

## FIRST DIVISION

[ G.R. No. 146454, September 14, 2007 ]

**PAMELA S. SEVILLENNO AND PURITA S. SEVILLENNO,  
PETITIONERS, VS. PACITA CARILO AND CAMELO CARILO,  
RESPONDENTS.**

### D E C I S I O N

**SANDOVAL-GUTIERREZ, J.:**

For our resolution is a petition for review on *certiorari* assailing the Resolution<sup>[1]</sup> of the Court of Appeals (Third Division) dated December 20, 2000 in CA-G.R. CV No. 63608.

On October 28, 1998, Pamela and Purita, both surnamed Sevilлено, petitioners, filed with the Regional Trial Court (RTC), Branch 82, Quezon City, a complaint for damages against spouses Camelo and Pacita Carilo, respondents, docketed as Civil Case No. Q-35895. Petitioners prayed for an award of P5,000.00 as actual damages, P400,000.00 as moral damages, P10,000.00 as exemplary damages, and P50,000.00 for attorney's fees.

Respondents seasonably filed their answer with compulsory counterclaim. They prayed that the trial court dismiss the complaint for lack of cause of action.

On March 23, 1999, the RTC *motu proprio* issued an Order dismissing the case for lack of jurisdiction over the subject matter of the case.

Petitioners filed a motion for reconsideration but it was denied by the RTC in an Order dated May 18, 1999.

Petitioners interposed an appeal to the Court of Appeals but it was dismissed for being the wrong mode of appeal. The appellate court held that since the issue being raised is whether the RTC has jurisdiction over the subject matter of the case, which is a question of law, the appeal should have been elevated to the Supreme Court under Rule 45 of the 1997 Rules of Civil Procedure, as amended.

Section 2, Rule 41 of the same Rules which governs appeals from judgments and final orders of the RTC to the Court of Appeals, provides:

SEC. 2. *Modes of appeal.* —

(a) *Ordinary appeal.* — The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party. No record on appeal shall be required