

RICARDO LIRIO AND JOHN DOE (WHICH IDENTIFIED ITSELF AS THE REAL PHILIPPINE AMERICAN INVESTMENT CORPORATION), PETITIONERS, VS. HON. COURT OF APPEALS (FOURTH DIVISION) AND PHILIPP...

G.R. No. 90462. May 29, 1992

Ponente: PADILLA, J.

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PADILLA, J.:

This is a petition for review on certiorari under Rule 45 of the Rules of Court of the decision* of the respondent appellate court in CA-G.R. SP No. 17905 dated 22 August 1989, which set aside the order dated 18 May 1989 of the Regional Trial Court of Makati (Branch 58) in Civil Case No. 15027.

The antecedent facts are not in dispute. As determined by the respondent appellate court:

“It appears that on September 30, 1986, Jose Ma. Abello, purporting to be president of petitioner PAIC, filed a complaint for replevin and damages against the defendant private respondents Ricardo P. Lirio and John Doe. Petitioner alleged that it is a domestic corporation and that it was the registered owner of a car more particularly described as follows:

MAKE : MITSUBISHI GALANT SALOON

TYPE : 4-DOOR SEDAN

MOTOR NO. : BS-6450

SERIAL NO. : A163 NJL-692

MODEL NO. : 1983

PLATE NO. : L-PEK-828

It further alleged that its ownership was evidenced by a xerox copy of Certificate of Registration No. 0946745 and that the car had a depreciated value of P60,000.00, and that in the latter part of 1985, the respondents had unlawfully taken the car from it (PAIC) together with its registration certificate and other documents.

On January 6, 1987, the trial court granted a writ of replevin upon the petitioner posting a bond in an amount equal to twice the value of the car. Petitioner having posted the bond, the car was seized from the private respondents on January 9, 1987 as shown by the sheriff's return.

On January 14, 1987, the private respondents filed a motion for the return of the property and admission of the counterbond, and, on March 3, they filed their separate answers in which they claimed that John Doe was the real Philippine American Investments Corporation and not the petitioner, which was an impostor, which falsely, maliciously and without authority instituted the action in court. They alleged that PAIC had been placed under receivership on August 16, 1985 and later under liquidation on November 29, 1985 by the Monetary Board of the Central Bank and that the respondent Ricardo Lirio, who was the director of the

Supervision and Examination Section of the Central Bank, was the appointed receiver and liquidator. They further alleged that respondent Lirio had taken over the premises and management as well as the possession of the assets, including the car in dispute, of the PAIC. They therefore prayed for the return of the car in question and the dismissal of the complaint, as well as the payment to them of damages as a result of the wrongful taking of the property.

Thereafter the case was set for the pre-trial conference on June 6, 1988. However, as neither party appeared, the trial court issued an order declaring the petitioner non-suited and dismissed its complaint as well as the respondents' counter-claim for damages.

The respondents moved for a reconsideration of the order so far as it dismissed their counterclaim. Their motion was granted by the court in its order of July 4, 1988, in which it maintained the dismissal of the complaint but reinstated the respondents' counterclaim. In addition, it ordered the writ of seizure to be lifted and the parties to be restored to their positions ante litem by returning the motor vehicle to the respondents.

In turn the petitioner filed a motion for reconsideration. For the second time the trial court on September 21, 1988 reconsidered its order and reinstated its earlier order dated June 6, 1988. The net result is that both the complaint and the counterclaim were dismissed. The respondents filed a motion for reconsideration, but, as their motion was denied on October 24, 1988, they appealed to this Court. Their appeal was perfected on November 12, 1988.

On February 15, 1989, after the perfection of their appeal, the respondents filed a motion for the return of the car or the disclosure of its whereabouts, alleging that Jose Ma. Abello, at whose instance the action for replevin had been brought, had left the country and that the car could not be located. They contended that with the dismissal of the complaint for replevin, the car should be returned to them.

On May 18, 1989, the trial court issued an order, directing Atty. Bonifacio Alentajan, counsel for the petitioner, to surrender the motor vehicle subject of the case to the respondents or to disclose the whereabouts of the same. xxx.”[1]

Taking exception to the aforesaid order of 18 May 1989, counsel for the herein private respondent (Atty. Alentajan) assailed the same before the respondent appellate court through a petition for certiorari. On 22 August 1989, the Court of Appeals granted the petition and set aside said order of the trial court dated 18 May 1989, holding that the court a quo was without jurisdiction to issue the same as it involved the adjudication of an issue that is inextricably linked to the herein petitioners' earlier appeal also to the Court of Appeals.

Seeking relief from this Court, it is the principal contention of the petitioners that the trial court, in the exercise of its residual jurisdiction, had the authority to issue the order of 18 May 1989 ordering the surrender of the motor vehicle to the petitioners or, at the very least, the disclosure of its whereabouts. On the other hand, the private respondent claims that the appeal to the Court of Appeals of the defendants a quo (herein petitioners) having been perfected, there was nothing more left for the court a quo to do except to forward the case and elevate its records to the appellate court for consideration and resolution of the said perfected appeal.

The controversy thus hinges on the basis of the trial court's authority to issue the questioned order of 18 May 1989.

Rule 41 of the Rules of Court, specifically, Section 9 thereof, provides:

“When appeal deemed perfected; effect thereof. - If the notice of appeal, the appeal bond, and the record on appeal have been filed in due time, the appeal is deemed perfected upon the approval of the record on appeal and of the appeal bond other than a cash bond, and thereafter the trial court loses its jurisdiction over the case, xxx.”

Under the present procedure for appeal from the regional trial court to the Court of Appeals, in cases originally filed in the former, as spelled out in the Interim Rules and Guidelines promulgated by this Court on 11 January 1983, the filing of a record on appeal, except in cases with multiple appeals, is dispensed with. Likewise, there is no longer any requirement for the filing of an appeal bond. The appeal is taken by filing a notice of appeal with the regional trial court that rendered the judgment appealed from; and the appeal is perfected upon the expiration of the last day to appeal by any party (pars. 20 and 23; Interim Rules, etc.).

Upon perfection of the appeal, jurisdiction transfers to the appellate court and the lower court, in this case, the trial court, cannot proceed in any manner so as to affect the jurisdiction acquired by the appellate court, or to defeat the right of the appellant to prosecute his appeal. However, the perfection of an appeal to the appellate court does not altogether operate to deprive the trial court of the authority to act with reference to matters not relating to the subject matter of or affecting the appeal.

Thus the afore-cited Rule goes on to state that:

“xxx except to issue orders for the protection and preservation of the rights of the parties which do not involve any matter litigated by the appeal, to approve compromises offered by the parties prior to the transmittal of the record on appeal to the appellate court, and to permit the prosecution of pauper’s appeal.”

In the light of the facts adduced in the record, it appears that the 18 May 1989 order of the trial court was issued pursuant to the first exception provided in said Rule 41, Section 9. There having been an allegation that the private respondent (Abello) had left the country, petitioners stood to be prejudiced as the motor vehicle was in the former’s custody. Understandably, petitioners had every reason to cause the return to them of the vehicle or at least to be apprised of its whereabouts. It should be stressed here that at that stage of the controversy (when the 18 May 1989 order was issued), the replevin suit of the private respondent had already been dismissed and this dismissal was not even appealed by said private respondent. It is the petitioners who had appealed the dismissal by the court a quo of their counterclaim. Consequently, there no longer appeared any justifiable cause for the vehicle to remain in private respondent’s custody. To continue to deny the petitioners the right to possession of the vehicle goes against all rules of fair play and, precisely for this reason, the trial court sought to protect and preserve such right of the petitioners by the issuance of the now assailed order of 18 May 1989.

It is thus clear that private respondent’s contrary contention is bereft of merit. According to such contention, once an appeal is perfected by any party to the case, the court a quo can no longer act on any matter pertaining to the case except to transmit its records to the appellate court. The Rules clearly belie such contention.

WHEREFORE, in view of the foregoing, the petition is GRANTED. The decision of the respondent appellate court dated 22 August 1989 is SET ASIDE and the order of the trial court dated 18 May 1989 REINSTATED. Costs against the private respondent.

SO ORDERED.

Narvasa, C.J., (Chairman), Paras, and Regalado, JJ., concur.
Nocon, J., on leave.

* Penned by Justice Vicente V. Mendoza with the concurrence of Justices Pedro A. Ramirez and Fernando A. Santiago.

[1] Rollo, p. 29.

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