

CEFERINA LOPEZ TAN PETITIONER, VS. SPOUSES APOLINAR P. ANTAZO AND GENOVEVA O. ANTAZO RESPONDENTS.

G.R. No. 187208. February 23, 2011

Ponente: PEREZ, J.

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PEREZ, J.:

In this petition for review on certiorari under Rule 45 of the Rules of Court, petitioner Ceferina Lopez Tan seeks to nullify the Resolution[1] of the Court of Appeals in CA-G.R. SP No. 105514 which dismissed her petition for certiorari for being the wrong mode of appeal.

The factual antecedents follow.

Respondent Spouses Apolinar and Genoveva Antazo are the registered owners of two parcels of land, namely: (1) a 1,024-square meter lot identified as Lot No. 2190, Cad 609-D, Case-17, AP-04-004442, situated at Barangay Pilapila, Binangonan, Rizal and covered by Original Certificate of Title (OCT) No. M-11592; and (2) a 100-square meter portion of a 498-square meter lot identified as Lot 2175, Cad 609-D. An accion reivindicatoria suit with damages, docketed as Civil Case No. 06-019, was filed by respondents against petitioner for encroaching on their properties. On 25 July 2008, the Regional Trial Court (RTC), Branch 68, Binangonan, Rizal, rendered judgment favoring respondents, the dispositive portion of which reads:

WHEREFORE, judgment is rendered as follows:

- That the defendant encroached on the property of the plaintiffs by 114 square meters.
- The defendant is hereby ordered to vacate the 114 square meters of the plaintiffs' property illegally occupied by the defendant and to turn over its full possession and ownership in favor of the plaintiffs. To remove the fence constructed on the encroached area.
- The plaintiffs are awarded attorney's fees in the amount of 50,000 pesos.[2]

Petitioner filed a motion for reconsideration but was later denied by the RTC on 21 August 2008.

Aggrieved, petitioner filed a petition for certiorari before the Court of Appeals on 2 October 2008.

On 6 November 2008, the Court of Appeals dismissed the petition for adopting a wrong remedy or mode of appeal. Petitioner filed a motion for reconsideration but it was subsequently denied in a Resolution dated 10 March 2009.

Hence, the instant recourse grounded on a sole assigned error - that the Court of Appeals has decided a question of substance in a way not in accord with law or with applicable decisions of the Supreme Court.[3]

Petitioner maintains that she rightfully filed a petition for certiorari before the Court of Appeals on the ground of grave abuse of discretion on the part of the trial court. While conceding that certiorari is available only if there is no appeal nor any plain, speedy and adequate remedy in the ordinary course of law, petitioner avers that her case

presents an exception to such general rule because the decision rendered by the trial court is an example of an oppressive exercise of judicial authority. Petitioner justifies the mode of appeal she adopted before the Court of Appeals in that under the Rules of Court, no appeal may be taken from an order denying a motion for reconsideration, i.e., the 21 August 2008 Resolution of the RTC. Petitioner now prays for a liberal interpretation of the rules of procedure.

On the other hand, respondents contend that the instant petition deserves outright dismissal for being fatally defective due to failure to show competent evidence of the identities of the affiants who signed the affidavit of service and the verification and certification against forum shopping. Respondents also assert that certiorari is not the proper remedy to assail the decision issued by the RTC. Being improper, respondents argue that the filing of the certiorari petition before the Court of Appeals did not toll the running of the appeal period. Consequently, the RTC judgment had already lapsed into finality. Respondents also emphasize that petitioner raises questions of facts which are beyond the purview of this Court to resolve.

The pivotal issue in this case is the correctness of a special civil action for certiorari before the Court of Appeals as a remedy against the Decision and Resolution of the Regional Trial Court.

A petition for certiorari under Rule 65 of the Rules of Court is a pleading limited to correction of errors of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction. Its principal office is to keep the inferior court within the parameters of its jurisdiction or to prevent it from committing such a grave abuse of discretion amounting to lack or excess of jurisdiction. It may issue only when the following requirements are alleged in and established by the petition: (1) that the writ is directed against a tribunal, a board or any officer exercising judicial or quasi-judicial functions; (2) that such tribunal, board or officer has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction; and (3) that there is no appeal or any plain, speedy and adequate remedy in the ordinary course of law.[4]

Only the first requisite is here present. Petitioner correctly impleaded the trial court judge in her certiorari petition.

Regarding to the second requisite, it is well-settled that a petition for certiorari against a court which has jurisdiction over a case will prosper only if grave abuse of discretion is manifested. The burden is on the part of the petitioner to prove not merely reversible error, but grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the public respondent issuing the impugned order. Mere abuse of discretion is not enough; it must be grave. The term grave abuse of discretion is defined as a capricious and whimsical exercise of judgment so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, as where the power is exercised in an arbitrary and despotic manner because of passion or hostility.[5]

The petitioner lists the particulars of the alleged grave abuse of discretion, thus -

THE RESPONDENT JUDGE OR TRIAL COURT ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION AND/OR WITHOUT JURISDICTION IN ISSUING THE QUESTIONED ORDERS ANNEXES "A" AND "B."

Under this heading, the following are disputed as tantamount to grave abuse of discretion amounting to lack of jurisdiction and/or without jurisdiction that led to the questioned orders Annexes "A" and "B", viz:

- THE HONORABLE JUDGE/TRIAL COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION AND/OR WITHOUT JURISDICTION IN FAILING TO APPRECIATE THE DEFENSES AND ARGUMENTS ADVANCED BY THE PETITIONER;
- THE HONORABLE JUDGE/TRIAL COURT COMMITTED GRAVE ABUSE OF DISCRETION

AMOUNTING TO LACK OF JURISDICTION AND/OR WITHOUT JURISDICTION IN FINDING THAT THE EVIDENCE IS SUFFICIENT TO PROVE THAT SPOUSES ANTAZO'S PROPERTY WAS ENCROACHED BY THE PETITIONER BY 114 SQUARE METERS;

- THE HONORABLE JUDGE/TRIAL COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION AND/OR WITHOUT JURISDICTION IN ORDERING THE PETITIONER TO VACATE AND TURNOVER THE FULL POSSESSION AND OWNERSHIP OF SAID 114 SQUARE METERS TO RESPONDENTS SPOUSES ANTAZO DESPITE THE LATTER'S ABSENCE OF A CLEAR TITLE THERETO;

- THE HONORABLE JUDGE/TRIAL COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION AND/OR WITHOUT JURISDICTION IN NOT SUMMARILY DISMISSING THE INSTANT COMPLAINT FOR VIOLATION OF THE RULES ON NON-FORUM SHOPPING;

- THE HONORABLE JUDGE/TRIAL COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION AND/OR WITHOUT JURISDICTION IN AWARDING RESPONDENTS SPOUSES ANTAZO WITH ATTORNEY'S FEES IN THE AMOUNT OF 50,000.00 PESOS IN THE ABSENCE OF FACTUAL AND LEGAL BASES THEREFOR;

- THE HONORABLE JUDGE/TRIAL COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION AND/OR WITHOUT JURISDICTION IN NOT AWARDING PETITIONER'S COUNTER-CLAIMS DESPITE THE EVIDENCE AND ARGUMENTS TO SUPPORT THE SAME;

- THE HONORABLE JUDGE/TRIAL COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION AND/OR WITHOUT JURISDICTION IN RENDERING A JUDGMENT WHICH DOES NOT CONTAIN FACTUAL AND LEGAL BASES, HENCE, THE SAME IS A VOID DECISION.[6]

Item VII argues that the trial court's judgment is void for lack of factual and legal bases. This allegation is worthy only if it is read to mean that the questioned judgment did not state the facts and the law on which it is based, i.e., that it violates Section 14, Article VIII of the Constitution which provides that no decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based.

After perusing the trial court's decision, we find that the assailed decision substantially complied with the constitutional mandate. While the decision is admittedly brief, it however contains all factual bases to support its conclusion. The first two (2) paragraphs of the decision established the ownership of respondents through certificates of title. The fact of encroachment was proven by the relocation survey conducted by the geodetic engineer, which the trial court found to be credible. The trial court held that these evidence are more than sufficient to prove two matters--ownership by respondents and encroachment by petitioner.

Petitioner herself disproved the absence of the required statements. She questioned the trial court's appreciation of her arguments and defenses; the sufficiency of evidence to prove encroachment; and the existence of a clear title to the alleged encroached properties in Errors (I), (II), and (III). Errors (IV), (V), and (VI) pertain to legal questions such as whether there was violation of forum-shopping; whether the award of attorney's fees is proper; and the validity of the counterclaims. A petition for the writ of certiorari does not deal with errors of judgment. Nor does it include a mistake in the appreciation of the contending parties' respective evidence or the evaluation of their relative weight.[7] Verily, the errors ascribed by petitioner are not proper subjects of a petition for certiorari.

Anent the third requisite, a writ of certiorari will not issue where the remedy of appeal is available to the

aggrieved party. The party aggrieved by a decision of the Court of Appeals is proscribed from assailing the decision or final order of said court via Rule 65 of the Rules of Court because such recourse is proper only if the party has no plain, speedy and adequate remedy in the course of law.[8] Furthermore, certiorari cannot be availed of as a substitute for the lost remedy of an ordinary appeal.[9]

In this case, the remedy of appeal under Rule 42 of the Rules of Court was clearly available to petitioner. She however chose to file a petition for certiorari under Rule 65. As the Court of Appeals correctly surmised and pointed out, petitioner availed of the remedy of certiorari to salvage her lost appeal, thus:

In the instant case, petitioner filed a motion for reconsideration of the decision dated 25 July 2008. Public respondent denied said motion on 21 August 2008, a copy of which petitioner received on 28 August 2008. Petitioner had fifteen (15) days or until 12 September 2008 within which to file her appeal, but none was made. In an effort to salvage her lost appeal, petitioner comes before this Court via a petition for certiorari filed on 2 October 2008.[10]

In her final attempt to reinstate the case, petitioner invokes a liberal interpretation of the procedural rules in the interest of substantial justice. We are not persuaded. Aside from citing cases wherein this Court disregarded procedural infirmities to pave the way for substantial justice, petitioner failed to specifically cite any justification how and why a normal application of procedural rules would frustrate her quest for justice. Indeed, petitioner has not been forthright in explaining why she chose the wrong mode of appeal.

Based on the foregoing, a denial of the petition is in order.

WHEREFORE, the petition is DENIED.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Nachura,[*] and Del Castillo, JJ., concur.

[*] Per Special Order No. 947, Associate Justice Antonio Eduardo B. Nachura is hereby designated as additional member in place of Associate Justice Teresita J. Leonardo-De Castro who is on official leave.

[1] Penned by Associate Justice Mariflor P. Punzalan Castillo with Presiding Justice Conrado M. Vasquez, Jr. and Associate Justice Rosmari D. Carandang, concurring. Rollo, pp. 46-48.

[2] Decision of the Regional Trial Court. Rollo, p. 86.

[3] Petition for Review on Certiorari filed with the Supreme Court. Rollo, p. 16.

[4] *Equitable-PCI Bank Inc. v. Apurillo*, G.R. No. 168746, 5 November 2009, 605 SCRA 30, 42-43 citing *People v. Court of Appeals*, 468 Phil. 1, 10 (2004); *Salvacion v. Sandiganbayan*, G.R. No. 175006, 27 November 2008, 572 SCRA 163, 180-181.

[5] *Office of the Ombudsman v. Magno*, G.R. No. 178923, 27 November 2008, 572 SCRA 272, 286-287 citing *Microsoft Corporation v. Best Deal Computer Center Corporation*, 438 Phil. 408, 414 (2002); *Suliguin v. Commission on Elections*, G.R. No. 166046, 23 March 2006, 485 SCRA 219, 233; *Natalia Realty, Inc. v. Court of Appeals*, 440 Phil. 1, 19-20 (2002); *Philippine Rabbit Bus Lines, Inc. v. Goimco, Sr.*, 512 Phil. 729, 733-734 (2005) citing *Land Bank of the Philippines v. Court of Appeals*, 456 Phil. 755, 786 (2003); *Duero v. Court of Appeals*, 424 Phil. 12, 20 (2002) citing *Cuison v. Court of Appeals*, G.R. No. 128540, 15 April 1998, 289 SCRA 159, 171.

[6] Petition for Certiorari filed with the Court of Appeals. Rollo, pp. 65-67.

[7] Romy's Freight Service v. Castro, G.R. No. 141637, 8 June 2006, 490 SCRA 160, 166 citing Land Bank of the Philippines v. Court of Appeals, supra note 5 at 787 citing further Cruz v. People, 363 Phil. 156 (1999).

[8] California Bus Lines, Inc. v. Court of Appeals, G.R. No. 145408, 20 August 2008, 562 SCRA 403, 413 citing Cathay Pacific Steel Corporation v. Court of Appeals, G.R. No. 164561, 30 August 2006, 500 SCRA 226, 236-237; Hanjin Engineering and Construction Co., Ltd. v. Court of Appeals, G.R. No. 165910, 10 April 2006, 487 SCRA 78, 96-97.

[9] Cua, Jr. v. Tan, G.R. No. 181455-56, 4 December 2009, 607 SCRA 645, 687.

[10] Resolution of the Court of Appeals dated 6 November 2008. Rollo, pp. 47-48.

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