

NEIL TAMONDONG, PETITIONER, VS. COURT OF APPEALS AND WORLD WAR II VETERANS LEGIONNAIRES OF THE PHILIPPINES, INC., RESPONDENTS.

G.R. No. 158397. November 26, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

On December 6, 2001, a civil complaint was filed in the Regional Trial Court (RTC) of Quezon City, Branch 217, for recovery of possession of real property and damages with a plea for a writ of preliminary injunction, wherein the respondent World War II Veterans Legionnaires of the Philippines, Inc. (WWVLPI) appears to be the plaintiff, and Jesse Tamondong, Neil Tamondong, and John Does appear to be the defendants.

The respondent alleged, inter alia, in its complaint that it was the owner and possessor of Lots 1, 2 and 3, with a total area of 502 hectares, more or less, located in Luzon Avenue, Quezon City, as can be gleaned from the following: the Order of the Court of First Instance of Baliwag, Bulacan, Branch IV, in Special Proceeding No. 312-B dated September 17, 1977; and the March 21, 1988 Partial Decision of the RTC, which was affirmed by the Court of Appeals (CA) in CA-G.R. SP No. 17211 and by the Supreme Court in G.R. No. 90245. The respondent also alleged that the sheriff implemented the writ of execution issued by the trial court and turned over the possession of the lots to it on December 3, 1993 and May 13, 1994, respectively. On February 24, 1998, Privata O. Mediona executed a deed of sale with transfer of rights over Lot No. 2206 with an area of 253 square meters, located in Area 6, Veterans' Village, Barangay Holy Spirit, Quezon City, for P20,000 in favor of Sorovabel M. Esteves. On August 10, 1998, the respondent executed in favor of Esteves a certificate of final allocation of Residential Lot No. 98-0027 over a portion of its property located at No. 29 Constabulary Road, Area 6, Veterans' Village, Barangay Holy Spirit, Quezon City. Esteves, thereafter, made demands for Jesse Tamondong, petitioner Neil Tamondong and other unidentified persons who were occupying the property, to vacate the same, but the latter refused.[1]

The respondent prayed that, after due proceedings, judgment be rendered in its favor, thus:

WHEREFORE, premises considered, it is respectfully prayed of the Honorable Court that temporary restraining order be issued upon filing of this case, and after notice and hearing, preliminary injunction be issued to prevent or enjoin defendants and committing (sic) from further committing dispossession or deprivation of the plaintiff and after trial on the merit, judgment will rendered (sic):

- Ordering defendants and company, alias John Does, to vacate and remove their construction on the lot under litigation;
- Ordering defendants and company, alias John Does, to turn over the possession of the lot under litigation to the Plaintiff;
- Ordering defendants and company, alias John Does, to pay P75,000.00 as moral damages, P30,000.00 as exemplary damages;

- Ordering defendants and company, alias John Does, to pay P20,000.00 as for attorney's fee, litigation expenses of P10,000.00 and P25,000.00 accumulated appearance fee until terminated.[2]

The verification and certification of non-forum shopping embodied in the complaint was executed by Esteves as follows:

I, SOROVABEL ESTEVES, of legal age, Filipino, with address at – c/o Unit-90 LTM Arcade, Romarosa Townhomes, Luzon Avenue, Quezon City, after having been declared under oath state:

That I am the Attorney-in-fact and Allocatee of the lot under litigation, that I have caused the preparation of this pleading for and in behalf of WORLD WAR II VETERANS LEGIONNAIRES OF THE PHILIPPINES, INC.; that I have read the contents thereof and the same are true and correct to the best of my knowledge and belief.

That I hereby certify under oath that I have not commenced any action or claim involving the same issues in the Supreme Court, Court of Appeals, tribunal or quasi-agency, and to the best of my knowledge and belief, there is no pending action or claim before such courts, or tribunal or quasi-agency. If there is then I will immediately inform such court of such pendency within 5 days from such knowledge.

Quezon City, December 3, 2001.

(Sgd.)

SOROVABEL ESTEVES

Affiant

SUBSCRIBED AND SWORN to before me this 4th day of December, 2001 at Quezon City, affiant exhibited his CTC No. CCI05956191, issued at Quezon City on January 16, 2001.

(Sgd.)

Doc. No. 822;

ATTY. ELADIO B. ABQUINA

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Appended to the complaint as Annex "G" thereof was a Certificate of Final Allocation of Residential Lot, purportedly issued by Enrique Abila, the National President of respondent WWVLPI over an unidentified parcel of land located at Area 6, Veterans' Village, Barangay Holy Spirit, Quezon City; and as Annex "G-1" thereof, a Deed of Sale with Transfer of Rights executed by Privata O. Mediona in favor of Esteves over Lot No. 2206 located at Area 6, Veterans' Village, Barangay Holy Spirit, Quezon City, with an area of 253 square meters.[4]

The summons and complaint were served on the petitioner and his co-defendants on December 7, 2001. Shortly thereafter, on December 11, 2001, the trial court issued an Order dismissing the complaint on the following ratiocination:

... [I]t appears that the alleged attorney-in-fact who filed the case in behalf of plaintiff World War II Veterans Legionnaires of the Philippines, Inc. is not clothed with the appropriate authority and is, therefore, not the proper party to file the same.

A proper party is one who has sustained or is in danger of sustaining an immediate injury as a result of the acts or measures complained of. (Macasiano vs. National Housing Authority, 224 SCRA 236)[5]

The respondent filed a motion for reconsideration alleging that Esteves was an allocatee of the property subject of the complaint; hence, as a real party-in-interest or as a beneficiary thereof, he may be affected or injured by the outcome of the case. The respondent also alleged that Esteves was a proper party under Section 3, Rule 3 of the Rules of Court. Thus, the respondent claimed that the court dismissed the complaint precipitately without giving it a chance to adduce in evidence during the pre-trial or trial proper the special power of attorney it executed in favor of Esteves.[6] The court denied the motion in an Order dated February 18, 2002.[7]

In due course, the respondent appealed the orders to the CA. In its brief as the appellant therein, the respondent averred the following:

THAT THE TRIAL COURT ERRED IN DISMISSING THE COMPLAINT FOR ALLEGED LACK OF CAUSE OF ACTION.

...

THAT THE DISMISSAL OF THE CASE IS CONTRARY TO EVIDENCE, LAW AND JURISPRUDENCE, THEREBY COMMITTING REVERSIBLE ERROR.[8]

The CA rendered a decision on May 29, 2003, reversing and setting aside the orders appealed from. The appellate court held that as gleaned from the material averments of the complaint, the respondent had sufficient causes of action against the petitioner and the appellees therein.[9]

The petitioner, thereafter, filed the instant petition for review on certiorari and raises the following issues: (a) whether an appeal by a writ of error is the proper remedy of the respondent from the assailed orders of the trial court; (b) whether Esteves is authorized to file the action; and (c) whether the respondent is the real party-in-interest as party-plaintiff in the trial court.

On the first issue, the petitioner avers that the remedy of the respondent from the assailed orders of the RTC was to file a petition for review on certiorari under Rule 45 of the Rules of Court, it appearing that, based on the brief of the respondent as appellant in the CA, it raised only questions of law for resolution.

The petitioner avers that the respondent's claim in the CA that the assailed order of the RTC was contrary to the evidence has no basis, because the RTC dismissed the respondent's complaint based merely on the allegations therein and its appendages. The petitioner contends that the CA should have dismissed the appeal of the respondent, conformably to Section 2, Rule 50 of the Rules of Court:

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 question of law shall be dismissed, issues purely of 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 the Regional Trial Court shall be dismissed.

An appeal erroneously taken to the appropriate court but shall be dismissed.

The respondent, for its part, avers that Esteves is the real party-in-interest because he is the allocatee of the property subject of the complaint and will be affected by the outcome of the case; hence, he is the real party-in-interest.

We agree with the petitioner. Sections 1 and 2, Rule 41[10] of the Rules of Court provide that an appeal may be taken from the final order of the RTC dismissing the complaint in the exercise of its original jurisdiction to the CA. The appeal shall be taken by filing a notice of appeal with the RTC and the payment of the requisite fees therefor unless record on appeal is required in other cases. However, under Section 2(c) of the said rule, where only questions of law are raised or involved, the appeal shall be taken to the Supreme Court by petition for review on certiorari in accordance with Rule 45 of the Rules of Court.[11] The nature of the issues to be raised can be gleaned from the appellant's notice of appeal and his brief in the CA. If it appears from the brief that the only issues raised are legal and not factual, the appellate court is mandated to dismiss the appeal in accordance with Section 2, Rule 50 of the Rules of Court.

If the appellant desires to raise only questions of law in the appellate court, he should file a petition for review on certiorari in the Supreme Court within the period therefor, serving a copy thereof on the lower court concerned in accordance with Section 3, Rule 45 of the Rules of Court.

The Court has consistently ruled that a question of law exists when there is a doubt or controversy as to what the law is on a certain state of facts. On the other hand, there is a question of fact when the doubt or difference arises as to the truth or the alleged falsehood of the alleged facts.[12] For a question to be one of law, it must involve no examination of the probative value of the evidence presented by the litigants or any of them.[13]

In the present case, the RTC dismissed the complaint based on the allegations of the complaint and the verification-certification embedded in the complaint on two grounds: (a) Esteves, who filed the complaint as the respondent's attorney-in-fact, was not clothed with authority to do so for and in behalf of the respondent, via resolution of the latter's board of directors; and (b) Esteves was not the proper party as plaintiff in the court a quo.

The trial court ruled that since the respondent failed to append to its complaint the resolution of its board of directors specifically authorizing Esteves to file the complaint for and in its behalf, Esteves had no authority to file such complaint. The trial court concluded that, since he had no authority to file the complaint for and in behalf of the plaintiff, Esteves became the plaintiff but was not the proper party envisaged in Section 2, Rule 3 of the 1997 Rules of Civil Procedure, which reads:

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.

The trial court was correct when it ruled that Esteves did not have the authority from the board of directors to file the complaint for and in its behalf. Esteves admitted, in his motion for reconsideration, that when the complaint was filed, there was no resolution from the board of directors of the plaintiff therein specifically authorizing him to file the complaint for and in its behalf. He merely reserved the right to adduce the said resolution at the pre-trial or trial stage of the proceedings. However, the trial court erred in ruling that since Esteves filed the complaint for and in behalf of the plaintiff in spite of lack of authority from the board of directors of the plaintiff for him to do so, Esteves thus became the plaintiff. The bare fact that Esteves had no authority from the plaintiff to file the complaint for and in its behalf, Esteves did not thereby make himself the plaintiff. Indeed, as gleaned from the complaint, the WWVLPI is the plaintiff.

Evidently, the trial court erred in dismissing the complaint on the ground that Esteves, not having been authorized by the respondent to file the complaint for and in its behalf, was not the proper party under Section 2, Rule 3 of the Rules of Court. If a complaint is filed for and in behalf of the plaintiff who is not authorized to do so, the complaint is not deemed filed. An unauthorized complaint does not produce any legal effect. Hence, the court should dismiss the complaint on the ground that it has no jurisdiction over the complaint and the plaintiff. On the

other hand, if a complaint is filed by an agent or plaintiff, for and in behalf of the principal, the plaintiff who is merely the agent is not the proper party. The reason being that every action must be presented in the name of the real party-in-interest.[14] The complaint may be dismissed on the ground that the plaintiff has no cause of action against the defendants, conformably to Section 1(g), Rule 16 of the 1997 Rules of Civil Procedure.[15]

The complaint is fatally defective for another reason. The certification against forum shopping was executed by Esteves, who is not an officer of the respondent or authorized by its board of directors to execute the requisite certificate of non-forum shopping. Under Section 5, Rule 7 of the Rules of Court,[16] the certification against forum shopping must be executed by the plaintiff or principal party. Since the plaintiff is a corporation, the certification must be executed by an officer or member of the board of directors or by one who is duly authorized by a resolution of the board of directors; otherwise, the complaint will have to be dismissed.[17] The reason for this is that the plaintiff or the principal knows better than anyone, whether a petition has previously been filed involving the same case or substantially the same issues. Esteves alleged in the complaint that he was merely an attorney-in-fact of the respondent. Worse, it was he, although he was not an officer or a member of the board of directors of the respondent, who certified that no action or claim involving the same issues had been commenced in any other tribunal.

We reject the contention of the respondent that since he was an allocatee of the property subject of the complaint and will be affected by the outcome of the case, he is the real party-in-interest under Section 2, Rule 3 of the Rules of Court. If the contention of the respondent is correct, Esteves should have filed the complaint as party-plaintiff. He did not.

The trial court dismissed the complaint on its perception that, based on the allegations therein and the appendages thereof, Esteves was not authorized to file the complaint for and in behalf of the respondent, and that Esteves was not the proper party. Whether or not the trial court erred in dismissing the complaint on those grounds is a legal issue, reviewable only by this Court in a petition for review on certiorari under Rule 45 of the Rules of Court.[18]

What is worrisome is that, in their brief, the petitioner and his co-appellees in the CA asserted that the issues raised by the respondent in its appeal were legal and not factual in nature; hence, the CA had no appellate jurisdiction over the same. The petitioner as appellee in the CA, argued that –

The Supreme Court in *Parañaque Kings Enterprises, Inc. vs. Court of Appeals*, (268 SCRA 727), made an appropriate distinction between a question of law and question of facts. Thus, relatively stated that – the principal legal question, as stated earlier, is whether the complaint states a valid cause of action. Since such question assumes the facts alleged in the complaint as true, it follows that the determination thereof is one of law, and not of facts. There is a question of law in a given case when the doubt or differences arises (sic) as to what the law is on a certain state of facts, and there is a question of fact when the doubt or differences arises (sic) as to the truth or falsehood of alleged facts.

Obviously, the instant appeal before this Honorable Court of Appeal, which was premised on pure question of law, was improperly undertaken by appellant. Accordingly, the instant appeal should be summarily dismissed.[19]

However, the CA ignored the threshold issues raised by the petitioner and his co-appellees. In resolving the petition before it, the appellate court confined itself to the issue of whether or not the complaint stated a sufficient cause of action against the defendants-appellees therein.

In view of our foregoing disquisitions, there is no longer a need to still delve into and resolve the other issues.

IN LIGHT OF ALL THE FOREGOING, the petition is GRANTED. The assailed decision of the Court of Appeals is SET ASIDE AND NULLIFIED. The assailed orders of the Regional Trial Court, dismissing the

complaint and denying the respondent's motion for reconsideration, are REINSTATED. No costs.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Tinga, and Chico-Nazario, JJ., concur.

[1] Records, pp. 1-4.

[2] Id. at 5.

[3] Id at 6.

[4] Id. at 28-30.

[5] Id. at 34.

[6] Id. at 36-39.

[7] Id. at 41.

[8] CA Rollo, p. 10.

[9] Annex "J," Rollo, pp. 104-109.

[10] Section 1. Subject of appeal. – An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

...

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.

[11] Section 1 of Rule 45 provides:

Section 1. Filing of petition with Supreme Court. – A party desiring to appeal by certiorari from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on certiorari. The petition shall raise only questions of law, which must be distinctly set forth.

[12] *Skippers Pacific, Inc. v. Mira*, 392 SCRA 371 (2002); *Western Shipyard Services, Inc. v. Court of Appeals*, 358 SCRA 257 (2001); *Medina v. Asistio, Jr.*, 191 SCRA 218 (1990).

[13] *Manila Bay Club Corporation v. Court of Appeals*, 245 SCRA 715 (1995).

[14] *Hilario v. La Congregacion*, 27 Phil. 593 (1913).

[15] Section 1. Grounds. – Within the time for but before filing the answer to the complaint or pleading asserting a claim, a motion to dismiss may be made on any of the following grounds:

- (a) That the court has no jurisdiction over the person of the defending party;
- (b) That the court has no jurisdiction over the subject matter of the claim;
- (c) That venue is improperly laid;
- (d) That the plaintiff has no legal capacity to sue;
- (e) That there is another action pending between the same parties for the same cause;
- (f) That the cause of action is barred by a prior judgment or by the statute of limitations;
- (g) That the pleading asserting the claim states no cause of action.

[16] 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, tribunal or quasi-judicial agency 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 within five (5) days therefrom 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. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.

[17] *Eslaban, Jr. v. Onorio*, 360 SCRA 230 (2001); *Digital Microwave Corporation v. Court of Appeals*, 328 SCRA 286 (2000).

[18] *Supra* at note 11.

[19] CA Rollo, p. 42.

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