



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

DARMA MASLAG,
Petitioner,

G.R. No. 174908

Present:

- versus -

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

ELIZABETH MONZON,
WILLIAM GESTON, *and*
REGISTRY OF DEEDS OF
BENGUET,
Respondents.

Promulgated:

JUN 17 2013

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DECISION

DEL CASTILLO, *J.:*

“It is incumbent upon x x x appellants to utilize the correct mode of appeal of the decisions of trial courts to the appellate courts. In the mistaken choice of their remedy, they can blame no one but themselves.”¹

This is a Petition for Review on *Certiorari*² of the May 31, 2006 Resolution³ of the Court of Appeals (CA) in CA-G.R. CV No. 83365, which dismissed petitioner Darma Maslag’s (petitioner) ordinary appeal to it for being an improper remedy. The Resolution disposed of the case as follows:

WHEREFORE, the Motion to Dismiss is **GRANTED**, and the Appeal is hereby **DISMISSED**.

SO ORDERED.⁴

¹ *Southern Negros Development Bank, Inc. v. Court of Appeals*, G.R. No. 112066, June 27, 1994, 233 SCRA 460, 464. Citations omitted.

² *Rollo*, pp. 11-26.

³ *Id.* at 44-45; penned by Associate Justice Lucenito N. Tagle and concurred in by Associate Justices Rodrigo V. Cosico and Regalado E. Maambong.

⁴ *Id.* at 45. Emphases in the original.

The Petition also assails the CA's September 22, 2006 Resolution⁵ denying petitioner's Motion for Reconsideration.⁶

Factual Antecedents

In 1998, petitioner filed a Complaint⁷ for reconveyance of real property with declaration of nullity of original certificate of title (OCT) against respondents Elizabeth Monzon (Monzon), William Geston and the Registry of Deeds of La Trinidad, Benguet. The Complaint was filed before the Municipal Trial Court (MTC) of La Trinidad, Benguet.

After trial, the MTC found respondent Monzon guilty of fraud in obtaining an OCT over petitioner's property.⁸ It ordered her to reconvey the said property to petitioner, and to pay damages and costs of suit.⁹

Respondents appealed to the Regional Trial Court (RTC) of La Trinidad, Benguet.

After going over the MTC records and the parties' respective memoranda, the RTC of La Trinidad, Benguet, Branch 10, through Acting Presiding Judge Fernando P. Cabato (Judge Cabato), issued its October 22, 2003 Order,¹⁰ declaring the MTC without jurisdiction over petitioner's cause of action. It further held that it will take cognizance of the case pursuant to Section 8, Rule 40 of the Rules of Court, which reads:

SECTION 8. *Appeal from orders dismissing case without trial; lack of jurisdiction.* – x x x

If the case was tried on the merits by the lower court without jurisdiction over the subject matter, the Regional Trial Court on appeal shall not dismiss the case if it has original jurisdiction thereof, but shall decide the case in accordance with the preceding section, without prejudice to the admission of amended pleadings and additional evidence in the interest of justice.

⁵ Id. at 51-52.

⁶ CA *rollo*, pp. 75-77.

⁷ Records, pp. 1-5.

⁸ See Judgment dated June 11, 2001 penned by Judge Agapito K. Laogan, Jr., id. at 166-172.

⁹ The *fallo* of the MTC Judgment reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff and hereby orders the defendant Elizabeth Monzon, as follows:

1. To reconvey that portion of the property now covered by OCT P-3034, belonging to the plaintiff with an area of 4415 square meters as shown in Exhibit "F-2", which was fraudulently included in her title;

2. To pay the plaintiff the amount of Five Thousand [P5,000.00] Pesos as exemplary damages and Five Thousand [P5,000.00] Pesos as attorney's fees;

3. Costs of this suit.

SO ORDERED. Id. at 172.

¹⁰ Id. at 273-274.

Both parties acknowledged receipt of the October 22, 2003 Order,¹¹ but neither presented additional evidence before the new judge, Edgardo B. Diaz De Rivera, Jr. (Judge Diaz De Rivera).¹²

On May 4, 2004, Judge Diaz De Rivera issued a Resolution¹³ *reversing* the MTC Decision. The *fallo* reads as follows:

WHEREFORE, the Judgment *appealed* from the Municipal Trial Court of La Trinidad, Benguet is *set aside*. [Petitioner] is ordered to turn over the possession of the 4,415 square meter land she presently occupies to [Monzon]. This case is *remanded* to the court *a quo* for further proceedings to determine whether [Maslag] is entitled to the remedies afforded by law to a builder in good faith for the improvements she constructed thereon.

No pronouncement as to damages and costs.

SO ORDERED.¹⁴

Petitioner filed a Notice of Appeal¹⁵ from the RTC's May 4, 2004 Resolution.

Petitioner assailed the RTC's May 4, 2004 Resolution for *reversing* the MTC's factual findings¹⁶ and prayed that the MTC Decision be adopted. Her prayer before the CA reads:

WHEREFORE, premises considered, it is most respectfully prayed that the decision of the Regional Trial Court, Branch 10 of La Trinidad, Benguet, appealed from be reversed *in toto* and that the Honorable Court adopt the decision of the Municipal Trial Court. Further reliefs just and equitable under the premises are prayed for.¹⁷

Respondents moved to dismiss petitioner's ordinary appeal for being the improper remedy. They asserted that the proper mode of appeal is a Petition for Review under Rule 42 because the RTC rendered its May 4, 2004 Resolution in its appellate jurisdiction.¹⁸

¹¹ Id., dorsal portion of p. 273.

¹² Id. at 282.

¹³ Id. at 283-288.

¹⁴ Id. at 288.

¹⁵ Id. at 290.

¹⁶ CA *rollo*, pp. 38-50.

¹⁷ Id. at 50.

¹⁸ Id. at 58-64.

Ruling of the Court of Appeals

The CA dismissed petitioner's appeal. It observed that the RTC's May 4, 2004 Resolution (the subject matter of the appeal before the CA) *set aside* an MTC Judgment; hence, the proper remedy is a Petition for Review under Rule 42, and not an ordinary appeal.¹⁹

Petitioner sought reconsideration.²⁰ She argued, for the first time, that the RTC rendered its May 4, 2004 Resolution in its original jurisdiction. She cited the earlier October 22, 2003 Order of the RTC declaring the MTC without jurisdiction over the case.

The CA denied petitioner's Motion for Reconsideration in its September 22, 2006 Resolution:²¹

A perusal of the May 4, 2004 Resolution of the RTC, which is the subject matter of the appeal, clearly reveals that it took cognizance of the MTC case in the exercise of its appellate jurisdiction. Consequently, as We have previously enunciated, the proper remedy, is a petition for review under Rule 42 and not an ordinary appeal under Rule 41.

WHEREFORE, premises considered, the instant Motion for Reconsideration is **DENIED**. The May 31, 2006 Resolution of this Court is hereby **AFFIRMED *in toto***.

SO ORDERED.²²

Hence this Petition wherein petitioner prays that the CA be ordered to take cognizance of her appeal.²³

Issues

Petitioner set forth the following issues in her Petition:

WHETHER X X X THE COURT OF APPEALS WAS CORRECT IN DISMISSING THE APPEAL FILED BY THE PETITIONER, CONSIDERING THAT THE REGIONAL TRIAL COURT, BRANCH 10 OF LA TRINIDAD, BENGUET HELD THAT THE ORIGINAL COMPLAINT AS FILED BEFORE THE MUNICIPAL TRIAL COURT OF LA TRINIDAD, BENGUET WAS DECIDED BY THE LATTER WITHOUT ANY

¹⁹ Id. at 73-74.

²⁰ Id. at 75-77.

²¹ *Rollo*, pp. 51-52.

²² Id. at 52.

²³ Id. at 23.

JURISDICTION AND, IN ORDERING THAT THE CASE SHALL BE DECIDED PURSUANT TO THE PROVISION OF SECTION 8 OF RULE 40 OF THE RULES OF COURT, IT DECIDED THE CASE NOT ON ITS APPELLATE JURISDICTION BUT ON ITS ORIGINAL JURISDICTION

WHAT WILL BE THE EFFECT OF THE DECISION OF THE REGIONAL TRIAL COURT, BRANCH 10 OF LA TRINIDAD, BENGUET, WHEN IT DECIDED A CASE APPEALED BEFORE IT UNDER THE PROVISION OF SECTION 8, RULE 40 OF THE RULES OF COURT OF THE PHILIPPINES, AS TO THE COURSE OF REMEDY THAT MAY BE AVAILED OF BY THE PETITIONER – A PETITION FOR REVIEW UNDER RULE 42 OR AN ORDINARY APPEAL UNDER RULE 41.²⁴

Our Ruling

In its October 22, 2003 Order, the RTC declared that the MTC has no jurisdiction over the subject matter of the case based on the supposition that the same is incapable of pecuniary estimation. Thus, following Section 8, Rule 40 of the Rules of Court, it took cognizance of the case and directed the parties to adduce further evidence if they so desire. The parties bowed to this ruling of the RTC and, eventually, submitted the case for its decision after they had submitted their respective memoranda.

We cannot, however, gloss over this jurisdictional *faux pas* of the RTC. Since it involves a question of jurisdiction, we may *motu proprio* review and pass upon the same even at this late stage of the proceedings.²⁵

In her Complaint²⁶ for reconveyance of real property with declaration of nullity of OCT, petitioner claimed that she and her father had been in open, continuous, notorious and exclusive possession of the disputed property since the 1940's. She averred:

7. Sometime in the year 1987, Elizabeth Monzon, the owner of the adjacent parcel of land being occupied by plaintiff [Maslag], informed the plaintiff that the respective parcels of land being claimed by them can now be titled. A suggestion was, thereafter made, that those who were interested to have their lands titled, will contribute to a common fund for the surveying and subsequent titling of the land;

8. Since plaintiff had, for so long, yearned for a title to the land she occupies, she contributed to the amount being requested by Elizabeth Monzon;

²⁴ Id. at 19.

²⁵ *Zarate v. Commission on Elections*, 376 Phil. 722, 726 (1999).

²⁶ Records, pp. 1-5.

9. A subdivision survey was made and in the survey, the respective areas of the plaintiff and the defendants were defined and delimited – all for purposes of titling. x x x

10. But alas, despite the assurance of subdivided titles, when the title was finally issued by the Registry of Deeds, the same was only in the name of Elizabeth Monzon and WILLIAM GESTON. The name of Darma Maslag was fraudulently, deliberately and in bad faith omitted. Thus, the title to the property, to the extent of 18,295 square meters, was titled solely in the name of ELIZABETH MONZON.

As a relief, petitioner prayed that Monzon be ordered to reconvey the portion of the property which she claimed was fraudulently included in Monzon's title. Her primary relief was to recover ownership of real property. Indubitably, petitioner's complaint involves title to real property. An action "involving title to real property," on the other hand, was defined as an action where "the plaintiff's cause of action is based on a claim that [she] owns such property or that [she] has the legal rights to have exclusive control, possession, enjoyment, or disposition of the same."²⁷ Under the present state of the law, in cases involving title to real property, original and exclusive jurisdiction belongs to either the RTC or the MTC, depending on the assessed value of the subject property.²⁸ Pertinent provisions of *Batas Pambansa Blg. (BP) 129*,²⁹ as amended by Republic Act (RA) No. 7691,³⁰ provides:

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 for civil actions in Metro Manila, where x x x the [assessed] value [of the property] 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 Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts;

x x x x

SEC. 33. *Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in Civil Cases.* — Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts shall exercise:

²⁷ *Heirs of Generoso Sebe v. Heirs of Veronico Sevilla*, G.R. No. 174497, October 12, 2009, 603 SCRA 395, 404.

²⁸ *Heirs of Spouses Teofilo M. Reterta and Elisa Reterta v. Spouses Lorenzo Mores and Virginia Lopez*, G.R. No. 159941, August 17, 2011, 655 SCRA 580, 598-599.

²⁹ THE JUDICIARY REORGANIZATION ACT OF 1980.

³⁰ 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, OTHERWISE KNOWN AS THE "JUDICIARY REORGANIZATION ACT OF 1980".

x x x x

(3) Exclusive original jurisdiction in all civil actions which involve title to, or possession of, real property, or any interest therein where the assessed value of the property or interest therein does not exceed Twenty thousand pesos (₱20,000.00) or, in civil actions in Metro Manila, where such assessed value does not exceed Fifty thousand pesos (₱50,000.00) x x x.

In the case at bench, annexed to the Complaint is a Declaration of Real Property³¹ dated November 12, 1991, which was later marked as petitioner's Exhibit "A",³² showing that the disputed property has an assessed value of ₱12,400³³ only. Such assessed value of the property is well within the jurisdiction of the MTC. In fine, the RTC, thru Judge Cabato, erred in applying Section 19(1) of BP 129 in determining which court has jurisdiction over the case and in pronouncing that the MTC is divested of original and exclusive jurisdiction.

This brings to fore the next issue of whether the CA was correct in dismissing petitioner's appeal.

Section 2, Rule 50 of the Rules of Court provides for the dismissal of an improper appeal:

SECTION 2. Dismissal of improper appeal to the Court of Appeals. –
An appeal under Rule 41 taken from the Regional Trial Court to the Court of Appeals raising only questions of law shall be dismissed, issues purely of law not being reviewable by said court. Similarly, **an appeal by notice of appeal instead of by petition for review from the appellate judgment of a Regional Trial Court shall be dismissed.**

An appeal erroneously taken to the Court of Appeals shall not be transferred to the appropriate court but shall be dismissed outright. (Emphasis supplied)

There are two modes of appealing an RTC decision or resolution on issues of fact and law.³⁴ The first mode is an *ordinary appeal under Rule 41* in cases where the RTC exercised its *original jurisdiction*. It is done by filing a Notice of Appeal with the RTC. The second mode is a *petition for review under Rule 42* in cases where the RTC exercised its *appellate jurisdiction* over MTC decisions. It is done by filing a Petition for Review with the CA. Simply put, the distinction between these two modes of appeal lies in the type of jurisdiction exercised by the RTC in the Order or Decision being appealed.

³¹ Records, p. 80.

³² Id.

³³ Id. at dorsal portion.

³⁴ *Heirs of Cabigas v. Limbaco*, G.R. No. 175291, July 27, 2011, 654 SCRA 643, 651.

As discussed above, the MTC has original and exclusive jurisdiction over the subject matter of the case; hence, there is no other way the RTC could have taken cognizance of the case and review the court *a quo*'s Judgment except in the exercise of its appellate jurisdiction. Besides, the new RTC Judge who penned the May 4, 2004 Resolution, Judge Diaz de Rivera, actually treated the case as an appeal despite the October 22, 2003 Order. He started his Resolution by stating, "This is an appeal from the Judgment rendered by the Municipal Trial Court (MTC) of La Trinidad Benguet"³⁵ and then proceeded to discuss the merits of the "appeal." In the dispositive portion of said Resolution, he reversed the MTC's findings and conclusions and remanded residual issues for trial with the MTC.³⁶ Thus, in fact and in law, the RTC Resolution was a continuation of the proceedings that originated from the MTC. It was a judgment issued by the RTC in the exercise of its appellate jurisdiction. With regard to the RTC's earlier October 22, 2003 Order, the same should be disregarded for it produces no effect (other than to confuse the parties whether the RTC was invested with original or appellate jurisdiction). It cannot be overemphasized that jurisdiction over the subject matter is conferred only by law and it is "not within the courts, let alone the parties, to themselves determine or conveniently set aside."³⁷ Neither would the active participation of the parties nor *estoppel* operate to confer original and exclusive jurisdiction where the court or tribunal only wields appellate jurisdiction over the case.³⁸ Thus, the CA is correct in holding that the proper mode of appeal should have been a Petition for Review under Rule 42 of the Rules of Court, and not an ordinary appeal under Rule 41.

Seeing the futility of arguing against what the RTC actually did, petitioner resorts to arguing for what the RTC should have done. She maintains that the RTC should have issued its May 4, 2004 Resolution in its original jurisdiction because it had earlier ruled that the MTC had no jurisdiction over the cause of action.

Petitioner's argument lacks merit. To reiterate, only statutes can confer jurisdiction. Court issuances cannot seize or appropriate jurisdiction. It has been repeatedly held that "any judgment, order or resolution issued without [jurisdiction] is void and cannot be given any effect."³⁹ By parity of reasoning, an order issued by a court declaring that it has original and exclusive jurisdiction over the subject matter of the case when under the law it has none cannot likewise be given effect. It amounts to usurpation of jurisdiction which cannot be countenanced. Since BP 129 already apportioned the jurisdiction of the MTC and the RTC in cases involving title to property, neither the courts nor the petitioner could alter or disregard the same. Besides, in determining the proper mode of

³⁵ Records, p. 283.

³⁶ Id. at 288.

³⁷ *Lozon v. National Labor Relations Commission*, 310 Phil. 1, 13 (1995) cited in *Magno v. People*, G. R. No. 171542, April 6, 2011, 647 SCRA 362, 371.

³⁸ *Suarez v. Saul*, 510 Phil. 400, 410 (2005).

³⁹ *Magno v. People*, supra.

appeal from an RTC Decision or Resolution, the determinative factor is the type of jurisdiction actually exercised by the RTC in rendering its Decision or Resolution. Was it rendered by the RTC in the exercise of its original jurisdiction, or in the exercise of its appellate jurisdiction? In short, we look at what type of jurisdiction was *actually exercised* by the RTC. We do not look into what type of jurisdiction the RTC *should have* exercised. This is but logical. Inquiring into what the RTC should have done in disposing of the case is a question which already involves the merits of the appeal, but we obviously cannot go into that where the mode of appeal was improper to begin with.

WHEREFORE, premises considered, the Petition for Review is **DENIED** for lack of merit. The assailed May 31, 2006 and September 22, 2006 Resolutions of the Court of Appeals in CA-G.R. CV No. 83365 are **AFFIRMED**.

SO ORDERED.

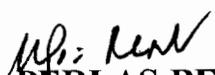

MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson


ARTURO D. BRION
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.

**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*