

CLEMENT L. CUCUECO, PETITIONER, VS. COURT OF APPEALS, GOLDEN “L” INTERNATIONAL, ORLANDO LAPID, FRANCISCO LAPID, DIOSDADO LAPID, LEA PRODUCTIONS, INC., AND EMILIA S. BLAS, RESPON...*G.R. No. 139278. October 25, 2004*

Ponente: AUSTRIA-MARTINEZ, J.

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This is a petition for review on certiorari assailing the Decision dated March 9, 1998, rendered by the Court of Appeals (CA) in CA-G.R. CV No. 35911,[1] which reversed the decision of the Regional Trial Court of Manila (Branch 18) in Civil Case No. 87-39888, as well as the Court of Appeals' Resolution dated July 6, 1999, denying petitioner's motion for reconsideration.

Civil Case No. 87-39888 is an action for the declaration of nullity of contract, torts and damages with preliminary injunction and attachment filed by petitioner against all the herein respondents. It was consolidated by the trial court with Civil Case No. 87-39732, which is an action for specific performance with damages and preliminary injunction filed by respondents Emilia S. Blas[2] and Lea Productions against Golden “L” Films International, as these two cases arose from the same set of factual antecedents, which, as stated by the CA, is as follows:

In his complaint filed with the court a quo, Clement Cucueco alleged that sometime in 1985, he entered into a joint venture with Golden “L” Films International (Golden Films) and its owners, Orlando, Francisco and Diosdado, all surnamed Lapid, to co-produce a movie entitled “JIMBO” with the condition that Cucueco's investment would be repaid first before that of the Golden Films and that the net profit would be divided between the parties in proportion to their respective investments.

Cucueco invested P662,345.00 in the project which was subsequently increased by P176,539.98 or a total of P838,884.98.

The proceeds from the showing of “JIMBO” were reinvested in the production of another film entitled “MARUSO” starring Lito Lapid.

After the shooting of “MARUSO” and while the film was being processed preparatory to its commercial exhibition, Golden Films, without the knowledge and prior consent of Cucueco, sold the film to Lea Productions, Inc. (LEA), represented by Emilia Blas. LEA, however, failed to pay in full, so Golden Films withheld delivery of the film.

Meantime, Cucueco, upon request of Golden Films, paid SQ Laboratories the processing fee of the film “MARUSO” in the amount of P82,900.00 to facilitate the recovery of his investment and share in the joint venture. In turn, SQ Laboratories delivered to Cucueco the “master” copy and other copies of the film “MARUSO.” Subsequently, Emilia Blas and the Lapids demanded that Cucueco deliver the film to them but he refused. He maintains that the sale of “MARUSO” by Golden Films to LEA is void for lack of consent on his part, he being a co-owner and co-producer of the film, invoking Section 18 of P.D. 49.

In their separate answers, the defendants denied specifically Cucueco's material allegations in the instant complaint, raising affirmative defenses.

Meanwhile, LEA filed with the RTC of Manila, Branch 26, a complaint for specific performance and damages with application for a preliminary injunction (docketed as Civil Case No. 87-39732) seeking to compel Golden Films and the Lapidis to comply with their obligation under the contract of sale of "MARUSO." In an amended complaint, LEA and Emilia Blas impleaded Cucueco as additional defendant.

The two cases (Civil Cases Nos. 87-39888 and 87-39732), being intimately related, were consolidated before Branch 26 of the RTC of Manila.

After a joint hearing on the application of Cucueco for preliminary injunction and attachment in Civil Case No. 87-39888 as well as the application of LEA for preliminary injunction in Civil Case No. 87-39732, the court below issued an order dated June 5, 1987, the dispositive portion of which reads:

WHEREFORE, after hearing, the Court finds the evidence sufficient to grant the issuance of a writ of preliminary injunction to avoid further irreparable injury and to maintain the status quo during the pendency of the two cases:

Let a writ of preliminary injunction be issued restraining Lea Productions and Golden "L" Films International, their representatives, agents and any person or persons acting for and in their behalf, stead or name or with their authority, from taking possession of any and/or prints of the film 'MARUSO': sell, distribute and exhibit the film in any and/or theaters inside or outside the Philippines, including video tape viewing; reprinting the same from any of the prints already existing including video tape printing; and publishing or advertising that Lea Productions is the owner of the film 'MARUSO' during the pendency of the two cases and until further order of the court.

Acting further to the application of plaintiff Clement Cucueco in his complaint, Civil Case No. 87-39888, for an order of attachment, the Court finds that the complaint is supported by plaintiff's affidavit of merit that proves that there exists a sufficient cause of action under Sec. 1, Rule 57 of the Rules of Court; that there was fraud in the acts of the defendants in incurring the obligation and there is no other sufficient security for the claim sought to be enforced by the action.

In view hereof, the restraining order issued against Clement Cucueco is ORDERED lifted and a writ of attachment ORDERED issued upon the execution of a bond in the amount of ONE MILLION FIVE HUNDRED THOUSAND PESOS (P1,500,000.00) to answer for any and for all damages the defendants may suffer if the Court shall adjudge that the applicant was not entitled thereto. The sheriff is hereby ORDERED to attach all the existing file prints of 'MARUSO' including the master print and video tapes and the film share of the showing of the 'MARUSO' still in the possession of the twenty eight (28) theaters listed in the Order of the Court dated March 20, 1987 to satisfy plaintiff Clement Cucueco's demand.

The above order was challenged by LEA and Emilia Blas in a petition for certiorari with the Court of Appeals, docketed as CA-G.R. SP No. 13069.

In a decision promulgated on April 27, 1988, the Court of Appeals affirmed the assailed order with modification in the sense that the writ of preliminary attachment issued in favor of Cucueco was annulled.

LEA and Emilia Blas pursued the cases up to the Supreme Court in a petition for review on certiorari, docketed therein as G.R. Nos. 84269-70. The main issue posed was whether a writ of preliminary injunction may still be issued after the effectivity of a temporary restraining order. The Supreme Court sustained the decision of the Court of Appeals and denied the petition in a Resolution promulgated on July 12, 1989.

The twin cases were then remanded to the trial court for further proceedings. It then conducted the pre-trial but was not concluded.

Subsequently, Cucueco filed a motion for summary judgment in Civil Case No. 87-39888 alleging that the order of the lower court dated June 5, 1987 contains findings of fact and law, affirmed by the Court of Appeals and the Supreme Court. All the defendants opposed the motion basically on the grounds that the June 5, 1987 order is interlocutory and that no factual finding was affirmed by the Court of Appeals and the Supreme Court.

Acting upon Cucueco's motion, the lower court rendered a decision (summary judgment) the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered for the plaintiff and against the defendants:

- Declaring plaintiff co-owner and co-producer of the film MARUSO, with the right to its possession, use, distribution, exhibition and profits, as well as to other rights appertaining to a copyright proprietor, and the sale of said film between defendants null and void.
- Ordering defendants to deliver to the plaintiff all copies of the movie MARUSO in their respective possession, together with all trailers and other components or parts thereof, and declaring the preliminary injunction previously issued permanent.
- Ordering all the defendants to pay jointly and severally the plaintiff actual damages in the sum of P1,969,506.64; moral and exemplary damages in the respective sums of P150,000.00 and P100,000.00 and an additional sum of P50,000.00 as and for attorney's fees with interest thereon at the legal rate from the date of the filing of this action, plus the costs of suit.
- Ordering defendants Lea Productions and Emilia Blas, jointly and severally, to pay, deliver or turnover to the plaintiff all profits or income they derived from MARUSO in the total sum of P3,446,600.00, with interest thereon from June 5, 1987 until fully paid, and to legal rate (sic).
- Ordering the separation of this case from Civil Case No. 87-39732.

SO ORDERED.[3]

Respondents filed an ordinary appeal from the trial court's decision with the CA, to which petitioner filed a Motion to Dismiss Appeal on the ground that respondents should have filed a petition for review on certiorari with this Court, instead of an ordinary appeal to the CA, as the case involves pure questions of law.[4] Per its Resolution dated October 7, 1992, the CA resolved that it will consider the issues raised therein in the decision it will render on the main case.[5]

On March 9, 1998, the Court of Appeals rendered the herein assailed decision, with the following dispositive portion:

WHEREFORE, the appealed decision (summary judgment) is hereby REVERSED and SET ASIDE. Let the records of both cases be remanded to the court of origin for further proceedings with dispatch.

SO ORDERED.[6]

His motion for reconsideration having been denied, petitioner filed the instant petition for review on certiorari, alleging the following questions of law:

- (1) Whether or not the mode of appeal resorted to by private respondents from the Decision (Summary Judgment) of the trial court to the respondent COURT is proper; and
- (2) Whether or not the trial court correctly rendered the Decision (Summary Judgment) appealed from and in applying the Doctrine of the "Law of the Case" doctrine (sic) in the process.[7]

Notably, while the CA stated in its Resolution dated October 7, 1992 that it would resolve petitioner's Motion to

Dismiss Appeal in its decision on the appeal, it apparently failed to consider the same, as the appellate court's decision does not show any discussion thereon. Thus, petitioner insists that the mode of appeal taken by respondents from the trial court's decision is erroneous. According to him, the issues raised in the appeal were purely questions of law as the summary judgment rendered by the trial court was rendered merely based on the pleadings and documents on record, and without any trial or reception of evidence.[8] Petitioner also argues that inasmuch as respondents failed to contradict the evidence he presented, they having focused on the issue of the propriety of the summary judgment and the application of the "law of the case," the "correctness or incorrectness of the conclusions drawn by the trial court from the undisputed evidence of petitioner also raises a question of law." [9] Such being the case, respondents should have filed a petition for review on certiorari with this Court and not an ordinary appeal to the CA.

The Court finds that the issues raised by respondents in their appeal clearly involve questions of law.

There is no question that when an appeal raises only pure questions of law, it is this Court that has the sole jurisdiction to entertain the same.[10] On the other hand, appeals involving both questions of law and fact fall within the exclusive appellate jurisdiction of the Court of Appeals.[11]

The distinction between questions of law and questions of fact has long been settled. There is a "question of law" when the doubt or difference arises as to what the law is on certain state of facts, and which does not call for an examination of the probative value of the evidence presented by the parties-litigants. On the other hand, there is a "question of fact" when the doubt or controversy arises as to the truth or falsity of the alleged facts. Simply put, when there is no dispute as to fact, the question of whether or not the conclusion drawn therefrom is correct, is a question of law.[12]

Simple as it may seem, determining the true nature and extent of the distinction is sometimes complicated. In a case involving a "question of law," the resolution of the issue must rest solely on what the law provides on the given set of circumstances. Once it is clear that the issue invites a review of the evidence presented, the question posed is one of fact. If the query requires a re-evaluation of the credibility of witnesses, or the existence or relevance of surrounding circumstances and their relation to each other, the issue in that query is factual.[13]

In their brief filed before the Court of Appeals, respondents as appellants raised the following assignment of errors: (1) the lower court erred in rendering the summary judgment in Civil Case No. 87-39888; and (2) the lower court grossly misapplied the doctrine of the law of the case.[14] In support thereof, respondents argue that the summary judgment rendered by the trial court in Civil Case No. 87-39888 was erroneous, as there were material facts alleged in petitioner's complaint that they denied and disputed, and which can only be solved after trial on the merits, i.e., cost of production; the parties' contributions to the production of "Jimbo;" whether or not the film made any earnings or losses; whether or not petitioner is a co-producer of the film "Maruso"; etc.[15] Respondents also argued that the "law of the case" should not have been applied by the trial court in resolving Civil Case No. 87-39888 as no final conclusions of fact were drawn by the CA in CA-G.R. SP Nos. 13069 and 13911, and the Supreme Court in Nos. 84269 and 84270, as these cases merely involved an interlocutory order.[16]

At first blush, it may appear that the issues raised by respondents indeed involve questions of fact justifying their resort to ordinary appeal. A closer scrutiny, however, shows that the appeal actually involves purely questions of law. The test of whether a question is one of law or of fact is not the appellation given to such question by the party raising the same; rather, it is whether the appellate court can determine the issue raised without reviewing or evaluating the evidence, in which case, it is a question of law; otherwise, it is a question of fact.[17]

Respondents' appeal calls for a determination of whether the pleadings filed by the parties indeed tendered a

genuine issue as to the material facts. In order to resolve this issue, the appellate court need only to look into the pleadings, depositions, admissions, and affidavits submitted by the respective parties without going into the truth or falsity of such documents. It must be noted that under Section 1, Rule 35, of the Rules of Court, a trial court may grant a summary judgment if, on motion of either party, there appears from the pleadings, depositions, admissions, and affidavits that no important issues of fact are involved, except the amount of damages. Trial courts have limited authority to render summary judgments and may do so only when there is clearly no genuine issue as to any material fact. In other words, in a motion for summary judgment, the crucial question is: are the issues raised in the pleadings genuine, sham or fictitious, as shown by affidavits, depositions or admissions accompanying the motion?[18]

Any review by the appellate court of the propriety of the summary judgment rendered by the trial court based on these pleadings would not involve an evaluation of the probative value of any evidence, but would only limit itself to the inquiry of whether the law was properly applied given the facts and these supporting documents. Therefore, what would inevitably arise from such a review are pure questions of law, and not questions of fact, which are not proper in an ordinary appeal under Rule 41, but should be raised by way of a petition for review on certiorari under Rule 45.

Likewise, the issue of whether the rulings of the CA in CA-G.R. SP Nos. 13069 and 13911, and the Supreme Court in Nos. 84269 and 84270, may be applied as “law of the case” involves a question of law.

“Law of the case” has been defined as the opinion delivered on a former appeal. It is a term applied to an established rule that when an appellate court passes on a question and remands the case to the lower court for further proceedings, the question there settled becomes the law of the case upon subsequent appeal.[19] It means that whatever is once irrevocably established as the controlling legal rule or decision between the same parties in the same case continues to be the law of the case, whether correct on general principles or not, so long as the facts on which such decision was predicated continue to be the facts of the case before the court. As a general rule, a decision on a prior appeal of the same case is held to be the law of the case whether that question is right or wrong, the remedy of the party deeming himself aggrieved being to seek a rehearing.[20]

Again, a court need not go into the probative value and/or evaluation of the evidence on hand to determine whether the doctrine of the “law of the case” is applicable in a given case or not. In fact, a mere perusal of the pleadings, orders, and other documents would suffice for a court to determine the applicability of such doctrine. The appellate court need even not delve into the truth or falsity of the evidence presented by the parties during the hearing on the application for a writ of preliminary injunction, or the findings of the trial court in said hearing, rather, the appellate court merely had to determine whether such evidence and findings are conclusive to be considered as “law of the case” on the controversy at hand. Perforce, such inquiry is a question of law.

It is undeniable that the appellate court did not make any finding of fact. Neither did it evaluate the parties’ respective evidence, nor pass upon the truth or falsity of the parties’ allegations. What the appellate court did was simply apply the law as to the facts borne out by the allegations in the pleadings, and whatever conclusions the appellate court arrived at evidently involved questions of law.

Hence, the issues raised being pure questions of law, the appellate court should have dismissed respondents’ appeal outright pursuant to Supreme Court Circular 2-90, which was the law prevailing at the time the appeal was taken,[21] viz.:

- Erroneous Appeals. -- An appeal taken to either the Supreme Court or the Court of Appeals by the wrong or inappropriate mode shall be dismissed.

...

c) Raising issues purely of law in the Court of Appeals, or appeal by wrong mode. -- If an appeal under Rule 41 is taken from the regional trial court to the Court of Appeals and therein the appellant raises only questions of law, the appeal shall be dismissed, issues purely of law not being reviewable by said Court. ...

Nevertheless, in order to serve the ends of substantial justice and fair play, the Court deems it apt to suspend the enforcement of statutory and mandatory rules on appeal in the present case. After all, rules of procedure should be viewed as mere tools designed to aid the courts in the speedy, just and inexpensive determination of the cases before them. Liberal construction of the rules and the pleadings is the controlling principle to effect substantial justice. Litigations should, as much as possible, be decided on their merits and not on mere technicalities.[22]

Thus, in *Ginete vs. Court of Appeals*,[23] the Court ruled that:

In the case at bar, the lawyer's negligence without any participatory negligence on the part of petitioners is a sufficient reason to set aside the resolutions of the Court of Appeals. Aside from matters of life, liberty, honor or property which would warrant the suspension of the rules of the most mandatory character and an examination and review by the appellate court of the lower court's findings of fact, the other elements that should be considered are the following: (1) the existence of special or compelling circumstances, (2) the merits of the case, (3) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules, (4) a lack of any showing that the review sought is merely frivolous and dilatory, (5) the other party will not be unjustly prejudiced thereby.

On the whole, the principal considerations in giving due course to an appeal by suspending the enforcement of statutory and mandatory rules are substantial justice and equity considerations. But the above-cited elements should likewise be considered for the appeal to be reinstated and given due course.

In the present case, the trial court disregarded and misappreciated the allegations in the parties' respective pleadings, and misapplied the rules on summary judgment. A perusal of the records of this case shows that the parties' respective pleadings show that there are genuine issues of fact that necessitate formal trial. Petitioner's complaint alleges certain facts in support of his claim for the nullity of the contract between Golden "L" Films and Lea Production regarding the sale of the film "Maruso." On the other hand, respondents raise substantial factual matters denying petitioner's entitlement to the relief prayed for. These denials in fact tendered genuine material issues necessitating a full-blown trial on the merits and presentation of evidence.

As was found by the appellate court:

Here, the answer of appellants LEA and Emilia Blas raises the following defenses: (1) Appellee Cucueco is not a co-owner or co-producer of the film "MARUSO;" (2) They bought "MARUSO" in good faith from Golden Films, its absolute owner; (3) Appellee does not appear to have any interest in the said motion picture either as stockholder or investor; and (4) Appellee, not being a party in the contract of sale, has no personality to impugn its validity.

Meanwhile, the answer of appellants Golden Films and the Lapid poses the following defenses: (1) The contract between them and appellee Cucueco in the production of "JIMBO" is a "Joint Agreement" wherein under business practices and tradition, all losses and proceeds are shared equally between the parties; (2) All proceeds from the showing of "JIMBO" were actually received by Appellee, through his mother; (3) "MARUSO" was solely produced by the appellants Golden Films and the Lapid and should actually belong to appellants LEA and Emilia Blas upon full payment of the purchase price; and (4) Appellants did not authorize Appellee to pay SQ Laboratories the processing fee, etc.

There is no question that these recitals in appellants' answers raise genuine issues which can only be threshed out in a formal hearing to determine their veracity.[24]

Thus, despite the fact that the CA should not have reviewed this case when it was before it on ordinary appeal, the

Court finds it imperative to consider the CA's decision as a valid and binding judgment on the case.

WHEREFORE, the petition for certiorari is DENIED. The Court of Appeals' Decision dated March 9, 1998, together with the Resolution dated July 6, 1999, is AFFIRMED. Let the records of this case be remanded to the Regional Trial Court of Manila (Branch 18) for further proceedings.

SO ORDERED.

Puno, (Chairman), Callejo, Sr., Tinga, and Chico-Nazario, JJ., concur.

[1] Penned by Associate Justice Angelina Sandoval Gutierrez (now a Member of this Court), with Associate Justices Romeo J. Callejo, Sr. (also now a Member of this Court) and Demetrio G. Demetria, concurring.

[2] Now substituted by her heirs; see Resolution dated December 2, 2002, p. 239, Rollo.

[3] CA Rollo, pp. 318-322.

[4] Id., Motion to Dismiss Appeal, p. 11.

[5] Id., p. 57.

[6] Id., p. 327.

[7] Rollo, p. 18.

[8] Id., pp. 21-22.

[9] Id., p. 23.

[10] Article VIII, Section 5 (2)(e), 1987 Constitution; Rule 45, Rules of Court.

[11] Far East Marble (Phils.), Inc. vs. Court of Appeals, G.R. No. 94093, August 10, 1993, 225 SCRA 249, 255.

[12] Traverse Development Corporation vs. DBP, G.R. No. 150888, September 24, 2004.

[13] Microsoft Corporation vs. Maxicorp., G.R. No. 140946, September 13, 2004.

[14] CA Rollo, Appellants' Brief, p. 18.

[15] Id., pp. 25-27.

[16] Id., pp. 37-58.

[17] China Road and Bridge Corporation vs. Court of Appeals, G.R. No. 137898, December 15, 2000, 348 SCRA 401, 411.

[18] Cotabato Timberland Co., Inc. vs. Alcantara and Sons, Inc., G.R. No. 145469, May 28, 2004.

[19] Magellan Capital Management Corporation vs. Zosa, G.R. No. 129916, March 26, 2001, 355 SCRA 157, 167.

[20] Padillo vs. Court of Appeals, G.R. No. 119707, November 29, 2001, 371 SCRA 141.

[21] Respondents filed a Notice of Appeal from the trial court's decision on October 7, 1991.

[22] Sanchez vs. Court of Appeals, G.R. No. 152766, June 20, 2003, 404 SCRA 540.

[23] G.R. No. 127596. September 24, 1998, 296 SCRA 38, 53.

[24] CA Rollo, pp. 324-325.

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