

MANUEL M. SERRANO, PETITIONER, VS. EUGENIO C. DELICA, RESPONDENT.

G.R. No. 136325. July 29, 2005

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

At bar is a petition for review on certiorari[1] assailing the Decision[2] dated September 30, 1998 and Resolution dated November 13, 1998 of the Court of Appeals in CA-G.R. SP No. 46632, entitled "Manuel M. Serrano, petitioner, vs. Hon. Alberto L. Lerma, Presiding Judge, Regional Trial Court, Branch 256, Muntinlupa City, and Eugenio C. Delica, respondents."

The petition stemmed from the following facts:

On June 30, 1997, Eugenio C. Delica, respondent, filed with the Regional Trial Court, Branch 256, Muntinlupa City, presided by Judge Alberto L. Lerma, a complaint for cancellation of Deeds of Sale, Transfer Certificates of Title, Joint Venture Agreement, and damages, with prayer for the issuance of a writ of preliminary injunction and temporary restraining order, docketed as Civil Case No. 97-120. Impleaded as defendants were Manuel M. Serrano, now petitioner, Manuel P. Blanco, MBJ Land, Inc., and MARILAQUE Land, Inc.

The complaint alleges inter alia that respondent is the registered owner of ten parcels of land situated in Bagbagan, Muntinlupa City, with a total area of 2,062,475 square meters, more or less, covered by ten Transfer Certificates of Title (TCT) Nos. S-12619 to S-12628 of the Registry of Deeds, same city. On August 10, 1995, after having been "promised with financial bonanza" by petitioner and Manuel Blanco, respondent executed in favor of the latter a special power of attorney. Blanco then sold to MBJ Land, Inc. respondent's three parcels of land covered by TCT Nos. S-12625, S-12626 and S-12628. Thus, these titles were cancelled and in lieu thereof, TCT Nos. 207282, 207283 and 207284 were issued in the name of MBJ Land, Inc.

On December 4, 1996, MBJ Land, Inc. entered into a Joint Venture Agreement with MARILAQUE Land, Inc. involving the three parcels of land.

On December 23, 1996, petitioner Serrano again "unduly influenced, coerced and intimidated" respondent into executing an affidavit wherein he confirmed that he sold his remaining seven parcels of land, covered by TCT Nos. S-12619 to S-126124 and S-12627, to petitioners. Later, respondent found that these seven titles were cancelled and new titles (TCT Nos. 209636 to 209642) were issued in petitioner's name based on a spurious Deed of Absolute Sale.

Respondent thus prayed in his complaint that the special power of attorney, affidavit, the new titles issued in the names of petitioner and MBJ Land, Inc., and contracts of sale be cancelled; and that petitioner and his co-defendants be ordered to pay respondent, jointly and severally, actual, moral and exemplary damages in the amount of P200,000.00, as well as attorney's fee of P200,000.00 and costs of litigation. Respondent likewise prayed that, pending trial on the merits, a temporary restraining order and a writ of preliminary injunction be

issued ordering the defendants to immediately restore him to his possession of the parcels of land in question; and that after trial, the writ of injunction be made permanent.

Petitioner then filed his answer with compulsory counterclaim, denying the material allegations of the complaint.

Respondent later amended his complaint.

On August 5, 1997, the trial court issued a temporary restraining order and on September 8, 1997, a preliminary injunction directing petitioner and his co-defendants to immediately restore respondent to his possession.

Petitioner then filed consolidated motions for reconsideration praying that the complaint be dismissed for respondent's failure to pay the required docket fee; and that Judge Lerma be directed to inhibit himself from hearing the case.

The trial court, in its Order dated January 7, 1998, denied petitioner's consolidated motions.

Petitioner seasonably filed with the Court of Appeals a petition for certiorari and prohibition with application for a preliminary injunction and temporary restraining order assailing the trial court's twin Orders dated September 8, 1997 ordering the issuance of a writ of preliminary injunction; and denying his consolidated motions dated January 7, 1998. Petitioner raised three issues: (a) whether respondent paid the correct docket fee; (b) whether the trial court's issuance of the writ of preliminary injunction is in order; and (c) whether Judge Lerma should inhibit himself from hearing the case.

On September 30, 1998, the Court of Appeals rendered a Decision partially granting the petition by: (1) affirming the trial court's ruling that the docket fee was correctly paid; (2) setting aside the trial court's Order directing the issuance of a writ of preliminary injunction; and (3) leaving the matter of inhibition to the discretion of Judge Lerma.

Petitioner then filed a motion for partial reconsideration of the Court of Appeals' ruling that respondent correctly paid the docket fee and that the motion for inhibition should be addressed to Judge Lerma's sound discretion.

In a Resolution dated November 13, 1998, the Appellate Court denied the motion.

Hence the instant petition for review on certiorari.

The core issues for our resolution are:

- Whether respondent paid the correct docket fee when he filed his complaint in Civil Case No. 97-120; and
- Whether the matter of inhibition should be addressed to Judge Lerma's discretion.

On the first issue, we cannot overemphasized the importance of paying the correct docket fees. Such fees are intended to take care of court expenses in the handling of cases in terms of cost of supplies, use of equipment, salaries and fringe benefits of personnel, etc., computed as to man-hours used in the handling of each case. The payment of said fees, therefore, cannot be made dependent on the result of the action taken, without entailing tremendous losses to the government and to the judiciary in particular.[3]

Thus, the rule is that "upon the filing of the pleading or other application which initiates an action or proceeding, the fees prescribed therefor shall be paid in full." [4] However, a litigant who is a pauper is exempt from the payment of the docket fees. But the fees shall be a lien on the judgment rendered in favor of said pauper litigant, unless the court otherwise provides.[5]

It is not simply the filing of the complaint or appropriate initiatory pleading, but the payment of the prescribed docket fees that vests a trial court with jurisdiction over the subject matter or nature of the action.[6]

In the case at bar, petitioner impugns the Court of Appeals' ruling that respondent's complaint in Civil Case No. 97-120 is not capable of pecuniary estimation and that, therefore, the docket fee is fixed at P600.00 pursuant to Section 7(b)(1), Rule 141 of the Revised Rules of Court.

We agree with petitioner that the Court of Appeals erred in issuing such ruling. It should have considered the allegations of the complaint and the character of the reliefs sought, the criteria in determining the nature of an action.[7]

A careful examination of respondent's complaint is that it is a real action. In *Paderanga vs. Buissan*,[8] we held that "in a real action, the plaintiff seeks the recovery of real property, or, as stated in Section 2(a), Rule 4 of the Revised Rules of Court,[9] a real action is one 'affecting title to real property or for the recovery of possession of, or for partition or condemnation of, or foreclosure of a mortgage on a real property.' "

Obviously, respondent's complaint is a real action involving not only the recovery of real properties, but likewise the cancellation of the titles thereto.

Considering that respondent's complaint is a real action, the Rule requires that "the assessed value of the property, or if there is none, the estimated value thereof shall be alleged by the claimant and shall be the basis in computing the fees." [10]

We note, however, that neither the "assessed value" nor the "estimated value" of the questioned parcels of land were alleged by respondent in both his original and amended complaint. What he stated in his amended complaint is that the disputed realties have a "BIR zonal valuation" of P1,200.00 per square meter. However, the alleged "BIR zonal valuation" is not the kind of valuation required by the Rule. It is the assessed value of the realty.[11] Having utterly failed to comply with the requirement of the Rule that he shall allege in his complaint the assessed value of his real properties in controversy, the correct docket fee cannot be computed. As such, his complaint should not have been accepted by the trial court. We thus rule that it has not acquired jurisdiction over the present case for failure of herein respondent to pay the required docket fee. On this ground alone, respondent's complaint is vulnerable to dismissal.

Since the complaint is dismissible, the second issue on whether Judge Lerma should inhibit himself from hearing the case has become moot and academic.

WHEREFORE, the petition is GRANTED. The assailed Decision and Resolution of the Court of Appeals in CA-G.R. SP No. 46632 are hereby REVERSED. The complaint in Civil Case No. 97-120 is ordered DISMISSED without prejudice.

SO ORDERED.

Panganiban, (Chairman), Carpio-Morales, and Garcia, JJ., concur.
Corona, J., on official leave.

[1] Filed under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Penned by Justice Quirino D. Abad Santos, Jr. and concurred in by Justices Omar U. Amin and Dandido V. Rivera, all retired.

[3] *Pilipinas Shell Petroleum Corp., et al. vs. Court of Appeals, et al.*, L-76119, April 10, 1989, 171 SCRA 674.

[4] Section 1, Rule 141 of the Revised Rules of Court.

[5] Section 18, *id.*

[6] *Pantranco North Express, Inc. vs. Court of Appeals*, G.R. No. 105180, July 5, 1993, 224 SCRA 477.

[7] *Huguete vs. Embudo*, G.R. No. 149554, July 1, 2003, 405 SCRA 273; *Tolosa vs. National Labor Relations Commissions*, 401 SCRA 291; *Caniza vs. Court of Appeals*, G.R. No. 110427, February 24, 1997, 268 SCRA 640.

[8] G.R. No. 49475, September 28, 1993, 226 SCRA 786, citing *Hernandez vs. Rural Bank of Lucena, Inc.*, No. L-29791, January 10, 1978, 81 SCRA 75, 84-85.

[9] Now Section 1, Rule 4, 1997 Rules of Civil Procedure, as amended.

[10] Section 7(b), Rule 141 of the Revised Rules of Court.

[11] *Bautista vs. Lim*, No. L-41430, February 19, 1979, 88 SCRA 479.

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