

HOME GUARANTY CORPORATION, PETITIONER, VS. R-II BUILDERS INC. AND NATIONAL HOUSING AUTHORITY, RESPONDENTS.

G.R. No. 192649. June 22, 2011

Ponente: PEREZ, J.

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PEREZ, J.:

Before the Court are: (a) the Entry of Appearance filed by Atty. Lope E. Feble of the Toquero Exconde Manalang Feble Law Offices as collaborating counsel for respondent R-II Builders, Inc. (R-II Builders), with prayer to be furnished all pleadings, notices and other court processes at its given address; and (b) the motion filed by R-II Builders, seeking the reconsideration of Court's decision dated 9 March 2011 on the following grounds: [1]

I

THE HONORABLE COURT ERRED IN RULING THAT RTC MANILA, BRANCH 22, HAD NO JURISDICTION OVER THE PRESENT CASE SINCE RTC-MANILA, BRANCH 24, TO WHICH THE INSTANT CASE WAS INITIALLY RAFFLED HAD NO AUTHORITY TO HEAR THE CASE BEING A SPECIAL COMMERCIAL COURT.

II.

THE HONORABLE COURT ERRED IN RULING THAT THE CORRECT DOCKET FEES WERE NOT PAID.

In urging the reversal of the Court's decision, R-II Builders argues that it filed its complaint with the Manila RTC which is undoubtedly vested with jurisdiction over actions where the subject matter is incapable of pecuniary estimation; that through no fault of its own, said complaint was raffled to Branch 24, the designated Special Commercial Court (SCC) tasked to hear intra-corporate controversies; that despite the determination subsequently made by Branch 24 of the Manila RTC that the case did not involve an intra-corporate dispute, the Manila RTC did not lose jurisdiction over the same and its Executive Judge correctly directed its re-raffling to Branch 22 of the same Court; that the re-raffle and/or amendment of pleadings do not affect a court's jurisdiction which, once acquired, continues until the case is finally terminated; that since its original Complaint, Amended and Supplemental Complaint and Second Amended Complaint all primarily sought the nullification of the Deed of Assignment and Conveyance (DAC) transferring the Asset Pool in favor of petitioner Home Guaranty Corporation (HGC), the subject matter of the case is clearly one which is incapable of pecuniary estimation; and, that the court erred in holding that the case was a real action and that it evaded the payment of the correct docket fees computed on the basis of the assessed value of the realties in the Asset Pool.

R-II Builders' motion is bereft of merit.

The record shows that, with the raffle of R-II Builders' complaint before Branch 24 of the Manila RTC and said court's grant of the application for temporary restraining order incorporated therein, HGC sought a preliminary hearing of its affirmative defenses which included, among other grounds, lack of jurisdiction and improper venue.

It appears that, at said preliminary hearing, it was established that R-II Builders' complaint did not involve an intra-corporate dispute and that, even if it is, venue was improperly laid since none of the parties maintained its principal office in Manila. While it is true, therefore, that R-II Builders had no hand in the raffling of the case, it cannot be gainsaid that Branch 24 of the RTC Manila had no jurisdiction over the case. Rather than ordering the dismissal of the complaint, however, said court issued the 2 January 2008 order erroneously ordering the re-raffle of the case. In *Atwel v. Concepcion Progressive Association, Inc.* [2] and *Reyes v. Hon. Regional Trial Court of Makati, Branch 142* [3] which involved SCCs trying and/or deciding cases which were found to be civil in nature, this Court significantly ordered the dismissal of the complaint for lack of jurisdiction instead of simply directing the re-raffle of the case to another branch.

Even then, the question of the Manila RTC's jurisdiction over the case is tied up with R-II Builder's payment of the correct docket fees which should be paid in full upon the filing of the pleading or other application which initiates an action or proceeding. [4] While it is, consequently, true that jurisdiction, once acquired, cannot be easily ousted, [5] it is equally settled that a court acquires jurisdiction over a case only upon the payment of the prescribed filing and docket fees. [6] Already implicit from the filing of the complaint in the City of Manila where the realties comprising the Asset Pool are located, the fact that the case is a real action is evident from the allegations of R-II Builders' original Complaint, Amended and Supplemental Complaint and Second Amended Complaint which not only sought the nullification of the DAC in favor of HGC but, more importantly, prayed for the transfer of possession of and/or control of the properties in the Asset Pool. Its current protestations to the contrary notwithstanding, no less than R-II Builders - in its opposition to HGC's motion to dismiss - admitted that the case is a real action as it affects title to or possession of real property or an interest therein. [7] Having only paid docket fees corresponding to an action where the subject matter is incapable of pecuniary estimation, R-II Builders cannot expediently claim that jurisdiction over the case had already attached.

In *De Leon v. Court of Appeals*, [8] this Court had, of course, ruled that a case for rescission or annulment of contract is not susceptible of pecuniary estimation although it may eventually result in the recovery of real property. Taking into consideration the allegations and the nature of the relief sought in the complaint in the subsequent case of *Serrano v. Delica*, [9] however, this Court determined the existence of a real action and ordered the payment of the appropriate docket fees for a complaint for cancellation of sale which prayed for both permanent and preliminary injunction aimed at the restoration of possession of the land in litigation is a real action. In discounting the apparent conflict in said rulings, the Court went on to rule as follows in *Ruby Shelter Builders and Realty Development Corporation v. Hon. Pablo C. Formaran*, [10] to wit:

The Court x x x does not perceive a contradiction between *Serrano* and the *Spouses De Leon*. The Court calls attention to the following statement in *Spouses De Leon*: "A review of the jurisprudence of this Court indicates that in determining whether an action is one the subject matter of which is not capable of pecuniary estimation, this Court has adopted the criterion of first ascertaining the nature of the principal action or remedy sought." Necessarily, the determination must be done on a case-to-case basis, depending on the facts and circumstances of each. What petitioner conveniently ignores is that in *Spouses De Leon*, the action therein that private respondents instituted before the RTC was "solely for annulment or rescission" of the contract of sale over a real property. There appeared to be no transfer of title or possession to the adverse party x x x. (Underscoring Supplied)

Having consistently sought the transfer of possession and control of the properties comprising the Asset Pool over and above the nullification of the Deed of Conveyance in favor of HGC, it follows R-II Builders should have paid the correct and appropriate docket fees, computed according to the assessed value thereof. This much was directed in the 19 May 2008 Order issued by Branch 22 of the Manila RTC which determined that the case is a real action and admitted the Amended and Supplemental Complaint R-II Builders subsequently filed in the case. [11] In

obvious evasion of said directive to pay the correct docket fees, however, R-II Builders withdrew its Amended and Supplemental Complaint and, in lieu thereof, filed its Second Amended Complaint which, while deleting its causes of action for accounting and conveyance of title to and/or possession of the entire Asset Pool, nevertheless prayed for its appointment as Receiver of the properties comprising the same. In the landmark case of *Manchester Development Corporation v. Court of Appeals*, [12] this Court ruled that jurisdiction over any case is acquired only upon the payment of the prescribed docket fee which is both mandatory and jurisdictional. Although it is true that the Manchester Rule does not apply despite insufficient filing fees when there is no intent to defraud the government, [13] R-II Builders' evident bad faith should clearly foreclose the relaxation of said rule.

In addition to the jurisdictional and pragmatic aspects underlying the payment of the correct docket fees which have already been discussed in the decision sought to be reconsidered, it finally bears emphasizing that the Asset Pool is comprised of government properties utilized by HGC as part of its sinking fund, in pursuit of its mandate as statutory guarantor of government housing programs. With the adverse consequences that could result from the transfer of possession and control of the Asset Pool, it is imperative that R-II Builders should be made to pay the docket and filing fees corresponding to the assessed value of the properties comprising the same.

WHEREFORE, the Court resolves to:

(a) NOTE the Entry of Appearance of Atty. Lope E. Feble of Tuquero Exconde Manalang Feble Law Offices as collaborating counsel for respondent R-II Builders, Inc.; and DENY counsel's prayer to be furnished with all pleadings notices and other court processes at Unit 2704-A, West Tower, Philippine Stock Exchange Centre, Exchange Road, Ortigas Center Pasig, since only the lead counsel is entitled to service of court processes;

(b) DENY with FINALITY R-II Builders, Inc.'s Motion for Reconsideration of the Decision dated 9 March 2011 for lack of merit, the basic issues having been already passed upon and there being no substantial argument to warrant a modification of the same. No further pleadings or motions shall be entertained herein.

Let an Entry of Judgment in this case be made in due course.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo De-Castro, and Peralta,[*] JJ., concur.
Velasco, Jr., J., I dissent. (pls. see dissenting opinion.)

[*] Per Raffle dated 22 June 2011.

[2] G.R. No. 169370, 14 April 2008, 551 SCRA 272.

[3] G.R. No. 165744, 11 August 2008, 561 SCRA 593.

[4] Section 1, Rule 141 of the Revised Rules of Court.

[5] *PNB v. Tezano, Jr.*, G.R. No. 173615, 16 October 2009, 604 SCRA 147.

[6] *Lacson v. Reyes*, G.R. No. 86250, 26 February 1990, 182 SCRA 729, 733.

[7] *Rollo*, p. 436.

[8] G.R. No. 104796, 6 March 1998, 278 SCRA 94.

[9] G.R. No. 136325, 29 July 2005, 465 SCRA 82.

[10] G.R. No. 175914, 10 February 2009, 578 SCRA 283.

[11] Rollo, pp. 490-495.

[12] 233 Phil. 579, 584 (1987).

[13] Intercontinental Broadcasting Corporation (IBC-13) v. Hon. Rose Marie Alonzo Legasto, G.R. No. 169108, 18 April 2006, 487 SCRA 339.

DISSENTING OPINION

VELASCO, JR., J.:

The Motion for Reconsideration of respondent R-II Builders, Inc. (R-II Builders) is impressed with merit. Consequently, the Decision dated March 9, 2011 has to be abandoned and set aside.

In Our March 9, 2011 Decision, We ruled as follows:

xxx With its acknowledged kick of jurisdiction over the case, Branch 24 of the Manila RTC should have ordered the dismissal of the complaint, since a court without subject matter jurisdiction cannot transfer the case to another court. Instead, it should have simply ordered the dismissal of the complaint, considering that the affirmative defenses for which HGC sought hearing included its lack of jurisdiction over the case.[1] (Emphasis supplied.)

Upon a revisit of the above ruling, it is my opinion that the Manila Regional Trial Court (RTC) has jurisdiction and continues to exercise jurisdiction over the Second Amended Complaint of respondent.

Batas Pambansa Blg. (BP) 129, or the Judiciary Reorganization Act of 1980, as amended by Republic Act No. (RA) 7691, is clear when it laid down the jurisdiction of RTCs and provided that they shall exercise exclusive original jurisdiction in "all civil actions in which the subject of litigation is incapable of pecuniary estimation"[2] or in "all civil actions which involve the title to, or possession of, real property, or any interest therein, where the assessed value of the property involved exceeds Twenty thousand pesos (P20,000.00) or for civil actions in Metro Manila, where such value exceeds Fifty thousand pesos (P50,000.00) x x x." [3]

Moreover, under RA 8799 or the Securities Regulation Code, jurisdiction over intra-corporate disputes was transferred from the Securities and Exchange Commission "to the Courts of general jurisdiction or the appropriate Regional Trial Court.1' This Court was given the power or authority to designate the RTC branches that shall exercise jurisdiction over said cases.[4]

Section 13 of BP 129 created 13 RTCs, one RTC for each of the 13 judicial regions. The National Capital Judicial Region (NCJR), consisting of Manila, Quezon, Pasay, Caloocan, Navotas, Malabon, San Juan, Mandaluyong, Makati, Pasig, Pateros, Taguig, Marikina, Paranaque, Las Piñas, Muntinlupa and Valenzuela, has only one (1) RTC. The RTC-NCJR is the only court which exercises judicial powers and functions through its various branches. Sec. 14 of BP 129, as amended, provides for 276 Branches of the RTC-NCJR, among which are 97 organized Branches for the City of Manila (RTC Manila). Sec. 18 of BP 129 grants these 97 branches of the RTC in Manila of the RTC-NCJR authority over cases in the territorial area of the City of Manila. Moreover, these branches of RTC in Manila are authorized by law to determine "the venue of all suits, proceedings or actions whether civil or criminal."

All cases of the 97 branches of RTC in Manila of the RTC-NCJR are distributed or assigned among said branches through the raffle of cases, presided over by the Executive Judge pursuant to existing Supreme Court circulars and resolutions. Undeniably, the case at bar was not filed by respondent R-II Builders directly with Branch 24 of RTC

Manila, but directly with the Clerk of Court of the RTC-NCJR in Manila. The Clerk of Court computed the docket fees and respondent R-II Builders paid the fees based on said assessment. It was the Executive Judge of the RTC in Manila who, after having initially determined that the case involved an intra-corporate dispute, raffled the case to Branch 24, a regular RTC designated by this Court as a commercial court:

The judge presiding over Branch 24 of RTC Manila, a designated Special Commercial Court (SCC), however, determined that the case was not an intra-corporate dispute, and found it proper that the case be returned to the Executive Judge of RTC Manila for re-raffling. Thus, it was the Executive Judge of RTC Manila who conducted the re-raffling, and the case was then transferred to Branch 22 of RTC Manila. The subject matter jurisdiction over the case belonged and still remains with RTC Manila. The re-raffling only effected the transfer of the case from one branch to another branch of the same court, namely RTC Manila, by rightful action of the Executive Judge, not via order of Branch 24 of RTC Manila. The RTC of Manila still had jurisdiction over the case; it was not lost by the erroneous raffle. Jurisdiction is conferred by law.[5] Once jurisdiction is acquired, it continues until the case is finally terminated.[6] Thus, the complaint at bar should not be dismissed for lack of jurisdiction.

In Our assailed March 9, 2011 Decision, We used *Calleja v. Panday*[7] as precedent to the case at bar. A second look at *Calleja* shows that the facts and circumstances in said case are dissimilar to the instant case. In *Calleja*, a complaint which involves an intra-corporate dispute was directly filed with the RTC of San Jose, Camarines, Sur, Branch 58 which is not an SCC. It appears that the case was referred to the Executive Judge of the RTC-Naga City which refused to receive the case folder, as it concluded that improper venue is not a ground for transferring said case to another jurisdiction. The RTC-Branch 58 of San Jose, Camarines Sur, as a result, issued an order transferring the case to RTC of Naga City, Branch 23 which is an SCC. The Court ruled that this procedure cannot be allowed, because a commercial case has to be filed directly with the Clerk of Court of the designated commercial court since only these courts have jurisdiction over intra-corporate disputes pursuant to A.M. No. 03-03-03-SC effective July 1, 2003. The instant case is NOT an intra-corporate dispute and, hence, is cognizable by a regular RTC. Said case was incorrectly raffled by the Executive Judge to an SCC but was subsequently raffled to a regular RTC upon discovery of the mistake. Moreover, the instant case was not filed directly with the clerk of court of the SCC as required by A.M. No. 03-03-03-SC but with the Clerk of Court of the RTC-Manila. Thus, there is nothing irregular with transfer of the case to a regular RTC via raffle by the Executive Judge. Clearly, the instant case cannot be dismissed on the alleged irregularity or want of jurisdiction of Branch 24, for jurisdiction is indisputably with the regular RTC-Manila and not the SCC. Here, jurisdiction was in the proper court, if not in the proper branch.

Reliance on *Igot v. Court of Appeals*[8] is also misplaced, as that case recognized that only the court that issued an injunction can impose sanctions for contempt of that injunction. While referral was made due to lack of subject matter jurisdiction in that particular case, in the present case, it was the court with proper jurisdiction over the subject matter that took action. Branch 24 of RTC Manila recognized that it did not have the authority to hear the case, and properly stood back and let the Executive Judge of RTC Manila handle the re-raffle. Branch 24 of RTC Manila took no direct action to transfer the case to another branch.

Regarding the matter of the payment of docket fees, in the Decision dated March 9, 2011, We further stated:

x x x (T)he CA also gravely erred in not ruling that respondent RTC's (Branch 22, the regular court) jurisdiction over the case was curtailed by R-II Builder's failure to pay the correct docket fees. In other words, the jurisdictionally flawed transfer of the case from Branch 24, the SCC to Branch 22, the regular court, is topped by another jurisdictional defect which is the non-payment of the correct docket fees.[9]

x x x (T)he CA failed to take into account the fact that R-II Builders' original complaint and Amended and Supplemental Complaint both interposed causes of action for conveyance and/or recovery of possession of the

entire Asset Pool. Indeed, in connection with its second cause of action for appointment as trustee in its original complaint. R-II Builders distinctly sought the conveyance of the entire Asset Pool, which it consistently estimated to be valued at P5,919,716,618.62 as of 30 June 2005. In its opposition to HGC's motion to dismiss. R-II Builders even admitted that the case is a real action as it affects title to or possession of real property or an interest therein.[10] x x x

xxx For non-payment of the correct docket fee which, for real actions, should be computed on the basis of the assessed value of the property, or if there is none, the estimated value thereof as alleged by the claimant, respondent RTC should have denied admission of R-II Builders' Second Amended Complaint and ordered the dismissal of the case.[11]

I recommend the recall of Out previous rulings.

On September 1, 2005, the complaint subject of this instant petition was filed with the RTC Manila, and the reliefs prayed for were as follows:

x x x [P]laintiff R-II Builders. Inc. respectfully prays, that this Honorable Court:

1. Upon the filing of the Complaint, issue ex parte a temporary restraining order enjoining the following: (i) the HGC and the NHA [National Housing Authority], and all persons acting under them, from disposing of or conveying to the Social Security System, or to any- other entity, any portion of the properties conveyed to the HGC by the PDB [Planters Development Bank] under the Deed of Assignment and Conveyance; (ii) the NHA from executing a Special Power of Attorney in favor of HGC, or any other entity, that will serve as authority to accomplish the conveyance of the Asset Pool properties or any portion thereof.

2. After due notice and hearing, issue a writ of preliminary injunction enjoining: (i) the HGC and the NHA. and all persons acting under them, from disposing of or conveying to the Social Security System, or to any other entity, any portion of the properties conveyed to the HGC by the PDB under the Deed of Assignment and Conveyance during the pendency of the proceedings in this case; (ii) the NHA from executing a Special Power of Attorney in favor of HGC. or any other entity, that will serve as authority to accomplish the conveyance of the Asset Pool properties or any portion thereof, likewise during the pendency of the proceedings in this case; and

3. After trial on the merits, render judgment:

(i) Resolving and/or rescinding the Deed of Assignment and Conveyance executed by PDB in favor of HOC; or in the alternative, declaring the nullity of the said instrument;

(ii) Appointing R-II Builders. Inc. as the Trustee of the Asset Pool properties, with powers and responsibilities including but not limiting to those stated x x x herein and those spelled out in the Re-Stated Smokey Mountain Asset Pool Formation Trust Agreement x x x;

(iii) Ordering HGC to render an accounting of all properties of the Asset Pool transferred thereto under the Deed of Assignment and Conveyance, and thereafter convey the entire Asset Pool to R-II Builders, Inc. as the Trustee thereof;

(iv) Making the injunction permanent.

(v) Ordering HGC to pay Attorney's Fees in the amount of Five Hundred Thousand Pesos (PhP 500,000.00) and the costs of suit.

Plaintiff prays for such further or other relief that this Honorable Court may deem just or equitable under the premises.[12] (Emphasis supplied.)

On August 2, 2007, respondent R-II Builders filed its Amended and Supplemental Complaint, which prayed for

the following reliefs:

5. After trial on the merits, render judgment:

(i) Declaring the annulment of the Deed of Assignment and Conveyance executed by PDB in favor of HOC; or in the alternative, declaring the nullity of the said instrument;

(ii) Appointing R-II Builders as the Trustee of the Asset Pool properties, with powers and responsibilities including but not limiting to those stated x x x herein and those spelled out in the Re-Stated Smokey Mountain Asset Pool Formation Trust Agreement;

(iii) Ordering HGC to render an accounting of all properties of the Asset Pool transferred thereto under the Deed of Assignment and Conveyance, and thereafter convey title to and/or possession of the entire Asset Pool to R-II Builders as the Trustee thereof which assets consist of, but is not limited to, the following:

(a) 105 parcels of land comprising the Smokey Mountain Site, and, the Reclamation Area, consisting of 539,471.47 square meters, and all the buildings and improvements thereon, with their corresponding certificates of title;

(b) shares of stock of Harbour Centre Port Terminal. Inc. which are presently registered in the books of said company in the name of PDB for the account of the Smokey Mountain Asset Pool; and

(c) other documents as listed in Annex E of the Contract of Guaranty.

(iv) Ordering NHA to pay the Asset Pool the amount of Php 1,803,729,757.88 including the direct and indirect cost thereon as may be found by this Honorable Court to be due thereon;

(v) Making the injunction permanent;

(vi) Ordering HGC and the NHA to pay Attorney's Fees in the amount of P2,000.000 and the costs of suit.[13] (Emphasis in boldface supplied; underscoring in the original.)

Home Guaranty Corporation (HOC) filed its answer to the said complaint. On September 2, 2007, respondent R-II Builders filed its Amended and Supplemental Complaint. This complaint was admitted in the May 19, 2008 Order. On August 15, 2008, respondent R-II Builders filed its Second Amended Complaint, which prayed for the following:

xxx [P]laintiff R-II Builders, Inc. respectfully prays that this Honorable Court:

1. Upon the filing of the Complaint, issue ex parte a temporary restraining order enjoining the following: (i) the HGC and the NHA, and all persons acting under them, from disposing of or conveying to the Social Security System, or to any other entity, any portion of the properties conveyed to the HGC by the PDB under the Deed of Assignment and Conveyance: (ii) the NHA from executing a Special Power of Attorney in favor of HGC, or any other entity, that will serve as authority to accomplish the conveyance of the Asset Pool properties or any portion thereof.

2. After due notice and hearing, issue a writ of preliminary injunction enjoining: (i) the HGC and the NHA, and all persons acting under them, from disposing of or conveying to the Social Security System, or to any other entity, any portion of the properties conveyed to the HGC by the PDB under the Deed of Assignment and Conveyance during the pendency of the proceedings in this case; (ii) the NHA from executing a Special Power of Attorney in favor of HGC, or any other entity, that will serve as authority to accomplish the conveyance of the Asset Pool properties or any portion thereof, likewise during the pendency of the proceedings in this case; and

3. After due proceedings, appoint a receiver under Rule 59 of the Rules of Court who will have the power to

preserve, administer, liquidate and distribute the Asset Pool and perform the powers and functions of a receiver provided by law.

4. After trial on the merits, render judgment:

(i)

Resolving and/or rescinding the Deed of Assignment and Conveyance executed by PDB in favor of HGC, or in the alternative, declaring the nullity of the said instrument:

(ii)

Approving the liquidation and distribution of the Asset Pool in accordance with the beneficial rights and interests that had vested under the Joint Venture Agreement and Pool Formation Agreement, as duly inventoried and accounted for by the appointed Receiver, and thereafter particularly the transfer or conveyance of all remaining assets and values of the Asset Pool to plaintiff R-II Builders:

(iii)

Making the injunction permanent.

(iv)

Ordering HGC to pay Attorney's Fees in the amount of Five Hundred Thousand Pesos (PhP500,000.00) and the costs of suit.

Plaintiff prays for such further or other relief that (his Honorable Court may deem just or equitable.[14] (Emphasis in the original.)

In its Order dated March 3, 2009, the RTC Manila granted the Motion to Admit the Second Amended Complaint. The Answer to the Second Amended Complaint was filed by HGC in October 2009. Thus, the Second Amended Complaint was validly admitted by leave of court pursuant to Sec. 3, Rule 10 of the Rules of Court, and HGC responded to said amended complaint and there was already a JOINDER OF ISSUES on the Second Amended Complaint. The effect of the amendment is that the amended pleading supersedes the pleadings that it amends, pursuant to Sec. 8, Rule 10 of the Rules of Court. Thus, the Second Amended Complaint superseded both the original complaint and the Amended and Supplemental Complaint. The Second Amended Complaint asked for the resolution or rescission of the Deed of Assignment and Conveyance (DAC); sought the appointment of a receiver; after the inventory is completed, that the liquidation and distribution of the Asset Pool in accordance with the parties' agreements be approved and the remaining assets and values of the Asset Pool be transferred and conveyed to respondent R-II Builders; and the payment of attorney's fees of PhP 500,000.

Whether or not the case is a real action, and whether or not the proper docket fees were paid, one must look to the main cause of action of the case. In all instances, in the original Complaint, the Amended and Supplemental Complaint and the Amended Complaint, it was all for the resolution or rescission of the DAC, with the prayer for the provisional remedy of injunction and the appointment of a trustee and subsequently a receiver. In the Second Amended Complaint, the return of the remaining assets of the asset pool, if any, to respondent R-II Builders would only be the result of the resolution or rescission of the DAC.

Even if real property in the Asset Pool may change hands as a result of the case in the trial court, the fact alone that real property is involved does not make that property the basis of computing the docket fees. *De Leon v. Court of Appeals*[15] has already settled the matter. That case, citing *Bautista v. Limy*[16] held that a case for rescission or annulment of contract is not susceptible of pecuniary estimation. On the other hand, in the Decision We rendered on July 25, 2005 in *Serrano v. Delica*,[17] We ruled that the action for cancellation of contracts of

sale and the titles is a real action. Similarly, on February 10, 2009, We ruled in *Ruby Shelter Builders and Realty Development Corporation v. Formaran III*[18] (Ruby Shelter) that an action for nullification of a Memorandum of Agreement which required the lot owner to issue deeds of sale and cancellation of the Deeds of Sale is a real action.

Quite recently, however, in one case—*Lu v. Lu Ym, Sr.*[19]—similar to the facts of the instant case, the Court on February 15, 2011 held that a complaint for "declaration of nullity of share issue, receivership and dissolution and asset liquidation" of the Ludo and Luym Development Corporation is a case incapable of pecuniary estimation since the recovery of the real or personal property was merely a consequence of the principal action and the computation of docket fees was not dependent on the value of the properties.

This latest ruling in *Lu* is a precedent to the case at bar and is the latest case law on the matter. It prevails over our rulings in *Serrano* and *Ruby Shelter*. In both *Lu* and the case at bar, the main causes of action are similar—the nullification of the share issue in *Lu* and the Deed of Assignment and Conveyance in the instant case; both prayed for receivers and both asked for dissolution of a company in *Lu* and the asset pool in the instant case. *R-II Builders* asked for the residual value of the assets after liquidation, while *David Lu* would get his share after dissolution and liquidation. Ergo, the instant case is incapable of pecuniary estimation.

Moreover, it is clear as day that the prayer in the original complaint was for the conveyance of the properties of the Asset Pool to *R-II Builders* as trustee but NOT as owner. A trustee does not acquire ownership of the assets entrusted to him but merely manages it for the benefit of the beneficiary pursuant to Rule 98 of the Rules of Court. The duties of the trustee are:

Sec. 6. Conditions included in bond.—

x x x x

b. That he will manage and dispose of all such estate, and faithfully discharge his trust in relation thereto, according to law and the will of the testator or the provisions of the instrument or order under which he is appointed;

x x x x

d. That at the expiration of his trust he will settle his accounts in court and pay over and deliver all the estate remaining in his hands, or due from him on such settlement, to the person or persons entitled thereto. (Emphasis supplied.)

Since the conveyance of the Asset Pool to *R-II Builders* was not a transfer of ownership to said company, but instead the Asset Pool was held only by *R-II Builders* as trustee in favor of the rightful owners, then there is NO benefit or gain to *R-II Builders* and the instant case cannot be classified as a real action. The present complaint of respondent *R-II Builders* still remains one that involves an action incapable of pecuniary estimation, a subject matter which is within the exclusive original jurisdiction of the RTC Manila, and the corresponding docket fees prescribed by RTC Manila were already paid at the time of the filing of the original Complaint. Hence, (here is no basis for the payment of additional fees.

Even granting *arguendo* that the instant case is a real action and not one incapable of pecuniary estimation, the case should not be dismissed but the payment of the additional fees shall be made a lien on the judgment. It would not be in keeping with the liberal application of the rules for the Court to order the dismissal of the complaint when the RTC Manila itself committed the error of assigning the case to an SCC. when the subject matter did not involve an intra-corporate dispute. The Court will deviate from the policy of securing a just, speedy and inexpensive resolution of the case at bar if respondent *R-II Builders* paid the prescribed docket fees, which We

would later deem erroneous, and for which its complaint would be dismissed. If We maintain that there was a mistake in the imposition of the docket fees assessed by the Court itself through the error of a trial court, then the better procedure is to consider the additional docket fees that may be due and owing from respondent R-II Builders as a lien on the judgment award, instead of dismissing the complaint.

Our Decision dated March 9, 2011[20] explicitly acknowledged that the complaint should NOT be dismissed outright when the trial court finds that there is a need to pay additional fees during the course of the proceedings. We explained:

Applying the rule that "a case is deemed filed only upon payment of the docket fee regardless of the actual date of filing in court" in the landmark case of *Manchester Development Corporation v. Court of Appeals*, this Court ruled that jurisdiction over any case is acquired only upon the payment of the prescribed docket fee which is both mandatory and jurisdictional. To temper said ruling, the Court subsequently issued the following guidelines in *Sun Insurance Office, Ltd. v. Hon. Maximiano Asuncion*,[21] viz:

1. It is not simply the filing of the complaint or appropriate initiatory pleading, but the payment of the prescribed docket fee. that vests a trial court with jurisdiction over the subject matter or nature of the action. Where the filing of the initiatory pleading is not accompanied by payment of the docket fee, the court may allow payment of the fee within a reasonable time but in no case beyond the applicable prescriptive or reglementary period.
2. The same rule applies to permissive counterclaims, third-party claims and similar pleadings, which shall not be considered filed until-and unless the filing fee prescribed therefore is paid. The court may also allow payment of said fee within a reasonable time but also in no case beyond its applicable prescriptive or reglementary period.
3. Where the trial court acquires jurisdiction over a claim by the filing of the appropriate pleading and payment of the prescribed filing fee but, subsequently, the judgment awards a claim not specified in the pleading, or if specified the same has been left for determination by the court, the additional filing fee therefore shall constitute a lien on the judgment. It shall be the responsibility of the Clerk of Court or his duly authorized deputy to enforce said lien and assess and collect the additional fee. [Decision dated March 9, 2011, pp. 22-23]

Applying the third guideline in the above-cited *Sun Insurance Office, Ltd.* to the complaint at bar, even if it is conceded that the case is a real action, then the additional fee if any shall constitute a lien on the judgment but the complaint shall not be dismissed for lack of jurisdiction.

We cite again Our more recent ruling in *Lu*,[22] where We adopted the three-tiered approach explained in Our previous August 26, 2008 Decision in *Lit.* thus:

In the instant case, however, we cannot grant the dismissal prayed for because of the following reasons: First, the case instituted before the RTC is one incapable of pecuniary estimation. Hence, the correct - docket fees were paid. Second, John and LLDC are estopped from questioning the jurisdiction of the trial court because of their active participation in the proceedings below, and because the issue of payment of insufficient docket fees had been belatedly raised before the Court of Appeals, i.e., only in their motion for reconsideration. Lastly, assuming that the docket fees paid were truly inadequate, the mistake was committed by the Clerk of Court who assessed the same and not imputable to David: and as to the deficiency, if any, the same may instead be considered a lien on the judgment that may thereafter be rendered. (Emphases in the original.)

On another point, respondent R-II Builders likewise challenged Our ruling in the assailed March 9, 2011 Decision that "the conveyance and /or transfer of possession of the same properties (in the Asset Pool) in the original complaint and Amended and Supplemental Complaint both presuppose a real action for which appropriate docket fees computed on the basis of the assessed or estimated values of said properties should have been assessed and

paid." (Decision dated March 9, 2011, p. 20) Clearly, we want respondent R-II Builders to pay docket fees on the entire value of the properties in the asset Pool estimated at PhP 5,919,716,618.62. This has no basis considering that R-II Builders is only asking the remaining assets of the Asset Pool after inventory and accounting. To require said respondent docket fees of PhP 118,390,832.37 on said value of the Asset Pool when it is only asking for the residual properties would be confiscatory and a denial of access to the justice system.

Thus, even assuming that the R-II Builders' complaint is a real action and additional fees should be paid on the properties sought to be recovered, in this case, the remaining properties of the ASSET Pool, the alternative is to require R-II Builders to pay additional fees based on the estimated residual value of its rights in the Asset Pool to be determined by the trial court in a hearing where the parties will be required to adduce evidence on the possible residual value that will result from the resolution or rescission of the DAC. R-II Builders cannot be required to pay docket fees based on the value of the entire Asset Pool of PhP 5,919,716,618.62, it having only an interest in the residual value of the asset pool, which is what would remain after liquidation and payment of the creditors. Even Our ruling in *Ruby Shelter*[23] did not order the dismissal of the case but simply directed the payment of additional fees to be charged on a real action. This course of action would be most fair to all parties. The fallo of *Ruby Shelter* reads:

WHEREFORE, premises considered, the instant Petition for Review is hereby DENIED. The Decision, dated 22 November 2006. of the Court of Appeals in CA-G.R. SP No. 94800. which affirmed the Orders dated 24 March 2006 and 29 March 2006 of the RTC, Branch 22. of Naga City, in Civil Case No. RTC-2006-0030, ordering petitioner Ruby Shelter Builders and Realty Development Corporation to pay additional docket/filing fees, computed based on Section 7(a), Rule 141 of the Rules of Court, as amended, is hereby AFFIRMED. Costs against the petitioner. (Emphasis supplied.)

Therefore, Our March 9, 2011 Decision has to be recalled and set aside and the petition of HGC denied. The RTC should be ordered to conduct a hearing to determine the estimated residual value of the Asset Pool where the parties can present evidence thereon. After determination of the estimate of the remaining assets and values that may possibly accrue to respondent R-II Builders, then said respondent should be ordered to pay additional docket fees based thereon within a reasonable time frame. Otherwise, the complaint will be dismissed for nonpayment of docket fees.

[1] *Home Guaranty Corporation v. R-II Builders, Inc.* G.R. No. 192649. March

[2] BP 129. Sec. 19(1).

[3] *Id.*, Sec. 19(2).

[4] RA 8799. Sec. 5(2).

[5] *Southeast Asian Fisheries Development Center-Aquaculture Department v. National Labor Relations Commission.* G.R. No. 86773. February 14, 1992. 206 SCRA 283, 288.

[6] *Philippine National Sank v. Tejano, Jr.*, G.R. No. 173615. October 16, 2009, 604 SCRA 147, 159.

[7] G.R. No. 168696. February 28, 2006. 483 SCRA 680.

[8] G.R. No. 150794. August 17, 2004, 436 SCRA 668.

[9] *Home Guaranty Corporation v. R-II Builders, Inc.*, *supra* note 1.

[10] *Id.*

[11] Id.

[12] Rollo, pp. 375-376.

[13] Id. at 485-486.

[14] Id. at 535-537.

[15]]G.R. No. 104796. March 6, 1998, 287 SCRA 94.

[16] No. L-41430. February 19, 1979, 88 SCRA 479.

[17] G.R. No. 136325. July 29, 2005, 465 SCRA 82.

[18] G.R. No. 175934. February 10. 2009, 578 SCRA 283.

[19] G.R. Nos. 153690 & 170889.

[20] Home Guaranty Corporation v. R-II Builders, Inc., supra note 1.

[21] G.R. Nos. 79937-38. February 13. 1989, 170 SCRA 274. 285.

[22] Supra note 19; citing Lu v. Lu Ym., Sr., G.R. No. 153690, August 26, 2008. 563 SCRA 254, 274.

[23] Supra note 18. at 307.

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