

BANK OF COMMERCE, PETITIONER-APPELLEE, VS. TANJA ANDREA YVONNE CARLA LIPS AND GENER JAVIER BADILLO, RESPONDENTS,

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/91e7c1880146/>

MACALINO, J:

This is an Appeal under Rule 41 of the Rules of Court assailing the 30 September 2013 Decision[1] (“assailed Decision”) of the Regional Trial Court of Mandaluyong City, Branch 213 in Civil Case No. MC12-6453 entitled “Bank of Commerce v. Tanja Andrea Yvonne Carla Lips and Gener Javier Badillo” involving a petition for declaratory relief. The dispositive portion of the assailed Decision reads:

“WHEREFORE, judgment is hereby rendered as follows:

- a. the plaintiff[2] is ordered not to release the deposit of the late Walter Victor Kamiel Lips in the amount of fifty thousand United States dollars (US\$50,000.00) under Foreign Currency Time Deposit FCD No. 4000598735 and Account No. 115-51-00269-7 until after the probate court directs to do so;
- b. the defendants[3] are ordered to pay the plaintiff the amount of one hundred thousand pesos (P100,000.00) as and by way of attorney's fees plus three thousand pesos (P3,000.00) as appearance fee for every hearing; and
- c. the defendants are also directed to pay the costs of suit.

SO ORDERED.”[4]

The Facts of the Case[5]

Respondent-Appellant Gener Javier Badillo (“Respondent-Appellant”) is the trusted aide and confidant of the late Walter Victor Kamiel Lips (“Walter”). Walter is a Belgian national, a resident of the Philippines and a member-retiree of the Philippine Retirement Authority (PRA).

Petitioner-Appellee Bank of Commerce (“Petitioner-Appellee”) is one of the depository banks of PRA where retirees are mandated to deposit a prescribed amount in foreign currency as an investment and as a requisite for their continued membership with the PRA. Walter has a deposit with Petitioner-Appellee in the amount of US\$50,000.00 under Foreign Currency Time Deposit FCD No. 4000598735 and Account No. 115-51-000269-7[6] (“subject deposit”).

On 15 October 2009, Walter died intestate in Baguio City.

Thus, Respondent-Appellant went to Petitioner-Appellee and asked for the documentary requirements needed in order to withdraw the subject deposit. Petitioner-Appellee gave him a checklist of the same.

Respondent-Appellant returned with the documentary requirements that included his identification papers,[7] his Affidavit of Self-Adjudication,[8] the Last Will and Testament of Walter[9] and a certified true copy of the latter's Death Certificate.[10] Petitioner-Appellee thereafter transmitted the same to its Legal Management Services Group. However, after reviewing the documents, Petitioner-Appellee informed Respondent-Appellant that his request for the withdrawal of the subject deposit was disallowed as he has to first file a Petition for the Probate of the Last Will and Testament of Walter.

In November 2011, Respondent-Appellant returned and advised Petitioner-Appellee this time that Tanja Andrea Yvonne Carla Lips (“Tanja”) is the sole surviving heir of Walter and he is the duly appointed attorney-in-fact of Tanja. Respondent-Appellant submitted a Declaration of Heirship Self-Adjudication of Estate of Deceased Person[11] dated 17 August 2011 and a Special Power of Attorney[12] dated 29 June 2011. However, Petitioner-Appellee denied again the request of Respondent-Appellant to withdraw the subject deposit as he has to first file a Petition for Probate aside from lack of PRA withdrawal clearance.

As Petitioner-Appellee denied the request of Respondent-Appellant, the latter, through counsel, demanded that the former release the proceeds of the subject deposit.[13] Petitioner-Appellee, however, refused to release the same.[14]

Respondent-Appellant and Tanja thus sent a final demand letter to Petitioner-Appellee[15] but the same went unheeded.[16]

Considering that the Last Will and Testament of Walter Lips naming Respondent-Appellant as his sole heir contradicted the Declaration of Heirship Self-Adjudication of Estate of Deceased Person executed by Tanja, Petitioner-Appellee filed a Petition for Declaratory Relief[17] under Rule 63 of the Rules of Court. Petitioner-Appellee alleged that it filed the same in order to protect itself from possible legal action and liability in the event that there are other rightful beneficiaries of the subject deposit other than Respondent-Appellant and Tanja.

In an Order[18] dated 8 March 2013 issued by the trial court, Respondent-Appellant was declared in default as he filed his Answer only on 1 February 2013 after he filed a motion for extension to file the same on 30 July 2012. Petitioner-Appellee was thus ordered to present its evidence ex-parte.

On 30 September 2013, the trial court issued the assailed Decision granting the Petition filed by Petitioner-Appellee. It ordered Petitioner-Appellee not to release the deposit of Walter until after the probate court directs so.

Aggrieved, Respondent-Appellant filed an Appeal[19] on 7 November 2013. On 29 April 2014, Respondent-Appellant filed his Brief.[20]

On 20 June 2014, Petitioner-Appellee filed a Motion for Extension of Time to File Appellee's Brief[21] of thirty (30) days from 21 June 2014 or until 21 July 2014.

In a Resolution[22] dated 13 October 2014, the instant case was deemed submitted for decision without the Appellee's Brief it appearing that as per verification in the Court's Case Management Information System on 7 October 2014, no Appellee's Brief was filed.

On 27 October 2014, Petitioner-Appellee filed a Motion for Reconsideration[23] of the Resolution[24] dated 13 October 2014 alleging that it personally filed an Appellee's Brief on 21 July 2014. In support thereof, it submitted a photocopy[25] of the Brief it filed on the said date.

In the interest of justice, the Resolution[26] dated 13 October 2014 submitting the instant case for decision sans the Appellee's Brief is set aside. Petitioner-Appellee's Brief is noted.

The Issue

WHETHER OR NOT PETITIONER-APPELLEE CORRECTLY FILED AN ACTION FOR DECLARATORY RELIEF.

The Court's Ruling

Section 1 of Rule 63 of the Rules of Court, which deals with petitions for declaratory relief, provides in part:

SECTION 1. Who May File Petition. — Any person interested under a deed, will, contract or other written instrument, or whose rights are affected by a statute, executive order or regulation, ordinance, or any other governmental regulation may, before breach or violation thereof, bring an action in the appropriate Regional Trial Court to determine any question of construction or validity arising, and for a declaration of his rights or duties, thereunder.

Declaratory relief is defined as an action by any person interested in a deed, will, contract or other written instrument, executive order or resolution, to determine any question of construction or validity arising from the instrument, executive order or regulation, or statute, and for a declaration of his rights and duties thereunder. The only issue that may be raised in such a petition is the question of construction or validity of provisions in an instrument or statute. Corollary is the general rule that such an action must be justified, as no other adequate relief or remedy is available under the circumstances.[27] This, in turn, can be explained by the fact that the only object of a declaratory action is merely to terminate uncertainties in an instrument or a statute. The judgment of the court concerned cannot extend beyond a declaration of the rights and duties of the parties to the action or provide for corrective relief.[28]

Case law states that the following are the requisites for an action for declaratory relief: first, the subject matter of the controversy must be a deed, will, contract or other written instrument, statute, executive order or regulation, or ordinance; second, the terms of said documents and the validity thereof are doubtful and require judicial construction; third, there must have been no breach of the documents in question; fourth, there must be an actual justiciable controversy or the "ripening seeds" of one between persons whose interests are adverse; fifth, the issue must be ripe for judicial determination; and sixth, adequate relief is not available through other means or other forms of action or proceeding.[29]

Respondent-Appellant alleges that except for the first requisite, all the other requisites of a petition for declaratory relief are wanting in the instant case. Respondent-Appellant contends that the terms of the Last Will and Testament and the Declaration of Heirship Self-Adjudication of Estate of Deceased Person are not doubtful and do not require judicial construction as he is not claiming the subject deposit by virtue of the former. Respondent-Appellant further alleges that Petitioner-Appellee already committed a breach of the documents when it filed the Petition for Declaratory Relief. Respondent-Appellant also contends that Petitioner-Appellee failed to demonstrate how it left to sustain or is in immediate danger to sustain direct injury as a result of the documents he submitted. The possibility that Petitioner-Appellee being exposed to possible legal action once the subject deposit is released without a proper order from the probate court is highly speculative and merely theorized.

A plain reading of the two documents reveals that both contradict each other as Respondent-Appellant was named as the sole heir of Walter in the Last Will and Testament while in the Declaration of Heirship Self-Adjudication of Estate of Deceased Person, Tanja claimed to be the sole heir and Respondent-Appellant was only her attorney-in-fact. When the Petition was filed, no breach of the said documents was committed by the parties. The interests of the parties are adverse considering the antagonistic assertion of a legal right on one hand, that is, Respondent-Appellant's entitlement to the subject deposit, and on one hand, the denial thereof by Petitioner-Appellee. There is an actual justiciable controversy between Respondent-Appellant and Petitioner-Appellee with respect to the subject deposit that is ripe for judicial determination, not one that is conjectural or merely anticipatory.[30] The issue invoked is ripe for judicial determination as litigation is inevitable. It bears noting that Respondent-Appellant has threatened Petitioner-Appellee that he will file mandamus and damages case should the latter fail to release the subject deposit. Hence, Petitioner-Appellee correctly filed an action for declaratory relief as there is no other adequate remedy available through other means or other forms of action or proceeding.

From the foregoing, we rule that the trial court committed no error when it granted the Petition for Declaratory Relief filed by Petitioner-Appellee.

However, with respect to the award of attorney's fees, appearance fee for every hearing and cost of suit in favor of Petitioner-Appellee, we delete the same for lack of basis.

In *Spouses Agustin v. CA*,^[31] the Supreme Court held that the award of attorney's fees being an exception rather than the general rule, it is necessary for the court to make findings of facts and law that would bring the case within the exception and justify the grant of such award. Thus, the reason for the award of attorney's fees must be stated in the text of the court's decision; otherwise, if it is stated only in the dispositive portion of the decision, the same must be disallowed on appeal. Here, the trial court failed to discuss in the body of the assailed Decision why attorney's fees and appearance fee should be awarded to Petitioner-Appellee. The trial court merely awarded such in the dispositive portion. Hence, we delete the same for lack of basis.

As to the award of costs of suit, Section 1, Rule 142 of the Rules of Court states:

SECTION 1. Costs ordinarily follow results of suit. — Unless otherwise provided in these Rules, costs shall be allowed to the prevailing party as a matter of course, but the court shall have power, for special reasons, to adjudge that either party shall pay the costs of an action, or that the same be divided, as may be equitable. No costs shall be allowed against the Republic of the Philippines unless otherwise provided by law.

As the purpose of a petition for declaratory relief is to secure an authoritative statement of the rights and obligations of the parties for their guidance in the enforcement thereof, or compliance therewith,³² there can be no prevailing or winning party in such action. Thus, we delete the award of costs of suit in favor of Petitioner-Appellee.

WHEREFORE, premises considered, the instant Appeal is hereby DENIED. Accordingly, the 30 September 2013 Decision of the Regional Trial Court of Mandaluyong City, Branch 213 in Civil Case No. MC12-6453 is AFFIRMED with MODIFICATION. The award of attorney's fees in the amount of PhP100,000.00 plus PhP3,000.00 as appearance fee for every hearing and costs of suit is DELETED for lack of basis.

SO ORDERED.

Castillo, M., Chairperson and Galapate-Laguilles, Z. T., JJ., concur.

[1] Rollo, pp. 49-54.

[2] Should be petitioner.

[3] Should be respondents.

[4] Rollo, p. 53.

[5] As culled from the records.

[6] Original Records, pp. 9-11.

[7] Id. at pp. 12-15.

[8] Id. at p. 18.

[9] Id. at p. 16

[10] Id. at p. 19.

[11] Id. at p. 20.

[12] Id. at pp. 21-24.

[13] Id. at pp. 25-26.

[14] Id. at p. 27.

[15] Id. at pp. 28-30.

[16] Id. at pp. 31-33.

[17] Id. at pp. 2-8.

[18] Id. at pp. 123-124.

[19] Original Records, pp. 229-230.

[20] Rollo, pp. 22-48.

[21] Id. at pp. 56-59.

[22] Id. at p. 62

[23] Id. at pp. 63-65.

[24] Supra note 7.

[25] Rollo, pp. 66-88.

[26] Supra note 22.

[27] *Almeda v. Bathala Marketing Industries, Inc.*, G.R. No. 150806, January 28, 2008 citing *Atlas Consolidated Mining & Development Corporation v. Court of Appeals*, G.R. No. 54305, February 14, 1990, 182 SCRA 166, 177.

[28] *Atlas Consolidated Mining & Development Corporation v. Court of Appeals*, supra citing Francisco, *The Revised Rules of Court in the Philippines*, Vol. IV-B part I, page 14 and Moran, *Comments on the Rules of Court*, Vol. III, 1970 ed., page 15.

[29] *Republic v. Roque*, G.R. No. 204603, September 24, 2013 citing *Almeda v. Bathala Marketing Industries, Inc.*, supra note 27 citing *Jumamil v. Cafe*, G.R. No. 144570, September 21, 2005, 470 SCRA 475, 486-487.

[30] *Republic v. Roque*, supra citing *Velarde v. Social Justice Society*, G.R. No. 159357, April 28, 2004, 428 SCRA 283, 291.

[31] 264 Phil. 744, 752 (1990) as cited in *Mendoza v. Spouses Gomez*, G.R. No. 160110, June 18, 2014.

[32] See *Quisumbing v. Garcia*, G.R. No. 175527, December 8, 2008 citing *Martelino v. National Home Mortgage Finance Corporation*, G.R. No. 160208, June 30, 2008.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.