

## FIRST DIVISION

[ G.R. No. 198209, March 22, 2017 ]

**ALEXIS C. ALMENDRAS, PETITIONER, VS. SOUTH DAVAO  
DEVELOPMENT CORPORATION, INC., (SODACO), ROLANDO  
SANCHEZ, LEONARDO DALWAMPO AND CARIDAD C.  
ALMENDRAS, RESPONDENTS.**

### R E S O L U T I O N

**DEL CASTILLO, J.:**

This Petition for Review on *Certiorari*<sup>[1]</sup> filed by petitioner Alexis C. Almendras (petitioner) assails the Orders dated March 28, 2011<sup>[2]</sup> and August 9, 2011<sup>[3]</sup> of the Regional Trial Court (RTC), Digos, Davao del Sur, Branch 20. The abovementioned Orders respectively dismissed petitioner's Amended Complaint for Annulment of Deed of Sale, Damages and Attorney's fees and the reconsideration sought.

#### ***Antecedent Facts***

On September 13, 2004, petitioner filed an Amended Complaint<sup>[4]</sup> seeking to annul the Deed of Sale (DOS) executed by and among respondents Caridad C. Almendras (Caridad), Rolando C. Sanchez (Rolando) and Leonardo Dalwampo over a parcel of unregistered land located at Inawayan, Sta. Cruz, Davao del Sur containing approximately 6.3087 hectares. Petitioner alleged that he owned and had occupied said parcel of land since September 21, 1978 until he was forcibly dispossessed by respondent South Davao Development Company, Inc. (SODACO) on April 23, 1994. Petitioner claimed that Caridad sold the property to Rolando, a purported dummy of SODACO.

During the proceedings on March 16, 2010, Rolando filed a Request for Admission<sup>[5]</sup> addressed to petitioner. The said Request for Admission reads in parts:

I. That the following Resolutions/Orders of the Regional Trial Court, Branch 18, Digos City, acting as a Guardianship Court in Special Proceeding No. 830, are genuine, which copies thereof are furnished or served to your counsel, Atty. Rodolfo B. Ta-asan, Jr. and Atty. Lorenzo B. Ta-asan III, to wit:

(a) The Resolution dated January 8, 1993, approving the Petition for Guardianship over the person and properties of Alejandro D. Almendras, Sr., filed by petitioners Caridad C. Almendras, Alexis C. Almendras, Manuel C. Almendras, Elizabeth Almendras-Alba, Rosalinda Almendras-Unson, Alejandro C. Almendras, Jr., Chuchi Almendras-Aguinaldo, and Paul C. Almendras, and appointing Rosalinda D. Almendras-Unson as the Guardian over the person of Alejandro D. Almendras, Sr., and Paul C. Almendras and Elizabeth Almendras-Alba as Guardians over the properties of said Alejandro D. Almendras, Sr.;

(b) The Order dated October 14, 1993, granting authority to the Judicial Guardians Paul C. Almendras and Elizabeth Almendras-Alba to sell the agricultural properties indicated in the said Order;

(c) The Order dated October 29, 1993, approving the sale made by the Judicial Guardians Paul C. Almendras and Elizabeth Almendras-Alba under the authority of the Guardianship Court over the following agricultural properties in favor of the individual vendees, to wit:

Lot No. 59, Pcs-5021 in favor of Jose C. Gahuman;  
Lot Nos. 48, 49 and 60, Pcs-5021 in favor of Ruel D. Sevilla;  
Lot No. 50, Pcs-5021 in favor of Leonardo M. Dalwampo;  
Lot No. 53, Pcs-5021 in favor of Rolando C. Sanchez;  
Lot No. 47, Pcs-5021 in favor of Magno B. Villaflores;

II. That the following documents are genuine, which copies are likewise furnished or served to your counsels Atty. Rodolfo B. Ta-asan, Jr. and Lorenzo B. Ta-asan III, to wit:

(d) The Deed of Sale dated October 15, 1993, between the vendors: Caridad C. Almendras, Judicial Guardians Paul C. Almendras and Elizabeth Almendras-Alba and the vendee: Rolando C. Sanchez, over the parcel of agricultural land denominated as Lot No. 53, Pcs-5021, situated at Quinocol, Inawayan, Sta. Cruz, Davao del Sur, and duly acknowledged before notary public Raul O. Tolentino, as Doc. No. 257, Page No. 52; Book No. XXIX; Series of 1993;

III. That each of the following matters of fact are true.

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(c) That sometime in November, 1992, the late Alejandro D. Almendras, Sr. then suffered a 'cerebrovascular accident' or a 'stroke' which left him physically and mentally incapacitated;

(d) That when Alejandro D. Almendras, Sr. was then recuperating at the Cebu Doctor's Hospital, the plaintiff, together with his mother, brothers and sisters, held a family conference and decided to institute a guardianship proceeding and nominated Rosalinda Almendras-Unson to be the guardian over the person of Alejandro D. Almendras, Sr. and Paul C. Almendras and Elizabeth Almendras-Alba as the guardians over the properties and Alejandro D. Almendras, Sr.;

(e) That the plaintiff, together with his mother and brothers and sisters did, in fact, institute a guardianship proceeding over the person and properties of Alejandro D. Almendras, Sr., sometime in December, 1992, then pending before the Regional Trial Court, Branch 18, Digos, Davao del Sur, and docketed as Special Proceeding No. 830;

(f) That the Almendras coconut plantation situated at Upper Quinocol, Inawayan, Sta. Cruz, Davao del Sur, comprising seven (7) adjoining cadastral lots, was among the properties belonging to Alejandro D. Almendras, Sr. and placed under the jurisdiction of the Guardianship Court in Special Proceeding No. 830, to wit:

Lot No. 50, Pcs-5021 with an area of 5.1403 has.

Lot No. 59, Pcs-5021 with an area of 3.4710 has.

**Lot Nos. 48, 49, 60, Pcs-5021, with an area of 5.1664 has.**

**Lot No.53, Pcs-5021, with an area of 6.3080 has.**

**Lot No.47, Pcs-5021, with an area of 3.4461 has.**

**(g) That plaintiff ALEXIS C. ALMENDRAS did not oppose the inclusion of the subject property denominated as Lot. No. 53, Pcs-5021, under the Guardianship Court in Special Proceeding No.830;**

**(h) That plaintiff ALEXIS C. ALMJENDRAS did not oppose the grant of authority to the judicial guardians Paul C. Almendras and Elizabeth Almendras-Alba to sell the individual lots comprising the Almendras coconut plantation to different vendees, particularly, the subject property denominated as Lot No. 53, Pcs-5021 in favor of defendant ROLANDO C.SANCHEZ;**

**(i) That plaintiff ALEXIS C. ALMENDRAS did not seek a reconsideration nor appeal the Order of the Guardianship Court dated October 29, 1993, approving the sale of the individual lots comprising the Almendras coconut plantation to different vendees;**<sup>[6]</sup> (Emphasis supplied)

Petitioner, however, failed to file a sworn statement specifically denying the matters therein or setting forth in detail the reasons why he cannot either deny or admit said matters. Thus, Rolando filed a Motion for Summary Judgment.<sup>[7]</sup> He alleged that there being no genuine issue as to any material fact, and the issue of ownership raised by petitioner being sham or fictitious, except as to the issue of damages, he is entitled to a summary judgment. Rolando prayed that the complaint be dismissed, that the validity of the DOS as well as his ownership and possession of the subject property be upheld, and that a hearing be conducted solely for the purpose of determining the propriety of his counterclaim for damages.

Petitioner opposed the Motion for Summary Judgment claiming that he was not personally served a copy of the Request for Admission. Moreover, he averred that the same was fatally defective for failure to comply with Section 5, Rule 15 of the Rules of Court on notice of hearing.<sup>[8]</sup>

In the assailed March 28, 2011 Order, the RTC held that contrary to petitioner's claim, he was in fact served a copy of the Motion for Summary Judgment via registered mail and that he received a copy thereof on March 24, 2010<sup>[9]</sup> while his counsel was furnished a copy thereof on March 17, 2010.<sup>[10]</sup> The RTC also held that there was a faithful compliance on the notice of hearing requirement. It noted that the motion was filed on June 29, 2010 while the hearing was scheduled on July 9, 2010. Thus, it cannot be said that there was violation of Section 5, Rule 15 of the Rules of Court.

The RTC then concluded that by petitioner's failure to respond to the Request for Admission, he was deemed to have admitted or impliedly admitted the matters specified therein. In particular, petitioner is deemed to have admitted the fact that

the property in question had been validly sold to Rolando thereby rendering the complaint without any cause of action.<sup>[11]</sup>

The dispositive portion of the March 28, 2011 Order reads:

WHEREFORE, partial summary judgment is hereby rendered in favour of defendant Sanchez decreeing the dismissal of the complaint against him. The issue on damages will be heard on July 18, 2011 at 8:30 in the morning.

With regard to defendants Caridad Almendras and SODACO, set this case for initial presentation of plaintiff's evidence on July 18, 2011 at 8:30 in the morning.

SO ORDERED.<sup>[12]</sup>

Petitioner filed a Motion for Reconsideration<sup>[13]</sup> insisting that he cannot be considered to have admitted the matters specified in the Request for Admission. SODACO also sought reconsideration of the March 28, 2011 Order claiming that the complaint filed against it should likewise be dismissed considering that petitioner could not maintain a suit against him after the dropping of the suit against Rolando.

In an Order<sup>[14]</sup> dated August 9, 2011, the RTC denied petitioner's Motion for Reconsideration but granted that of SODACO, viz.:

WHEREFORE, the motion for reconsideration filed by the plaintiff is DENIED. The motion for reconsideration filed by SODACO is GRANTED. Consequently, the Order dated March 28, 2011 is hereby modified in the sense that the complaint against all defendants including the counterclaims, are Ordered DISMISSED.

SO ORDERED.<sup>[15]</sup>

Aggrieved by the RTC's Orders, petitioner sought recourse directly to this Court via the instant Petition for Review.

We **DENY** the Petition for Review.

The instant Petition denominated as a petition for review, wrongfully alleged grave abuse of discretion on the part of the RTC. A petition for review on *certiorari* under Rule 45 of the Rules of Court is glaringly different from a petition for *certiorari* under Rule 65 of the Rules of Court. "A petition for review under Rule 45 of the x x x Rules of Court is generally limited only to questions of law or errors of judgment. On the other hand; a petition for *certiorari* under Rule 65 may be availed of to correct errors of jurisdiction including the commission of grave abuse of discretion amounting to lack or excess of jurisdiction."<sup>[16]</sup>

Here, petitioner ascribed grave abuse of discretion to the RTC claiming that contrary to the lower court's ruling, he could not have received the motion on March 24, 2010 (as stated in the postmaster's certification) given that the motion was filed only on June 26, 2010.

It must be stressed that only questions of law may be properly raised in a petition for review. Whether or not petitioner received a copy of the motion on March 24,