

RICARDO SANTOS AND PAULA SANTOS WONG, PETITIONERS, VS. ILUMINADA CRUZ, REPRESENTED BY ATTORNEY-IN-FACT GLORIA ISRAEL, JUDGE FRANCISCO LINDO, METC, BRANCH 55, MALABON CITY, RESPO...

G.R. NOS. 170096-97. March 03, 2006

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This is a petition for certiorari under Rule 65 of the Rules of Court assailing the Joint Decision[1] dated July 15, 2005 of the Regional Trial Court, Branch 170, City of Malabon, which reversed the Joint Decision[2] of the Metropolitan Trial Court, Branch 55, City of Malabon.

The factual and procedural antecedents are as follows.

Respondent Iluminada Cruz is the owner of a parcel of land covered by TCT No. M-19968 and TCT No. 19973 of the Registry of Deeds of the City of Malabon, portions of which were occupied by petitioners Ricardo Santos and Paula Wong, respectively.

Respondent Cruz filed two actions for ejectment docketed as Civil Case Nos. JL00-346 and JL00-347, against petitioners alleging that the latter entered her lot without her consent and built thereon structures without her permission; that petitioners, being her relatives, were allowed to stay free of charge on condition that they will vacate the premises upon demand; despite repeated demands, petitioners refused to vacate the said lots, and in view of the failure of the contending parties to arrive at an amicable settlement, respondent was constrained to file the instant suit.

In answer, petitioner Ricardo Santos and spouse admitted respondent's ownership of the land covered by TCT No. M-19968 but alleged that 177 sq. m. thereof was sold to them on August 28, 1978 as evidenced by a Deed of Absolute Sale[3] in their favor.

Petitioner Paula Wong, while admitting respondent's ownership of the lot covered by TCT No. 19973, averred that a portion thereof, measuring 142 sq. m., was sold to her husband Marcos Santos by the respondent under a Subdivision Agreement with Contract of Sale dated July 31, 1976.[4]

In a Joint Decision dated February 4, 2005, the Metropolitan Trial Court of the City of Malabon, Branch 55 rendered judgment the dispositive portion of which reads:

WHEREFORE, for failure of the plaintiff to prove by preponderance of evidence her cause of actions alleged in the complaint, the case is hereby dismissed with cost against the plaintiffs (sic) while the defendants['] counterclaims in both cases for payment of attorneys fee[']s are likewise dismissed for lack of merit.

SO ORDERED.[5]

Dissatisfied, respondent Cruz filed an appeal before the Regional Trial Court of the City of Malabon which

reversed and set aside the judgment of the Metropolitan Trial Court, the decretal portion of which reads:

WHEREFORE, premises considered, finding the lower court having committed reversible error, the judgment appealed from is hereby reversed and set aside and new one entered:

1. Appealed Case No. A5-014-MN (Civil Case No. JLOO-346)

a) Ordering the defendants Ricardo Santos and his spouse, and all persons claiming rights under them, to vacate and demolish their structures/houses on the premises located at M. Sioson St., Dampalit, Malabon City, Metro Manila and surrender possession thereof to the plaintiff and/or any of her authorized representative;

b) Ordering the defendants to pay, jointly and severally, a reasonable amount of Php20,000.00 monthly from October 21, 2002, the date of the demand letter, for their continued use of the premises involved until they finally vacate and surrender possession thereof to the plaintiff without the structures/houses which they built thereon;

c) Ordering defendants-appellees jointly and severally, to pay an amount of Php30,000.00 as and for attorney's fees plus the costs of the suit.

2. Appealed Case No. A5-015-MN (Civil Case No. JLOO-347)

a) Ordering the defendant Paula Santos, and all persons claiming rights under her, to vacate and demolish her structure/house on the premises involved located at M. Sioson St., Dampalit, Malabon City, Metro Manila and surrender possession thereof to the plaintiff and/or any of her authorized representative;

b) Ordering the defendant-appellee to pay, a reasonable amount of Php20,000.00 monthly from October 21, 2002, the date of the demand letter, for her continued use of the premises involved until she finally vacates and surrender the possession thereof to the plaintiff without the structure/house which she built thereon;

c) Ordering defendant-appellee to pay the amount of Php30,000.0 as and for attorney's fees plus the costs of the suit.

SO ORDERED.[6]

Without moving for reconsideration, petitioners filed a petition for certiorari before this Court decrying the alleged violation by the Regional Trial Court of their right to procedural and substantive due process. However, in view of the manifest violation of the procedural requirements, the Court issued a Resolution on October 3, 2005[7] ordering the petitioners to:

a) PAY the amount of P1,230.00 as balance for docket and other legal fees as required under Sec. 3, Rule 46 in relation to Sec. 2, Rule 56; and

b) SUBMIT: (1) a certification against forum shopping, that is, a certification under oath by petitioners that they have not theretofore commenced any other action involving the same issues thereof in the Supreme Court, the Court of Appeals, or in the different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, they must state the status of the same; and if they should thereafter learn that a similar action has been filed or is pending before the Supreme Court, the Court of Appeals, or in the different divisions thereof, or any other tribunal or agency, they undertake to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom as required by Sec. 1, Rule 65 and Sec. 3, Rule 46 in relation to Sec. 2, Rule 56 and Sec. 5, Rule 7; (2) a statement of material date showing when notice of the assailed RTC joint decision was received, to show that the petition was filed on time pursuant to Sec. 4, Rule 65 in relation to the second paragraph of Sec. 3, Rule 46; (3) proof of service (e.g., a written admission of the party served, an affidavit of the party serving/registry receipts) of the petition on the lower courts concerned and on the adverse parties as required by Sec. 2(c), Rule 56, the third paragraph of Sec. 3, Rule 46 in relation to the first paragraph of Sec. 2, Rule 56 and Sec. 13, Rule 13; and (4) proof of authority of Ricardo Santos to

sign the verification in behalf of the other petitioner. (Emphasis added)

After having paid the balance of the docket fees, petitioners submitted a two-page petition dated November 4, 2005,[8] which purportedly was in compliance with the October 3, 2005 Resolution. A cursory perusal of the petition however, showed that it had the same procedural infirmities as the original petition. The petition was written in old and torn piece of scratch paper, which does not look like a formal pleading. The petition lacked certification against forum shopping, a statement of the material date showing when notice of the assailed decision was received, proof of service, and proof of authority of Ricardo Santos to sign the verification on behalf of the other petitioner.

Even on the merits, petitioners' case will not prosper. Petitioners anchor their claim of ownership on the photocopies of the alleged Deed of Absolute Sale dated August 28, 1978 executed in favor of Ricardo Santos and his spouse and the Subdivision Agreement with Contract of Sale dated July 31, 1976 allegedly executed in favor of Paula Wong and her deceased husband Marcos Santos. On the other hand, respondent Cruz relies for her claim of ownership in the transfer certificates of title covering the assailed properties registered in her name. These certificates of title, specifically TCT No. M- 19968 and TCT No. 19973, being genuine and valid on their face, are incontrovertible, indefeasible, and conclusive against petitioners and the whole world. Thus, the unregistered deed of sale and the subdivision contract upon which petitioners rely cannot prevail over the certificate of title in the name of respondent Cruz. To hold otherwise is to defeat the primary object of the Torrens System which is to make the Torrens Title indefeasible and valid against the whole world.

In filing the instant petition for certiorari, petitioners contend that their right to due process was violated by the trial court. However, other than a general statement of such fact, the petition does not state what specific acts or omissions were committed by the lower court that would constitute a violation of petitioners' right to due process to warrant the invocation of the equitable remedy of certiorari.

The petition must allege the facts showing that the tribunal, board, or officer has acted without or in excess, or with grave abuse of discretion, with prayer that judgment be rendered annulling or modifying the proceedings of such tribunal, board, or officer. It must likewise allege that the petitioners, through a motion for reconsideration, has called the attention of the lower court upon such error or irregularity and asked for its correction, unless such previous motion for reconsideration was unnecessary either because the proceeding in which the error occurred is a patent nullity, or because the question of want or excess of jurisdiction had been squarely raised and submitted in the lower court and the latter had squarely met and decided the same.[9]

As a general rule, the special civil action of certiorari may only be availed when the lower court or any of its officers, acted without or in excess of jurisdiction or with grave abuse of discretion, and there is no plain, speedy, and adequate remedy in the ordinary course of law. When an appeal is in itself a sufficient and adequate remedy that would promptly relieve the petitioner from the injurious effects of the order or judgment complained of, existence of that appeal would bar the institution of the remedy of certiorari.[10]

The case of *Cervantes v. Court of Appeals*,[11] citing *Flores v. Sangguniang Panlalawigan of Pampanga*,[12] clarified that "plain" and "adequate remedy" referred to in the foregoing Rule is a motion for reconsideration of the assailed Order or Resolution, the filing of which is an indispensable condition to the filing of a special civil action for certiorari,[13] subject to certain exceptions, to wit:

- (a) where the order is a patent nullity, as where the court a quo has no jurisdiction;
- (b) where the questions raised in the certiorari proceedings have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court;

- (c) where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government or of the petitioner or the subject matter of the action is perishable;
- (d) where, under the circumstances, a motion for reconsideration would be useless;
- (e) where petitioner was deprived of due process and there is extreme urgency for relief;
- (f) where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable;
- (g) where the proceedings in the lower court are a nullity for lack of due process;
- (h) where the proceedings was ex parte or in which the petitioner had no opportunity to object; and
- (i) where the issue raised is one purely of law or public interest is involved.

In *Cervantes v. Court of Appeals*,^[14] we further stressed that a writ of certiorari is a prerogative writ, never demandable as a matter of right, never issued except in the exercise of judicial discretion. Hence, he who seeks a writ of certiorari must apply for it only in the manner and strictly in accordance with the provisions of the law and the Rules. Petitioner may not arrogate to himself the determination of whether a motion for reconsideration is necessary or not. To dispense with the requirement of filing a motion for reconsideration, petitioner must show a concrete, compelling, and valid reason for doing so.

In the case at bar, petitioners did not file a prior motion for reconsideration from the decision of the trial court. Even as they alleged in the petition that the lower court acted without jurisdiction when it rendered a decision without due process in the proceedings, the averment of facts was incomplete.

Moreover, the instant petition for certiorari should have been filed with the Court of Appeals pursuant to the doctrine of hierarchy of courts. Disregard of this rule warrants the dismissal of the petition. While the Court's original jurisdiction to issue a writ of certiorari is concurrent with the Regional Trial Courts and the Court of Appeals in certain cases, such concurrence does not allow an unrestricted freedom of choice of court forum.^[15] Petitioners have not alleged sufficient ground why direct recourse to this Court should be allowed. Thus, we reaffirm the established rule that this Court will not entertain a direct appeal unless the redress desired cannot be obtained in the appropriate courts, and exceptional and compelling circumstances justify the resort to the extraordinary remedy of writ of certiorari.^[16]

WHEREFORE, the petition is DISMISSED for insufficiency of form and substance. The assailed Joint Decision dated July 15, 2005 of the Regional Trial Court, Branch 170, City of Malabon, is AFFIRMED. No costs.

SO ORDERED.

Panganiban, C.J., Austria-Martinez, Callejo, SR., and Chico-Nazario, JJ., concur.

[1] Rollo, pp. 26-30. Decision penned by Judge Benjamin T. Antonio.

[2] Id. at 17-20. Penned by Judge Francisco S. Lindo.

[3] Id. at 7-8.

[4] Id. at 9-11.

[5] Id. at 20.

[6] Id. at 29-30.

[7] Id. at 21-22.

[8] Id. at 24-25.

[9] Francisco, Vicente, Jr., The Revised Rules of Court in the Philippines, Vol. IV-B, Part I, pp. 90-91.

[10] Id. at 72.

[11] G.R. No. 166755, November 18, 2005.

[12] G.R. No. 159022, February 23, 2005, 452 SCRA 278, 282.

[13] *Acance v. Court of Appeals*, G.R. No. 159699, March 16, 2005, 453 SCRA 548, 558-559.

[14] *Supra*.

[15] *Lacson Hermanas, Inc. v. Heirs of Ignacio*, G.R. No. 165973, June 29, 2005, 462 SCRA 290, 293.

[16] Id. at 294.

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