



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

ARACELI J. CABRERA and
ARNEL CABRERA and in behalf of
the heirs of SEVERINO CABRERA,
Petitioners,

G.R. No. 172293

Present:

- versus -

ANGELA G. FRANCISCO,
FELIPE C. GELLA,
VICTOR C. GELLA,
ELENA LEILANI G. REYES,
MA. RIZALINA G. ILIGAN
and DIANA ROSE GELLA,
Respondents.

CARPIO, *Chairperson,*
PERALTA,*
DEL CASTILLO,
PEREZ, *and*
PERLAS-BERNABE, *JJ.*

Promulgated:
AUG 28 2013

X-----X

DECISION

DEL CASTILLO, *J.:*

“The nature of an action, as well as which court or body has jurisdiction over it, is determined based on the allegations contained in the [C]omplaint of the plaintiff[s] x x x. The averments in the [C]omplaint and the character of the relief sought are the ones to be consulted. x x x”¹

This Petition for Review on *Certiorari*² assails the July 6, 2005 Decision³ of the Court of Appeals (CA) in CA-G.R. CV No. 75126 which dismissed the appeal filed by petitioners Araceli J. Cabrera (Araceli) and Arnel Cabrera (Arnel), in their own behalf and in behalf of the heirs of Severino Cabrera (petitioners), and affirmed the Order⁴ dated May 2, 2002 of the Regional Trial Court (RTC), Branch 12, San Jose, Antique in Civil Case No. 2001-9-3267. The said RTC Order

* Per Special Order No. 1525 dated August 22, 2013.

¹ *Paullan v. Dinglasan*, G.R. No. 180321 March 20 2013.

² *Rollo*, pp. 8-20.

³ CA *rollo*, pp. 102-109: penned by Associate Justice Isaias P. Dicedican and concurred in by Associate Justices Sesinando E. Villon and Enrico A. Lanzas.

⁴ Records, pp. 42-47: penned by Judge Rudy P. Castrojas.

granted the Motion to Dismiss⁵ of respondents Angela G. Francisco, Felipe C. Gella, Victor C. Gella, Elena Leilani G. Reyes, Ma. Rizalina G. Iligan and Diana Rose Gella (respondents) and dismissed petitioners' Complaint⁶ denominated as Collection of Agents' Compensation, Commission and Damages. Likewise assailed is the CA Resolution⁷ dated April 5, 2006 which denied petitioners' Motion for Reconsideration.⁸

Factual Antecedents

On October 25, 1976, respondents' father, Atty. Lorenzo C. Gella (Atty. Gella), executed a private document confirming that he has appointed Severino Cabrera (Severino), husband of Araceli and father of Arnel as administrator of all his real properties located in San Jose, Antique⁹ consisting of about 24 hectares of land described as Lot No. 1782-B and covered by Transfer Certificate of Title No. T-16987.¹⁰

When Severino died in 1991, Araceli and Arnel, with the consent of respondents, took over the administration of the properties. Respondents likewise instructed them to look for buyers of the properties, allegedly promising them "a commission of five percent of the total purchase price of the said properties as compensation for their long and continued administration"¹¹ thereof.

Accordingly, petitioners introduced real estate broker and President of ESV Marketing and Development Corporation, Erlinda Veñegas (Erlinda), to the respondents who agreed to have the said properties developed by Erlinda's company. However, a conflict arose when respondents appointed Erlinda as the new administratrix of the properties and terminated Araceli's and Arnel's services.

Petitioners, through counsel, wrote respondents and demanded for their five percent commission and compensation to no avail. Hence, on September 3, 2001, they filed a Complaint for Collection of Agent's Compensation, Commission and Damages¹² against respondents before the RTC. Attached to their Complaint is a copy of the tax declaration for Lot No. 1782-B.¹³

⁵ Id. at 14-21.

⁶ Id. at 1-5.

⁷ CA *rollo*, pp. 124-125; penned by Associate Justice Isaias P. Dicedican and concurred in by Associate Justices Ramon M. Bato, Jr. and Enrico A. Lanzas.

⁸ Id. at 112-114.

⁹ Records, p. 6.

¹⁰ Id. at 7.

¹¹ Id. at 3.

¹² Id. at 1-5.

¹³ Id. at 8.

Ruling of the Regional Trial Court

Petitioners prayed that they be paid (1) commission and compensation in the form of real property equivalent to five percent of the 24-hectare Lot No. 1782-B, (2) moral damages of ₱100,000.00, and (3) attorney's fees and litigation expenses of ₱100,000.00.

Respondents filed a Motion to Dismiss¹⁴ based on the following grounds: (1) lack of jurisdiction, (2) failure to state a cause of action, and (3) lack of legal capacity of Araceli and Arnel to sue in behalf of the other heirs of Severino.

Respondents argued that for RTCs outside of Metro Manila to take cognizance of a civil suit, the jurisdictional amount must exceed ₱200,000.00 pursuant to Section 5 of Republic Act (RA) No. 7691 which amended Section 19 of *Batas Pambansa Blg. (BP) 129*. And since the total market value of Lot No. 1782-B is ₱3,550,072,¹⁵ five percent thereof is only ₱177,506.60 or less than the said jurisdictional amount, then the RTC has no jurisdiction over petitioners' Complaint. Respondents also posited that the Complaint states no cause of action since petitioners' supposed right to any commission remained inchoate as Lot No. 1782-B has not yet been sold; in fact, the Complaint merely alleged that petitioners introduced a real estate broker to respondents. Lastly, respondents averred that petitioners have no legal capacity to sue on behalf of Severino's other heirs and that the verification and certification of non-forum shopping attached to the Complaint only mentioned Araceli and Arnel as plaintiffs.

Finding respondents' arguments to be well-taken, the RTC, in an Order¹⁶ dated May 2, 2002 ruled:

WHEREFORE, premises considered, the [respondents'] Motion to Dismiss is granted. Consequently, this case is hereby DISMISSED. Costs against the [petitioners].

SO ORDERED.¹⁷

Petitioners filed a Notice of Appeal,¹⁸ hence, the elevation of the records of the case to the CA.

¹⁴ Id. at 14-21.

¹⁵ Id. at 5.

¹⁶ Id. at 42-47.

¹⁷ Id. at 47.

¹⁸ Id. at 48.

Ruling of the Court of Appeals

Petitioners averred that their claim is one which is incapable of pecuniary estimation or one involving interest in real property the assessed value of which exceeds ₱200,000.00. Hence, it falls under the exclusive original jurisdiction of the RTC. Moreover, they asserted that they are not only claiming for commission but also for compensation for the services rendered by Severino as well as by Araceli and Arnel for the administration of respondents' properties. Citing Section 3, Rule 3¹⁹ of the Rules of Court, petitioners justified the inclusion of Severino's other heirs as plaintiffs in the Complaint.

In the Decision²⁰ dated July 6, 2005, the CA concluded that the Complaint is mainly for collection of sum of money and not one which is incapable of pecuniary estimation since petitioners are claiming five percent of the total purchase price of Lot No. 1782-B. Neither does it involve an interest over a property since petitioners are merely claiming payment for their services. The appellate court also ruled that the Complaint did not state a cause of action since it failed to show the existence of petitioners' right that was allegedly violated by respondents. Moreover, it found no evidence of Araceli's and Arnel's authority to file the Complaint for and in behalf of Severino's other heirs. In sum, the CA found no error on the part of the RTC in granting respondents' Motion to Dismiss. Thus:

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us **DISMISSING** the appeal filed in this case and **AFFIRMING** the [Order] rendered by [the] lower court in Civil Case No. 2001-9-3267 with double costs against [petitioners].

SO ORDERED.²¹

Petitioners filed a Motion for Reconsideration²² questioning solely the CA's affirmance of the RTC's finding on lack of jurisdiction. This was, however, also denied in a Resolution²³ dated April 5, 2006.

Hence, the present Petition for Review on *Certiorari*.

¹⁹ SEC. 3. *Representatives as parties*. – Where the action is allowed to be prosecuted or 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 party in interest. A representative may be a trustee of an express 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.

²⁰ CA *rollo*, pp. 102-109.

²¹ Id. at 109.

²² Id. at 112-114.

²³ Id. at 124-125.

Issues

Whether the CA erred in affirming the RTC's findings that it has no jurisdiction over the subject matter of the case; that the Complaint states no cause of action; and that petitioners Araceli and Arnel have no legal capacity to sue in behalf of the other heirs of Severino.

The Parties' Arguments

At the outset, petitioners claim that the RTC did not make its own independent assessment of the merits of respondents' Motion to Dismiss but only blindly adopted the arguments raised therein. This, to them, violates the Court's pronouncement in *Atty. Osumo v. Judge Serrano*²⁴ enjoining judges to be faithful to the law and to maintain professional competence.

As to the substantial issues, petitioners reiterate the arguments they raised before the CA. They insist that their Complaint is one which is incapable of pecuniary estimation or involves interest in real property the assessed value of which exceeds ₱200,000.00 and falls within the RTC's jurisdiction. At any rate, they emphasize that they likewise seek to recover damages, the amount of which should have been considered by the RTC in determining jurisdiction. Moreover, they have a cause of action against the respondents because an agency under the Civil Code is presumed to be for a compensation.²⁵ And what they are claiming in their Complaint is such compensation for the services rendered not only by Severino but also by Araceli and Arnel as administrators/agents of respondents' properties. Lastly, they allege that pursuant to Section 3, Rule 3 of the Rules of Court, the joining of Severino's other heirs as plaintiffs in the Complaint, is proper.

On the other hand, respondents assert that petitioners' Complaint, as correctly found by the CA, is for a specific sum of money seeking to recover the amount of ₱177,503.60,²⁶ which is below the jurisdictional amount for RTCs outside of Metro Manila. As to petitioners' claim for damages, the same is only incidental to the principal claim for agent's compensation and therefore should not be included in computing the total amount of the claim for purposes of determining jurisdiction. Respondents likewise point out that the CA's affirmance of the RTC's findings that the Complaint states no cause of action and that Araceli and Arnel have no capacity to sue in behalf of the other heirs can no longer be questioned before this Court as they are already final and executory since petitioners failed to assail them in their Motion for Reconsideration with the CA.

²⁴ 429 Phil. 626, 633 (2002).

²⁵ Article 1875 of the CIVIL CODE provides: "Agency is presumed to be for a compensation, unless there is proof to the contrary."

²⁶ *Rollo*, p. 62.

Be that as it may, no error can be imputed to the CA for affirming the said findings as they are in accordance with law.

Our Ruling

The Petition lacks merit.

Contrary to petitioners' claim, the RTC made an independent assessment of the merits of respondents' Motion to Dismiss.

It cannot be gainsaid that “[i]t is the [C]ourt’s bounden duty to assess independently the merits of a motion x x x.”²⁷ In this case, the RTC complied with this duty by making its own independent assessment of the merits of respondents’ Motion to Dismiss. A reading of the RTC’s Order will show that in resolving said motion, it judiciously examined the Complaint and the documents attached thereto as well as the other pleadings filed in connection with the said motion.²⁸ Based on these, it made an extensive discussion of its observations and conclusions. This is apparent from the following portions of the said Order, to wit:

x x x In the instant case, the plaintiffs’ complaint does not even mention specifically the amount of their demand outside of their claim for damages and attorney’s fees. They are only demanding the payment of their alleged commission/compensation and that of the late Severino Cabrera which they fixed at 5% of Lot No. 1782-B allegedly with an area of 24 hectares. They did not also state the total monetary value of Lot 1782-B neither did they mention the monetary equivalent of 5% of Lot No. 1782-B. In short, the complaint fails to establish that this Court has jurisdiction over the subject matter of the claim.

As the tax declaration covering Lot No. 1782-B has been attached to the complaint as Annex “C” and made an integral part thereof, the court, in its desire to determine whether it has jurisdiction over the subject matter of plaintiff’s claim computed the total market value of Lot No. 1782-B, including the value of the trees and the plants standing thereon, as appearing in said Annex “C”. The computation shows the amount of ₱3,508,370.00. Five percent thereof is ₱175,418.50. It is way below the jurisdictional amount for the Regional Trial Court outside Metro Manila which is pegged at more than ₱200,000. Clearly, therefore, this [C]ourt has no jurisdiction over the subject matter of the plaintiff’s complaint as correctly contended by the defendants.²⁹

x x x x

²⁷ *Cerezo v. People*, G.R. No. 185230, June 1, 2011, 650 SCRA 222, 229.

²⁸ Opposition to Motion to Dismiss, records, pp. 23-24; Reply (To Plaintiff’s Opposition to Motion to Dismiss dated 02 January 2002), id. at 27-29; Rejoinder, id. at 32-33; Sur-Rejoinder (Re: Motion to Dismiss dated 11 December 2001), id. at 34-36.

²⁹ Id. at 45.

A careful scrutiny of the complaint in this case reveals that it is bereft of any allegation that Lot No. 1782-B or any portion thereof has already been sold thru the plaintiffs' efforts prior to the alleged dismissal as agents or brokers of the defendants. As they failed to sell Lot No. 1782-B or any portion thereof, then they are not entitled to any commission, assuming in *gratia argumenti* that they were promised 5% commission by defendants should they be able to sell Lot No. 1782-B or any part or parcel of the said lot.

Besides, the court notices that the appointment of the plaintiffs' father (Annex "A"-Complaint) does not state in any manner that he is entitled to a compensation or commission when it is supposed to be the repository of what had been agreed upon between him and Atty. Lorenzo C. Gella, relative [to] his designation as administrator of Atty. Gella. As such, the plaintiffs cannot claim now that Severino Cabrera is entitled to any compensation or commission as Annex "A" does not so provide.³⁰

x x x x

An examination of the records of this case reveals that there is nothing in plaintiffs' complaint showing that they were empowered by the other heirs of the late Severino Cabrera to take this action on their behalf. x x x³¹

Clearly, petitioners' claim that the RTC merely adopted the arguments of respondents in their Motion to Dismiss when it resolved the same is belied by the above-quoted disquisition of the RTC on the matter and therefore deserves no credence.

Petitioners' Complaint is neither one which is incapable of pecuniary estimation nor involves interest in a real property.

Section 19(1) and (2) of BP 129³² as amended by RA 7691³³ read:

SEC. 19. Jurisdiction in Civil Cases. – Regional Trial Courts shall exercise exclusive original jurisdiction:

- (1) In all civil actions in which the subject of the litigation is incapable of pecuniary estimation;
- (2) In all civil actions which involve the title to, or possession of, real property, or any interest therein, where the assessed value of the property involved exceeds twenty thousand pesos (₱20,000.00) or

³⁰ Id. at 46.

³¹ Id.

³² OTHERWISE KNOWN AS THE JUDICIARY REORGANIZATION ACT OF 1980.

³³ AN ACT EXPANDING THE JURISDICTION OF THE METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS, AND MUNICIPAL CIRCUIT TRIAL COURTS, AMENDING FOR THE PURPOSE BATAS PAMBANSA BLG. 129.

for civil actions in Metro Manila, where such value exceeds Fifty thousand pesos (₱50,000.00) except actions for forcible entry into and unlawful detainer of lands or buildings, original jurisdiction over which is conferred upon the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts;

X X X X

Insisting that the RTC has jurisdiction over their Complaint, petitioners contend that the same is one which is incapable of pecuniary estimation or involves interest in a real property the assessed value of which exceeds ₱200,000.00.

The Court does not agree. To ascertain the correctness of petitioner's contention, the averments in the Complaint and the character of the relief sought in the said Complaint must be consulted.³⁴ This is because the jurisdiction of the court is determined by the nature of the action pleaded as appearing from the allegations in the Complaint.³⁵ Hence, the pertinent portions of petitioners' Complaint are hereunder reproduced:

X X X X

2. That on October 25, 1976 the defendants' father the late Atty. Lorenzo Gella, x x x designated x x x Severino Cabrera as agent or [administrator of all his real properties located in San Jose, Antique] x x x.

3. That said Severino Cabrera immediately assumed his duties and responsibilities faithfully as agent or administrator until his death in 1991 of the properties of Lorenzo Gella in San Jose, Antique consisting of about 24 hectares x x x [which later] became Lot No. 1782-B in the name of the defendants, covered by T.C.T. No. T-16987, Register of Deeds of Antique x x x.

4. That after the death of said Severino Cabrera in 1991, with the consent of the defendants, his wife took over his duties and responsibilities as agent or administratrix of the above-named properties of the defendants in San Jose, Antique with the help of her son, Arnel Cabrera as 'encargado' and the plaintiffs were also instructed by the defendants to look for buyers of their properties and plaintiffs were promised by defendants *a commission of five percent of the total purchase price of the said properties as compensation for their long and continued administration of all the said properties.*

5. That sometime in 1994 plaintiffs approached the real estate broker Erlinda Veñegas to sell the above-described Lot No. 1782-B and the plaintiffs gave her the addresses of the defendants who at all times live in Metro Manila[. T]hereafter defendants agreed to have the said property developed by ESV Marketing & Development Corporation represented by its President, said Erlinda Veñegas and defendants also designated said Erlinda Veñegas as administratrix

³⁴ *Padlan v. Dinglasan*, supra note 1.

³⁵ *Id.*

of said property and at the same time defendants dismissed plaintiffs as agents or administrators thereof;

6. That on August 1, 2001 plaintiffs, through counsel wrote defendants ***demanding payment*** of their five percent of twenty four hectares properties under their administration for twenty five years in [the] form [of] real estate in [the] subdivision of Lot 1782-B as their compensation or commission, but defendants refused and failed ***to pay plaintiffs in cash or in kind of what is due them***;

7. That in view of the aforesaid failure and refusal of defendants to pay their compensation or commission and instead they were dismissed and replaced by the said Erlinda Veñegas they themselves recommended to defendants, the plaintiffs have suffered public humiliation, mental anguish, and serious anxiety for which plaintiffs should be adjudged and entitled to moral damages in the sum of not less than Php100,000.00 each.

8. That defendants' ingratitude and unjustified refusal to pay plaintiffs x x x their compensation or commission for twenty five years service as administrators and had successfully found [a] developer of defendants' property but only to be dismissed, plaintiffs were compelled to institute this action and incur expenses as well as attorney's fees in the sum of Php100,000.00.

PRAYER

WHEREFORE, it is respectfully prayed that after due hearing, judgment be rendered against defendants jointly and severally in favor of the plaintiffs, as follows:

a. ***To pay plaintiffs their compensation or commission*** in [the] form of real estate from Lot No. 1782-B subdivision equivalent to five percent of twenty four hectares properties under their administration;

b. To pay plaintiffs moral damages in the amount of not less than Php100,000.00 each;

c. Attorney's fee and litigation expenses in the amount of not less than Php100,000.00 each and pay the costs of suit

x x x x³⁶ (Italics and Emphases supplied)

The Court in *Ungria v. Court of Appeals*³⁷ restated the criterion laid down in *Singson v. Isabela Sawmill*³⁸ to ascertain if an action is capable or not of pecuniary estimation, viz.:

In determining whether an action is one the subject matter of which is not capable of pecuniary estimation this Court has adopted the criterion of first ascertaining the nature of the principal action or remedy sought. If it is primarily

³⁶ Records, pp. 2-4.

³⁷ G.R. No. 165777, July 25, 2011, 654 SCRA 314, 324-325.

³⁸ 177 Phil. 575, 588-589 (1979).

for the recovery of a sum of money, the claim is considered capable of pecuniary estimation, and whether jurisdiction is in the municipal courts or in the [C]ourts of [F]irst [I]nstance would depend on the amount of the claim. However, where the basic issue is something other than the right to recover a sum of money, where the money claim is purely incidental to, or a consequence of, the principal relief sought, this Court has considered such actions as cases where the subject of the litigation may not be estimated in terms of money, and are cognizable exclusively by [C]ourts of [F]irst [I]nstance (now Regional Trial Courts).

It can be readily seen from the allegations in the Complaint that petitioners' main purpose in filing the same is to collect the commission allegedly promised them by respondents should they be able to sell Lot No. 1782-B, as well as the compensation for the services rendered by Severino, Araceli and Arnel for the administration of respondents' properties. Captioned as a Complaint for Collection of Agent's Compensation, Commission and Damages, it is principally for the collection of a sum of money representing such compensation and commission. Indeed, the payment of such money claim is the principal relief sought and not merely incidental to, or a consequence of another action where the subject of litigation may not be estimated in terms of money. In fact, petitioners in this case estimated their claim to be equivalent to five percent of the purchase price of Lot No. 1782-B. Therefore, the CA did not err when it ruled that petitioners' Complaint is not incapable of pecuniary estimation.

The Court cannot also give credence to petitioners' contention that their action involves interest in a real property. The October 25, 1976 letter³⁹ of Atty. Gella confirming Severino's appointment as administrator of his properties does not provide that the latter's services would be compensated in the form of real estate or, at the very least, that it was for a compensation. Neither was it alleged in the Complaint that the five percent commission promised to Araceli and Arnel would be equivalent to such portion of Lot No. 1782-B. What is clear from paragraph 4 thereof is that respondents instructed petitioners to look for buyers of their properties and "*were promised by [respondents] a commission of **five percent of the total purchase price of the said properties** as compensation for their long and continued administration of all the said properties.*" Also, petitioners' allegation in paragraph 6 that respondents failed to pay them "*in cash or in kind*" of what is due them negates any agreement between the parties that they should be paid in the form of real estate. Clearly, the allegations in their Complaint failed to sufficiently show that they have interest of whatever kind over the properties of respondents. Given these, petitioners' claim that their action involves interest over a real property is unavailing. Thus, the Court quotes with approval the CA's ratiocination with respect to the same:

As to their weak claim of interest over the property, it is apparent that their only interest is to be compensated for their long-term administration of the properties. They do not claim an interest in the properties themselves but merely

³⁹ Records, p. 6.

payment for their services, such payment they compute to be equivalent to five (5%) percent of the value of the properties. Under Section 1, Rule 4 of the Rules of Court, a real action is an action affecting title to or possession of real property, or interest therein. These include partition or condemnation of, or foreclosure of mortgage on, real property. Plaintiffs-appellants' interest is obviously not the one contemplated under the rules on jurisdiction.⁴⁰

Petitioners' demand is below the jurisdictional amount required for RTCs outside of Metro Manila, hence, the RTC concerned in this case has no jurisdiction over petitioners' Complaint.

To determine whether the RTC in this case has jurisdiction over petitioners' Complaint, respondents correctly argued that the same be considered *vis-à-vis* Section 19(8) of BP 129, which provides:

SEC. 19. Jurisdiction in Civil Cases. – Regional Trial Courts shall exercise exclusive original jurisdiction:

X X X X

(8) In all other cases in which the demand, exclusive of interests, damages of whatever kind, attorney's fees, litigation expenses, and costs or the value of the property exceeds One hundred thousand pesos (₱100,000.00) or, in such other cases in Metro Manila, where the demand, exclusive of the abovementioned items exceeds Two hundred thousand pesos (₱200,000.00).

This jurisdictional amount of exceeding ₱100,000.00 for RTC's outside of Metro Manila was adjusted to ₱200,000.00 effective March 20, 1999 in pursuance to Section 5 of RA 7691⁴¹ which further provides:

SEC. 5. After five (5) years from the effectivity of this Act, the jurisdictional amounts mentioned in Sec. 19(3), (4), and (8); and Sec. 33(1) of Batas Pambansa Blg. 129 as amended by this Act, shall be adjusted to Two hundred thousand pesos (₱200,000.00). Five (5) years thereafter, such jurisdictional amounts shall be adjusted further to Three hundred thousand pesos (₱300,000.00): *Provided, however*, That in the case of Metro Manila, the abovementioned jurisdictional amounts shall be adjusted after five (5) years from the effectivity of this Act to Four hundred thousand pesos (₱400,000.00).

Hence, when petitioners filed their Complaint on September 3, 2001, the said increased jurisdictional amount was already effective. The demand in their Complaint must therefore exceed ₱200,000.00 in order for it to fall under the jurisdiction of the RTC.

⁴⁰ CA *rollo*, p. 106.

⁴¹ See Supreme Court Circular No. 21-99 dated April 15, 1999.

Petitioners prayed that they be paid five percent of the total purchase price of Lot No. 1782-B. However, since the Complaint did not allege that the said property has already been sold, as in fact it has not yet been sold as respondents contend, there is no purchase price which can be used as basis for computing the five percent that petitioners are claiming. Nevertheless and as mentioned, petitioners were able to attach to their Complaint a copy of the tax declaration for Lot No. 1782-B showing a total market value of ₱3,550,072.00.⁴² And since “[t]he fair market value is the price at which a property may be sold by a seller, who is not compelled to sell, and bought by a buyer, who is not compelled to buy,”⁴³ the RTC correctly computed the amount of petitioners’ claim based on the property’s market value. And since five percent of ₱3,550,072.00 is only ₱177,503.60 or below the jurisdictional amount of exceeding ₱200,000.00 set for RTCs outside of Metro Manila, the RTC in this case has no jurisdiction over petitioners’ claim.

There is no merit to petitioners’ averment that their demand for moral damages should be included in the computation of their total claims. Paragraph 8, Section 19 of BP 129 expressly speaks of demand which is exclusive of damages of whatever kind. This exclusion was later explained by the Court in Administrative Circular No. 09-94 dated June 14, 1994 as follows:

2. The exclusion of the term "damages of whatever kind" in determining the jurisdictional amount under Section 19 (8) and Section 33 (1) of B.P. Blg. 129, as amended by R.A. No. 7691, applies to cases where the damages are merely incidental to or a consequence of the main cause of action. However, in cases where the claim for damages is the main cause of action, or one of the causes of action, the amount of such claim shall be considered in determining the jurisdiction of the court.

Here, the moral damages being claimed by petitioners are merely the consequence of respondents’ alleged non-payment of commission and compensation the collection of which is petitioners’ main cause of action. Thus, the said claim for moral damages cannot be included in determining the jurisdictional amount.

In view of the foregoing, the CA did not err in affirming the RTC’s conclusion that it has no jurisdiction over petitioners’ claim.

The CA’s affirmance of the RTC’s findings that the Complaint states no cause of action and that Araceli and Arnel have no authority to sue in behalf

⁴² Records, p. 8; not ₱3,508,370.00 as computed by the RTC.

⁴³ *Hilario v. Salvador*, 497 Phil. 327, 336 (2005).

of Severino's other heirs cannot be raised in this Petition.

As pointed out by respondents, petitioners failed to question in their Motion for Reconsideration before the CA its affirmance of the RTC's findings that the Complaint states no cause of action and that Araceli and Arnel have no authority to sue in behalf of the other heirs of Severino. Suffice it to say that "[p]rior to raising [these arguments] before this Court, [they] should have raised the matter in [their Motion for Reconsideration] in order to give the appellate court an opportunity to correct its ruling. For [them] to raise [these issues] before [this Court] now would be improper, since [they] failed to do so before the CA."⁴⁴

WHEREFORE, the Petition for Review on *Certiorari* is **DENIED** and the assailed Decision dated July 6, 2005 and the Resolution dated April 5, 2006 of the Court of Appeals in CA-G.R. CV No. 75126 are **AFFIRMED**.

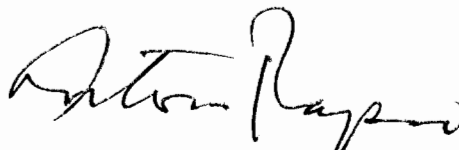
SO ORDERED.



MARIANO C. DEL CASTILLO

Associate Justice

WE CONCUR:



ANTONIO T. CARPIO

Associate Justice

Chairperson




DIOSDADO M. PERALTA

Associate Justice



JOSE PORTUGAL PEREZ

Associate Justice



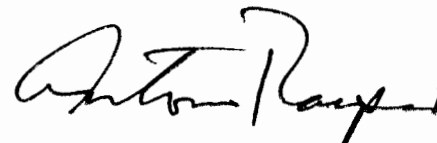
ESTELA M. PERLAS-BERNABE

Associate Justice

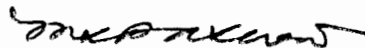
⁴⁴ *Philippine Commercial International Bank v. Abad*, 492 Phil. 657, 667-668 (2005).

ATTESTATION

I attest 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***Associate Justice**Chairperson***CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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*