

**JAMES S. PFLEIDER, PETITIONER, V. HON. COURT OF APPEALS –
CEBU CITY, ATTY. MARIE LUISE PFLEIDER ALBA, AS SUBSTITUTED
BY HER HEIRS, NAMELY: DAVID JOHN THADDEUS P. ALBA,
FERDINAND...**

G.R. No. 196058. November 12, 2018

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CAGUIOA, J:

Before the Court is a Petition for Certiorari[1] (Petition) under Rule 65 of the Rules of Court filed by petitioner James S. Pfleider (Pfleider), claiming that the Court of Appeals – Cebu City, Eighteenth Division (CA) committed grave abuse of discretion in issuing its Decision[2] dated July 30, 2010 (assailed Decision) and Resolution[3] dated December 10, 2010 (assailed Resolution) in CA-G.R. CV No. 01578.

The Facts and Antecedent Proceedings

As narrated by the CA in its assailed Decision, and as culled from the records of the case, the essential facts and antecedent proceedings of the instant case are as follows:

This appeal originated from a Complaint,[4] docketed as Civil Case No. 1287, filed on 14 April 2005 by [petitioner] Pfleider against [respondents] Atty. Marie Luise Pfleider-Alba [(Pfleider-Alba)] and the Register of Deeds of Negros Occidental [(RD)], Atty. Mil[ag]ros S. dela Cruz ("Alba" and "dela Cruz," respectively) [(Dela Cruz)], before the RTC of Kabankalan City, Negros Occidental [(RTC, Kabankalan City)].

[Petitioner] Pfleider and [respondent Pfleider-Alba] are siblings and among the compulsory heirs of Fred G. Pfleider ("Fred") and Luisa Sanz-Pfleider ("Luisa"). During his lifetime, Fred acquired, among others, the following pieces of property, to wit:

- 1.) Lot No. 214-A situated at Bacolod, Negros Occidental and covered with TCT N[o]. 3804;
- 2.) Lot No. 214-B situated at Bacolod, Negros Occidental and covered with TCT No. T-3805;
- 3.) Lot [No.] 3500 of the Cauayan Cadastre and covered with TCT No. RT-8245 (32176);
- 4.) Lot No. 3829 of the Cauayan Cadastre and covered with TCT No. T-RT-8244 (32177); and
- 5.) Lot No. 3934 of the Cauayan Cadastre and covered with TCT No. 534-N.

[Petitioner] Pfleider, as compulsory heir and pursuant to an approved Project of Partition, inherited the following properties: Lot No. 3834; Lot No. 3829-D and Lot No. 3500.

All of the afore-mentioned parcels of land were used as collaterals in the Real Estate Mortgage ("REM") in favor of [the] Philippine National Bank ("PNB"), Victorias Branch, executed by Fred during his lifetime, particularly on 13 November 1952.

[Petitioner] Pfleider averred that [respondent Pfleider-Alba] volunteered to represent all of Fred's compulsory heirs before the PNB upon agreement that all siblings must prepare their share on the amortization payments. Sometime on 15 February 1977, PNB issued Official Receipt No. 927681 in favor of [respondent Pfleider-Alba] reflecting the amount of P275.00. [Petitioner] Pfleider alleged that at the back of said receipt, [respondent

Pfleider-Alba] affixed a handwritten computation of each of the sibling's share on the amortization payment which is P17,350.00. Subsequently, [petitioner] Pfleider gave P20,000.00 to [respondent Pfleider-Alba] as his share. This was allegedly evidenced by a written acknowledgement receipt. [Respondent Pfleider-Alba] then assured [petitioner] Pfleider and their mother that she will take care of the transaction with [the] PNB.

But sometime in July 1986, their mother received a registered letter from the [RD] informing her of the need to reconstitute a page of one of the titles of Fred's properties. This was also the time that their mother learned of PNB's foreclosure of her husband's mortgaged properties. Thus, on 01 September 1986, [petitioner] Pfleider, [respondent Pfleider-Alba,] and Mrs. Isobel Pfleider-Mahimer ("Mahimer"), their sister, went to PNB to negotiate. Resultantly, their mother received on 27 November 1986, a letter from PNB informing them of the approval of the extension of their redemption period for six months, from 26 October 1986 until 26 April 1987. During the interim period, [petitioner] Pfleider heard of [respondent Pfleider-Alba's] supposition that all her siblings already relinquished their properties to her.

Then, on the 23[rd] and 24[th] of April 1987, [respondent Pfleider-Alba] allegedly called up [petitioner] Pfleider and informed him that she would redeem the foreclosed properties. Relevant thereto, [respondent Pfleider-Alba] informed [petitioner] Pfleider that he should accomplish a Deed of Quitclaim^[5] over all the foreclosed properties since PNB required its execution. [Petitioner] Pfleider, after much hesitation but upon receipt of [respondent Pfleider-Alba's] letter reassuring him that he would not be prejudiced by the quitclaim, signed it.

However, on 07 January 2003, [petitioner] Pfleider was shocked when he learned that TCT No. T-207001^[6] consolidating the entire Lot No. 3829 was registered in the name of [respondent Pfleider-Alba]. The consolidation included Lot No. 3829-D which was [petitioner Pfleider's] share in [the] inheritance. [Petitioner] Pfleider maintained that [respondent Pfleider-Alba's] action was not only tainted with fraud but also violated the implied trust created between [respondent Pfleider-Alba] and her siblings. Hence, the filing of the instant [C]omplaint.

Though [respondent Pfleider-Alba] raised several defenses, she essentially sought the dismissal of [petitioner] Pfleider's [C]omplaint on the ground of *litis pendentia*. [Respondent Pfleider-Alba] contended that there is another case pending between them involving the same issues, the same properties and even the same pieces of documentary evidence. It was filed before the RTC of Bacolod City, Branch 46 [(RTC, Bacolod City)], entitled "*Marie Luise P. Alba v. James Pfleider*." It is an action for Damages and Injunction with Prayer for Restraining Order and docketed as Civil Case No. 00-11070. [Respondent Pfleider-Alba] likewise insisted that [petitioner] Pfleider violated the prohibition against forum shopping.

[Respondent] [d]ela Cruz] also filed her Answer asserting that she merely performed her duty in issuing the titles to [respondent Pfleider-Alba's] name. She also stressed that it was not within the scope of her duty as a Register of Deeds to determine whether [respondent Pfleider-Alba] committed fraud against [petitioner] Pfleider in securing the title.

[Respondent Pfleider-Alba] then filed a Motion for Preliminary Hearing on the Affirmative Defenses on 31 May 2005, which was opposed by [petitioner] Pfleider. Nonetheless, [respondent Pfleider-Alba's] [M]otion was granted in the 20 June 2005 Order of [RTC, Kabankalan City]. The parties then proffered their respective Memorandum.

Thereafter, [RTC, Kabankalan City] rendered its Order^[7] [dated August 15, 2005] finding that *litis pendentia* did not obtain in the instant [C]omplaint. [Respondent Pfleider-Alba] filed a Manifestation and Motion for Reconsideration.

[RTC, Kabankalan City] granted [respondent Pfleider-Alba's] Motion for Reconsideration in its assailed Order^[8]

[dated September 26, 2005], viz:

WHEREFORE, finding merit to the motion and in view of said jurisprudence[,] it appearing that there is *litis pendentia* between Civil Case No. 00-11070 pending with [RTC, Bacolod City] and the present case, the Order of this Court dated August 15, 2005 is reconsidered and set aside and this case is hereby dismissed.

SO ORDERED.[9]

This time, it was now [petitioner] Pflaider who filed a Motion for Reconsideration which was likewise denied in the challenged 25 November 2005 Order.[10]

[Hence, petitioner Pflaider, filing a Notice of Appeal[11] on December 19, 2005, appealed the RTC, Kabankalan City's Order dated 25 November 2005 before the CA under Rule 41 of the Rules of Court.][12]

The Ruling of the CA

In its assailed Decision, the CA denied Pflaider's appeal outright. The dispositive portion of the assailed Decision of the CA reads:

WHEREFORE, premises considered and for availing of a wrong remedy, the instant Appeal merits OUTRIGHT DISMISSAL.

No Costs.

SO ORDERED.[13]

As explained by the CA in its assailed Decision, the CA outrightly denied Pflaider's appeal due to the availment of the wrong remedy. The CA found that Pflaider's appeal raised pure questions of law, involving the application of the concept of *litis pendentia* in the instant case due to the pendency of Civil Case No. 00-11070 being heard before the RTC, Bacolod City. Hence, in accordance with Section 2, Rule 50 of the Rules of Court, which states that an appeal under Rule 41 taken from the RTC to the CA raising only questions of law shall be dismissed, the CA dismissed the instant appeal.[14]

Pflaider filed a Motion for Reconsideration[15] dated September 8, 2010 before the CA, asking for a reconsideration of the assailed Decision, which was subsequently denied by the CA in its assailed Resolution.

Hence, the instant Petition for Certiorari.

Pflaider-Alba filed her Comment[16] dated December 13, 2011, to which Pflaider responded with a Reply[17] dated December 14, 2012.

Issue

Pflaider asks the Court to resolve the question of whether or not the CA committed grave abuse of discretion when it issued the assailed Decision and Resolution dismissing Pflaider's appeal outright.

The Court's Ruling

The Court resolves to deny the instant Petition.

Procedural Hurdle: Improper Remedy

Before delving into the merits of the abovementioned issue raised by Pflaider, it behooves the Court to first resolve the palpable procedural matter presented by the instant Petition.

At the outset, the Court takes note that Pflaider, in questioning the correctness of the assailed Decision and

Resolution issued by the C A, filed a Petition for Certiorari under Rule 65 of the Rules of Court.

It is a basic rule in remedial law that where an appeal is available to the aggrieved party, the special civil action for certiorari will not be entertained; remedies of appeal and certiorari are mutually exclusive, not alternative or successive. Under Rule 45, decisions, final orders or resolutions of the CA in any case, i.e., regardless of the nature of the action or proceedings involved, may be appealed to this Court by filing a petition for review, which would be but a continuation of the appellate process over the original case. On the other hand, a special civil action under Rule 65 is an independent action based on the specific ground therein provided and, as a general rule, cannot be availed of as a substitute for the lost remedy of an ordinary appeal, including that to be taken under Rule 45.[18]

One of the requisites of certiorari is that there is no available appeal or any plain, speedy and adequate remedy. Jurisprudence has held that where an appeal is available, certiorari will not prosper, even if the ground raised is grave abuse of discretion. Accordingly, when a party adopts an improper remedy, his petition may be dismissed outright.[19]

In assailing the Decision and Resolution of the court a quo, Pfleider had the available remedy of appeal by way of a petition for review on certiorari under Rule 45. A simple perusal of the instant Petition would reveal that the ultimate issue raised is not jurisdictional in nature, but is centered on the supposed errors of the CA in dismissing Pfleider's appeal outright.

Under prevailing procedural rules and jurisprudence, mere errors of judgment are not proper subjects of a special civil action for certiorari. Where the issue or question involved affects the wisdom or legal soundness of the decision, and not the jurisdiction of the court to render said decision, the same is beyond the province of a special civil action for certiorari.

To emphasize, upon careful examination of the instant Petition, it is apparent that Pfleider merely questions the assailed Decision and Resolution, not on the basis of the CA's lack of jurisdiction to hear and decide Pfleider's appeal, but merely due to the supposed legal errors purportedly committed by the CA when it decided to dismiss outright Pfleider's appeal.

Hence, for this reason alone, the Court finds sufficient reason to deny the instant Petition.

The CA Did Not Commit Any Reversible Error That Warrants The Court's Exercise Of Its Appellate Jurisdiction.

While it is true that the Court may set aside technicalities and proceed with the appeal,[20] even assuming arguendo that the Court exercises liberality and treats the instant Petition for Certiorari as a Rule 45 appeal, the outcome remains the same — as the instant Petition is unmeritorious. The Court finds that the CA did not commit any error, more so grave abuse of discretion, in issuing the assailed Decision and Resolution.

Under Section 2, Rule 41 of the Rules of Court, there are two (2) modes of appealing a judgment or final order of the RTC in the exercise of its original jurisdiction:

(a)

If the issues raised involve questions of fact or mixed questions of fact and law, the proper recourse is an ordinary appeal to the CA in accordance with Rule 41 in relation to Rule 44 of the Rules of Court; and

(b)

If the issues raised involve only questions of law, the appeal shall be to the Court by petition for review on certiorari in accordance with Rule 45 of the Rules of Court.[21]

Corollary, under Section 2, Rule 50 of the Rules of Court, an appeal under Rule 41 taken from the RTC to the CA raising only questions of law shall be dismissed, as issues purely of law are not reviewable by the said court. Similarly, an appeal by notice of appeal instead of by petition for review from the appellate judgment of an RTC shall be dismissed.

The Rules of Court is clear and unequivocal, using mandatory language, in establishing the rule that an appeal raising pure questions of law erroneously taken to the CA shall not be transferred to the appropriate court, but shall be dismissed outright.

The Court thus agrees with the CA's decision to dismiss Pfeider's appeal outright. The appeal of Pfeider, as correctly held by the CA, essentially raised issues purely of law.

Time and again, the Court has distinguished cases involving pure questions of law from those of pure questions of fact in the following manner — a question of fact exists when a doubt or difference arises as to the truth or falsity of alleged facts. If the query requires a re-evaluation of the credibility of witnesses or the existence or relevance of surrounding circumstances and their relation to each other, the issue in that query is factual.[22]

On the other hand, there is a question of law when the doubt or difference arises as to what the law is on certain state of facts and which does not call for an existence of the probative value of the evidence presented by the parties-litigants. In a case involving a question of law, the resolution of the issue rests solely on what the law provides on the given set of circumstances.[23]

Ordinarily, the determination of whether an appeal involves only questions of law or both questions of law and fact is best left to the appellate court. All doubts as to the correctness of the conclusions of the appellate court will be resolved in favor of the CA unless it commits an error or commits a grave abuse of discretion.[24]

A simple perusal of the issues raised by Pfeider in his appeal before the CA, as worded by Pfeider himself in the instant Petition, readily reveals that these are pure questions of law that do not call for an appreciation of the probative value of the evidence presented by the parties-litigants:

- a. Whether or not [RTC, Kabankalan City] erred in finding that there exists a *litis pendentia* between Civil Case No. 1287 x x x and Civil Case No. 00-11070 x x x;
- b. Whether or not [RTC, Kabankalan City] erred in denying the Motion for Reconsideration filed by the [petitioner] x x x;
- c. Whether or not [RTC, Kabankalan City] erred in Its application of the case of *Development Bank of the Philippines versus Court of Appeals and Carlos Cajes*, x x x;
- d. Whether or not the dismissal by [RTC, Kabankalan City] x x x shall propagate injustice;
- e. Whether or not [RTC, Kabankalan City] failed to appreciate the violation committed by [respondent Pfeider-Alba] of the mandatory provision of Section 5, Rule 15 of the [Rules of Court], which renders her Motion for Reconsideration dated September 8, 2005 a mere scrap of paper.[25]

Evident from the foregoing is that Pfeider is primarily appealing before the CA the propriety of RTC, Kabankalan City's dismissal of the Complaint on the ground of *litis pendentia*. A dismissal based on this ground does not involve a review of the facts of the case but merely the application of the law and the applicable jurisprudence on *litis pendentia*.

The issue to be resolved is limited to whether or not the said doctrine was properly applied, which will only involve a review of the Complaints in Civil Case Nos. 1287 and 00-11070,[26] and RTC, Kabankalan City's Order of dismissal, but NOT the probative value of the evidence submitted nor the truthfulness or falsity of the

facts. Considering, therefore, that the subject appeal filed by Pfleider before the court a quo raised only questions of law, the CA committed no error in dismissing the same in fealty to Section 2, Rule 50 of the Rules of Court.

On The Existence Of Litis Pendentia

It must be noted that although the instant Petition was filed solely to question the assailed Decision and Resolution of the CA, and not the RTC, Kabankalan City's Order dismissing the Complaint, as seen in the Prefatory Statement/Statement of the Case of the instant Petition,[27] Pfleider proceeded to discuss even the validity of the RTC, Kabankalan City's ruling that *litis pendentia* applies in the instant case, warranting the dismissal of Pfleider's Complaint.

Even if the Court does away with the procedural error committed by Pfleider when he filed the instant Petition for Certiorari and deemed this Rule 65 Petition as an appeal under Rule 45, it has previously held that such an appeal before the Court is limited to errors of the appellate court and not the trial court.

Jurisprudence dictates that the errors which the Court may review in a petition for review on certiorari are those of the CA, and not those of the trial court which rendered the decision in the first instance. It is thus imperative that the Court refrains from conducting further scrutiny of the findings of the trial court. To be sure, the Court's review here is limited only to the errors of law committed by the CA and not the RTC.[28]

To stress, the only error of law alleged to have been committed by the CA as asserted by Pfleider in the instant Petition is its outright dismissal of Pfleider's appeal in accordance with Section 2, Rule 50 of the Rules of Court. Hence, following the dictates of established jurisprudence, the review of the instant case is limited to the errors committed by the CA in its assailed Decision and Resolution, and not the ones supposedly committed by the RTC in its Order dated September 26, 2005 dismissing Pfleider's Complaint due to *litis pendentia*.

Nevertheless, even if the Court disregards the foregoing rule, still, the assertion that *litis pendentia* was wrongfully applied by the RTC, Kabankalan City is incorrect.

Litis pendentia as a ground for the dismissal of a civil action refers to that situation wherein another action is pending between the same parties for the same cause of action, such that the second action becomes unnecessary and vexatious. The underlying principle of *litis pendentia* is the theory that a party is not allowed to vex another more than once regarding the same subject matter and for the same cause of action. This theory is founded on the public policy that the same subject matter should not be the subject of controversy in courts more than once, in order that possible conflicting judgments may be avoided for the sake of the stability of the rights and status of persons.[29]

First, there is no doubt at all that Civil Case No. 00-11070 heard before RTC, Bacolod City and Civil Case No. 1287 heard before RTC, Kabankalan City involve the same parties.

Second, despite Civil Case No. 00-11070 being initiated by Pfleider-Alba as an action for Damages and Injunction with Prayer for Restraining Order, it still shares an identity of rights, reliefs prayed for, and causes of action with Civil Case No. 1287. Indeed, in his Answer with Counterclaim[30] to the said Complaint in Civil Case No. 00-11070, as noted by RTC, Kabankalan City in its Order dated September 26, 2005, Pfleider made a counterclaim of ownership over the same property involved in Civil Case No. 1287, making a direct attack on the validity of the title of Pfleider-Alba over the subject property.[31]

As held by the Court in *Development Bank of the Phils. v. CA*,[32] a counterclaim claiming ownership over the land and seeking damages can be considered a direct attack on the title of the defendant as a counterclaim is considered a complaint, only this time, it is the original defendant who becomes the plaintiff. It stands on the same

footing and is to be tested by the same rules as if it were an independent action.

In fact, even in the instant Petition, Pfleider concedes that Civil Case No. 00-11070 also involved the issue of "ownership over the property involved." [33]

Pfleider argues that since Civil Case No. 1287 involves the question of ownership over the property covered by TCT No. T-207001, Civil Case No. 00-11070 supposedly does not touch upon the same issues because, at the time of the filing of the latter case, TCT No. T-207001 was not yet issued by the RD. [34]

This argument does not hold water, considering that the issue of ownership over property being raised by Pfleider in Civil Case No. 1287, i.e., the property covered by TCT No. T-207001 - the entire Lot No. 3829, necessarily involves and encompasses the ownership of the property involved in Civil Case No. 00-11070, i.e., Lot No. 3829-D. In fact, during the proceedings in Civil Case No. 00-11070, Pfleider testified and presented documentary evidence regarding his claim of ownership over Lot No. 3829-D, [35] which is the same property that Pfleider claims should not have been transferred to Pfleider-Alba in Civil Case No. 1287.

Hence, even if the Court were to go beyond what is required of it and determine the correctness of the RTC, Kabankalan City's Order dismissing Pfleider's Complaint in Civil Case No. 1287, the instant Petition still falls as the Court finds no fault in the RTC, Kabankalan City's dismissal of Pfleider's Complaint on the ground of *litis pendentia*.

WHEREFORE, premised considered, the instant Petition is hereby DENIED. The Decision dated July 30, 2010 and Resolution dated December 10, 2010 issued by the Court of Appeals - Cebu City, Eighteenth Division in CA-G.R. CV No. 01578 are AFFIRMED.

SO ORDERED.

Carpio (Chairperson), Perlas-Bernabe, A. Reyes, Jr., and J. Reyes, Jr.,[*] JJ., concur.

[*] Designated as additional Member per Special Order No. 2587 dated August 28, 2018.

[1] Rollo, pp. 11-50.

[2] Id. at 51-60. Penned by Associate Justice Socorro B. Inting with Associate Justices Portia Hormachuelos and Edwin D. Sorongon, concurring.

[3] Id. at 69-71.

[4] Id. at 72-82.

[5] Id. at 96-97.

[6] Id. at 98-100.

[7] Id. at 208-209. Penned by Judge Henry D. Arles.

[8] Id. at 247-248.

[9] Id. at 248.

[10] Id. at 249.

[11] Id. at 211-212.

- [12] Id. at 53-56.
- [13] Id. at 59.
- [14] Id. at 58-59.
- [15] Id. at 62-68.
- [16] Id. at 300-336.
- [17] Id. at 400-420.
- [18] *Catindig v. Vda. de Meneses*, 656 Phil. 361, 375 (2011).
- [19] *Artistica Ceramica, Inc. v. Ciudad Del Carmen Homeowner's Ass'n, Inc.*, 635 Phil. 21, 30 (2010).
- [20] *Tanenglian v. Lorenzo*, 573 Phil. 472, 485 (2008).
- [21] *Bases Conversion Dev't Authority v. Reyes*, 711 Phil. 631, 637-638 (2013).
- [22] *Samson v. Sps. Gabor*, 739 Phil. 429, 437 (2014).
- [23] Id.
- [24] Id.
- [25] Rollo, pp. 41-42.
- [26] Id. at 250-258.
- [27] Id. at 14:
- x x x. This is a Petition for Certiorari under Rule 65 of the Rules of Court when the Court of Appeals Cebu City had acted without or in excess of its jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction when it rendered Its Decision x x x and x x x Resolution x x x.
- [28] *Miro v. Vda. De Erederos*, 721 Phil. 772, 786 (2013).
- [29] *Yap v. Chua*, 687 Phil. 392, 400 (2012).
- [30] Rollo, pp. 261-271
- [31] Id. at 247.
- [32] 387 Phil. 283, 300 (2000).
- [33] Rollo, pp. 39-40; emphasis and underscoring supplied.
- [34] Id. at 37.
- [35] Id. at 327-328.

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