SECOND DIVISION

[G.R. No. 170618, November 20, 2013]

FAR EASTERN SURETY AND INSURANCE CO., INC., PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

D E C I S I O N

BRION, J.:

Far Eastern Surety and Insurance Co., Inc. (*petitioner*) assails in this Rule 45 petition for review on *certiorari*[1] the Order[2] dated October 4, 2005, the Judgment of Forfeiture[3] dated October 6, 2005, and the Orders dated October 25, 2005,[4] November 14, 2005[5] and November 22, 2005,[6] all issued by the Regional Trial Court (RTC), Branch 64, Tarlac City in Criminal Case No. 12408, entitled "*The People of the Philippines v. Celo Tuazon.*"

The petitioner claims that it should not be held liable for a bail bond that it did not issue.

The Factual Antecedents

The petition traces its roots to the personal bail bond, with serial no. JCR (2) 1807, for the provisional release of Celo Tuazon (accused) which was filed before the RTC in Criminal Case No. 12408. The personal bail bond was under the signatures of Paul J. Malvar and Teodorico S. Evangelista as the petitioner's authorized signatories. On January 23, 2004, the RTC approved the bail bond.

On August 16, 2004, the Supreme Court issued A.M. No. 04-7-02-SC requiring all bonding companies to accredit all their authorized agents with the courts. The petitioner applied for its Certification of Accreditation and Authority to transact surety business with the courts and accordingly designated Samuel A. Baui as its authorized representative in Tarlac Province.

Subsequently, the accused failed to appear in the scheduled hearing for Criminal Case No. 12408, prompting the RTC to issue an order requiring the petitioner to produce the body of the accused and to explain why no judgment shall be rendered against the bond.

Samuel, who was then the petitioner's designated representative, filed a Motion for Extension of Time[7] to comply with the RTC's order. He likewise sought the petitioner's assistance for the use of its resources and agents outside Tarlac City because of the difficulty of arresting the accused.

Sometime thereafter, the petitioner allegedly verified from its register that it neither authorized nor sanctioned the issuance of a bail bond, with serial no. JCR (2) 1807, and on this basis, it filed with the RTC a Very Urgent Motion to Cancel Fake/Falsified

Bail Bond. The petitioner alleged that the signature of Teodorico in the bail bond had been forged; it also alleged that Paul was not an authorized signatory; his name was not listed in the Secretary's Certificate submitted to the Court. In support of its motion, it attached copies of the Personal Bail Bond, its Corporate Secretary's Certificate, and the Special Power of Attorney in favor of Medy S. Patricio, and prayed to be relieved from any liability under the bail bond.

The RTC denied the petitioner's motion on the ground that the petitioner had indirectly acknowledged the bond's validity when it filed a motion for extension of time with the trial court. The RTC subsequently issued a Judgment of Forfeiture for P200,000.00 against the petitioner. The petitioner sought reconsideration of the judgment, but the RTC denied the motion.

On October 25, 2005, the RTC issued another order, this time directing the issuance of a writ of execution. The petitioner responded by filing an omnibus motion to hold in abeyance or quash the writ, but the RTC similarly denied this motion. The petitioner thereafter filed this Rule 45 petition to assail the Orders dated October 4, 2005, October 25, 2005, November 14, 2005 and November 22, 2005, and the Judgment of Forfeiture dated October 6, 2005, all of them issued by the RTC.

The Petition

The petitioner principally argues that the RTC erred in ruling that the petitioner indirectly acknowledged the falsified bond's validity when it filed a motion for extension of time to respond to the lower court's order of August 2, 2005. It also disclaims liability under the bond based on the absence of the name of Paul in the Secretary's Certificate of authorized signatories, and based on the alleged forgery of Teodorico's signature. It lastly argues that the RTC failed to observe the mandate of A.M. No. 04-7-02-SC when it did not verify the signatures' authenticity and confirm the petitioner's authorized signatories in the Secretary's Certificate before approving the bond.

The Case for the Respondent

The respondent People of the Philippines, for its part, maintains that the petitioner is already estopped from questioning the bail bond's authenticity. It likewise contends that the petitioner used the wrong mode of review; the proper remedy is a special civil action for *certiorari* under Rule 65, not a petition for review on *certiorari* under Rule 45. It lastly argues that the case involves factual issues that are beyond the scope of a Rule 45 petition.

The Issues

In its petition, the petitioner raises the following issues for our resolution:

   I. Whether the RTC erred in ruling that the alleged falsified bond's validity can be indirectly acknowledged.

   II. Whether the RTC erred in holding the petitioner liable under the alleged falsified bond.

III. Whether the RTC erred in failing to observe and apply A.M. No. 04-7-02-SC.

IV. Whether the RTC erred in ruling that the alleged falsified bond is binding upon the petitioner.

The Court's Ruling

We deny the petition as we cannot rule on it without the established or undisputed facts on which to base our rulings of law on the presented issues. In short, the petitioner used the wrong mode of appeal, rendering us unable to proceed even if we would want to.

We note that the petitioner directly comes to this Court *via* a Rule 45 petition, in relation with Rule 41 of the Rules of Civil Procedure (*Rules*), on alleged pure questions of law.

Under Rule 41 of the Rules, an appeal from the RTC's decision may be undertaken in three (3) ways, depending on the nature of the attendant circumstances of the case, namely: (1) an **ordinary appeal** to the Court of Appeals (CA) in cases decided by the RTC in the exercise of its original jurisdiction; (2) a **petition for review** to the CA in cases decided by the RTC in the exercise of its appellate jurisdiction; and (3) a **petition for review on certiorari** directly filed with the Court where only questions of law are raised or involved.

The first mode of appeal under Rule 41 of the Rules is available on questions of fact or mixed questions of fact and of law. The second mode of appeal, governed by Rule 42 of the Rules, is brought to the CA on questions of fact, of law, or mixed questions of fact and of law. The third mode of appeal under Rule 45 of the Rules of Court is filed with the Court only on questions of law.[8] It is *only where pure questions of law* are raised or involved can an appeal be brought to the Court via a petition for review on *certiorari* under Rule 45.[9]

A question of law arises when there is doubt as to what the law is on a certain state of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts.[10] For a question to be one of law, its resolution must not involve an examination of the probative value of the evidence presented by the litigants, but must rely solely on what the law provides on the given set of facts. If the facts are disputed or if the issues require an examination of the evidence, the question posed is one of fact. The test, therefore, is not the appellation given to a question by the party raising it, but whether the appellate court can resolve the issue without examining or evaluating the evidence, in which case, it is a question of law; otherwise, it is a question of fact.[11]

An examination of the present petition shows that **the facts are disputed**. The issues of the authenticity and of the validity of the bail bond's signatures and the authority of its signatories had never been resolved. When the petitioner questioned the RTC's ruling, it was, in fact, raising the issues of falsity and of forgery of the signatures in the bail bond, which questions are purely of fact.[12] To quote the pertinent portion of the RTC's order: