

## SECOND DIVISION

[ G.R. NO. 160514, June 30, 2006 ]

**GENERAL MILLING CORPORATION, PETITIONER, VS. TIRSO UYTENGUSU III, KATHLEEN UYTENGUSU-TAN AND BARBARA UYTENGUSU-TAN, RESPONDENTS.\*\*\***

### D E C I S I O N

#### **CORONA, J.:**

This is a review of the Court of Appeals decision<sup>[1]</sup> and resolution<sup>[2]</sup> dated February 28, 2003 and September 24, 2003, respectively, in CA G.R. SP No. 72140. The sole issue before us is whether or not the Court of Appeals erred in finding no grave abuse of discretion on the part of the Regional Trial Court<sup>[3]</sup> (RTC) in denying petitioner's<sup>[4]</sup> motion to dismiss in Civil Case No. 6570.<sup>[5]</sup>

The facts follow.

Respondents Tirso Uytengusu III, Kathleen Uytengusu-Tan and Barbara Uytengusu-Tan instituted Civil Case No. 6570 for the "recovery of possession of duplicate original copies of Original Certificate of Title (OCT) Nos. 6612 and 6613"<sup>[6]</sup> against Luis Wee, George Young and the Registrar of Deeds of General Santos City.

Petitioner General Milling Corporation was impleaded as defendant on September 15, 1999 in a second amended complaint setting forth the new allegation that petitioner had possession of the OCTs. After petitioner filed its answer, respondents filed a third amended complaint stating that petitioner fraudulently obtained the OCTs and petitioner's refusal to surrender the same caused great damage and prejudice to the respondents.<sup>[7]</sup>

On June 19, 2001, petitioner filed a motion to dismiss<sup>[8]</sup> the third amended complaint on the ground of lack of jurisdiction. RA 7691<sup>[9]</sup> vested the RTCs with jurisdiction over all civil actions involving title to or possession of real property or any interest therein where the assessed value of the property involved exceeded Twenty Thousand Pesos (P20,000):

"The failure to allege such jurisdictional fact is fatal because absent the amount of the assessed value there is no way the court can acquire jurisdiction over the amended complaint."<sup>[10]</sup>

On August 28, 2001, the trial court denied the motion to dismiss.<sup>[11]</sup> The motion for reconsideration was denied on April 25, 2002.

In a petition for certiorari<sup>[12]</sup> to the Court of Appeals, petitioner assailed the trial

court's resolution denying the motion to dismiss as having been issued with grave abuse of discretion. The Court of Appeals, however, was not persuaded:

"[T]he question for resolution is whether or not the [petitioner had] the legal right to hold on to the certificates of title issued to [respondents]. The issue was clearly incapable of pecuniary estimation."<sup>[13]</sup>

The motion for reconsideration was denied.<sup>[14]</sup> Hence, this recourse.

The petition is denied.

The case was no doubt one for recovery of possession of the OCTs:

"[R]espondents merely [sought] that [petitioner] be required to deliver the owner's copy of [respondents'] duplicate of OCT Nos. 6612 and 6613 which were in possession of [petitioner]."<sup>[15]</sup>

In particular, petitioner was rather hasty in assuming that the case was an action for quieting of title.

"Under Article 476 of the New Civil Code, the remedy [of quieting of title] may be availed of only when, by reason of any instrument, record, claim, encumbrance or proceeding, which appears valid but is, in fact, invalid, ineffective, voidable or unenforceable, a cloud is thereby casts on the complainant's title to real property or any interest therein."<sup>[16]</sup>

In this case, the trial court and the Court of Appeals found no such allegation in the complaint.

Settled is the rule that the jurisdiction of the court is determined by the relevant allegations in the complaint and the character of the relief sought.<sup>[17]</sup> It cannot be made to depend on the defenses made by the defendant in his answer or motion to dismiss. If such were the rule, the question of jurisdiction would depend almost entirely on the defendant.<sup>[18]</sup>

The complaint based its cause of action on petitioner's refusal to surrender the OCTs. As primary relief, the complaint sought the delivery by petitioner of the said OCTs. Clearly, the subject matter of the case at bar was *not a real action requiring an allegation of the assessed value of the property* but one which was incapable of pecuniary estimation. Hence, it was within the jurisdiction of the RTC. Any other consequence of the primary relief sought in the complaint could not properly be a basis for impugning the jurisdiction of the trial court.

"In determining whether an action is one the subject matter of which is not capable of pecuniary estimation this Court has adopted the criterion of first ascertaining the nature of the principal action or remedy sought. ... Where the basic issue is something other than the right to recover a sum of money ... this Court has considered such actions as cases where the subject of the litigation may not be estimated in terms of money and are cognizable by [the regional trial courts]."<sup>[19]</sup>

The denial of the motion to dismiss was based on a correct appreciation of the relevant allegations in the complaint. We agree with the Court of Appeals that