



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

**THEODORE and NANCY ANG,
represented by ELDRIGE MARVIN B.
ACERON,**

Petitioners,

- versus -

**SPOUSES ALAN and EM ANG,
Respondents.**

G.R. No. 186993

Present:

CARPIO, J.,
Chairperson,
VELASCO, JR.,*
LEONARDO-DE CASTRO,**
PEREZ, and
REYES, JJ.

Promulgated:

AUG 22 2012 *HL Cabalagong*

X-----X

DECISION

REYES, J.:

Before this Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to annul and set aside the Decision¹ dated August 28, 2008 and the Resolution² dated February 20, 2009 rendered by the Court of Appeals (CA) in CA-G.R. SP No. 101159. The assailed decision annulled and set aside the Orders dated April 12, 2007³ and August

* Additional member per Raffle dated February 6, 2012 *vice* Associate Justice Maria Lourdes P. A. Sereno.

** Additional member per Special Order No. 1286 dated August 22, 2012 *vice* Associate Justice Arturo D. Brion.

¹ Penned by Associate Justice Rebecca De Guia-Salvador, with Associate Justices Vicente S.E. Veloso and Ricardo R. Rosario, concurring; *rollo*, pp. 18-30.

² Id. at 108.

³ Under the sala of Presiding Judge Ma. Theresa L. Dela Torre-Yadao; id. at 47-48.

27, 2007⁴ issued by the Regional Trial Court (RTC) of Quezon City, Branch 81 in Civil Case No. Q-06-58834.

The Antecedent Facts

On September 2, 1992, spouses Alan and Em Ang (respondents) obtained a loan in the amount of Three Hundred Thousand U.S. Dollars (US\$300,000.00) from Theodore and Nancy Ang (petitioners). On even date, the respondents executed a promissory note⁵ in favor of the petitioners wherein they promised to pay the latter the said amount, with interest at the rate of ten percent (10%) *per annum*, upon demand. However, despite repeated demands, the respondents failed to pay the petitioners.

Thus, on August 28, 2006, the petitioners sent the respondents a demand letter asking them to pay their outstanding debt which, at that time, already amounted to Seven Hundred Nineteen Thousand, Six Hundred Seventy-One U.S. Dollars and Twenty-Three Cents (US\$719,671.23), inclusive of the ten percent (10%) annual interest that had accumulated over the years. Notwithstanding the receipt of the said demand letter, the respondents still failed to settle their loan obligation.

On August 6, 2006, the petitioners, who were then residing in Los Angeles, California, United States of America (USA), executed their respective Special Powers of Attorney⁶ in favor of Attorney Eldrige Marvin B. Acheron (Atty. Acheron) for the purpose of filing an action in court against the respondents. On September 15, 2006, Atty. Acheron, in behalf of the petitioners, filed a Complaint⁷ for collection of sum of money with the RTC of Quezon City against the respondents.

⁴ Id. at 57-58.

⁵ Id. at 39.

⁶ Id. at 37-38.

⁷ Id. at 31-36.

On November 21, 2006, the respondents moved for the dismissal of the complaint filed by the petitioners on the grounds of improper venue and prescription.⁸ Insisting that the venue of the petitioners' action was improperly laid, the respondents asserted that the complaint against them may only be filed in the court of the place where either they or the petitioners reside. They averred that they reside in Bacolod City while the petitioners reside in Los Angeles, California, USA. Thus, the respondents maintain, the filing of the complaint against them in the RTC of Quezon City was improper.

The RTC Orders

On April 12, 2007, the RTC of Quezon City issued an Order⁹ which, *inter alia*, denied the respondents' motion to dismiss. In ruling against the respondents' claim of improper venue, the court explained that:

Attached to the complaint is the Special Power of Attorney x x x which clearly states that plaintiff Nancy Ang constituted Atty. Eldrige Marvin Acheron as her duly appointed attorney-in-fact to prosecute her claim against herein defendants. Considering that the address given by Atty. Acheron is in Quezon City, hence, being the plaintiff, venue of the action may lie where he resides as provided in Section 2, Rule 4 of the 1997 Rules of Civil Procedure.¹⁰

The respondents sought reconsideration of the RTC Order dated April 12, 2007, asserting that there is no law which allows the filing of a complaint in the court of the place where the representative, who was appointed as such by the plaintiffs through a Special Power of Attorney, resides.¹¹

The respondents' motion for reconsideration was denied by the RTC of Quezon City in its Order¹² dated August 27, 2007.

⁸ Id. at 40-45.

⁹ Id. at 47-48.

¹⁰ Id. at 47.

¹¹ Id. at 50-55.

¹² Id. at 57-58.

The respondents then filed with the CA a petition for *certiorari*¹³ alleging in the main that, pursuant to Section 2, Rule 4 of the Rules of Court, the petitioners' complaint may only be filed in the court of the place where they or the petitioners reside. Considering that the petitioners reside in Los Angeles, California, USA, the respondents assert that the complaint below may only be filed in the RTC of Bacolod City, the court of the place where they reside in the Philippines.

The respondents further claimed that, the petitioners' grant of Special Power of Attorney in favor of Atty. Acheron notwithstanding, the said complaint may not be filed in the court of the place where Atty. Acheron resides, *i.e.*, RTC of Quezon City. They explained that Atty. Acheron, being merely a representative of the petitioners, is not the real party in interest in the case below; accordingly, his residence should not be considered in determining the proper venue of the said complaint.

The CA Decision

On August 28, 2008, the CA rendered the herein Decision,¹⁴ which annulled and set aside the Orders dated April 12, 2007 and August 27, 2007 of the RTC of Quezon City and, accordingly, directed the dismissal of the complaint filed by the petitioners. The CA held that the complaint below should have been filed in Bacolod City and not in Quezon City. Thus:

As maybe clearly gleaned from the foregoing, the place of residence of the plaintiff's attorney-in-fact is of no moment when it comes to ascertaining the venue of cases filed in behalf of the principal since what should be considered is the residence of the real parties in interest, *i.e.*[,] the plaintiff or the defendant, as the case may be. Residence is the permanent home – the place to which, whenever absent for business or pleasure, one intends to return. Residence is vital when dealing with venue. Plaintiffs, herein private respondents, being residents of Los Angeles, California, U.S.A., which is beyond the territorial jurisdiction of Philippine courts, the case should have been filed in Bacolod City where the defendants, herein petitioners, reside. Since the case was filed in Quezon City, where the representative of the plaintiffs resides, contrary to

¹³ Id. at 60-69.

¹⁴ Id. at 18-30.

Sec. 2 of Rule 4 of the 1997 Rules of Court, the trial court should have dismissed the case for improper venue.¹⁵

The petitioners sought a reconsideration of the Decision dated August 28, 2008, but it was denied by the CA in its Resolution dated February 20, 2009.¹⁶

Hence, the instant petition.

Issue

In the instant petition, the petitioners submit this lone issue for this Court's resolution:

WHETHER OR NOT THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR OF LAW WHEN IT RULED THAT THE COMPLAINT MUST BE DISMISSED ON THE GROUND THAT VENUE WAS NOT PROPERLY LAID.¹⁷

The Court's Ruling

The petition is denied.

Contrary to the CA's disposition, the petitioners maintain that their complaint for collection of sum of money against the respondents may be filed in the RTC of Quezon City. Invoking Section 3, Rule 3 of the Rules of Court, they insist that Atty. Acheron, being their attorney-in-fact, is deemed a real party in interest in the case below and can prosecute the same before the RTC. Such being the case, the petitioners assert, the said complaint for collection of sum of money may be filed in the court of the place where Atty. Acheron resides, which is the RTC of Quezon City.

¹⁵ Id. at 27.

¹⁶ Id. at 108.

¹⁷ Id. at 9.

On the other hand, the respondents in their Comment¹⁸ assert that the petitioners are proscribed from filing their complaint in the RTC of Quezon City. They assert that the residence of Atty. Acheron, being merely a representative, is immaterial to the determination of the venue of the petitioners' complaint.

The petitioners' complaint should have been filed in the RTC of Bacolod City, the court of the place where the respondents reside, and not in RTC of Quezon City.

It is a legal truism that the rules on the venue of personal actions are fixed for the convenience of the plaintiffs and their witnesses. Equally settled, however, is the principle that choosing the venue of an action is not left to a plaintiff's caprice; the matter is regulated by the Rules of Court.¹⁹

The petitioners' complaint for collection of sum of money against the respondents is a personal action as it primarily seeks the enforcement of a contract. The Rules give the plaintiff the option of choosing where to file his complaint. He can file it in the place (1) where he himself or any of them resides, or (2) where the defendant or any of the defendants resides or may be found. The plaintiff or the defendant must be residents of the place where the action has been instituted at the time the action is commenced.²⁰

However, if the plaintiff does not reside in the Philippines, the complaint in such case may only be filed in the court of the place where the defendant resides. In *Cohen and Cohen v. Benguet Commercial Co., Ltd.*,²¹ this Court held that there can be no election as to the venue of the filing of a complaint when the plaintiff has no residence in the Philippines. In such

¹⁸ Id. at 130-138.

¹⁹ *Hyatt Elevators and Escalators Corp. v. Goldstar Elevators, Phils., Inc.*, 510 Phil. 467, 476 (2005).

²⁰ *Baritua v. CA*, 335 Phil. 12, 15-16 (1997).

²¹ 34 Phil. 526 (1916).

case, the complaint may only be filed in the court of the place where the defendant resides. Thus:

Section 377 provides that actions of this character “may be brought in any province where the defendant or any necessary party defendant may reside or be found, or in any province where the plaintiff or one of the plaintiffs resides, at the election of the plaintiff.” **The plaintiff in this action has no residence in the Philippine Islands. Only one of the parties to the action resides here. There can be, therefore, no election by plaintiff as to the place of trial. It must be in the province where the defendant resides.** x x x.²² (Emphasis ours)

Here, the petitioners are residents of Los Angeles, California, USA while the respondents reside in Bacolod City. Applying the foregoing principles, the petitioners’ complaint against the respondents may only be filed in the RTC of Bacolod City – the court of the place where the respondents reside. The petitioners, being residents of Los Angeles, California, USA, are not given the choice as to the venue of the filing of their complaint.

Thus, the CA did not commit any reversible error when it annulled and set aside the orders of the RTC of Quezon City and consequently dismissed the petitioners’ complaint against the respondents on the ground of improper venue.

In this regard, it bears stressing that the *situs* for bringing real and personal civil actions is fixed by the Rules of Court to attain the greatest convenience possible to the litigants and their witnesses by affording them maximum accessibility to the courts.²³ And even as the regulation of venue is primarily for the convenience of the plaintiff, as attested by the fact that the choice of venue is given to him, it should not be construed to unduly deprive a resident defendant of the rights conferred upon him by the Rules of Court.²⁴

²² Id. at 534-535.

²³ See *Koh v. Court of Appeals*, 160-A Phil. 1034, 1041 (1975).

²⁴ *Portillo v. Hon. Reyes and Ramirez*, 113 Phil. 288, 290 (1961).

Atty. Acheron is not a real party in interest in the case below; thus, his residence is immaterial to the venue of the filing of the complaint.

Contrary to the petitioners' claim, Atty. Acheron, despite being the attorney-in-fact of the petitioners, is not a real party in interest in the case below. Section 2, Rule 3 of the Rules of Court reads:

Sec. 2. Parties in interest. – A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest. (Emphasis ours)

Interest within the meaning of the Rules of Court means material interest or an interest in issue to be affected by the decree or judgment of the case, as distinguished from mere curiosity about the question involved.²⁵ A real party in interest is the party who, by the substantive law, has the right sought to be enforced.²⁶

Applying the foregoing rule, it is clear that Atty. Acheron is not a real party in interest in the case below as he does not stand to be benefited or injured by any judgment therein. He was merely appointed by the petitioners as their attorney-in-fact for the limited purpose of filing and prosecuting the complaint against the respondents. Such appointment, however, does not mean that he is subrogated into the rights of petitioners and ought to be considered as a real party in interest.

Being merely a representative of the petitioners, Atty. Acheron in his personal capacity does not have the right to file the complaint below against the respondents. He may only do so, as what he did, in behalf of the petitioners – the real parties in interest. To stress, the right sought to be

²⁵ *Goco v. Court of Appeals*, G.R. No. 157449, April 6, 2010, 617 SCRA 397, 405.

²⁶ See *Uy v. Court of Appeals*, 372 Phil. 743 (1999).

enforced in the case below belongs to the petitioners and not to Atty. Aceron. Clearly, an attorney-in-fact is not a real party in interest.²⁷

The petitioner's reliance on Section 3, Rule 3 of the Rules of Court to support their conclusion that Atty. Aceron is likewise a party in interest in the case below is misplaced. Section 3, Rule 3 of the Rules of Court provides that:

Sec. 3. *Representatives as parties.* – Where the action is allowed to be prosecuted and defended by a representative or someone acting in a fiduciary capacity, **the beneficiary shall be included in the title of the case and shall be deemed to be the real property in interest.** A representative may be a trustee of an expert trust, a guardian, an executor or administrator, or a party authorized by law or these Rules. An agent acting in his own name and for the benefit of an undisclosed principal may sue or be sued without joining the principal except when the contract involves things belonging to the principal. (Emphasis ours)

Nowhere in the rule cited above is it stated or, at the very least implied, that the representative is likewise deemed as the real party in interest. The said rule simply states that, in actions which are allowed to be prosecuted or defended by a representative, the beneficiary shall be deemed the real party in interest and, hence, should be included in the title of the case.

Indeed, to construe the express requirement of residence under the rules on venue as applicable to the attorney-in-fact of the plaintiff would abrogate the meaning of a “real party in interest”, as defined in Section 2 of Rule 3 of the 1997 Rules of Court *vis-à-vis* Section 3 of the same Rule.²⁸

On this score, the CA aptly observed that:

As may be unerringly gleaned from the foregoing provisions, there is nothing therein that expressly allows, much less implies that an action may be filed in the city or municipality where either a representative or an attorney-in-fact of a real party in interest resides. Sec. 3 of Rule 3 merely provides that the name or names of the person or persons being

²⁷ See *Filipinas Industrial Corp., et al. v. Hon. San Diego, et al.*, 132 Phil. 195 (1968).

²⁸ See *Pascual v. Pascual*, 511 Phil. 700, 707 (2005).

represented must be included in the title of the case and such person or persons shall be considered the real party in interest. In other words, the principal remains the true party to the case and not the representative. Under the plain meaning rule, or *verba legis*, if a statute is clear, plain and free from ambiguity, it must be given its literal meaning and applied without interpretation. x x x.²⁹ (Citation omitted)

At this juncture, it bears stressing that the rules on venue, like the other procedural rules, are designed to insure a just and orderly administration of justice or the impartial and even-handed determination of every action and proceeding. Obviously, this objective will not be attained if the plaintiff is given unrestricted freedom to choose the court where he may file his complaint or petition. The choice of venue should not be left to the plaintiff's whim or caprice. He may be impelled by some ulterior motivation in choosing to file a case in a particular court even if not allowed by the rules on venue.³⁰

WHEREFORE, in consideration of the foregoing disquisitions, the petition is **DENIED**. The Decision dated August 28, 2008 and Resolution dated February 20, 2009 rendered by the Court of Appeals in CA-G.R. SP No. 101159 are **AFFIRMED**.

SO ORDERED.



BIENVENIDO L. REYES
Associate Justice


WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson

²⁹ Rollo, pp. 25-26.

³⁰ Supra note 19, at 477, citing *Sy v. Tyson Enterprises, Inc.*, 204 Phil. 693, 699 (1982).



PRESBITERO J. VELASCO, JR.
Associate Justice


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice

CERTIFICATION

I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. 296
The Judiciary Act of 1948, as amended)