

THIRD DIVISION

[G.R. No. 174414, March 14, 2008]

**ELMER F. GOMEZ, Petitioner, vs. MA. LITA A. MONTALBAN,
Respondent.**

D E C I S I O N

CHICO-NAZARIO, J.:

This Petition for Review on *Certiorari* seeks to reverse (1) the Order^[1] dated 20 June 2006 of the Regional Trial Court (RTC) of Davao City, Branch 13, which granted herein respondent Ma. Lita A. Montalban's Petition for Relief from Judgment and dismissed Civil Case No. 29,717-03 for lack of jurisdiction; and (2) the Order^[2] dated 2 August 2006 denying herein petitioner Elmer F. Gomez's Motion for Reconsideration thereof .

On 30 May 2003, petitioner filed a Complaint^[3] with the RTC for a sum of money, damages and payment of attorney's fees against respondent, docketed as Civil Case No. 29,717-03. The Complaint alleged, among other things, that: on or about 26 August 1998, respondent obtained a loan from petitioner in the sum of P40,000.00 with a voluntary proposal on her part to pay 15% interest per month; upon receipt of the proceeds of the loan, respondent issued in favor of petitioner, as security, Capitol Bank Check No. 0215632, postdated 26 October 1998, in the sum of P46,000.00, covering the P40,000.00 principal loan amount and P6,000.00 interest charges for one month; when the check became due, respondent failed to pay the loan despite several demands; thus, petitioner filed the Complaint praying for the payment of P238,000.00, representing the principal loan and interest charges, plus 25% of the amount to be awarded as attorney's fees, as well as the cost of suit.

Summons was served, but despite her receipt thereof, respondent failed to file her Answer. Consequently, she was declared^[4] in default and upon motion, petitioner was allowed to present evidence *ex parte*.

After considering the evidence presented by petitioner, the RTC rendered a Decision^[5] on 4 May 2004 in his favor, the *fallo* of which reads:

WHEREFORE, IN VIEW OF THE FOREGOING, the Court hereby decides this case in favor of [herein petitioner] and against [herein respondent], ordering [respondent] to pay [petitioner] the following amounts:

1. P40,000.00 representing the principal amount of the loan;
2. P57,600.00 representing interest at the rate of 24% per annum reckoned from August 26, 1998 until the present; and
3. P15,000.00 representing attorney's fees.

On 28 May 2004, respondent filed a Petition for Relief from Judgment^[6] alleging that there was no effective service of summons upon her since there was no personal service of the same. The summons was received by one Mrs. Alicia dela Torre, who was not authorized to receive summons or other legal pleadings or documents on respondent's behalf. Respondent attributes her failure to file an Answer to fraud, accident, mistake or excusable negligence. She claimed that she had good and valid defenses against petitioner and that the RTC had no jurisdiction as the principal amount being claimed by petitioner was only P40,000.00, an amount falling within the jurisdiction of the Municipal Trial Court (MTC).

After petitioner filed his Answer^[7] to the Petition for Relief from Judgment and respondent her Reply,^[8] the said Petition was set for hearing.

After several dates were set and called for hearing, respondent, thru counsel, failed to appear despite being duly notified; hence, her Petition for Relief was dismissed^[9] for her apparent lack of interest to pursue the petition.

Respondent filed a Motion for Reconsideration^[10] of the dismissal of her Petition for Relief, stating that her counsel's failure to appear was not intentional, but due to human shortcomings or frailties, constituting honest mistake or excusable negligence.

On 18 November 2005, the RTC granted^[11] respondent's motion for reconsideration, to wit:

In regard to the motion for reconsideration file by [herein respondent] of the order of the court dismissing her petition for relief from judgment, the court, in the interest of justice, shall give [respondent] one more chance to present the merits of her position in a hearing. The dismissal of the petition is therefore reconsidered and set aside.

On 20 June 2006, the RTC granted respondent's Petition for Relief from Judgment and set aside its Decision dated 4 May 2004 on the ground of lack of jurisdiction. The *fallo* of the assailed RTC Order reads:

WHEREFORE, the petition for relief is hereby GRANTED. The decision of this court dated May 4, 2004 is RECONSIDERED and set aside for lack of jurisdiction on the part of the court, without prejudice to the case being refiled in the proper Municipal Trial Courts.^[12]

Petitioner filed a motion for reconsideration of the afore-quoted Order, but the same was denied by the RTC in another Order^[13] dated 2 August 2006.

Hence, the present Petition filed directly before this Court.

In his Memorandum,^[14] petitioner raises the following issues for the Court's consideration:

1. Whether or not the Regional Trial Court has jurisdiction over this case for sum of money, damages and attorney's fees where the principal amount of the obligation is P40,000.00 but the amount of

the demand per allegation of the complaint is P238,000.00;

2. Whether or not respondent's relief from judgment is proper during the period for filing a motion for reconsideration and appeal.

Before the Court dwells on the principal issues, a few procedural matters must first be resolved.

Section 2(c), Rule 41 of the Rules of Court categorically provides that in all cases where only questions of law are raised, the appeal from a decision or order of the RTC shall be to the Supreme Court by petition for review on *certiorari* in accordance with Rule 45.^[15]

The distinction between questions of law and questions of fact has long been settled. A question of law exists when the doubt or controversy concerns the correct application of law or jurisprudence to a certain set of facts; or when the issue does not call for an examination of probative value of the evidence presented, the truth or falsehood of facts being admitted. A question of fact exists when the doubt or difference arises as to the truth or falsehood of facts or when the query invites calibration of the whole evidence considering mainly the credibility of witnesses, the existence and relevancy of specific surrounding circumstances, as well as their relation to each other and to the whole, and the probability of the situation.^[16]

Simple as it may seem, determining the true nature and extent of the distinction is sometimes complicated. In a case involving a "question of law," 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. If the query requires a re-evaluation of the credibility of witnesses, or the existence or relevance of surrounding circumstances and their relation to each other, the issue in that query is factual.^[17]

The first issue raised in the present petition is one of jurisdiction of the court over the subject matter - meaning, the nature of the cause of action and of the relief sought. Jurisdiction is the right to act or the power and authority to hear and determine a cause. It is a question of law.^[18] The second issue refers to the aptness of the grant of a Petition for Relief from Judgment. These questions are undoubtedly one of law, as they concern the correct interpretation or application of relevant laws and rules, without the need for review of the evidences presented before the court *a quo*.

Thus, with only questions of law raised in this Petition, direct resort to this Court is proper.^[19]

The Court shall now discuss whether the RTC has jurisdiction over Civil Case No. 29,717-03.

Petitioner's Complaint before the RTC reads:

3. On or about August 26, 1998, [herein respondent] obtained from the [herein petitioner] a **loan for the principal sum of FORTY THOUSAND PESOS (P40,000.00)** with a voluntary proposal on

her part to pay as much as **15% interest per month**. Machine copy of Cash Voucher dated August 26, 1998 is herewith attached as Annex "A".

4. Upon receipt of the proceeds of the said loan, [respondent] issued in favor of the Plaintiff Capitol Bank Check with check nos. 0215632 postdated on October 26, 1998 for the sum of Forty Six Thousand Pesos (P46,000.00) as security on the loan with P6,000.00 as the first month of interest charges. When the check became due, [respondent] defaulted to pay her loan despite several allowances of time and repeated verbal demands from the [petitioner]. The said check was later on dishonored for the reason: "Account Closed". Machine copy of Capitol Bank Check wit nos. 0215632 is herewith attached as Annex "B".
5. On July 4, 2002, [petitioner] engaged the services of the undersigned counsel to collect the account of the [respondent]; thus, on the same day, a demand letter was sent to and received by her on July 9, 2002. And despite receipt thereof, she failed and continues to evade the payment of her obligations to the damage and prejudice of the [petitioner]. **Thus, as of July 4, 2002, [respondent]'s loan obligation stood at TWO HUNDRED THIRTY EIGHT THOUSAND PESOS (P 239,000.00), inclusive of interest charges for 32 months.** Machine copy of Demand Letter and its registry receipt and return card is herewith attached as Annexes "C"; "C-1" and C-2", respectively.
6. In view of [respondent]'s refusal to pay her loan, [petitioner] is constrained to engage the services of counsel to initiate the instant action for a fee of 25% for whatever amounts is collected as flat attorney's fee. [Petitioner] will likewise incur damages in the form of docket fees.

PRAYER

WHEREFORE, it is respectfully prayed of the Honorable Court that Decision be rendered ordering the [respondent] to pay [petitioner] as follows:

1. The amount of **P238,000.00 with interest charges** at the sound discretion of the Honorable Court starting on July 4, 2002 until paid in full;
2. The sum equivalent to 25 % of the amount awarded as attorney's fee;
3. Cost of suit;
4. Other relief that the Honorable Court may find just and equitable under the premises are likewise prayed for.^[20] [Emphasis ours.]

The Court gleans from the foregoing that petitioner's cause of action is the respondent's violation of their loan agreement.^[21] In that loan agreement,

respondent expressly agreed to pay the principal amount of the loan, plus 15% monthly interest. Consequently, petitioner is claiming and praying for in his Complaint the total amount of P238,000.00, already inclusive of the interest on the loan which had accrued from 1998. Since the interest on the loan is a primary and inseparable component of the cause of action, not merely incidental thereto, and already determinable at the time of filing of the Complaint, it must be included in the determination of which court has the jurisdiction over petitioner's case. Using as basis the P238,000.00 amount being claimed by petitioner from respondent for payment of the principal loan and interest, this Court finds that it is well within the jurisdictional amount fixed by law for RTCs. [22]

There can be no doubt that the RTC in this case has jurisdiction to entertain, try, and decide the petitioner's Complaint.

To this Court, it is irrelevant that during the course of the trial, it was proven that respondent is only liable to petitioner for the amount of P40,000.00 representing the principal amount of the loan; P57,000.00 as interest thereon at the rate of 24% per annum reckoned from 26 August 1998 until the present; and P15,000.00 as attorney's fees. Contrary to respondent's contention, jurisdiction can neither be made to depend on the amount ultimately substantiated in the course of the trial or proceedings nor be affected by proof showing that the claimant is entitled to recover a sum in excess of the jurisdictional amount fixed by law. Jurisdiction is determined by the cause of action as alleged in the complaint and not by the amount ultimately substantiated and awarded. [23]

Basic as a hornbook principle is that jurisdiction over the subject matter of a case is conferred by law and determined by the allegations in the complaint which comprise a concise statement of the ultimate facts constituting the plaintiff's cause of action. [24] 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 complaint of the plaintiff, irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein. [25] The averments in the complaint and the character of the relief sought are the ones to be consulted. [26] Once vested by the allegations in the complaint, jurisdiction also remains vested irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein. [27]

On the propriety of the granting by the RTC of respondent's Petition for Relief from Judgment, the Court finds and so declares that the RTC did indeed commit an error in doing so.

First of all, a petition for relief under Rule 38 of the Rules of Court is only available against a final and executory judgment. [28] Since respondent allegedly [29] received a copy of the Decision dated 4 May 2004 on 14 May 2004, and she filed the Petition for Relief from Judgment on 28 May 2004, judgment had not attained finality. The 15-day period to file a motion for reconsideration or appeal had not yet lapsed. Hence, resort by respondent to a petition for relief from judgment under Rule 38 of the Rules of Court was premature and inappropriate.

Second, based on respondent's allegations in her Petition for Relief before the RTC, she had no cause of action for relief from judgment.