

SECOND DIVISION

[G.R. No. 192530, March 07, 2018]

**TEE LING KIAT PETITIONER, V. AYALA CORPORATION
(SUBSTITUTED HEREIN BY ITS ASSIGNEE AND SUCCESSOR-IN-
INTEREST, BIENVENIDO B.M. AMORA, JR.), RESPONDENT.**

D E C I S I O N

CAGUIOA, J:

Before this Court is a Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court. (*Petition*) filed by Petitioner Tee Ling Kiat against Respondent Ayala Corporation, substituted by its assignee and successor-in-interest, Bienvenido B.M. Amora, Jr., (Amora), assailing the Court of Appeals' (CA): (1) *Decision*^[2] dated September 24, 2009; and (2) *Resolution*^[3] dated May 26, 2010 in CA-G.R. SP No. 105081.

In the assailed *Decision* and *Resolution*, the CA affirmed the *Order*^[4] of the Regional Trial Court - Makati City, Branch 59 (RTC Branch 59) dated February 20, 2008 and *Order*^[5] dated June 26, 2008, which dismissed Tee Ling Kiat's *Third-Party Claim*^[6] in Civil Case No. 40074.^[7]

The Antecedent Facts

The present petition arose from a judgment for a sum of money obtained by Ayala Corporation against Continental Manufacturing Corporation (CMC) and Spouses Dewey and Lily Dee (Spouses Dee)^[8] in 1990.

On January 28, 1981, Ayala Corporation instituted a *Complaint*^[9] for *Sum of Money with an application for a writ of attachment* against the Spouses Dee. The complaint was initially raffled to Branch 15 of the Court of First Instance of Rizal.^[10] It appears that on May 21, 1980, Ayala Investment and Development Corporation (AIDC) granted in favor of CMC a money market line in the maximum amount of P2,000,000.00.^[11] With Dewey Dee as the President of CMC then, the Spouses Dee executed a Surety Agreement on the same date, as guarantee for the money market line. One of CMC's availments under the money market line was evinced by a Promissory Note^[12] dated November 20, 1980 for P800,000.00 due on January 16, 1981. AIDC subsequently endorsed the Promissory Note to Ayala Corporation.^[13] CMC defaulted on its obligation under the promissory note, leading Ayala Corporation to institute a claim for sum of money against CMC and the Spouses Dee.^[14]

Ruling on the *Complaint for Sum of Money*, the RTC - Makati City, Branch 149 (RTC Branch 149) ruled in favor of Ayala Corporation in a *Decision*^[15] dated November 29, 1990, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered ordering [CMC and Spouses Dee] to pay [Ayala Corporation]:

1. The sum of Eight Hundred Thousand (P800,000.00) Pesos representing the amount of the subject promissory note plus Twelve (12%) Percent per annum interest from date of maturity until fully paid;
2. The sum of Twenty Thousand (P20,000.00) Pesos as attorney's fees; and
3. The costs of suit.

SO ORDERED.^[16]

With the above *Decision* having attained finality, the RTC Branch 149 forthwith issued a Writ of Execution^[17] against the Spouses Dee, commanding the sheriff^[18] to "*cause the execution of the aforesaid judgment against Sps. Dewey and Lily Dee, including payment in full of your lawful fees for the service of this writ.*"^[19] (Italics supplied)

Thereafter, on November 21, 2006, a *Notice of Levy on Execution*^[20] was issued and addressed to the Register of Deeds of Antipolo City, to levy upon "the rights, claims, shares, interest, title and participation"^[21] that the Spouses Dee may have in parcels of land covered by Transfer Certificates of Title (TCT) Nos. R-24038,^[22] R-24039,^[23] and R-24040^[24] and any improvements thereon.^[25] The parcels of land were registered in the name of Vonnell Industrial Park, Inc. (VIP).^[26] According to the Sheriffs Return^[27] filed on January 04, 2007, the titles over the subject properties are registered in the name of VIP, in which Dewey Dee was an incorporator.^[28]

Tee Ling Kiat's Third-Party Claim

On March 26, 2007, before the scheduled sale on execution,^[29] Tee Ling Kiat filed a *Third-Party Claim*, alleging that:

x x x the aforesaid levy was made based on the information that Mr. Dewey Dee was one of the incorporators of VIP. Apparently, the Sheriff who caused the levy made the assumption that since Mr. Dewey is one of the incorporators of VIP, then it follows that he is a stockholder thereof. Consequently, as such stockholder, he would have rights, claims, shares, interest, title and participation in the real properties belonging to VIP.

However, while Mr. Dewey Dee was indeed one of the incorporators of VIP, he is no longer a stockholder thereof. He no longer has any rights, claims, shares, interest, title and participation in VIP or any of its properties. As early as December 1980, Mr. Dewey Dee has already sold to Mr. Tee Ling Kiat all his stocks in VIP, as evidenced by a cancelled check which he issued in Mr. Tee Ling Kiat's favor. x x x

x x x x

Moreover, we would like to point out that even assuming that Mr. Dewey Dee is still a stockholder of VIP, at most he merely has rights, claims,

shares, interest, title and participation to its shares of stocks, but not as to the real properties registered under its name, x x x It is well to note that this property is the sole and exclusive property of VIP and that there is no showing that Mr. Dewey Dee has any right, claim, share, interest, title and participation therein. It must be likewise be emphasized that VIP is a corporate entity which has a legal personality separate and distinct from Mr. Dewey Dee and/or Ms. Lily L. Dee.^[30]

Attached to the *Third-Party Claim* was a copy of an *Affidavit*^[31] executed by Tee Ling Kiat, attesting to the fact that he is a stockholder of VIP and that he acquired knowledge of the levy on the subject properties only through newspaper,^[32] as well as a photocopy of cancelled checks^[33] issued by Tee Ling Kiat in Dewey Dee's favor, allegedly as payment for the purchase of the latter's shares in VIP.

Acting on the *Third-Party Claim*, the Office of the Clerk of Court of the RTC issued a *Notice of Third-Party Claim*^[34] on March 28, 2007. Amora, who by then had substituted Ayala Corporation, posted a bond in the amount of P2,658,700.00.^[35] VIP and Tee Ling Kiat opposed the posting of the bond in an *Ex-Parte Motion*^[36], claiming that the bond was less than the value of the property levied upon.

Nevertheless, the court approved the bond, leading VIP and Tee Ling Kiat to file an *Omnibus Motion*^[37] to declare null and void the *Notice of Levy on Execution* and all proceedings and issuances arising out of the same.^[38] In the *Omnibus Motion*, VIP and Tee Ling Kiat reiterated that Dewey Dee no longer had any interest in the levied property and that the bond was far less than the value of the property levied.^[39]

In his *Opposition to Third Party Claimants' Omnibus Motion*,^[40] Amora claimed that from the date of VIP's incorporation until present, no general information sheets and audited financial statements have been submitted by VIP to the Securities and Exchange Commission (SEC).^[41] Further, nowhere in the SEC records does Tee Ling Kiat's name appear as a stockholder.^[42] Meanwhile, the case was re-raffled to the RTC Branch 59 due to the inhibition of the judge formerly hearing the case.^[43]

Ruling of the RTC Branch 59

The RTC, in an *Order* dated February 20, 2008, denied VIP and Tee Ling Kiat's *Omnibus Motion* and disallowed the *third-party claim* because the alleged sale of shares of stock from Dewey Dee to Tee Ling Kiat was not proven. Specifically, the RTC ruled that:

First, Tee Ling Kiat failed to adduce evidence to prove that the sale of shares of stock from Dewey Dee to Tee Ling Kiat had taken place in accordance with the law. The purported Deed of Sale of Shares of Stock^[44] was not recorded in the stock and transfer books of VIP, as required by Section 63 of the Corporation Code.^[45] Thus, there was no valid transfer of shares as against third persons. The RTC observed that in support of the purported sale of shares of stock, Tee Ling Kiat merely submitted a cancelled check^[46] issued by Tee Ling Kiat in favor of Dewey Dee and a photocopy^[47] of the Deed of Sale of Shares of Stock dated December 29, 1980.

Second, the SEC had revoked^[48] VIP's Certificate of Registration as early as August 11, 2003^[49] for failure to comply with reportorial requirements. Consequently, in accordance with Section 122 of the Corporation Code^[50] which provides for the three-year period for the winding down of corporate affairs, VIP no longer had any capacity to sue when the third-party claim was instituted on March 26, 2007.^[51]

Finally, the indemnity bond posted by Amora was sufficient because Tee Ling Kiat was merely claiming "rights, claims, shares, interest, title and participation"^[52] of Dewey Dee in the subject property, and not the entire property.

Tee Ling Kiat's *Motion for Reconsideration*^[53] of the above Order having been denied in an RTC *Order* dated June 26, 2008, Tee Ling Kiat filed a petition for *certiorari* under Rule 65 of the Rules of Court before the CA. This time, however, the petition for *certiorari* was instituted solely in Tee Ling Kiat's name.^[54]

Ruling of the CA

The CA, in the assailed *Decision* dated September 24, 2009, denied Tee Ling Kiat's petition for *certiorari*, on the ground that Tee Ling Kiat is not a real party-in-interest, especially considering that the alleged sale of Dewey Dee's shares of stock to Tee Ling Kiat has not been proven.

In particular, the CA observed that Tee Ling Kiat failed to prove to the Court the existence or veracity of the claimed Deed of Sale of Shares of Stock. The CA held that "[i]t is not sufficient to attach photocopies of the deed or payment of checks to the motion, [Tee Ling Kiat] needed to submit evidence to prove that the transaction took place."^[55] Before the CA, Tee Ling Kiat also raised, for the first time, that he can be properly considered a trustee of VIP, entitled to hold properties on the latter's behalf. The CA observed, however, that there was no evidence produced to show that Tee Ling Kiat is a trustee of the corporation.^[56]

Thus, the CA held that Tee Ling Kiat utterly failed: (i) to prove that he is a stockholder of VIP; and assuming he is, (ii) to show that he was authorized by the corporation for the purpose of prosecuting the claim on behalf of the corporation.^[57]

In a *Resolution* dated May 26, 2010, the CA denied Tee Ling Kiat's motion for reconsideration for lack of merit.^[58] In denying Tee Ling Kiat's motion for reconsideration, the CA maintained its finding that Tee Ling Kiat lacked any legal personality to file the third-party claim, and consequently, the petition for *certiorari* before the CA.

Hence, this petition.

In asking the Court to set aside the assailed CA *Decision* and *Resolution*, Tee Ling Kiat submits that: *first*, as regards the recording of the alleged sale of stocks, the burden was on Ayala Corporation to overcome the disputable presumption that VIP followed its ordinary course of business as provided for in Section 3(q), Rule 131 of the Rules of Court. Considering that the duty to record the sale of shares of stock in the books lies with VIP, Tee Ling Kiat claims that such recording "need not be proved" by him.^[59] *Second*, that assuming Dewey Dee was still a stockholder of VIP, that what would have been the proper subjects of levy were the precise and actual shares of Dewey Dee and not the subject properties.^[60]

Tee Ling Kiat further prays for the Court's issuance of a Temporary Restraining Order (TRO) directing Amora and the sheriffs of RTC Branch 149 to immediately desist from executing the RTC *Orders*^[61] and to issue a Writ of Preliminary Injunction (WPI) after due notice and hearing.^[62]

In a *Resolution*^[63] dated July 7, 2010, the Court required Amora to comment on the *petition* which he did on October 15, 2010.^[64] In a *Resolution*^[65] dated June 13, 2011, the Court noted Tee Ling Kiat's reply.^[66]

Issue

The sole issue for the Court's resolution is whether the CA committed any reversible error in issuing its *Decision* dated September 24, 2009 and *Resolution* dated May 26, 2010.

Our Ruling

The petition lacks merit.

At the crux of determining whether the CA committed any reversible error in issuing the assailed *Decision* and *Resolution* is the question of whether it has been sufficiently proven by Tee Ling Kiat that Dewey Dee had in fact sold his shares of stock to Tee Ling Kiat in 1980, such that, as a result, Tee Ling Kiat can be considered a real party-in-interest in the *Third-Party Claim*, and consequently, in the petition for *certiorari* before the CA.

Such determination, however, inevitably necessitates a review of the probative value of the evidence adduced by Tee Ling Kiat. In this regard, the Rules of Court^[67] categorically state that a Rule 45 petition shall only raise questions of law. On the one hand, a question of law arises when there is doubt as to what the law is on a certain state of facts.^[68] On the other hand, a question of fact arises when doubt arises as to the truth or falsity of alleged facts.^[69] Once it is clear that the resolution of an issue invites a review of the evidence presented by the parties, the question raised is one of fact^[70] which this Court is precluded from reviewing in a Rule 45 petition.

Here, Tee Ling Kiat imputes error on the CA by the simple expedient of arguing that he did not personally need to prove that the sale of shares of stock between Dewey Dee and himself had in fact transpired, as the duty to record the sale in the corporate books lies with VIP. Such an argument, however, fails to recognize that the very right of Tee Ling Kiat, as a third-party claimant, to institute a *terceria* is founded on his claimed title over the levied property.^[71]

Consequently, although courts can exercise their limited supervisory powers in determining whether the sheriff acted correctly in executing the judgment, they may only do so if the third-party claimant has *unmistakably* established his ownership or right of possession over the subject property.^[72] Accordingly, if the third-party claimant's evidence does not persuade the court of the validity of his title or right possession thereto, the third-party claim will, and should be, denied.^[73]

Suffice it to state that the only evidence adduced by Tee Ling Kiat to support his claim that Dewey Dee's shares in VIP have been sold to him are a cancelled