



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

REGULUS DEVELOPMENT, INC.,
Petitioner,

G.R. No. 198172

Present:

CARPIO, *Chairperson*,
BRION,
DEL CASTILLO,
MENDOZA, and
LEONEN, *JJ.*

- versus -

ANTONIO DELA CRUZ,
Respondent.

Promulgated:

25 JAN 2016

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DECISION

BRION, *J.*:

Before us is a petition for review on *certiorari* filed by petitioner Regulus Development, Inc. (*petitioner*) to challenge the November 23, 2010 decision¹ and August 10, 2011 resolution² of the Court of Appeals (CA) in CA-G.R. SP No. 105290. CA Associate Justice Juan Q. Enriquez, Jr. penned the rulings, concurred in by Associate Justices Ramon M. Bato, Jr. and Florito S. Macalino.

ANTECEDENT FACTS

The petitioner is the owner of an apartment (*San Juan Apartments*) located at San Juan Street, Pasay City. Antonio dela Cruz (*respondent*) leased two units (Unit 2002-A and Unit 2002-B) of the San Juan Apartments in 1993 and 1994. The contract of lease for each of the two units similarly

¹ Rollo, pp. 29-38.
² Id. at 39-40.

provides a lease period of one (1) month, subject to automatic renewals, unless terminated by the petitioner upon written notice.

The petitioner sent the respondent a letter to terminate the lease of the two subject units. Due to the respondent's refusal to vacate the units, the petitioner filed a complaint³ for ejectment before the Metropolitan Trial Court (*MTC*) of Pasay City, Manila, on May 1, 2001.

The *MTC* resolved the case in the petitioner's favor and ordered the respondent to *vacate the premises*, and *pay the rentals* due until the respondent actually complies.⁴

The respondent appealed to the Regional Trial Court (*RTC*). Pending appeal, the respondent consigned the monthly rentals to the *RTC* due to the petitioner's refusal to receive the rentals.

The *RTC affirmed*⁵ *the decision of the MTC in toto* and denied the motion for reconsideration filed by the respondent.

CA-G.R. SP No. 69504: Dismissal of Ejectment Case

In a Petition for Review filed by the respondent, the *CA reversed the lower courts' decisions and dismissed the ejectment case*.⁶ On March 19, 2003, the *dismissal of the case became final and executory*.⁷

Orders dated July 25, 2003 and November 28, 2003 for payment of rentals due under lease contracts

The petitioner filed a motion (to withdraw funds deposited by the defendant-appellant as lessee)⁸ praying for the withdrawal of the rentals consigned by the respondent with the *RTC*.

In an **order dated July 25, 2003**,⁹ the *RTC* granted the petitioner's motion. The *RTC* explained that the effect of the complaint's dismissal would mean that there was no complaint filed at all. The petitioner, however, is entitled to the amount of rentals for the use and occupation of the subject units, as provided in the executed contracts of lease and on the basis of justice and equity.

The court denied the respondent's motion for reconsideration¹⁰ in an **order dated November 28, 2003**.¹¹

³ *Id.* at 80-83.

⁴ *Id.* at 99-102.

⁵ *Id.* at 103-104.

⁶ *Id.* at 110-120.

⁷ *Id.* at 121.

⁸ *Id.* at 122-125.

⁹ *Id.* at 126-127.

¹⁰ *Id.* at 128-130.

¹¹ *Id.* at 131.

On the petitioner's motion, the RTC issued a writ of execution on December 18, 2003, to cause the enforcement of its order dated July 25, 2003.¹²

CA-G.R. SP No. 81277: Affirmed RTC Orders

The respondent filed a petition for *certiorari* under Rule 65 before the CA to assail the RTC Orders dated July 25, 2003 and November 28, 2003 (*RTC orders*), which granted the petitioner's motion to withdraw funds.

The CA dismissed¹³ the petition and held that the assailed RTC Orders **were issued pursuant to its equity jurisdiction**, in accordance with Section 5, Rule 39,¹⁴ and Rules 5¹⁵ and 6¹⁶ of Rule 135 of the Rules of Court. The respondent's motion for reconsideration was similarly denied.

G.R. SP No. 171429: Affirmed CA Ruling on RTC Orders

The respondent filed a petition for review on *certiorari* before this Court to assail the decision of the CA in *CA-G.R. SP No. 81277*. In a resolution dated June 7, 2006,¹⁷ we denied the petition for insufficiency in form and for failure to show any reversible error committed by the CA.

Our resolution became final and executory and an entry of judgment¹⁸ was issued.

¹² *Id.* at 141.

¹³ *Id.* at 138, 140-144.

¹⁴ **Section 5. Effect of reversal of executed judgment.** — Where the executed judgment is reversed totally or partially, or annulled, on appeal or otherwise, the trial court may, on motion, issue such orders of restitution or reparation of damages as equity and justice may warrant under the circumstances. (5a)

¹⁵ **Section 5. Inherent powers of court.** — Every court shall have power:

- (a) To preserve and enforce order in its immediate presence;
- (b) To enforce order in proceedings before it, or before a person or persons empowered to conduct a judicial investigation under its authority;
- (c) To compel obedience to its judgments, orders and processes, and to the lawful orders of a judge out of court, in a case pending therein;
- (d) To control, in furtherance of justice, the conduct of its ministerial officers, and of all other persons in any manner connected with a case before it, in every manner appertaining thereto;
- (e) To compel the attendance of persons to testify in a case pending therein;
- (f) To administer or cause to be administered oaths in a case pending therein, and in all other cases where it may be necessary in the exercise of its powers;
- (g) To amend and control its process and orders so as to make them conformable to law and justice;
- (h) To authorize a copy of a lost or destroyed pleading or other paper to be filed and used instead of the original, and to restore, and supply deficiencies in its records and proceedings.

¹⁶ **Section 6. Means to carry jurisdiction into effect.** — When by law jurisdiction is conferred on a court or judicial officer, all auxiliary writs, processes and other means necessary to carry it into effect may be employed by such court or officer; and if the procedure to be followed in the exercise of such jurisdiction is not specifically pointed out by law or by these rules, any suitable process or mode of proceeding may be adopted which appears comfortable to the spirit of the said law or rules.

¹⁷ *Rollo*, p. 145.

¹⁸ *Id.* at 146.

Execution of RTC Orders

The petitioner returned to the RTC and moved for the issuance of a writ of execution to allow it to proceed against the *supersedeas* bond the respondent posted, representing rentals for the leased properties from May 2001 to October 2001, and to withdraw the lease payments deposited by respondent from November 2001 until August 2003.¹⁹ The RTC granted the motion.²⁰

The RTC issued an Alias Writ of Execution²¹ dated April 26, 2007, allowing the withdrawal of the rental deposits and the value of the *supersedeas* bond.

The petitioner claimed that the withdrawn deposits, *supersedeas* bond, and payments directly made by the respondent to the petitioner, were insufficient to cover rentals due for the period of May 2001 to May 2004. Hence, the petitioner filed a manifestation and motion²² dated October 23, 2007, praying that the RTC levy upon the respondent's property covered by Transfer Certificate of Title (TCT) No. 136829 to satisfy the judgment credit.

The RTC granted the petitioner's motion in an **order dated June 30, 2008.**²³ The respondent filed a motion for reconsideration which was denied by the RTC in an **order dated August 26, 2008.**²⁴

CA-G.R. SP No. 105290: Assailed the levy of the respondent's property

On October 3, 2008, the respondent filed with the CA a Petition for Certiorari²⁵ with application for issuance of a temporary restraining order. The petition sought to nullify and set aside the orders of the RTC directing the levy of the respondent's real property. The CA dismissed the petition. Thereafter, the respondent filed a motion for reconsideration²⁶ dated November 3, 2008.

Pursuant to the order dated June 30, 2008, a public auction for the respondent's property covered by TCT No. 136829 was held on November 4, 2008,²⁷ where the petitioner was declared highest bidder. Subsequently, the Certificate of Sale²⁸ in favor of the petitioner was registered.

¹⁹ *Id.* at 147-151.

²⁰ *Id.* at 161.

²¹ *Id.* at 162.

²² *Id.* at 165-167.

²³ *Id.* at 192-193.

²⁴ *Id.* at 194-195.

²⁵ *Id.* at 202-221.

²⁶ *Id.* at 222-225.

²⁷ *Id.* at 226.

²⁸ *Id.* at 227-228.

Meanwhile, on January 7, 2010, the respondent redeemed the property with the RTC Clerk of Court, paying the equivalent of the petitioner's bid price with legal interest. The petitioner filed a motion to release funds²⁹ for the release of the redemption price paid. The RTC granted³⁰ the motion.

On February 12, 2010, the respondent filed a manifestation and motion³¹ before the CA to withdraw the petition for the reason that the redemption of the property and release of the price paid rendered the petition moot and academic.

Thereafter, the petitioner received the CA decision dated November 23, 2010, which reversed and set aside the orders of the RTC directing the levy of the respondent's property. The CA held that while the approval of the petitioner's motion to withdraw the consigned rentals and the posted *supersedeas* bond was within the RTC's jurisdiction, the RTC had no jurisdiction to levy on the respondent's real property.

The CA explained that the approval of the levy on the respondent's real property could not be considered as a case pending appeal, because the decision of the MTC had already become final and executory. As such, the matter of execution of the judgment lies with the MTC where the complaint for ejectment was originally filed and presented.

The CA ordered the RTC to remand the case to the MTC for execution. The petitioner filed its motion for reconsideration which was denied³² by the CA.

THE PETITION

The petitioner filed the present petition for review on *certiorari* to challenge the CA ruling in **CA-G.R. SP No. 105290** which held that the RTC had no jurisdiction to levy on the respondent's real property.

The petitioner argues: *first*, that the RTC's release of the consigned rentals and levy were ordered in the exercise of its equity jurisdiction; *second*, that the respondent's petition in CA-G.R. SP No. 105290 was already moot and academic with the conduct of the auction sale and redemption of the respondent's real property; *third*, that the petition in CA-G.R. SP No. 105290 should have been dismissed outright for lack of signature under oath on the Verification and Certification against Forum Shopping.

The respondent duly filed its comment³³ and refuted the petitioner's arguments. On the *first* argument, respondent merely reiterated the CA's

²⁹ *Id.* at 272-274.

³⁰ *Id.* at 275.

³¹ *Id.* at 276-278.

³² *Id.* at 39-40.

³³ *Id.* at 300-310.

conclusion that the RTC had no jurisdiction to order the levy on respondent's real property as it no longer falls under the allowed execution pending appeal. On the *second* argument, the respondent contended that the levy on execution and sale at public auction were null and void, hence the CA decision is not moot and academic. On the *third* argument, the respondent simply argued that it was too late to raise the alleged formal defect as an issue.

THE ISSUE

The petitioner poses the core issue of whether the RTC had jurisdiction to levy on the respondent's real property.

OUR RULING

We grant the petition.

Procedural issue: Lack of notarial seal on the Verification and Certification against Forum Shopping is not fatal to the petition.

The petitioner alleged that the assailed CA petition should have been dismissed since the notary public failed to affix his seal on the attached Verification and Certification against Forum Shopping.

We cannot uphold the petitioner's argument.

The lack of notarial seal in the notarial certificate³⁴ is a defect in a document that is required to be executed under oath.

Nevertheless, a defect in the verification does not necessarily render the pleading fatally defective. The court may order its submission or correction, or act on the pleading if the attending circumstances are such that strict compliance with the Rule may be dispensed with in order that the ends of justice may be served.³⁵

Noncompliance or a defect in a certification against forum shopping, unlike in the case of a verification, is generally not curable by its subsequent submission or correction, unless the covering Rule is relaxed on the ground of "substantial compliance" or based on the presence of "special circumstances or compelling reasons."³⁶ Although the submission of a

³⁴ "Notarial Certificate" refers to the part of, or attachment to, a notarized instrument or document that is completed by the notary public, bears the notary's signature and seal, and states the facts attested to by the notary public in a particular notarization as provided for by these Rules. (Section 8, A.M. No. 02-8-13-SC, 2004 Rules on Notarial Practice).

³⁵ *Altres, et al. v. Empleo, et al.*, G.R. No. 180986, December 10, 2008, 573 SCRA 583, 596.

³⁶ *Id.*

certificate against forum shopping is deemed obligatory, it is not however jurisdictional.³⁷

In the present case, the Verification and Certification against Forum Shopping were in fact submitted. An examination of these documents shows that the notary public's signature and stamp were duly affixed. Except for the notarial seal, all the requirements for the verification and certification documents were complied with.

The rule is that courts should not be unduly strict on procedural lapses that do not really impair the proper administration of justice. The higher objective of procedural rules is to ensure that the substantive rights of the parties are protected. Litigations should, as much as possible, be decided on the merits and not on technicalities. Every party-litigant must be afforded ample opportunity for the proper and just determination of his case, free from the unacceptable plea of technicalities.³⁸

The CA correctly refused to dismiss and instead gave due course to the petition as it substantially complied with the requirements on the Verification and Certification against Forum Shopping.

An issue on jurisdiction prevents the petition from becoming "moot and academic."

The petitioner claims that the assailed CA petition should have been dismissed because the subsequent redemption of the property by the respondent and the release of the price paid to the petitioner rendered the case moot and academic.

A case or issue is considered moot and academic when it ceases to present a justiciable controversy because of supervening events, rendering the adjudication of the case or the resolution of the issue without any practical use or value.³⁹ Courts generally decline jurisdiction over such case or dismiss it on the ground of mootness except when, among others, the case is capable of repetition yet evades judicial review.⁴⁰

The CA found that there is an issue on whether the RTC had jurisdiction to issue the orders directing the levy of the respondent's property. The issue on jurisdiction is a justiciable controversy that prevented the assailed CA petition from becoming moot and academic.

³⁷ *In-N-Out Burger Inc. v. Sehwan, Incorporated, et al.*, G.R. No. 179127, December 24, 2008, 575 SCRA 535, 536.

³⁸ *Heirs of Amada A. Zaulda v. Zaulda*, G.R. No. 201234, March 17, 2014, 719 SCRA 308, 310.

³⁹ *Peñafrancia Sugar Mill, Inc. v. Sugar Regulatory Administration*, G.R. No. 208660, March 5, 2014, 718 SCRA 212.

⁴⁰ *Carpio v. CA, et al.*, G.R. No. 183102, February 27, 2013, 692 SCRA 162, 163.

It is well-settled in jurisprudence that jurisdiction is vested by law and cannot be conferred or waived by the parties. “Even on appeal and even if the reviewing parties did not raise the issue of jurisdiction, the reviewing court is not precluded from ruling that the lower court had no jurisdiction over the case.”⁴¹

Even assuming that the case has been rendered moot due to the respondent’s redemption of the property, the CA may still entertain the jurisdictional issue since it poses a situation capable of repetition yet evading judicial review.

Under this perspective, the CA correctly exercised its jurisdiction over the petition.

Equity jurisdiction versus appellate jurisdiction of the RTC

The appellate jurisdiction of courts is conferred by law. The appellate court acquires jurisdiction over the subject matter and parties when an appeal is perfected.⁴²

On the other hand, equity jurisdiction aims to provide complete justice in cases where a court of law is unable to adapt its judgments to the special circumstances of a case because of a resulting legal inflexibility when the law is applied to a given situation. The purpose of the exercise of equity jurisdiction, among others, is to prevent unjust enrichment and to ensure restitution.⁴³

The RTC orders which allowed the withdrawal of the deposited funds for the use and occupation of the subject units were issued pursuant to the RTC’s equity jurisdiction, as the CA held in the petition docketed as *CA-G.R. SP No. 81277*.

The RTC’s equity jurisdiction is separate and distinct from its appellate jurisdiction on the ejectment case. The RTC could not have issued its orders in the exercise of its appellate jurisdiction since there was nothing more to execute on the dismissed ejectment case. As the RTC orders explained, the dismissal of the ejectment case effectively and completely blotted out and cancelled the complaint. Hence, the RTC orders were clearly issued in the exercise of the RTC’s equity jurisdiction, not on the basis of its appellate jurisdiction.

⁴¹ *Garcia v. Ferro Chemicals, Inc.*, G.R. No. 172505, October 1, 2014, 737 SCRA 252, 266.

⁴² *Trans International v. CA, et al.*, 348 Phil. 830, 831 (1998).

⁴³ *Reyes v. Lim, et al.*, 456 Phil. 1 (2003).

This Court takes judicial notice⁴⁴ that the validity of the RTC Orders has been upheld in a separate petition before this Court, under *G.R. SP No. 171429 entitled Antonio Dela Cruz v. Regulus Development, Inc.*

The levy of real property was ordered by the RTC in the exercise of its equity jurisdiction.

The levy of the respondent's property was made pursuant to the RTC orders issued in the exercise of its equity jurisdiction, *independent* of the ejectment case originally filed with the MTC.

An examination of the RTC order dated June 30, 2008, directing the levy of the respondent's real property shows that it was based on the RTC order dated July 25, 2003. The levy of the respondent's property was issued to satisfy the amounts due under the lease contracts, and not as a result of the decision in the ejectment case.

The CA erred when it concluded that the RTC exercised its appellate jurisdiction in the ejectment case when it directed the levy of the respondent's property.

Furthermore, the order to levy on the respondent's real property was consistent with the first writ of execution issued by the RTC on December 18, 2003, to implement the RTC orders. The writ of execution states that:

xxx In case of [sic] sufficient personal property of the defendant cannot be found whereof to satisfy the amount of the said judgment, **you are directed to levy [on] the real property of said defendant and to sell the same or so much thereof in the manner provided by law for the satisfaction of the said judgment** and to make return of your proceedings together with this Writ within sixty (60) days from receipt hereof. (emphasis supplied)

The subsequent order of the RTC to levy on the respondent's property was merely a reiteration and an enforcement of the original writ of execution issued.

Since the order of levy is clearly rooted on the RTC Orders, the only question that needs to be resolved is which court has jurisdiction to order the execution of the RTC orders.

⁴⁴ Rule 129, **Section 1. Judicial notice, when mandatory.** — A court shall take judicial notice, without the introduction of evidence, of the existence and territorial extent of states, their political history, forms of government and symbols of nationality, the law of nations, the admiralty and maritime courts of the world and their seals, the political constitution and history of the Philippines, **the official acts of legislative, executive and judicial departments of the Philippines**, the laws of nature, the measure of time, and the geographical divisions.

The RTC, as the court of origin, has jurisdiction to order the levy of the respondent's real property.

Execution shall be applied for in the court of origin, in accordance with Section 1,⁴⁵ Rule 39 of the Rules of Court.

The court of origin with respect to the assailed RTC orders is the court which issued these orders. The RTC is the court with jurisdiction to order the execution of the issued RTC orders.

Hence, the petitioner correctly moved for the issuance of the writ of execution and levy of the respondent's real property before the RTC as the court of origin.

WHEREFORE, we hereby **GRANT** the petition for review on certiorari. The decision dated November 23, 2010, and the resolution dated August 10, 2011, of the Court of Appeals in CA-G.R. SP No. 105290 are hereby **REVERSED** and **SET ASIDE**. The orders dated June 30, 2008, and August 26, 2008, of Branch 108 of the Regional Trial Court of Pasay City, are hereby **REINSTATED**. Costs against respondent Antonio dela Cruz.

SO ORDERED.


ARTURO D. BRION
Associate Justice

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson

⁴⁵ **Section 1. Execution upon judgments or final orders.** — Execution shall issue as a matter of right, or motion, upon a judgment or order that disposes of the action or proceeding upon the expiration of the period to appeal therefrom if no appeal has been duly perfected. (1a)

If the appeal has been duly perfected and finally resolved, the execution may forthwith be applied for in the court of origin, on motion of the judgment obligee, submitting therewith certified true copies of the judgment or judgments or final order or orders sought to be enforced and of the entry thereof, with notice to the adverse party.

The appellate court may, on motion in the same case, when the interest of justice so requires, direct the court of origin to issue the writ of execution. (n)



MARIANO C. DEL CASTILLO
Associate Justice


JOSE CANTRAL MENDOZA
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice

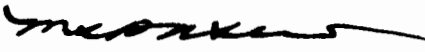
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision 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