671 Phil. 346

FIRST DIVISION

[G.R. No. 159941, August 17, 2011]

HEIRS OF SPOUSES TEOFILO M. RETERTA AND ELISA RETERTA, NAMELY: EDUARDO M. RETERTA, CONSUELO M. RETERTA, AND AVELINA M. RETERTA, PETITIONERS, VS. SPOUSES LORENZO MORES AND VIRGINIA LOPEZ, RESPONDENTS.

D E C I S I O N

BERSAMIN, J.:

The original and exclusive jurisdiction over a complaint for quieting of title and reconveyance involving friar land belongs to either the Regional Trial Court (RTC) or the Municipal Trial Court (MTC). Hence, the dismissal of such a complaint on the ground of lack of jurisdiction due to the land *in litis* being friar land under the exclusive jurisdiction of the Land Management Bureau (LMB) amounts to manifest grave abuse of discretion that can be corrected through *certiorari*.

The petitioners, whose complaint for quieting of title and reconveyance the RTC had dismissed, had challenged the dismissal by petition for *certiorari*, but the Court of Appeals (CA) dismissed their petition on the ground that *certiorari* was not a substitute for an appeal, the proper recourse against the dismissal. They now appeal that ruling of the CA promulgated on April 25, 2003.[1]

Antecedents

On May 2, 2000, the petitioners commenced an action for quieting of title and reconveyance in the RTC in Trece Martires City (Civil Case No. TM-983),[2] averring that they were the true and real owners of the parcel of land (the land) situated in Trez Cruzes, Tanza, Cavite, containing an area of 47,708 square meters, having inherited the land from their father who had died on July 11, 1983; that their late father had been the grantee of the land by virtue of his occupation and cultivation; that their late father and his predecessors in interest had been in open, exclusive, notorious, and continuous possession of the land for more than 30 years; that they had discovered in 1999 an affidavit dated March 1, 1966 that their father had purportedly executed whereby he had waived his rights, interests, and participation in the land; that by virtue of the affidavit, Sales Certificate No. V-769 had been issued in favor of respondent Lorenzo Mores by the then Department of Agriculture and Natural Resources; and that Transfer Certificate of Title No. T-64071 had later issued to the respondents.

On August 1, 2000, the respondents, as defendants, filed a *motion to dismiss,* insisting that the RTC had no jurisdiction to take cognizance of Civil Case No. TM-983 due to the land being friar land, and that the petitioners had no legal personality to commence Civil Case No. TM-983.

On October 29, 2001, the RTC granted the *motion to dismiss*, holding:[3]

> Considering that plaintiffs in this case sought the review of the propriety of the grant of lot 2938 of the Sta. Cruz de Malabon Friar Lands Estate by the Lands Management Bureau of the defendant Lorenzo Mores through the use of the forged Affidavit and Sales Certificate No. V-769 which eventually led to the issuance of T.C.T. No. T-64071 to defendant Lorenzo Mores and wife Virginia Mores, and considering further that the land subject of this case is a friar land and not land of the public domain, consequently Act No. 1120 is the law prevailing on the matter which gives to the Director of Lands the exclusive administration and disposition of Friar Lands. More so, the determination whether or not fraud had been committed in the procurement of the sales certificate rests to the exclusive power of the Director of Lands. Hence this Court is of the opinion that it has no jurisdiction over the nature of this action. On the second ground relied upon by the defendants in their Motion To Dismiss, suffice it to state that the Court deemed not to discuss the same.
>
> IN VIEW OF THE FOREGOING, let this instant case be dismissed as it is hereby dismissed.
>
> SO ORDERED.

The petitioners then timely filed a *motion for reconsideration*, but the RTC denied their *motion for reconsideration* on February 21, 2002.[4]

On May 15, 2002, therefore, the petitioners assailed the dismissal *via* petition for *certiorari*, but the CA dismissed the petition on April 25, 2003, holding: [5]

> Thus, the basic requisite for the special civil action of *certiorari* to lie is that there is no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law.
>
> In the case at bench, when the court rendered the assailed decision, the remedy of the petitioners was to have appealed the same to this Court. But petitioners did not. Instead they filed the present special civil action for *certiorari* on May 15, 2002 after the decision of the court *a quo* has become final.
>
> The Order dismissing the case was issued by the court *a quo* on 29 October 2001, which Order was received by the petitioners on November 16, 2001. Petitioners filed a motion for reconsideration dated November 26, 2001 but the same was denied by the court *a quo* on 21 February 2002. The Order denying the motion for reconsideration was received by the petitioners on 20 March 2002.
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> Petitioners filed this petition for *certiorari* on May 15, 2002. Certiorari, however cannot be used as a substitute for the lost remedy of appeal.

In *Bernardo vs. Court of Appeals*, 275 SCRA 423, the Supreme Court had the following to say:

> "We have time and again reminded members of the bench and bar that a special civil action for *certiorari* under Rule 65 lies only when "there is no appeal nor plain, speedy and adequate remedy in the ordinary course of law." *Certiorari* cannot be allowed when a party to a case fails to appeal a judgment despite the availability of that remedy, *certiorari* not being a substitute for lost appeal. The remedies of appeal and *certiorari* are mutually exclusive and not alternative or successive."

WHEREFORE, in view of the foregoing, the instant petition is hereby DISMISSED.

SO ORDERED.

On September 9, 2003, the CA denied the petitioners' *motion for reconsideration*.[6]

Hence, this appeal.

Issues

The petitioners submit that:

I.

IT IS REVERSIBLE ERROR OF THE HONORABLE COURT OF APPEALS TO DISREGARD THE PROVISIONS OF SECTION 1, RULE 41, SECOND PARAGRAPH, SUBPARAGRAPH (a), AND SECTION 9, RULE 37, 1997 RULES OF COURT;

II.

IT IS REVERSIBLE ERROR FOR THE HONORABLE COURT OF APPEALS TO APPLY THE RULING IN THE CASE OF ROSETE vs. COURT OF APPEALS, 339 SCRA 193, 199, NOTWITHSTANDING THE FACT THAT THE 1997 RULES OF CIVIL PROCEDURE ALREADY TOOK EFFECT ON JULY 1, 1997.

III.

IT IS REVERSIBLE ERROR FOR THE HONORABLE COURT OF APPEALS IN NOT FINDING THAT THE TRIAL JUDGE GRAVELY ABUSED ITS DISCRETION WHEN IT DISMISSED THE COMPLAINT RULING THAT IT HAS NO JURISDICTION OVER THE NATURE OF THE ACTION, AND IN NOT FINDING THAT THE TRIAL JUDGE HAS JURISDICTION OVER THE SAME. [7]

Briefly stated, the issue is whether or not the CA erred in dismissing the petition for *certiorari*.

Ruling

The appeal is meritorious.

1.
Propriety of *certiorari* as remedy against dismissal of the action

The CA seems to be correct in dismissing the petition for *certiorari*, considering that the order granting the respondents' *motion to dismiss* was a final, as distinguished from an interlocutory, order against which the proper remedy was an appeal in due course. *Certiorari*, as an extraordinary remedy, is not substitute for appeal due to its being availed of only when there is no appeal, or plain, speedy and adequate remedy in the ordinary course of law.[8]

Nonetheless, the petitioners posit that a special civil action for *certiorari* was their proper remedy to assail the order of dismissal in light of certain rules of procedure, specifically pointing out that the second paragraph of Section 1 of Rule 37 of the Rules of Court ("*An order denying a motion for new trial or reconsideration is not appealable, the remedy being an appeal from the judgment or final order*") prohibited an appeal of a denial of the *motion for reconsideration*, and that the second paragraph of Section 1 of Rule 41 of the Rules of Court ("*No appeal may be taken from: xxx An order denying a motion for new trial or reconsideration*") expressly declared that an order denying a *motion for reconsideration* was not appealable. They remind that the third paragraph of Section 1 of Rule 41 expressly provided that in the instances "where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65."

The petitioners' position has no basis.

For one, the order that the petitioners really wanted to obtain relief from was the order granting the respondents' *motion to dismiss*, not the denial of the *motion for reconsideration*. The fact that the order granting the *motion to dismiss* was a final order for thereby completely disposing of the case, leaving nothing more for the trial court to do in the action, truly called for an appeal, instead of *certiorari,* as the correct remedy.

The fundamental distinction between a final judgment or order, on one hand, and an interlocutory order, on the other hand, has been outlined in *Investments, Inc. v. Court of Appeals*,[9] *viz*:

> The concept of `final' judgment, as distinguished from one which has `become final' (or `executory' as of right [final and executory]), is definite and settled. **A `final' judgment or order is one that finally disposes of a case, leaving nothing more to be done by the Court in respect thereto, *e.g.*, an adjudication on the merits which, on the basis of the evidence presented at the trial declares**

> **categorically what the rights and obligations of the parties are and which party is in the right; or a judgment or order that dismisses an action on the ground, for instance, of *res judicata* or prescription. Once rendered, the task of the Court is ended, as far as deciding the controversy or determining the rights and liabilities of the litigants is concerned. Nothing more remains to be done by the Court** except to await the parties' next move (which among others, may consist of the filing of a motion for new trial or reconsideration, or the taking of an appeal) and ultimately, of course, to cause the execution of the judgment once it becomes `final' or, to use the established and more distinctive term, `final and executory.'
>
> xxx
>
> Conversely, **an order that does not finally dispose of the case, and does not end the Court's task of adjudicating the parties' contentions and determining their rights and liabilities as regards each other, but obviously indicates that other things remain to be done by the Court, is `interlocutory,'** *e.g.*, an order denying a motion to dismiss under Rule 16 of the Rules, or granting a motion for extension of time to file a pleading, or authorizing amendment thereof, or granting or denying applications for postponement, or production or inspection of documents or things, *etc*. **Unlike a `final' judgment or order, which is appealable, as above pointed out, an `interlocutory' order may not be questioned on appeal except only as part of an appeal that may eventually be taken from the final judgment rendered in the case**.

Moreover, even Section 9 of Rule 37 of the Rules of Court, cited by the petitioners, indicates that the proper remedy against the denial of the petitioners' *motion for reconsideration* was an appeal from the final order dismissing the action upon the respondents' *motion to dismiss*. The said rule explicitly states thusly:

> Section 9. *Remedy against order denying a motion for new trial or reconsideration*. - An order denying a motion for new trial or reconsideration is not appealable, **the remedy being an appeal from the judgment or final order**.

The restriction against an appeal of a denial of a *motion for reconsideration* independently of a judgment or final order is logical and reasonable. A *motion for reconsideration* is not putting forward a new issue, or presenting new evidence, or changing the theory of the case, but is only seeking a reconsideration of the judgment or final order based on the same issues, contentions, and evidence either because: (*a*) the damages awarded are excessive; or (*b*) the evidence is insufficient to justify the decision or final order; or (*c*) the decision or final order is contrary to law.[10] By denying a *motion for reconsideration*, or by granting it only partially, therefore, a trial court finds no reason either to reverse or to modify its judgment or final order, and leaves the judgment or final order to stand. The remedy from the denial is to assail the denial in the course of an appeal of the judgment or final order