of any material allegations pertaining to their personal involvement in the case against the bank. Although the First and Second Amended Complaints were replete with allegations with regard to the causes of action of Pedro and Sps. Sandoval, it contained nothing with respect to that of Sps. Tatlonghari. In fact, apart from the prayers seeking the declaration of nullity of the SPA that Sps. Tatlonghari allegedly executed on behalf of Pedro and the award for damages, the Second Amended Complaint did not seek any relief in favor of Sps. Tatlonghari; instead, it prayed for specific relief *only* in favor of Sps. Sandoval, who were purportedly the true and lawful owners of the property previously registered in the name of the deceased Valdez.

³¹ *Yujuico v. United Resources Asset Management, Inc.*, G.R. No. 211113, June 29, 2015, 760 SCRA 610, 620. See also Sections 2, 3, and 4, Rule 10 of the Rules of Court.

³² *Yujuico v. United Resources Asset Management, Inc.*, id. at 620-621, citing *Torres v. Tomacruz*, 49 Phil. 913, 915 (1927), *Tiu v. Philippine Bank of Communications*, 613 Phil. 56, 68 (2009), and *Quirao v. Quirao*, 460 Phil. 605, 611 (2003).

³³ See Motion for Leave to File Third Amended Complaint dated August 15, 2011, *rollo*, pp. 228-230.

In view of the foregoing, it would have been more prudent on the part of the RTC, in the exercise of its discretion, to allow the amendments proffered by Sps. Tatlonghari and to admit the Third Amended Complaint. The RTC should have allowed such admission if only to prevent the circuitry of action and the unnecessary expense of filing another complaint anew. Although it is true that the RTC exercises discretion in this respect, it should have been more circumspect and liberal in the exercise of its discretion. With the admission of the Third Amended Complaint, the ultimate goal of determining the case on its real facts and affording complete relief to all the parties involved in this case would then be realized.

Moreover, it appears from the records that the inexcusable delay upon which the denial of Sps. Tatlonghari's motion was grounded was not their fault nor was the same deliberately caused. Records are bereft of evidence to show that such delay was attributable to them, or that in filing their motion, they were impelled by bad faith. Thus, while it is true that inexcusable delay would, under ordinary circumstances, justify the denial of their motion for leave to file third amended complaint, such ground does not obtain in this case. Besides, Sps. Tatlonghari's motion for leave to file third amended complaint was filed *before* the trial of the case; hence, the real controversies in this case would all have been presented with all the parties having ample time to prepare for trial.

With respect to the lack of *conforme* of Atty. Salva on the Sps. Tatlonghari's motion, there is no rule requiring the written consent of a former attorney prior to his substitution. Section 26, Rule 138 of the Rules of Court provides:

Section 26. *Change of attorneys.* – An attorney may retire at any time from any action or special proceeding, by the written consent of his client filed in court. He may also retire at any time from an action or special proceeding, without the consent of his client, should the court, on notice to the client and attorney, and on hearing, determine that he ought to be allowed to retire. **In case of substitution, the name of the attorney newly employed shall be entered on the docket of the court in place of the former one, and written notice of the change shall be given to the adverse party.**

A client may at any time dismiss his attorney or substitute another in his place, but if the contract between client and attorney has been reduced to writing and the dismissal of the attorney was without justifiable cause, he shall be entitled to recover from the client the full compensation stipulated in the contract. However, the attorney may, in the discretion of the court, intervene in the case to protect his rights. For the payment of his compensation the attorney shall have a lien upon all judgments for the payment of money, and executions issued in pursuance of such judgment, rendered in the case wherein his services had been retained by the client.


Nowhere in the foregoing provision is it stated that the written consent of an attorney previously engaged by a client should be obtained before substitution can be had; instead, what the rule requires is mere notice to the *adverse party*. Moreover, a client may effect substitution of attorneys *at any time* subject to certain conditions, none of which have been shown to be obtaining in the present case. Indeed, it is the client's – in this case, the Sps. Tatlonghari's – sole prerogative whom to engage to represent their interests and prosecute the case on their behalf, which prerogative cannot be negated or supplanted by the non-existent requirement of written consent of the previous attorney. Besides, an attorney is presumed to be properly authorized to represent any cause in which he appears.³⁴ As such, Atty. Villanueva, who has entered his appearance on behalf of the Sps. Tatlonghari and filed their motion for leave to file third amended complaint, should be recognized as their new counsel of record who is fully authorized to act for and on their behalf.

WHEREFORE, the petition is **GRANTED**. The Decision dated January 29, 2015 and the Resolution dated August 5, 2015 rendered by the Court of Appeals in CA-G.R. SP No. 126390 are hereby **REVERSED** and **SET ASIDE**. The Regional Trial Court of Batangas City, Branch 7 is directed to **ADMIT** petitioners' third amended complaint and continue with the proceedings with utmost dispatch.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

³⁴ Section 21, Rule 138 of the Rules of Court provides:

Section 21. *Authority of attorney to appear.* – An attorney is presumed to be properly authorized to represent any cause in which he appears, and no written power of attorney is required to authorize him to appear in court for his client, but the presiding judge may, on motion of either party and on reasonable grounds therefor being shown, require any attorney who assumes the right to appear in a case to produce or prove the authority under which he appears, and to disclose, whenever pertinent to any issue, the name of the person who employed him, and may thereupon make such order as justice requires. An attorney wilfully appearing in court for a person without being employed, unless by leave of the court, may be punished for contempt as an officer of the court who has misbehaved in his official transactions.

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

Lucas P. Bersamin
LUCAS P. BERSAMIN
Associate Justice

Alfredo Benjamin S. Caguioa
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
MARIA LOURDES P. A. SERENO
Chief Justice