

PHILIPPINE NATIONAL BANK, PETITIONER, VS. THE COURT OF APPEALS, ET AL., RESPONDENTS.

G.R. No. L-18728. May 31, 1963

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

On March 22, 1960, the Philippine National Bank filed a complaint against Raymundo Vargas before the Court of First Instance of Negros Occidental to recover the sum of P18,500.00, with interest thereon at the rate of 5% per annum, plus 10% of the indebtedness as attorney's fees. Vargas, instead of filing an answer, moved to dismiss the complaint on the ground that the action has already prescribed, and the court a quo, after due hearing, granted the motion to dismiss.

Within the reglementary period, the bank gave notice of its intention to appeal by filing its notice of appeal and record on appeal, but somehow the appeal bond was not filed on time. And so the court a quo denied the bank's right to appeal, as well as its motion for reconsideration.

Against the court's orders denying its right to appeal and motion for reconsideration, the Philippine National Bank interposed a petition for certiorari with the Court of Appeals, including a petition for mandamus, wherein it prayed that the court a quo be ordered to set aside the orders above referred to and to give due course to its appeal.

Respondent filed his answer to the petition, and acting thereon the Court of Appeals issued on June 15, 1961 a resolution dismissing the petition on the ground that the Court of Appeals has no jurisdiction over the same because in the notice of appeal filed by petitioner before the court a quo petitioner expressly stated that its purpose was to appeal directly to the Supreme Court on purely questions of law.

The bank filed a motion for reconsideration, and the same having been denied, it brought the matter before us on a petition for certiorari.

The resolution contested by petitioner reads as follows:

"Upon the verified petition filed by counsel for petitioner in Case CA-G. R. ,No. 28906-R, Philippine National Bank vs. Hon. Jose F. Fernandez, et al., praying that the orders of the respondent judge respectively dated October 26 and December 23, 1960 in Civil Case No. 5689 of the Court of First Instance of Negros Occidental, Philippine National Bank vs. Raymundo Vargas, be annulled and set aside; and the respondent judge be ordered to approve petitioner's record on appeal and appeal bond and to give due course to the answer thereto filed by counsel for respondents praying for the dismissal of the petition; and finding that the petitioner itself unequivocally manifested in the notice of appeal dated September 1, 1960 in the said Civil Case No. 5689 its intention to appeal directly to the Supreme Court on questions of law only, and that it reiterated the same intention in the record on appeal it submitted on September 9, 1960, wherein it prayed that the same be approved and duly transmitted to the Supreme Court, for which reason this Court has no jurisdiction over the petition; the Court Resolved that the petition be, as the same hereby is, DISMISSED."

It is evident from the above-quoted resolution that the Court of Appeals denied the petition for mandamus because

it found that petitioner unequivocally manifested in its notice of appeal dated September 1, 1960 its intention to appeal directly to the Supreme Court on purely questions of law and that it reiterated the same intention in the record on appeal it submitted on September 9, 1960 wherein it prayed that the same be approved and duly transmitted to the Supreme Court. And the Court of Appeals predicated its resolution on Section 30 of Republic Act 296 wherein it is expressly provided that the Court of Appeals shall have original jurisdiction to issue, among others, a writ of mandamus when such remedy is invoked merely in aid of its appellate jurisdiction. This has been interpreted to mean that, should the main case be appealed and the appeal should fall under the exclusive jurisdiction of the Court of Appeals, it is only then that said court can act on the special civil action of mandamus; otherwise, the jurisdiction to act thereon would devolve upon the Supreme Court. Here apparently the nature of the controversy is one which comes under the exclusive appellate jurisdiction of the Court of Appeals as it merely involves the collection of the sum of P18,500.00; yet, the Court of Appeals considered itself without jurisdiction to act on the petition because it found from the very notice of appeal and record on appeal submitted by petitioner that it was its intention to appeal the main case directly to the Supreme Court. Verily, such petition was not sought for by petitioner from the Court of Appeals in aid of its appellate jurisdiction for the main case would not be brought on appeal to said Court. In this respect, we find no error in the resolution now disputed by petitioner.

With regard to the contention that the Court of Appeals should not have dismissed the petition outright but should have transferred it to this Court upon the theory that it has been erroneously filed with the former court, the same cannot be entertained for Section 31 of the Judiciary Act of 1948, invoked by petitioner, only applies to cases that are erroneously appealed and not to special civil actions originally filed with the proper appellate court. [1]

WHEREFORE, the petition is denied. No costs.

Bengzon, C. J., Padilla, Concepcion, Reyes, J.B.L. Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

[1] Moran, Comments on the Rules of Court, Vol. 1, 1957 Ed., p. lxxii, citing Rule 52, Section 3; Estrada vs. Noble, 87 Phil., 408: 48 Off. Gaz., 141; Samonte vs. Samonte, 96 Phil., 1.

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