

PHILIPPINE NATIONAL BANK, PETITIONER, VS. HON. MANUEL V. ROMILLO, JR., REGIONAL TRIAL COURT JUDGE, BRANCH CX, PASAY CITY, EMILIANO RAMIREZ, ROSARIO RAMIREZ AND CARLOS RUSTIA, RE...

G.R. No. 70681. October 16, 1985

Ponente: ALAMPAY, J.

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ALAMPAY, J.:

In Civil Case No. 6365 of the Regional Trial Court, Branch CX, Pasay City, private respondents sought to recover from the Philippine National Bank a certain percentage of their alleged excess payment in Land Bank Bonds, as a result of the discounting by said bank of the value of the Land Bank bonds utilized by private respondents to settle their loan obligation and effect the release of the mortgage on their property located at Manila, constituted in favor of the Philippine National Bank. Said respondents contend that petitioner bank had no legal right to discount the value of the Land Bank bonds which should have been accepted at its face value. They point out that the mortgaged property is located in Manila and is not subject to land reform.

On the other hand, petitioner bank contends that Section 80 of P.D. 251 invoked by respondents has no application in the case at bar. Petitioner also avers that acceptance of Land Bank bonds in payment of the mortgage indebtedness is left to its discretion. Petitioner bank submits that private respondents are estopped from questioning the discounting made because this was but the result of the negotiations or agreement reached by petitioners with the bank and that there is no law or existing decree that determines the valuation of the bond when offered in payment of an obligation.

On June 18, 1984, a decision was rendered in said Civil Case No. 6365 ordering the Philippine National Bank to pay to the plaintiffs the amount of P63,205.21 with legal interest thereon at the rate of twelve (12%) percent per annum from the filing of the complaint until full payment is made; as well as attorneys fees and costs.

On July 9, 1984, private respondents filed their appeal to the Supreme Court from the aforesaid decision in so far as it denied their moral and exemplary damages and from the Order of the court below dated December 1, 1983 admitting in evidence Exhibits 7 to 30 and their submarkings. Defendant PNB similarly filed its Notice of Appeal dated July 9, 1984, signifying therein its challenge relative to pertinent facts, law and jurisprudence but making no mention of the court to which its appeal is addressed. However, in its subsequent manifestation dated July 23, 1984, said Bank indicated that its appeal was specifically to the Intermediate Appellate Court as there are questions of facts to be raised. In his order dated July 24, 1984, respondent Judge directed his Branch Clerk of Court to act accordingly.

On November 9, 1984, a motion to dismiss the appeal of the PNB was filed on the ground that an examination of the decision of the Respondent Court will show that the subject case was decided on a pure question of law and, therefore, the proper court to consider the appeal of the PNB should be the Supreme Court and not the Intermediate Appellate Court. Private respondents aver that said appeal of the PNB is intended only to promote

delay and should be dismissed invoking the action taken by the Court of Appeals, in the case of *E. Razon vs. Moya*, (CA-G.R. No. 40953-R, promulgated on November 24, 1969) where the appeal therein was dismissed for not being rightfully brought to the proper appellate court.

Opposing the aforesaid Motion to Dismiss Appeal, petitioner bank insisted that its appeal is not intended to delay as there are factual issues that should have been and need to be resolved. It invoked the pronouncements made in *Republic vs. Gomez*, 5 SCRA 368, that where an appeal is presented on time, attended by requirements of law, the same should be given due course and that whether an appeal is frivolous or not devolves upon the appellate court to pass upon and not on the trial court.

As respondent Judge by his order dated December 20, 1984, dismissed the appeal interposed by the PNB and denied the latter's motion for reconsideration of the said Order, the present action for certiorari and mandamus was then instituted in order that petitioner bank's appeal be given due course.

By a resolution of this Court dated May 30, 1985, a temporary restraining order was issued enjoining Respondent Judge from further proceeding Civil Case No. 6365-P and respondents herein were directed to comment on the petition filed in this case. Respondents' comment to the petition and the petitioner's reply to the said comment were subsequently submitted by the parties.

We find merit in the petition in this instance.

We cannot uphold private respondents' submission that the petitioner's appeal to the Intermediate Appellate Court was rightfully dismissed by respondent Judge because the case was decided simply on a pure question of law. From the records, it appears that petitioner Bank raised before the trial court the following factual issues:

"(a) plaintiffs voluntarily offered to sell their agricultural properties to the Land Bank of the Philippines; (b) the loan obtained on October 27, 1969 was a new loan; (c) plaintiffs knew beforehand the defendant's policy in the acceptance of land bank bonds; (d) defendant followed its own policy in the acceptance of land bank bonds; (e) there is no law or existing decree that determines the valuation of bonds when offered in payment of an obligation and (f) the properties of plaintiffs were long released from PNB's mortgage even before PD 27 was promulgated. x x x" (Rollo, p. 82)

Petitioner pointed out that private respondents even refuted in their Supplemental Memorandum or Reply, dated January 18, 1984, these factual issues which petitioner raised. According to the petitioner, these issues were not however touched upon by the respondent Judge in his decision and yet these factual matters deserve to be considered as these are vital in determining whether private respondents has a valid cause of action against the Philippine National Bank.

We hold the view that whether an appeal involves only questions of law or both questions of fact and law, this question should best be left for the determination of an appellate court and not by the court which rendered the subject decision appealed from. As questions of facts and law are intended to be raised by petitioner, the proper forum for the petitioner's appeal would then unquestionably be the Intermediate Appellate Court. Respondent Judge erred in dismissing said appeal on his misconception that the same involves only a question of law and based on this reasoning, disallowed petitioner's appeal because it was not made to the Supreme Court.

Furthermore, where as in this case the private respondents addressed their appeal to the Supreme Court while the petitioner raised its appeal to the Intermediate Appellate Court, the established rule in this jurisdiction would be that stated in the case of *Hoey versus Aurelio & Co.*, 39 SCRA 658, 660-661, wherein We ruled:

"x x x The Supreme Court was confronted with the question of whether to decide the appeal, confining the issue between the parties only to the questions of law raised by the appellant, or whether consider the issue as

extending to the questions of fact raised by the appellee, in which case, the appeal should be referred to the Court of Appeals. It was held and ordered therein that the appeal be decided by the Court of Appeals. The above ruling was reiterated in *Ramos vs. Mañalacand Lopez*, [1] and *Masangcay, et al., vs. Valencia*. [2]"

A trial court may not prevent a party litigant from elevating to the Intermediate Appellate Court a challenge to its decision by restricting or confining its decision to a resolution of a question of law and thereafter deny the appeal from its judgment to a court where the factual issues raised may be reviewed. By dismissing the appeal on the ground that it was misdirected because the case was resolved by it on a pure question of law, the trial court committed a grave error. Respondent Judge should have allowed the Intermediate Appellate Court to decide whether or not the petitioner's appeal involves only a question of law and not arrogate unto himself the determination of this question. His error in dismissing petitioner's bank appeal becomes more obvious considering the provisions of Section 3 of Rule 50 of the Rules of Court, wherein it is specifically provided that: "where the appealed case has been erroneously brought to the Court of Appeals, it shall not dismiss the appeal, but shall certify the case to the proper court, with a specific and clear statement of the grounds therefor." Thus in dismissing outright petitioner's appeal, the trial court acted in complete disregard of the aforesaid provision. Readily it can be inferred that for a trial court to dismiss an appeal from its judgment on the ground that it was directed to a wrong court would encroach upon the prerogative of the Intermediate Appellate Court to certify the said appeal to the Supreme Court, if so warranted, or to hear the case on its own consideration that said appeal was properly made. The aforesaid rule categorically declares that the appellate court shall not dismiss the case but shall certify the case to the proper court with a specific and clear statement of the grounds therefor. Assuming, without accepting, that the position of the respondent Judge is correct and that the merits of the case may be resolved by ruling on a question of law, nevertheless, his dismissal of the appeal is not in order. He should have given due course to the appeal and leave it to the Intermediate Appellate Court to certify the said appeal to the Supreme Court if so warranted.

Suffice to state that it is not within the province of the lower court to declare that an appeal from its decision is frivolous or dilatory as it is to the appellate court that the duty to do so devolves. In the case of *ITT Philippines, Inc., versus Court of Appeals, et al.*, 67 SCRA 435, 441, it was even additionally said that "Otherwise, it would be easy for trial courts to frustrate meritorious appeals by the simple expedient of dismissing them on the pretext that they are frivolous or dilatory."

WHEREFORE, the petition for certiorari/mandamus in this case is hereby granted. The order issued by the respondent Judge dated December 20, 1984, dismissing petitioner's appeal is hereby annulled and set aside as well as his order dated March 25, 1985 denying petitioner's motion for reconsideration dated January 22, 1985. Respondent Judge is hereby directed to give due course to petitioner's appeal and to promptly elevate the records of Civil Case No. 6365 to the Intermediate Appellate Court for consideration and decision. Costs against private respondents.

SO ORDERED.

Aquino, (Chairman), Concepcion, Jr., and Cuevas, JJ., concur.

Abad Santos and Escolin, JJ., no part.

[1] No. L-2610, 16 June 1951, 89 Phil. 270

[2] No. L-9786, 31 August 1960, 109 Phil. 2123

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