

FORTUNE LIFE AND GENERAL INSURANCE CO., INC., PETITIONERS, VS. THE COURT OF APPEALS AND DELSAN TRANSPORT LINES, INC., RESPONDENT.

G.R. No. 101374. July 30, 1993

Ponente: NOCON, J.

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NOCON, J.:

This is a petition for review on certiorari seeking reversal of the decision of public respondent Court of Appeals, dated February 7, 1991, in CA-G.R. SP No. 21046; and its resolution dated August 12, 1991.[1]

The antecedent facts, briefly stated, are as follows:

In Civil Case No. 85-29991, entitled "Delsan Transport Lines, Inc. v. Fortune Life and General Insurance Company, Inc.," the Regional Trial Court of Manila rendered judgment dated November 21, 1985, in favor of plaintiff, the dispositive portion of which reads:

“FOR ALL THE FOREGOING CONSIDERATIONS, the Court orders the defendant (Fortune Life) to:

- ‘1. Pay plaintiff (Delsan) the amount of P1,952,302.00 with double the ceiling as that prescribed by the Monetary Board after thirty (30) days from submission of proof of loss to defendant;
- ‘2. Pay plaintiff (Delsan) the sum of P50,000.00 as and for exemplary damages;
- ‘3. Pay plaintiff (Delsan) the amount of P50,000.00 as and for attorney's fees; and
- ‘4. The cost of suit.

““SO ORDERED.””[2]

On December 11, 1985, private respondent Delsan Transport Lines, Inc. filed a motion for execution pending appeal. It invoked as "good reason" petitioner's alleged fraud and deceit in not informing the former of the latter's change in corporate name. Its motion was supported by a bond which states, in relevant portion:

““NOW THEREFORE, we DELSAN TRANSPORT LINES, INC. as Principal and FIRST INTEGRATED BONDING AND INSURANCE CO. INC., a corporation duly organized and existing under the (sic) virtue of the laws of the Philippines with principal office at 7th Floor, Victoria Building, U.N. Avenue, Ermita, Manila, Philippines, as Surety, hereby jointly and severally bind ourselves in the sum of PESOS, FIVE HUNDRED THOUSAND (P500,000.00) only, Philippine Currency, in favor of the appellant in the event the judgment in the case is reversed by the Appellate Court.””[3]

The motion was opposed by petitioner. While the motion was pending, or on December 20, 1985, petitioner filed its notice of appeal.

On January 2, 1986, the trial court issued a writ of execution pending appeal. Petitioner filed a motion for reconsideration but this was denied. The Sheriff garnished its bank deposit and levied upon its properties.

Petitioner then filed a petition for certiorari before the Court of Appeals. The trial court's order granting the writ of execution pending appeal was set aside on the ground that, inter alia, the alleged "good reason" of private respondent was insufficient to justify the issuance of said writ. This Court affirmed the action of the Court of Appeals in G.R. No. 75461.

On August 16, 1986, petitioner filed before the trial court an application for damages against the bond and private respondent. This was opposed by private respondent, citing Section 5, Rule 39 of the Rules of Court which provides:

"SEC. 5. Effect of reversal of executed judgment. - Where the judgment executed is reversed totally or partially on appeal, the trial court, on motion, after the case is remanded to it, may issue such orders of restitutions as equity and justice may warrant under the circumstances."

On August 11, 1988, the trial court issued an order which, in part, reads:

"Factual background of the case which gave rise to this application for damages, show that a decision was rendered by the Court against the herein defendant and on December 20, 1985, the latter filed its Notice of appeal; a motion for execution pending appeal was filed by the plaintiff and on December 11, 1985, the plaintiff offered to post a bond in support of its motion for execution pending appeal, conditioned 'to answer for any damages which the defendant may suffer by reason of the execution ...'; that on the basis of the said offer, the Court granted execution pending appeal in its Order of January 2, 1986, fixing the amount of the bond at P500,000.00; on March 31, 1986 the plaintiff filed a surety bond which, however, is different in tenor and condition from what the plaintiff offered. The Court, laboring under the terms of plaintiff's motion, issued a writ of execution pending appeal. The said variance in the conditions between the bond offered to be filed and that which was actually filed remains unexplained, in fact they discovered said variance only after this application was filed. The Court needs to receive evidence to enable it to resolve the issue whether or not such bond filed should answer for any damages sustained, and if in the affirmative, the extent of such damages. The resolution of the said application for damages at this stage will facilitate the conclusion of the entire case for all parties, in that any appeal will comprehend in a single instance the incident at bar along with the main case, which also will be economical in money and time for the parties and the courts as well.

"The Court therefore resolves to receive evidence against the plaintiff and the First Integrated Bonding Co., Inc., on the application for damages."[4]

The trial court then proceeded to receive petitioner's evidence, having issued an order on December 18, 1989, ruling that private respondent had waived its right to cross-examine petitioner's witness. Private respondent filed a motion for reconsideration which was denied on February 6, 1990.

On March 5, 1990, private respondent filed another motion for reconsideration assailing the trial court's jurisdiction in issuing the orders dated August 11, 1988, December 18, 1989 and February 6, 1990. It prayed that the records of the case be elevated immediately to the appellate court pursuant to the notice of appeal which was filed by petitioner.

On May 15, 1990, the trial court denied private respondent's motion, based on the following:

"Submitted for the Court's resolution, is a Motion for Reconsideration dated March 5, 1990 filed by plaintiff alleging that appeal having been perfected, this Court has already lost jurisdiction to entertain defendant's Application for Damages filed on August 16, 1986, so that all orders of this Court relative to said application, more particularly the orders dated August 11, 1988, December 18, 1989 and February 6, 1990 should be set aside as null and void.

"Defendant, in its Comment/Opposition to Motion for Reconsideration on March 26, 1990, argues that the rule that once the appeal is perfected the Trial Court loses its jurisdiction only comprehends matters subject of

the appeal and not those purely collateral or supplemental, and lying outside the issues framed in the appeal. Defendant also invokes the rule that damages enforceable against a bond, supporting a provisional relief dissolved because improvidently issued, must be proved before judgment in the main case becomes final, or the same will be barred.

“The Court agrees with the defendant's statement on what the rule is in (sic) respect to proceedings to claim damages on a bond. More appropriately since the records of the case are still with the Court and have not been elevated to the Court of Appeals.

“The Supreme Court has already ruled with finality on the impropriety of the levy of execution pending appeal on defendant's properties. This Court as far back as its order of September 9, 1988 had already declared that the resolution of the said application for damages will facilitate the conclusion of the entire case for all parties - any appeal will encompass the main case as well as the present incident to pave the way for a single decision of all litigated issues. The former counsel and all the parties have even agreed to this procedure for reasons above stated. This is in accord with law and jurisdiction, not to mention sound procedural policy.”[5]

Thereafter, private respondent filed a petition for certiorari, prohibition and mandamus before public respondent Court of Appeals seeking to annul the August 11, 1988, December 18, 1989, February 6, 1990 and May 15, 1990 orders of the trial court; to prohibit the trial court from conducting further proceedings; and to compel the trial court to forward the records of the case to the appellate court since it has lost jurisdiction over the case in view of the appeal of petitioner.

On February 7, 1991, respondent court ruled in favor of private respondent. The dispositive portion of its decision reads:

“WHEREFORE, the writs prayed for are hereby granted, and the orders of August 11, 1988, December 18, 1989, February 16 (sic), 1990 and May 15, 1990 are hereby annulled and set aside. The respondent court is ordered to desist from further proceedings in Civil Case No. 85-29991, and ordered to elevate immediately to this Court the records of the said case. No costs.

“SO ORDERED.”[6]

For lack of merit, the motion for reconsideration was denied in its resolution dated August 12, 1991.[7]

Hence, the present petition for review on certiorari.

The sole issue raised herein is: upon perfection of petitioner's appeal of the trial court's decision, does said court retain jurisdiction to hear the application for damages against the bond that was posted in support of private respondent's motion for execution pending appeal?

Petitioner insists that even upon perfection of its appeal from the decision on the merits, the trial court retains jurisdiction to hear its application for damages. The general rule is, petitioner states, once the appeal from a trial court judgment has been perfected said court loses jurisdiction over the case. By way of exception, it retains jurisdiction, inter alia, to issue orders for the protection and preservation of the rights of the parties which do not involve any matter litigated by the appeal. Under the facts of this case, upon perfection of the appeal to respondent court, the trial court lost its jurisdiction over the case only insofar as the subject matter of the appeal is concerned but not the right of petitioner to recover damages against the bond. The cause of action in the first is the occurrence of the risk insured under the marine policy whereas in the second, it is the breach of the condition in the bond, to wit: "to answer for any damages which the defendant may suffer by reason of the execution." Granting arguendo that the trial court lacked jurisdiction to entertain the claim for damages, private respondent is estopped by laches from raising the same.

The decision and resolution of respondent court, which petitioner asks this Court to set aside, deserve our affirmance.

There is no controversy that the appeal of petitioner has been perfected. As a necessary consequence thereof, the trial court was divested of jurisdiction over the case.[8] Section 9, Rule 41 of the Rules of Court mentions three (3) instances when the trial court is allowed to exercise "residual" jurisdiction after the perfection of the appeal, namely: (1) to issue orders for the protection and preservation of the rights of the parties which do not involve any matter litigated by the appeal; (2) to approve compromises offered by the parties prior to the transmittal of the record on appeal to the appellate court; and (3) to permit the prosecution of pauper's appeals. Petitioner relies on the first instance as basis for its stand that the trial court has the authority to hear its application for damages. Its reliance thereon is misplaced. Although the application for damages is beyond the scope of the matter to be litigated by the appeal, there is no "protection and preservation" of its "rights" to speak of. Respondent court was emphatic in its disquisition on this subject matter:

“The private respondent's application for damages being heard by the respondent court may not be considered an exception to Section 9 of Rule 41 of the Rules of Court. The provision speaks of 'protection and preservation of the rights of the parties which do not involve any matter litigated by the appeal.' The action for damages, in fact, and in actuality, however, is an act of vindication, is punitive in nature and not an act to protect and preserve, but to punish and make one party, the petitioner, to pay damages for having availed of a writ of execution pending appeal. x x x.”[9]

x x x x x x x x

“It is, moreover, clear that the pursuit of damages against the bond posted by the petitioner in this case, is a futile undertaking for by its express language, approved by the respondent court, the bond may only be answerable in damages where two conditions concur: one, that judgment has, in fact, been rendered on appeal, and second, that the judgment appealed from has been reversed on appeal. The very proceedings before the respondent court, now sought to be struck down, are the very reason preventing the realization of these conditions.”[10]

Thus, the trial court had no more jurisdiction to issue the disputed orders inasmuch as the case had already come under the exclusive appellate jurisdiction of respondent court.

Nor are we inclined to sanction the application of the doctrine of estoppel by laches to the prejudice of private respondent. This doctrine is an equitable principle applied to promote but never to defeat justice.[11] It should be noted that private respondent opposed petitioner's application for damages by citing Section 5, Rule 39 of the Rules of Court and, in effect, questioning the trial court's jurisdiction thereon. Additionally, private respondent set up the defense of lack of jurisdiction, in its motion for reconsideration dated March 5, 1990. There was no unreasonable delay by private respondent in assailing the jurisdiction of the trial court. Adherence to our exceptional ruling in *Tijam v. Sibonghanoy*[12] and other cases is unwarranted. Instead, we uphold the fundamental rule that a court of justice could only validly act upon a cause of action or subject matter of a case over which it has jurisdiction and said jurisdiction is one conferred by law; and cannot be acquired through, or waived by any act or omission of the parties.[13]

WHEREFORE, the petition is hereby DENIED. The decision of the Court of Appeals dated February 7, 1991 and its resolution dated August 12, 1991 are AFFIRMED.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and Puno, JJ., concur.

[1] Both penned by Hon. Nathanael P. De Pano, J. and concurred in by Hon. Eduardo R. Bengzon and Hon. Serafin V.C. Guingona, JJ.

[2] Rollo, p. 100.

[3] Ibid., pp. 102-103.

[4] Ibid., pp. 101-102.

[5] Ibid., pp. 104-105.

[6] Ibid., p. 113.

[7] Ibid., pp. 115-116.

[8] Jocson, et al. v. Court of Appeals, et al., G.R. No. 88297, 183 SCRA 589 (1990); Angel v. Inopiquez, etc., et al., G.R. No. 66712, 169 SCRA 129 (1989).

[9] Rollo, p. 10.

[10] Ibid., p. 111.

[11] Rañeses, et al. v. Intermediate Appellate Court, et al., G.R. No. 68747, 187 SCRA 397 (1990) citing Cristobal v. Melchor, 78 SCRA 175.

[12] G.R. No. L-21450, 23 SCRA 29 (1968).

[13] Dy, et al. v. NLRC, et al., G.R. No. 68544, 145 SCRA 211 (1986) citing Lagman v. Court of Appeals, 44 SCRA 234.

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