

JEROME P. DELOSO, PETITIONER, VS. HON. JOSE G. PANEDA, IN HIS CAPACITY AS ACTING PRESIDING JUDGE OF BRANCH 95 OF THE REGIONAL TRIAL COURT OF QUEZON CITY AND MELCHOR C. LIGGAYU, ...

Ponente: DICDICAN, J.

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DICDICAN, J.:

Before us is a Petition for Certiorari[1] filed by herein petitioner Jerome P. Deloso (“petitioner”) pursuant to Rule 65 of the 1997 Revised Rules of Court seeking to annul and set aside the Order[2] that was issued by public respondent Judge Henri Jean-Paul B. Inting (“public respondent judge”) of Branch 95 of the Regional Trial Court of the National Capital Judicial Region in Quezon City (“trial court”) dated August 30, 2012 in Civil Case No. Q-08-63267 (“first assailed order”) which, inter alia, denied the motion to dismiss the complaint for enforcement of trust obligations that was filed by herein private respondent Melchor C. Liggayu (“private respondent”) against the petitioner. Likewise assailed in the instant petition is the subsequent Order[3] of the trial court dated September 30, 2013 which denied the motion for reconsideration of the August 30, 2012 Order that was issued by the said court for lack of merit (“second assailed order”).

The material and relevant facts of the case, as culled from the record, are as follows:

The instant case stemmed from a Complaint[4] for enforcement of trust obligations, injunction and damages that was filed by the herein private respondent against the petitioner, along with Jorge G. Gonzales, Sr. (“Gonzales, Sr.”), David Gonzales (“Gonzales”) and OceanaGold (Philippines), Inc. (“OceanaGold Phils.”) in the trial court on August 26, 2008. In the said complaint, the private respondent averred that he was a geologist and a mining engineer by profession, having served as a geologist at the Bureau of Mines from the years 1959 until 1971 or until such time when he was employed by Mancopper Mining Corporation (“Mancopper”) as the head of its exploration department. Eventually, after his retirement from Mancopper, the private respondent joined Placer Pacific Exploration Philippines (“Placer Pacific”) as a property acquisition manager and, later on, as a consultant.

Thus, armed with technical knowledge, expertise and experience, the private respondent conducted a review and analysis of the geology and mineral occurrences and distribution along the boundaries of Quirino, Nueva Vizcaya and Isabela provinces (“Didipio area”). He then identified the aforesaid area as a possible emerging mineral district and, starting in the year 1983, the private respondent caused the registration of fourteen (14) mining claims covering One Thousand One Hundred Thirty Four (1,134) hectares of the Didipio area with the Bureau of Mines. However, in order to avoid suspicion of impropriety or conflict of interest with his mining company employer at that time, the private respondent caused the registration of the mining claims in the names of herein petitioner, Gonzales, and Gonzales, Sr. In other words, the mining claims were registered in the names of the latter as mere trustees and for the benefit of the private respondent who was the real and beneficial owner thereof. In turn, private respondent agreed to pay Gonzales, Sr. a certain percentage of the income from the Didipio area.

The private respondent then looked for possible investors or business partners for the exploration, development

and production of the Didipio area. As a result of the efforts of the private respondent, the latter claimed that a letter of intent (LOI) was entered into among Gonzales, Sr., International Nobel Metals Exploration, Ltd. (“Inmex”) and Geophilippines, Inc. (“Geophilippines”) on May 14, 1987. Later on, an agreement was entered into among the same parties on February 28, 1989 where the exploration period was extended for another three (3) years (“1989 Agreement”). Pursuant to the aforesaid LOI and the 1989 Agreement, Gonzales, Sr. received the payments from the said corporations and held the said payments in trust and for the benefit of the private respondent.

On March 9, 1991, an addendum contract was executed by the same parties to the LOI with Aumex Philippines, Inc. (“Aumex”) and Arimco Mining Company (“Arimco”). Subsequently, Arimco merged with Climax Mining, Ltd. and, finally, with OceanaGold Corporation. The latter became the surviving entity and continued with the exploration of the Didipio area through its subsidiary, OceanaGold Phils.

Having retired from active mining exploration work, the private respondent demanded from herein petitioner, Gonzales, Sr. and Gonzales the reconveyance and registration of his ownership interests and benefits under the mining claims on the Didipio area. Moreover, the private respondent demanded for an accounting and remittance of all the income which the petitioner, Gonzales, Sr. and Gonzales received under the LOI and the 1989 Agreement.[5] The aforementioned demand, however, went unheeded. Likewise, the private respondent notified OceanaGold and OceanaGold Phils. that he was the true and beneficial owner of the mining claims involving the Didipio area and that herein petitioner, Gonzales, Sr. and Gonzales were his mere trustees. Thus, the private respondent demanded that OceanaGold Phils refrain and desist from making any further payments to, or otherwise dealing with, the aforesaid trustees.[6]

The foregoing antecedents then prompted herein private respondent to file a civil case for reconveyance in the trial court against herein petitioner and the other trustees praying that the latter be ordered to reconvey the mining claims covering the Didipio area in his favor as the real and beneficial owner thereof and to cause the transfer and registration of the subject mining claims under the name of the private respondent. The said case was docketed as Civil Case No. 08-63267.

For his part, herein petitioner filed a Motion to Dismiss[7] the complaint based on the following grounds: (a) the complaint stated no cause of action; (b) the claim was unenforceable under the statute of frauds; (c) the claim had already prescribed and is barred by the statutes of limitation; (d) the private respondent had failed to implead the Republic of the Philippines as an indispensable party; (e) the venue was improperly laid; and (f) the private respondent had failed to pay the necessary filing fees, thereby depriving the trial court of jurisdiction over the complaint.

On August 30, 2012, the trial court issued the herein first assailed order denying the motion to dismiss the complaint that was filed by the petitioner. Aggrieved by the foregoing disposition of the public respondent judge, herein petitioner filed a Motion for Reconsideration[8] of the said August 30, 2012 Order by the trial court. However, in the second assailed Order dated September 30, 2013, the public respondent judge likewise denied the aforementioned motion for reconsideration that was filed by the petitioner for lack of merit.

Hence, the petitioner filed this petition for certiorari wherein the petitioner raised the following acts of grave abuse of discretion that were purportedly committed by the public respondent RTC judge:

I.

THE PUBLIC RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DENYING THE MOTION TO DISMISS THE COMPLAINT DESPITE THE PRIVATE RESPONDENT'S LACK OF CAUSE OF ACTION.

II.

THE PUBLIC RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DENYING THE MOTION TO DISMISS THE COMPLAINT DESPITE THE UNENFORCEABILITY OF THE CLAIM THEREIN UNDER THE STATUTE OF FRAUDS.

III.

THE PUBLIC RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DENYING THE MOTION TO DISMISS THE COMPLAINT DESPITE THE FACT THAT THE CLAIM OF THE PRIVATE RESPONDENT HAD ALREADY PRESCRIBED AND IS ALREADY BARRED BY THE STATUTE OF LIMITATIONS.

IV.

THE PUBLIC RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DENYING THE MOTION TO DISMISS THE COMPLAINT DESPITE THE FACT THAT THE REPUBLIC OF THE PHILIPPINES HAD NOT BEEN IMPEADED AS AN INDISPENSABLE PARTY.

V.

THE PUBLIC RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DENYING THE MOTION TO DISMISS THE COMPLAINT DESPITE THE FACT THAT THE VENUE HAD BEEN IMPROPERLY LAID.

VI.

THE PUBLIC RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DENYING THE MOTION TO DISMISS THE COMPLAINT DESPITE THE FAILURE OF THE PRIVATE RESPONDENT TO PAY THE PROPER DOCKET FEES.

In sum, the sole issue to be resolved by us in the instant petition is whether or not the public respondent judge committed grave abuse of discretion when he denied the motion to dismiss the complaint that was filed by the petitioner. After a careful and judicious scrutiny of the whole matter, together with the applicable laws and jurisprudence in the premises, we find the instant petition to be bereft of merit.

In the instant petition, the petitioner averred that the complaint for reconveyance that was filed by the private respondent against him and his co-defendants in the trial court failed to state a cause of action. According to the petitioner, the LOI was addressed to Jorge Gonzales as the property owner or claimowner of the subject mining claims and there was no mention of the name of the private respondent in the said document. Likewise, the 1989 Agreement referred to Jorge Gonzales as the claimowner of the mining claims without any mention of participation by, or even the name of, the private respondent. The petitioner maintained that the private respondent kept on harping on an alleged trustor-trustee relationship between them but the private respondent nonetheless failed to prove the existence of the said trust. In this regard, the petitioner pointed out that no express trust concerning immovables may be proved by parol evidence. Relative thereto, an express trust which is not embodied in a written document is unenforceable under the statute of frauds.

Moreover, the petitioner contended that, assuming that the complaint stated a cause of action based on an implied trust, the claim of the private respondent would still fail in that there was no clear or unequivocal intention of the parties to create a trust relationship. More importantly, the petitioner submitted that an action to enforce an

implied trust prescribes in ten (10) years reckoned from the time of the issuance of the adverse title to the property. In this case, the mining claims were registered in the name of the petitioner as early as in the year 1985. More than twenty three (23) years had already lapsed before the private respondent filed the instant complaint in the trial court and, thus, the said action was already barred by the statute of limitations.

Further, the petitioner asseverated that the subject matter of the complaint involved mining claims and mineral rights which relates to the very first FTAA that was concluded by the Philippine Government pursuant to Philippine laws. Consequently, he insisted that the Republic of the Philippines should have been impleaded as an indispensable party in the case below. Furthermore, the petitioner argued that the venue of the case had been improperly laid in that the Didipio area was located within the boundaries of Quirino, Nueva Vizcaya and Isabela. Since the instant case was an action which affects the title to or possession of real property, the petitioner insisted that the complaint should have been filed in the proper court which had jurisdiction over the area wherein the property involved is situated.

Finally, the petitioner stated that the private respondent failed to pay the proper docket fees in the trial court when the latter filed the instant complaint. According to the petitioner, the private respondent was obliged to pay filing fees based on the amounts that were stated in the contracts or agreements which are now being claimed by the private respondent as the owner of the mining claims. Thus, in the absence of any payment of filing fees for the amounts involved in the subject contracts or agreements, the petitioner claimed that the trial court failed to acquire jurisdiction over the instant case.

For his part, herein private respondent countered that the instant petition for certiorari was improper in that the petitioner could not avail of the aforesaid remedy in order to lift the denial of his motion to dismiss. According to the private respondent, the proper remedy was for the petitioner to file an answer, proceed to the trial of the case and wait for the judgment of the trial court in the case. Consequently, the instant petition should be dismissed outright for being an improper remedy.

Moreover, the private respondent controverted that the complaint which he filed in the trial court sufficiently alleged the ultimate facts constituting his cause of action against the petitioner and the other defendants in the case. He maintained that, for purposes of a motion to dismiss, the truth of the facts as stated in the said complaint are hypothetically admitted and they would eventually be threshed out during the trial of the case. Anent the submission of the petitioner that the claim of the private respondent was already barred by the statute of frauds, the latter contended that an implied trust, as in this case, may be proved by oral evidence. Moreover, the private respondent stated that, contrary to the claim of the petitioner, the instant case does not involve an immovable property but, rather, mining claims which are considered to be privileges under the law. Consequently, the instant complaint need not be filed in the regional trial court where the Didipio area was located.

Further, the private respondent belied the submission of the petitioner that the instant complaint had already prescribed. According to the private respondent, the prescriptive period within which to file the instant complaint for reconveyance should not be reckoned from the date of the registration of the mining claims in that the aforesaid registration was precisely the implementation of the trust relationship between him and the petitioner. In other words, it should be treated as if the private respondent himself caused the registration of the mining claims, the petitioner and his co-defendants in the case below being his mere trustees. At any rate, the private respondent maintained that the prescriptive period in this case should be reckoned from the time when the trustees repudiated the trust or when they refused and failed to heed the demands of the private respondent for reconveyance and accounting, the last of which was made in a letter by the counsel for the private respondent dated May 7, 2008.

Furthermore, the private respondent insisted that the Republic of the Philippines was not an indispensable party in

this case since the reliefs prayed for are based on and arise out of the trust relationship between the private respondent and the petitioner and his co-defendants in the case below. The case does not question or seek to invalidate the FTAA and it does not seek the enforcement of any right or the performance of any obligation under the FTAA. Besides, the private respondent evinced that non-joinder of indispensable parties is not a ground for the dismissal of an action.

Moreover, the private respondent explained that his cause of action was primarily for the enforcement of his trust agreement with the petitioner and the other trustees and for the recovery of damages, both of which were personal actions that could be tried by the Regional Trial Court of Quezon City. Finally, he postulated that the instant case was one which is incapable of pecuniary estimation and, thus, the proper docket fees should not be based on the amounts of payments, benefits and income under the contracts and agreements which are involved in this case. Be that as it may, the failure to pay the proper docket fees alone would not warrant the automatic dismissal of the case, stressing that the trial court may merely require or direct the private respondent to pay the correct docket fees.

We agree with the contentions of the private respondent. As defined in Section 2 of Rule 2 of the Rules of Court, a cause of action is the act or omission by which a party violates the right of another. In relation to a complaint, it is a formal statement of the operative facts that give rise to a remedial right. The question of whether the complaint states a cause of action is determined by its averments regarding the acts committed by the defendant.[9] When a defendant seeks the dismissal of the complaint through a motion to dismiss, the sufficiency of the aforesaid motion should be tested on the strength of the allegations of facts contained in the complaint and on no other basis. The issue of whether or not the complaint failed to state a cause of action warranting its dismissal must be passed upon on the basis of the allegations stated therein, assuming them to be true. The court could not inquire into the truth of the allegations and declare them to be false; otherwise, it would be a procedural error and a denial of due process to the plaintiff.[10] In the case at bench, a perusal of the averments in the complaint that was filed by the private respondent in the trial court shows an alleged right in favor of the private respondent, an obligation on the part of the petitioner to respect said right and an alleged act or omission that was committed by the petitioner in violation of the right of the private respondent. Clearly, the instant complaint sufficiently stated a cause of action. Whether or not the aforesaid averments were true would be threshed out during the trial of the case and after a full-blown trial on its merits in the trial court.

Anent the claim of the petitioner that the venue was improperly laid in the instant case, it must be remembered that the instant complaint was one for reconveyance which is an action in personam[11] or an action against a person on the basis of his or her personal liability.[12] Corollarily the same is also considered as a personal action or one which is brought for the recovery of a personal property, for the enforcement of some contract or recovery of damages for its breach, or for the recovery of damages for the commission of an injury to the person or property. The venue for personal actions is likewise the same for the regional and municipal trial courts - the court of the place where the plaintiff or any of the principal plaintiffs resides, or where the defendant or any of the principal defendants resides, at the election of the plaintiff, as indicated in Section 2 of Rule 4 of the Rules of Court.[13]

In the case at bench, a perusal of the complaint that was filed by the private respondent in the trial court shows that he was residing at “No. 3 Rado Street, Fairview, Quezon City” during the time when he filed the said complaint. Thus, pursuant to Section 2 of Rule 4 of the Rules of Court, the said complaint was properly filed in the regional trial court of Quezon City. At this point, the ruling of the Supreme Court in the case of *Marcos-Araneta v. Court of Appeals, et al.*[14] becomes relevant in that:

“It is the posture of Julita and Francisca that the venue was in this case improperly laid since the suit in

question partakes of a real action involving real properties located outside the territorial jurisdiction of the RTC in Batac.

“This contention is not well-taken. In a personal action, the plaintiff seeks the recovery of personal property, the enforcement of a contract, or the recovery of damages. Real actions, on the other hand, are those affecting title to or possession of real property, or interest therein. In accordance with the wordings of Sec. 1 of Rule 4, the venue of real actions shall be the proper court which has territorial jurisdiction over the area wherein the real property involved, or a portion thereof, is situated. The venue of personal actions is the court where the plaintiff or any of the principal plaintiffs resides, or where the defendant or any of the principal defendants resides, or in the case of a non-resident defendant where he may be found, at the election of the plaintiff.

“In the instant case, petitioners are basically asking Benedicto and his Group, as defendants a quo, to acknowledge holding in trust Irene’s purported 65% stockownership of UEC and FEMII, inclusive of the fruits of the trust, and to execute in Irene’s favor the necessary conveying deed over the said 65% shareholdings. In other words, Irene seeks to compel recognition of the trust arrangement she has with the Benedicto Group. The fact that FEMII’s assets include real properties does not materially change the nature of the action, for the ownership interest of a stockholder over corporate assets is only inchoate as the corporation, as a juridical person, solely owns such assets. It is only upon the liquidation of the corporation that the stockholders, depending on the type and nature of their stockownership, may have a real inchoate right over the corporate assets, but then only to the extent of their stockownership.

“The amended complaint is an action in personam, it being a suit against Francisca and the late Benedicto (now represented by Julita and Francisca), on the basis of their alleged personal liability to Irene upon an alleged trust constituted in 1968 and/or 1972. They are not actions in rem where the actions are against the real properties instead of against persons. We particularly note that possession or title to the real properties of FEMII and UEC is not being disputed, albeit part of the assets of the corporation happens to be real properties.”

With regard to the alleged insufficient payment of docket fees by the private respondent, the Supreme Court had declared in the case of *Rivera v. Del Rosario*[15] that, if the amount of docket fees paid is insufficient considering the amount of the claim, the clerk of court of the lower court involved or his or her duly authorized deputy has the responsibility of making a deficiency assessment. The party filing the case would be required to pay the deficiency but jurisdiction of the court over the case is not automatically lost.[16] Further, in the case of *Fil-Estate Golf and Development, Inc. v. Navarro*[17], it was ruled therein that, even though the payment of the prescribed docket fees is a jurisdictional requirement, its non-payment at the time of filing the complaint does not automatically result in the dismissal of the case, provided that the docket fees are paid within the applicable prescriptive or reglementary period. Similarly, as applied in the instant case, assuming that the proper amount of docket fees had not been fully paid by the private respondent in the trial court, the same would evidently not be a ground for the dismissal of the instant action.

Lastly, anent the other matters that were raised by the petitioner in the instant petition, this Court is of the view that the said issues would be best threshed out in a full-blown trial of the case in the trial court. Notably, the allegations in the instant petition involved evidentiary matters which this Court could not pass upon at this point especially in that trial on the merits of the case had not yet been conducted by the trial court. At any rate, it bears stressing that a petition for certiorari against a court which has jurisdiction over a case would prosper only if grave abuse of discretion is manifested. The burden is on the part of the petitioner to prove not merely reversible error but grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the public respondent issuing the impugned order. Mere abuse of discretion is not enough; it must be grave. The term grave abuse of discretion is defined as a capricious and whimsical exercise of judgment so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, as where the power is exercised

in an arbitrary and despotic manner because of passion or hostility.[18]

Here, there is a paucity of circumstance which would persuade us to grant the instant petition. There was no hint of whimsicality nor gross and patent abuse of discretion as would amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law when the trial court issued the assailed orders. Verily, this Court could not interfere with the aforesaid exercise of discretion as there is no evident showing that the circumstances warrant the setting aside of the assailed orders that were issued by the aforesaid public respondent judge.

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us DENYING the petition filed in this case for lack of merit. The Orders that were issued by Branch 95 of the Regional Trial Court of the National Capital Judicial Region in Quezon City dated August 30, 2012 and September 30, 2013 in Civil Case No. Q-08-63267 are hereby AFFIRMED.

SO ORDERED.

Elbinias and Paredes, JJ., concur.

[1]Rollo, pages 3-29.

[2] Ibid, Annex “A”, pages 31-34.

[3] Ibid, Annex “B”, pages 35-36.

[4] Ibid, Annex “J”, pages 200-210.

[5] Ibid, pages 272-275.

[6] Ibid, pages 276-277.

[7] Ibid, pages 212-220.

[8] Ibid, pages 221-223.

[9] Philippine Daily Inquirer, et al. v. Alameda, et al., G.R. No. 160604, March 28, 2008.

[10]Ibid.

[11] Rodrigo, et al. v. Ancilla, G.R. No. 139897, June 26, 2006.

[12] Hernandez v. Rural Bank of Lucena, 81 SCRA 75, January 10, 1978.

[13] Go v. UCPB, G.R. No. 156187, November 11, 2004.

[14] G.R. No. 154096, August 22, 2008.

[15] 464 Phil 783 (2004).

[16] Ibid.

[17] G.R. No. 152575, June 29, 2007.

[18] Office of the Ombudsman v. Magno, G.R. No. 178923, 27 November 2008, 572 SCRA 272, 286-287.

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