

JOSE S. BALTAZAR, PETITIONER, VS. DOMINGO B. PANTIG, RUBEN PANTIG, TITO F. BELMONTE, MARLON T. AGAPITO, FRED C. PANGANIBAN, EDDIE DELA CRUZ AGUILAR, RICARDO S. TOLENTINO, MIGUEL...

G.R. NO. 149111. August 09, 2005

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

For our resolution is the petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, of the Decision[1] dated March 23, 2001 and Resolution dated July 16, 2001 of the Court of Appeals in CA-G.R. SP No. 62074.

This case is an offshoot of a property dispute between Jose S. Baltazar, petitioner, and the above-named respondents. In Pantig vs. Baltazar,[2] this Court declared respondents the rightful owners of a 139,126 hectare fishpond located at Sasmuan, Pampanga. After they had been placed in possession of the fishpond, they started cleaning it and had it resurveyed. They rebuilt the destroyed dikes which separate their fishpond from petitioner's property.

Alleging that respondents stole fish and other marine products from his property, petitioner filed a complaint for qualified theft against them with the Municipal Trial Court (MTC) of Sasmuan, Pampanga. After conducting a preliminary investigation, the MTC found probable cause against all the accused (now respondents) and forwarded the records to the Office of the Provincial Prosecutor of that province.

On December 7, 1999, the Provincial Prosecutor filed an Information for qualified theft against respondents with the Regional Trial Court (RTC), Branch 49, Guagua, Pampanga, docketed as Criminal Case No. G-4877.

Upon motion of respondents, the RTC, in a Resolution dated December 14, 1999, ordered a reinvestigation of the case.

On January 10, 2000, the Office of the Provincial Prosecutor filed with the RTC its Resolution recommending the dismissal of the complaint on the following ground:

"The long and protracted land registration case which the Pantigs won should have finally put to rest the issue of ownership and possession of the fishponds in issue, but it seems that the issue is being resurrected again through this complaint where one owner, his son and a son-in-law of a co-owner are being accused of stealing from their own fishpond together with their workers. That, to put it mildly is ridiculous."

Acting thereon, the RTC issued an Order dated January 25, 2000 dismissing the Information.

Instead of filing with the RTC a motion for reconsideration, petitioner, on February 9, 2000, filed a motion with the Office of the Provincial Prosecutor praying, among others, that the Information in Criminal Case No. G-4877 be reinstated and/or refiled by the Office of the Provincial Prosecutor.

On March 6, 2000, the Provincial Prosecutor denied petitioner's motion for lack of merit, pointing out the proper recourse petitioner should have taken, thus:

"Procedurally and substantially, the "Motions" is defective. The reinvestigation was ordered by the court and it was also the court which dismissed the case. Accordingly, complainant's recourse is either to file a motion for reconsideration with that court, or elevate the case to the higher court in a proper action for that purpose."

Petitioner moved for a reconsideration but was denied by the Provincial Prosecutor in an Order dated March 31, 2000.

On April 4, 2000, petitioner filed a petition for certiorari, raffled to the same RTC, Branch 49, docketed therein as Special Civil Case No. G-313. Petitioner alleged that the Provincial Prosecutor committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the Resolutions dated March 6 and 31, 2000; and that he was denied due process.

For their part, respondents filed a motion to dismiss the petition for certiorari based on the following grounds:

- a) Petitioner failed to exhaust all administrative remedies;
- b) He failed to appeal to the Secretary of Justice pursuant to Department Order No. 223; and
- c) Petitioner lacks the legal capacity to sue.

The Provincial Prosecutor also moved for the dismissal of the petition on the ground that petitioner pursued the wrong remedy, arguing that "the correctness of the findings of the prosecution in resolving a complaint is a matter of appeal. Petitioner should have appealed the January 10, 2000 resolution of dismissal, if he so desired, for that is a matter of discretion. That he did not do so is his own fault. A certiorari is not a substitute for appeal. Plainly, this petition is unmeritorious simply because jurisdiction is a non-issue and petitioner had a right to appeal which he did not pursue."

On October 20, 2000, the RTC dismissed the petition for certiorari on the ground that petitioner failed to exhaust all administrative remedies.

Petitioner then interposed an appeal to the Court of Appeals. In a Decision dated March 23, 2001, the Appellate Court affirmed the RTC's assailed Order of October 20, 2000, holding that petitioner's proper remedy was not to file a petition for certiorari, but to appeal the assailed Resolutions of the Provincial Prosecutor to the Department of Justice.

After his motion for reconsideration was denied by the Court of Appeals on July 16, 2000, petitioner filed the instant petition for review on certiorari, raising the following grounds:

"A. THE ADVERSE MARCH 23, 2001 DECISION AND JULY 16, 2001 RESOLUTION OF THE HONORABLE COURT OF APPEALS ARE NOT IN ACCORD WITH LAW AND ESTABLISHED JURISPRUDENCE.

B. THE HONORABLE COURT OF APPEALS IN EFFECT SANCTIONED THE DEPARTURE OF THE PUBLIC RESPONDENTS AND THE REGIONAL TRIAL COURT FROM THE USUAL COURSE OF JUDICIAL PROCEEDINGS.

C. THE HONORABLE COURT OF APPEALS IN EFFECT DID NOT RECOGNIZE THE BASIC RIGHT OF PETITIONER TO DUE PROCESS OF LAW."

We hold that the Court of Appeals seriously erred in affirming the Decision of the RTC dismissing petitioner's petition for certiorari for his failure to exhaust administrative remedies.

When the RTC dismissed the Information for qualified theft on the basis of the Provincial Prosecutor's Resolutions, petitioner's remedy was to file a motion for reconsideration. If it were granted, then the Information could have been reinstated. If not, he could have elevated the matter to a higher court. In other words, the remedies then available to him were within the courts, not elsewhere. This is basic. It bears emphasis that the case was no longer in the Provincial Prosecutor's Office. The Information had been filed and pending in the RTC. Therefore, the discretion whether to dismiss the Information lay in the same court, as what it did, as well as the discretion to reverse its order of dismissal. We simply cannot understand why the Court of Appeals ruled that petitioner should have interposed an appeal to the Secretary of Justice. This is a gross procedural infirmity that the Appellate Court Justices concerned are expected to know.

While the RTC correctly dismissed the petition for certiorari, however, the ground relied upon (non-exhaustion of administrative remedies) is utterly misplaced. Worse, the Court of Appeals erroneously upheld such procedural lapse.

WHEREFORE, the instant petition is GRANTED. The assailed Decision and Resolution of the Court of Appeals in CA-G.R. SP No. 62074 are REVERSED.

SO ORDERED.

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

[1] Penned by Justice Bienvenido L. Reyes and concurred in by Justice Eubulo G. Versola (now deceased) and Justice Marina L. Buzon.

[2] 191 SCRA 830 (1990).

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