



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

ALEXIS C. ALMENDRAS,
Petitioner,

G.R. No. 198209

Present:

- versus -

SERENO, C.J., *Chairperson,*
 LEONARDO-DE CASTRO,
 DEL CASTILLO,
 PERLAS-BERNABE, *and*
 CAGUIOA, JJ.

**SOUTH DAVAO DEVELOPMENT
 CORPORATION, INC., (SODACO),
 ROLANDO SANCHEZ,
 LEONARDO DALWAMPO and
 CARIDAD C. ALMENDRAS,**
Respondents.

Promulgated:
MAR 22 2017

X-----X *[Signature]* X

RESOLUTION

DEL CASTILLO, J.:

This Petition for Review on *Certiorari*¹ filed by petitioner Alexis C. Almendras (petitioner) assails the Orders dated March 28, 2011² and August 9, 2011³ of the Regional Trial Court (RTC), Digos, Davao del Sur, Branch 20. The abovementioned Orders respectively dismissed petitioner's Amended Complaint for Annulment of Deed of Sale, Damages and Attorney's fees and the reconsideration sought.

Antecedent Facts

On September 13, 2004, petitioner filed an Amended Complaint⁴ seeking to annul the Deed of Sale (DOS) executed by and among respondents Caridad C. Almendras (Caridad), Rolando C. Sanchez (Rolando) and Leonardo Dalwampo over a parcel of unregistered land located at Inawayan, Sta. Cruz, Davao del Sur containing approximately 6.3087 hectares. Petitioner alleged that he owned and had occupied said parcel of land since September 21, 1978 until he was forcibly

¹ Rollo, pp. 3-22.
² Records, pp. 415-422; penned by Judge Aibert S. Axalan.
³ Id. at 447-448.
⁴ Id. at 206-210.

[Signature]

dispossessed by respondent South Davao Development Company, Inc. (SODACO) on April 23, 1994. Petitioner claimed that Caridad sold the property to Rolando, a purported dummy of SODACO.

During the proceedings on March 16, 2010, Rolando filed a Request for Admission⁵ addressed to petitioner. The said Request for Admission reads in parts:

I. That the following Resolutions/Orders of the Regional Trial Court, Branch 18, Digos City, acting as a Guardianship Court in Special Proceeding No. 830, are genuine, which copies thereof are furnished or served to your counsel, Atty. Rodolfo B. Ta-asan, Jr. and Atty. Lorenzo B. Ta-asan III, to wit:

(a) The Resolution dated January 8, 1993, approving the Petition for Guardianship over the person and properties of Alejandro D. Almendras, Sr., filed by petitioners Caridad C. Almendras, Alexis C. Almendras, Manuel C. Almendras, Elizabeth Almendras-Alba, Rosalinda Almendras-Unson, Alejandro C. Almendras, Jr., Chuchi Almendras-Aguinaldo, and Paul C. Almendras, and appointing Rosalinda Almendras-Unson as the Guardian over the person of Alejandro D. Almendras, Sr., and Paul C. Almendras and Elizabeth Almendras-Alba as Guardians over the properties of said Alejandro D. Almendras, Sr.;

(b) The Order dated October 14, 1993, granting authority to the Judicial Guardians Paul C. Almendras and Elizabeth Almendras-Alba to sell the agricultural properties indicated in the said Order;

(c) The Order dated October 29, 1993, approving the sale made by the Judicial Guardians Paul C. Almendras and Elizabeth Almendras-Alba under the authority of the Guardianship Court over the following agricultural properties in favor of the individual vendees, to wit:

Lot No. 59, Pcs-5021 in favor of Jose C. Gahuman;
Lot Nos. 48, 49 and 60, Pcs-5021 in favor of Ruel D. Sevilla;
Lot No. 50, Pcs-5021 in favor of Leonardo M. Dalwampo;
Lot No. 53, Pcs-5021 in favor of Rolando C. Sanchez;
Lot No. 47, Pcs-5021 in favor of Magno B. Villaflores;

II. That the following documents are genuine, which copies are likewise furnished or served to your counsels Atty. Rodolfo B. Ta-asan, Jr. and Lorenzo B. Ta-asan III, to wit:

(d) The Deed of Sale dated October 15, 1993, between the vendors: Caridad C. Almendras, Judicial Guardians Paul C. Almendras and Elizabeth Almendras-Alba and the vendee: Rolando C. Sanchez, over the parcel of agricultural land denominated as Lot No. 53, Pcs-5021, situated at Quinocol, Inawayan, Sta. Cruz, Davao del Sur, and duly acknowledged before notary public Raul O. Tolentino, as Doc. No. 257, Page No. 52; Book No. XXIX; Series of 1993;

III. That each of the following matters of fact are true.



⁵ Id. at 360-363.

x x x x

(c) That sometime in November, 1992, the late Alejandro D. Almendras, Sr. then suffered a 'cerebrovascular accident' or a 'stroke' which left him physically and mentally incapacitated;

(d) That when Alejandro D. Almendras, Sr. was then recuperating at the Cebu Doctor's Hospital, the plaintiff, together with his mother, brothers and sisters, held a family conference and decided to institute a guardianship proceeding and nominated Rosalinda Almendras-Unson to be the guardian over the person of Alejandro D. Almendras, Sr. and Paul C. Almendras and Elizabeth Almendras-Alba as the guardians over the properties and Alejandro D. Almendras, Sr.;

(e) That the plaintiff, together with his mother and brothers and sisters did, in fact, institute a guardianship proceeding over the person and properties of Alejandro D. Almendras, Sr., sometime in December, 1992, then pending before the Regional Trial Court, Branch 18, Digos, Davao del Sur, and docketed as Special Proceeding No. 830;

(f) That the Almendras coconut plantation situated at Upper Quinocol, Inawayan, Sta. Cruz, Davao del Sur, comprising seven (7) adjoining cadastral lots, was among the properties belonging to Alejandro D. Almendras, Sr. and placed under the jurisdiction of the Guardianship Court in Special Proceeding No. 830, to wit:

Lot No. 50, Pcs-5021 with an area of 5.1403 has.

Lot No. 59, Pcs-5021 with an area of 3.4710 has.

Lot Nos. 48, 49, 60, Pcs-5021, with an area of 5.1664 has.

Lot No. 53, Pcs-5021, with an area of 6.3080 has.

Lot No. 47, Pcs-5021, with an area of 3.4461 has.

(g) That plaintiff **ALEXIS C. ALMENDRAS** did not oppose the inclusion of the subject property denominated as Lot. No. 53, Pcs-5021, under the Guardianship Court in Special Proceeding No. 830;

(h) That plaintiff **ALEXIS C. ALMENDRAS** did not oppose the grant of authority to the judicial guardians Paul C. Almendras and Elizabeth Almendras-Alba to sell the individual lots comprising the Almendras coconut plantation to different vendees, particularly, the subject property denominated as Lot No. 53, Pcs-5021 in favor of defendant **ROLANDO C. SANCHEZ**;

(i) That plaintiff **ALEXIS C. ALMENDRAS** did not seek a reconsideration nor appeal the Order of the Guardianship Court dated October 29, 1993, approving the sale of the individual lots comprising the Almendras coconut plantation to different vendees;⁶ (Emphasis supplied)

Petitioner, however, failed to file a sworn statement specifically denying the matters therein or setting forth in detail the reasons why he cannot either deny or

⁶ Id. at 360-362



admit said matters. Thus, Rolando filed a Motion for Summary Judgment.⁷ He alleged that there being no genuine issue as to any material fact, and the issue of ownership raised by petitioner being sham or fictitious, except as to the issue of damages, he is entitled to a summary judgment. Rolando prayed that the complaint be dismissed, that the validity of the DOS as well as his ownership and possession of the subject property be upheld, and that a hearing be conducted solely for the purpose of determining the propriety of his counterclaim for damages.

Petitioner opposed the Motion for Summary Judgment claiming that he was not personally served a copy of the Request for Admission. Moreover, he averred that the same was fatally defective for failure to comply with Section 5, Rule 15 of the Rules of Court on notice of hearing.⁸

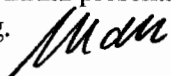
In the assailed March 28, 2011 Order, the RTC held that contrary to petitioner's claim, he was in fact served a copy of the Motion for Summary Judgment via registered mail and that he received a copy thereof on March 24, 2010⁹ while his counsel was furnished a copy thereof on March 17, 2010.¹⁰ The RTC also held that there was a faithful compliance on the notice of hearing requirement. It noted that the motion was filed on June 29, 2010 while the hearing was scheduled on July 9, 2010. Thus, it cannot be said that there was violation of Section 5, Rule 15 of the Rules of Court.

The RTC then concluded that by petitioner's failure to respond to the Request for Admission, he was deemed to have admitted or impliedly admitted the matters specified therein. In particular, petitioner is deemed to have admitted the fact that the property in question had been validly sold to Rolando thereby rendering the complaint without any cause of action.¹¹

The dispositive portion of the March 28, 2011 Order reads:

WHEREFORE, partial summary judgment is hereby rendered in favour of defendant Sanchez decreeing the dismissal of the complaint against him. The issue on damages will be heard on July 18, 2011 at 8:30 in the morning.

With regard to defendants Caridad Almendras and SODACO, set this case for initial presentation of plaintiff's evidence on July 18, 2011 at 8:30 in the morning.



⁷ Id. at 376-385.

⁸ Id. at 390-392.

⁹ Id. at 420.

¹⁰ Id.

¹¹ Id. at 421-422.

SO ORDERED.¹²

Petitioner filed a Motion for Reconsideration¹³ insisting that he cannot be considered to have admitted the matters specified in the Request for Admission. SODACO also sought reconsideration of the March 28, 2011 Order claiming that the complaint filed against it should likewise be dismissed considering that petitioner could not maintain a suit against him after the dropping of the suit against Rolando.

In an Order¹⁴ dated August 9, 2011, the RTC denied petitioner's Motion for Reconsideration but granted that of SODACO, *viz.*:


WHEREFORE, the motion for reconsideration filed by the plaintiff is DENIED. The motion for reconsideration filed by SODACO is GRANTED. Consequently, the Order dated March 28, 2011 is hereby modified in the sense that the complaint against all defendants including the counterclaims, are Ordered DISMISSED.

SO ORDERED.¹⁵

Aggrieved by the RTC's Orders, petitioner sought recourse directly to this Court via the instant Petition for Review.

We **DENY** the Petition for Review.

The instant Petition denominated as a petition for review, wrongfully alleged grave abuse of discretion on the part of the RTC. A petition for review on *certiorari* under Rule 45 of the Rules of Court is glaringly different from a petition for *certiorari* under Rule 65 of the Rules of Court. "A petition for review under Rule 45 of the x x x Rules of Court is generally limited only to questions of law or errors of judgment. On the other hand, a petition for *certiorari* under Rule 65 may be availed of to correct errors of jurisdiction including the commission of grave abuse of discretion amounting to lack or excess of jurisdiction."¹⁶

Here, petitioner ascribed grave abuse of discretion to the RTC claiming that contrary to the lower court's ruling, he could not have received the motion on March 24, 2010 (as stated in the postmaster's certification) given that the motion was filed only on June 26, 2010. 

¹² Id. at 422.

¹³ Id. at 423-427.

¹⁴ Id. at 447-448.

¹⁵ Id. at 448.

¹⁶ *Nazareno v. City of Dumaguete*, 607 Phil. 768, 792 (2009), citing *Bacelonia v. Court of Appeals*, 445 Phil. 300 (2003).

It must be stressed that only questions of law may be properly raised in a petition for review. Whether or not petitioner received a copy of the motion on March 24, 2010 is a factual issue and such is not within the ambit of a petition for review.

In any case, it may be well to remind petitioner that he never raised the issue of lack of service of the **Motion for Summary of Judgment** to him. His petition mainly rests on the failure to serve him a copy of the **Request for Admission**. Given that the Request for Admission was dated March 11, 2010, it would be logical to think that the registry return card was for the said Request.

A perusal of the March 28, 2011 Order would readily show that the RTC meant to refer to the Request for Admission vis-à-vis the applicability of the registry return card and the letter-certification of the postmaster:

Plaintiff through counsel opposed the motion on the grounds that the motion is fatally defective for failure to comply with Section 5 of Rule 15 and that the request for admission was not directly served on him but copy furnished only upon his counsel.¹⁷ (Underscoring supplied)

Despite this being beyond the ambit of a petition for review, we find that such error does not constitute grave abuse of discretion. Petitioner should read the March 28, 2011 Order in its entirety to see that the said “absurdity” would not have caused him great damage and prejudice. If he were really keen on protecting his rights after noting the flaw in the March 28, 2011 Order, it would have been prudent for him to file a Motion for Correction of Judgment or to seek a different mode of appeal (*i.e.* Petition for *Certiorari*) but he did not.

The determination of whether an issue involves a question of law or a question of fact has been discussed in *Republic v. Malabanan*¹⁸ where this Court explained:

x x x 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. For a question to be one of law, the same must not involve an examination of the probative value of the evidence presented by the litigants or any of them. The resolution of the issue must rest solely on what the law provides on the given set of circumstances. Once it is clear that the issue invites a review of the evidence presented, the question posed is one of fact. Thus, the test of whether a question is one of law or of fact is not the appellation given to such question by the party raising the same; rather, it is whether the

¹⁷ Records, p. 420.

¹⁸ 646 Phil. 631 (2010).



appellate court can determine the issue raised without reviewing or evaluating the evidence, in which case, it is a question of law; otherwise it is a question of fact.¹⁹

Petitioner raises three issues in his Petition, namely:

I.

WHETHER OR NOT AFTER THE FILING OF A MOTION FOR SUMMARY JUDGMENT AND DENYING PETITIONER'S MOTION FOR RECONSIDERATION, THE TRIAL COURT COULD DISMISS THE PETITIONER'S COMPLAINT MOTU PROPRIO FOR PETITIONER'S FAILURE TO FILE HIS OBJECTIONS TO REQUEST FOR ADMISSION WHICH WAS ONLY FURNISHED TO HIS COUNSEL?

II.

WHETHER OR NOT THE TRIAL COURT COULD INTERPRETE [sic] THAT FOR [sic] PETITIONER'S FAILURE TO FILE HIS OBJECTIONS TO [THE] REQUEST FOR ADMISSION WHICH WAS ONLY FURNISHED TO HIS COUNSEL IS AN IMPLIED ADMISSION OF THE MATTERS SPECIFIED IN THE REQUEST?

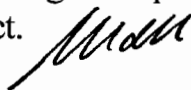
III.

WHETHER OR NOT SUMMARY JUDGMENT IS APPLICABLE?²⁰

At first blush, the first two issues would seem to be purely questions of law. However, the alleged failure to serve the Request for Admission to petitioner is disputed. Addressing the first two issues would require this Court to examine the veracity of petitioner's claim that the Request for Admission was unserved, given the supposed ambiguity of the March 28, 2011 Order. Such would go beyond this Court's jurisdiction in a petition for review on *certiorari*. In any case, we have already explained that the RTC already ruled that petitioner was already served a copy of the Request for Admission.

As to the third issue, determining the applicability of a summary judgment would require a review of the issues of fact involved which is likewise beyond the ambit of this Petition and which we find unnecessary to discuss given our previous disquisition.

Finally, as if the abovementioned procedural flaws were not enough, petitioner went straight to this Court when he had the more appropriate remedy of appealing before the CA. Hence, it would be proper to conclude that petitioner had forgone his right to open the entire case for review on any matter concerning a question of fact.



¹⁹ Id. at 637-638 citing *Leoncio v. Vera*, 569 Phil. 512, 516 (2008).

²⁰ *Rollo*, p. 10.

In *Five Star Marketing Company, Inc. v. Booc*,²¹ this Court distinguished the different modes of appealing RTC decisions, to wit:

The Court, in *Murillo v. Consul, Suarez v. Villarama, Jr. and Velayo-Fong v. Velayo*, had the occasion to clarify the three modes of appeal from decisions of the RTC, namely: a) ordinary appeal or appeal by writ of error, where judgment was rendered in a civil or criminal action by the RTC in the exercise of its original jurisdiction; b) petition for review, where judgment was rendered by the RTC in the exercise of its appellate jurisdiction; and c) petition for review to this Court. The first mode of appeal is governed by Rule 41, and is taken to the CA on questions of fact or mixed questions of fact and law. The second mode, covered by Rule 42, is brought to the CA on questions of fact, of law, or mixed questions of fact and law. The third mode, provided for by Rule 45, is elevated to this Court only on questions of law.

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Section 4 of Circular 2-90 in effect provides that an appeal taken either to this Court or to the CA by the wrong mode or inappropriate mode shall be dismissed. This rule is now incorporated in Section 5, Rule 56 of the Rules of Court. Moreover, the filing of the case directly with this Court departs from the hierarchy of courts. Normally, direct resort from the lower courts to this Court will not be entertained unless the appropriate remedy cannot be obtained in the lower tribunals.

As the instant Petition was filed without resorting to a more appropriate remedy before the CA, the same should be dismissed following our ruling above.

WHEREFORE, premises considered, the Petition for Review on *Certiorari* is **DENIED**.

The Resolution dated August 27, 2014 directing petitioner to file a Consolidated Reply is **RECALLED** and **SET ASIDE**.

The Motion for Leave to Enter Appearance as Collaborating Counsel with Manifestation filed by Atty. Edgar Y. Torres, Jr. which did not bear the conformity of petitioner is **NOTED WITHOUT ACTION**.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

²¹ 561 Phil. 167, 180-181 (2007).

WE CONCUR:



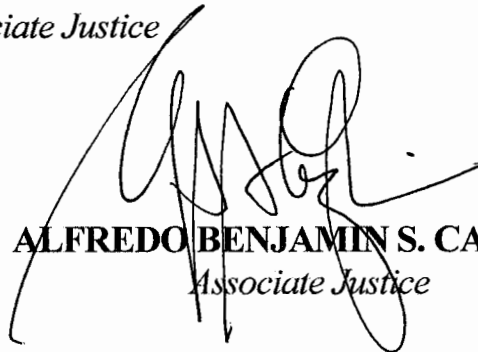
MARIA LOURDES P. A. SERENO

Associate Justice

Chairperson

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

Estela Perlas-Bernabe
ESTELA PERLAS-BERNABE
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO

Chief Justice

