TRIPLEX ENTERPRISES, INC., PETITIONER, VS. PNB-REPUBLIC BANK AND SOLID BUILDERS, INC., RESPONDENTS.

G.R. NO. 151007. July 17, 2006

Ponente: CORONA, J.

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CORONA, J.:

This petition for review on certiorari under Rule 45 of the Rules of Court assails the May 29, 2001 decision[1] of the Court of Appeals in CA-G.R. SP No. 53033 which dismissed the petition for certiorari filed by petitioner Triplex Enterprises, Inc. for lack of merit.

The case stemmed from an action for annulment of contract, mandamus and damages filed by petitioner against Leverage & Services Group, Inc.[2] and respondents PNB-Republic Bank and Solid Builders, Inc. before the Regional Trial Court of Pasig City, Branch 153. It was docketed as Civil Case No. 64941.

Petitioner sought to annul the sale of two parcels of land situated in Tagaytay City by PNB-Republic Bank to Solid Builders, Inc. and to compel PNB-Republic Bank to award instead the sale to it as the highest bidder. Petitioner's claim was rejected by PNB-Republic Bank due to the sale of the properties to Solid Builders, Inc. After the rejection of petitioner's bid, Atty. Romeo Roque, the real estate broker whose services were engaged by petitioner for its negotiations with PNB-Republic Bank concerning the Tagaytay properties, obtained a legal opinion[3] from the Office of the Government Corporate Counsel (OGCC):

xxx xxx xxx

> In summary therefore, ... (b) the authority given to the Committee/SMCC to dispose of and approve the sale of acquired assets under Board Resolution No. 000231-1993 is subject to Board approval if the amount is over P3 Million. The absence therefore of the required Board approval on the sale of the subject properties to Solid Builders did not perfect the contract to sell the subject properties; (c) it follows therefore that the Bank may now entertain other offers to purchase the subject properties but any disposition of the subject properties must be with the prior approval of the Board of Directors of the Bank.[4]

During the pre-trial conference, petitioner marked the December 7, 1994 opinion of the OGCC as Exhibit "C" and offered the matter of its existence for stipulation between the parties. Respondents admitted the existence of the opinion but manifested their disagreement with its contents.

During trial, petitioner called Atty. Roque to testify. When Roque's testimony was offered specifically with respect to the legal opinion of the OGCC, counsels for respondents objected to its admission for being violative of the rule on attorney-client privilege between the OGCC and PNB-Republic Bank. The trial court sustained the objection.

Petitioner moved for the reconsideration of the court a quo's refusal to admit its evidence but it was denied in an order dated February 26, 1999. The order disallowed the presentation and admission in evidence of any testimony referring to the December 7, 1994 opinion of the OGCC. The prohibition was based on the ground that the

testimony was in violation of the rule on privileged communication between attorney and client, i.e., the OGCC and PNB- Republic Bank.

Aggrieved, petitioner filed a petition for certiorari with the Court of Appeals. However, the appellate court dismissed the petition. Petitioner moved for reconsideration but the same was denied. Hence, this petition.

Petitioner claims that the Court of Appeals erred when it ruled that the trial court did not commit grave abuse of discretion in disallowing the presentation and admission in evidence of Roque's testimony.

The petition has no merit.

Certiorari as a special civil action is proper when any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its jurisdiction, or with grave abuse of discretion, and there is no appeal nor any plain, speedy and adequate remedy at law.[5] The writ may be issued only where it is convincingly proved that the lower court committed grave abuse of discretion, or an act too patent and gross as to amount to an evasion of a duty, or to a virtual refusal to perform the duty enjoined or act in contemplation of law, or that the trial court exercised its power in an arbitrary and despotic manner by reason of passion or personal hostility.[6]

While certiorari may be maintained as an appropriate remedy to assail an interlocutory order in cases where the tribunal has issued an order without or in excess of jurisdiction or with grave abuse of discretion, it does not lie to correct every controversial interlocutory ruling. In this connection, we quote with approval the pronouncement of the appellate court:

> In this jurisdiction, there is an "erroneous impression that interlocutory [orders] of trial courts on debatable legal points may be assailed by certiorari. To correct that impression and to avoid clogging the appellate court with future certiorari petitions it should be underscored that the office of the writ of certiorari has been reduced to the correction of defects of jurisdiction solely and cannot legally be used for any other purpose."[7]

The writ of certiorari is restricted to truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void.[8] Moreover, it is designed to correct errors of jurisdiction and not errors in judgment.[9] The rationale of this rule is that, when a court exercises its jurisdiction, an error committed while so engaged does not deprive it of the jurisdiction being exercised when the error is committed.[10] Otherwise, every mistake made by a court will deprive it of its jurisdiction and every erroneous judgment will be a void judgment.[11]

When the court has jurisdiction over the case and person of the defendant, any mistake in the application of the law and the appreciation of evidence committed by a court may be corrected only by appeal.[12] The determination made by the trial court regarding the admissibility of evidence is but an exercise of its jurisdiction and whatever fault it may have perpetrated in making such a determination is an error in judgment, not of jurisdiction. Hence, settled is the rule that rulings of the trial court on procedural questions and on admissibility of evidence during the course of a trial are interlocutory in nature and may not be the subject of a separate appeal or review on certiorari. They must be assigned as errors and reviewed in the appeal properly taken from the decision rendered by the trial court on the merits of the case.[13]

Here, petitioner assails the order of the trial court disallowing the admission in evidence of the testimony of Roque on the opinion of the OGCC. By that fact alone, no grave abuse of discretion could be imputed to the trial court. Furthermore, the said order was not an error of jurisdiction. Even assuming that it was erroneous, the mistake was an error in judgment not correctable by the writ of certiorari.

WHEREFORE, the petition is hereby DENIED.

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Costs against petitioner.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Azcuna, and Garcia, JJ., concur.

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[1] Penned by Associate Justice Perlita J. Tria Tirona and concurred in by Associate Justices Delilah Vidallon-Magtolis (now retired) and Teodoro P. Regino (now retired) of the Former Thirteenth Division of the Court of Appeals; rollo, pp. 31-37.

[2] Leverage & Services Group, Inc. failed to appear during the pre- trial conference and was declared as in default.

[3] Dated December 7, 1994.

[4] Annex "E," Petition for Review, rollo, pp. 64-73.

[5] Mercado-Fehr v. Fehr, G.R. No. 152716, 23 October 2003, 414 SCRA 288.

[6] Vda. de Daffon v. Court of Appeals, 436 Phil. 233 (2002).

[7] Decision in CA-G.R. SP No. 53033 citing Justice Oscar M. Herrera, Remedial Law, vol. III, 1999 edition, p. 222, Annex "A," Petition for Review, rollo, pp. 31-37, p. 36.

[8] J.L. Bernardo Construction v. Court of Appeals, 381 Phil. 25 (2000).

[9] Land Bank of the Philippines v. Court of Appeals, G.R. No. 129368, 25 August, 2003, 409 SCRA 455.

[10] Id.

[11] Id.

[12] Cruz v. People, 363 Phil. 156 (1999).

[13] Gatdula v. People, G.R. No. 140688, 26 January 2001, 350 SCRA 382.

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