

PAMELA S. SEVILLENNO AND PURITA S. SEVILLENNO, PETITIONERS, VS. PACITA CARILO AND CAMELO CARILO, RESPONDENTS.

G.R. No. 146454. September 14, 2007

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

For our resolution is a petition for review on certiorari assailing the Resolution[1] of the Court of Appeals (Third Division) dated December 20, 2000 in CA-G.R. CV No. 63608.

On October 28, 1998, Pamela and Purita, both surnamed Sevilleno, petitioners, filed with the Regional Trial Court (RTC), Branch 82, Quezon City, a complaint for damages against spouses Camelo and Pacita Carilo, respondents, docketed as Civil Case No. Q-35895. Petitioners prayed for an award of P5,000.00 as actual damages, P400,000.00 as moral damages, P10,000.00 as exemplary damages, and P50,000.00 for attorney's fees.

Respondents seasonably filed their answer with compulsory counterclaim. They prayed that the trial court dismiss the complaint for lack of cause of action.

On March 23, 1999, the RTC *motu proprio* issued an Order dismissing the case for lack of jurisdiction over the subject matter of the case.

Petitioners filed a motion for reconsideration but it was denied by the RTC in an Order dated May 18, 1999.

Petitioners interposed an appeal to the Court of Appeals but it was dismissed for being the wrong mode of appeal. The appellate court held that since the issue being raised is whether the RTC has jurisdiction over the subject matter of the case, which is a question of law, the appeal should have been elevated to the Supreme Court under Rule 45 of the 1997 Rules of Civil Procedure, as amended.

Section 2, Rule 41 of the same Rules which governs appeals from judgments and final orders of the RTC to the Court of Appeals, provides:

SEC. 2. Modes of appeal. —

(a) Ordinary appeal. — The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party. No record on appeal shall be required except in special proceedings and other cases of multiple or separate appeals where the law or these Rules so require. In such cases, the record on appeal shall be filed and served in like manner.

(b) Petition for review. — The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its appellate jurisdiction shall be by petition for review in accordance with Rule 42.

(c) Appeal by certiorari. — In all cases where only questions of law are raised or involved, the appeal shall be to the Supreme Court by petition for review on certiorari in accordance with Rule 45.

In *Macawiwili Gold Mining and Development Co., Inc. v. Court of Appeals*,[2] we summarized the rule on

appeals as follows:

(1)

In all cases decided by the RTC in the exercise of its original jurisdiction, appeal may be made to the Court of Appeals by mere notice of appeal where the appellant raises questions of fact or mixed questions of fact and law;

(2)

In all cases decided by the RTC in the exercise of its original jurisdiction where the appellant raises only questions of law, the appeal must be taken to the Supreme Court on a petition for review on certiorari under Rule 45.

(3)

All appeals from judgments rendered by the RTC in the exercise of its appellate jurisdiction, regardless of whether the appellant raises questions of fact, questions of law, or mixed questions of fact and law, shall be brought to the Court of Appeals by filing a petition for review under Rule 42.

It is not disputed that the issue brought by petitioners to the Court of Appeals involves the jurisdiction of the RTC over the subject matter of the case. We have a long standing rule that a court's jurisdiction over the subject matter of an action is conferred only by the Constitution or by statute.[3] Otherwise put, jurisdiction of a court over the subject matter of the action is a matter of law.[4] Consequently, issues which deal with the jurisdiction of a court over the subject matter of a case are pure questions of law. As petitioners' appeal solely involves a question of law, they should have directly taken their appeal to this Court by filing a petition for review on certiorari under Rule 45, not an ordinary appeal with the Court of Appeals under Rule 41. Clearly, the appellate court did not err in holding that petitioners pursued the wrong mode of appeal.

Indeed, the Court of Appeals did not err in dismissing petitioners' appeal. Section 2, Rule 50 of the same Rules provides that an appeal from the RTC to the Court of Appeals raising only questions of law shall be dismissed; and that an appeal erroneously taken to the Court of Appeals shall be dismissed outright, thus:

Sec. 2. Dismissal of improper appeal to the Court of Appeals. — An appeal under Rule 41 taken from the Regional Trial Court to the Court of Appeals raising only questions of law shall be dismissed, issues of pure law not being reviewable by said court. Similarly, an appeal by notice of appeal instead of by petition for review from the appellate judgment of a Regional Trial Court shall be dismissed.

An appeal erroneously taken to the Court of Appeals shall not be transferred to the appropriate court but shall be dismissed outright.

WHEREFORE, we DENY the petition. The questioned Resolution of the Court of Appeals (Third Division) in CA-G.R. CV No. 63608 is AFFIRMED. Costs against petitioners.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Azcuna, and Garcia, JJ., concur.

[1] Rollo, pp. 13-14. Penned by Associate Justice Remedios A. Salazar-Fernando and concurred in by Associate

Justice Quirino D. Abad Santos, Jr. (retired) and Associate Justice Salvador J. Valdez, Jr. (deceased).

[2] G.R. No. 115104, October 12, 1998, 297 SCRA 602.

[3] De Jesus v. Garcia, G.R. No. 26816, February 28, 1967, 19 SCRA 554.

[4] Calimlim, et al. v. Ramirez, et al., G.R. No. 34362, November 12, 1982, 118 SCRA 399.

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