



Republic of the Philippines  
**Supreme Court**  
Manila

**THIRD DIVISION**

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated August 1, 2022, which reads as follows:*

**“G.R. No. 244186 – SIMON TAN, petitioner, v. HEIRS OF THE LATE LILY P. CHUA, MICHELLE LESLIE CHUA, LIZZA MARIE CHUA, and LIANNE MADELEINE CHUA, claimed to be represented herein by LIZZA MARIE CHUA, respondents.**

This Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court assails the Decision,<sup>2</sup> dated 27 June 2018, and the Resolution,<sup>3</sup> dated 17 January 2019, of the Court of Appeals (CA) in CA-G.R. SP No. 145650, which reversed and set aside the Orders,<sup>4</sup> dated 8 December 2015 and 19 April 2016, of the Regional Trial Court, Branch 19 of Bacoor City, Cavite (RTC) in Civil Case No. BCV-2013-150.

*The Facts*

On 10 July 2013, the respondents heirs of the late Lily P. Chua (**Lily**), namely, Michelle Leslie Chua (**Michelle**), Lizza Marie Chua (**Lizza**), and Lianne Madeleine Chua (**Lianne**), all represented by Lizza (collectively, **respondents**) filed with the RTC a Complaint, dated 7 July 2013,<sup>5</sup> against petitioner Simon Tan (**petitioner**), Manuel Chua (**Manuel**), and the Register of Deeds of the Province of Cavite. The case was docketed as Civil Case No. BCV-2013-150.

The Complaint sought the annulment of the Deed of Absolute Sale, dated 21 June 2011, over a parcel of land located in Habay, Bacoor City, Cavite

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<sup>1</sup> *Rollo*, pp. 9-53.

<sup>2</sup> *Id.* at 54-62. Penned by Associate Justice Ramon Paul L. Hernando (now a Member of this Court) and concurred in by Associate Justices Marlene B. Gonzales-Sison and Maria Elisa Sempio Diy.

<sup>3</sup> *Id.* at 63-64. Penned by Associate Justice Marlene B. Gonzales-Sison and concurred in by Associate Justices Sesinando E. Villon and Maria Elisa Sempio Diy.

<sup>4</sup> *Id.* at 117-119, 126. Issued by Presiding Judge Matias M. Garcia II.

<sup>5</sup> *Id.* at 65-73.

(**subject property**) executed by the petitioner and Manuel and the cancellation of the corresponding Transfer Certificate of Title (TCT) No. 057-2013002870 issued by the Register of Deeds of the Province of Cavite in the name of the petitioner.

In their Complaint, the respondents alleged that the subject property was previously registered under the names of the spouses Manuel and Lily.<sup>6</sup> However, by virtue of a Decision rendered by the Regional Trial Court of Manila, Branch 9 on 12 March 2009 in Special Proceedings Case No. 06-114311, which directed the dissolution of the property regime of Manuel and Lily, the subject property was awarded to Lily and to her legitimate children with Manuel: Michelle, Lizza, and Lianne.<sup>7</sup>

However, sometime in December 2012, the respondents allegedly discovered that the subject property had been sold by Manuel to the petitioner on 21 June 2011 and that a new TCT No. 057-2013002870 covering the subject property had been issued to the petitioner.<sup>8</sup>

According to the respondents, the signature of Lily on the Deed of Absolute Sale was forged. The respondents also maintained that the sale between Manuel and the petitioner was void *ab initio* because Manuel no longer had any right or interest over the subject property when he allegedly sold the same to the petitioner.<sup>9</sup>

The petitioner filed an Answer with Counterclaims.

On 4 September 2015, the petitioner, by counsel, filed an Entry of Appearance (As new counsel of record for Defendant Simon Tan) and Motion for Leave (To File and Admit Amended Answer with Compulsory Counterclaim of Defendant Simon Tan)<sup>10</sup> (**Motion for Leave**). Attached to the petitioner's Motion for Leave was a copy of his Amended Answer with Compulsory Counterclaim<sup>11</sup> (**Amended Answer**). The petitioner claimed that due to the palpable mistake and excusable negligence of his former counsel, the original Answer with Counterclaims that he filed failed to clearly explain the defense of failure of the Complaint to state a cause of action and to raise the lack of Special Power of Attorney authorizing Lizza to represent Michelle and Lianne.<sup>12</sup>

### ***The Ruling of the RTC***

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<sup>6</sup> Id. at 66.

<sup>7</sup> Id.

<sup>8</sup> Id. at 69.

<sup>9</sup> Id. at 70.

<sup>10</sup> Id. at 74-78.

<sup>11</sup> Id. at 79-116.

<sup>12</sup> Id. at 75-76.

In its Order dated 8 December 2015,<sup>13</sup> the RTC granted the petitioner's Motion for Leave and admitted his Amended Answer "[i]n the interest of justice and fair play and for the complete determination of [the] case."<sup>14</sup>

On 29 December 2015, the respondents filed a Motion for Reconsideration,<sup>15</sup> which was denied by the RTC in an Order, dated 19 April 2016,<sup>16</sup> for lack of merit.

Aggrieved, the respondents filed a Petition for *Certiorari*<sup>17</sup> with prayer for the issuance of preliminary injunction and temporary restraining order with the CA, assailing the Orders, dated 8 December 2015 and 19 April 2016, of the RTC. The case was docketed as CA-G.R. SP No. 145650, the precursor case to the present Petition.

Meanwhile, on 5 January 2016, the petitioner filed with the RTC a Motion to Set for Hearing [By Way of Motion to Dismiss (The Affirmative Defenses in the Amended Answer with Compulsory Counterclaim dated September 2, 2015, of defendant Simon Tan)]<sup>18</sup> (**Motion to Dismiss**).

In an Order, dated 8 December 2016,<sup>19</sup> the RTC granted the petitioner's Motion to Dismiss for failure of the Complaint to state a cause of action. According to the RTC, there is nothing in the allegations in the Complaint that shows that the petitioner committed acts in violation of the respondents' rights.<sup>20</sup>

The respondents filed a Notice of Appeal<sup>21</sup> against the RTC Order, dated 8 December 2016, dismissing the case.

### *The Ruling of the CA*

The CA granted the respondents' Petition for *Certiorari* in its Decision, dated 27 June 2018, in CA G.R. SP No. 145650.<sup>22</sup> It reversed and set aside the Orders, dated 8 December 2015 and 19 April 2016, of the RTC, which admitted the petitioner's Amended Answer and denied the respondents' Motion for Reconsideration, respectively. The CA ruled that the petitioner waived the defense of failure to state a cause of action when he failed to raise the same in his Answer. The CA found that the RTC committed grave abuse of discretion

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<sup>13</sup> Id. at 117-119.

<sup>14</sup> Id.

<sup>15</sup> Id. at 120-125.

<sup>16</sup> Id. at 126.

<sup>17</sup> Id. at 127-145.

<sup>18</sup> Id. at 146-164.

<sup>19</sup> Id. at 165-172.

<sup>20</sup> Id. at 172.

<sup>21</sup> Id. at 173-175.

<sup>22</sup> Id. at 54-62.

when it granted the petitioner's Motion for Leave and admitted the Amended Answer. It held that an amended answer may not be resorted to in order to rectify the petitioner's failure to plead the defense of failure to state a cause of action in his Answer, which amounted to a waiver thereof.<sup>23</sup>

The Motion for Reconsideration<sup>24</sup> filed by the petitioner was denied by the CA in its Resolution dated 17 January 2019.<sup>25</sup>

Hence, the present Petition.

### *The Issues*

The issues to be resolved in this case are whether the CA committed reversible error in: (a) finding that the RTC committed grave abuse of discretion amounting to lack or excess of jurisdiction in admitting the petitioner's Amended Answer; and (b) not dismissing the respondents' Petition for *Certiorari* on the ground of mootness.

### *The Ruling of the Court*

*The Petition for Certiorari in CA G.R. SP  
No. 145650 was not mooted*

In the main, the petitioner contends that the subsequent dismissal of the Complaint by the RTC has rendered the Petition for *Certiorari* in CA G.R. SP No. 145650, assailing the RTC's interlocutory orders which admitted the petitioner's Amended Answer, moot and academic. The petitioner maintains that the resolution of the Petition for *Certiorari* was already unnecessary and superfluous considering that the respondents have appealed the RTC Order dismissing the case.

The Court is not convinced.

A case becomes moot when no useful purpose can be served in passing upon its merits.<sup>26</sup> As a rule, courts will not determine a moot question in a case in which no practical relief can be granted.<sup>27</sup>

In *Peñafrancia Sugar Mill, Inc. v. Sugar Regulatory Administration*,<sup>28</sup> the

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<sup>23</sup> Id. at 61.

<sup>24</sup> Id. at 210-231.

<sup>25</sup> Id. at 63-64.

<sup>26</sup> *Villamar-Sandoval v. Cailipan*, 705 Phil. 312-320 (2013).

<sup>27</sup> Id.

<sup>28</sup> 728 Phil. 535 (2014).

Court explained the rationale for the abstention of the courts on matters which have become moot and academic:

A case or issue is considered moot and academic when it ceases to present a justiciable controversy by virtue of supervening events, so that an adjudication of the case or a declaration on the issue would be of no practical value or use. In such instance, there is no actual substantial relief which a petitioner would be entitled to, and which would be negated by the dismissal of the petition. **Courts generally decline jurisdiction over such case or dismiss it on the ground of mootness. This is because the judgment will not serve any useful purpose or have any practical legal effect because, in the nature of things, it cannot be enforced.** (citations omitted; emphasis supplied)

Under the circumstances, the RTC would have no basis to dismiss the Complaint if, as the CA correctly found, it committed grave abuse of discretion amounting to lack or excess of jurisdiction in admitting the petitioner's Amended Answer. To recall, the RTC's dismissal of the Complaint was grounded on its failure to state a cause of action against the petitioner, a defense which was only raised by the petitioner in his Amended Answer.

Evidently, the resolution of the issue of the propriety of the admission of the petitioner's Amended Answer is still imperative and was not rendered superfluous by the dismissal of the Complaint and the respondents' subsequent appeal therefrom. We cannot right a wrong by another wrong.

*The RTC committed grave abuse of discretion in admitting the petitioner's Amended Answer*

The Court finds that the CA committed no reversible error in finding grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the RTC when it admitted the petitioner's Amended Answer.

The term "grave abuse of discretion" has a specific meaning.<sup>29</sup> An act of a court or tribunal is considered to be with grave abuse of discretion when such act is done in a "capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction."<sup>30</sup> The abuse of discretion must be so patent and gross as to amount to an "evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility."<sup>31</sup>

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<sup>29</sup> *Yu v. Reyes-Carpio*, 667 Phil. 474-488 (2011).

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

The patently erroneous admission of the petitioner's Amended Answer was tainted with grave of abuse of discretion amounting to lack or excess of jurisdiction because it was arbitrary and oppressive. Thus, the CA committed no error in setting aside the assailed RTC Orders.

As correctly found by the CA, the RTC is expressly proscribed from admitting the petitioner's Amended Answer, which invoked the defense of failure of the Complaint to state a cause of action.

Rule 9, Section 1 of the Rules of Court states:

**Section 1. *Defenses and objections not pleaded.* — Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived.** However, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment or by statute of limitations, the court shall dismiss the claim. (emphasis supplied)

The Rules of Court mandates that defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived, except for the following grounds: 1) the court has no jurisdiction over the subject matter; 2) *litis pendencia*; 3) *res judicata*; and 4) prescription.<sup>32</sup> If the RTC had applied this rule, the petitioner should have been barred from raising the defense of the failure of the Complaint to state a cause of action, which he failed to invoke in his original Answer. The Court agrees with the CA that the petitioner's failure to raise said defense in his Answer is deemed a waiver thereof, which cannot be rectified by a mere amendment of his pleading. If the Court were to interpret the Rules of Court otherwise, a defendant would have numerous opportunities to plead additional defenses through the liberal application of the rules on amendments. This could lead to more protracted litigations and unmitigated delay.

Invoking Rule 10, Section 8 of the Rules of Court, the petitioner contends that he cannot be deemed to have renounced his right to question the Complaint's failure to state a cause of action against him because an amended pleading takes the place of the pleading that it amends.

The Court does not agree.

The petitioner's reliance on Rule 10, Section 8 of the Rules of Court is misplaced. The general provisions of Rule 10, Section 8 as to the grant and effect of amendment of pleadings should give way to the specific provisions in Rule 9, Section 1 of the Rules of Court, which governs the mandatory waiver of

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<sup>32</sup> *Pacaña-Contreras v. Rovila Water Supply, Inc.*, 722 Phil. 460-484 (2013).

defenses not timely raised. As between a special and a general rule, the former shall necessarily control.<sup>33</sup> It is a fundamental legal principle that when two rules apply to a particular case, that which was specially designed for the said case must prevail over the other.<sup>34</sup>

Clearly, the CA correctly nullified the RTC Orders which admitted the Amended Answer insofar as the defense not pleaded in the original Answer is concerned.

**WHEREFORE**, the Court **DENIES** the Petition for Review on *Certiorari* filed by petitioner Simon Tan and **AFFIRMS** the Decision, dated 27 June 2018, and the Resolution, dated 17 January 2019, of the Court of Appeals in CA-G.R. SP No. 145650.

**SO ORDERED.**

By authority of the Court:

*Misael C. Battung III*  
**MISAELO DOMINGO C. BATTUNG III**  
Division Clerk of Court JB 2/8/23

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(Civil Case No. BCV-2013-150)

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**G.R. No. 244186**

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<sup>33</sup> See *Metropolitan Bank and Trust Co. v. Absolute Management Corp.*, 701 Phil. 200-215 (2013).  
<sup>34</sup> *Office of the Ombudsman v. Valencerina*, 739 Phil. 14 (2014).