

SECOND DIVISION

[G.R. No. 186993, August 22, 2012]

**THEODORE AND NANCY ANG, REPRESENTED BY ELDRIGE
MARVIN B. ACERON, PETITIONERS, VS. SPOUSES ALAN AND EM
ANG, RESPONDENTS.**

DECISION

REYES, J.:

Before this Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to annul and set aside the Decision^[1] dated August 28, 2008 and the Resolution^[2] dated February 20, 2009 rendered by the Court of Appeals (CA) in CA-G.R. SP No. 101159. The assailed decision annulled and set aside the Orders dated April 12, 2007^[3] and August 27, 2007^[4] issued by the Regional Trial Court (RTC) of Quezon City, Branch 81 in Civil Case No. Q-06-58834.

The Antecedent Facts

On September 2, 1992, spouses Alan and Em Ang (respondents) obtained a loan in the amount of Three Hundred Thousand U.S. Dollars (US\$300,000.00) from Theodore and Nancy Ang (petitioners). On even date, the respondents executed a promissory note^[5] in favor of the petitioners wherein they promised to pay the latter the said amount, with interest at the rate of ten percent (10%) *per annum*, upon demand. However, despite repeated demands, the respondents failed to pay the petitioners.

Thus, on August 28, 2006, the petitioners sent the respondents a demand letter asking them to pay their outstanding debt which, at that time, already amounted to Seven Hundred Nineteen Thousand, Six Hundred Seventy-One U.S. Dollars and Twenty-Three Cents (US\$719,671.23), inclusive of the ten percent (10%) annual interest that had accumulated over the years. Notwithstanding the receipt of the said demand letter, the respondents still failed to settle their loan obligation.

On August 6, 2006, the petitioners, who were then residing in Los Angeles, California, United States of America (USA), executed their respective Special Powers of Attorney^[6] in favor of Attorney Eldrige Marvin B. Acheron (Atty. Acheron) for the purpose of filing an action in court against the respondents. On September 15, 2006, Atty. Acheron, in behalf of the petitioners, filed a Complaint^[7] for collection of sum of money with the RTC of Quezon City against the respondents.

On November 21, 2006, the respondents moved for the dismissal of the complaint filed by the petitioners on the grounds of improper venue and prescription.^[8] Insisting that the venue of the petitioners' action was improperly laid, the respondents asserted that the complaint against them may only be filed in the court

of the place where either they or the petitioners reside. They averred that they reside in Bacolod City while the petitioners reside in Los Angeles, California, USA. Thus, the respondents maintain, the filing of the complaint against them in the RTC of Quezon City was improper.

The RTC Orders

On April 12, 2007, the RTC of Quezon City issued an Order^[9] which, *inter alia*, denied the respondents' motion to dismiss. In ruling against the respondents' claim of improper venue, the court explained that:

Attached to the complaint is the Special Power of Attorney x x x which clearly states that plaintiff Nancy Ang constituted Atty. Eldrige Marvin Acheron as her duly appointed attorney-in-fact to prosecute her claim against herein defendants. Considering that the address given by Atty. Acheron is in Quezon City, hence, being the plaintiff, venue of the action may lie where he resides as provided in Section 2, Rule 4 of the 1997 Rules of Civil Procedure.^[10]

The respondents sought reconsideration of the RTC Order dated April 12, 2007, asserting that there is no law which allows the filing of a complaint in the court of the place where the representative, who was appointed as such by the plaintiffs through a Special Power of Attorney, resides.^[11]

The respondents' motion for reconsideration was denied by the RTC of Quezon City in its Order^[12] dated August 27, 2007.

The respondents then filed with the CA a petition for *certiorari*^[13] alleging in the main that, pursuant to Section 2, Rule 4 of the Rules of Court, the petitioners' complaint may only be filed in the court of the place where they or the petitioners reside. Considering that the petitioners reside in Los Angeles, California, USA, the respondents assert that the complaint below may only be filed in the RTC of Bacolod City, the court of the place where they reside in the Philippines.

The respondents further claimed that, the petitioners' grant of Special Power of Attorney in favor of Atty. Acheron notwithstanding, the said complaint may not be filed in the court of the place where Atty. Acheron resides, *i.e.*, RTC of Quezon City. They explained that Atty. Acheron, being merely a representative of the petitioners, is not the real party in interest in the case below; accordingly, his residence should not be considered in determining the proper venue of the said complaint.

The CA Decision

On August 28, 2008, the CA rendered the herein Decision,^[14] which annulled and set aside the Orders dated April 12, 2007 and August 27, 2007 of the RTC of Quezon City and, accordingly, directed the dismissal of the complaint filed by the petitioners. The CA held that the complaint below should have been filed in Bacolod City and not in Quezon City. Thus:

As maybe clearly gleaned from the foregoing, the place of residence of the plaintiff's attorney-in-fact is of no moment when it comes to ascertaining the venue of cases filed in behalf of the principal since what should be considered is the residence of the real parties in interest, i.e.,] the plaintiff or the defendant, as the case may be. Residence is the permanent home – the place to which, whenever absent for business or pleasure, one intends to return. Residence is vital when dealing with venue. Plaintiffs, herein private respondents, being residents of Los Angeles, California, U.S.A., which is beyond the territorial jurisdiction of Philippine courts, the case should have been filed in Bacolod City where the defendants, herein petitioners, reside. Since the case was filed in Quezon City, where the representative of the plaintiffs resides, contrary to Sec. 2 of Rule 4 of the 1997 Rules of Court, the trial court should have dismissed the case for improper venue.^[15]

The petitioners sought a reconsideration of the Decision dated August 28, 2008, but it was denied by the CA in its Resolution dated February 20, 2009.^[16]

Hence, the instant petition.

Issue

In the instant petition, the petitioners submit this lone issue for this Court's resolution:

WHETHER OR NOT THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR OF LAW WHEN IT RULED THAT THE COMPLAINT MUST BE DISMISSED ON THE GROUND THAT VENUE WAS NOT PROPERLY LAID.
^[17]

The Court's Ruling

The petition is denied.

Contrary to the CA's disposition, the petitioners maintain that their complaint for collection of sum of money against the respondents may be filed in the RTC of Quezon City. Invoking Section 3, Rule 3 of the Rules of Court, they insist that Atty. Acheron, being their attorney-in-fact, is deemed a real party in interest in the case below and can prosecute the same before the RTC. Such being the case, the petitioners assert, the said complaint for collection of sum of money may be filed in the court of the place where Atty. Acheron resides, which is the RTC of Quezon City.

On the other hand, the respondents in their Comment^[18] assert that the petitioners are proscribed from filing their complaint in the RTC of Quezon City. They assert that the residence of Atty. Acheron, being merely a representative, is immaterial to the determination of the venue of the petitioners' complaint.

**The petitioners' complaint
should have been filed in**

the RTC of Bacolod City, the court of the place where the respondents reside, and not in RTC of Quezon City.

It is a legal truism that the rules on the venue of personal actions are fixed for the convenience of the plaintiffs and their witnesses. Equally settled, however, is the principle that choosing the venue of an action is not left to a plaintiff's caprice; the matter is regulated by the Rules of Court.^[19]

The petitioners' complaint for collection of sum of money against the respondents is a personal action as it primarily seeks the enforcement of a contract. The Rules give the plaintiff the option of choosing where to file his complaint. He can file it in the place (1) where he himself or any of them resides, or (2) where the defendant or any of the defendants resides or may be found. The plaintiff or the defendant must be residents of the place where the action has been instituted at the time the action is commenced.^[20]

However, if the plaintiff does not reside in the Philippines, the complaint in such case may only be filed in the court of the place where the defendant resides. In *Cohen and Cohen v. Benguet Commercial Co., Ltd.*,^[21] this Court held that there can be no election as to the venue of the filing of a complaint when the plaintiff has no residence in the Philippines. In such case, the complaint may only be filed in the court of the place where the defendant resides. Thus:

Section 377 provides that actions of this character "may be brought in any province where the defendant or any necessary party defendant may reside or be found, or in any province where the plaintiff or one of the plaintiffs resides, at the election of the plaintiff." **The plaintiff in this action has no residence in the Philippine Islands. Only one of the parties to the action resides here. There can be, therefore, no election by plaintiff as to the place of trial. It must be in the province where the defendant resides.** x x x.^[22] (Emphasis ours)

Here, the petitioners are residents of Los Angeles, California, USA while the respondents reside in Bacolod City. Applying the foregoing principles, the petitioners' complaint against the respondents may only be filed in the RTC of Bacolod City – the court of the place where the respondents reside. The petitioners, being residents of Los Angeles, California, USA, are not given the choice as to the venue of the filing of their complaint.

Thus, the CA did not commit any reversible error when it annulled and set aside the orders of the RTC of Quezon City and consequently dismissed the petitioners' complaint against the respondents on the ground of improper venue.

In this regard, it bears stressing that the *situs* for bringing real and personal civil actions is fixed by the Rules of Court to attain the greatest convenience possible to the litigants and their witnesses by affording them maximum accessibility to the