



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated November 24, 2021, which reads as follows:

“G.R. No. 218781 (Rolando V. Miranda, Petitioner, v. Jose Cesar O. Simpao, Respondent). – This Court resolves the Petition for *Certiorari*¹ under Rule 65 of the Rules of Court assailing the Decision² dated March 13, 2015 and Resolution³ dated June 18, 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 130009. The CA dismissed the petition for *certiorari* filed by petitioner Rolando V. Miranda (Miranda) assailing the Decision⁴ dated February 24, 2011 and the two Orders, dated April 19, 2012,⁵ and April 29, 2013,⁶ issued by Branch 4 of the Regional Trial Court (RTC) of Mariveles, Bataan in Civil Case No. 767-ML entitled, “*Jose Cesar O. Simpao v. Spouses Rolando and Regina Miranda.*”

The case stemmed from a complaint for specific performance initiated by respondent Jose Cesar Simpao (Simpao) against Miranda and his spouse, Regina (collectively, spouses Miranda) before the RTC. The summons addressed to the spouses Miranda was returned unserved as they were in the United States.⁷ Simpao moved for the publication of the summons, which the RTC granted on March 14, 2008.⁸ Thereafter, the complaint was published in three succeeding issues of *The Philippine Star* on May 23, May 30, and June 6, 2009.⁹

¹ *Rollo*, pp. 3-15.

² *Id.* at 25-33. Penned by Associate Justice Stephen C. Cruz, with the concurrence of Associate Justices Fernanda Lampas Peralta and Ramon Paul L. Hernando (now a Member of the Court).

³ *Id.* at 38-39.

⁴ *Id.* at 16-21. Penned by Judge Bartolome V. Flores.

⁵ *Id.* at 22-23. Penned by Judge Bartolome V. Flores.

⁶ *Id.* at 24. Penned by Presiding Judge Emmanuel A. Silva.

⁷ *Id.* at 16.

⁸ *Id.*

⁹ *Id.*

In an Order dated October 14, 2008, the spouses Miranda, upon motion of Simpao on August 28, 2008, were declared in default for failure to file a responsive pleading within 60 days from the date of the last publication.¹⁰

Respondent Simpao was allowed to present evidence *ex parte*, and was able to establish the following:

- (a) The spouses Miranda are actual owners of several parcels of land with an area of 15 hectares in Barrio Lucanin, Mariveles, Bataan, covered by Original Certificates of Title (OCT) Nos. 3728, 3727, 3732, 3731, 3729, and 3730;
- (b) Copies of said titles are either lost or missing and, bearing annotations of liens and adverse claims, need to be reconstituted;
- (c) After the reconstitution of the titles and cancellation of the annotations thereon, the same shall be transferred to Hanamel Rolgins Resources Corporation (HRRC) where Miranda sits as chairman and treasurer;
- (d) Upon consolidation, Regina Miranda shall assign 50% of her share over the parcels of land to HRRC as part of her capital investment while the other 50% shall be assigned to Simpao as his capital investment in HRRC;
- (e) HRRC has an interest in seven parcels of land, estimated at 9.6925 hectares in Barangay Cabcaban, Mariveles, Bataan covered by Transfer Certificates of Title (TCT) Nos. 21871, 21872, 21873, 21874, 21875, 21876 and 21878;
- (f) The said titles are consolidated in the name of Rizal Commercial Banking Corporation (RCBC) by virtue of an erroneous judgment by the RTC of Bataan in Civil Case No. ML-519 currently pending before the Court of Appeals in CA-G.R. SP No. 88093; and
- (g) It was agreed that upon recovery of the titles from RCBC, the same shall revert to HCCR subject to the conveyance of 50% thereof to Simpao.¹¹

In its Decision¹² dated February 24, 2011, the RTC rendered judgment in favor of Simpao, the dispositive portion of which reads:

¹⁰ Id.

¹¹ Id. at 26.

¹² Id. at 16-21.

WHEREFORE, judgment is hereby rendered in favor of plaintiff Jose Cesar O. Simpao and against defendants Spouses Rolando and Regina Miranda ordering the latter:

- (1) To register or transfer the titles of OCT Nos. 3728, 3727, 3732, 3729 and 3730 in the name of Hanamel Rolgins Resources Corporation with the Register of Deeds of the Province of Bataan;
- (2) To execute the necessary deeds of transfer and conveyance of Fifty (50%) percent of her share, interest and participation to Hanamel Rolgins Resources Corporation; while the remaining Fifty (50%) percent shall be the corresponding share, interest and participation or capital investment of plaintiff which shall be registered in his name or any person whom he may to appoint or designate thereon;
- (3) To pay the amount of One Hundred Thousand (₱100,000.00) Pesos as actual damages;
- (4) To pay the amount of Fifty Thousand (₱50,000.00) Pesos as attorney's fees; and
- (5) To pay the costs of the suit.

SO ORDERED.¹³

Thereafter, on January 18, 2012, Simpao filed a motion for the issuance of a writ of execution. On January 31, 2012, Miranda filed an opposition to the motion for execution and a motion to set aside the judgment of the RTC.¹⁴

In an Order dated April 19, 2012, the RTC granted Simpao's motion for the issuance of a writ of execution.¹⁵ Miranda moved to reconsider the RTC's Order, which was denied in an Order dated April 29, 2013.¹⁶

Miranda filed a petition for *certiorari* before the Court of Appeals, alleging that the RTC had no jurisdiction to try and decide Simpao's complaint and that the RTC committed grave abuse of discretion amounting to lack or excess of jurisdiction when it did not give him (Miranda) the chance to be heard and to file his answer. The Court of Appeals dismissed the petition for lack of merit.¹⁷

Hence, this petition.

At the outset, the petition is captioned as one for '*CERTIORARI*', and *Prayer For issuance of Preliminary Injunction and/or Temporary Restraining*

¹³ Id. at 21.

¹⁴ Id. at 84-85.

¹⁵ Id. at 22-23.

¹⁶ Id. at 24.

¹⁷ Id. at 32.

*Order.*¹⁸ It is readily apparent that Miranda availed of the wrong remedy to question the Decision dated March 13, 2015 and the Resolution dated June 18, 2015 of the Court of Appeals.

It is well-settled that a petition for review on certiorari under Rule 45 of the Rules of Court, and not a petition for *certiorari* under Rule 65 of the Rules of Court, is the proper remedy of a party aggrieved by a decision of the Court of Appeals.¹⁹ In *Mercado v. Valley Mountain Mines Exploration, Inc.*,²⁰ this Court held:

The proper remedy of a party aggrieved by a decision of the Court of Appeals is a petition for review under Rule 45 which is not similar to a petition for *certiorari* under Rule 65 of the Rules of Court. As provided in Rule 45 of the Rules of Court, decisions, final orders or resolutions of the Court of Appeals in any case, *i.e.*, regardless of the nature of the action or proceedings involved, may be appealed to us by filing a petition for review, which would be but a continuation of the appellate process over the original case. On the other hand, a special civil action under Rule 65 is an independent action based on the specific grounds therein provided and, as a general rule, cannot be availed of as a substitute for the lost remedy of an ordinary appeal, including that under Rule 45. Accordingly, when a party adopts an improper remedy, his petition may be dismissed outright.²¹ (Citation omitted)

In *Cruz v. Court of Appeals*,²² this Court held that the “proper remedy of a party aggrieved by a decision of the CA is to file a petition for review on *certiorari* under Rule 45” before this Court, but allowed a *certiorari* petition “to question the grave abuse of discretion amounting to lack or excess of jurisdiction of the MeTC” considering that the Court therein was “reviewing not the merits of the case but the jurisdiction of the MeTC in including in its disposition a property not subject of the complaint for unlawful detainer.”²³ Unlike *Cruz*, the present case involves not only the issue of subject-matter jurisdiction of the RTC, but also the propriety of the same court’s order of default against Miranda. The long-standing general rule therefore applies in the present case.

Nevertheless, this Court proceeds to rule on the issues raised in the petition. Even if the foregoing procedural flaw is disregarded, the petition still fails on the merits.

¹⁸ *Id.* at 3.

¹⁹ See *Fernandez v. Court of Appeals*, G.R. No. 233460, February 19, 2020; *Philippine Bank of Communications v. Court of Appeals*, 805 Phil. 964 (2017); and *Mercado v. Valley Mountain Mines Exploration, Inc.*, 677 Phil. 13 (2011).

²⁰ 677 Phil. 13 (2011).

²¹ *Id.* at 51.

²² G.R. No. 238640, July 1, 2020.

²³ *Id.*

Miranda raises the following issues before this Court: *first*, whether the RTC has jurisdiction to hear and decide Civil Case No. 767-ML titled, “*Jose Cesar O. Simpao v. Spouses Rolando and Regina Miranda*;” and *second*, whether the RTC committed grave abuse of discretion amounting to lack or excess of jurisdiction when it did not give Miranda the chance to be heard and to file his answer.

The complaint filed by Simpao did not involve an intra-corporate dispute.

On the first issue, Miranda argues that Branch 4 of the RTC of Mariveles, Bataan does not have jurisdiction over the complaint filed by Simpao, on the basis of A.M. No. 00-11-03-SC, which assigned to Branch 2 of the RTC of Balanga, Bataan authority to hear intra-corporate disputes arising within the province of Bataan.

Simpao counters that the complaint he filed in the RTC is not an intra-corporate dispute, but one for specific performance based on the spouses Miranda’s breach of the memorandum of agreement (MOA).

Jurisdiction over the subject matter of a case is conferred by law and determined by the allegations in the complaint.²⁴ The nature of an action, as well as which court or body has jurisdiction over it, is determined based on the allegations contained in the complaint of the plaintiff, irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein.²⁵

It must be emphasized that A.M. No. 00-11-03-SC did not confer jurisdiction on Branch 2 of the RTC of Balanga, Bataan, as an administrative matter issued by this Court is not legislation. This is consistent with the ruling of this Court in *Gonzales v. GJH Land, Inc.*,²⁶ where this Court emphasized that a court’s acquisition of jurisdiction over a particular case’s subject matter is different from incidents pertaining to the exercise of its jurisdiction.²⁷ Jurisdiction over the subject matter of a case is conferred by law, whereas a court’s exercise of jurisdiction, unless provided by the law itself, is governed by the Rules of Court or by the orders issued from time to time by the Court.²⁸ A.M. No. 00-11-03-SC partakes of the latter, that is, an order issued by the Court to govern a court’s exercise of jurisdiction.

²⁴ *Padlan v. Sps. Dinglasan*, 707 Phil. 83, 91 (2013).

²⁵ *Id.*

²⁶ 772 Phil 483, 505 (2015).

²⁷ *Id.*

²⁸ *Id.*

In any event, the Court holds that Simpao's complaint is one for specific performance, and not an intra-corporate dispute.

This Court has laid down two (2) tests to determine whether or not a case involves an intra-corporate dispute. These are the *relationship test* and the *nature of the controversy test*.²⁹ Under the relationship test, there is an intra-corporate controversy when the conflict is (1) between the corporation, partnership, or association and the public; (2) between the corporation, partnership, or association and the State insofar as its franchise, permit, or license to operate is concerned; (3) between the corporation, partnership, or association and its stockholders, partners, members, or officers; and (4) among the stockholders, partners, or associates themselves.³⁰ On the other hand, in accordance with the nature of controversy test, an intra-corporate controversy arises when the controversy is not only rooted in the existence of an intra-corporate relationship, but also in the enforcement of the parties' correlative rights and obligations under the Corporation Code and the internal and intra-corporate regulatory rules of the corporation.³¹

The present case passes the relationship test, as the records clearly show that Miranda and Simpao are stockholders of the same corporation, HRRC. However, as correctly found by the CA, the nature of the conflict between the parties did not arise from any violation of their rights and obligations under the Corporation Code.³²

Simpao's complaint, which was quoted in the petition itself, alleged that the spouses Miranda reneged on their undertaking under the MOA when Regina Miranda took custody of the OCTs of the reconstituted titles and refused to convey the properties to HRRC and assign half of their share in HRRC to Simpao.³³ Clearly, the cause of action of Simpao against Miranda is based on the MOA, a contract freely entered into by the parties (including Regina Miranda), and not the Corporation Code, which governs the rights and obligations of the stockholders of a corporation.

Therefore, Simpao's complaint filed before the RTC was one for specific performance and not an intra-corporate dispute as opined by Miranda. Hence, although not affecting the jurisdiction of the RTC as a court of general jurisdiction, but only the RTC's exercise of jurisdiction as a procedural matter, there is no merit to Miranda's claim that the present case is an intra-corporate dispute to trigger the application of A.M. No. 00-11-03-SC.

²⁹ *San Jose v. Ozamiz*, 813 Phil. 669, 678-679 (2017).

³⁰ *Id.*

³¹ *Id.*

³² *Rollo*, p. 30.

³³ *Id.* at 8.

The RTC's order of default against petitioner Miranda was validly issued.

On the second issue, Miranda alleges that he was denied due process when he was declared in default on the basis of service of summons by publication.

The records show, however, that the RTC's order of default was validly issued and consistent with the provisions of the Rules of Court in force at that time.

Sections 15 and 16 of the 1997 Rules of Civil Procedure provide:

Section 15. *Extraterritorial service.* — When the defendant does not reside and is not found in the Philippines, and the action affects the personal status of the plaintiff or relates to, or the subject of which is, property within the Philippines, in which the defendant has or claims a lien or interest, actual or contingent, or in which the relief demanded consists, wholly or in part, in excluding the defendant from any interest therein, or the property of the defendant has been attached within the Philippines, service may, by leave of court, be effected out of the Philippines by personal service as under section 6; or by publication in a newspaper of general circulation in such places and for such time as the court may order, in which case a copy of the summons and order of the court shall be sent by registered mail to the last known address of the defendant, or in any other manner the court may deem sufficient. Any order granting such leave shall specify a reasonable time, which shall not be less than sixty (60) days after notice, within which the defendant must answer.

Section 16. *Residents temporarily out of the Philippines.* — When any action is commenced against a defendant who ordinarily resides within the Philippines, but who is temporarily out of it, service may, by leave of court, be also effected out of the Philippines, as under the preceding section.

It is undisputed that Miranda was in the United States at the time the summons issued by the RTC was initially attempted to be personally served.³⁴ The RTC then granted leave, upon Simpao's motion, for summons to be served by publication.³⁵ Thereafter, the complaint was published in the Philippine Star, a newspaper of general circulation on May 23, May 30, and June 6, 2009.³⁶ The publications also directed the spouses Miranda to file their answer within sixty (60) days from the date of the last publication.³⁷

The foregoing are consistent with the directive of Section 15, Rule 14 of the 1997 Rules of Civil Procedure. While the RTC appears to have applied

³⁴ Id. at 16 and 26.

³⁵ Id.

³⁶ Id.

³⁷ Id.

the rules strictly, ordering only three (3) separate publications and giving the spouses Miranda only sixty (60) days to file their answer, no abuse of discretion, much less grave abuse of discretion amounting to lack or excess of jurisdiction, can be attributed thereto. As such, the subsequent Order dated October 14, 2008 declaring the spouses Miranda in default was also proper, applying the provisions of Rule 9 of the 1997 Rules on Civil Procedure.

At this juncture, this Court finds apt to quote the following disquisition of the CA as regards Miranda's lament of deprivation of his due process rights:

x x x petitioner cannot rightfully claim that the service of summons resulted in his deprivation of his day in court. x x x If petitioner truly believed that mistake or fraud was committed in the service of summons, thereby paving way for the RTC to render a decision without his knowledge, he should have lodged a petition for relief from judgment under Rule 38 of the Rules of Court and not certiorari under Rule 65. x x x

This way he and his wife may yet find an avenue in which to argue their side of the controversy through the presentation of relevant evidence. The action for certiorari is simply insufficient to overturn the judgment based on the merits because it only concerns itself with the commission of grave abuse of discretion.³⁸

WHEREFORE, the petition for *certiorari* is **DISMISSED**. The Decision dated March 13, 2015 and the Resolution dated June 18, 2015 of the Court of Appeals in CA-G.R. SP No. 130009 are hereby **AFFIRMED**.

SO ORDERED.”

By authority of the Court:

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³⁸ Id. at 31.

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