

AIDA TUAZON, PETITIONER, VS. THE HONORABLE COURT OF APPEALS, AND THE SPOUSES AURELIO AND FRANCISCA MENDIGORIA, RESPONDENTS.

G.R. No. 109012. July 08, 1994

Ponente: QUIASON, J.

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QUIASON, J.:

This is a petition under Rule 45 of the Revised Rules of Court to reverse and set aside the Resolution of the Court of Appeals dated January 29, 1993, which dismissed the petition for certiorari in CA-G.R. SP No. 30005, and the Resolution dated February 23, 1993, which denied petitioner's motion for reconsideration.

I

Petitioner was the defendant in an ejectment case, which was decided adversely against her by the Metropolitan Trial Court of Manila. On appeal, the Regional Trial Court, Branch 16, Manila, affirmed in toto the decision of the Metropolitan Trial Court. Petitioner filed a motion for reconsideration of the said decision, which was denied.

On January 25, 1993, petitioner filed a petition for certiorari under Rule 65 of the Revised Rules of Court with the Court of Appeals (CA-G.R. SP No. 30005).

On January 29, the Court of Appeals dismissed the petition, holding that inasmuch as the petitioner assailed the decision of the Regional Trial Court in the exercise of its appellate jurisdiction, the mode of appeal should be by a petition for review under Circular No. 2-90 dated March 9, 1990, and not by a petition for certiorari (Rollo, p. 23).

On February 15, petitioner filed a motion for reconsideration with a motion to amend the title of the petition from "Petition" to "Petition for Review" (Rollo, pp. 48-52). On February 23, the Court of Appeals denied the motion for reconsideration (Rollo, p. 26).

Hence this petition.

II

The issues raised by petitioner can be reduced to the proposition whether the petition which she filed under Rule 65 can be treated as a petition for review under Section 22 of the Judiciary Reorganization Act of 1980, Section 22(b) of the Interim Rules and Circular No. 2-90.

There is no question that the decision of the Regional Trial Court subject of the petition for certiorari was rendered in the exercise of its appellate jurisdiction. Under Section 22 of the Judiciary Reorganization Act of 1980 and Section 22(b) of the Interim Rules, decisions of the Regional Trial Court in cases appealed from the Municipal Trial Court, shall be appealed by petition for review to the Court of Appeals (*Lacsamana v. Second Special Cases Division of the Intermediate Appellate Court*, 143 SCRA 643 [1986]).

Section 22 of the Judiciary Reorganization Act of 1980 provides:

"Regional Trial Courts shall exercise appellate jurisdiction over all cases decided by Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts in their respective territorial jurisdictions. Such cases shall be decided on the basis of the entire record of the proceedings had in the court of origin such memoranda and/or briefs as may be submitted by the parties or required by the Regional Trial Courts. The decision of the Regional Trial Courts in such cases shall be appealable by petition for review to the Court of Appeals which may give it due course only when the petition shows prima facie that the lower court has committed an error of fact or law that will warrant a reversal or modification of the decision or judgement sought to be reviewed."

Section 22(b) of the Interim Rules substantially reproduced Section 22 of the Judiciary Reorganization Act of 1980 and added the following paragraph:

"The petition for review shall be governed by the Resolution of the Court of Appeals dated August 12, 1971, as modified in the manner indicated in the preceding paragraph hereof."

Under paragraph 3(b) of Circular No. 2-90, the appeal to the Court of Appeals from the Regional Trial Court in the exercise of its appellate jurisdiction shall be taken by a petition for review.

We agree with petitioner that her petition filed with the Court of Appeals can be treated as a petition for review under Circular No. 2-90, even without changing the designation of the pleading from "Petition" to "Petition for Review."

The form of a petition for review filed with the Court of Appeals is prescribed in Section 3(a), Rule 6 of the Revised Internal Rules of the Court of Appeals, thus:

"a. Contents. - The petition shall: (1) state the material dates showing that it is filed on time; and (2) set forth concisely the matters involved and the grounds for the petition specifying the errors of fact, or both, allegedly committed by the Regional Trial Court. The petition shall comply with the requirements for an appellant's brief."

b. What should be filed. - The petition shall be accompanied by a certified true copy of the disputed decisions, judgments or orders of the lower courts, together with true copies of the pleadings and other material portions of the record as would support the allegations of the petition."

Under Section 16, Rule 46 of the Revised Rules of Court, an appellant's brief shall contain basically the following:

- (1) A subject index of the matter in the brief;
- (2) An assignment of the errors;
- (3) A clear and concise statement of (i) a summary of the proceedings and such other matters necessary to the understanding of the nature of the controversy; (ii) a clear and concise statement in the narrative form of the facts; and (iii) the issues to be submitted to the court;
- (4) The appellant's arguments on such assignment of errors; and
- (5) The specification of the order or judgment which appellant seeks, and a copy of judgment or order appealed from.

The "Petition" filed in CA-G.R. SP No. 30005 defined the issues submitted to the Court of Appeals for its judgment and assigned as errors the following:

- (1) The complaint should have been dismissed outright for lack of jurisdiction;
- (2) Respondent court should have completely nullified the entire proceedings before the Metropolitan Trial Court; and
- (3) Article 1687 should have been applied to prevent grave injustice and serious irreparable injury to petitioner (Rollo, pp. 32-38).

The form and substance of the petition filed in the Court of Appeals satisfied all the requirements of a petition for review under Section 22 of the Judiciary Reorganization Act of 1980, Section 22(b) of the Interim Rules and Circular 2-90.

The petition contained a statement of the nature of the action and a summary of the proceedings in both the Metropolitan Trial Court and the Regional Trial Court. It also alleged pertinent facts necessary for the understanding of the case and the grounds relied upon in support thereof. Attached thereto was the duplicate of the original copy of the decision of the Regional Trial Court.

Under the heading "Argument," it discussed each of the assigned errors, with a citation of the authorities relied upon. In the last paragraph, it specified the judgment and other reliefs sought. It also stated the material dates showing that it was filed on time.

What must have swayed the Court of Appeals to rule that the petition before it could only be read as one for certiorari under Rule 65 is the following statement therein:

"Under the Revised Rule On Summary Procedure adopted by respondent court (which is inapplicable to the case at bar) there is NO APPEAL. Hence, to remedy the grave injustice which is compounded by LACK OF JURISDICTION and GRAVE ABUSE OF DISCRETION amounting to lack of jurisdiction, and there are no other plain, speedy or adequate remedy, this petition under Rule 65, Sec. 1 of the Revised Rules of Court this hereby availed of, as the last remedy, with urgent prayer for issuance of a writ of preliminary prohibitory Injunction/TRO" (Rollo, p. 31).

The said allegation in the petition filed with the Court of Appeals may be treated as a surplusage and cannot detract from a consideration of the petition as one for a review under Section 22 of the Judiciary Reorganization Act of 1980, Section 22(b) of the Interim Rules and Circular 2--90.

WHEREFORE, the petition is GRANTED, the Resolutions of the Court of Appeals in question are REVERSED and the Court of Appeals is ORDERED to decide the appealed case in CA-G.R. No. SP No. 30005 on the merits.

SO ORDERED.

Cruz, (Chairman), Davide, Jr., Bellosillo, and Kapunan, JJ., concur.

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