

## THIRD DIVISION

[ G.R. No. 185082, November 28, 2016 ]

**MANDAUE REALTY & RESOURCES CORPORATION AND MANDAUE  
CITY REGISTER OF DEEDS, PETITIONERS, VS. THE COURT OF  
APPEALS AND BANGKO SENTRAL NG PILIPINAS, RESPONDENTS.**

### DECISION

**JARDELEZA, J.:**

This is a Petition for *Certiorari* and *Mandamus*<sup>[1]</sup> assailing the Resolutions dated July 25, 2008<sup>[2]</sup> and October 21, 2008<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. CEB-CV No. 02009. The assailed Resolutions denied the Motion to Dismiss Appeal<sup>[4]</sup> filed by Mandaue Realty and Resources Corporation (MARRECO). MARRECO claimed that the appeal filed by the Bangko Sentral ng Pilipinas (BSP) under Rule 41 of the Rules of Court was erroneous as the issues involved pure questions of law which are the proper subjects of a petition for review on *certiorari* under Rule 45.

#### Facts

On October 18, 2006, BSP filed a Complaint for Annulment of Title/Reconveyance/Reinstatement of Title<sup>[5]</sup> (Complaint) against MARRECO docketed as Civil Case No. MAN-5524 before the Regional Trial Court (RTC) of Mandaue City, Branch 56.<sup>[6]</sup>

BSP prayed that Transfer Certificate of Title (TCT) No. 54456<sup>[7]</sup> covering Lot 1-K-6-D-1 with an area of forty thousand two hundred fifty seven square meters (40,257 sq.m.) in Barangays Poblacion and Subangdaku, Mandaue, Cebu registered in the name of MARRECO be cancelled and that TCT No. 46781<sup>[8]</sup> covering the same property and registered in the name of BSP be reinstated.<sup>[9]</sup> In support of its prayer, BSP argued that the Order dated January 19, 2004<sup>[10]</sup> in Civil Case No. MAN-3902 entitled *Gotesco Properties, Inc. v. Bangko Sentral ng Pilipinas, et al.* rendered by RTC Branch 55, Mandaue City, nullifying BSP's title to the property and restoring the same to MARRECO, was null and void.<sup>[11]</sup>

The dispositive portion of the Order dated January 19, 2004 in Civil Case No. MAN-3902 reads:

WHEREFORE, judgment IS hereby rendered dismissing Gotesco's original complaint and the counterclaim of BSP for being moot and academic; and on the complaint-in-intervention, and annulling:

1. The Deed of Absolute Sale (Annex "B", Marreco complaint) executed by Marreco in favor of Gotesco;

2. The Deed of Real Estate Mortgage executed by Ever Electrical and Manufacturing, Inc. and Gotesco Properties, Inc. in favor of Orient Commercial Banking Corporation dated January 13, 1998 over TCT No. 41450, Register of Deeds, Mandaue City (Annex "B", Gotesco Amended Complaint);
3. The Deed of Assignment executed by Orient Commercial Banking Corporation in favor of Bangko Sentral ng Pilipinas dated January 9, 1998 in TCT No. 41450 (Annex "E", Marreco Complaint);
4. The Certificate of Sale executed by Atty. Joseph Boholst in favor of Bangko Sentral ng Pilipinas dated September 20, 1998 in TCT No. 41450 (Annex "C", Gotesco Complaint);
5. The Affidavit of Consolidation executed by Bangko Sentral ng Pilipinas dated September 26, 2000, annotated in TCT No. 41450, Annex "F" (Marreco Complaint).

The Court further orders:

1. The cancellation of TCT No. 41450 issued in the name of Gotesco Properties, Inc. (Annex "A", Gotesco Complaint);
2. The restoration or reinstatement of TCT No. 40447 in the name of Mandaue Realty and Resources Corporation (Annex "A", Marreco Complaint) and cancelling annotations under Entry Nos. 5184, 5185, 5186, and 5187, all inscribed on August 21, 1997 in the Memorandum of Encumbrances thereof;
3. Gotesco Properties, Inc. to pay to Mandaue Realty and Resources Corporation the sum of P1,000,000.00 for and as attorney['s] fees.

SO ORDERED.<sup>[12]</sup>

Instead of answering BSP's Complaint, MARRECO filed a Motion to Dismiss<sup>[13]</sup> dated January 29, 2007 alleging, among others, that: (1) RTC Branch 56 has no jurisdiction because the allegations in the Complaint seek the annulment of a final judgment rendered by a co-equal court; (2) as the issue of ownership of the property was already settled in Civil Case No. MAN-3902 and subsequently in CA-G.R. CV No. 81888 entitled *Gotesco Properties, Inc. v. Bangko Sentral and Pilipinas, et al.* through the CA's Resolution dated March 11, 2005,<sup>[14]</sup> BSP's complaint is already barred by *res judicata*; and (3) BSP is guilty of forum shopping.

In its Opposition to the Motion to Dismiss, BSP claimed, among others, that: (1) the Complaint was one for annulment of title under Article 476 of the Civil Code which falls within the exclusive jurisdiction of the RTC; (2) the CA's Resolution in CA-G.R. CV No. 81888 is not applicable; and (3) that BSP is not guilty of forum shopping.<sup>[15]</sup>

In its Reply, MARRECO pointed out BSP's failure to deny the finality of the January 19, 2004 Order of RTC Branch 55 and March 11, 2005 Resolution of the CA and that BSP's title was obtained under a notice of *lis pendens*. It also reiterated the grounds relied upon in its Motion to Dismiss.<sup>[16]</sup>

On March 22, 2007, RTC Branch 56 issued an Order,<sup>[17]</sup> dismissing BSP's Complaint on the ground of lack of jurisdiction. It ruled that its assumption of jurisdiction over the Complaint would result in trespassing upon or intruding into the exclusive domain and realm of a co-equal court. The dispositive portion of the Order reads:

WHEREFORE, foregoing premises considered, and without necessarily going into the merits of this case[,], the Court, in the interest of justice and judicial stability, has decided to, as it hereby decides, to GRANT the Defendant's *Motion to Dismiss*.

Accordingly, this case is hereby ordered DISMISSED.

SO ORDERED.<sup>[18]</sup>

BSP timely appealed the aforesaid Order by filing a Notice of Appeal and its Appellant's Brief.<sup>[19]</sup>

On November 11, 2008, MARRECO, instead of filing an Appellee's Brief:filed a Motion to Dismiss Appeal alleging that 1) the issues raised in the appellant's brief are pure questions of law; hence, the CA has no jurisdiction to entertain the appeal; and 2) the appeal is frivolous and dilatory.<sup>[20]</sup> Despite notice from the CA, BSP did not file its Comment.<sup>[21]</sup>

In the first assailed Resolution dated July 25, 2008, the CA denied the Motion to Dismiss Appeal on the ground that the issues raised in the appellant's brief involved mixed questions of fact and law.<sup>[22]</sup>

MARRECO then filed a Motion for Reconsideration.<sup>[23]</sup> In its Opposition to the Motion for Reconsideration, BSP argued that the Motion for Reconsideration was a mere rehash of the Motion to Dismiss Appeal, hence, *pro-forma*.<sup>[24]</sup> MARRECO then filed its Reply stating that: a) BSP was unable to defend the CA's Resolution in failing utterly to point out what factual issues were raised; b) the issues raised were all legal questions; c) as no trial was held and no evidence adduced, there was nothing to look into or evaluate; and d) the quoted paragraph in the RTC Judgment was at best a legal conclusion or *obiter dictum*.<sup>[25]</sup>

In the second assailed Resolution dated October 21, 2008, the CA denied MARRECO's Motion for Reconsideration.<sup>[26]</sup>

Hence, this Petition for *Certiorari* and *Mandamus*.

MARRECO argues that the issues raised in BSP's Appeal are pure questions of law which are proper subjects of a Rule 45 petition for review on *certiorari* filed before the Court and not of a notice of appeal under Rule 41 filed before the appellate court. It adds that the CA has no jurisdiction to decide appeals where only questions of law are involved because such jurisdiction belongs to the Court.<sup>[27]</sup> MARRECO prays that a writ of mandamus be issued directing the CA to dismiss BSP's appeal and a writ of *certiorari* be issued annulling the July 25, 2008 and October 21, 2008

### Issue

Whether the CA acted with grave abuse of discretion amounting to lack or excess of jurisdiction when it denied MARRECO's Motion to Dismiss Appeal and assumed jurisdiction over BSP's appeal.

### Ruling

We dismiss the petition.

A petition for *certiorari* will only lie in case of grave abuse of discretion.<sup>[29]</sup> It may be issued only where it is clearly shown that there is patent and gross abuse of discretion as to amount to an evasion of positive duty or virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility.<sup>[30]</sup>

Mandamus, on the other hand, is a command issuing from a court of law of competent jurisdiction, in the name of the state or the sovereign, directed to some inferior court, tribunal, or board, or to some corporation or person requiring the performance of a particular duty therein specified, which duty results from the official station of the party to whom the writ is directed or from operation of law.<sup>[31]</sup>

The CA did not act with grave abuse of discretion amounting to lack or excess of jurisdiction when it denied MARRECO's Motion to Dismiss Appeal and assumed jurisdiction over BSP's Appeal.

Section 2, Rule 41 of the Rules of Court<sup>[32]</sup> governs appeals from judgments and final orders of the RTC:

- (a) If the issues raised involve **questions of fact or mixed questions of fact and law**, the proper recourse is an **ordinary appeal to the CA in accordance with Rule 41** in relation to Rule 44 of the Rules of Court; and
- (b) If the issues raised involve **only questions of law**, the **appeal shall be to the Court by petition for review on certiorari in accordance with Rule 45 of the Rules of Court.**<sup>[33]</sup> (Emphasis supplied.)

In *Sevilleno v. Carilo*,<sup>[34]</sup> citing *Macawiwili Gold Mining and Development Co., Inc. v. Court of Appeals*,<sup>[35]</sup> we summarized:

- (1) In all cases decided by the RTC in the exercise of its original jurisdiction, appeal may be made to the Court of Appeals by mere notice of appeal where the **appellant raises questions of fact or mixed questions of fact and law**;
- (2) In all cases decided by the RTC in the exercise of its original jurisdiction where the **appellant raises only questions of law**, the appeal must be taken to the Supreme Court on a petition for review on *certiorari* under Rule 45[;]

- (3) All appeals from judgments rendered by the RTC in the exercise of its appellate jurisdiction, regardless of whether the appellant raises questions of fact, questions of law, or mixed questions of fact and law, shall be brought to the Court of Appeals by filing a petition for review under Rule 42.<sup>[36]</sup>  
(Emphasis supplied)

A question of law exists when there is doubt or controversy as to what the law is on a certain state of facts, and there is a question of fact when the doubt or difference arises as to the truth or falsehood of facts, or when the query necessarily invites calibration of the whole evidence considering mainly the credibility of witnesses, existence and relevancy of specific surrounding circumstances, their relation to each other and to the whole and probabilities of the situation.<sup>[37]</sup> No examination of the probative value of the evidence would be necessary to resolve a question of law. The opposite is true with respect to questions of fact.<sup>[38]</sup>

The test of whether a question is one of law or fact is not the appellation given to such question by the party raising the same. It is whether the appellate court can determine the issue raised without reviewing or evaluating the evidence and would only limit itself to the inquiry of whether the law was properly applied given the facts and supporting evidence.<sup>[39]</sup> Such is a question of law. Otherwise, it is a question of fact.

The nature of the issues to be raised on appeal can be gleaned from the appellant's notice of appeal filed in the trial court and in his or her brief as appellant in the appellate court.<sup>[40]</sup> Here, BSP raised the following issues in its Appellant's Brief:

- 1) In rendering the assailed order, the trial court erred in concluding that to assume jurisdiction over the instant case will operate to trespass upon or intrude into the exclusive domain and realm of a co-equal court.
- 2) Similarly, the trial court committed an erroneous appreciation of the true import of the Order dated [January 19,] 2004 issued by Judge Ulric R. Cañete.
- 3) The order dismissing the case of quieting of title has practically disregarded and rendered meaningless the provisions of the Philippine Civil Code, Chapter 3 entitled Quieting of Title.
- 4) Under the peculiar facts and law of the case below, the Honorable Court should remand the case to the trial court for further proceedings as mandated by the Rules of Court involving claims by the citizens of the country instead of dismissing the case on technicality when the same does not apply at all considering the abrogation or denial of the right of BSP to seek redress of its claims[.]<sup>[41]</sup>

Meanwhile, in its Appellant's Brief, BSP explained that while the January 19, 2004 Order of the trial court in Civil Case No. MAN-3902 did not direct the cancellation of TCT No. 46781, the Register of Deeds of Mandaue City, without notice to BSP, proceeded to cancel TCT No. 46781. As a result, BSP was compelled to file an action