

FOURTH DIVISION

[CA-G.R. SP NO. 131624, May 02, 2014]

HEIRS OF SPOUSES GERVACIO A. RAMIREZ AND MARTINA CARBONEL (REP. BY CESAR S. RAMIREZ AND ELMER R. ADUCA), PETITIONERS, VS. HON. ROGELIO P. CORPUZ, PRESIDING JUDGE , REGIONAL TRIAL COURT OF NUEVA VIZCAYA, BRANCH 27, HEIRS OF ANGEL ABON, BRGY. COUNCIL OF STA. LUCIA, BAGABA, NUEVA VIZCAYA, (REP. BY BRGY. CHAIRMAN DANIEL CORPUZ) AND THE REGISTER OF DEEDS OF NUEVA VIZCAYA, RESPONDENTS.

DECISION

TOLENTINO, A.G., J.:

This is a *Petition for Certiorari and Prohibition* assailing the July 5, 2013 order^[1] of the Regional Trial Court, Second Judicial Region of Bayombong, Nueva Vizcaya, Branch 27, in Civil Case No. 7186, dismissing the petitioners' *Complaint for Annulment of Confirmation of Previous Sale and Damages*.^[2] The instant *Petition* also seeks to annul the order^[3] issued on July 24, 2013 denying the petitioners' *Ex-Parte Motion for Reconsideration*, as well as the August 14, 2013 order^[4] which denied their *Notice of Appeal*.^[5]

On July 1, 2013, the petitioners filed with the Regional Trial Court (RTC) of Bayombong, Nueva Vizcaya, Branch 27, a *Complaint for Annulment of Confirmation of Previous Sale and Damages*.

On July 5, 2013, the RTC issued the first assailed order. In dismissing the *Complaint* for lack of jurisdiction, the trial court ruled as follows:

"By the foregoing jurisprudential limitation, the plaintiffs should have alleged in their verified Complaint the assessed value of the subject property as jurisdiction is determined by the assessed value of the property (Bank of Commerce vs. Spouses San Pedro, April 27, 2007). With this failure, there is no showing then that this court has original and exclusive jurisdiction over this case and with this, the court is duty bound to dismiss an action whenever it appears that the court has no jurisdiction over the subject matter (Vargas v. Caminas, et. al. G.R. No. 1378691, July 12, 2008). Further, Section 1, Rule 9 of the 1997 Rules of Civil Procedure succinctly provides that "when it appears from the pleadings x x x that the court has no jurisdiction over the subject matter", x x x the court shall dismiss the claim". This is the so-called residual prerogative of the court when it shall motu proprio dismiss the claim or action (Katon vs. Palanca, 437 scra 565).

Both procedural rule and jurisprudence dictate this said dismissal of the instant civil case. And this tribunal, sad to say, is bound to apply this mandate.

WHEREFORE, for all the foregoing, the instant civil case is hereby DISMISSED for utter lack of jurisdiction.

SO ORDERED."^[6]

Petitioners filed an *Ex-Parte Motion for Reconsideration* but it was denied for lack of merit in the second challenged *order* dated July 24, 2013.

On August 7, 2013, the petitioners filed a *Notice of Appeal* which was again denied due course in the August 14, 2013 *order*, for failure of the petitioners to show that a copy of the said *Notice of Appeal* was served upon the adverse party.

Hence, this Petition.

The petitioners assign the following errors:

1. THE RESPONDENT JUDGE GRAVELY ABUSED HIS DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DISMISSING THE COMPLAINT MOTU PROPRIO FOR ALLEGED LACK OF JURISDICTION.

2. THE RESPONDENT JUDGE GRAVELY ABUSED HIS DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DENYING THE PETITIONERS' MOTION FOR RECONSIDERATION.

3. THE RESPONDENT JUDGE GRAVELY ABUSED HIS DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DENYING THE PETITIONERS' NOTICE OF APPEAL FOR ALLEGED LACK OF PROOF OF SERVICE TO THE DEFENDANTS."^[7]

THE PETITION IS BEREFT OF MERIT.

The petitioners, relying in the case of *Russell v. Vestil*,^[8] maintain that the *Complaint for Annulment of Confirmation of Previous Sale and Damages* filed with the Regional Trial Court, is analogous to an action for annulment of deed of sale, and is thus incapable of pecuniary estimation. As held in the said case, jurisdiction is vested with the Regional Trial Court, and as such, it is no longer necessary to prove the assessed value of the property.

In *Cañiza v. Court of Appeals*,^[9] it was held that what determines the nature of an action as well as which court has jurisdiction over it are the allegations of the complaint and the character of the relief sought. Moreover, in *Singson v. Isabela Sawmill*,^[10] the Supreme Court ruled that:

"In determining whether an action is one the subject matter of which is not capable of pecuniary estimation this Court has adopted the criterion of first ascertaining the nature of the principal action or remedy sought. If it is primarily for the recovery of a sum of money, the claim is considered capable of pecuniary estimation, and whether the jurisdiction is in the municipal courts or in the courts of first instance would depend

on the amount of the claim. However, where the basic issue is something other than the right to recover a sum of money, where the money claim is purely incidental to, or a consequence of, the principal relief sought, this Court has considered such actions as cases where the subject of the litigation may not be estimated in terms of money, and are cognizable exclusively by courts of first instance (now Regional Trial Courts)."

The reliance of the petitioners on the case of **Russell v. Vestil**^[11] is misplaced. In the said case, the petitioners sought the annulment of the document entitled, "*Declaration of Heirs and Deed of Confirmation of Previous Oral Partition*," whereby respondents declared themselves as the only heirs of the late Spouses Casimero and Cesaria Tautho to the exclusion of petitioners. The petitioners therein brought the action in order for them to be recognized as heirs in the partition of the property of the deceased. It was held that the action to annul the said deed was incapable of pecuniary estimation and the consequent annulment of title and partition of the property was merely incidental to the main action. Indeed, in the said case, it was also ruled, thus:

"While actions under Section 33(3) of B.P. 129 are also incapable of pecuniary estimation, the law specifically mandates that they are cognizable by the MTC, METC, or MCTC where the assessed value of the real property involved does not exceed P20,000.00 in Metro Manila, or P30,000.00, if located elsewhere:"^[12]

In the case at bar, the principal purpose of petitioners in filing the *Complaint* was to annul the document dated May 2, 29178 captioned as *Confirmation of Previous Sale*. Thus, their *Complaint* involved title to real property or any interest therein.

The petitioners' argument that the present action is one incapable of pecuniary estimation considering that it is for *Annulment of Confirmation of Previous Sale and Damages* is not well-taken. As stated above, the nature of an action is not determined by what is stated in the caption of the complaint but by the allegations of the complaint and the reliefs prayed for.

Considering that the petitioners' *Complaint* is a real action, the Rule requires that *"the assessed value of the property, or if there is none, the estimated value thereof shall be alleged by the claimant and shall be the basis in computing the fees."* We note, however, that as correctly opined by the trial court, neither the "assessed value" nor the "estimated value" of the questioned parcel of land were alleged by the petitioners in their *Complaint*.

In their *Ex-Parte Motion For Reconsideration*, the petitioners attempted to make an allegation on the "assessed value" of OCT No. 4480 by submitting the Tax Declaration of Property for Lots 1748-B^[13] and 1748-C^[14], which have the combined valuation amounting to P20,700.00.

It must stated that the principal purpose of the petitioners in filing the *Complaint* is to annul the *Confirmation of Previous Sale* in favor of the late Angel Abon over a portion of the subject property with an area of **135 square** meters. This being the case, the contested area covers only **135 square meters** but the Tax Declarations of Property presented by the petitioners were for Lots 1748-B^[15] (134 sq.m.) and 1748-C^[16] (997 sq.m.) to make it appear that the RTC has jurisdiction over the case. At any rate, whether the trial court considers the Tax Declaration of Property