



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

**FAR EASTERN SURETY AND
INSURANCE CO., INC.,**
Petitioner,

G.R. No. 170618

Present:

BRION, J.,*
Acting Chairperson,
DEL CASTILLO,
ABAD,**
PEREZ, and
PERLAS-BERNABE, JJ.

- versus -

Promulgated:

PEOPLE OF THE PHILIPPINES,
Respondent.

NOV 20 2013

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DECISION

BRION, J.:

Far Eastern Surety and Insurance Co., Inc. (*petitioner*) assails in this Rule 45 petition for review on *certiorari*¹ the Order² dated October 4, 2005, the Judgment of Forfeiture³ dated October 6, 2005, and the Orders dated October 25, 2005,⁴ November 14, 2005⁵ and November 22, 2005,⁶ all issued by the Regional Trial Court (RTC), Branch 64, Tarlac City in Criminal Case No. 12408, entitled “*The People of the Philippines v. Celo Tuazon.*”

* In lieu of Associate Justice Antonio T. Carpio, who inhibited from the case.

** Designated as Additional Member in lieu of Associate Justice Antonio T. Carpio per Raffle dated November 18, 2013.

¹ *Rollo*, pp. 9-26.

² Id. at 30; penned by Pairing Judge Arsenio P. Adriano.

³ Id. at 31.

⁴ Id. at 32.

⁵ Id. at 33.

⁶ Id. at 34.

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The petitioner claims that it should not be held liable for a bail bond that it did not issue.

The Factual Antecedents

The petition traces its roots to the personal bail bond, with serial no. JCR (2) 1807, for the provisional release of Celo Tuazon (*accused*) which was filed before the RTC in Criminal Case No. 12408. The personal bail bond was under the signatures of Paul J. Malvar and Teodorico S. Evangelista as the petitioner's authorized signatories. On January 23, 2004, the RTC approved the bail bond.

On August 16, 2004, the Supreme Court issued A.M. No. 04-7-02-SC requiring all bonding companies to accredit all their authorized agents with the courts. The petitioner applied for its Certification of Accreditation and Authority to transact surety business with the courts and accordingly designated Samuel A. Baui as its authorized representative in Tarlac Province.

Subsequently, the accused failed to appear in the scheduled hearing for Criminal Case No. 12408, prompting the RTC to issue an order requiring the petitioner to produce the body of the accused and to explain why no judgment shall be rendered against the bond.

Samuel, who was then the petitioner's designated representative, filed a Motion for Extension of Time⁷ to comply with the RTC's order. He likewise sought the petitioner's assistance for the use of its resources and agents outside Tarlac City because of the difficulty of arresting the accused.

Sometime thereafter, the petitioner allegedly verified from its register that it neither authorized nor sanctioned the issuance of a bail bond, with serial no. JCR (2) 1807, and on this basis, it filed with the RTC a Very Urgent Motion to Cancel Fake/Falsified Bail Bond. The petitioner alleged that the signature of Teodorico in the bail bond had been forged; it also alleged that Paul was not an authorized signatory; his name was not listed in the Secretary's Certificate submitted to the Court. In support of its motion, it attached copies of the Personal Bail Bond, its Corporate Secretary's Certificate, and the Special Power of Attorney in favor of Medy S. Patricio, and prayed to be relieved from any liability under the bail bond.

⁷

Filed on September 5, 2005.

The RTC denied the petitioner's motion on the ground that the petitioner had indirectly acknowledged the bond's validity when it filed a motion for extension of time with the trial court. The RTC subsequently issued a Judgment of Forfeiture for ₱200,000.00 against the petitioner. The petitioner sought reconsideration of the judgment, but the RTC denied the motion.

On October 25, 2005, the RTC issued another order, this time directing the issuance of a writ of execution. The petitioner responded by filing an omnibus motion to hold in abeyance or quash the writ, but the RTC similarly denied this motion. The petitioner thereafter filed this Rule 45 petition to assail the Orders dated October 4, 2005, October 25, 2005, November 14, 2005 and November 22, 2005, and the Judgment of Forfeiture dated October 6, 2005, all of them issued by the RTC.

The Petition

The petitioner principally argues that the RTC erred in ruling that the petitioner indirectly acknowledged the falsified bond's validity when it filed a motion for extension of time to respond to the lower court's order of August 2, 2005. It also disclaims liability under the bond based on the absence of the name of Paul in the Secretary's Certificate of authorized signatories, and based on the alleged forgery of Teodorico's signature. It lastly argues that the RTC failed to observe the mandate of A.M. No. 04-7-02-SC when it did not verify the signatures' authenticity and confirm the petitioner's authorized signatories in the Secretary's Certificate before approving the bond.

The Case for the Respondent

The respondent People of the Philippines, for its part, maintains that the petitioner is already estopped from questioning the bail bond's authenticity. It likewise contends that the petitioner used the wrong mode of review; the proper remedy is a special civil action for *certiorari* under Rule 65, not a petition for review on *certiorari* under Rule 45. It lastly argues that the case involves factual issues that are beyond the scope of a Rule 45 petition.

The Issues

In its petition, the petitioner raises the following issues for our resolution:

- I. Whether the RTC erred in ruling that the alleged falsified bond's validity can be indirectly acknowledged.
- II. Whether the RTC erred in holding the petitioner liable under the alleged falsified bond.
- III. Whether the RTC erred in failing to observe and apply A.M. No. 04-7-02-SC.
- IV. Whether the RTC erred in ruling that the alleged falsified bond is binding upon the petitioner.

The Court's Ruling

We deny the petition as we cannot rule on it without the established or undisputed facts on which to base our rulings of law on the presented issues. In short, the petitioner used the wrong mode of appeal, rendering us unable to proceed even if we would want to.

We note that the petitioner directly comes to this Court *via* a Rule 45 petition, in relation with Rule 41 of the Rules of Civil Procedure (*Rules*), on alleged pure questions of law.

Under Rule 41 of the Rules, an appeal from the RTC's decision may be undertaken in three (3) ways, depending on the nature of the attendant circumstances of the case, namely: (1) an **ordinary appeal** to the Court of Appeals (CA) in cases decided by the RTC in the exercise of its original jurisdiction; (2) a **petition for review** to the CA in cases decided by the RTC in the exercise of its appellate jurisdiction; and (3) a **petition for review on certiorari** directly filed with the Court where only questions of law are raised or involved.

The first mode of appeal under Rule 41 of the Rules is available on questions of fact or mixed questions of fact and of law. The second mode of appeal, governed by Rule 42 of the Rules, is brought to the CA on questions of fact, of law, or mixed questions of fact and of law. The third mode of appeal under Rule 45 of the Rules of Court is filed with the Court only on questions of law.⁸ It is *only where pure questions of law* are raised or involved can an appeal be brought to the Court *via* a petition for review on *certiorari* under Rule 45.⁹

⁸ *Latorre v. Latorre*, G.R. No. 183926, March 29, 2010, 617 SCRA 88, 98-99.

⁹ Section 2(c).

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.¹⁰ For a question to be one of law, its resolution must not involve an examination of the probative value of the evidence presented by the litigants, but must rely solely on what the law provides on the given set of facts. If the facts are disputed or if the issues require an examination of the evidence, the question posed is one of fact. The test, therefore, is not the appellation given to a question by the party raising it, but whether the appellate court can resolve the issue without examining or evaluating the evidence, in which case, it is a question of law; otherwise, it is a question of fact.¹¹

An examination of the present petition shows that **the facts are disputed**. The issues of the authenticity and of the validity of the bail bond's signatures and the authority of its signatories had never been resolved. When the petitioner questioned the RTC's ruling, it was, in fact, raising the issues of falsity and of forgery of the signatures in the bail bond, which questions are purely of fact.¹² To quote the pertinent portion of the RTC's order:

When the case was called, a representative of the bonding company by the person of a certain Samuel Bauí appeared. However, there is already a motion by said bonding company thru Samuel Bauí to give the bonding company 60 days extension but which the Court granted shortened to 30 days. The expiration of the 30-day period is supposed to be today but, however, the Court was confronted with the motion by the bonding company alleging that the bond posted by the bonding company was falsified. **The Court is of the opinion that by the motion for extension of time within which to produce the body of the accused, the bonding company indirectly acknowledged the validity of the bond posted by the said bonding company.** Wherefore, the motion of the bonding company dated October 3, 2005 that it be relieved from liability is hereby DENIED.¹³ (emphasis ours)

This ruling, by its clear terms, did not pass upon the falsity or forgery of the bail bond's signatures. Nothing in the order resolved the question of whether Teodorico's signature had been forged. Neither was there any finding on the validity of the bail bond, nor any definitive ruling on the effects of the unauthorized signature of Paul. Missing as well was any mention of the circumstances that led to the RTC's approval of the bond. We need all these factual bases to make a ruling on what and how the law should be applied.

¹⁰ *Heirs of Nicolas S. Cabigas v. Limbaco*, G.R. No. 175291, July 27, 2011, 654 SCRA 643, 651-652.

¹¹ *Id.* at 655.

¹² *Cogtong v. Kyoritsu International Inc.*, 555 Phil. 302, 306 (2007).

¹³ *Supra* note 2.

We additionally note that a bail bond is required to be in a public document, *i.e.*, a duly notarized document. As a notarized document, it has the presumption of regularity in its favor, which presumption can only be contradicted by evidence that is clear, convincing and more than merely preponderant; otherwise, the regularity of the document should be upheld.¹⁴

Likewise notable is the settled rule that forgery cannot be presumed and must be proved by clear, positive and convincing evidence. The burden of proof lies in the party alleging forgery.¹⁵

All these legal realities tell us that we can rule only on the issue of liability, even assuming this to be a purely legal issue, if the matter of forgery and falsification has already been settled. In other words, a finding of forgery (or absence of forgery) is necessary. At the moment, the questions of whether the petitioner's evidence is sufficient and convincing to prove the forgery of Teodorico's signature and whether the evidence is more than merely preponderant to overcome the presumption of validity and the regularity of the notarized bail bond are unsettled factual matters that the assailed ruling did not squarely rule upon, **and which this Court cannot now resolve via a Rule 45 petition**. Simply put, the resolution of these matters is outside this Court's authority to act upon.

Similarly, in the absence of factual circumstances relating to the RTC's approval of the bail bond, a finding on whether it erred (and should be blamed for the approval of a falsified bail bond) is a matter we cannot touch. A glaring lapse on the petitioner's part is its failure to consider that while it has been citing A.M. No. 04-7-02-SC, the submission of the bail bond and its alleged approval by the RTC all took place previous to this cited issuance. Thus, even if we are inclined to take equitable considerations into account in light of the alleged previous court approval of the bail bond, we cannot do so for lack of sufficient factual and evidentiary basis. To be fair, we must know what we must be fair about and cannot simply rely on general allegations of overall unfairness.

We stress that in reviews on *certiorari* the Court addresses **only the questions of law**. It is not our function to analyze or weigh the evidence (which tasks belong to the trial court as the trier of facts and to the appellate court as the reviewer of facts). We are confined to the review of errors of law that may have been committed in the judgment under review.¹⁶

¹⁴ *Ladignon v. Court of Appeals*, 390 Phil. 1161, 1169 (2000).

¹⁵ *Heirs of Severa P. Gregorio v. Court of Appeals*, 360 Phil. 753, 763 (1998).

¹⁶ *Dihiansan v. Court of Appeals*, 237 Phil. 695, 701-703 (1987).

In *Madrigal v. Court of Appeals*,¹⁷ we had occasion to stress this rule in these words:

The Supreme Court's jurisdiction is limited to reviewing errors of law that may have been committed by the lower court. The Supreme Court is not a trier of facts. It leaves these matters to the lower court, which [has] more opportunity and facilities to examine these matters. This same Court has declared that it is the policy of the Court to defer to the factual findings of the trial judge, who has the advantage of directly observing the witnesses on the stand and to determine their demeanor whether they are telling or distorting the truth.

And again in *Remalante v. Tibe* (158 SCRA 138 [1988]):

The rule in this jurisdiction is that only questions of law may be raised in a petition for *certiorari* under Rule 45 of the Revised Rules of Court. "The jurisdiction of the Supreme Court in cases brought to it from the Court of Appeals is limited to reviewing and revising the errors of law imputed to it, its findings of fact being conclusive." [*Chan v. Court of Appeals*, G.R. No. L-27488, June 30, 1970, 33 SCRA 737, reiterating a long line of decisions]. This Court has emphatically declared that "it is not the function of the Supreme Court to analyze or weigh such evidence all over again, its jurisdiction being limited to reviewing errors of law that might have been committed by the lower court" [*Tiongco v. De la Merced*, G.R. No. L-24426, July 25, 1974, 58 SCRA 89; *Corona v. Court of Appeals*, G.R. No. L-62482, April 28, 1983, 121 SCRA 865; *Banigued v. Court of Appeals*, G.R. No. L-47531, February 20, 1984, 127 SCRA 596]. [italics supplied]

We repeated this ruling in *Suarez v. Judge Villarama, Jr.*,¹⁸ this time giving the *doctrine of hierarchy of courts* as our additional reason.

It is axiomatic that 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.

In the instant case, petitioner brought this petition for review on *certiorari* raising mixed questions of fact and law. She impugns the decision of the RTC dismissing her complaint for failure to prosecute. **The**

¹⁷ 496 Phil. 149, 156-157 (2005), citing *Bernardo v. Court of Appeals*, G.R. No. 101680, December 7, 1992, 216 SCRA 224.

¹⁸ 526 Phil. 68, 74-76 (2006).

In the instant case, petitioner brought this petition for review on *certiorari* raising mixed questions of fact and law. She impugns the decision of the RTC dismissing her complaint for failure to prosecute. **The resolution of the propriety of dismissal entails a review of the factual circumstances that led the trial court to decide in such manner.** On the other hand, petitioner also questions the lower court's denial of her motion for reconsideration on the ground that it was filed out of time. There is indeed a question as to what and how the law should be applied. **Therefore, petitioner should have brought this case to the Court of Appeals via the first mode of appeal under the aegis of Rule 41.**

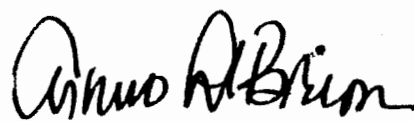
Section 4 of Circular No. 2-90, in effect at the time of the antecedents, provides that an appeal taken to either the Supreme Court or the Court of Appeals by the wrong mode or inappropriate mode shall be dismissed. This rule is now incorporated in Section 5, Rule 56 of the 1997 Rules of Civil Procedure.

Moreover, the filing of the case directly with this Court runs afoul of the doctrine of hierarchy of courts. Pursuant to this doctrine, direct resort from the lower courts to the Supreme Court will not be entertained unless the appropriate remedy cannot be obtained in the lower tribunals. This Court is a court of last resort, and must so remain if it is to satisfactorily perform the functions assigned to it by the Constitution and immemorial tradition. Thus, a petition for review on *certiorari* assailing the decision involving both questions of fact and law must first be brought before the Court of Appeals. [italics supplied, emphases ours; citations omitted]

As a final point, while we note the irregular procedure adopted by the RTC when it rendered a decision based on implications, we nevertheless hold that the proper remedy to question this irregularity is not through a Rule 45 petition. If indeed there is merit to the claim that the signatures had been forged or that the signatory was unauthorized, or that the RTC failed to observe the mandate of A.M. No. 04-7-02-SC, the proper recourse to question the RTC's ruling on the motion to cancel the bond should have been a petition for *certiorari* under Rule 65, not through the process and medium the petitioner took.


WHEREFORE, premises considered, we hereby **DENY** the petition. Costs against Far Eastern Surety and Insurance Co., Inc.

SO ORDERED.

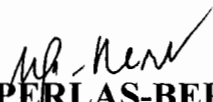

ARTURO D. BRION
Associate Justice

WE CONCUR:


MARIANO C. DEL CASTILLO
Associate Justice



ROBERTO A. ABAD
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice


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.


ARTURO D. BRION
Associate Justice
Acting Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting 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