

DOUGLAS F. ANAMA, PETITIONER, V. CITIBANK, N.A. (FORMERLY FIRST NATIONAL CITY BANK), RESPONDENT.

G.R. No. 192048. December 13, 2017

Ponente: JARDELEZA, J.

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JARDELEZA, J.:

This is a petition for review on certiorari[1] under Rule 45 of the Revised Rules of Court seeking to reverse and set aside the Decision[2] dated November 19, 2009 (assailed Decision) and the Resolution[3] dated April 20, 2010 (assailed Resolution) of the Court of Appeals (CA) in CA-G.R. SP No. 107748, denying petitioner's action for revival of judgment.

In consideration for a loan obtained from respondent First National City Bank of New York (now Citibank, N.A.) (Citibank), on November 10, 1972, petitioner Douglas F. Anama (Anama) executed a promissory note in the amount of P418,000.00 in favor of Citibank.[4] To secure payment of the obligation, Anama also executed in favor of Citibank a chattel mortgage over various industrial machineries and equipment located on his property at No. 1302, E. de los Santos Avenue, Quezon City.[5] For Anama's failure to pay the monthly installments due on the promissory note starting January 1974, Citibank filed a complaint for sum of money and replevin[6] dated November 13, 1974 (docketed as Civil Case No. 95991) with the Court of First Instance of Manila (now Regional Trial Court), Branch 11. Anama filed his answer with counterclaim[7] and his amended answer with counterclaim,[8] alleging, among others, that his failure to pay the monthly installments was due to the fault of Citibank as it refused to receive the checks he issued, and that the chattel mortgage was defective and void.[9]

On December 2, 1974, the Regional Trial Court (RTC), upon proof of default of Anama in the payment of his loan, issued an Order of Replevin over the machineries and equipment covered by the chattel mortgage.[10]

On January 29, 1977, Citibank, alleging that the properties subject of the Order of Replevin which were taken by the Sheriff under his custody were not delivered to it, filed a motion for [issuance of] alias writ of seizure.[11] Citibank prayed that an alias writ of seizure be issued directing the Sheriff to seize the properties and to dispose them in accordance with Section 6, Rule 60 of the Revised Rules of Court. The RTC granted the motion through its Resolution[12] dated February 28, 1977. The Ex-Officio Sheriff of Quezon City issued three receipts for the seized properties on March 17, 18, and 19, 1977.[13] Anama filed a motion for reconsideration but this was denied by the RTC in a Resolution[14] dated March 18, 1977.

Anama then filed a petition for certiorari and prohibition with writ of preliminary injunction with the CA on March 21, 1977 (docketed as CA- G.R. SP No. 06499) on the ground that the above resolutions of the trial court were issued in excess of jurisdiction and with grave abuse of discretion because of the lack of evidence proving Citibank's right to possession over the properties subject of the chattel mortgage.[15]

On July 30, 1982, the CA rendered a Decision[16] (July 30, 1982 Decision) granting Anama's petition for certiorari and prohibition and nullifying the RTC's orders of seizure, to wit:

WHEREFORE, the petition is granted. The questioned resolutions issued by the respondent judge in Civil Case No. 95991, dated February 28, 1977, and March 18, 1977, together with the writs and processes emanating or deriving therefrom, are hereby declared null and void ab initio.

The respondent ex-officio sheriff of Quezon City and the respondent First National City Bank are hereby ordered to return all the machineries and equipments with their accessories seized, dismantled and hauled, to their original and respective places and positions in the shop flooring of the petitioner's premises where these articles were, before they were dismantled, seized and hauled at their own expense. The said respondents are further ordered to cause the repair of the concrete foundations destroyed by them including the repair of the electrical wiring and facilities affected during the seizure, dismantling and hauling.

The writ of preliminary injunction heretofore in effect is hereby made permanent. Costs against the private respondents.

SO ORDERED.[17]

On August 25, 1982, Citibank filed its petition for review on certiorari with this Court (docketed as G.R. No. 61508) assailing the July 30, 1982 Decision of the CA.[18] On March 17, 1999, we promulgated a Decision[19] dismissing Citibank's petition for lack of merit and affirming the July 30, 1982 Decision of the CA. An Entry of Judgment[20] was subsequently issued on April 12, 1999.

Meanwhile, on November 19, 1981, during the pendency of CA-G.R. SP No. 06499 in the CA, the fourth floor of the Manila City Hall, where Branch 11 of the RTC of Manila and its records, including the records of Civil Case No. 95991 were located, was destroyed by fire.[21]

On February 10, 1982, Anama filed a petition for reconstruction of record[22] in the RTC, which the latter granted in an Order[23] dated May 3, 1982. On December 2, 1982, considering that G.R. No. 61508 was already pending before this Court, the RTC issued an Order[24] directing that all pending incidents in Civil Case No. 95991 be suspended until G.R. No. 61508 has been resolved.

On March 12, 2009, Anama filed a petition for revival of judgment with the CA (docketed as CA-G.R. SP No. 107748).[25] Anama sought to revive the CA's July 30, 1982 Decision in CA-G.R. SP No. 06499 and argued that Citibank's failure to file an action for the reconstitution of the records in the RTC in Civil Case No. 95991 constituted abandonment of its cause of action and complaint against Anama.[26] In addition to the revival of the CA's July 30, 1982 Decision in CA-G.R. SP No. 06499, Anama sought to remand the case to the RTC for further proceedings in Civil Case No. 95991, particularly his counterclaims against Citibank.[27]

In its comment, Citibank argued that the petition should be dismissed as an action for revival of judgment is within the exclusive original jurisdiction of the RTC. It also argued that laches has set in against Anama for having slept on his rights for almost 10 years. Lastly, Citibank claimed that it did not abandon its money claim against Anama when it did not initiate the reconstitution proceedings in the RTC.[28]

On November 19, 2009, the CA denied the petition for lack of jurisdiction. Pertinent portions of the assailed Decision reads:

[W]e find that respondent bank correctly question (sic) this Court's jurisdiction to entertain the instant petition to revive the July 30, 1982 decision in CA-G.R. SP No. 06499. While concededly filed within 10 years from the April 12, 1999 entry of the decision rendered in G.R. No. 61508, the petition should have been filed with the appropriate Regional Trial Court which has exclusive original jurisdiction over all civil actions in which the subject of the litigation is incapable of pecuniary estimation and/or all cases not within the exclusive jurisdiction of any court, tribunal, person or body exercising judicial or quasi-judicial functions. x x x [29]

Anama filed his motion for reconsideration which the CA denied through its assailed Resolution[30] dated April 20, 2010.

On June 10, 2010, Anama filed this petition[31] and argued that his petition for revival of judgment should be filed in the court that issued the judgment sought to be revived, the CA in this case.[32]

In its comment,[33] Citibank agrees with the CA that jurisdiction over actions for revival of judgments is with the RTC.[34] Citibank also argues that Anama's petition to revive judgment is already barred by laches and that it did not waive or abandon its claim against Anama in Civil Case No. 95991.[35]

On December 30, 2010, Anama filed his reply.[36]

On August 25, 2016, Anama filed a manifestation[37] reiterating the arguments on his petition. On February 17, 2017, Citibank filed its comment[38] stressing that the CA did not err in dismissing the petition to revive judgment on the ground of lack of jurisdiction. On March 16, 2017, Anama filed his reply.[39]

We deny the petition.

An action to revive a judgment is an action whose exclusive purpose is to enforce a judgment which could no longer be enforced by mere motion.[40] Section 6, Rule 39 of the Revised Rules of Court provides:

Sec. 6. Execution by motion or by independent action. - A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action. The revived judgment may also be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations.

Section 6 is clear. Once a judgment becomes final and executory, the prevailing party can have it executed as a matter of right by mere motion within five years from the date of entry of judgment. If the prevailing party fails to have the decision enforced by a motion after the lapse of five years, the said judgment is reduced to a right of action which must be enforced by the institution of a complaint in a regular court within 10 years from the time the judgment becomes final.[41]

Further, a revival suit is a new action, having for its cause of action the judgment sought to be revived.[42] It is different and distinct from the original judgment sought to be revived or enforced.[43] It is a new and independent action, wherein the cause of action is the decision itself and not the merits of the action upon which the judgment sought to be enforced is rendered. Revival of judgment is premised on the assumption that the decision to be revived, either by motion or by independent action, is already final and executory.[44]

As an action for revival of judgment is a new action with a new cause of action, the rules on instituting and commencing actions apply, including the rules on jurisdiction. Its jurisdictional requirements are not dependent on the previous action and the petition does not necessarily have to be filed in the same court which rendered judgment.[45]

Jurisdiction is defined as the power and authority of the courts to hear, try and decide cases. What determines the jurisdiction of the court is the nature of the action pleaded as appearing from the allegations in the complaint. The averments and the character of the relief sought are the ones to be consulted.[46]

The principle is that jurisdiction over the subject matter of a case is conferred by law and determined by the allegations in the complaint which comprise a concise statement of the ultimate facts constituting the plaintiffs cause of action. The nature of an action, as well as which court or body has jurisdiction over it, is determined based on the allegations contained in the complaint of the plaintiff, irrespective of whether or not the plaintiff is

entitled to recover upon all or some of the claims asserted.[47] Jurisdiction being a matter of substantive law, the established rule is that the statute in force at the time of the commencement of the action determines the jurisdiction of the court.[48]

Batas Pambansa Bilang 129 (BP 129), otherwise known as the Judiciary Reorganization Act of 1980 and its amendments, is the law which confers jurisdiction to the courts. Section 19 of BP 129, as amended by Republic Act No. 7691,[49] provides:

Sec. 19. Jurisdiction in civil cases. - Regional Trial Courts shall exercise exclusive original jurisdiction:

(1) In all civil actions in which the subject of the litigation is incapable of pecuniary estimation;

In determining the jurisdiction of an action whose subject is incapable of pecuniary estimation, the nature of the principal action or remedy sought must first be ascertained. If it is primarily for the recovery of a sum of money, the claim is considered capable of pecuniary estimation and the jurisdiction of the court depends on the amount of the claim. But, where the primary issue is something other than the right to recover a sum of money, where the money claim is purely incidental to, or a consequence of, the principal relief sought, such are actions whose subjects are incapable of pecuniary estimation, hence cognizable by the RTCs.[50]

As an action to revive judgment raises issues of whether the petitioner has a right to have the final and executory judgment revived and to have that judgment enforced and does not involve recovery of a sum of money, we rule that jurisdiction over a petition to revive judgment is properly with the RTCs. Thus, the CA is correct in holding that it does not have jurisdiction to hear and decide Anama's action for revival of judgment.

A reading of the CA's jurisdiction also highlights the conclusion that an action for revival of judgment is outside the scope of jurisdiction of the CA. Section 9 of BP 129 provides:

Sec. 9. Jurisdiction. -The Court of Appeals shall exercise:

- Original jurisdiction to issue writs of mandamus, prohibition, certiorari, habeas corpus, and quo warranto, and auxiliary writs or processes, whether or not in aid of its appellate jurisdiction;

- Exclusive original jurisdiction over actions for annulment of judgments of Regional Trial Courts; and

- Exclusive appellate jurisdiction over all final judgments, resolutions, orders or awards of Regional Trial Courts and quasi-judicial agencies, instrumentalities, boards or commission, including the Securities and Exchange Commission, the Social Security Commission, the Employees Compensation Commission and the Civil Service Commission, except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution, the Labor Code of the Philippines under Presidential Decree No. 442, as amended, the provisions of this Act, and of subparagraph (1) of the third paragraph and subparagraph 4 of the fourth paragraph of Section 17 of the Judiciary Act of 1948.

The CA also has concurrent original jurisdiction over petitions for issuance of writ of amparo,[51] writ of habeas data,[52] and writ of kalikasan.[53]

Not being one of the enumerated cases above, it is clear that the CA is without jurisdiction to hear and decide an action for revival of judgment.

Anama's reliance on *Aldeguer v. Gemelo*[54] to justify his filing with the CA is misplaced. The issue in *Aldeguer* is not jurisdiction but venue. The issue was which between the RTC of Iloilo and RTC of Negros Occidental was the proper court to hear the action.

However, venue and jurisdiction are entirely distinct matters. Jurisdiction may not be conferred by consent or

waiver upon a court which otherwise would have no jurisdiction over the subject matter of an action; but the venue of an action as fixed by statute may be changed by the consent of the parties and an objection that the plaintiff brought his suit in the wrong county may be waived by the failure of the defendant to make a timely objection. In either case, the court may render a valid judgment. Rules as to jurisdiction can never be left to the consent or agreement of the parties, whether or not a prohibition exists against their alteration.[55] Venue is procedural, not jurisdictional, and hence may be waived.[56]

As we have already ruled on jurisdiction, there is no more reason to discuss whether laches has set in against Anama.

Considering, however, that the proceedings in Civil Case No. 95991 have been suspended and remains pending since 1982, we deem it necessary to lift the order of suspension and instruct the trial court to hear and try the case with deliberate dispatch.

WHEREFORE, the petition is DENIED. The Decision dated November 19, 2009 and Resolution dated April 20, 2010 of the Court of Appeals in CA-G.R. SP No. 107748 are AFFIRMED.

We direct the trial court to proceed with the hearing and disposition in Civil Case No. 95991 with all deliberate dispatch.

SO ORDERED.

Sereno, C.J., (Chairperson), Leonardo-De Castro, Del Castillo, and Tijam, JJ., concur.

[1] Rollo, pp. 11-139.

[2] Id. at 141-151. Penned by Associate Justice Rebecca De Guia-Salvador and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Mario V. Lopez.

[3] Id. at 153-154.

[4] Id. at 142, 155, 208-209.

[5] Id. at 142, 157 & 209.

[6] Id. at 155-160.

[7] Id. at 161-166.

[8] Id. at 168-174.

[9] Id. at 171-173.

[10] Id. at 212.

[11] Id. at 179-180.

[12] Id. at 181-184.

[13] Id. at 187-189.

[14] Id. at 185-186.

[15] Id. at 27, 143-144 & 215.

[16] Id. at 198-207.

[17] Id. at 207.

[18] Id. at 28.

[19] Id. at 208-232.

[20] Id. at 233.

[21] Id. at 32, 144 & 234.

[22] Id. at 234-236.

[23] Id. at 237-238.

[24] Id. at 256.

[25] Id. at 144-145.

[26] Id. at 33-34 & 145

[27] Id. at 145.

[28] Id.

[29] Id. at 147.

[30] Id. at 153-154.

[31] Id. at 11-139.

[32] Id at 122.

[33] Id. at 280-310.

[34] Id. at 295-296.

[35] Id. at 299-302.

[36] Id. at 313-382.

[37] Id. at 397-432.

[38] Id. at 443-461.

[39] Id. at 462-525.

[40] *Caiña v. Court of Appeals*, G.R. No. 114393, December 15, 1994, 239 SCRA 252, 261.

[41] *Rubio v. Alabata*, G.R. No. 203947, February 26, 2014, 717 SCRA 554, 559-560.

[42] *Philippine National Bank v. Nuevas*, G.R. No. L-21255, November 29, 1965, 15 SCRA 434, 436-437, citing *Philippine National Bank v. Bondoc*, G.R. No. L-20236, July 30, 1965, 14 SCRA 770.

[43] *Heirs of Numeriano Miranda, Sr. v. Miranda*, G.R. No. 179638, July 8, 2013, 700 SCRA 746, 756, citing *Juco v. Heirs of Tomas Siy Chung Fu*, G.R. No. 150233, February 16, 2005, 451 SCRA 464, 473-474.

[44] *Saligumba v. Palanog*, G.R. No. 143365, December 4, 2008, 573 SCRA 8, 15-16

- [45] Riano, Civil Procedure (The Bar Lectures Series), Vol. 1, 2011, p. 655.
- [46] Padlan v. Dinglasan, G.R. No. 180321, March 20, 2013, 694 SCRA 91, 99.
- [47] City of Dumaguete v. Philippine Ports Authority, G.R. No. 168973, August 24, 2011, 656 SCRA 102, 119.
- [48] Bank of the Philippine Island v. Hong, G.R. No. 161771, February 15, 2012, 666 SCRA 71, 77, citing Llamas v. Court of Appeals, G.R. No. 149588, September 29, 2009, 601 SCRA 228, 233.
- [49] An Act Expanding the Jurisdiction of the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts, Amending tor the Purpose Batas Pambansa Blg. 129, Otherwise Known as the "Judiciary Reorganization Act of 1980" (1994).
- [50] Villena v. Payoyo, G.R. No. 163021, April 27, 2007, 522 SCRA 592, 596-597.
- [51] THE RULE ON THE WRIT OF AMPARO, A.M. No. 07-9-12-SC, September 25, 2007, Sec. 3.
- [52] THE RULE ON THE WRIT OF HABEAS DATA, A.M. No. 08-1-16-SC, January 2008, Sec. 3.
- [53] RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, A.M. No. 09-6-8-SC, April 13, 2010, Rule 7, Sec. 3.
- [54] 68 Phil. 421 (1939).
- [55] Heirs of Pedro Lopez v. De Castro, G.R. No. 112905, February 3, 2000, 324 SCRA 591, 609, citing Santos III v. Northwest Orient Airlines, G.R. No. 101538, June 23, 1992, 210 SCRA 256, 265-266.
- [56]Id.

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