SPOUSES ELISEO F. ESTARES AND ROSENDA P. ESTARES, PETITIONERS, VS. COURT OF APPEALS, HON. DAMASO HERRERA AS PRESIDING JUDGE OF THE RTC, BRANCH 24, BIÑAN, LAGUNA PROMINENT LENDIN...

G.R. NO. 144755. June 08, 2005

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before us is a petition for certiorari and prohibition under Rule 65 of the Rules of Court which assails the Decision[1] and Resolution of the Court of Appeals dated April 17, 2000 and July 7, 2000, respectively, in CA-G.R. SP No. 56123.

The factual background of the case is as follows:

On May 21, 1999, petitioner Spouses Eliseo F. Estares and Rosenda P. Estares (Estares spouses for brevity) filed a complaint for "Damages and Preliminary Prohibitory Injunction" against private respondent Prominent Lending & Credit Corporation (PLCC) before the Regional Trial Court, Branch 24, Biñan, Laguna, docketed as Civil Case No. B-5476.[2]

They alleged that: on January 12, 1998, they obtained a loan from PLCC for P800,000.00 secured by a real estate mortgage over a 363-square meter parcel of land with improvements situated in the Municipality of Santa Rosa, Laguna, covered by Transfer Certificate of Title (TCT) No. 99261; the promissory note and the real estate mortgage were falsified because they affixed their signatures on two blank documents; the monthly interest of 3.5% and 3% penalty on each delayed monthly interest are different from the 18% interest per annum to which they agreed to; for failure to pay their obligation despite repeated demands, PLCC filed a petition for extrajudicial foreclosure with the Office of the Provincial Sheriff of Laguna; and on June 8, 1999, the Sheriff sent a Notice of Extrajudicial Sale to the Estares spouses.

Accordingly, the Estares spouses sought to declare as null and void the promissory note and the real estate mortgage for not reflecting their true agreement. In the interim, they prayed for a temporary restraining order (TRO) and/or writ of preliminary injunction to enjoin PLCC from taking possession of the mortgaged property and proceeding with the extrajudicial sale scheduled on July 13, 1999 at 10:00 a.m.

On June 30, 1999, the Estares spouses amended their complaint to include the Register of Deeds of Laguna-Calamba Branch, the Provincial Sheriff of Laguna and Sheriff IV Arnel G. Magat as party-defendants.[3]

On July 12, 1999, the trial court issued a TRO in favor of the Estares spouses.[4] The parties subsequently agreed to maintain the status quo until August 20, 1999.[5]

On August 6, 1999, PLCC filed its Answer with Counterclaim alleging that the Estares spouses were duly apprised of the terms and conditions of the loan, including the rate of interest, penalties and other charges, in

accordance with the Truth in Lending Act or Republic Act No. 3765. It opposed the prayer for restraining order on the ground that there is no factual and legal basis for its issuance since the Estares spouses' fear of eviction is false.[6]

At the hearing on the Estares spouses' application for a writ of preliminary injunction, Rosenda P. Estares (Rosenda for brevity) testified that: the loan proceeds of P637,000.00, received on January 12, 1998, was used in the improvement and renovation of their boarding house; they did not question PLCC in writing why they only received P637,000.00; when they received the Statement of Account, they did not question the figures appearing therein; when they received PLCC's demand letter, they went to the former's office not to question the loan's terms and conditions but merely to request for extension of three months to pay their obligation. They adduced in evidence the promissory note, real estate mortgage, statement of account, petition for extrajudicial foreclosure and the notice of extrajudicial sale. The Estares spouses then rested their case.

In opposition to the application for a writ of preliminary injunction, PLCC presented its manager, Rey Arambulo, who testified that the Estares spouses were duly apprised of the terms and conditions of the loan, including the rate of interest, penalties and other charges, in accordance with the Truth in Lending Act or Republic Act No. 3765. It submitted the same evidence offered by the Estares spouses, along with the latter's credit application, the credit investigation report, the receipts PLCC issued, and the disclosure statement on the loan.

On August 18, 1999, the trial court denied the Estares spouses' application for a writ of preliminary injunction, holding that the latter failed to establish the facts necessary for an injunction to issue.[7]

On August 31, 1999, the Estares spouses filed a motion for reconsideration.[8] During the hearing on the motion for reconsideration on September 17, 1999, Eliseo P. Estares (Eliseo for brevity) moved that he be allowed to testify on the circumstances of the loan but the trial court denied it. The trial court deemed it best that he be presented during the trial on the merits.[9] On October 1, 1999, the trial court denied the motion for reconsideration.[10]

On December 7, 1999, the Estares spouses filed a petition for certiorari and prohibition in the Court of Appeals ascribing grave abuse of discretion upon the trial court in issuing the Orders dated August 18, 1999 and October 1, 1999 which denied their prayer for a writ of preliminary injunction and motion for reconsideration, respectively.[11]

On December 14, 1999, without giving due course to the petition, the Court of Appeals issued a Resolution requiring the PLCC to file its comment to the petition. The action on the Estares spouses' application for a TRO and writ of preliminary injunction was deferred and held in abeyance until after receipt of the comment.[12]

With no restraining order enjoining him, Sheriff Magat conducted an auction sale on January 5, 2000, with PLCC as highest bidder for P1,500,000.00.[13]

In its Comment dated January 15, 2000, PLCC claimed that the trial court did not commit grave abuse of discretion in denying the Estares spouses' application for a writ of preliminary injunction since the latter failed to prove their right to injunctive relief and the action sought to be enjoined has been rendered moot by the auction sale conducted on January 5, 2000.[14]

On April 17, 2000, the Court of Appeals dismissed the petition for lack of merit, holding that the trial court did not abuse its discretion in denying the Estares spouses' application for a writ of preliminary injunction since the latter failed to prove the requisites for the issuance thereof. [15]

The Estares spouses then moved for reconsideration of the April 17, 2000 decision. In addition, they prayed that

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the auction sale on January 5, 2000, as well as the minutes of auction sale and certificate of sale, be declared null and void not only because there was no publication of the notice of auction sale but the auction sale preempted the Court of Appeals in the disposition of the case and was conducted in defiance of the Resolution dated December 14, 1999.[16]

On July 7, 2000, the Court of Appeals denied the Estares spouses' motion for reconsideration.[17]

On September 16, 2000, the Estares spouses filed the present petition for certiorari and prohibition anchored on the following grounds:

> I
>
> THE COURT OF APPEALS ERRED IN NOT GRANTING A WRIT OF PRELIMINARY INJUNCTION TO PREVENT RESPONDENTS PLCC AND PROVINCIAL SHERIFF OF LAGUNA/ SHERIFF ARNEL MAGAT FROM FORECLOSING THE MORTGAGE AND CONDUCTING THE AUCTION SALE OF PETITIONERS' PROPERTY AND/OR IN UPHOLDING THE ORDER DATED AUGUST 18, 1999 OF JUDGE DAMASO A. HERRERA, RTC-BRANCH 24, LAGUNA.
>
> II
>
> THE COURT OF APPEALS ERRED IN NOT DECLARING AS NULL AND VOID AND/OR SETTING ASIDE THE AUCTION SALE OF THE PETITIONERS' HOUSE AND LOT CONDUCTED BY SHERIFF ARNEL MAGAT ON JANUARY 5, 2000 FOR LACK OF RE-PUBLICATION OF NOTICE OF EXTRA-JUDICIAL SALE, FOR PRE-EMPTING THE COURT OF APPEALS IN DECIDING THE CASE, AND FOR RENDERING THE PETITION IN CA-G.R. SP NO. 56123 MOOT AND ACADEMIC.
>
> III
>
> THE COURT OF APPEALS ERRED IN NOT DECLARING DENIAL OF DUE PROCESS TO OVERSEAS CONTRACT WORKER ELISEO ESTARES WHEN JUDGE DAMASO A. HERRERA REFUSED TO ALLOW HIM TO TESTIFY ON THE CIRCUMSTANCES OF THEIR LOAN WITH PLCC.[18]

Anent the first ground, the Estares spouses insist that they firmly established their right to injunctive relief. They claim that the promissory note, credit application, disbursement voucher, disclosure statement and real estate mortgage are falsified; the promissory note is not reflective of the true amount of the loan, as well as the term, interest and charges thereon; the P126,362.28 represent additional charges, not as part of the loan, that were not agreed upon prior to or before the consummation of the loan; and the amount of the loan and rate of interest stated in the falsified promissory note are fictitious or simulated.

With respect to the second ground, they maintain that the auction sale conducted on January 5, 2000 should be nullified because it lacked republication of the notice of auction sale and it was conducted in violation of the Court of Appeals' Resolution dated December 14, 1999 which enjoined the parties to maintain the status quo pending the filing by the respondents of their Comment to the petition. They argue that PLCC and Sheriff Magat preempted the Court of Appeals from resolving their petition by conducting the auction sale on January 5, 2000.

As to the third ground, they aver that Eliseo was denied due process when the trial court refused to allow him to testify during the hearing on the motion for reconsideration. They contend that Eliseo, an overseas contract worker, purposely took leave from work in the Middle East to testify on the circumstances of the loan and his testimony was material to clarify the matter of notarization of the real estate mortgage and show that said document was falsified.

On October 2, 2000, the Court granted the TRO prayed for in the petition and required the respondents to comment thereon.[19]

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In its Comment dated October 25, 2000, PLCC asserts that the petition should be dismissed for being deficient on both procedural and substantive aspects.

As to the procedural aspect, PLCC posits that the petition is filed beyond the sixty-day period required by the rules and therefore filed out of time. PLCC further claims that the verification and certification of non-forum shopping are both insufficient. The verification speaks of a "Pre-Trial Brief" while the certification of non-forum shopping was executed only by Rosenda.

As to the substance of the petition, PLCC argues that the Estares spouses failed to establish their right to injunctive relief; the validity of the January 5, 2000 auction sale was brought only in the motion for reconsideration which is improper because it is a factual issue best addressed to the trial court; Sheriff Magat did not preempt the Court of Appeals in deciding CA-G.R. SP No. 56123 when he conducted the auction sale on January 5, 2000 because the Resolution dated December 14, 1999 of the said court did not suspend or restrain the sheriff from conducting the foreclosure sale; Eliseo was not denied due process because he sought to testify on factual matters in the hearing on their motion for reconsideration which is improper as factual matters are best brought and proved during the trial on the merits of the case.

The Court gave due course to the petition and required the parties to submit their respective memoranda[20] which they complied with.[21]

Before ruling on the issues raised in the petition, it is necessary to dwell on the procedural aspects of the case.

From a reading of the grounds on which the instant petition for certiorari and prohibition are based, it is readily apparent that the Estares spouses are appealing a decision of the Court of Appeals by resorting to Rule 65, when their remedy should be based on Rule 45 of the Rules of Court. A petition for review under Rule 45 is not similar to a petition for certiorari under Rule 65.

Under Rule 45, decisions, final orders or resolutions of the Court of Appeals in any case, i.e., regardless of the nature of the action or proceedings involved, may be appealed to us by filing a petition for review on certiorari, which would be but a continuation of the appellate process over the original case.[22] In contrast, a special civil action under Rule 65 is an independent action based on the specific grounds therein provided and proper only if there is no appeal or any plain, speedy and adequate remedy in the ordinary course of law.[23] Thus, certiorari cannot be availed of as a substitute for the lost remedy of an ordinary appeal.[24]

By their own account, the Estares spouses received the Order dated July 7, 2000 denying their motion for reconsideration from the Court of Appeals on July 18, 2000. Instead of filing a petition for review with this Court within 15 days thereof or until August 2, 2000, they filed this special civil action by registered mail on September 16, 2000 or 60 days from receipt of the Order dated July 7, 2000. By then, they had already lost the remedy of appeal. By availing of a wrong remedy, the instant petition should have merited outright dismissal.

Concerning the verification, we note that Rosenda stated therein that she caused the preparation of the "foregoing Pre-Trial Brief" but we consider the same as a slight error and honest mistake in the preparation of the petition. In any event, the purpose of requiring a verification is simply to secure an assurance that the allegations of the petition have been made in good faith; or are true and correct, not merely speculative.[25] This requirement is simply a condition affecting the form of pleadings, and noncompliance therewith does not necessarily render it fatally defective.[26] Indeed, verification is only a formal, not a jurisdictional, requirement.[27]

With regard to the certification of non-forum shopping signed only by Rosenda, the rule is that the certificate of non-forum shopping must be signed by all the petitioners or plaintiffs in a case and the signing by only one of them is insufficient because a lone signatory cannot be presumed to have personal knowledge of the matters

required to be stated in the attestation.[28]

However, the Court has also stressed that the rules on forum shopping, which were designed to promote and facilitate the orderly administration of justice, should not be interpreted with such absolute literalness as to subvert its own ultimate and legitimate objective which is simply to prohibit and penalize the evils of forumshopping.[29] The fact that the rules on forumshopping require strict compliance merely underscores its mandatory nature that it cannot be dispensed with or its requirements altogether disregarded, but it does not thereby interdict substantial compliance with its provisions under justifiable circumstances.[30]

We find that the execution by Rosenda of the certificate of non-forum shopping in behalf of her co-petitioner and husband, Eliseo, constitutes substantial compliance with the Rules. After all they share a common interest in the property involved since it is conjugal property, and the petition questioning the propriety of the decision of the Court of Appeals originated from an action brought by the spouses, and is clearly intended for the benefit of the conjugal partnership. Considering that the husband was at that time an overseas contract worker working in Algeria, whereas the petition was prepared in Sta. Rosa, Laguna, a rigid application of the rules on forumshopping that would disauthorize the wife's signing the certification in her behalf and that of her husband is too harsh and clearly uncalled for.[31]

In any event, we find that this petition must still be dismissed as the Court of Appeals did not commit any grave abuse of discretion amounting to want or excess of jurisdiction in dismissing the petition.

Generally, injunction is a preservative remedy for the protection of substantive rights or interests. It is not a cause of action in itself but merely a provisional remedy, an adjunct to a main suit. The controlling reason for the existence of the judicial power to issue the writ is that the court may thereby prevent a threatened or continuous irremediable injury to some of the parties before their claims can be thoroughly investigated and advisedly adjudicated. It is to be resorted to only when there is a pressing necessity to avoid injurious consequences which cannot be remedied under any standard of compensation. The application of the writ rests upon an alleged existence of an emergency or of a special reason for such an order before the case can be regularly heard, and the essential conditions for granting such temporary injunctive relief are that the complaint alleges facts which appear to be sufficient to constitute a cause of action for injunction and that on the entire showing from both sides, it appears, in view of all the circumstances, that the injunction is reasonably necessary to protect the legal rights of plaintiff pending the litigation.[32]

The Estares spouses had the burden in the trial court to establish the following requirements for them to be entitled to injunctive relief: (a) the existence of their right to be protected; and (b) that the acts against which the injunction is to be directed are violative of such right.[33] To be entitled to an injunctive writ, the petitioner must show, inter alia, the existence of a clear and unmistakable right and an urgent and paramount necessity for the writ to prevent serious damage.[34] Thus, an injunctive remedy may only be resorted to when there is a pressing necessity to avoid injurious consequences which cannot be remedied under any standard compensation.[35]

In the present case, the Estares spouses failed to establish their right to injunctive relief. They do not deny that they are indebted to PLCC but only question the amount thereof. Their property is by their own choice encumbered by a real estate mortgage. Upon the nonpayment of the loan, which was secured by the mortgage, the mortgaged property is properly subject to a foreclosure sale.

Rosenda's testimony sealed the fate of the necessity of the writ of preliminary injunction. She admitted that: they did not question PLCC in writing why they only received P637,000.00; they did not question the figures appearing in the Statement of Account when they received it; and, when they received PLCC's demand letter, they went to the former's office not to question the loan's terms and conditions but merely to request for extension of

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three months to pay their obligation.[36] She acknowledged that they only raised the alleged discrepancy of the amount loaned and the amount received, as well as the blank documents which they allegedly signed, after PLCC initiated the foreclosure proceedings.[37]

It must be stressed that the assessment and evaluation of evidence in the issuance of the writ of preliminary injunction involve findings of facts ordinarily left to the trial court for its conclusive determination.[38] As such, a trial court's decision to grant or to deny injunctive relief will not be set aside on appeal unless the court abused its discretion. In granting or denying injunctive relief, a court abuses its discretion when it lacks jurisdiction, fails to consider and make a record of the factors relevant to its determination, relies on clearly erroneous factual findings, considers clearly irrelevant or improper factors, clearly gives too much weight to one factor, relies on erroneous conclusions of law or equity, or misapplies its factual or legal conclusions.[39]

In the present case, the Estares spouses clearly failed to prove that they have a right protected and that the acts against which the writ is to be directed are violative of said right. Hence, the Court of Appeals did not commit a grave abuse of its discretion amounting to excess or lack of jurisdiction in dismissing petitioners' petition for certiorari.

There is likewise no merit to the claim that the Court of Appeals gravely abused its discretion when it denied the prayer to nullify the auction sale held on January 5, 2000 for lack of republication of the notice of auction sale and for preempting the Court of Appeals in deciding the case and rendering the petition in CA-G.R. SP No. 56123 moot and academic.

The absence of republication of the notice of auction sale is a factual matter which by the weight of judicial precedents cannot be inquired into by this Court in a petition for certiorari. It is best addressed to the attention of the trial court and taken up in the trial of the case, necessitating presentation of evidence by both parties. The propriety of the auction sale is a matter which the trial court is in the best position to determine. For it is basic that certiorari under Rule 65 is a remedy narrow in scope and inflexible in character. It is not a general utility tool in the legal workshop.[40] It offers only a limited form of review. Its principal function is to keep an inferior tribunal within its jurisdiction.[41] It can be invoked only for an error of jurisdiction, that is, one where the act complained of was issued by the court, officer or a quasi-judicial body without or in excess of jurisdiction, or with grave abuse of discretion which is tantamount to lack or in excess of jurisdiction,[42] not to be used for any other purpose,[43] such as to cure errors in proceedings or to correct erroneous conclusions of law or fact.[44] Again suffice it to say that the only issue settled here is the propriety of the non-issuance of a writ of preliminary injunction pending the final outcome of the case.

As to petitioners' assertion that the Court of Appeals in its Resolution dated December 14, 1999 impliedly directed the parties to maintain the status quo, we deemed it worthy to quote in full the said Resolution, thus:

> Without necessarily giving due course to the petition, the Court requires the respondents to file their comment (not motion to dismiss) within ten (10) days from notice, which may be treated as their Answer should the petition be given due course.
>
> Respondents are likewise ordered to show cause in the same Comment why a temporary restraining order and writ of preliminary injunction should not be issued.
>
> The action of the petitioners' application for a temporary restraining order and writ of preliminary injunction is deferred and held in abeyance until after receipt of respondents' Comment.[45]

Clearly, the Court of Appeals did not give due course to the petition but merely required PLCC to comment thereon. The Court of Appeals did not enjoin the conduct of the auction sale. In any case, the necessity for the

issuance of the writ of injunction has been found wanting.

Lastly, the Estares spouses' claim that Eliseo was denied due process when the trial court refused to allow him to testify during hearing on the motion for reconsideration deserves scant consideration.

It must be remembered that a writ of preliminary injunction is generally based solely on initial and incomplete evidence. The evidence submitted during the hearing on an application for a writ of preliminary injunction is not conclusive or complete for only a "sampling" is needed to give the trial court an idea of the justification for the preliminary injunction pending the decision of the case on the merits.[46]

We note that it was the Estares spouses' choice to present only Rosenda to testify on the circumstances of the loan at the hearing on their application for a writ of preliminary injunction and they cannot assert that Eliseo should have been accorded that opportunity during the hearing on the motion for reconsideration. The essence of due process is found in the reasonable opportunity to be heard and submit any evidence one may have in support of one's defense. What the law proscribes is the lack of opportunity to be heard.[47] As long as a party is given the opportunity to defend his interests in due course, he would have no reason to complain, for it is this opportunity to be heard that makes up the essence of due process.[48] Eliseo cannot complain that he was deprived of due process since he is given the full opportunity to testify on the circumstances of the loan during the trial of the main case.[49]

All told, no grave abuse of discretion could therefore be imputed to the Court of Appeals in dismissing petitioners' petition for certiorari with prohibition, for lack of merit.

WHEREFORE, the instant petition for certiorari and prohibition is DISMISSED. The assailed Decision and Resolution of the Court of Appeals dated April 17, 2000 and July 7, 2000, respectively, in CA-G.R. SP No. 56123 are AFFIRMED in all respects. The temporary restraining order issued by this Court is lifted. Costs against petitioners.

SO ORDERED.

Callejo, Sr., Tinga, and Chico-Nazario, JJ., concur.
Puno, (Chairman), J., on official leave.

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[1] Penned by Justice Remedios A. Salazar-Fernando and concurred in by Justices Angelina Sandoval-Gutierrez (now Justice of this Court) and Salvador J. Valdez, Jr.

[2] Rollo, p. 489.

[3] Id., p. 64.

[4] Id., p. 76.

[5] Id., p. 88.

[6] Id., p. 78.

[7] Id., p. 88.

[8] Id., p. 98.

[9] TSN, September 17, 1999, pp. 3-8; Rollo, pp. 760-765.

[10] Rollo, p. 110.

[11] Id., p. 112.

[12] Id., p. 135.

[13] Id., p. 139.

[14] Id., p. 148.

[15] Id., p. 23.

[16] Id., p. 175.

[17] Id., p. 42.

[18] Id., p. 10.

[19] Rollo, p. 189.

[20] Rollo, p. 848.

[21] Id., pp. 1092, 1241.

[22] Go vs. Tong, G.R. No. 151942, November 27, 2003, 416 SCRA 557, 564.

[23] SECTION 1. Petition for certiorari. — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require. xxx

[24] Fortune Guarantee and Insurance Corporation vs. Court of Appeals, G.R. No. 110701, March 12, 2002, 379 SCRA 7, 14; Heirs of Marcelino Pagobo vs. Court of Appeals, G.R. No. 121687, October 16, 1997, 280 SCRA 870, 883.

[25] Pfizer, Inc. vs. Galan, G.R. No. 143389, May 25, 2001, 358 SCRA 240, 247; Robern Development Corporation vs. Quitain, G.R. No. 135042, September 23, 1999, 315 SCRA 150, 159.

[26] Uy vs. Land Bank of the Philippines, G.R. No. 136100, July 24, 2000, 336 SCRA 419, 427.

[27] Shipside Incorporated vs. Court of Appeals, G.R. No. 143377, February 20, 2001, 352 SCRA 334, 345; Joson vs. Executive Secretary Torres, G.R. No. 131255, May 20, 1998, 290 SCRA 279, 303.

[28] Loquias vs. Office of Ombudsman, G.R. No. 139396, August 15, 2000, 338 SCRA 62, 68.

[29] Donato vs. Court of Appeals, G.R. No. 129638, December 8, 2003, 417 SCRA 216, 224-225; Cavile vs. Heirs of Cavile, G.R. No. 148635, April 1, 2003, 400 SCRA 255, 261-262; BA Savings Bank vs. Sia, G.R. No. 131214, July 27, 2000, 336 SCRA 484, 490.

[30] Donato vs. Court of Appeals, supra; Young vs. Keng Seng, G.R. No. 143464, March 5, 2003, 398 SCRA 629, 641; MC Engineering, Inc. vs. NLRC, G.R. No. 142314, June 28, 2001, 360 SCRA 183, 189-190.

[31] See Docena vs. Lapesura, G.R. No. 140153, March 28, 2001, 355 SCRA 658; Dar vs. Alonzo-Legasto, G.R. No. 143016, August 30, 2000, 339 SCRA 306.

[32] Del Rosario vs. Court of Appeals, G.R. No. 115106, March 15, 1996, 255 SCRA 152, 158.

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[33] Zamboanga Barter Goods Retailers Association, Inc. vs. Lobregat, G.R. No. 145466, July 7, 2004, 433 SCRA 624, 629; Suico Industrial Corporation vs. Court of Appeals, G.R. No. 123050, January 20, 1999, 301 SCRA 212, 221.

[34] Ong Ching Kian Chuan vs. Court of Appeals, G.R. No. 130360, August 15, 2001, 363 SCRA 145, 154; Crystal vs. Cebu International School, G.R. No. 135433, April 4, 2001, 356 SCRA 296, 305.

[35] Philippine National Bank vs. Ritratto Group, Inc., G.R. No. 142616, July 31, 2001, 362 SCRA 216, 228.

[36] TSN, Testimony of Rosenda P. Estares, July 26, 1999, pp. 19-20, 56-58, 92-93, 95-96, and 102-103.

[37] Id., p. 70.

[38] Bustamante vs. Court of Appeals, G.R. No. 126371, April 17, 2002, 381 SCRA 171, 178; Lopez vs. Court of Appeals, G.R. No. 110929, January 20, 2000, 322 SCRA 686, 693.

[39] Almeida vs. Gonzales, G.R. No. 159124, January 17, 2005; 42 Am. Jur. 2d, pp. 578-579.

[40] Land Bank of the Philippines vs. Court of Appeals, G.R. No. 129368, August 25, 2003, 409 SCRA 455, 479; San Miguel Foods, Inc.-Cebu B-Meg Feed Plant vs. Laguesma, G.R. No. 116172, October 10, 1996, 263 SCRA 68, 84-85.

[41] Almuete vs. Andres, G.R. No. 122276, November 20, 2001, 369 SCRA 619, 628; Republic vs. Court of Appeals, G.R. No. 95533, November 20, 2000, 345 SCRA 63, 70.

[42] Toyota Motor Phils. Corporation Workers' Association (TMPCWA) vs. Court of Appeals, G.R. No. 148924, September 24, 2003, 412 SCRA 69, 84-85; Land Bank of the Philippines vs. Court of Appeals, supra, p. 480.

[43] Commissioner of Internal Revenue vs. Court of Appeals, G.R. No. 119322, June 4, 1996, 257 SCRA 200, 232; Garcia, Jr. vs. Ranada, Jr., G.R. No. 60935, September 27, 1988, 166 SCRA 9, 16.

[44] Commissioner of Internal Revenue vs. Court of Appeals, supra; Gold City Integrated Port Services, Inc. vs. Intermediate Appellate Court, G.R. Nos. 71771-73, March 31, 1989, 171 SCRA 579, 584.

[45] Rollo, p. 135.

[46] Los Baños Rural Bank, Inc. vs. Africa, G.R. No. 143994, July 11, 2002, 384 SCRA 535, 543; Urbanes, Jr. vs. Court of Appeals, G.R. No. 117964, March 28, 2001, 355 SCRA 537, 545.

[47] Anama vs. Court of Appeals, G.R. No. 128609, January 29, 2004, 421 SCRA 338, 351; Philippine Commercial International Bank vs. Court of Appeals, G.R. No. 114951, July 17, 2003, 406 SCRA 575, 593; Kuizon vs. Desierto, G.R. Nos. 140619-24, March 9, 2001, 354 SCRA 158, 176.

[48] Amana vs. Court of Appeals, supra; Philhouse Development Corporation vs. Consolidated Orix Leasing and Finance Corporation, G.R. No. 135287, April 4, 2001, 356 SCRA 281, 286.

[49] TSNs, Testimony of Eliseo F. Estares, November 20, 2000, February 19, 2001, March 30, 2001 and April 20, 2001; Rollo, pp. 758, 1268, 1319 and 1386.

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