

GERSON R. MENESES, PETITIONER, VS. COURT OF APPEALS AND PROCTER AND GAMBLE PHILS., INC., RESPONDENTS.

G.R. No. 109053. October 07, 1994

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

Petitioner urges us to set aside the Decision of 22 December 1992[1] of respondent Court of Appeals dismissing the petition for review under Rule 45 of the Rules of Court in CA-G.R. SP No. 29328 because it erred:

"X X X IN NOT CERTIFYING CA-G.R. SP NO. 21328 [sic] TO THIS HONORABLE COURT UNDER SECTION 3, RULE 50 OF THE RULES OF COURT IN CONJUNCTION WITH THE 1991 CASE OF VICTORIAS MILLING VS. IAC; AND

X X X IN NOT REVERSING THE LOWER COURT'S JUDGMENT DISMISSING CIVIL CASE NO. 91-52339 [sic] FOR LACK OF JURISDICTION, AS THE LOWER COURT ERRED IN HOLDING THAT THE NLRC RATHER THAN THE CIVIL COURTS HAD JURISDICTION OVER THE SAID CIVIL CASE."

In dismissing the petition, the respondent Court of Appeals held:

"The petition in this case purports to be a petition for certiorari under Rule 45 of the Rules of Court. But in its prayer, it seeks the annulment of the orders of dismissal of the trial court. Considering the nature of the orders in question and the issue being raised, petitioner should have filed a petition for review on certiorari under Rule 45, in relation to sec. 17 of the Judiciary Act of 1948 (Rep. Act No. 296, as amended by Rep. Act No. 5440), and the petition should have been filed not with this Court but with the Supreme Court. The orders being alleged are in the nature of final orders and, therefore, appeal by certiorari is the appropriate remedy. At the same time, since the only question raised concerns the jurisdiction of the lower court, the matter comes within [the] exclusive appellate [jurisdiction] of the Supreme Court. This Court has no jurisdiction over this case."[2]

Petitioner's motion to reconsider the decision was denied for lack of merit in the Resolution[3] of 15 February 1993 thus:

"Pursuant to Circular No. 2-90, sec. 4 of the Supreme Court an appeal taken to either the Supreme Court or this Court by the wrong or inappropriate mode should be dismissed. And as held in *Murillo v. Consul*, UDK No. 1591, March 1, 1990, there is no longer any justification for allowing transfers of erroneous appeals from one court to the other."

In the Resolution[4] of 2 March 1994, we gave due course to the petition and required the parties to submit their respective memoranda, which they complied with.

The antecedents of this case are not controverted.

On 29 May 1991, the petitioner filed with the Regional Trial Court (RTC) of Manila a complaint for damages[5]

against the private respondent. It was docketed as Civil Case No. 91-57339 and assigned to Branch 31 of the said court. The petitioner alleged therein as follows:

x x x

"3. Plaintiff was formerly employed by defendant in the Perla Department of its plant at No. 2279 Velasquez St., Tondo, Manila as an operator of its 'jumbo machine' where the ingredients of soap are mixed. He worked in the said plant for twelve (12) years before the accident complained of herein.

4. In the course of his duties, plaintiff had to go to another area of defendant's plant to switch on a caustic system which feeds ingredients into the jumbo machine.

5. As early as April 25, 1986, plaintiff had already recommended to defendant's management that the caustic switch be transferred to a place nearer the jumbo [machine]. x x x Defendant accepted this recommendation but failed to act on it.

6. The switch to the caustic system was located in the vicinity of several giant steel storage kettles of boiling soap oil. These kettles were provided with steel covers strong enough to contain the tremendous pressure built-up inside the vessel upon boiling. Plaintiff does not know of any incident in his twelve years in the said plant when the said steel covers failed to contain pressure build-up.

7. For reasons known only to defendant, shortly before the accident complained of herein it changed the covers of one of these steel kettles near the caustic system switch from the original steel to a cheaper but more brittle fiberglass cover, with total and reckless disregard of its plant workers' safety.

8. On June 1, 1987 at around 3:30 in the afternoon, as plaintiff was leaving the jumbo caustic switch after turning it on, the fiberglass cover of the said kettle exploded.

9. Plaintiff was drenched in, and burned by boiling soap oil coming from the kettle in question.

10. As a result of the explosion, plaintiff:

- a. Suffered third degree burns over eighty (80%) percent of his body surface leaving highly visible scars thereover;
- b. Had seven (7) toes of his feet amputated;
- c. Underwent psychiatric treatment;
- d. Spent six (6) months of confinement in the Makati Medical Center; and
- e. Spent seventeen (17) months of physical therapy conducted by the same medical institution.

x x x

14. Shortly after the explosion, the kettle which exploded was repaired by defendant. Its fiberglass cover was replaced by a steel cover.

15. Also after the accident, defendant transferred the caustic system switch nearer the jumbo machine, away from the giant soap kettles."

Petitioner prayed for the following reliefs:

"For the severe and permanent curtailment of plaintiff's capacity to earn and the income opportunities lost to him due to [h]is limited mobility, loss of skills, and general physical deterioration, actual damages of at least P1,500,000.00;

For plaintiff's continuous mental anguish, moral anxiety, disfigured appearance, social humiliation, depression and inferiority complex, moral damages of at least P2,000,000.00;

As an example to the public, on account of respondent's wanton, reckless and malicious disregard of its obligation to observe due diligence in safeguarding its worker's safety, exemplary damages of at least P500,000.00; and

For plaintiff's expenses in contracting counsel's services, attorney's fees of at least 25% of the total award."

Instead of filing an answer, the private respondent moved to dismiss the complaint on grounds of laches and of lack of jurisdiction of the trial court over the nature and subject matter of the suit, the same being within the exclusive and original jurisdiction of the Labor Arbiters of the National Labor Relations Commission (NLRC). In its Order of 4 February 1992, the trial court deferred the resolution of the motion until the trial.

On 5 June 1992, acting on the private respondent's motion to reconsider the above order, the trial court issued an order dismissing the complaint on the ground of lack of jurisdiction.[6] The pertinent portion of the order reads as follows:

"After a careful review and close scrutiny of the entire records, the determination of the nature and subject matter of the suit is actually whether there is a claim for damages filed by the employee against his employer arising from employer-employee relationship, leaving the National Labor Relations having original and exclusive jurisdiction over claims for damages arising from said employer-employee relationship, as decided in the case of the National Federation of Labor vs. Eisma, (127 SCRA 419) and Pepsi-Cola Bottling Co. vs. Martinez (112 SCRA 578). The Supreme Court held that the coverage regarding disputes involving the administration and enforcement of occupation safety rules, regulations, standards, is exclusively vested with the Labor Arbiters of the National Labor Relations Commission."

The petitioner's motion to reconsider the order of dismissal was denied by the trial court in the order of 13 October 1992.[7]

Instead of filing a notice of appeal, the petitioner filed within the period to appeal a petition for certiorari under Rule 45 of the Rules of Court but with the respondent Court of Appeals.[8] It was docketed as CA-G.R. SP No. 29328.

After the respondent Court of Appeals had dismissed the petition as earlier adverted to, the petitioner came to us imputing upon the Court of Appeals the commission of the errors quoted in the opening paragraph of the ponencia.

The petitioner's first ground is devoid of merit. Section 3, Rule 50 of the Revised Rules of Court which he invokes provides him with no sanctuary. In *Murillo vs. Consul*,[9] this Court ruled that "[t]here is no longer any justification for allowing transfers of erroneous appeals from one court to the other." The Court explained its ruling thus:

"The two provisions just cited -- Section 31 of the Judiciary Act of 1948 and Section 3, Rule 50 -- had reference to a situation in the past where appeals could be brought from the Court of First Instance either to the Court of Appeals or to the Supreme Court by the same procedure. These appeals were governed by Rules 41 and 42 of the Rules of Court.

...

Indeed, not only the method of taking an appeal to either the Supreme Court or to the Court of Appeals, but also the procedure thereafter followed in either court for the ventilation and adjudication of the appeal, were essentially the same. According to Section 1, Rule 56, unless otherwise provided by law, the Rules, or the

Constitution, the procedure in the Supreme Court in original as well as in appealed cases was the same as that in the Court of Appeals. There was therefore not much difficulty or delay entailed by a transfer of an appeal from one court to the other.

However, these provisions, prescribing a common mode of appeal to the Court of Appeals and to this Court, and a common method of passing on and resolving an appeal, are no longer in force and effect. They have been largely superseded and rendered functus officio by certain statutes which have wrought substantial changed [sic] in the appellate procedures in this jurisdiction, notably Republic Acts Numbered 5433 and 5440 (both effective on September 9, 1968) and 6031 (effective August 4 1969), as well as Batas Pambansa Blg. 129 (effective August 14, 1981).

...

At present then, except in criminal cases where the penalty imposed is life imprisonment or reclusion perpetua, there is no way by which judgments of regional trial courts may be appealed to this Court except by petition for review on certiorari in accordance with Rule 45 of the Rules of Court, in relation to Section 17 of the Judiciary Act of 1948, as amended. The proposition is clearly stated in the Interim Rules: 'Appeals to the Supreme Court shall be taken by petition for certiorari which shall be governed by Rule 45 of the Rules of Court.'

On the other hand, it is not possible to take an appeal by certiorari to the Court of Appeals. Appeals to that Court from the Regional Trial Courts are perfected in two (2) ways, both of which are entirely distinct from an appeal by certiorari to the Supreme Court. They are:

- (a) by ordinary appeal, or appeal by writ of error -- where judgment was rendered in a civil or criminal action by the RTC in the exercise of original jurisdiction, and
- (b) by petition for review -- where judgment was rendered by the RTC in the exercise of appellate jurisdiction.

The petition for review must be filed with the Court of Appeals within 15 days from notice of the judgment, and as already stated, shall point out the error of fact or law that will warrant a reversal or modification of the decision or judgment sought to be reviewed. An ordinary appeal is taken by merely filing a notice of appeal within 15 days from notice of the judgment, except in special proceedings or cases where multiple appeals are allowed in which event the period of appeal is 30 days and a record on appeal is necessary.

...

In fine, if an appeal is essayed to either court by the wrong procedure, the only course of action open is to dismiss the appeal. In other words, if an appeal is attempted from a judgment of a Regional Trial Court by notice of appeal, that appeal can and should never go to this Court, regardless of any statement in the notice that the court of choice is the Supreme Court; and more than once has this Court admonished a Trial Judge and/or his Clerk of Court, as well as the attorney taking the appeal, for causing the records to be sent up to this Court in such a case. Again, if an appeal by notice of appeal is taken from the Regional Trial Court to the Court of Appeals and in the latter Court, the appellant raises naught but issues of law, the appeal should be dismissed for lack of jurisdiction. And finally, it may be stressed once more, it is only through petitions for review on certiorari that the appellate jurisdiction of this Court may properly be invoked.

There is no longer any justification for allowing transfers of erroneous appeals from one court to the other, much less for tolerating continued ignorance of the law on appeals. It thus behooves every attorney seeking review and reversal of a judgment or order promulgated against his client, to determine clearly the errors he believes may be ascribed to the judgment or order, whether of fact or of law; then to ascertain carefully which court properly has appellate jurisdiction; and finally, to observe scrupulously the requisites for appeal prescribed by law, with keen awareness that any error or imprecision in compliance therewith may well be fatal to his client's cause." (citations omitted).

The Murillo rule was embodied in Circular No. 2-90 of this Court which was issued on 9 March 1990.

Petitioner's reliance on *Victorias Milling Co., Inc. vs. Intermediate Appellate Court*[10] is misplaced. In *Victorias*, the private respondent's complaint for damages before the Regional Trial Court was dismissed by the said court on the ground of lack of jurisdiction over the subject matter. On 19 July 1982 the private respondent filed a notice of appeal from the dismissal order to the Intermediate Appellate Court (IAC). The petitioner then filed a Motion to Dismiss or Certify Appeal alleging that only pure questions of law were involved. The motion was denied by the IAC in a resolution dated 29 February 1984. We stated in that case that the IAC should have certified the appeal to the Supreme Court. Although it was decided in 1991, this Court did not, for the special attendant circumstances therein obtaining, apply Murillo but the law then controlling at the time the IAC resolved the challenged motions principally because there was, in fact, a seasonable alternative motion to certify the case to this Court, which was then allowed by Section 3 of Rule 50. Clearly, *Victorias* did not modify Murillo.

It must also be stressed that the trial court's order of 5 June 1992 dismissing the petitioner's complaint was, whether it was right or wrong, a final order because it had put an end to the particular matter resolved, or settled definitely the matter therein disposed of and left nothing more to be done by the trial court except the execution of the order. It is a firmly settled rule that the remedy against such order is the remedy of appeal and not certiorari.[11] That appeal may be solely on questions of law, in which case it may be taken only to this Court; or on questions of fact and law, in which case the appeal should be brought to the Court of Appeals.[12] Pursuant to *Murillo vs. Consul*,[13] the appeal to this Court should be by petition for review on certiorari in accordance with Rule 45 of the Rules of Court.

In the instant case then, if the petitioner had chosen to appeal from the dismissal order of the trial court solely on questions of law, then he should have filed a petition for review on certiorari with this Court. If he wanted to raise in his appeal both questions of law and of fact, then he should have pursued the remedy of an ordinary appeal to the Court of Appeals and not by way of a petition for review under Rule 45. The Court of Appeals did not then commit any reversible error when it dismissed the petition for review of the petitioner in CA-G.R. SP No. 29328.

In view of the foregoing conclusion, it would no longer be necessary to discuss the other issues raised by the petitioner.

WHEREFORE, the instant petition for review is hereby DENIED for lack of merit.

SO ORDERED.

Cruz, (Chairman), Bellosillo, Quiason, and Kapunan, JJ., concur.

[1] Annex "A" of Petition; Rollo, 22-25. Per Associate Justice Vicente V. Mendoza, with the concurrence of Associate Justices Jaime M. Lantin and Salome A. Montoya.

[2] Rollo, 24.

[3] Annex "B" of Petition; Id., 27-28.

[4] Id., 115.

[5] Annex "C" of Petition; Id., 29-33.

[6] Annex "D" of Petition; Rollo, 38-39.

[7] Paragraph 5 of Petition; Id., 4.

[8] Annex "E" of Petition; Id., 40-55.

[9] UDK-9748, 183 SCRA xi [1990]. See also *Caiña vs. People*, 213 SCRA 309 [1992].

[10] 200 SCRA 1 [1991].

[11] *Bacabac vs. Delfin*, 1 SCRA 1194 [1961]; *De la Cruz vs. Paras*, 69 SCRA 556 [1976]; *Marahay vs. Melicor*, 181 SCRA 811 [1990]; *Marilao Water Consumers Association, Inc. vs. Intermediate Appellate Court*, 201 SCRA 437 [1991]; *American Home Assurance Company vs. Court of Appeals*, 208 SCRA 343 [1992].

[12] *Marilao Water Consumers Association, Inc. vs. Intermediate Appellate Court*, supra note 11.

[13] Supra note 9.

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