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All of the CENTRAL's counterclaims are hereby accordingly overruled.

In G.R. No. L-21304, the petition is hereby dismissed the issues raised therein, as We have demonstrated a few pages back, having already become moot and academic.

No attorney's fees, bad faith on the part of the CENTRAL in the premises not having been sufficiently shown.

No costs in both cases.

Castro, C.J., Antonio, Concepcion Jr., Santos, Fernandez, and *Guerrero, JJ.*, concur.

Fernando, J., joins in the opinion and reserves the right to file a brief concurrence on the constitutional issues involved.

Makasiar, J., concurs in the result.

Teehankee, Aquino, Abad Santos, De Castro, and *Melencio-Herrera, JJ.*, took no part.

SECOND DIVISION

[G.R. No. L-41430. February 19, 1979]

ANGEL BAUTISTA, *petitioner*, *vs.* **MATILDE LIM for and in behalf of the Intestate Estate of Pedro Lim, and Hon. MOISES F. DALISAY, Presiding Judge of the Court of First Instance of Lanao del Norte, Branch V**, *respondents*.

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SYLLABUS

1. **REMEDIAL LAW; ACTIONS; LEGAL FEES; DOCKET FEE; RULE FOR ACTIONS BEYOND PECUNIARY ESTIMATION.** — The docket fee for an action for rescission or annulment of contract which is not susceptible of pecuniary estimation is ₱200.00 (plus ₱2.00 legal research fund fee pursuant to Section 4 of Rep. Act No. 3870, known as the charter of the U.P. Law Center).

2. **ID.; ID.; ID.; ID.; DATE OF PAYMENT.** — The ruling in *Malimit vs. Degamo* (120 Phil. 1247) that the date of the payment of the docket fee is the real date of the filing of the case does not apply where there was an initial payment of the docket fee in which case the date of filing of the case should be reckoned from the date of said initial payment.

3. **ID.; ID.; ID.; ID.; BASIS OF COMPUTATION.** — Section 5, Rule 141 of the Rules of Court provides that "if the case concerns real estate, the assessed value thereof shall be considered in computing fees." Hence, where the assessed value of the lands involved appears to be ₱24,000 more or less, such value should be the basis of computing the docket fee to be paid and not the alleged market value.

4. **ID.; ID.; COMPROMISE AND SETTLEMENT; COMPROMISE AGREEMENT; MUST BE APPROVED BY THE COURT WHERE CASE IS PENDING.** — The lower court, and not the Supreme Court, should be the one to approve or pass upon the compromise agreement which is a settlement of the main case, pending before it.

5. **ID.; ID.; ID.; ID.; IMPLIES ABANDONMENT OF ACTION.** — The raising of the issue in a petition for *certiorari* as to the deficiency on the payment of docket fee, is a dilatory tactic, said issue having been raised by petitioner only after the trial had been finished. Furthermore, the filing of a compromise agreement implies an abandonment of the petition.

APPEARANCES OF COUNSEL

Irene D. Jurado for petitioner.

Nicanor E. Macalalag and Edilberto Noel for private respondents.

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DECISION

AQUINO, *J.*:

On June 19, 1974 Matilde Sales Lim, as administratix of the estate of her late husband Pedro Lim, filed a complaint against Angel Bautista in the Court of First Instance of Lanao del Norte, Iligan City Branch IV. In that complaint, she prayed for rescission of the contract executed on September 28, 1972 between Bautista and Pedro Lim whereby Bautista undertook to develop into a subdivision certain parcels of land of Pedro Lim located in Iligan City.

She also prayed that the deed of sale with assumption of mortgage executed on February 6, 1973 between Bautista, as vendee, and the Lim spouses, as vendors, be declared void (Civil Case No. 246 or IV-271 and later V-144). And she asked for the reconveyance of a parcel of land with an area of twenty hectares which was fictitiously sold to Bautista but which, with abuse of trust, he caused to be registered in his name.

As docketing fee for that complaint, she paid thirty-two pesos (₱32) only. That is the docket fee in case the value of the property in litigation is more than P600 but less than ₱3,000 or when the case does not concern property but is one for naturalization, adoption, legal separation, etc. [Sec. 5(3) and (11), Rule 141, Rules of Court].

Because Matilde Lim had alleged in paragraph 14 of her complaint that the value of the twenty-hectare lot (one of the several lots involved in the case) was five million pesos, Judge Eduardo C. Tutaan ordered her to pay within a week from notice the sum of ₱9,818 as deficiency docket fee.

Since she could not pay the deficiency docket fee, it was constituted (upon Judge Tutaan s order) as a first lien of the Government on the properties in litigation covered by Original Certificates of Title Nos. RP-21, RP-8 and Transfer Certificate of Title No. T-10937 (a.f.). That third title covers the twenty hectare lot registered in Bautista's name.

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After Bautista discovered that the deficiency docket fee had become a lien on that litigated twenty-hectare lot, he filed a motion praying that the complaint of Matilde Lim against him be dismissed for nonpayment of the docket fee.

Judge Moises F. Dalisay in his order of July 8, 1975 modified Judge Tutaan's order by treating the case as one for rescission or annulment of contract, or a case whose value "cannot be estimated," and for which the filing fee is two hundred pesos. He directed that Matilde Lim should pay ₱168 as the balance of the docket fee. She paid that deficiency on July 17, 1975.

On September 18, 1975, Bautista filed in this Court a petition for *mandamus*, *certiorari* and prohibition. He prayed for the annulment of Judge Tutaan's order constituting the deficiency docket fee of ₱9,818 as a lien on the lots involved in Civil Case No. 246 and of Judge Dalisay's order allowing Matilde Lim to pay ₱168 only as deficiency docket fee.

Bautista's theory is that because Matilde Lim did not pay the deficiency docket fee of ₱9,818, the lower court did not acquire jurisdiction over Civil Case No. 246, and, therefore, the case should be dismissed.

After this incident was submitted for decision, or on January 3, 1979, the parties submitted to this Court a compromise agreement of the *main case* pending in the lower court. They asked that the compromise be approved as the basis of a judgment, not in this case but in the main case. No mention was made in the compromise of what disposition should be made of this incident. The compromise reads:

"COMPROMISE AGREEMENT

"COMES now parties, represented by their respective counsels, unto this Honorable Court, most respectfully submit the following Compromise Agreement, to wit:

"1. That plaintiff* and defendant** have agreed to settle and terminate this case amicably and they forever waive or renounce all

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"* plaintiff refers to respondent Matilde Lim

"** defendant refers to petitioner Angel Bautista

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claims and counterclaims against each other in connection with the properties subject of this case or the transactions mentioned in the complaint under the following terms and conditions:

"(a) — Plaintiff* shall be allowed by defendant** to harvest the coconut planted on the land covered by TCT No. 10937 (a.f.) of the Register of Deeds of Iligan City, in the name of Angel L. Bautista situated at Tominobo, Iligan City, containing an area of 20 hectares, more or less.

"(b) — In the event, however, that plaintiff* dies or the property is actually developed whichever comes first, defendant shall pay the plaintiff or the heirs the sum of THIRTY THOUSAND PESOS (₱30,000.00).

"(c) — Defendant** guarantees the plaintiff* the right to harvest the coconut on the land mentioned above within a period of one (1) year from date of this Compromise Agreement but she shall be allowed to harvest and enjoy the produce as long as she lives if the above described property is not sold or actually developed by the defendant.**

"(d) — That the sum of ₱10,000.00 shall be paid by defendant ** to plaintiff's* counsel as attorney's fee with plaintiff* upon signing of this Compromise Agreement.

"Plaintiff * bind and obligate herself to sign any and all documents that will be required by defendant** to clear the titles from any annotations or inscriptions made at her instance.

"WHEREFORE, premises considered, it is respectfully prayed that the foregoing Compromise Agreement be approved and made the basis of a Judgment.

"Iligan City, Philippines, December 20, 1978.

"(SGD.) MATILDE LIM
Plaintiff

(SGD.) ANGEL L. BAUTISTA
Defendant

"(SGD.) EDILBERTO A. NOEL
Counsel for Plaintiff

(SGD.) IRENE D. JURADO
Counsel for Defendant

"* plaintiff refers to respondent Matilde Lim

"** defendant refers to petitioner Angel Bautista

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The issues are whether the docket fee for Civil Case No. 246, now V-144 (IV-271), should be regarded as fully paid and whether the compromise may be approved by this Court.

We hold that Judge Dalisay did not err in considering Civil Case No. V-144 as basically one for rescission or annulment of contract which is not susceptible of pecuniary estimation (1 Moran's Comments on the Rules of Court, 1970 Ed. p. 55; *Lapitan vs. Scandia, Inc.*, L-24668, July 13, 1068, 24 SCRA 479, 481-483).

Consequently, the fee for docketing it is ₱200, an amount already paid by plaintiff, now respondent Matilde Lim. (She should pay also the two pesos legal research fund fee, if she has not paid it, as required in Section 4 of Republic Act No. 3870, the charter of the U.P. Law Center.)

The ruling that the date of the payment of the docket fee is real date of filing of the case (*Malimit vs. Degamo*, 120 Phil. 1247) has no application to this case because here an initial docket fee of ₱32 was paid. The same observation applies to the ruling in *Garcia vs. Vasquez*, L-26808, March 28, 1969, 27 SCRA 505, where no docket fee was paid when the petition for the probate of a will was filed.

Petitioner Bautista s contention that the docket fee should be based on ₱5,000,000, the alleged *market value* of the twenty-hectare land already mentioned, is manifestly contrary to the provision of Section 5, Rule 141 that "if the case concerns real estate, the *assessed value* thereof shall be considered in computing the fees." The assessed value of the lands involved in Civil Case No. V-144 appears to be ₱24,000, more or less. (pp. 68 and 79, *Rollo*).

Moreover, there is some truth in respondents' contention that Bautista's raising of the issue as to the deficiency in the payment of the docket fee is a dilatory tactic because he raised it only after the pre-trial was finished. Furthermore, the submission of the compromise agreement to this Court is an implied abandonment on Bautista's part of his petition herein.

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As to the second issue, it is evident that the lower court, and not this Court, should be the one to approve or pass upon the compromise agreement which is a settlement of the main case. *The merits of the main case are not involved in the instant incident regarding the docket fee.*

WHEREFORE, the petition is dismissed for lack of merit. The lower court's orders of July 8 and August 26, 1975 filing the docket fee at ₱200 are affirmed. The restraining order is dissolved.

The parties are directed to submit their compromise agreement to the lower court for approval. Costs against the petitioner.

SO ORDERED.

Castro C.J., Barredo, Concepcion Jr., and *Santos, J.*, concur.

Santos, J., took no part.

Fernando and *Antonio JJ.*, are abroad.

SECOND DIVISION

[G.R. No. L-49818. February 20, 1979]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **LUCAS RAMOS** *y* **MACASIRAY**, *accused-appellant.*

SYLLABUS

REMEDIAL LAW; CRIMINAL PROCEDURE; CONVICTION; DUTY OF THE COURT OF APPEALS IF IT IS OF THE OPINION