

THIRD DIVISION

[G.R. No. 156448, February 23, 2011]

**SPS. MOISES AND CLEMENCIA ANDRADA, PETITIONERS, VS.
PILHINO SALES CORPORATION, REPRESENTED BY ITS BRANCH
MANAGER, JOJO S. SAET, RESPONDENT.**

D E C I S I O N

BERSAMIN, J.:

An appeal by petition for review on *certiorari* under Rule 45 shall raise only questions of law. Thus, the herein petition for review must fail for raising a question essentially of fact.

Antecedents

On December 28, 1990, respondent Pilhino Sales Corporation (Pilhino) sued Jose Andrada, Jr. and his wife, Maxima, in the Regional Trial Court in Davao City (RTC) to recover the principal sum of P240,863.00, plus interest and incidental charges (Civil Case No. 20,489-90). Upon Pilhino's application, the RTC issued a writ of preliminary attachment, which came to be implemented against a Hino truck and a Fuso truck both owned by Jose Andrada, Jr. However, the levies on attachment were lifted after Jose filed a counter-attachment bond.

In due course, the RTC rendered a decision against Jose Andrada, Jr. and his wife. Pilhino opted to enforce the writ of execution against the properties of the Andradas instead of claiming against the counter-attachment bond considering that the premium on the bond had not been paid. As a result, the sheriff seized the Hino truck and sold it at the ensuing public auction, with Pilhino as the highest bidder. However, the Hino truck could not be transferred to Pilhino's name due to its having been already registered in the name of petitioner Moises Andrada. It appears that the Hino truck had been meanwhile sold by Jose Andrada, Jr. to Moises Andrada, which sale was unknown to Pilhino, and that Moises had mortgaged the truck to BA Finance Corporation (BA Finance) to secure his own obligation.

BA Finance sued Moises Andrada for his failure to pay the loan (Civil Case No. 5117). After a decision was rendered in the action in favor of BA Finance, a writ of execution issued, by which the sheriff levied upon and seized the Hino truck while it was in the possession of Pilhino and sold it at public auction, with BA Finance as the highest bidder.

Consequently, Pilhino instituted this action in the RTC in Davao City against Spouses Jose Andrada, Jr. and Maxima Andrada, Spouses Moises Andrada and Clemencia Andrada, Jose Andrada, Sr., BA Finance, Land Transportation Office (in Surallah, South Cotabato), and the Registrar of Deeds of General Santos City to annul the following: (a) the deed of sale between Jose Andrada, Jr. and Moises Andrada; (b)

the chattel mortgage involving the Hino truck between Moises Andrada and BA Finance; (c) the deed of conveyance executed by Jose Andrada, Jr. in favor of his father, Jose Andrada, Sr., involving a hard-top jeep; and (d) the certificate of registration of the Hino truck in the name of Moises Andrada as well as the registration of the chattel mortgage with the Registry of Deeds of General Santos City. The action was docketed as Civil Case No. 21,898-93.

Of the Andradas who were defendants in Civil Case No. 21,898-93, only Moises Andrada and his wife filed their responsive pleading. Later on, Jose Andrada, Jr. and his wife and Pilhino submitted a compromise agreement dated August 20, 1993. They submitted a second compromise agreement dated March 4, 1994 because the first was found to be defective and incomplete. The RTC thereafter rendered a partial judgment on March 21, 1994 based on the second compromise agreement. After that, further proceedings were taken in Civil Case No. 21,898-93 only with respect to Moises Andrada and his wife, and BA Finance.

Moises Andrada and his wife averred as defenses that they had already acquired the Hino truck from Jose Andrada, Jr. free from any lien or encumbrance prior to its seizure by the sheriff pursuant to the writ of execution issued in Civil Case No. 20,489-90; that their acquisition had been made in good faith, considering that at the time of the sale the preliminary attachment had already been lifted; and that Pilhino's recourse was to proceed against the counter-attachment bond.

For its part, BA Finance claimed lack of knowledge of the truth of the material allegations of the complaint of Pilhino; and insisted that the Hino truck had been validly mortgaged to it by Moises Andrada, the lawful owner, to secure his own valid obligation.

On March 25, 1998, the RTC, citing the compromise agreement between Pilhino and Jose Andrada, Jr. that had settled all the claims of Pilhino against Jose Andrada, Jr., and the good faith of Pilhino and BA Finance in filing their respective actions, rendered its decision in Civil Case No. 21,898-93,^[1] disposing:

WHEREFORE, judgment is rendered dismissing this case insofar as the spouses Moises Andrada and Clemencia Andrada, Jose Andrada, Sr. and BA Finance Corporation, now accordingly BA Savings Bank, including the counterclaims.

SO ORDERED.

Spouses Moises and Clemencia Andrada appealed the decision rendered on March 25, 1998 to the extent that the RTC thereby: (a) dismissed their counterclaim; (b) declared that the deed of sale of the Hino truck between Jose Andrada, Jr. and Moises Andrada had been simulated; and (c) approved the compromise agreement between Pilhino and Spouses Jose Andrada, Jr. and Maxima Andrada.

On December 13, 2001, the Court of Appeals (CA) promulgated its decision, as follows:^[2]

WHEREFORE, the judgment appealed from is AFFIRMED with the modification that the sale of the Hino truck by defendant Jose Andrada, Jr. in favor of defendant-appellant Moises Andrada is declared valid, subject to the rights of BA Finance as mortgagee and highest bidder.

SO ORDERED.

Spouses Moises and Clemencia Andrada are now before the Court *via* petition for review on *certiorari* to pose the following issues: [3]

1. Whether or not Pilhino should be held liable for the damages the petitioners sustained from Pilhino's levy on execution upon the Hino truck under Civil Case No. 20, 489-90; and
2. Whether or not Pilhino was guilty of bad faith when it proceeded with the levy on execution upon the Hino truck owned by Moises Andrada.

Ruling

We find no merit in the petition for review.

The petitioners assail the decision promulgated by the CA to the extent that it denied their claim for the damages they had sought by way of counterclaim. They anchored their claim on Article 21 of the *Civil Code*, which provides that "*any person who willfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for damage.*"

Article 21 of the *Civil Code*, in conjunction with Article 19 of the *Civil Code*, is part of the cause of action known in this jurisdiction as "abuse of rights." The elements of abuse of rights are: (a) there is a legal right or duty; (b) exercised in bad faith; and (c) for the sole intent of prejudicing or injuring another.[4]

In its assailed decision, the CA found that Pilhino had acted in good faith in bringing Civil Case No. 21, 898-93 to annul the deed of sale involving the Hino truck executed by Jose Andrada, Jr. in favor of Moises Andrada, considering that Pilhino had "believed that the sale in favor of defendants-appellants [had been] resorted to so that Jose Andrada [might] evade his obligations." [5] The CA concluded that no remedy was available for any damages that the petitioners sustained from the filing of Civil Case No. 21, 898-93 against them because "the law affords no remedy for such damages resulting from an act which does not amount to a legal injury or wrong." [6]

Worthy to note is that the CA's finding and conclusion rested on the RTC's own persuasion that the sale of the Hino truck to Moises Andrada had been simulated. [7]

Yet, the petitioners still insist in this appeal that both lower courts erred in their conclusion on the absence of bad faith on the part of Pilhino.