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EN BANC

[G.R. Nos. L-38046-47. August 23, 1978]

ADRIANO AFRO and TEODORICO DAVI, *petitioners, vs.* **HON. COURT OF APPEALS, NICETAS DAVI, GLORIA DAVI, FLORDELIZA ELFA, RICARDO ELFA, and EDUARDO ELFA,** *respondents.*

SYLLABUS

REMEDIAL LAW; CIVIL PROCEDURE; ACTIONS; DISMISSALS; COMPROMISE AGREEMENT. — Where, during the pendency of a petition for *certiorari* and prohibition the parties submitted for the approval of the court, a compromise agreement which the court finds to be in order, the agreement shall be approved and a judgment rendered in accordance therewith.

APPEARANCES OF COUNSEL

Jesus I. Santos for petitioners.
Arturo F. Goce for private respondents.

D E C I S I O N

CONCEPCION JR., *J.*:

Petitioner for *certiorari* and prohibition with preliminary injunction to annul and set aside the resolution of the respondent Court of Appeals in cases CA-G. R. Nos. 42549-50 R, denying the petitioners' motion to dismiss the appeal of the private respondents, as well as the resolution denying the motion for its reconsideration; and to restrain the respondent appellate court from further proceeding with the appeal of the private respondents.

On April 26, 1963, Adriano Afro and Teodorico Davi filed an application for the registration of 2 parcels of land, Lots Nos. 1 and 2, Psu-154387, LRC Case No. N-1897; LRC Rec. No. N-24187, situated in the sitio of Pinagbarilan, barrio Sto. Cristo, San Jose del Monte, Bulacan. The application was opposed

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by Nicetas Davi, Gloria Davi, Flordeliza Elfa, Ricardo Elfa, and Eduardo Elfa who had also filed an application for the registration of the same parcels of land, designated as Lot Nos. 1 and 2, Psu-149407, LRC Case No. N-1920, LRC Rec. No. 24192, on June 7, 1963.

The cases were heard jointly, and on January 26, 1972, the Court of First Instance of Bulacan rendered judgment ordering the dismissal of the application filed by Nicetas Davi, Gloria Davi, Flordeliza Elfa, Ricardo Elfa and Eduardo Elfa, and the registration of the disputed parcel of land in the names of Adriano Afro and Teodorico Davi.

By reason thereof, Nicetas Davi, Gloria Davi, Flordeliza Elfa, Ricardo Elfa, and Eduardo Elfa appealed to the Court of Appeals, where their appeal was docketed as case CA-G.R. Nos. 42549-R.

On July 30, 1973, Adriano Afro and Teodorico Davi, appellees therein, filed with the Court of Appeals, a motion to dismiss the appeal on the ground that the record on appeal fails to show upon its face that the appeal was perfected on time, in that the motion for extension of time to file record on appeal was filed one day after the expiration of the period sought to be extended; and that there is nothing in the record on appeal to show that appellants' motion for extension of time to file record on appeal was granted by the court below, which motion was denied on December 7, 1973. The appellees then filed a motion for the reconsideration of the said resolution, but the said motion was also denied. Whereupon, appellees Adriano Afro and Teodorico Davi filed the instant petition for *certiorari* and prohibition with preliminary injunction. As prayed for, a temporary restraining order was issue by the Court on January 17, 1974.

After the parties had filed the necessary pleadings, the Court deemed the case submitted for decision.

On July 5, 1978, the parties submitted, for the approval of the Court, a compromise agreement which reads, as follows:

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"KASUNDUAN SA PAGSASAAYOS NG USAPIN

"ANG MGA MAY USAPIN, katulong ng kani-kanilang manananggol, ay nagkakasundo —

"1. Na ang paksa ng kasunduang ito ay dalawang (2) lagay ng lupa na nasa Sto. Cristo, San Jose del Monte, Bulacan, na may lawak na 10,605 metrong parisukat, humigit kumulang, at kinikilala bilang Lote 1 at 2 ng plano Psu-149407;

"2. Na ang naturang na mga lote ay sama-samang aariin ng mga may usapin sang-ayon sa sumusunod na pagbabahagi:

2/5 ng kabuuan — magagawi kay ADRIANO AFRO, Pilipino may sapat na gulang, kasal kay Simeona Policarpio at naninirahan sa San Jose del Monte, Bulakan;

2/5 ng kabuuan — magagawi kay TEODORICO DAVI, Pilipino, may sapat na gulang, kasal kay Dionisia Herrera at naninirahan sa San Jose del Monte, Bulakan;

1/15 ng kabuuan — magagawi kay NICETAS DAVI, Pilipino, may sapat na gulang, kasal kay Maximo Avena at naninirahan sa San Jose del Monte, Bulakan;

1/15 ng kabuuan — magagawi kay GLORIA DAVI, Pilipino, may sapat na gulang, kasal kay Dominador Fernando at naninirahan sa San Jose del Monte, Bulakan;

1/45 ng kabuuan — magagawi kay FLORDELIZA ELFA, Pilipino, may sapat na gulang, kasal kay Magno Española at naninirahan sa San Jose del Monte, Bulakan;

1/45 ng kabuuan — magagawi kay RICARDO ELFA, Pilipino, may sapat na gulang, kasal kay Lolita Capa at naninirahan sa San Jose del Monte, Bulakan, at

1/45 ng kabuuan — magagawi kay EDUARDO ELFA, Pilipino, may sapat na gulang, binata at naninirahan sa San Jose del Monte, Bulakan.

"3. Na ang nabanggit na MAGNO ESPAÑOLA, asawa Flordeliza Elfa, ay siyang kinatawan ng mag-asawang NICETAS DAVI at MAXIMO AVENA, sa bisa ng isang pangkalahatang kapangyarihan ng kinatawan ng nilagdaan nilang mag-asawa noong Hunyo 6, 1977 na kalakip at ginagawang bahagi ng kasulatang ito.

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"DAHIL DITO, mapitagang ipinapakiusap ng mga may usapin na pagtibayin ng Kagalang-galang na Hukuman ang kasunduan sa pagsasayos ng usaping ito at magbaba ng isang pasiya alinsunod sa nilalaman nito.

"Maynila, Pilipinas, Disyembre *18*, 1977.

ADRIANO AFRO	TEODORICO DAVI	GLORIA DAVI
FLORDELIZA ELFA	RICARDO ELFA	EDUARDO ALFA

NICETAS DAVI
Sa pamamagitan ni:

MAGNO ESPAÑOLA
Kinatawan nina Nicetas Davi
at Maximo Avena

SANG-AYON KAMI:

DOMINADOR FERNANDO
Asawa ni Gloria Davi

MAGNO ESPAÑOLA
Asawa ni Flordeliza Elfa

KATULONG SINA:

JESUS I. SANTOS
Abugado nina Adriano Afro
et al.
Marilao, Bulakan

ARTURO F. GOCE
Abugado nina Nicetas Davi *et al.*
Gusaling Bañas
815 Abenida Rizal, Maynila"

The foregoing compromise agreement appears to be in order and is hereby approved.

WHEREFORE, judgment is hereby rendered ordering the registration of the parcels of land in dispute in the names of Adriano Afro, Teodorico Davi, Nicetas Davi, Gloria Davi, Flordeliza Elfa, Ricardo Elfa, and Eduardo Elfa, *pro indiviso,* in the proportion stated in the compromise agreement. The temporary restraining order heretofore issued is lifted. No costs.

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SO ORDERED.

Castro, C.J., Fernando, Teehankee, Barredo, Makasiar, Muñoz Palma, Aquino, Santos, Fernandez, and *Guerrero, JJ.*, concur.

Antonio, J., took no part.

SECOND DIVISION

[G.R. No. L-38197. August 23, 1978]

THE REPUBLIC OF THE PHILIPPINES, represented by Alfonso B. Camillo, Assistant Regional Director, Bureau of Internal Revenue, Revenue Region No. 2, Tuguegarao, Cagayan, and Ponciano P. Pimentel, Revenue District Officer, Bureau of Internal Revenue, Ilagan, Isabela, *petitioners, vs.* **HONORABLE ANDRES B. PLAN, in his capacity as Judge of the CFI of Isabela, First Judicial District, Branch II, and JOSE A. AFRICANO,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; COURT OF TAX APPEALS; EXCLUSIVE APPELLATE JURISDICTION OVER DECISIONS OF COLLECTOR OF INTERNAL REVENUE. — The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal (1) decisions of the Collector of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue.