

**IRENE MARCOS-ARANETA, DANIEL RUBIO, ORLANDO G. RESLIN,
AND JOSE G. RESLIN, PETITIONERS, VS. COURT OF APPEALS, JULITA
C. BENEDICTO, AND FRANCISCA BENEDICTO-PAULINO,
RESPONDENTS.**

G.R. No. 154096. August 22, 2008

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

The Case

This Petition for Review on Certiorari under Rule 45 assails and seeks to nullify the Decision[1] dated October 17, 2001 of the Court of Appeals (CA) in CA-G.R. SP No. 64246 and its Resolution[2] of June 20, 2002 denying petitioners' motion for reconsideration. The assailed CA decision annulled and set aside the Orders dated October 9, 2000, December 18, 2000, and March 15, 2001 of the Regional Trial Court (RTC), Branch 17 in Batac, Ilocos Norte which admitted petitioners' amended complaint in Civil Case Nos. 3341-17 and 3342-17.

The Facts

Sometime in 1968 and 1972, Ambassador Roberto S. Benedicto, now deceased, and his business associates (Benedicto Group) organized Far East Managers and Investors, Inc. (FEMII) and Universal Equity Corporation (UEC), respectively. As petitioner Irene Marcos-Araneta would later allege, both corporations were organized pursuant to a contract or arrangement whereby Benedicto, as trustor, placed in his name and in the name of his associates, as trustees, the shares of stocks of FEMII and UEC with the obligation to hold those shares and their fruits in trust and for the benefit of Irene to the extent of 65% of such shares. Several years after, Irene, through her trustee-husband, Gregorio Ma. Araneta III, demanded the reconveyance of said 65% stockholdings, but the Benedicto Group refused to oblige.

In March 2000, Irene thereupon instituted before the RTC two similar complaints for conveyance of shares of stock, accounting and receivership against the Benedicto Group with prayer for the issuance of a temporary restraining order (TRO). The first, docketed as Civil Case No. 3341-17, covered the UEC shares and named Benedicto, his daughter, and at least 20 other individuals as defendants. The second, docketed as Civil Case No. 3342-17, sought the recovery to the extent of 65% of FEMII shares held by Benedicto and the other defendants named therein.

Respondent Francisca Benedicto-Paulino,[3] Benedicto's daughter, filed a Motion to Dismiss Civil Case No. 3341-17, followed later by an Amended Motion to Dismiss. Benedicto, on the other hand, moved to dismiss[4] Civil Case No. 3342-17, adopting in toto the five (5) grounds raised by Francisca in her amended motion to dismiss. Among these were: (1) the cases involved an intra-corporate dispute over which the Securities and Exchange Commission, not the RTC, has jurisdiction; (2) venue was improperly laid; and (3) the complaint failed to state a cause of action, as there was no allegation therein that plaintiff, as beneficiary of the purported trust, has

accepted the trust created in her favor.

To the motions to dismiss, Irene filed a Consolidated Opposition, which Benedicto and Francisca countered with a Joint Reply to Opposition.

Upon Benedicto's motion, both cases were consolidated.

During the preliminary proceedings on their motions to dismiss, Benedicto and Francisca, by way of bolstering their contentions on improper venue, presented the Joint Affidavit^[5] of Gilmia B. Valdez, Catalino A. Bactat, and Conchita R. Rasco who all attested being employed as household staff at the Marcos' Mansion in Brgy. Lacub, Batac, Ilocos Norte and that Irene did not maintain residence in said place as she in fact only visited the mansion twice in 1999; that she did not vote in Batac in the 1998 national elections; and that she was staying at her husband's house in Makati City.

Against the aforesaid un rebutted joint affidavit, Irene presented her Php 5 community tax certificate^[6] (CTC) issued on "11/07/99" in Curimao, Ilocos Norte to support her claimed residency in Batac, Ilocos Norte.

In the meantime, on May 15, 2000, Benedicto died and was substituted by his wife, Julita C. Benedicto, and Francisca.

On June 29, 2000, the RTC dismissed both complaints, stating that these partly constituted "real action," and that Irene did not actually reside in Ilocos Norte, and, therefore, venue was improperly laid. In its dismissal order,^[7] the court also declared "all the other issues raised in the different Motions to Dismiss x x x moot and academic."

From the above order, Irene interposed a Motion for Reconsideration^[8] which Julita and Francisca duly opposed.

Pending resolution of her motion for reconsideration, Irene filed on July 17, 2000 a Motion (to Admit Amended Complaint),^[9] attaching therewith a copy of the Amended Complaint^[10] dated July 14, 2000 in which the names of Daniel Rubio, Orlando G. Reslin, and Jose G. Reslin appeared as additional plaintiffs. As stated in the amended complaint, the added plaintiffs, all from Ilocos Norte, were Irene's new trustees. Parenthetically, the amended complaint stated practically the same cause of action but, as couched, sought the reconveyance of the FEMII shares only.

During the August 25, 2000 hearing, the RTC dictated in open court an order denying Irene's motion for reconsideration aforementioned, but deferred action on her motion to admit amended complaint and the opposition thereto.^[11]

On October 9, 2000, the RTC issued an Order^[12] entertaining the amended complaint, dispositively stating:

WHEREFORE, the admission of the Amended Complaint being tenable and legal, the same is GRANTED.

Let copies of the Amended Complaint be served to the defendants who are ordered to answer within the reglementary period provided by the rules.

The RTC predicated its order on the following premises:

- (1) Pursuant to Section 2, Rule 10 of the Rules of Court,^[13] Irene may opt to file, as a matter of right, an amended complaint.
- (2) The inclusion of additional plaintiffs, one of whom was a Batac, an Ilocos Norte resident, in the amended complaint setting out the same cause of action cured the defect of improper venue.
- (3) Secs. 2 and 3 of Rule 3 in relation to Sec. 2 of Rule 4 allow the filing of the amended complaint in question in the place of residence of any of Irene's co-plaintiffs.

In time, Julita and Francisca moved to dismiss the amended complaint, but the RTC, by Order[14] dated December 18, 2000, denied the motion and reiterated its directive for the two to answer the amended complaint.

In said order, the RTC stood pat on its holding on the rule on amendments of pleadings. And scoffing at the argument about there being no complaint to amend in the first place as of October 9, 2000 (when the RTC granted the motion to amend) as the original complaints were dismissed with finality earlier, i.e., on August 25, 2000 when the court denied Irene's motion for reconsideration of the June 29, 2000 order dismissing the original complaints, the court stated thusly: there was actually no need to act on Irene's motion to admit, it being her right as plaintiff to amend her complaints absent any responsive pleading thereto. Pushing its point, the RTC added the observation that the filing of the amended complaint on July 17, 2000 ipso facto superseded the original complaints, the dismissal of which, per the June 29, 2000 Order, had not yet become final at the time of the filing of the amended complaint.

Following the denial on March 15, 2001 of their motion for the RTC to reconsider its December 18, 2000 order aforesaid, Julita and Francisca, in a bid to evade being declared in default, filed on April 10, 2001 their Answer to the amended complaint.[15] But on the same day, they went to the CA via a petition for certiorari, docketed as CA-G.R. SP No. 64246, seeking to nullify the following RTC orders: the first, admitting the amended complaint; the second, denying their motion to dismiss the amended complaint; and the third, denying their motion for reconsideration of the second issuance.

Inasmuch as the verification portion of the joint petition and the certification on non-forum shopping bore only Francisca's signature, the CA required the joint petitioners "to submit x x x either the written authority of Julita C. Benedicto to Francisca B. Paulino authorizing the latter to represent her in these proceedings, or a supplemental verification and certification duly signed by x x x Julita C. Benedicto." [16] Records show the submission of the corresponding authorizing Affidavit[17] executed by Julita in favor of Francisca.

Later developments saw the CA issuing a TRO[18] and then a writ of preliminary injunction[19] enjoining the RTC from conducting further proceedings on the subject civil cases.

On October 17, 2001, the CA rendered a Decision, setting aside the assailed RTC orders and dismissing the amended complaints in Civil Case Nos. 3341-17 and 3342-17. The fallo of the CA decision reads:

WHEREFORE, based on the foregoing premises, the petition is hereby GRANTED. The assailed Orders admitting the amended complaints are SET ASIDE for being null and void, and the amended complaints a quo are, accordingly, DISMISSED.[20]

Irene and her new trustees' motion for reconsideration of the assailed decision was denied through the equally assailed June 20, 2002 CA Resolution. Hence, this petition for review is before us.

The Issues

Petitioners urge the setting aside and annulment of the assailed CA decision and resolution on the following submissions that the appellate court erred in: (1) allowing the submission of an affidavit by Julita as sufficient compliance with the requirement on verification and certification of non-forum shopping; (2) ruling on the merits of the trust issue which involves factual and evidentiary determination, processes not proper in a petition for certiorari under Rule 65 of the Rules of Court; (3) ruling that the amended complaints in the lower court should be dismissed because, at the time it was filed, there was no more original complaint to amend; (4) ruling that the respondents did not waive improper venue; and (5) ruling that petitioner Irene was not a resident of Batac, Ilocos Norte and that none of the principal parties are residents of Ilocos Norte.[21]

The Court's Ruling

We affirm, but not for all the reasons set out in, the CA's decision.

First Issue: Substantial Compliance with the Rule
on Verification and Certification of Non-Forum Shopping

Petitioners tag private respondents' petition in CA-G.R. SP No. 64246 as defective for non-compliance with the requirements of Secs. 4[22] and 5[23] of Rule 7 of the Rules of Court at least with regard to Julita, who failed to sign the verification and certification of non-forum shopping. Petitioners thus fault the appellate court for directing Julita's counsel to submit a written authority for Francisca to represent Julita in the certiorari proceedings.

We are not persuaded.

Verification not Jurisdictional; May be Corrected

Verification is, under the Rules, not a jurisdictional but merely a formal requirement which the court may *motu proprio* direct a party to comply with or correct, as the case may be. As the Court articulated in *Kimberly Independent Labor Union for Solidarity, Activism and Nationalism (KILUSAN)-Organized Labor Associations in Line Industries and Agriculture (OLALIA) v. Court of Appeals*:

[V]erification is a formal, not a jurisdictional requisite, as it is mainly intended to secure an assurance that the allegations therein made are done in good faith or are true and correct and not mere speculation. The Court may order the correction of the pleading, if not verified, or act on the unverified pleading if the attending circumstances are such that a strict compliance with the rule may be dispensed with in order that the ends of justice may be served.[24]

Given this consideration, the CA acted within its sound discretion in ordering the submission of proof of Francisca's authority to sign on Julita's behalf and represent her in the proceedings before the appellate court.

Signature by Any of the Principal Petitioners is Substantial Compliance

Regarding the certificate of non-forum shopping, the general rule is that all the petitioners or plaintiffs in a case should sign it.[25] However, the Court has time and again stressed that the rules on forum shopping, which were designed to promote the orderly administration of justice, do not interdict substantial compliance with its provisions under justifiable circumstances.[26] As has been ruled by the Court, the signature of any of the principal petitioners[27] or principal parties,[28] as Francisca is in this case, would constitute a substantial compliance with the rule on verification and certification of non-forum shopping. It cannot be overemphasized that Francisca herself was a principal party in Civil Case No. 3341-17 before the RTC and in the certiorari proceedings before the CA. Besides being an heir of Benedicto, Francisca, with her mother, Julita, was substituted for Benedicto in the instant case after his demise.

And should there exist a commonality of interest among the parties, or where the parties filed the case as a "collective," raising only one common cause of action or presenting a common defense, then the signature of one of the petitioners or complainants, acting as representative, is sufficient compliance. We said so in *Cavile v. Heirs of Clarita Cavile*. [29] Like Thomas Cavile, Sr. and the other petitioners in *Cavile*, Francisca and Julita, as petitioners before the CA, had filed their petition as a collective, sharing a common interest and having a common single defense to protect their rights over the shares of stocks in question.

Second Issue: Merits of the Case cannot be Resolved
on Certiorari under Rule 65

Petitioners' posture on the second issue is correct. As they aptly pointed out, the CA, in the exercise of its

certiorari jurisdiction under Rule 65, is limited to reviewing and correcting errors of jurisdiction only. It cannot validly delve into the issue of trust which, under the premises, cannot be judiciously resolved without first establishing certain facts based on evidence.

Whether a determinative question is one of law or of fact depends on the nature of the dispute. A question of law exists when the doubt or controversy concerns the correct application of law or jurisprudence to a certain given set of facts; or when the issue does not call for an examination of the probative value of the evidence presented, the truth or falsehood of facts being admitted. A question of fact obtains when the doubt or difference arises as to the truth or falsehood of facts or when the query invites the calibration of the whole evidence considering mainly the credibility of the witnesses, the existence and relevancy of specific surrounding circumstances, as well as their relation to each other and to the whole, and the probability of the situation.[30]

Clearly then, the CA overstepped its boundaries when, in disposing of private respondents' petition for certiorari, it did not confine itself to determining whether or not lack of jurisdiction or grave abuse of discretion tainted the issuance of the assailed RTC orders, but proceeded to pass on the factual issue of the existence and enforceability of the asserted trust. In the process, the CA virtually resolved petitioner Irene's case for reconveyance on its substantive merits even before evidence on the matter could be adduced. Civil Case Nos. 3341-17 and 3342-17 in fact have not even reached the pre-trial stage. To stress, the nature of the trust allegedly constituted in Irene's favor and its enforceability, being evidentiary in nature, are best determined by the trial court. The original complaints and the amended complaint certainly do not even clearly indicate whether the asserted trust is implied or express. To be sure, an express trust differs from the implied variety in terms of the manner of proving its existence.[31] Surely, the onus of factually determining whether the trust allegedly established in favor of Irene, if one was indeed established, was implied or express properly pertains, at the first instance, to the trial court and not to the appellate court in a special civil action for certiorari, as here. In the absence of evidence to prove or disprove the constitution and necessarily the existence of the trust agreement between Irene, on one hand, and the Benedicto Group, on the other, the appellate court cannot intelligently pass upon the issue of trust. A pronouncement on said issue of trust rooted on speculation and conjecture, if properly challenged, must be struck down. So it must be here.

Third Issue: Admission of Amended Complaint Proper

As may be recalled, the CA veritably declared as reversibly erroneous the admission of the amended complaint. The flaw in the RTC's act of admitting the amended complaint lies, so the CA held, in the fact that the filing of the amended complaint on July 17, 2000 came after the RTC had ordered with finality the dismissal of the original complaints. According to petitioners, scoring the CA for its declaration adverted to and debunking its posture on the finality of the said RTC order, the CA failed to take stock of their motion for reconsideration of the said dismissal order.

We agree with petitioners and turn to the governing Sec. 2 of Rule 10 of the Rules of Court which provides:

SEC. 2. Amendments as a matter of right. -- A party may amend his pleading once as a matter of right at any time before a responsive pleading is served or in the case of a reply, at any time within ten (10) days after it is served.

As the aforequoted provision makes it abundantly clear that the plaintiff may amend his complaint once as a matter of right, i.e., without leave of court, before any responsive pleading is filed or served. Responsive pleadings are those which seek affirmative relief and/or set up defenses,[32] like an answer. A motion to dismiss is not a responsive pleading for purposes of Sec. 2 of Rule 10.[33] Assayed against the foregoing perspective, the RTC did not err in admitting petitioners' amended complaint, Julita and Francisca not having yet answered the

original complaints when the amended complaint was filed. At that precise moment, Irene, by force of said Sec. 2 of Rule 10, had, as a matter of right, the option of amending her underlying reconveyance complaints. As aptly observed by the RTC, Irene's motion to admit amended complaint was not even necessary. The Court notes though that the RTC has not offered an explanation why it saw fit to grant the motion to admit in the first place.

In *Alpine Lending Investors v. Corpuz*, the Court, expounding on the propriety of admitting an amended complaint before a responsive pleading is filed, wrote:

[W]hat petitioner Alpine filed in Civil Case No. C-20124 was a motion to dismiss, not an answer. Settled is the rule that a motion to dismiss is not a responsive pleading for purposes of Section 2, Rule 10. As no responsive pleading had been filed, respondent could amend her complaint in Civil Case No. C-20124 as a matter of right. Following this Court's ruling in *Breslin v. Luzon Stevedoring Co.* considering that respondent has the right to amend her complaint, it is the correlative duty of the trial court to accept the amended complaint; otherwise, mandamus would lie against it. In other words, the trial court's duty to admit the amended complaint was purely ministerial. In fact, respondent should not have filed a motion to admit her amended complaint.[34]

It may be argued that the original complaints had been dismissed through the June 29, 2000 RTC order. It should be pointed out, however, that the finality of such dismissal order had not set in when Irene filed the amended complaint on July 17, 2000, she having meanwhile seasonably sought reconsideration thereof. Irene's motion for reconsideration was only resolved on August 25, 2000. Thus, when Irene filed the amended complaint on July 17, 2000, the order of dismissal was not yet final, implying that there was strictly no legal impediment to her amending her original complaints.[35]

Fourth Issue: Private Respondents did not Waive Improper Venue

Petitioners maintain that Julita and Francisca were effectively precluded from raising the matter of improper venue by their subsequent acts of filing numerous pleadings. To petitioners, these pleadings, taken together, signify a waiver of private respondents' initial objection to improper venue.

This contention is without basis and, at best, tenuous. Venue essentially concerns a rule of procedure which, in personal actions, is fixed for the greatest convenience possible of the plaintiff and his witnesses. The ground of improperly laid venue must be raised seasonably, else it is deemed waived. Where the defendant failed to either file a motion to dismiss on the ground of improper venue or include the same as an affirmative defense, he is deemed to have waived his right to object to improper venue.[36] In the case at bench, Benedicto and Francisca raised at the earliest time possible, meaning "within the time for but before filing the answer to the complaint,"[37] the matter of improper venue. They would thereafter reiterate and pursue their objection on venue, first, in their answer to the amended complaints and then in their petition for certiorari before the CA. Any suggestion, therefore, that Francisca and Benedicto or his substitutes abandoned along the way improper venue as ground to defeat Irene's claim before the RTC has to be rejected.

Fifth Issue: The RTC Has No Jurisdiction on the Ground of Improper Venue

Subject Civil Cases are Personal Actions

It is the posture of Julita and Francisca that the venue was in this case improperly laid since the suit in question partakes of a real action involving real properties located outside the territorial jurisdiction of the RTC in Batac.

This contention is not well-taken. In a personal action, the plaintiff seeks the recovery of personal property, the enforcement of a contract, or the recovery of damages.[38] Real actions, on the other hand, are those affecting title to or possession of real property, or interest therein. In accordance with the wordings of Sec. 1 of Rule 4, the

venue of real actions shall be the proper court which has territorial jurisdiction over the area wherein the real property involved, or a portion thereof, is situated. The venue of personal actions is the court where the plaintiff or any of the principal plaintiffs resides, or where the defendant or any of the principal defendants resides, or in the case of a non-resident defendant where he may be found, at the election of the plaintiff.[39]

In the instant case, petitioners are basically asking Benedicto and his Group, as defendants a quo, to acknowledge holding in trust Irene's purported 65% stockownership of UEC and FEMII, inclusive of the fruits of the trust, and to execute in Irene's favor the necessary conveying deed over the said 65% shareholdings. In other words, Irene seeks to compel recognition of the trust arrangement she has with the Benedicto Group. The fact that FEMII's assets include real properties does not materially change the nature of the action, for the ownership interest of a stockholder over corporate assets is only inchoate as the corporation, as a juridical person, solely owns such assets. It is only upon the liquidation of the corporation that the stockholders, depending on the type and nature of their stockownership, may have a real inchoate right over the corporate assets, but then only to the extent of their stockownership.

The amended complaint is an action in personam, it being a suit against Francisca and the late Benedicto (now represented by Julita and Francisca), on the basis of their alleged personal liability to Irene upon an alleged trust constituted in 1968 and/or 1972. They are not actions in rem where the actions are against the real properties instead of against persons.[40] We particularly note that possession or title to the real properties of FEMII and UEC is not being disputed, albeit part of the assets of the corporation happens to be real properties.

Given the foregoing perspective, we now tackle the determinative question of venue in the light of the inclusion of additional plaintiffs in the amended complaint.

Interpretation of Secs. 2 and 3 of Rule 3; and Sec. 2 of Rule 4

We point out at the outset that Irene, as categorically and peremptorily found by the RTC after a hearing, is not a resident of Batac, Ilocos Norte, as she claimed. The Court perceives no compelling reason to disturb, in the confines of this case, the factual determination of the trial court and the premises holding it together. Accordingly, Irene cannot, in a personal action, contextually opt for Batac as venue of her reconveyance complaint. As to her, Batac, Ilocos Norte is not what Sec. 2, Rule 4 of the Rules of Court adverts to as the place "where the plaintiff or any of the principal plaintiffs resides" at the time she filed her amended complaint. That Irene holds CTC No. 17019451[41] issued sometime in June 2000 in Batac, Ilocos Norte and in which she indicated her address as Brgy. Lacub, Batac, Ilocos is really of no moment. Let alone the fact that one can easily secure a basic residence certificate practically anytime in any Bureau of Internal Revenue or treasurer's office and dictate whatever relevant data one desires entered, Irene procured CTC No. 17019451 and appended the same to her motion for reconsideration following the RTC's pronouncement against her being a resident of Batac.

Petitioners, in an attempt to establish that the RTC in Batac, Ilocos Norte is the proper court venue, asseverate that Batac, Ilocos Norte is where the principal parties reside.

Pivotal to the resolution of the venue issue is a determination of the status of Irene's co-plaintiffs in the context of Secs. 2 and 3 of Rule 3 in relation to Sec. 2 of Rule 4, which pertinently provide as follows:

Rule 3

PARTIES TO CIVIL ACTIONS

SEC. 2. Parties in interest. -- A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest.

SEC. 3. Representatives as parties. -- Where the action is allowed to be prosecuted or defended by a representative or someone acting in a fiduciary capacity, the beneficiary shall be included in the title of the case and shall be deemed to be the real party in interest. A representative may be a trustee of an express trust, a guardian, an executor or administrator, or a party authorized by law or these Rules. An agent acting in his own name and for the benefit of an undisclosed principal may sue or be sued without joining the principal except when the contract involves things belonging to the principal.

Rule 4

VENUE OF ACTIONS

SEC. 2. Venue of personal actions. -- All other actions may be commenced and tried where the plaintiff or any of the principal plaintiffs resides, or where the defendant or any of the principal defendants resides, or in the case of a non-resident defendant where he may be found, at the election of the plaintiff.

Venue is Improperly Laid

There can be no serious dispute that the real party-in-interest plaintiff is Irene. As self-styled beneficiary of the disputed trust, she stands to be benefited or entitled to the avails of the present suit. It is undisputed too that petitioners Daniel Rubio, Orlando G. Reslin, and Jose G. Reslin, all from Ilocos Norte, were included as co-plaintiffs in the amended complaint as Irene's new designated trustees. As trustees, they can only serve as mere representatives of Irene.

Upon the foregoing consideration, the resolution of the crucial issue of whether or not venue had properly been laid should not be difficult.

Sec. 2 of Rule 4 indicates quite clearly that when there is more than one plaintiff in a personal action case, the residences of the principal parties should be the basis for determining proper venue. According to the late Justice Jose Y. Feria, "the word 'principal' has been added [in the uniform procedure rule] in order to prevent the plaintiff from choosing the residence of a minor plaintiff or defendant as the venue."^[42] Eliminate the qualifying term "principal" and the purpose of the Rule would, to borrow from Justice Regalado, "be defeated where a nominal or formal party is impleaded in the action since the latter would not have the degree of interest in the subject of the action which would warrant and entail the desirably active participation expected of litigants in a case."^[43]

Before the RTC in Batac, in Civil Case Nos. 3341-17 and 3342-17, Irene stands undisputedly as the principal plaintiff, the real party-in-interest. Following Sec. 2 of Rule 4, the subject civil cases ought to be commenced and prosecuted at the place where Irene resides.

Principal Plaintiff not a Resident in Venue of Action

As earlier stated, no less than the RTC in Batac declared Irene as not a resident of Batac, Ilocos Norte. Withal, that court was an improper venue for her conveyance action.

The Court can concede that Irene's three co-plaintiffs are all residents of Batac, Ilocos Norte. But it ought to be stressed in this regard that not one of the three can be considered as principal party-plaintiffs in Civil Case Nos. 3341-17 and 3342-17, included as they were in the amended complaint as trustees of the principal plaintiff. As trustees, they may be accorded, by virtue of Sec. 3 of Rule 3, the right to prosecute a suit, but only on behalf of the beneficiary who must be included in the title of the case and shall be deemed to be the real party-in-interest. In the final analysis, the residences of Irene's co-plaintiffs cannot be made the basis in determining the venue of the subject suit. This conclusion becomes all the more forceful considering that Irene herself initiated and was actively prosecuting her claim against Benedicto, his heirs, assigns, or associates, virtually rendering the impleading of the trustees unnecessary.

And this brings us to the final point. Irene was a resident during the period material of Forbes Park, Makati City. She was not a resident of Brgy. Lacub, Batac, Ilocos Norte, although jurisprudence^[44] has it that one can have several residences, if such were the established fact. The Court will not speculate on the reason why petitioner Irene, for all the inconvenience and expenses she and her adversaries would have to endure by a Batac trial, preferred that her case be heard and decided by the RTC in Batac. On the heels of the dismissal of the original complaints on the ground of improper venue, three new personalities were added to the complaint doubtless to insure, but in vain as it turned out, that the case stays with the RTC in Batac.

Litigants ought to bank on the righteousness of their causes, the superiority of their cases, and the persuasiveness of arguments to secure a favorable verdict. It is high time that courts, judges, and those who come to court for redress keep this ideal in mind.

WHEREFORE, the instant petition is hereby DISMISSED. The Decision and Resolution dated October 17, 2001 and June 20, 2002, respectively, of the CA in CA-G.R. SP No. 64246, insofar as they nullified the assailed orders of the RTC, Branch 17 in Batac, Ilocos Norte in Civil Case Nos. 3341-17 and 3342-17 on the ground of lack of jurisdiction due to improper venue, are hereby AFFIRMED. The Orders dated October 9, 2000, December 18, 2000, and March 15, 2001 of the RTC in Civil Case Nos. 3341-17 and 3342-17 are accordingly ANNULLED and SET ASIDE and said civil cases are DISMISSED.

Costs against petitioners.

SO ORDERED

Quisumbing, (Chairperson), Carpio Morales, Tinga, and Brion, JJ., concur.

[1] Rollo, pp. 306-317. Penned by Associate Justice Elvi John S. Asuncion and concurred in by Associate Justices Perlita J. Tria Tirona and Amelita G. Tolentino.

[2] Id. at 341-341A.

[3] She admitted in the motion to be defendant Franscisca De Leon referred to in the first complaint.

[4] Rollo, pp. 98-99.

[5] Id. at 143.

[6] Id. at 128, CTC No. 12308513.

[7] Id. at 152.

[8] Id. at 153-157.

[9] Id. at 345-346.

[10] Id. at 347-357.

[11] Id. at 165-166.

[12] Id. at 167-171.

[13] Sec. 2. Amendments as a matter of right. - A party may amend his pleading once as a matter of right at any time before a responsive pleading is served x x x.

[14] Rollo, pp. 358-365A.

[15] Id. at 238-245 & 246-253, for Civil Case Nos. 3341-17 and 3342-17, respectively.

[16] Id. at 261.

[17] Id. at 258.

[18] Id. at 262, CA Resolution.

[19] Id. at 300-301.

[20] Supra note 1, at 316.

[21] Rollo, p. 677.

[22] SEC. 4. Verification. -- x x x A pleading is verified by an affidavit that the affiant has read the pleading and that the allegations therein are true and correct of his personal knowledge or based on authentic records. x x x

[23] SEC. 5. Certification against forum shopping. -- The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, [or] tribunal x x x and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact x x x to the court wherein his aforesaid complaint or initiatory pleading has been filed.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing.

[24] G.R. Nos. 149158-59, July 24, 2007, 528 SCRA 45, 60.

[25] *Enopia v. Court of Appeals*, G.R. No. 147396, July 31, 2006, 497 SCRA 211, 219.

[26] *Heirs of Venancio Bajenting v. Ibanez*, G.R. No. 166190, September 20, 2006, 502 SCRA 531, 547-548; citing *Cavile v. Heirs of Clarita Cavile*, G.R. No. 148635, April 1, 2003, 400 SCRA 255.

[27] *Calo v. Villanueva*, G.R. No. 153756, January 30, 2006, 480 SCRA 561, 567.

[28] *Condo Suite Travel, Inc. v. NLRC*, G.R. No. 125671, January 28, 2000, 323 SCRA 679, 687.

[29] Supra note 26, at 262.

[30] *Estate of the Late Encarnacion Vda. de Panlilio v. Dizon*, G.R. No. 148777, October 18, 2007, 536 SCRA 565, 587; citing *Heirs of Cipriano Reyes v. Calumpang*, G.R. No. 138463, October 30, 2006, 506 SCRA 56, 70.

[31] Art. 1443 of the Civil Code provides that no express trust concerning an immovable property may be proved by parol evidence, while Art. 1446 of the Code requires that the beneficiary of an express trust must accept the trust if it imposes onerous conditions.

[32] *Fernandez v. International Corporate Bank*, G.R. No. 131283, October 7, 1999, 316 SCRA 326, 335; citing *Diaz v. Adiong*, G.R. No. 106847, March 5, 1993, 219 SCRA 631, 637.

[33] *Alpine Lending Investors v. Corpuz*, November 24, 2006, 508 SCRA 45, 48; citations omitted.

[34] Id. at 48-49.

[35] See *Bautista v. Maya-Maya Cottages, Inc.*, G.R. No. 148361, November 29, 2005, 476 SCRA 416, 419; citing *Salazar v. Bartolome*, G.R. No. 43364, September 30, 1976, 73 SCRA 247, 250.

[36] *Davao Light & Power Co., Inc. v. Court of Appeals*, G.R. No. 111685, August 20, 2001, 363 SCRA 396, 400.

[37] RULES OF COURT, Rule 16, Sec. 1.

[38] *Regner v. Logarta*, G.R. No. 168747, October 19, 2007, 537 SCRA 277, 293; citing *Hernandez v. Rural Bank of Lucena, Inc.*, No. L-29791, January 10, 1978, 81 SCRA 75, 84.

[39] RULES OF COURT, Rule 4, Sec. 2.

[40] *Asiavest Limited v. Court of Appeals*, G.R. No. 128803, September 25, 1998, 296 SCRA 539, 552.

[41] *Rollo*, p. 157.

[42] 1 CIVIL PROCEDURE ANNOTATED 261 (2001).

[43] 1 REMEDIAL LAW COMPENDIUM 108 (8th ed., 2002).

[44] *Romualdez-Marcos v. Commission on Elections*, G.R. No. 119976, September 18, 1995, 248 SCRA 300, 324.

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