

SECOND DIVISION

[G.R. No. 172505, October 01, 2014]

**ANTONIO M. GARCIA, PETITIONER, VS. FERRO CHEMICALS, INC.,
RESPONDENT.**

D E C I S I O N

LEONEN, J.:

Before this court is a petition for review on certiorari^[1] assailing the decision^[2] of the Court of Appeals dated August 11, 2005 and its resolution^[3] dated April 27, 2006, denying petitioner Antonio Garcia's motion for reconsideration.

Antonio Garcia, as seller, and Ferro Chemicals, Inc., through Ramon Garcia, as buyer, entered into a deed of absolute sale and purchase of shares of stock on July 15, 1988. The deed was for the sale and purchase of shares of stock from various corporations, including one class "A" share in Alabang

Country Club, Inc. and one proprietary membership in the Manila Polo Club, Inc.^[4] These shares of stock were in the name of Antonio Garcia.^[5] The contract was allegedly entered into to prevent these shares of stock from being sold at public auction to pay the outstanding obligations of Antonio Garcia.^[6]

On March 3, 1989, a deed of right of repurchase over the same shares of stock subject of the deed of absolute sale and purchase of shares of stock was entered into between Antonio Garcia and Ferro Chemicals, Inc. Under the deed of right of repurchase, Antonio Garcia can redeem the properties sold within 180 days from the signing of the agreement.^[7]

Before the end of the 180-day period, Antonio Garcia exercised his right to repurchase the properties.^[8] However, Ferro Chemicals, Inc. did not agree to the repurchase of the shares of stock.^[9] Thus, Antonio Garcia filed an action for specific performance and annulment of transfer of shares.^[10]

On September 6, 1989, the class "A" share in Alabang Country Club, Inc. and proprietary membership in the Manila Polo Club, Inc., which were included in the contracts entered into between Antonio Garcia and Ferro Chemicals, Inc., were sold at public auction to Philippine Investment System Organization.^[11]

On September 3, 1990, the information based on the complaint of Ferro Chemicals, Inc. was filed against Antonio Garcia before the Regional Trial Court.^[12] He was charged with estafa "under Article 318 (Other Deceits) of the Revised Penal Code for allegedly misrepresenting to Ferro Chemicals, Inc. that the shares subject of the contracts entered into were free from all liens and encumbrances. The information

reads:

The undersigned Assistant Prosecutor accuses Antonio M. Garcia of the felony of Estafa as defined and penalized under Art. 318 of the Revised Penal Code as amended, committed as follows:

THAT on or about 15 July 1988, in Makati, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, with evident bad faith and deceit, did, then and there, willfully, unlawfully and feloniously, misrepresent to FERRO

CHEMICALS, INC. (FCI) represented by Ramon M. Garcia, that his share of stock/proprietary share with Ayala Alabang Country Club, Inc. and Manila Polo Club, Inc. collectively valued at about P10.00 Million Pesos, being part of other shares of stock subject matter of a Deed of Absolute Sale and Purchase of Shares of Stock between the accused and FCI, were free from all liens, encumbrances and claims by third persons, when in truth and in fact, accused well' knew that aforesaid share of stock/proprietary share had already been garnished in July 1985 and subsequently sold at public auction in September 1989, and which misrepresentation and assurance FCI relied upon and paid the consideration in accordance with the stipulated condition/manner of payment, all to the damage and prejudice of FCI in the aforesaid amount of P10.00 Million Pesos.

Contrary to law.^[13]

In the decision dated December 12, 1996 of the Regional Trial Court, Antonio Garcia was acquitted for insufficiency of evidence.^[14] The Regional Trial Court held:

From the foregoing, it is very clear that private complainant was aware of the status of the subject CLUB SHARES. Thus, the element of false pretense, fraudulent act or fraudulent means which constitute the very cause or the only motive which induced the private complainant to enter into the questioned deed of sale (Exh. "A") is wanting in the case at bar.

^[15] (Underscoring in the original)

Ferro Chemicals, Inc. filed a motion for reconsideration, which was denied by the Regional Trial Court in the order dated July 29, 1997.^[16]

On August 25, 1997, Ferro Chemicals, Inc. appealed to the Court of Appeals the July 29, 1997 order of the Regional Trial Court as to the civil aspect of the case.^[17] The notice of appeal^[18] filed was entitled "Notice of Appeal Ex Gratia Abundantia Ad Cautelam (Of The Civil Aspect of the Case)." It alleged:

4. Herein private complainant hereby gives notice, out of extreme caution, that it is appealing the Decision dated 12 December 1996 and

the Order dated 29 July 1997 on the civil aspect of the case to the Court of Appeals on the ground that it is not in accordance with the law and the facts of the case.

5. This notice of appeal is without prejudice to the filing of an appropriate petition for certiorari under Rule 65 of the Rules of Court on the criminal aspect, upon the giving of due course thereto, private complainant shall endeavor to seek the consolidation of this appeal with the said petition.

[19]

On October 15, 1997, the Makati City Prosecutor's Office and Ferro Chemicals, Inc. also filed a petition for certiorari^[20] with this court, assailing the Regional Trial Court's December 12, 1996 decision and July 29, 1997 order acquitting Antonio Garcia.^[21]

The petition for certiorari^[22] filed before this court sought to annul the decision of the trial court acquitting Antonio Garcia. People of the Philippines and Ferro Chemicals, Inc. argued that the trial court "acted in grave abuse of discretion amounting to lack or excess of jurisdiction when it rendered the judgment of acquittal based on affidavits not at all introduced in evidence by either of the parties thereby depriving the people of their substantive right to due process of law."^[23] The verification/certification against forum shopping, signed by Ramon Garcia as president of Ferro Chemicals, Inc., disclosed that the notice of appeal was filed "with respect to the civil aspect of the case."^[24]

In the resolution^[25] dated November 16, 1998, this court dismissed the petition for certiorari filed, and entry of judgment was made on December 24, 1998.^[26]

On the other hand, the Court of Appeals,^[27] in its decision^[28] dated August 11, 2005, granted the appeal and awarded Ferro Chemicals, Inc. the amount of P1,000,000.00 as actual loss with legal interest and attorney's fees in the amount of P20,000.00.^[29] The appellate court found that Antonio Garcia failed to disclose the Philippine Investment and Savings Organization's lien over the club shares."^[30] Thus:

The issue in this case is whether or not Antonio Garcia disclosed to Ferro-Chemicals, during the negotiation stage of the impending sale of the imputed club shares, the third attachment lien in favor of Philippine Investment and Savings Organization (*PISO*) which, ultimately, became the basis of the auction sale of said club shares. We have scrutinized the records of the case but found no evidence that Antonio Garcia intimated to his brother the third attachment lien of PISO over the said club shares. While it is true that Antonio Garcia divulged the two liens of Security Bank and Insular Bank of Asia and America, the lien of PISO was clearly not discussed. The affidavits executed by the two lawyers to the effect that the lien of PISO was considered but deliberately left out in the deed cannot be given much weight as they were never placed on the witness stand and cross-examined by Ferro-Chemicals. If their affidavits,

although not offered, were considered in the criminal aspect and placed a cloud on the prosecution's thrust, they cannot be given the same probative value in this civil aspect as only a preponderance of evidence is necessary to carry the day for the plaintiff, Ferro Chemicals.

While Antonio Garcia insists that no consideration was ever made over the club shares as the same were merely given for safekeeping, the document denominated as Deed of Absolute Sale states otherwise. It is a basic rule of evidence that between documentary evidence and oral evidence, the former carries more weight.

Also, We have observed that in Antonio Garcia's letter of redemption addressed to Ferro Chemicals, he mentioned his interest in redeeming the company shares only. That he did not include the club shares only meant that said club shares no longer had any much redeemable value as there was a lien over them. To redeem them would be pointless.

If they had no redeemable value to Antonio Garcia, to Ferro Chemical they were certainly marketable assets. The non-disclosure of the third lien in favor of PISO materially affected Ferro Chemicals since it was not able to act on time to protect its interest when the auction sale over the club shares actually took place. As a result, Ferro Chemicals suffered losses due to the unfortunate public auction sale. It is but just and fair that Antonio Garcia be made to compensate the loss pursuant to Articles 21 and 2199 of the Civil Code.

The actual loss suffered by Ferro Chemicals amounted to P1,000,000.00 which corresponds to the bid value of the club shares at the time of the auction as evidenced by the Sheriff's Certificate of Sale.^[31] (Citations omitted)

Antonio Garcia filed a motion for reconsideration and Ferro Chemicals, Inc. filed a partial motion for reconsideration of the decision of the Court of Appeals.^[32] These motions were denied in the resolution^[33] dated April 27, 2006. Thus, Antonio Garcia filed this petition for review on certiorari,^[34] assailing the decision and resolution of the Court of Appeals.

Antonio Garcia argues that the factual findings of the Court of Appeals were erroneous^[35] and insists that "[Ferro Chemicals, Inc.] was fully aware that the shares covered by the Deed of Absolute Sale, including the Subject Club Shares, were not free from liens and encumbrances and that the Deed [of] Sale was executed [to] warehouse [Antonio Garcia's] assets based on, among other evidence, the affidavits executed by Jaime Gonzales . . . and Rolando Navarro. . . ."^[36]

Antonio Garcia faults the Court of Appeals in disregarding the affidavits executed by Jaime Gonzales and Rolando Navarro. Antonio Garcia argues that even this court in GR. No. 130880 entitled *People of the Philippines and Ferro Chemicals, Inc.. v. Hon. Dennis Villa Ignacio and Antonio Garcia* where the admissibility of the affidavits was put in issue held that the trial court did not commit any grave abuse of discretion in the challenged decision.^[37] He then reasoned that "pursuant to the law of the case,

[the affidavits of Gonzalez and Navarro] are admissible and should be given weight."
[38]

Finally, Antonio Garcia claims that both he and Ferro Chemicals, Inc. acted in bad faith when they entered into the deed of absolute sale as a scheme to defraud Antonio Garcia's creditors. Thus, they are *in pari delicto* and Ferro Chemicals, Inc. should not be allowed to recover from Antonio Garcia.[39]

In its comment,[40] Ferro Chemicals, Inc. points out that Antonio Garcia raised factual issues not proper in a Rule 45 petition and reiterates the findings of the Court of Appeals.[41]

There are pertinent and important issues that the parties failed to raise before the trial court, Court of Appeals, and this court. Nonetheless, we resolve to rule on these issues.

As a general rule, this court through its appellate jurisdiction can only decide on matters or issues raised by the parties.[42] However, the rule admits of exceptions.[43] When the unassigned error affects jurisdiction over the subject matter[44] or when the consideration of the error is necessary for a complete resolution of the case,[45] this court can still decide on these issues.

We cannot turn a blind eye on glaring misapplications of the law or patently erroneous decisions or resolutions, simply because the parties failed to raise these errors before the court. Otherwise, we will be allowing injustice by reason of the mistakes of the parties' counsel and condoning reckless and negligent acts of lawyers to the prejudice of the litigants. Failure to rule on these issues amounts to an abdication of our duty to dispense justice to all parties.

The issues are:

- I. Whether the Regional Trial Court had jurisdiction over the case
- II. Whether the act of Ferro Chemicals, Inc. in filing the notice of appeal before the Court of Appeals and the petition for certiorari assailing the same trial court decision amounted to forum shopping
- III. Whether Ferro Chemicals, Inc. was entitled to the awards given as civil liability *ex delicto*

The Regional Trial Court did not have jurisdiction

Jurisdiction of a court over the subject matter is vested by law.[46] In criminal cases, the imposable penalty of the crime charged in the information determines the court that has jurisdiction over the case.[47]

The information charged Antonio Garcia with violation of Article 318 of the Revised Penal Code, which is punishable by *arresto mayor*, or imprisonment for a period of