

THIRD DIVISION

[G.R. NO. 161533, June 05, 2009]

FILOMENA SONEJA, PETITIONER, VS. HONORABLE COURT OF APPEALS (2ND DIVISION) AND RAMON SAURA, JR., RESPONDENTS.

DECISION

NACHURA, J.:

Before us is a petition for *certiorari* challenging the Resolution^[1] promulgated by the Court of Appeals (CA) in CA-G.R. SP No. 75669 dated November 19, 2003 which denied petitioner's motion for reconsideration of the Resolution^[2] promulgated on March 3, 2003 dismissing her petition for *certiorari*.

The facts are undisputed.^[3]

On July 1, 1995, petitioner Filomena Soneja, as lessee, and respondent Ramon Saura, Jr., as lessor, entered into a lease contract over a property located at 966-F A.H. Lacson Street, Sampaloc, Manila. The rent was fixed at P5,500.00 per month for a period of three (3) years from July 1, 1995 to July 1, 1998. Later on, Filomena's daughter, Renee Soneja, occupied the premises.

In August 1998, the lease contract expired but petitioner remained in the premises without paying the rent. Because of this, respondent sent a letter to petitioner demanding payment of P185,280.00, corresponding to the rentals in arrears, and to vacate the said apartment not later than January 31, 2001. When petitioner failed to pay, respondent filed a complaint for ejectment against petitioner and her daughter. The case was referred to the *Lupong Tagapamayapa*, which issued the necessary certification after the parties failed to settle the controversy amicably.

On December 5, 2001, the Metropolitan Trial Court rendered a decision on the ejectment case against petitioner. The *fallo* reads:

WHEREFORE, judgment is rendered in favor of plaintiff and against defendants ordering defendants and all other persons claiming rights under them to vacate the premises located at 966-F A.H. Lacson Street, Sampaloc, Manila, and to pay plaintiffs the following sums:

1. Php185,280.00 representing unpaid rentals from August, 1998 until 31 January 2001, and Php5,500.00 per month thereafter until defendants actually vacate the subject premises; [and]
2. Php10,000.00 representing attorney's fees.

SO ORDERED.^[4]

Aggrieved, petitioner appealed to the Regional Trial Court (RTC) on January 30, 2002. While the appeal was pending, respondent filed a motion for execution on May 23, 2002, which was granted through an Order^[5] dated May 29, 2002. Pursuant thereto, a property owned by petitioner and her deceased spouse situated at Tominawog, San Andres, Catanduanes was levied upon. Petitioner immediately filed a motion^[6] to lift or revoke the levy made upon her property alleging that the same is her family home and should, therefore, be exempt from levy or execution based on the provisions of the Family Code.

On August 6, 2002, however, the RTC resolved to deny petitioner's motion to lift or revoke levy.^[7] A motion for reconsideration^[8] was filed but was denied for lack of merit.^[9] The order, denying petitioner's motion for reconsideration, was received by petitioner on December 9, 2002.^[10]

Meanwhile, on January 20, 2003, the RTC issued an Order dismissing petitioner's appeal for her failure to file the required memorandum. Petitioner, thereafter, filed a petition for review under Rule 42 before the CA on March 12, 2003. The case was docketed as CA-G.R. SP No. 75669.^[11]

On February 10, 2003, petitioner also filed a Rule 65 petition with the CA, challenging the RTC's denial of her motion for reconsideration with respect to the levy on her property in Catanduanes. The case was initially docketed as CA-G.R. UDK SP No. 4783 and was assigned to the Second Division. Later on, the case was docketed as CA-G.R. SP No. 75669, apparently the same docket number given to the Rule 42 petition earlier filed by petitioner.

On March 3, 2003, the CA resolved to dismiss the Rule 65 petition for being filed three (3) days beyond the reglementary period.^[12] Petitioner immediately filed a Manifestation^[13] dated March 11, 2003 explaining that the apparent delay was brought about by the confusion in the CA's docket section. The CA acceded and allowed petitioner to file a motion for reconsideration.^[14]

Subsequently, a Decision^[15] was reached by the CA on September 18, 2006 also denying the Rule 42 petition filed by Soneja. The decision, in effect, upheld the RTC's order, which dismissed petitioner's appeal following her failure to file the required memorandum. Judgment thereto was entered on October 29, 2006.

Meanwhile, earlier, on November 19, 2003, a Resolution^[16] was promulgated by the CA denying the Rule 65 petition for two reasons; namely: no *prima facie* error had been committed by the RTC, and the petition was filed three (3) days late. Undaunted, petitioner elevated the matter before this Court *via* a Rule 65 petition.

The sole issue is whether the CA acted without or in excess of its jurisdiction or with grave abuse of discretion in upholding the RTC's decision denying petitioner's motion to lift or revoke the levy on her property argued to be a family home.

Petitioner maintains that the levied property is a family home acquired and constituted as their family's residence in 1950. She also claims that her temporary sojourn in respondent's apartment unit in Manila, following her husband's demise, should not be construed as having terminated the nature of the property as a family

home, pursuant to the provisions of the Family Code. Moreover, petitioner's married son also stayed in the said family residence while she was temporarily staying in Manila.^[17]

The petition has no merit.

Settled is the rule that a petition for *certiorari* is proper to correct only errors of jurisdiction committed by respondent court, tribunal or administrative agency.^[18] Public respondent acts without jurisdiction if it does not have the legal power to determine the case, or in excess of jurisdiction if it oversteps its authority as determined by law. Grave abuse of discretion is committed when respondent acts in a capricious, whimsical, arbitrary, or despotic manner in the exercise of its judgment as to be equivalent to lack of jurisdiction.^[19] In a petition for *certiorari*, the jurisdiction of the court is narrow in scope as it is limited to resolving only cases of jurisdiction.^[20]

Here, petitioner argues that the CA gravely abused its discretion in affirming the denial of petitioner's motion to lift or revoke levy without even passing upon the substantive issue on the propriety of levying her family home. She insists that the levied property in Catanduanes should have been exempt from execution pursuant to Article 155 of the Family Code^[21] in relation to Articles 152 to 154 thereof,^[22] which she maintains she could have proven had she been accorded the opportunity to present evidence to this effect.

The contention must fall. The appellate court, in its assailed resolution, amply explained the reason for the affirmance of the RTC's decision:

[E]ven upon the allegations in the petition *vis-a-vis* the assailed Order dated August 6, 2002, We find no *prima facie* error committed by the court *a quo* in denying herein petitioner's Motion to Lift or Revoke Levy dated June 27, 2002.^[23]

There is also no truth to petitioner's allegation that she was never afforded any opportunity to present evidence to substantiate her claim. A careful perusal of the records of the case shows that the issue of whether the levied property is a family home has been squarely passed upon by the RTC. When the motion to lift or revoke levy was filed on June 28, 2002, it was set for hearing on July 5, 2002, but neither Filomena nor her counsel appeared on said date.^[24] Despite this, the RTC notified petitioner's counsel of the time to file a reply following respondent's request to file an opposition to Filomena's motion.^[25] When petitioner still failed to file a reply, the RTC issued an Order dated August 6, 2002 denying the motion to lift or revoke levy.^[26] The court ratiocinated thus:

The Court agrees with the contention of the plaintiff. Defendant failed to substantiate her claim that the levied property is a family home. She cannot avoid liability under the contract of lease which she entered into by claiming that the lease was passed to defendant Renee Soneja in 1995.

WHEREFORE, in view of the foregoing consideration, the motion to lift or revoke levy made upon the property of defendant Filomena Soneja is