

SECOND DIVISION

[G.R. No. 238805, September 23, 2020]

**SPOUSES JIMMY M. LIU & EMILE L. LIU, PETITIONERS, VS.
COURT OF APPEALS, REGIONAL TRIAL COURT, BRANCH 17
(DAVAO CITY) PRESIDING JUDGE AND ALVIN CRUZ,
RESPONDENTS.**

DECISION

INTING, J.:

This resolves the Petition for *Certiorari*^[1] under Rule 65 of the Rules of Court praying that the Decision^[2] dated July 31, 2017 and the Resolution^[3] dated January 31, 2018 of the Court of Appeals (CA) in CA-G.R. SP No. 07413-MIN be set aside and annulled.

The Antecedents

The case stemmed from a complaint for recovery of real property (*accion reivindicatoria*), reconveyance, to declare deed of sale by attorney-in-fact, power of attorney, affidavit of recovery and title null and void with damages filed by Spouses Jimmy M. Liu and Emile L. Liu (petitioners) against Alvin Cruz (private respondent) with Branch 17, Regional Trial Court (RTC), Davao City.

In the complaint, petitioners alleged that they are the registered owners in fee simple of a parcel of land covered by Transfer Certificate of Title (TCT) No. T-296879 located at Juan Luna Street, Poblacion, Davao City (subject property) with an assessed value of P19,840.00 and a market value of P99,200.00. They discovered that their original owner's duplicate copy of TCT No. T-296879 was missing. Hence, they reported the loss to the police authorities, who conducted an investigation. The investigation was reflected in the Police Blotter Entry No. 457 dated March 22, 2005.

^[4]

Petitioners further alleged that they executed an Affidavit of Loss and caused its annotation at the dorsal portion of the original certificate of title with the Registry of Land Titles & Deeds of Davao City with Entry No. 246006 inscribed on May 11, 2005. In the process, they discovered that two entries were also annotated at the dorsal portion of the Original Title, to wit: a sham Affidavit of Recovery with Entry No. 294863 and a spurious Special Power of Attorney with Entry No. 294864. They also discovered an annotation with no entry number referring to an "Absolute Deed of Sale" between private respondent and Tek Liong T. Jao (Jao) showing that petitioners' subject property was sold to private respondent in the amount of P1,488,000.00. No specimen signatures of petitioners appeared on the deed. The deed was notarized before a notary public in Davao City.^[5]

Petitioners furthermore alleged that upon verification with Atty. Remo Flores (Atty. Flores), Notary Public, he confirmed that his signatures appearing in the Affidavit of

Recovery and Special Power of Attorney were forged; and that he did not notarize them. With this finding, Atty. Flores made a written report with Branch 20, RTC, Tacurong City which approved his notarial commission.^[6]

Petitioners denied specifically under oath the genuineness of the purported Affidavit of Recovery and Special Power of Attorney, and asserted that they were the product of forgeries. They asserted that they did not receive a single centavo from the proceeds of the alleged sale.^[7]

Hence, the complaint praying that the Affidavit of Recovery, Special Power of Attorney, and the Sale by Attorney-in-Fact be declared as null and void and inexistent; that TCT No. T-413429 in the name of private respondent be cancelled and declared as null and void; and that the ownership and possession of the subject property be reconveyed or returned to them.^[8]

In his answer, private respondent denied the allegations of the petitioners, and as an affirmative defense, he alleged the following: (1) he was a buyer in good faith and a purchaser for value; (2) it was Jao who offered to him the sale of the subject property; (3) after an inspection of TCT No. T-296879, he noticed annotations/inscriptions of the Affidavit of Loss, Affidavit of Recovery, and Special Power of Attorney purportedly executed by petitioners; (4) and that he was never disturbed in his ownership and possession of the subject property until the filing of the complaint by petitioners.^[9]

Private respondent further denied having personal knowledge of the loss of the owner's duplicate copy of TCT No. T-296879 and of the forged signatures of Atty. Flores in the Affidavit of Recovery and Special Power of Attorney. However, he asserted that the signatures of Atty. Flores have a close resemblance to the questioned signatures.^[10]

By way of cross claim, private respondent averred that reimbursement or refund of the proceeds of the fraudulent transaction was proper; and that attorney's and appearance fees, litigation expenses, moral damages, and exemplary damages should be chargeable to Jao and Jerry Liu.^[11]

When it was private respondent's turn to present evidence, he filed a motion to dismiss on the ground of lack of jurisdiction considering that the assessed value of the subject property was only P19,840.00.

The Ruling of the RTC

On January 7, 2017,^[12] the RTC issued an Order denying the Motion to Dismiss. On motion for reconsideration, the RTC issued another Order dated April 6, 2017 denying it and setting the case for continuation of reception of private respondent's evidence.

Hence, private respondent filed a petition for *certiorari* with the CA, docketed as CA-G.R. SP No. 07413-MIN, assailing the denial of his motion to dismiss.^[13]

In an Order dated July 24, 2017, the RTC declared and deemed the private respondent to have rested his case after manifesting that his witness was already dead.^[14]

The Ruling of the CA

On July 31, 2017, the CA rendered the assailed Decision^[15] declaring that since the complaint was one for recovery of possession and title to the property, the assessed value of the property should be examined in order to determine which between the RTC or the Municipal Trial Court (MTC) has jurisdiction over the case;^[16] that jurisdiction is determined by the averments in the complaint;^[17] and that in the petitioners' complaint, it was revealed that the assessed value of the subject property was P19,840.00 which was well within the jurisdiction of the MTC.^[18]

On motion for reconsideration, the CA issued the assailed the Resolution^[19] dated January 31, 2018 denying it.

The Petition

The petitioners raise the following issues before the Court, to wit:

1. Whether or not the [CA] committed grave abuse of discretion amounting to lack or excess of jurisdiction in failing to hold that Civil Case No. 31, 986-07 is an action which is not capable of pecuniary estimation; consequently, the [RTC] is properly vested with jurisdiction to hear said case;
2. Whether or not the [CA] committed grave abuse of discretion amounting to lack or excess of jurisdiction in ordering the dismissal of Civil Case No. 31, 986-07 for lack of jurisdiction, in effect remanding the proceedings from the RTC Branch 17 Davao City to the first level court;
3. Whether or not the [CA] committed grave abuse of discretion amounting to lack or excess of jurisdiction in holding the assessed value of the Juan Luna Street property as determinative of jurisdiction of the court.^[20]

Our Ruling

The petition is technically and substantially flawed.

Procedural Aspect

The instant Petition for *Certiorari* is a wrong remedy and must, therefore, fail. The petition should not have been given due course at all.

Well-settled is the rule that appeals from judgments or final orders or resolutions of the CA should be by a verified petition for review on *certiorari* under Rule 45 of the Rules of Court. The Court made it clear that an aggrieved party is prohibited from assailing a decision or final order of the CA via Rule 65 because this recourse is proper only if the party has no plain, speedy, and adequate remedy in the course of law.^[21] In this case, petitioners had an adequate remedy which is a petition for review on *certiorari* under Rule 45 of the Rules of Court.

Therefore, a petition for review on *certiorari* under Rule 45 is the correct remedy and not a special civil action for *certiorari* under Rule 65 of the Rules of Court.

In *Pasiona, Jr. v. Court of Appeals, et al.*^[22] the Court ratiocinated in this wise: