

**BENJAMIN and ROSENDA ESPINO v. CARMITA LEGARDA**  
**G.R. No. 149266, 17 March 2006, Sandoval-Gutierrez, J. (Third Division)**

*Non-compliance with the condition precedent under Presidential Decree No. 1508, or the Katarungang Pambarangay Law, does not prevent a court of competent jurisdiction from exercising its power of adjudication over a case where the defendants fail to object to such exercise of jurisdiction. But such objection should be seasonably made before the court first taking cognizance of the complaint, and must be raised in the Answer, or in such other pleading allowed under the Rules of Court.*

Carmita Legarda, owner of three lots, claimed that Benjamin and Rosenda Espino and Jaime Abeja clandestinely entered the premises of the said property and constructed their houses thereon without the knowledge and consent of her late father, and, despite demand, refused to vacate the premises and remove their improvements. She reported the matter to the barangay chairman but the Espinos and Abeja allegedly ignored the summonses issued to them. Hence, she filed three separate complaints for *accion publiciana* against the latter and prayed that they be ordered to vacate the lots and to pay reasonable compensation for the use and occupancy of the premises. The Espinos and Abeja contended, *inter alia*, that Legarda did not resort to conciliation proceedings before the barangay prior to the filing of the complaints, in violation of Presidential Decree No. 1508 or the *Katarungang Pambarangay Law*.

The lower court ruled against the Espinos and Abeja and ordered them to vacate the lots and deliver possession thereof to Legarda, remove all improvements constructed thereon, and pay reasonable compensation for the use and occupancy of the premises. It held that, without objection from the Espinos and Abeja, Legarda presented as evidence a Certification from the barangay chairman to prove that she resorted to prior conciliation proceedings, which Certification they did not question. According to the trial court, the act of the barangay chairman in issuing the Certification enjoys the presumption that his official duty has been regularly performed, absent any evidence to the contrary. On appeal by the Espinos, the Court of Appeals affirmed *in toto* the decision of the lower court.

In this petition for review on *certiorari*, the Espinos contend that while it is true that the complaints alleged that the barangay chairman issued a Certification to File Action (attached to the complaints), however, it was not identified or marked, and worst, not offered as evidence during the trial.

**ISSUE:**

Whether or not Legarda complied with the *Katarungang Pambarangay Law* providing for a conciliation before any complaint, petition, action or proceeding involving any matter within the authority of the *Lupon* of the barangay shall be filed or instituted in court

**HELD:**

The petition is DENIED.

The Certification to File Action presented by Legarda as evidence during the trial proved that she referred the dispute to the barangay for conciliation proceedings prior to the filing of the complaints with the lower court. The Espinos did not object to such presentation during the hearing. Hence, even assuming that Legarda did not refer the dispute to the barangay for conciliation, still, the

RECENT JURISPRUDENCE – REMEDIAL LAW

trial court could take cognizance of the case considering the failure by the Espinos to object to such lack of conciliation during the hearing.

The Court has ruled in *Junson v. Martinez* (G.R. No. 141324, July 8, 2003, 405 SCRA 390) that non-compliance with the condition precedent under P.D. No. 1508 does not prevent a court of competent jurisdiction from exercising its power of adjudication over a case where the defendants fail to object to such exercise of jurisdiction. But such objection should be seasonably made before the court first taking cognizance of the complaint, and must be raised in the Answer, or in such other pleading allowed under the Rules of Court.

Legarda has satisfactorily shown that she complied with the mandate of the law by referring the dispute to the barangay for amicable settlement before filing her complaints with the court.