



Republic of the Philippines
Supreme Court

Manila

FIRST DIVISION

LAND BANK OF THE
PHILIPPINES,

Petitioner,

- versus -

CRISPIN D. RAMOS and
DEPARTMENT OF PUBLIC
WORKS AND HIGHWAYS,

Respondent.

G.R. No. 181664

Present:

SERENO, C.J.,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, JJ.

Promulgated:

14 NOV 2012

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DECISION

VILLARAMA, JR., J.:

This petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, seeks to reverse and set aside the Resolution¹ dated January 31, 2008 of the Court of Appeals (CA) in CA-G.R. CV No. 82916 dismissing the appeal for lack of jurisdiction.

In January 2000, the Department of Public Works and Highways (DPWH) and respondent Crispin D. Ramos (respondent) entered into a contract of sale over a portion of land affected by a bridge construction project. As per the recitals of the Deed of Absolute Sale,² the property sold is co-owned but respondent was the sole vendee, thus:

WHEREAS, the PARTY OF THE FIRST PART is to construct the New Gayaman Bridge, Binmaley, Pangasinan and such construction

¹ *Rollo*, pp. 25-36. Penned by Associate Justice Marina L. Buzon with Associate Justices Rosmari D. Carandang and Mariflor P. Punzalan Castillo concurring.

² *Id.* at 37-39.

affects and passes through a portion of the hereunto described property under Tax Declaration No. 573 still in the name of the late Maximo Diaz who is the predecessor-in-interest of the PARTY OF THE SECOND PART [Crispin D. Ramos];

WHEREAS, the PARTY OF THE SECOND PART and FLORA D. RAMOS-REYES, GOMERCINDO D. RAMOS and JOSE ADVITO D. RAMOS are the compulsory heirs of the late Matea D. Ramos, the latter, together with the Late Maximo Diaz, being the only compulsory heirs of the late Mariano Diaz;

WHEREAS, the heirs of the Late Matea Diaz-Ramos and the heirs of the Late Maximo Diaz are the co-owners of the parcel of land hereunto described property, but the latter's share was alienated, conveyed and ceded to Eduardo Concepcion by the heirs of the late Maximo Diaz;

WHEREAS, only the PARTY OF THE SECOND PART voluntarily and spontaneously agrees and assents to alienate, convey and cede such a portion from their share of inheritance in the estate of the Late Mariano Diaz as transferred to the Late Matea D. Ramos which such said portion to be affected by the construction of the New Concrete Gayaman Bridge shall be deducted from his inheritance share on the said one-half portion of the estate of the Late Mariano Diaz as hereunto described;

WHEREAS, the PARTY OF THE SECOND PART, being a co-owner of that property hereunto described covered and embodied under Tax declaration No. 573 as declared for taxation purposes consents to cede and convey for consideration **a portion from his share in inheritance in the estate** of the Late Matea Diaz Ramos affected thereby by way of this Deed of Absolute Sale to the herein PARTY OF THE FIRST PART, such portion being more particularly described and bounded on the North, by the National Road and the property of Marcelo Senting, on the East, by the river; on the South, by the river; and on the West, by the property of Isidro Menara and Inocencio Cerezo, containing an area of One Thousand One Hundred Forty Square Meters (1,140 sq.m.)[.]³ (Emphasis supplied)

Accordingly, the agreed consideration of ₱570,000.00 was paid by DPWH to respondent by debiting the said amount from the latter's account with petitioner Land Bank of the Philippines (LBP) which credited such fund to the deposit/account of respondent.⁴

Respondent was able to withdraw from the aforesaid account ₱100,000.00 on March 26, 2001. In a letter⁵ dated April 10, 2001, DPWH requested petitioner to hold in abeyance the release of payment to respondent while it sought a legal opinion from the DPWH Central Office in Manila. It appears that earlier, Jose Advito D. Ramos, a brother of

³ Id. at 37.

⁴ Id. at 42-43.

⁵ Id. at 40.

respondent, wrote the DPWH saying that as co-owner of the property bought by DPWH, he is also entitled to his share in the proceeds of the sale.

Under 1st Indorsement dated June 22, 2001, DPWH Legal Services Director Oscar D. Abundo opined that:

X X X X

It is worthy to mention that until now the property is still owned in common by the heirs, therefore, all should participate or share in the proceeds of the payment.

For equity and justice, a Deed of Partition should be submitted/demanded in order to determine the Degree of Participation for every heir.

In view of the foregoing, no release/payment should be made until such time that the issue is settled.⁶

On March 4, 2002, respondent filed a Complaint⁷ for “Recovery of Bank Deposit With Damages” in the Regional Trial Court (RTC) of Lingayen, Pangasinan against petitioner, its Branch Manager Ms. Kathleen Fernandez, and Field Attorney Atty. Jose L. Lopez, Jr.

Petitioner filed its Answer⁸ asserting that it was forced to litigate in a baseless suit which did not implead DPWH as the real party defendant. With leave of court, it filed a Third-Party Complaint⁹ against DPWH.

In its Answer,¹⁰ DPWH contended that it was well within its right to request that payment to respondent be held in abeyance. Absent any actual partition, respondent cannot appropriate as his own, that portion of Lot 7382 sought to be acquired by DPWH, which is owned *pro-indiviso* by all the co-owners who are also entitled to receive their equal share of the payment. Hence, DPWH asserted that it does not incur any liability for its action, the same being legal and justifiable under the circumstances.

The parties agreed to submit the case for a judgment on the pleadings.

⁶ Id. at 41.

⁷ Id. at 42-46.

⁸ Id. at 47-49.

⁹ Id. at 52-54.

¹⁰ Id. at 55-62.

On November 27, 2003, the trial court rendered its decision¹¹, the dispositive portion of which reads:

WHEREFORE, premises well-considered, judgment is hereby rendered as follows:

1. ordering the Land Bank of the Philippines, Dagupan City Extension Office in Caranglaan District, through its authorized officer(s) to allow the plaintiff to withdraw his deposit with interest from Saving's Account No. 2641-0235-50 with aforesaid bank;
2. ordering the Land Bank of the Philippines to pay the plaintiff litigation expenses in the amount of Ten Thousand (₱10,000.00) pesos and attorney's fees in the amount of Thirty Thousand (₱30,000.00) pesos;
3. dismissing the third party complaint of Land Bank of the Philippines against the third party defendant Department of Public Works and Highways.

SO ORDERED.¹²

Petitioner filed a motion for reconsideration but it was denied by the trial court in its Order dated February 16, 2004.¹³ DPWH had separately filed a notice of appeal but subsequently filed a motion to withdraw appeal which was granted by the CA.

Before the CA, petitioner presented the following assignment of errors:

First Assignment of Error

THE LOWER COURT ERRED WHEN IT ORDERED DEFENDANT/THIRD-PARTY PLAINTIFF-APPELLANT TO ALLOW PLAINTIFF-APPELLEE TO WITHDRAW HIS DEPOSIT WITH INTEREST FROM SAVINGS ACCOUNT NO. 2641-0235-50.

Second Assignment of Error

THE LOWER COURT ERRED IN ORDERING DEFENDANTS/THIRD PARTY PLAINTIFFS-APPELLANTS TO PAY THE PLAINTIFF-APPELLEE LITIGATION EXPENSES IN THE AMOUNT OF ₱10,000.00 AND ATTORNEY'S FEES IN THE AMOUNT OF ₱3,000.00.

Third Assignment of Error

THE LOWER COURT ERRED IN ORDERING THE ... DISMISSAL OF DEFENDANTS/THIRD-PARTY PLAINTIFFS-APPELLANTS' THIRD-

¹¹ Id. at 63-66.

¹² Id. at 65-66.

¹³ Id. at 67-77.

PARTY COMPLAINT AGAINST THIRD-PARTY DEFENDANT-
APPELLEE (DPWH).¹⁴

However, in its assailed Resolution dated January 31, 2008, the CA dismissed the appeal after finding that it raised only pure questions of law, thus:

It is clear from the arguments of the Bank that it is assailing the correctness of the conclusion of the court *a quo* that it is not an agent of DPWH with respect to the amount deposited in the savings account of Crispin and that its act of withholding the release of said amount to Crispin was not valid. It has been held that when there is no dispute as to the facts, the question of whether or not the conclusion drawn therefrom is correct is a question of law. x x x.

Worthy of note that during the pre-trial conference, the parties agreed to have the case resolved by judgment on the pleadings, there being only legal issues involved. Thus, the court *a quo* did not make any findings of fact nor did it evaluate the parties' respective evidence, as none was presented, nor pass upon the truth or falsity of the parties' allegations. What the court *a quo* did was simply to apply the law as to the facts borne out by the allegations in the pleadings, and whatever conclusions it arrived at evidently involved questions of law. Consequently, a review of the propriety of the judgment on the pleadings rendered by the court *a quo* would not involve an evaluation of the probative value of any evidence, as none was presented, but would be limited to the inquiry of whether the law was properly applied given the facts of the case. Therefore, what would inevitably arise from such a review are pure questions of law, and not questions of fact, which are not proper in an ordinary appeal under Rule 41, but should be raised by way of a petition for review on *certiorari* before the Supreme Court under Rule 45, of the Rules of Court.¹⁵

Hence, this petition assailing mainly the dismissal of petitioner's appeal.

In *Macawiwili Gold Mining and Development Co., Inc. v. Court of Appeals*,¹⁶ we summarized the rule on appeals as follows¹⁷:

(1) In all cases decided by the RTC in the exercise of its original jurisdiction, appeal may be made to the Court of Appeals by mere notice of appeal where the appellant raises questions of fact or mixed questions of fact and law;

(2) In all cases decided by the RTC in the exercise of its original jurisdiction where the appellant raises only questions of law, the appeal must be taken to the Supreme Court on a petition for review on *certiorari* under Rule 45.

(3) All appeals from judgments rendered by the RTC in the exercise of its appellate jurisdiction, regardless of whether the appellant raises questions of fact, questions of law, or mixed questions of fact and

¹⁴ Id. at 31.

¹⁵ Id. at 34-35.

¹⁶ G.R. No. 115104, October 12, 1998, 297 SCRA 602, 615.

¹⁷ As cited in *Sevilleno v. Carilo*, G.R. No. 146454, September 14, 2007, 533 SCRA 385, 388.

law, shall be brought to the Court of Appeals by filing a petition for review under Rule 42.

A question of law arises when there is doubt as to what the law is on a certain state of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts. For a question to be one of law, the same must not involve an examination of the probative value of the evidence presented by the litigants or any of them. The resolution of the issue must rest solely on what the law provides on the given set of circumstances. Once it is clear that the issue invites a review of the evidence presented, the question posed is one of fact. Thus, the test of whether a question is one of law or of fact is not the appellation given to such question by the party raising the same; rather, it is whether the appellate court can determine the issue raised without reviewing or evaluating the evidence, in which case, it is a question of law; otherwise it is a question of fact.¹⁸

In this case, petitioner's appeal did not raise only questions of law but also questions of fact. Petitioner assailed not just the trial court's alleged error in applying the law on the nature of relation of the parties, particularly on the rights of DPWH to request withholding of release of payment and of petitioner as depositary bank to comply with such request, but also on the factual basis for the grant of damages (litigation and attorney's fees) in favor of respondent. The discretion of the court to award attorney's fees under Article 2208 of the Civil Code demands factual, legal, and equitable justification, without which the award is a conclusion without a premise, its basis being improperly left to speculation and conjecture.¹⁹

Since the appeal raised mixed questions of law and fact, the CA clearly erred in dismissing the case on the ground of lack of jurisdiction.

WHEREFORE, the petition for review on certiorari is **GRANTED**. The Resolution dated January 31, 2008 of the Court of Appeals in CA-G.R. CV No. 82916 is **SET ASIDE**.


¹⁸ *Republic v. Malabanan*, G.R. No. 169067, October 6, 2010, 632 SCRA 338, 345, citing *Leoncio v. De Vera*, G.R. No. 176842, February 18, 2008, 546 SCRA 180, 184.

¹⁹ *Delos Santos v. Papa*, G.R. No. 154427, May 8, 2009, 587 SCRA 385, 397.

The case is hereby **REMANDED** to the Court of Appeals which shall decide CA-G.R. CV No. 82916 on the merits with deliberate dispatch.


No pronouncement as to costs.

SO ORDERED.




MARTIN S. VILLARAMA, JR.
Associate Justice

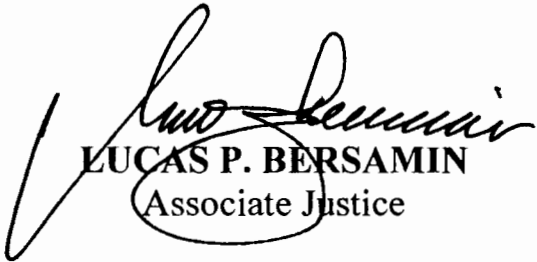
WE CONCUR:



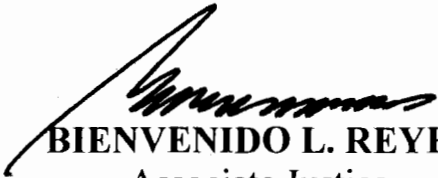
MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson



TERESITA J. LEONARDO-DE CASTRO
Associate Justice




LUCAS P. BERSAMIN
Associate Justice



BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.



MARIA LOURDES P. A. SERENO
Chief Justice