

SECOND DIVISION

[G.R. No. 173351, July 29, 2010]

BF CITILAND CORPORATION, PETITIONER, VS. MARILYN B. OTAKE, RESPONDENT.

DECISION

CARPIO, J.:

The Case

This is a petition for review^[1] of the Resolutions dated 28 July 2005^[2] and 5 July 2006^[3] of the Court of Appeals in CA-G.R. SP No. 88995. The 28 July 2005 Resolution dismissed the petition for review filed by petitioner seeking the reversal of the 29 December 2004 Decision^[4] of the Regional Trial Court (Branch 257) of Parañaque City. The 5 July 2006 Resolution denied petitioner's motion for reconsideration.

The Antecedent Facts

Petitioner BF Citiland Corporation is the registered owner of Lot 2, Block 101 situated in Brisbane Street, Phase III, BF Homes Subdivision, Parañaque City and covered by Transfer Certificate of Title No. 52940.^[5] Based on the tax declaration^[6] filed in the Office of the Assessor, the lot has an assessed value of P48,000.00.

On 24 February 1987, respondent Merlinda B. Bodullo^[7] bought the adjoining Lot 1, Block 101 covered by TCT No. 77549.^[8] However, records show respondent occupied not just the lot she purchased. She also encroached upon petitioner's lot.

On 13 October 2000, petitioner filed in the Metropolitan Trial Court (Branch 77) of Parañaque City a complaint^[9] for *accion publiciana* praying that judgment be rendered ordering respondent to vacate the subject lot. Petitioner also prayed that respondent be ordered to pay P15,000.00 per month by way of reasonable compensation for the use of the lot.

The Ruling of the MeTC

In its 25 April 2003 Decision,^[10] the MeTC ruled in favor of petitioner, to wit:

WHEREFORE, premises considered, this Court renders judgment in favor of the plaintiff and against the defendant and the latter, including any and all persons claiming rights under her is ORDERED:

1. To VACATE Lot 2, Block 101 subject lot in this instant case and SURRENDER peaceful possession to the plaintiff;
2. To PAY the plaintiff the sum of P10,000.00 per month by way of reasonable compensation for the use and occupancy of the subject lot from the filing of this case until the defendant shall have fully vacated the same;
3. To PAY the plaintiff the sum of P20,000.00 as and by way of attorney's fees; and
4. To PAY the costs of this suit.

SO ORDERED.^[11]

Respondent filed a motion for reconsideration^[12] claiming she was a lawful possessor and buyer in good faith of the disputed lot. In its Order dated 20 June 2003, the MeTC denied^[13] the motion for reconsideration for lack of merit and for lack of the requisite notice of hearing. The MeTC then issued a writ of execution.^[14] Respondent filed a motion^[15] to quash the writ of execution on the ground that the MeTC had no jurisdiction over *accion publiciana* cases. In its 30 January 2004 Order,^[16] the MeTC denied the motion to quash the writ of execution. It held that under Section 33 of Batas Pambansa Blg. 129, as amended by Republic Act 7691,^[17] the MeTC had exclusive original jurisdiction in all civil actions involving title to or possession of real property with assessed value not exceeding P50,000.00.

Petitioner filed a motion for special order of demolition^[18] alleging that the lot subject of execution contained improvements introduced by respondent. Respondent opposed the motion for being premature^[19] and moved for reconsideration^[20] of the 30 January 2004 Order of the MeTC. Respondent argued that even if the MeTC had jurisdiction over *accion publiciana* cases, the total value of the lot together with the residential house she built on it exceeded P50,000.00.

In its 23 July 2004 Order,^[21] the MeTC ruled that since the subject lot had an assessed value of P48,000.00, it had jurisdiction under Section 33 of BP 129, as amended. The MeTC held that since the action was only for the recovery of the lot, the residential house respondent built on it should not be included in computing the assessed value of the property. Thus, the MeTC granted petitioner's motion for demolition and denied respondent's motion for reconsideration of its 30 January 2004 Order.

Respondent filed in the Regional Trial Court (Branch 257) of Parañaque City a petition for certiorari^[22] under Rule 65 of the Rules of Court seeking dismissal of the *accion publiciana* case for lack of jurisdiction of the MeTC.

The Ruling of the RTC

In its 29 December 2004 Decision,^[23] the RTC held that *accion publiciana* was within the exclusive original jurisdiction of regional trial courts. The RTC further explained that BP 129, as amended, did not modify the jurisprudential doctrine that a suit for *accion publiciana* fell under the exclusive original jurisdiction of the RTC. It

disposed of the petition for certiorari in this wise:

WHEREFORE, the preliminary injunction previously issued by this Court in the Order dated September 8, 2004 enjoining the court a quo and its sheriff from implementing the Writ of Execution is hereby made permanent. Since the court a quo has no jurisdiction over Civil Case No. 11868, a suit for *accion publiciana* filed by BF Citiland Corporation against petitioner, the said case is dismissed. Consequently, all Orders and the Decision rendered on the said case by the court a quo are deemed void or without force and effect.

SO ORDERED.^[24]

Petitioner filed a motion for reconsideration^[25] insisting that *accion publiciana* was the civil action involving title to or possession of real property referred to in Section 33 of BP 129, as amended. Petitioner also claimed respondent was already estopped from assailing the jurisdiction of the MeTC because of respondent's participation in all the proceedings in the MeTC coupled with respondent's failure to timely object to the jurisdiction of the MeTC.

In her comment,^[26] respondent reasoned that while Section 33 of BP 129, as amended, explicitly qualified the court's jurisdiction depending on the assessed value of the real property, *accion publiciana* conferred jurisdiction on regional trial courts regardless of the value of the property. Respondent further argued that lack of jurisdiction could be raised anytime.

Upon the RTC's denial^[27] of petitioner's motion for reconsideration, petitioner filed in the Court of Appeals a petition for review^[28] under Rule 42 of the Rules of Court contending that the RTC erred in ruling that the MeTC had no jurisdiction over *accion publiciana* cases. Petitioner maintained respondent was already estopped from questioning the jurisdiction of the MeTC. In her comment,^[29] respondent stressed that the MeTC had no jurisdiction over *accion publiciana* cases. Respondent reiterated the argument that lack of jurisdiction could be raised anytime. In its reply,^[30] petitioner cited *Refugia v. Court of Appeals*^[31] in claiming that the MeTC had limited original jurisdiction in civil actions involving title to or possession of real property depending on the property's assessed value.

The Ruling of the Court of Appeals

In its 28 July 2005 Resolution,^[32] the Court of Appeals dismissed the petition for review holding that appeal from a decision of the RTC rendered in the exercise of its original jurisdiction should be by way of a notice of appeal.

The Court of Appeals ruled that appeal by way of petition for review under Rule 42 of the Rules of Court could be resorted to only when what was appealed from was a decision of the RTC rendered in the exercise of its appellate jurisdiction. In its 5 July 2006 Resolution,^[33] the Court of Appeals denied petitioner's motion for reconsideration.^[34]

Hence, the instant petition for review.

The Issues

The issues for resolution are (1) whether a petition for review under Rule 42 is the proper mode of appeal from a decision of the RTC in a petition for certiorari under Rule 65; and (2) whether the RTC correctly ruled that the MeTC has no jurisdiction over *accion publiciana* cases.

The Court's Ruling

The petition is meritorious.

Petitioner posits that even if the RTC rendered the judgment in the exercise of its original jurisdiction, the Court of Appeals still erred in dismissing the petition for review because a petition for review contains all the requisites of a notice of appeal. Petitioner argues the Court of Appeals erred in dismissing the petition for review on technicality without considering the merits of the case. Petitioner maintains the MeTC has jurisdiction since the assessed value of the lot subject of *accion publiciana* is only P48,000.00.

Respondent counters that the decision of the RTC was rendered in a petition for certiorari under Rule 65, unmistakably an original action. Respondent maintains that a petition for review cannot be treated as a form of a notice of appeal because of the inextendible nature of the latter. Respondent further argues that the RTC correctly ruled the MeTC has no jurisdiction in *accion publiciana* cases. Respondent claims she is not estopped from questioning the jurisdiction of the MeTC.

Section 2, Rule 41 of the Rules of Court states:

(a) *Ordinary appeal*. - The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its **original jurisdiction** shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party. x x x

(b) *Petition for review*. - The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its **appellate jurisdiction** shall be by petition for review in accordance with Rule 42. (Emphasis supplied)

x x x x

The Rule is clear. In cases decided by the RTC in the exercise of its **original jurisdiction**, appeal to the Court of Appeals is taken by filing a notice of appeal. On the other hand, in cases decided by the RTC in the exercise of its **appellate jurisdiction**, appeal to the Court of Appeals is by a petition for review under Rule 42.