

FIRST DIVISION

[G.R. No. 133240, November 15, 2000]

RUDOLF LIETZ HOLDINGS, INC., PETITIONER, VS. THE REGISTRY OF DEEDS OF PARAÑAQUE CITY, RESPONDENT.

D E C I S I O N

YNARES-SANTIAGO, J.:

The instant petition for review is filed on a pure question of law arising from the Decision rendered by the Regional Trial Court of Parañaque City, Metro Manila, Branch 257, in LRC Case No. 97-0170.

Petitioner corporation was formerly known as Rudolf Lietz, Incorporated. On July 15, 1996, it amended its Articles of Incorporation to change its name to Rudolf Lietz Holdings, Inc. The Amended Articles of Incorporation was approved by the Securities and Exchange Commission on February 20, 1997.^[1]

As a consequence of its change of name, petitioner sought the amendment of the transfer certificates of title over real properties owned by the said corporation, all of which were under the old name, Rudolf Lietz, Incorporated. For this purpose, petitioner instituted, on November 20, 1997, a petition for amendment of titles with the Regional Trial Court of Parañaque City, docketed as LRC Case No. 97-0170.^[2]

The petition impleaded as respondent the Registry of Deeds of Pasay City, apparently because the titles sought to be amended, namely, Transfer Certificates of Title Nos. 99446, 99447, 99448, 102486, 102487, 102488 and 102489,^[3] all state that they were issued by the Registry of Deeds of Pasay City. Petitioner likewise inadvertently alleged in the body of the petition that the lands covered by the subject titles are located in Pasay City.

Subsequently, petitioner learned that the subject titles are in the custody of the Register of Deeds of Parañaque City.^[4] Hence, on February 16, 1998, petitioner filed an Ex-Parte Motion to Admit Amended Petition.^[5] In the attached Amended Petition,^[6] petitioner impleaded instead as respondent the Registry of Deeds of Parañaque City, and alleged that its lands are located in Parañaque City.

In the meantime, however, on January 30, 1998, the court *a quo* had dismissed the petition *motu proprio* on the ground of improper venue, it appearing therein that the respondent is the Registry of Deeds of Pasay City and the properties are located in Pasay City.^[7]

Before counsel for petitioner could receive an official copy of the aforesaid order of dismissal, he filed with the lower court a Motion for Reconsideration.^[8] On February 20, 1998, in view of the dismissal of the petition, the lower court denied the Ex-

Parte Motion to Admit Amended Petition.^[9] On March 30, 1998, the lower court denied the Motion for Reconsideration.^[10]

Petitioner, thus, is before this Court arguing that -

The court *a quo* acted contrary to the rules and jurisprudence on the matter for the following reasons:

1. It has no power to immediately dismiss an initiatory pleading for improper venue;
2. Assuming the Order of 30 January 1998 was proper, it was nevertheless still a matter of right on petitioner's part to amend its petition in order to correct the wrong entries therein; and
3. The unassailable reality is that the subject parcels of land are located in Parañaque City, so venue was properly laid despite that erroneous allegation in the original petition.^[11]

The Solicitor General filed on November 4, 1998 his Comment.^[12] He contends that the trial court did not acquire jurisdiction over the *res* because it appeared from the original petition that the lands are situated in Pasay City; hence, outside the jurisdiction of the Parañaque court. Since it had no jurisdiction over the case, it could not have acted on the motion to admit amended petition.

On February 15, 1999, petitioner filed its Reply.^[13] It discussed the distinction between jurisdiction and venue, and maintained that the trial court had jurisdiction over the petition, but that venue appeared to be improperly laid based on the erroneous allegation therein on the location of the properties.

The issue involved herein is simple. May the trial court *motu proprio* dismiss a complaint on the ground of improper venue? This question has already been answered in *Dacoycoy v. Intermediate Appellate Court*,^[14] where this Court held that it may not.

While the ground invoked by the trial court in dismissing the petition below was clearly that of improper venue,^[15] the Solicitor General confuses venue with jurisdiction. A distinction between the two must be drawn. Jurisdiction over the subject matter or nature of an action is conferred only by law.^[16] It may not be conferred by consent or waiver upon a court which otherwise would have no jurisdiction over the subject matter of an action. On the other hand, the venue of an action as fixed by statute may be changed by the consent of the parties, and an objection on improper venue may be waived by the failure of the defendant to raise it at the proper time. In such an event, the court may still render a valid judgment. Rules as to jurisdiction can never be left to the consent or agreement of the parties. Venue is procedural, not jurisdictional, and hence may be waived. It is meant to provide convenience to the parties, rather than restrict their access to the courts as it relates to the place of trial.^[17]

In *Dacoycoy v. IAC*, this Court ruled:

The *motu proprio* dismissal of petitioner's complaint by respondent trial court on the ground of improper venue is plain error, obviously attributable to its inability to distinguish between jurisdiction and venue.

Questions or issues relating to venue of actions are basically governed by Rule 4 of the Revised Rules of Court. It is said that the laying of venue is procedural rather than substantive. It relates to the jurisdiction of the court over the person rather than the subject matter. Provisions relating to venue establish a relation between the plaintiff and the defendant and not between the court and the subject matter. Venue relates to trial not to jurisdiction, touches more of the convenience of the parties rather than the substance of the case.

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Dismissing the complaint on the ground of improper venue is certainly not the appropriate course of action at this stage of the proceedings, particularly as venue, in inferior courts as well as in the courts of first instance (now RTC), may be waived expressly or impliedly. Where the defendant fails to challenge timely the venue in a motion to dismiss as provided by Section 4 of Rule 4 of the Rules of Court, and allows the trial to be held and a decision to be rendered, he cannot on appeal or in a special action be permitted to belatedly challenge the wrong venue, which is deemed waived.

Thus, unless and until the defendant objects to the venue in a motion to dismiss, the venue cannot be truly said to have been improperly laid, as for all practical intents and purposes, the venue, though technically wrong, may be acceptable to the parties for whose convenience the rules on venue had been devised. The trial court cannot pre-empt the defendant's prerogative to object to the improper laying of the venue by *motu proprio* dismissing the case.

Indeed, it was grossly erroneous for the trial court to have taken a procedural short-cut by dismissing *motu proprio* the complaint on the ground of improper venue without first allowing the procedure outlined in the rules of court to take its proper course. Although we are for the speedy and expeditious resolution of cases, justice and fairness take primary importance. The ends of justice require that respondent trial court faithfully adhere to the rules of procedure to afford not only the defendant, but the plaintiff as well, the right to be heard on his cause.^[18]

Rule 9, Section 1 of the 1997 Rules of Civil Procedure states that defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. The court may only dismiss an action *motu proprio* in case of lack of jurisdiction over the subject matter, *litis pendentia*, *res judicata* and prescription. Therefore, the trial court in this case erred when it dismissed the petition *motu proprio*. It should have waited for a motion to dismiss or a responsive pleading from