

## THIRD DIVISION

[ G.R. No. 182970, July 23, 2014 ]

**EMILIANO S. SAMSON, PETITIONER, VS. SPOUSES JOSE AND GUILLERMINA GABOR, TANAY RURAL BANK, INC., AND REGISTER OF DEEDS OF MORONG, RIZAL, RESPONDENTS.**

### D E C I S I O N

**PERALTA, J.:**

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to reverse and set aside the Order<sup>[1]</sup> dated August 18, 2006 of the Regional Trial Court (RTC) of Pasig City in Civil Case No. 70750 and Decision<sup>[2]</sup> dated May 9, 2008 of the Court of Appeals (CA) in CA-G.R. CV No. 88335.

The antecedents of the case are as follows:

Respondent spouses Jose and Guillermina Gabor are the registered owners of a parcel of land with an area of Sixty-One Thousand Eighty-Five (61,085) square meters, more or less, situated at Barrio Mapunso, Tanay, Rizal Province, and covered by Transfer Certificate of Title (TCT) No. M-25565 issued by the Register of Deeds of Morong.<sup>[3]</sup>

On November 14, 1985, the Spouses Gabor executed a Deed of Assignment transferring Twenty Thousand Six Hundred Thirty-One (20,631) square meters undivided portion of the aforementioned parcel of land in favor of petitioner Emiliano S. Samson as attorney's fees in payment for the services rendered by the latter for the former.

On October 22, 1987, petitioner Samson executed a Deed of Assignment transferring the same undivided portion in favor of Ma. Remedios P. Ramos. Upon learning of the sale, respondent spouses filed an action for legal redemption with the RTC of Tanay, Rizal. Immediately thereafter, petitioner Samson and Ramos executed an Agreement of Rescission revoking the transfer of the undivided portion.<sup>[4]</sup> On July 25, 1989, the RTC dismissed the suit for legal redemption. On appeal, however, the CA, in CA-G.R. CV No. 25530, reversed the decision of the RTC and upheld the Spouses Gabor's right of legal redemption. No further appeals were pursued.

Instead, during the pendency of CA-G.R. CV No. 25530, petitioner Samson filed an action for Partition of Real Property and Damages<sup>[5]</sup> against respondent spouses with the RTC of Morong, Rizal, which dismissed the same on the ground that the finality of CA-G.R. CV No. 25530 effectively barred the action for partition.<sup>[6]</sup> Agreeing with the RTC, the CA, in CA-G.R. CV No. 38373,<sup>[7]</sup> upheld the lower court's

decision, in the following wise:

The appeal is not meritorious. In view of the final and executory decision in CA-G.R. No. 25530 upholding the right of defendants-appellees to exercise their right of legal redemption over the 20,631 square meters involved, plaintiff-appellant is devoid of any legal right or personality to ask for partition of [the] subject property formerly owned in common. Having assigned his undivided share therein to Ma. Remedios P. Ramos, plaintiff-appellant ceased to be a co-owner. By exercising their right of legal redemption, which this Court upheld by final judgment, defendants-appellees now own the entire area covered by TCT No. M-25565.

The subsequent execution of the Agreement of Rescission by plaintiff-appellant and Ma. Remedios P. Ramos did not divest defendants-appellees of the right of legal redemption vested in them upon the consummation of the assignment plaintiff-appellant made to Ma. Remedios P. Ramos. x x x

When the pending appeal in CA-G.R. No. CV 25530 was decided and judgment therein became final and executory, the lower court had to follow what was adjudged by this Court, and while plaintiff-appellant was not a party in the said Civil Case No. 125-T and CA-G.R. CV No. 25530, plaintiff-appellant is bound by the judgment therein because he was fully aware of the pendency of such cases. As a matter of fact, he testified in Civil Case No. 125-T. Therefore, the Agreement of Rescission he later entered into with Ma. Remedios P. Ramos during the pendency of the said case, did not deprive defendants-appellees of their right of legal redemption. The supposed re-acquisition by plaintiff-appellant of his undivided share in question, having been effected *pendente lite*, the same was subject to the outcome of the case.<sup>[8]</sup>

Petitioner Samson then appealed to this Court via petition for review on *certiorari*, but the same was dismissed in a minute resolution<sup>[9]</sup> dated June 8, 1994 for failure to submit an affidavit of service. This court further denied Samson's motion for reconsideration with finality in its Resolution<sup>[10]</sup> dated July 25, 1994 for having no compelling reason to warrant the reconsideration sought.

On April 4, 2006, petitioner Samson filed a Complaint<sup>[11]</sup> before the RTC of Pasig City for Recovery of Property or its Value against respondent spouses, Tanay Rural Bank, Inc., and the Register of Deeds of Morong, Rizal, claiming that he had been paying his one-third (1/3) share of realty taxes covering the subject portion of land for the years 2002 to 2004. In 2005, however, his payment was rejected by the Municipal Treasurer of Tanay, Rizal, at such time he discovered that respondent spouses had already mortgaged the entire property in favor of respondent Bank back in November 2002.

On August 18, 2006, the RTC of Pasig City dismissed the complaint on the grounds of improper venue, *res judicata*, and that the complaint states no cause of action.<sup>[12]</sup> It held that the suit is a real action which should be filed in the RTC of Morong,

Rizal, where the property subject of the case is situated. Moreover, the lower court pointed out that as early as 1991, herein petitioner had already filed a Complaint for Partition of Real Property and Damages involving the same subject property against the same parties, which complaint was already dismissed by this Court with finality. Thus, the principle of *res judicata* applies. Finally, the trial court held that petitioner's complaint states no cause of action against herein respondent Bank as it does not allege any details as to the liability or any violation of petitioner's rights.

Claiming that the lower court erred in dismissing his complaint, petitioner Samson filed an appeal with the CA, which likewise dismissed the same for having been improperly brought before it. The appellate court ruled in its Decision<sup>[13]</sup> dated May 9, 2008 that since petitioner's appeal raised only issues purely of law, it should be dismissed outright.

Undaunted, petitioner filed the instant petition invoking the following arguments:

I.

THE COURT OF APPEALS HAS JURISDICTION OVER PETITIONER'S APPEAL FROM THE ORDER OF THE REGIONAL TRIAL COURT OF PASIG CITY.

II.

SINCE THE PETITIONER'S COMPLAINT IS BOTH REAL AND PERSONAL, IT WAS PROPERLY FILED WITH THE REGIONAL TRIAL COURT OF PASIG CITY.

III.

PETITIONER'S COMPLAINT STATES A CAUSE OF ACTION.

IV.

PETITIONER'S COMPLAINT IS NOT BARRED BY *RES JUDICATA*.

The petition lacks merit.

We agree with the CA's decision to dismiss petitioner's appeal, pursuant to Section 2, Rule 50 of the 1997 Rules of Civil Procedure which mandates the dismissal of an appeal that raises only questions of law.<sup>[14]</sup> The appeal of petitioner, as correctly held by the CA, essentially raised issues purely of law.

Time and again, this Court has distinguished cases involving pure questions of law from those of pure questions of fact in the following manner:

A question of fact exists when a doubt or difference arises as to the truth or falsity of alleged facts. If the query requires a re-evaluation of the credibility of witnesses or the existence or relevance of surrounding

circumstances and their relation to each other, the issue in that query is factual. On the other hand, there is a question of law when the doubt or difference arises as to what the law is on certain state of facts and which does not call for an existence of the probative value of the evidence presented by the parties-litigants. In a case involving a question of law, the resolution of the issue rests solely on what the law provides on the given set of circumstances. Ordinarily, the determination of whether an appeal involves only questions of law or both questions of law and fact is best left to the appellate court. All doubts as to the correctness of the conclusions of the appellate court will be resolved in favor of the CA unless it commits an error or commits a grave abuse of discretion.<sup>[15]</sup>

In the instant case, petitioner appealed the Order of the trial court which dismissed his complaint for improper venue, lack of cause of action, and *res judicata*.<sup>[16]</sup> Dismissals based on these grounds do not involve a review of the facts of the case but merely the application of the law, specifically in this case, Rule 16 of the Revised Rules of Civil Procedure. The issue to be resolved is limited to whether or not said rule was properly applied, which will only involve a review of the complaint, the motions to dismiss, and the trial court's order of dismissal, but not the probative value of the evidence submitted nor the truthfulness or falsity of the facts. Considering, therefore, that the subject appeal raised only questions of law, the CA committed no error in dismissing the same.

We, likewise, agree with the decision of the RTC of Pasig City dismissing petitioner's complaint on the ground that the same should have been filed in the RTC of Morong, Rizal, where the property subject of this case is situated. Petitioner claims that as shown by the caption of his complaint which reads "For Recovery of Property or *its Value*," his cause of action is in the alternative, both real and personal. As such, his action may be commenced and tried where the petitioner resides or where any of the respondents resides, at the election of the petitioner.<sup>[17]</sup>

Petitioner's argument is misplaced. In *Latorre v. Latorre*,<sup>[18]</sup> we ruled that:

Sections 1 and 2, Rule 4 of the 1997 Rules of Civil Procedure provide an answer to the issue of venue. Actions affecting title to or possession of real property or an interest therein (real actions) shall be commenced and tried in the proper court that has territorial jurisdiction over the area where the real property is situated. On the other hand, all other actions (personal actions) shall be commenced and tried in the proper courts where the plaintiff or any of the principal plaintiffs resides or where the defendant or any of the principal defendants resides. x x x.

**In this jurisdiction, we adhere to the principle that the nature of an action is determined by the allegations in the Complaint itself, rather than by its title or heading. It is also a settled rule that what determines the venue of a case is the primary objective for the filing of the case. x x x**<sup>[19]</sup>

While the complaint of the petitioner was denominated as one for "Recovery of

Property or its Value," all of his claims are actually anchored on his claim of ownership over the one-third (1/3) portion of the subject property. In his complaint, petitioner sought the return of the portion of the subject property or its value on the basis of his co-ownership thereof. Necessarily, his alternative claim for the value of the property is still dependent on the determination of ownership, which is an action affecting title to or possession of real property or an interest therein. Clearly, petitioner's claim is a real action which should have been filed in the court where the property lies, which in this case, is the RTC of Morong, Rizal.

We further agree with the RTC of Pasig City when it dismissed petitioner's complaint on the ground that the same states no cause of action in the following wise:

The complaint states no cause of action as herein defendant was impleaded without stating any details of its liabilities nor any allegation of its violations to the plaintiff's rights. The only allegation of the rights violated are Articles 19, 20, and 21 of the Civil Code. More importantly, there are no allegations in the complaint that defendant TRB has violated the aforesaid laws. There is no detail on why the defendant TRB has been impleaded in the instant case.<sup>[20]</sup>

A perusal of the complaint would show that aside from the fact that respondent spouses had mortgaged the property subject herein to respondent bank, there is no other allegation of an act or omission on the part of respondent Bank in violation of a right of petitioner. In *Spouses Zepeda v. China Banking Corporation*,<sup>[21]</sup> We had occasion to discuss the definition of the term "cause of action," to wit:

A cause of action is a formal statement of the operative facts that give rise to a remedial right. The question of whether the complaint states a cause of action is determined by its averments regarding the acts committed by the defendant. Thus it "must contain a concise statement of the ultimate or essential facts constituting the plaintiff's cause of action." Failure to make a sufficient allegation of a cause of action in the complaint "warrants its dismissal."

As defined in Section 2, Rule 2 of the Rules of Court, a cause of action is the act or omission by which a party violates the right of another. Its essential elements are as follows:

1. A right in favor of the plaintiff by whatever means and under whatever law it arises or is created;
2. An obligation on the part of the named defendant to respect or not to violate such right; and
3. Act or omission on the part of such defendant in violation of the right of the plaintiff or constituting a breach of the obligation of the defendant to the plaintiff for which the latter may maintain an action for recovery of damages or other appropriate relief.