

GENEROSA ALMEDA LATORRE, PETITIONER, VS. LUIS ESTEBAN LATORRE, RESPONDENT.

G.R. No. 183926. March 29, 2010

Ponente: NACHURA, J.

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NACHURA, J.:

Before this Court is a Petition for Review on Certiorari[1] under Rule 45, in relation to Rule 41, of the Rules of Civil Procedure, assailing the decision[2] of the Regional Trial Court (RTC) of Muntinlupa City, Branch 256, dated April 29, 2008.

The facts of the case are as follows:

In October 2000, petitioner Generosa Almeda Latorre (petitioner) filed before the RTC of Muntinlupa City a Complaint[3] for Collection and Declaration of Nullity of Deed of Absolute Sale with application for Injunction against her own son, herein respondent Luis Esteban Latorre (respondent), and one Ifzal Ali (Ifzal).

Petitioner averred that, on September 28, 1999, respondent and Ifzal entered into a Contract of Lease[4] over a 1,244-square meter real property, situated at No. 1366 Caballero St., Dasmariñas Village, Makati City (subject property). Under the said contract, respondent, as lessor, declared that he was the absolute and registered owner of the subject property. Petitioner alleged that respondent's declaration therein was erroneous because she and respondent were co-owners of the subject property in equal shares.

Petitioner narrated that, on March 14, 1989, she and respondent executed their respective Deeds of Donation, conveying the subject property in favor of The Porfirio D. Latorre Memorial & Fr. Luis Esteban Latorre Foundation, Inc. (the Foundation). Thus, Transfer Certificate of Title (TCT) No. 161963[5] was issued in the name of the Foundation. Subsequently, on September 2, 1994, petitioner and respondent executed separate Deeds of Revocation of Donation and Reconveyance of the subject property, consented to by the Foundation, through the issuance of appropriate corporate resolutions. However, the Deeds of Revocation were not registered; hence, the subject property remained in the name of the Foundation. Petitioner insisted, however, that respondent was fully aware that the subject property was owned in common by both of them. To protect her rights as co-owner, petitioner formally demanded from Ifzal the payment of her share of the rentals, which the latter, however, refused to heed.

Moreover, petitioner averred that, on or about August 16, 2000, she discovered that respondent caused the annotation of an adverse claim on the TCT of the subject property, claiming full ownership over the same by virtue of a Deed of Absolute Sale[6] dated March 21, 2000, allegedly executed by petitioner in favor of respondent. Petitioner claimed that the deed was a falsified document; that her signature thereon was forged by respondent; and that she never received P21 Million or any other amount as consideration for her share of the subject property. Thus, petitioner prayed that Ifzal be enjoined from paying the rentals to respondent, and the latter from receiving said rentals; that both Ifzal and respondent be ordered to pay petitioner her share of the rentals; and that respondent be enjoined from asserting full ownership over the subject property and from

committing any other act in derogation of petitioner's interests therein. Petitioner also prayed for the payment of moral and exemplary damages, litigation expenses, and costs of the suit.

Respondent immediately filed a Motion to Dismiss^[7] on the sole ground that the venue of the case was improperly laid. He stressed that while the complaint was denominated as one for Collection and Declaration of Nullity of Deed of Absolute Sale with application for Injunction, in truth the case was a real action affecting title to and interest over the subject property. Respondent insisted that all of petitioner's claims were anchored on her claim of ownership over one-half (½) portion of the subject property. Since the subject property is located in Makati City, respondent argued that petitioner should have filed the case before the RTC of Makati City and not of Muntinlupa City.

Ifzal also filed his motion to dismiss on the ground of want of jurisdiction, asserting that he was immune from suit because he was an officer of the Asian Development Bank, an international organization.

The RTC issued a Temporary Restraining Order dated November 6, 2000, restraining Ifzal from paying his rentals to respondent and enjoining the latter from receiving from the former the aforesaid rentals. The RTC also directed both Ifzal and respondent to pay petitioner her share of the rentals, with the corresponding order against respondent not to commit any act in derogation of petitioner's interest over the subject property.

In its Order dated January 2, 2001, the RTC denied respondent's motion to dismiss. The RTC ruled that the nature of an action whether real or personal was determined by the allegations in the complaint, irrespective of whether or not the plaintiff was entitled to recover upon the claims asserted - a matter resolved only after, and as a result of, a trial. Thus, trial on the merits ensued.

Undaunted, respondent filed an Answer Ad Cautelam^[8] dated March 19, 2001, insisting, among others, that the case was a real action and that the venue was improperly laid.^[9] Respondent narrated that he was a former Opus Dei priest but he left the congregation in 1987 after he was maltreated by his Spanish superiors. Respondent alleged that petitioner lived with him and his family from 1988 to 2000, and that he provided for petitioner's needs. Respondent also alleged that, for almost 20 years, the Opus Dei divested the Latorre family of several real properties. Thus, in order to spare the subject property from the Opus Dei, both petitioner and respondent agreed to donate it to the Foundation. In 1994, when respondent got married and sired a son, both petitioner and respondent decided to revoke the said donation. The Foundation consented to the revocation. However, due to lack of funds, the title was never transferred but remained in the name of the Foundation.

Respondent asseverated that he and his wife took good care of petitioner and that they provided for her needs, spending a substantial amount of money for these needs; that because of this, and the fact that the rentals paid for the use of the subject property went to petitioner, both parties agreed that petitioner would convey her share over the subject property to respondent; and that, on March 21, 2000, petitioner executed a Deed of Absolute Sale in favor of respondent.

Respondent further alleged that sometime in March to May 2000, the relationship of the parties, as mother and son, deteriorated. Petitioner left respondent's house because he and his wife allegedly ignored, disrespected, and insulted her.^[10] Respondent claimed, however, that petitioner left because she detested his act of firing their driver.^[11] It was then that this case was filed against him by petitioner.

In the meantime, in its Order dated May 15, 2003, the RTC dismissed petitioner's claim against Ifzal because the dispute was clearly between petitioner and respondent.

On April 29, 2008, the RTC ruled in favor of respondent, disposing of the case in this wise:

While the case herein filed by the plaintiff involves recovery of possession of a real property situated at 1366

Caballero St., Dasmariñas Village, Makati City, the same should have been filed and tried in the Regional Trial Court of Makati City who, undoubtedly, has jurisdiction to hear the matter as aforementioned the same being clearly a real action.

WHEREFORE, in view of the foregoing, the above-entitled case is hereby DISMISSED for want of jurisdiction, all in pursuance to the above-cited jurisprudence and Rule 4 of the Rules of Court.

SO ORDERED.[12]

Aggrieved, petitioner filed her Motion for Reconsideration,[13] which the RTC denied in its Order[14] dated July 24, 2008 for lack of merit.

Hence, this Petition, claiming that the RTC erred in treating the venue as jurisdiction and in treating petitioner's complaint as a real action.

While the instant case was pending resolution before this Court, petitioner passed away on November 14, 2009. Thus, petitioner's counsel prayed that, pending the appointment of a representative of petitioner's estate, notices of the proceedings herein be sent to petitioner's other son, Father Roberto A. Latorre.[15]

As early as the filing of the complaint, this case had been marred by numerous procedural infractions committed by petitioner, by respondent, and even by the RTC, all of which cannot be disregarded by this Court.

First. Petitioner filed her complaint with the RTC of Muntinlupa City instead of the RTC of Makati City, the latter being the proper venue in this case.

Sections 1 and 2, Rule 4 of the 1997 Rules of Civil Procedure provide an answer to the issue of venue.[16] Actions affecting title to or possession of real property or an interest therein (real actions) shall be commenced and tried in the proper court that has territorial jurisdiction over the area where the real property is situated. On the other hand, all other actions (personal actions) shall be commenced and tried in the proper courts where the plaintiff or any of the principal plaintiffs resides or where the defendant or any of the principal defendants resides.[17] The action in the RTC, other than for Collection, was for the Declaration of Nullity of the Deed of Absolute Sale involving the subject property, which is located at No. 1366 Caballero St., Dasmariñas Village, Makati City. The venue for such action is unquestionably the proper court of Makati City, where the real property or part thereof lies, not the RTC of Muntinlupa City.[18]

In this jurisdiction, we adhere to the principle that the nature of an action is determined by the allegations in the Complaint itself, rather than by its title or heading.[19] It is also a settled rule that what determines the venue of a case is the primary objective for the filing of the case.[20] In her Complaint, petitioner sought the nullification of the Deed of Absolute Sale on the strength of two basic claims that (1) she did not execute the deed in favor of respondent; and (2) thus, she still owned one half (½) of the subject property. Indubitably, petitioner's complaint is a real action involving the recovery of the subject property on the basis of her co-ownership thereof.

Second. The RTC also committed a procedural blunder when it denied respondent's motion to dismiss on the ground of improper venue.

The RTC insisted that trial on the merits be conducted even when it was awfully glaring that the venue was improperly laid, as pointed out by respondent in his motion to dismiss. After trial, the RTC eventually dismissed the case on the ground of lack of jurisdiction, even as it invoked, as justification, the rules and jurisprudence on venue. Despite the conduct of trial, the RTC failed to adjudicate this case on the merits.

Third. Respondent also did not do very well, procedurally. When the RTC denied his Motion to Dismiss, respondent could have filed a petition for certiorari and/or prohibition inasmuch as the denial of the motion was

done without jurisdiction or in excess of jurisdiction or with grave abuse of discretion amounting to lack of jurisdiction.[21] However, despite this lapse, it is clear that respondent did not waive his objections to the fact of improper venue, contrary to petitioner's assertion. Notably, after his motion to dismiss was denied, respondent filed a Motion for Reconsideration to contest such denial. Even in his Answer Ad Cautelam, respondent stood his ground that the case ought to be dismissed on the basis of improper venue.

Finally, petitioner came directly to this Court on a Petition for Review on Certiorari under Rule 45, in relation to Rule 41, of the Rules of Civil Procedure on alleged pure questions of law. In *Murillo v. Consul*, [22] we laid down a doctrine that was later adopted by the 1997 Revised Rules of Civil Procedure. In that case, this Court had the occasion to clarify the three (3) modes of appeal from decisions of the RTC, namely: (1) ordinary appeal or appeal by writ of error, where judgment was rendered in a civil or criminal action by the RTC in the exercise of its original jurisdiction; (2) petition for review, where judgment was rendered by the RTC in the exercise of its appellate jurisdiction; and (3) petition for review to the Supreme Court.

The first mode of appeal, governed by Rule 41, is brought to the Court of Appeals (CA) on questions of fact or mixed questions of fact and law. The second mode of appeal, covered by Rule 42, is brought to the CA on questions of fact, of law, or mixed questions of fact and law. The third mode of appeal, provided in Rule 45, is filed with the Supreme Court only on questions of law.

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.[23] Our ruling in *Velayo-Fong v. Velayo* [24] is instructive:

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.[25]

In her Reply to respondent's Comment, [26] petitioner prayed that this Court decide the case on the merits. To do so, however, would require the examination by this Court of the probative value of the evidence presented, taking into account the fact that the RTC failed to adjudicate this controversy on the merits. This, unfortunately, we cannot do. It thus becomes exceedingly clear that the filing of the case directly with this Court ran afoul of the doctrine of hierarchy of courts. Pursuant to this doctrine, direct resort from the lower courts to the Supreme Court will not be entertained unless the appropriate remedy sought cannot be obtained in the lower tribunals. This Court is a court of last resort, and must so remain if it is to satisfactorily perform the functions assigned to it by the Constitution and by immemorial tradition.[27]

Accordingly, we find no merit in the instant petition. Neither do we find any reversible error in the trial court's dismissal of the case ostensibly for want of jurisdiction, although the trial court obviously meant to dismiss the case on the ground of improper venue.

WHEREFORE, the instant Petition is DENIED. No costs.

SO ORDERED.

Velasco, Jr., (Acting Chairperson), Leonardo-De Castro,[*]Peralta, and Mendoza, JJ., concur.

[*] Additional member in lieu of Associate Justice Renato C. Corona per Raffle dated March 23, 2010.

[1] Rollo, pp. 3-22.

[2] Particularly docketed as Civil Case No. 00-178; id. at 24-26.

[3] Rollo, pp. 31-37.

[4] Id. at 55-60.

[5] Id. at 120-121.

[6] Id. at 61-63.

[7] Id. at 38-41.

[8] Id. at 42-54.

[9] Id. at 49.

[10] Supra note 1.

[11] Respondent's Comment; rollo, pp. 101-118.

[12] Rollo, p. 26.

[13] Id. at 91-99.

[14] Id. at 29-30.

[15] Id. at 232-233.

[16] SECTION 1. Venue of real actions. -- Actions affecting title to or possession of real property, or interest therein, shall be commenced and tried in the proper court which has jurisdiction over the area wherein the real property involved, or a portion thereof, is situated.

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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.

[17] Cabutihan v. Landcenter Construction & Development Corporation, 432 Phil. 927, 938-939 (2002).

[18] Emergency Loan Pawnshop Inc. v. Court of Appeals, 405 Phil. 524, 530 (2001), citing Fortune Motors, (Phils.), Inc. v. Court of Appeals, 178 SCRA 564 (1989); and Commodities Storage and Ice Plant Corporation v. Court of Appeals, 340 Phil. 551 (1997).

[19] Gochan v. Gochan, 423 Phil. 491, 501 (2001).

[20] Olympic Mines and Development Corp. v. Platinum Group Metals Corporation, G.R. Nos. 178188, 180674, 181141, and 183527, May 8, 2009.

[21] Emergency Loan Pawnshop Inc. v. Court of Appeals, *supra* note 18.

[22] Resolution of the Court En Banc in UDK-9748, March 1, 1990.

[23] Suarez v. Villarama, Jr., G.R. No. 124512, June 27, 2006, 493 SCRA 74, 80.

[24] G.R. No. 155488, December 6, 2006, 510 SCRA 320.

[25] *Id.* at 329-330. (Citations omitted.)

[26] Rollo, pp. 141-152.

[27] Ouano v. PGGT International Investment Corporation, 434 Phil. 28, 34 (2002).

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