

## SECOND DIVISION

[ G.R. NO. 141480, November 29, 2006 ]

**CARLOS B. DE GUZMAN, PETITIONER, VS. TOYOTA CUBAO, INC.,  
RESPONDENT.**

### D E C I S I O N

**AZCUNA, J.:**

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to annul the Order,<sup>[1]</sup> dated September 9, 1999, of the Regional Trial Court of Quezon City (the RTC), Branch 105, which dismissed the complaint for damages filed by petitioner Carlos B. De Guzman against respondent Toyota Cubao, Inc.

On November 27, 1997, petitioner purchased from respondent a brand new white Toyota Hi-Lux 2.4 SS double cab motor vehicle, 1996 model, in the amount of P508,000. Petitioner made a down payment of P152,400, leaving a balance of P355,600 which was payable in 36 months with 54% interest. The vehicle was delivered to petitioner two days later. On October 18, 1998, petitioner demanded the replacement of the engine of the vehicle because it developed a crack after traversing Marcos Highway during a heavy rain. Petitioner asserted that respondent should replace the engine with a new one based on an implied warranty. Respondent countered that the alleged damage on the engine was not covered by a warranty.

On April 20, 1999, petitioner filed a complaint for damages<sup>[2]</sup> against respondent with the RTC. Respondent moved to dismiss the case on the ground that under Article 1571 of the Civil Code, the petitioner's cause of action had prescribed as the case was filed more than six months from the date the vehicle was sold and/or delivered.

In an Order dated September 9, 1999, the RTC granted respondent's motion and dismissed the complaint, thus:

For the Court's consideration are: (1) defendant's Motion to Dismiss; (2) plaintiff's Opposition thereto; (3) defendant's Reply; and (4) plaintiff's Rejoinder.

The Court agrees with the plaintiff's counsel that the subject pick-up is a consumer product because it is used for personal, family or agricultural purposes, contrary to defendant counsel's claim that it is not because it is a non-consumable item.

Since no warranty card or agreement was attached to the complaint, the contract of sale of the subject pick-up carried an implied warranty that it was free from any hidden faults or defects, or any charge or encumbrance not declared or known to the buyer. The prescriptive period

thereof is six (6) months under the Civil Code (Art. 1571).

Under RA No. 7394, the provisions of the Civil Code on conditions and warranties shall govern all contracts of sale with condition and warranties (Art. 67). The duration of the implied warranty (not accompanied by an express warranty) shall endure not less than sixty days nor more than one (1) year following the sale of new consumer products (Art. 68, par. [e]). The two (2) year prescriptive period under Art. 169 cannot prevail over Art. 68 because the latter is the specific provision on the matter.

The Court has noted that the prescriptive period for implied and express warranties cannot be the same. In the Civil Code, a redhibitory action for violation of an implied warranty against hidden defects prescribes in six (6) months, while if it based on an express warranty[,], the action prescribes in four (4) years. Under RA No. 7394, the implied warranty cannot be more than one (1) year; however, the implied warranty can only be of equal duration to that an express warranty when the implied warranty of merchantability accompanies an express warranty (Art. 68, par. [e]). Therefore, the prescriptive period of two years under Art. 169 does not cover an implied warranty, which is not accompanied by an express warranty. It is applicable to cases where there is an express warranty in the sale of the consumer product.

Relative to plaintiff's argument that the claim for moral and exemplary damages and attorney's fees is based on quasi-delict or breach of contract, such are merely ancillary to the main cause of action which is based on warranty against hidden defects. Without the latter, the former cannot stand alone.

Based on the record, the subject vehicle was purchased on 27 November 1997 and delivered on 29 November 1997. This case was filed only on 20 April 1999 or almost nineteen (19) months from [the] sale and/or delivery. Applying Art. 1571 of Civil Code, the action is barred by prescription because the complaint was filed more than six (6) months after the sale and/or delivery of the vehicle. In addition, the duration of the implied warranty of not more than one (1) year under Art. 68, par (e) of RA No. 7394 has already elapsed.

Accordingly, defendant's Motion is granted and the plaintiff's Complaint is ordered dismissed.

SO ORDERED<sup>[3]</sup>

On December 21, 1999, the RTC denied petitioner's motion for reconsideration, as follows:

Submitted for resolution are: (1) plaintiff's Motion for Reconsideration; (2) defendant's Opposition; and (3) plaintiff's Reply.

Although plaintiff's motion was filed beyond the ten-day period, the Court is convinced that it was not for the purpose of delay; hence, it cannot be considered as a mere scrap of paper.

After a thorough study, the Court resolves that while reference to Art. 68, par. (e) of RA No. 7394 may have been misplaced, yet the subject sale carried an implied warranty whose prescriptive period is six (6) months under Art. 1571 of the Civil Code.

Accordingly, plaintiff's Motion for Reconsideration is DENIED.

SO ORDERED.<sup>[4]</sup>

Petitioner thereupon filed a petition for review on *certiorari* with this Court.

The petition should be denied.

First, on procedural grounds, the petition should forthwith be denied for violation of the hierarchy of courts. Petitioner states that the present petition is an "appeal by *certiorari* on pure questions of law, from the final Order of Branch 105 of the Regional Trial Court of Quezon City in Civil Case No. Q-99-37381 ... under Rule 45 of the Rules of Court." Upon receipt of the Order of the RTC, dated September 9, 1999, on September 21, 1999, petitioner filed a motion for reconsideration on September 28, 1999. On December 21, 1999, the RTC denied petitioner's motion. When petitioner received a copy of the said order on January 18, 2000, he had fifteen (15) days from receipt within which to appeal to the Court of Appeals by filing a notice of appeal under Section 2(a) of Rule 41, from an order of the RTC issued in the exercise of its original jurisdiction. The RTC's order dated September 9, 1999 and its subsequent order dated December 21, 1999 partake of the nature of a final disposition of the case. Hence, the appropriate remedy petitioner should have taken was to file a notice of appeal from the RTC to the Court of Appeals, not a petition for review on *certiorari* directly with this Court.

Although petitioner intended his petition, filed on February 2, 2000, to be one filed under Rule 45 and he filed it well within the 15-day reglementary period counted from January 18, 2000, the same was in effect a petition for *certiorari* under Rule 65, and is therefore dismissible for violation of the hierarchy of courts under Section 4 thereof. Petitioner failed to show that special and important reasons or exceptional and compelling circumstances exist to justify a direct filing of the petition with this Court instead of first taking an appeal to the Court of Appeals.<sup>[5]</sup> Likewise, petitioner cannot find refuge in the argument that he was raising pure questions of law. The sole matter petitioner assails in this action is the RTC's order of dismissal of his complaint for damages on the ground of prescription which was tantamount to an adjudication on the merits. Again, petitioner should have resorted to the remedy of appealing the case to the Court of Appeals by filing a notice of appeal with the RTC.

Second, even if the Court were to disregard the procedural infirmity, the petition should be denied for lack of merit.

In his complaint, petitioner alleged and prayed, thus:

2. Last 27 November 1997, the plaintiff purchased from the defendant a brand new Toyota Hilux 2.4 motor vehicle with [E]ngine [N]o. 2-L-9514743. It was delivered to the plaintiff on 29 November 1997.