# REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. ANGELO B. MALABANAN, PABLO B. MALABANAN, GREENTHUMB REALTY AND DEVELOPMENT CORPORATION AND THE REGISTRAR OF DEEDS OF BATANGAS, RESPO...

*G.R. No. 169067. October 06, 2010*

Ponente: VILLARAMA, JR., J.

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**VILLARAMA, JR., J.:**

This petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, seeks to overturn the Resolution[1] dated July 20, 2005 of the Court of Appeals (CA) in CA-G.R. CV No. 70770 dismissing petitioner's appeal.

The facts are as follows:

Respondents Angelo B. Malabanan and Pablo B. Malabanan were registered owners of a 405,000-square-meter parcel of land situated in Talisay, Batangas and covered by Transfer Certificate of Title (TCT) No. T-24268[2] of the Register of Deeds of Tanauan, Batangas. Said parcel of land was originally registered on April 29, 1936 in the Register of Deeds of Batangas under Original Certificate of Title (OCT) No. 0-17421[3] pursuant to Decree No. 589383[4] issued in L.R.C. Record No. 50573. OCT No. 0-17421 was cancelled and was replaced with TCT No. T-9076 from which respondent's title, TCT No. T-24268, was derived. The parcel of land was later subdivided into smaller lots resulting in the cancellation of TCT No. T-24268. The derivative titles are now either in the names of the Malabanans or respondent Greenthumb Realty and Development Corporation.

Petitioner Republic of the Philippines claims that in an investigation conducted by the Department of Environment and Natural Resources (Region IV), it was revealed that the land covered by TCT No. T-24268 was within the unclassified public forest of Batangas per L.C. CM No. 10. This prompted petitioner's filing of a complaint[5] for reversion and cancellation of title against respondents on March 30, 1998. The case was docketed as Civil Case No. T-1055 and raffled off to Branch 83 of the Regional Trial Court (RTC) of Batangas. The case was later re-docketed as Civil Case No. C-192.

On May 5, 1998, the Malabanans filed a Motion to Dismiss.[6] They argued that the complaint failed to state a cause of action; the court has no jurisdiction over the subject matter; the complaint violates Section 7,[7] Rule 8 of the 1997 Rules of Civil Procedure, as amended, since petitioner did not attach a copy of Decree No. 589383 of the Court of First Instance of Batangas, pursuant to which OCT No. 0-17421 was issued in LRC Record No. 50573; and that a similar complaint for reversion to the public domain of the same parcels of land between the same parties has already been dismissed by the same court.

In an Order[8] dated December 11, 1998, the trial court dismissed the complaint. The salient portions of the order read:

> A similar complaint for reversion to the public domain of the same parcels of land was filed with this Court on

> July 14, 1997 by plaintiff against defendants-movants. The case, docketed as Civil Case No. T-784, was dismissed on December 7, 1992 (sic) for lack of jurisdiction.
>
> As pointed out by movants, the nullification of Original Certificate of Title No. 0-17421 and all its derivative titles would involve the nullification of the judgment of the Land Registration Court which decreed the issuance of the title over the property. Therefore, the applicable provision of law is Section 9 (2) of Batas Pambansa Blg. 129 which vests upon the Court of Appeals exclusive jurisdiction over actions for annulment of judgments of the Regional Trial Court.
>
> Moreover, this Court is aware, and takes judicial notice, of the fact that the parcels of land, subject of reversion had been the subject of several cases before this Court concerning the ownership and possession thereof by defendants-movants. These cases were even elevated to the Court of Appeals and the Supreme Court which, in effect, upheld the ownership of the properties by defendants Malabanans. Said decisions of this Court, the Court of Appeals, and the Supreme Court should then also be annulled.[9] (Emphasis and underscoring supplied.)

On January 5, 1999, petitioner filed a Notice of Appeal[10] from the order of dismissal. On January 18, 1999, the Malabanans moved to deny due course and to dismiss appeal arguing that petitioner, in filing a notice of appeal, adopted an improper mode of appeal. The Malabanans contended that the issue of jurisdiction of the trial court over the complaint filed by petitioner is a question of law which should be raised before the Supreme Court via a petition for review on certiorari under Rule 45.[11]

On June 29, 1999, the trial court issued an Order[12] denying due course and dismissing petitioner's appeal. However, on certiorari,[13] docketed as CA-G.R. SP No. 54721, said order was reversed by the CA on February 29, 2000. The CA ruled that the determination of whether or not an appeal may be dismissed on the ground that the issue involved is purely a question of law is exclusively lodged within the discretion of the CA. Consequently, the trial court was directed to give due course to petitioner's appeal and order the transmittal of the original records on appeal to the CA.[14]

Petitioner, in its Appeal Brief[15] filed before the CA, raised this lone assignment of error:

> THE COURT A QUO ERRED IN DISMISSING THE COMPLAINT ON THE GROUND OF LACK OF JURISDICTION.[16]

A perusal of the arguments in the brief reveals that not only did petitioner raise the jurisdictional issue, it likewise questioned the portion of the dismissal order where it was held that several cases involving the subject land have already been filed and in those cases, the CA and the Supreme Court have upheld respondents' ownership. Petitioner argued that the question of whether the right of the Malabanans had, in fact, been upheld is factual in nature and necessarily requires presentation of evidence.[17]

On July 20, 2005, however, the CA issued the assailed Resolution dismissing petitioner's appeal, holding that the issue of jurisdiction, being a pure question of law, is cognizable only by the Supreme Court via a petition for review on certiorari. It dismissed petitioner's appeal under Section 2,[18] Rule 50 of the 1997 Rules of Civil Procedure, as amended.

Before us, petitioner raises the sole issue of:

> WHETHER THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR IN DISMISSING PETITIONER'S APPEAL FOR BEING THE WRONG MODE TO ASSAIL THE TRIAL COURT'S ORDER.[19]

Petitioner argues that the issue surrounding the validity of the order dismissing the complaint does not only


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involve a question of law but also involves a question of fact. The question of fact pertains to the portion of the trial court's assailed order which stated that the Malabanans' ownership had been upheld by the CA and the Supreme Court. Petitioner contends that the question of whether such right had in fact been upheld is factual in nature. Petitioner adds that the trial court has jurisdiction over the complaint and should not have dismissed the complaint in the first place.

Respondents, on the other hand, counter that there are no factual issues involved because they are deemed to have hypothetically admitted the truth of the facts alleged in the complaint when they filed a motion to dismiss.

The petition is meritorious.

In Murillo v. Consul,[20] we had the opportunity to clarify the three (3) modes of appeal from decisions of the RTC, to wit: (1) by ordinary appeal or appeal by writ of error under Rule 41,[21] where judgment was rendered in a civil or criminal action by the RTC in the exercise of original jurisdiction; (2) by petition for review under Rule 42,[22] where judgment was rendered by the RTC in the exercise of appellate jurisdiction; and (3) by petition for review on certiorari to the Supreme Court under Rule 45.[23] The first mode of appeal is taken to the CA on questions of fact or mixed questions of fact and law. The second mode of appeal is brought to the CA on questions of fact, of law, or mixed questions of fact and law. The third mode of appeal is elevated to the Supreme Court only on questions of law.[24]

And in Leoncio v. De Vera,[25] this Court has differentiated a question of law from a question of fact. A question of law arises when there is doubt as to what the law is on a certain state of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts. For a question to be one of law, the same must not involve an examination of the probative value of the evidence presented by the litigants or any of them. The resolution of the issue must rest solely on what the law provides on the given set of circumstances. Once it is clear that the issue invites a review of the evidence presented, the question posed is one of fact. Thus, the test of whether a question is one of law or of fact is not the appellation given to such question by the party raising the same; rather, it is whether the appellate court can determine the issue raised without reviewing or evaluating the evidence, in which case, it is a question of law; otherwise it is a question of fact.[26]

Here, petitioner's appeal does not only involve a question of law. Aside from the trial court's ruling that it has no jurisdiction over the complaint, petitioner likewise questioned the other basis for the trial court's ruling, which refers to previously decided cases allegedly upholding with finality the ownership of the Malabanans over the disputed property. As correctly argued by petitioner, the question of whether the ownership of the Malabanans has in fact been sustained with finality is factual in nature as it requires the presentation of evidence.

Since the appeal raised mixed questions of fact and law, no error can be imputed on petitioner for invoking the appellate jurisdiction of the CA through an ordinary appeal under Rule 41.

WHEREFORE, the Resolution dated July 20, 2005 of the Court of Appeals in CA-G.R. CV No. 70770 is REVERSED and SET ASIDE. Petitioner's appeal is REINSTATED and the instant case is REMANDED to the Court of Appeals, which is directed to proceed with the usual appeal process therein with deliberate dispatch.

No costs.

**SO ORDERED.**

Carpio Morales, (Chairperson), Brion, Bersamin, and Sereno, JJ., concur.

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[1] Rollo, pp. 26-28. Penned by Associate Justice Ruben T. Reyes (now a retired member of this Court), with


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Associate Justices Bienvenido L. Reyes and Elvi John S. Asuncion concurring.

[2] Records, p. 11.

[3] Id. at 12-13.

[4] Id. at 14-15.

[5] Id. at 1-10.

[6] Id. at 22-31.

[7] SEC. 7. Action or defense based on document.--Whenever an action or defense is based upon a written instrument or document, the substance of such instrument or document shall be set forth in the pleading, and the original or a copy thereof shall be attached to the pleading as an exhibit, which shall be deemed to be a part of the pleading, or said copy may with like effect be set forth in the pleading.

[8] Records, pp. 85-86.

[9] Id.

[10] Id. at 90-91.

[11] Id. at 93-96.

[12] Id. at 103-104.

[13] Id. at 107-120.

[14] Id. at 195-202.

[15] CA rollo, pp. 27-50.

[16] Id. at 38.

[17] Id. at 46-47.

[18] 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 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 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.

[19] Rollo, p. 15.

[20] Resolution of the Court En Banc in UDK-9748 dated March 1, 1990 as cited in Macababbad, Jr. v. Masirag, G.R. No. 161237, January 14, 2009, 576 SCRA 70, 83.

[21] Rule 41 - Appeal from the Regional Trial Courts.

[22] Rule 42 - Petition for Review from the Regional Trial Courts to the Court of Appeals.

[23] Rule 45 - Appeal by Certiorari to the Supreme Court.

[24] Macababbad, Jr. v. Masirag, supra note 20, at 83-84; see also Abedes v. Court of Appeals, G.R. 174373, October 15, 2007, 536 SCRA 268, 285-286; and Suarez v. Villarama, Jr., G.R. No. 124512, June 27, 2006, 493

SCRA 74, 80.

[25] G.R. No. 176842, February 18, 2008, 546 SCRA 180.

[26] Id. at 184, citing Binay v. Odeña, G.R. No. 163683, June 8, 2007, 524 SCRA 248, 255-256, further citing Velayo-Fong v. Velayo, G.R. No. 155488, December 6, 2006, 510 SCRA 320, 329-330.

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