

RAMON Y. ASCUE, PETITIONER, VS. HON. COURT OF APPEALS (8TH DIVISION) AND RAMON ANTONIO, SALVADOR SALENGA AND ULIPIA FERNANDEZ, RESPONDENTS.

G.R. No. 84330, May 08, 1991

Ponente: PADILLA, J.

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PADILLA, J.:

In this petition for review on certiorari, petitioner assails the decision[*] of respondent Court of Appeals, dated 25 July 1988, rendered in CA-G.R. SP No. 12765, which affirmed the judgment of the Regional Trial Court of Manila, Branch 52, dismissing the appeal filed with the latter court for being premature and holding, in any event, that the proper remedy was a special civil action for certiorari.

The present case is related to G.R. No. 78438,**] as the two (2) cases arise from the same complaint filed by private respondents against the petitioner with the Metropolitan Trial Court of Manila, Branch 29.

The antecedent facts of this case as revealed by the records of the present petition and those of G.R. No. 78438, are as follows:

1. On 25 July 1986, private respondents (as plaintiffs) filed a complaint[1] with the Metropolitan Trial Court of Manila, Branch 29, alleging therein the following: that private respondents Salvador Salenga, Ramon Antonio, and Ulipia Fernandez are the lessees of petitioner, occupying nos. 948, 950 and 952 of the leased premises located in Pepin St., Sampaloc, Manila, respectively; that their respective monthly rentals thereon are P635.00, P950.00 and P950.00; that petitioner-defendant refused to collect the rentals for the months of May, June and July, 1986 except the P1500.00 which petitioner-defendant collected from respondent Antonio which represented rentals for the month of May, and one-half rental for June, 1986; that the aggregate amount (of) rentals that became due is P5,625.00 which petitioner refused to receive; that hence, private respondents sought the consignment of the said amount with the metropolitan (trial) court;
2. The petitioner-defendant filed a motion to dismiss complaint[2] on the ground that it is the regional trial courts, not metropolitan trial courts, which have jurisdiction over consignment cases, the subject matter of litigation being incapable of pecuniary estimation;
3. In the Order of the metropolitan (trial) court, dated 17 October 1986, the motion was dismissed (denied), ruling that the amount consigned (i.e. P5,625.00) being well below P20,000.00, the inferior court had jurisdiction, besides which a motion to dismiss is a prohibited pleading.[3]
4. Petitioner-defendant appealed the order to the Regional Trial Court of Manila, Branch 52, which, in its decision dated 20 March 1987 dismissed the appeal on the ground that it was premature and in any event, the remedy was a special civil action for certiorari;[4]
5. On 23 June 1987, petitioner-defendant filed with this Court, a direct appeal docketed (as) G.R. No. 78438, from the judgment of the RTC, Manila, Branch 52, dated 20 March 1987.[5] In the resolution dated 19 August 1987, this Court resolved “to REFER the case (G.R. No. 78438) to the Court of Appeals which has concurrent

jurisdiction over the subject matter of the said petition, it appearing that no special and important reason had been cited to justify the Court's taking cognizance of the petition at the first instance."

6. Petitioner filed his motion for reconsideration of the resolution dated 19 August 1987, but which motion was denied by this Court in resolution dated 31 August 1988. Meantime, even before the Court resolved to deny the said motion,[6] the respondent Court of Appeals, in its decision dated 25 July 1988, dismissed the petition (G.R. No. 78438, which was docketed CA-G.R. SP. No. 12765).

7. On 9 September 1988, petitioner filed with this Court a petition for review on certiorari docketed G.R. No. 84330, questioning the aforesaid decision of the respondent Court of Appeals.[7]

The appellate court in its now assailed decision ruled as follows: first, that the jurisdiction of a court in consignment cases depends on the amount consigned, consignment being merely a form of payment and the opposite of a demand by a creditor for payment;[8] second, that the RTC dismissed petitioner's appeal based on procedural rather than on substantive grounds, is of no moment, as what is decisive is that the complaint for consignment was filed in the proper court (Metropolitan Trial Court).

In the present petition (G.R. No. 84330), petitioner raises the following arguments, to wit:

"A.

The respondent Court of Appeals erred in holding that consignment cases fall within the jurisdiction of the Metropolitan Trial Courts and that the amount consigned determines said jurisdiction;

"B.

The respondent Court of Appeals erred in refusing to resolve the issue of whether or not appeal and not a special civil action is the proper recourse when a motion to dismiss grounded on lack of jurisdiction, is denied;

"C.

The respondent Court of Appeals erred in issuing its decision of July 25, 1988, in spite of its awareness of incidents still pending before this Honorable Supreme Court, thus inflicting upon the litigants the not inconsiderable burden of more expenses, duplication of pleadings and additional work-load on both court and parties."[9]

The petition is not impressed with merit.

As to the first contention, petitioner submits that the action at bar is one for consignment, and it is the Regional Trial Court,[10] not the Metropolitan Trial Court,[11] which has jurisdiction over the same, inasmuch as the subject matter of litigation is incapable of pecuniary estimation; and that the amount actually consigned (P5,625.00 in this case) is of no moment.

We do not agree.

Consignment[12] is the act of depositing the thing due with the court or judicial authorities whenever the creditor cannot accept or refuses to accept payment and it generally requires a prior tender of payment.[13] Two (2) of the requisites of a valid consignment are (1) that there is a debt due, and (2) the amount due is placed at the disposal of the court.[14] Thus, where no debt is due and owing, consignment is not proper.[15] In a valid consignment where the thing sought to be deposited is a sum of money, the amount of the debt due is determinable. Clearly, the subject matter (i.e the amount due) in consignment cases is capable of pecuniary estimation. This amount sought

to be consigned determines the jurisdiction of the court.

In the case at bar, the amount consigned being P5,625.00, the respondent metropolitan trial court correctly assumed jurisdiction over the same, in accordance with Section 33(1) of BP Blg. 129, previously quoted.

As to petitioner's arguments nos. 2 and 3, considering the reasons for which G.R. No. 78438 was referred by this Court to respondent appellate court, as stated in the resolution of the Court dated 19 August 1987, and further taking into account that no reversible error was committed by respondent Court of Appeals, we find no compelling reason to overturn the ruling in the questioned decision.

WHEREFORE, the decision of respondent Court of Appeals, dated 25 July 1988, rendered in CA-G.R. SP. No. 12765, which affirmed the judgment of the respondent Regional Trial Court of Manila, Branch 52, dated 20 March 1987 is hereby AFFIRMED, and the petition in this G.R. No. 84330 is accordingly DENIED.

No costs.

Melencio-Herrera, (Chairman), Paras, Sarmiento, and Regalado, JJ., concur.

[*] Penned by Justice Serafin E. Camilon, with the concurrence of Justices Pedro A. Ramirez and Minerva P. Gonzaga-Reyes.

[**] entitled "Ramon Y. Ascue versus Hon. David G. Nitafan, in his capacity as Presiding Judge, Branch 52, RTC, Manila, and Ramon Antonio, Salvador Salenga, and Ulipia Fernandez."

[1] G.R. No. 84330, Rollo, pp. 8 and 11

[2] G.R. No. 84330, Rollo, pp. 10-11

[3] Ibid., pp. 11-12; Court of Appeals (CA) decision dated 25 July 1988, Rollo, p. 25

[4] G.R. No. 84330, Rollo, p. 40; CA decision, Rollo, p. 25

[5] G.R. No. 84330, Rollo, p. 2

[6] In resolution dated 5 October 1987 (rendered in G.R. No. 78438), the Court required respondent to file comment on petitioner's motion for reconsideration of the resolution dated 19 August 1987.

[7] G.R. No. 84330, Rollo, p. 6

[8] citing "Quiazon, Philippine Courts and Their Jurisdictions," 1986 ed., p. 225

[9] Rollo, p. 12

[10] Section 19(1) of Batas Pambansa Blg. 129 provides that "the Regional Trial Courts shall exercise exclusive original jurisdiction in all civil actions in which the subject of the litigation is incapable of pecuniary estimation."

[11] Section 33(1) of Batas Pambansa Blg. 129 states that "Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise exclusive original jurisdiction over civil actions xxx where the amount of the demand does not exceed twenty thousand pesos exclusive of interests and costs x x x."

[12] Article 1256 of the Civil Code enumerates the cases in which consignment may be availed of:

"Article 1256. If the creditor to whom tender of payment has been made refuses without just cause to accept it, the debtor shall be released from responsibility by the consignment of the thing or sum due.

Consignation alone shall produce the same effect in the following cases:

- (1) When the creditor is absent or unknown, or does not appear at the place of payment;
- (2) When he is incapacitated to receive the payment at the time it is due;
- (3) When, without just cause, he refuses to give a receipt;
- (4) When two or more persons claim the same right to collect;
- (5) When the title of the obligation has been lost."

[13] *Soco vs. Militante*, G.R. No. 58961, June 28, 1983, 123 SCRA 160

[14] The other requisites are: that the consignation of the obligation had been made because the creditor to whom the tender of payment was made refused to accept it, or because he was absent or incapacitated, or because several persons claimed to be entitled to receive the amount due; that the previous notice of the consignation had been given to the person interested in the performance of the obligation; and that after the consignation had been made the person interested was notified thereof. (*Soco vs. Militante*, *supra*).

[15] *Legaspi vs. Court of Appeals*, G.R. No. L-45510, May 27, 1986, 142 SCRA 82

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