Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

JORGENETICS SWINE IMPROVEMENT CORPORATION,
Petitioner,

- *versus* -

THICK & THIN AGRI-PRODUCTS, INC.,
Respondent.

G.R. Nos. 201044 & 222691

Present:

LEONEN, *J.*,
Chairperson,
HERNANDO,
INTING,
DELOS SANTOS, and
LOPEZ, J.Y., *JJ.*

Promulgated:

May 5, 2021

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DECISION

HERNANDO, *J.*:

Before this Court are two (2) consolidated Petitions for Review on *Certiorari* under Rule 45 of the Rules of Court.

The Petition in **G.R. No. 201044** assails the March 29, 2011 Decision[1] and February 29, 2012 Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP. No. 114682 which, set aside the February 4, 2010 Order of the trial court and reinstated the complaint for replevin filed by Thick & Thin Agri-Products, Inc. (TTAI) in Civil Case No. Q-08-63757.

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[1] *Rollo* (G.R. No. 201044), Vol. I, pp. 39-54. Penned by Associate Justice Magdangal M. De Leon and concurred in by Associate Justices Mario V. Lopez (now a Member of the Court) and Edwin D. Sorongon.
[2] Id. at 74-76.

On the other hand, the Petition in **G.R. No. 222691** assails the CA's October 29, 2014 Decision[3] and January 8, 2016 Resolution[4] in CA-G.R. SP No. 130075, which found the trial court in Civil Case No. Q-08-63757 to have acted with grave abuse of discretion for refusing to reinstate the complaint for replevin and ordering the implementation of the February 4, 2010 Order of the trial court despite the issuance of the CA's March 29, 2011 Decision in CA G.R. SP. No. 114682.

The Factual Antecedents:

On November 10, 2008, TTAI filed a complaint for replevin with damages[5] against Jorgenetics Swine Improvement Corporation (Jorgenetics), seeking possession of 4,765 heads of hogs that were the subject of a chattel mortgage between the parties. In its complaint, TTAI alleged that the parties entered into an agreement where TTAI would supply, on credit, feeds and other supplies necessary for Jorgenetics' hog raising business. As security for payment of their obligation amounting to Php20,000,000.00, Jorgenetics executed a chattel mortgage[6] over its hog livestock inventories in favor of TTAI. While TTAI delivered feeds and supplies pursuant to the agreement, Jorgenetics failed to pay for the same despite demand. [7]

Thus, TTAI alleged in its complaint that as mortgagee it was entitled to take immediate possession of the livestock subject of the mortgage which was wrongfully withheld by Jorgenetics to avoid compliance of its obligation.[8] It prayed for the immediate issuance of a writ of replevin commanding the immediate seizure of the hogs, for judgment to be rendered adjudicating rightful possession of the hogs subject of the mortgage to TTAI, or in the event possession could not be secured, the payment of Php20,000,000.00 with interest, and for damages, attorney's fees, and costs.[9]

The complaint was raffled to the Regional Trial Court (RTC) of Quezon City, Branch 92. The next day, the trial court issued a writ of replevin and required Jorgenetics to post a bond in the amount of Php40,000,000.00. [10]

While the writ of replevin was served on May 29, 2009, the return thereon indicated that the writ, together with a copy of TTAI's affidavit and bond, as well as the summons and TTAI's complaint, were served on petitioner's farm through its purchasing officer Rowena Almirol (Almirol), who refused acknowledgment of the documents. The return likewise stated

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3 *Rollo* (G.R. No. 222691), pp. 73-94; penned by Associate Justice Romeo F. Barza and concurred in by Associate Justices Hakim S. Abdulwahid and Ramon A. Cruz.
4 Id. at 108-110.
5 *Rollo* (G.R. No. 2222691), Vol. 1, pp. 111-117.
6 *Rollo* (G.R. No. 201044), pp. 192-195.
7 *Rollo* (G.R. No. 222691), p. 296.
8 Id. at 113.
9 Id. at 115.
10 *Rollo* (G.R. No. 201044), Vol. 1, pp. 205-206.

that the 4,765 heads of hog livestock subject of the writ were seized and delivered to respondent.[11]

Jorgenetics moved to dismiss the complaint for replevin on the ground of invalid service of summons, since service was made on its farm in Rizal instead of its place of business in Quezon City, and in view of the lack of justification from the sheriff for availing of substituted service to the person of Almirol. In its motion to dismiss, Jorgenetics likewise prayed for the quashal of the writ of replevin and for the replevin bond to be made wholly answerable for the damages it allegedly suffered.[12]

The case was re-raffled to Branch 93 and subsequently to Branch 75.[13] Thereafter, the trial court issued the February 4, 2010 Order,[14] directing the dismissal of the complaint for replevin for failure to acquire jurisdiction over the person of Jorgenetics by reason of the invalid service of summons. The *fallo* of the February 4, 2010 Order reads:

> WHEREFORE, premises considered, this case is ordered dismissed.
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> Accordingly, the properties seized by virtue of the writ of replevin are ordered returned to the defendant-movant.
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> SO ORDERED.[15]

TTAI moved for reconsideration. However, this was denied by the trial court. [16]

Thereafter, Jorgenetics filed on June 18, 2010 a *Motion for the Issuance of a Writ of Execution with Application for Damages* against the replevin bond, alleging that it incurred damages on account of the alleged wrongful seizure of the hogs. Among others, Jorgenetics vowed to present proof of the damages it incurred in the hearing on the application for Damages.[17] The trial court set the hearing on the *Motion for the Issuance of a Writ of Execution with Application for Damages* on the same day, and ordered TTAI to file its comment or opposition thereto and, upon receipt thereof, for Jorgenetics to file a reply within the same period.[18]

Aggrieved, TTAI filed a Petition for *Certiorari*[19] under Rule 65 against Jorgenetics and Hon. Alexander S. Balut (Judge Balut) in his capacity as presiding judge of Branch 75. In the petition docketed as CA G.R. SP. No.

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11 Id. at 207-208.
12 Id. at 209-217.
13 Id. at 42.
14 Id. at 189-190; penned by Presiding Judge Alexander S. Balut of Branch 76, Regional Trial Court, Quezon City.
15 Id. at 190.
16 Id. at 219-232.
17 Id. at 233-235.
18 Id. at 166, 299; *Rollo* (G.R. No. 222691), pp.110.
19 *Rollo* (G.R. No. 201044), Vol. 1, 158-188.

114682, TTAI faulted the trial court for taking cognizance of the *Motion for the Issuance of a Writ of Execution with Application for Damages* and continuing to conduct trial on the merits in the guise of execution proceedings despite the dismissal of the case. TTAI thus prayed for the annulment of the February 4, 2010 and May 6, 2010 Orders of the trial court, which dismissed the complaint for replevin, in view of Jorgenetics' voluntary submission to the jurisdiction of the trial court.

While CA G.R. SP. No. 114682 was pending before the appellate court, proceedings before the trial court continued. In the meantime, TTAI filed a petition for extrajudicial foreclosure of the chattel mortgage covering the hogs. After winning the bid at public auction, a certificate of sale of the hogs subject of the chattel mortgage was issued in TTAI's favor.[20]

In an October 6, 2010 Order[21] resolving the application for damages against the replevin bond and motion for the issuance of a writ of execution, the trial court ordered Jorgenetics to present its evidence in support of its claim for damages against the replevin bond. The trial court opined that the February 4, 2010 order dismissing the complaint for replevin became final and executory in view of TTAI's failure to appeal, and that the application for damages was corollary to the motion to issue writ of execution under Section 6, Rule 39 of the Rules of Court.

Further, the trial court stated that Jorgenetics was entitled to damages against the replevin bond, since the parties must necessarily revert to their status prior to litigation. However, given the physical impossibility for the return of the hogs, logical and equitable consideration dictate the application against the bond for damages.

TTAI moved for reconsideration of the October 6, 2010 Order and the voluntary inhibition of Judge Balut. However, this was denied. [22] Thereafter, the trial court granted Jorgenetics' motion for issuance of a writ of execution on the ground that the February 4, 2010 order of dismissal had long become final and executory.[23] The writ of execution was issued on January 18, 2011.[24]

TTAI moved to quash the writ of execution. It alleged that it was already the rightful owner of the property subject of the writ of replevin as the winning bidder in the foreclosure sale for the hogs subject of the chattel mortage, as evidenced by the Certificate of Sale.[25] In turn, Jorgenetics filed an urgent *ex-parte* Motion for deposit of the auction proceeds with the court.[26]

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20 Id. at 397-405.
21 Id. at 342-343.
22 Id. at 380.
23 Id. at 395.
24 Id. at 396.
25 Id. at 397-405.
26 Id. at 406-409.

Judge Balut granted the latter motion on the basis of the final and executory nature of the February 4, 2010 Order. He also ordered the deposit of the proceeds of the sale of the hogs with the Office of the Clerk of Court and set the hearing date for the reception of evidence in support of Jorgenetics' application for damages.[27] TTAI moved for reconsideration of the said Order.[28]

Thereafter, Judge Balut inhibited himself from conducting further proceedings. The case was raffled to RTC Branch 226, then presided by Judge Ma. Luisa C. Quijano-Padilla. [29]

Ruling of the Court of Appeals in CA-G.R. SP. No. 114682 (now G.R. No. 201044):

On March 29, 2011, the appellate court issued the Decision[30] in CA-G.R. SP No. 114682 nullifying the order of dismissal and reinstating TTAI's complaint for replevin. The *fallo* of the March 29, 2011 Decision reads:

> WHEREFORE, the petition is **GRANTED**. The assailed orders of the Regional Trial Court of Quezon City, Branch 75 are **ANNULLED and SET ASIDE**. Petitioner's complaint for replevin with damages is ordered reinstated. Accordingly, the case is **REMANDED** to said court for further proceedings.
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> SO ORDERED.[31]

In so ruling, the appellate court noted that Jorgenetics voluntarily submitted itself to the jurisdiction of the trial court in filing the application for damages against the bond and motion for the issuance of a writ of execution without objecting to the trial court's jurisdiction.[32] Moreover, the dismissal of the action for replevin is wholly inconsistent with the trial court's cognizance of Jorgenetics' application for damages against the replevin bond. It opined that the dismissal of an action without prejudice means that no trial shall be conducted thereon unless plaintiff refiles the case, while an application for damages against the replevin bond presupposes that a trial on the merits of the case was had and that the defendant obtained a favorable judgment from the court.[33]

Jorgenetics moved for reconsideration, which was denied in a February 29, 2012 Resolution.[34] Thus, on May 8, 2012, it filed a Petition for Review on

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27 Id. at 423.
28 Id. at 479-484.
29 *Rollo* (G.R. No. 222691), p. 17.
30 *Rollo* (G.R. No. 201044), Vol. 1, pp. 39-54.
31 Id. at 54.
32 Id. at 8-12.
33 Id. at 14.
34 Id. at 74-76.

Certiorari before this Court, assailing the CA's reinstatement of the replevin case. This was docketed as G.R. No. 201044.

Proceedings in G.R. No. 222691:

In the meantime, proceedings continued in RTC Branch 226. In its April 29, 2011 Resolution, the trial court granted (a) TTAI's motion for reconsideration of Judge Balut's order to deposit the proceeds of auction sale and setting the date for the reception of evidence in support of Jorgenetics' application for damages, and (b) the motion to quash writ of execution, holding therein that all subsequent proceedings held after the dismissal of the complaint for replevin is without force and effect. It also held that although the Order dated February 4, 2010 gave Jorgenetics a clear right to recover the hogs or the value thereof, the same must be done in a separate proceeding.[35]

In view thereof, Jorgenetics filed a separate petition for the issuance of a writ of possession with Branch 98, which was dismissed in view of the finality of the February 10, 2010 Order. Branch 98 opined that Branch 226 still has residual jurisdiction to carry into effect the February 10, 2010 Order in accordance with Section 6, Rule 39 of the 1997 Rules of Civil Procedure, prompting Jorgenetics to file a *Motion for Writ for Execution and/or Writ of Possession* dated 13 January 2012.[36]

In its May 7, 2012 Resolution, Branch 226 denied Jorgenetics' *Motion for Writ for Execution and/or Writ of Possession.* Taking heed of the appellate court's March 29, 2011 Decision, it also ordered that the case be reinstated and for Jorgenetics to file its answer to the complaint for replevin.[37] Jorgenetics moved for reconsideration of the May 7, 2012 Resolution while TTAI moved for Jorgenetics to be declared in default for failure to file an answer to the complaint for replevin.[38]

Meanwhile, then Presiding Judge Quijano-Padilla of Branch 226 was appointed to the CA, which paved the way for Judge Cleto R. Villacorta's (Judge Villacorta) designation as Presiding Judge of Branch 226. In an October 18, 2012 Order[39], Judge Villacorta granted Jorgenetics' motion for reconsideration, thus denying the motion to declare Jorgenetics in default. Despite the March 29, 2011 Decision of the appellate court in CA G.R. SP. No. 114682 nullifying the order of dismissal and reinstating TTAI's complaint for replevin, Judge Villacorta opined that the February 4, 2010 Order dismissing the complaint must be enforced since the same lapsed into finality despite the filing of the petition for *certiorari* assailing the same, because the CA did not issue any injunctive relief while the case was still pending before

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35 *Rollo* (G.R. No. 201044), Vol. 1. at 479-484.
36 Id. at 486-492.
37 *Rollo* (G.R. No. 201044), Vol. 2, pp. 571-578.
38 *Rollo* (G.R. No. 222691), Vol. 1, pp. 213-222.
39 Id.

the trial court. Thus, Judge Villacorta ordered the return of the properties subject of replevin to Jorgenetics.

The *fallo* of the October 18, 2012 Order reads:

> **WHEREFORE**, the Motion for Reconsideration filed by defendant is granted. The Motion to Declare Defendant in Default filed by plaintiff is **denied**. The Order of May 7, 2012 is **modified**. The Order of February 4, 2010 **must be enforced, implemented or executed** pursuant to A.M. No. 07-7-12-SC, which states in part "[t]he petition shall not interrupt the course of the principal case unless a temporary restraining order or a writ of preliminary injunction has been issued against public respondent from further proceeding in the case." Hence, this case **remains dismissed** and plaintiff is **directed to comply** with the directive in the Order that "the properties seized by virtue of the writ of replevin are ordered returned to the defendant-movant" within thirty (30) days from receipt of this Order. Notify the parties and counsel.
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> SO ORDERED.[40]

TTAI moved for reconsideration and the voluntary inhibition of Judge Villacorta. Thus, Judge Villacorta inhibited himself from hearing the case, which was re-raffled to Branch 216 presided by Judge Alfonso C. Ruiz II (Judge Ruiz).[41]

On March 15, 2013, Judge Ruiz ordered the reinstatement of the case pursuant to the March 29, 2011 Decision of the appellate court in CA G.R. SP. No. 114682 and the return of the properties subject of the writ to Jorgenetics.[42] The *fallo* of the March 15, 2013 Order reads:

> **WHEREFORE**, pursuant to the Decision of the Court of Appeals on March 29, 2011 in CA-G.R. SP. No. 114682, setting aside the Orders dated February 4, 2010 and May 6, 2010, this case is hereby **REINSTATED** and placed on the active file of this court.
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> The defendant is ordered to file its Answer to the Complaint within five (5) days from receipt of this Order.
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> Meanwhile, the plaintiff is ordered to return to the defendant the properties seized by virtue of the writ of replevin.
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> **SO ORDERED.**[43]

In so ruling, Judge Ruiz opined that Jorgenetics' voluntary submission to the jurisdiction of the trial court did not cure the defect in the service of the writ of replevin, that the only issue resolved in the March 29, 2011 Decision in CA G.R. SP. No. 114682 was the issue on the acquisition of the court of

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40 Id. at 221.
41 Id. at 22.
42 Id. at 223-229.
43 Id. at 229.

jurisdiction over the person of Jorgenetics, and that the court a *quo* did not overrule the finding of the court on the impropriety of the service of the writ of replevin.[44]

Aggrieved, TTAI assailed the October 18, 2012 and March 15, 2013 Order of the trial court with the CA *via* a Petition for *Certiorari* docketed as CA-G.R. SP No. 130075.[45]

The appellate court granted the Petition for *Certiorari*. The *fallo* of the CA's October 29, 2014 Decision reads:

> **WHEREFORE**, finding merit in the petition, the Court **GRANTS** the petition for certiorari and hereby **DECLARES** the assailed order of October 18, 2012 issued by the trial court **NULL and VOID** and is hereby **SET ASIDE**. As for the order of March 15, 2013, the same is hereby **AFFIRMED** with **MODIFICATION** in that the portion invalidating the writ of replevin and ordering the return of the hogs to respondent is hereby **DELETED**.
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> **SO ORDERED.**[46]

Anent the October 18, 2012 Order, the CA stressed that the trial court acted in grave abuse of discretion in refusing to reinstate TTAI's complaint for replevin and ordering the implementation of the February 4, 2010 Order even though the March 29, 2011 Decision in CA G.R. SP. No. 114682 had already declared the February 4, 2010 Order dismissing the complaint as void.[47]

The appellate court likewise noted that the February 4, 2010 order, as a void judgment, could not have lapsed into finality and its execution has no basis in law.[48] As regards the March 15, 2013 Order, the appellate court noted that while the voluntary submission of Jorgenetics did not cure the defect in the service of the writ of replevin, the writ of replevin must be maintained until Jorgenetics seeks to quash the writ of replevin or have the order of seizure vacated through an appropriate motion, but not through a motion for execution of a void order.[49]

Jorgenetics moved for reconsideration, which was denied in a January 8, 2016 Resolution.[50] Hence, it filed a Petition for Review on *Certiorari* docketed as **G.R. No. 222691**, seeking the reversal of the CA's October 29, 2014 Decision in CA-G.R. SP No. 130075 and for the affirmation *in toto* of the trial court's: (a) October 18, 2012 Order, which mandated the enforcement of the February 4, 2010 Order of dismissal of the trial court and the return of the properties subject of replevin to Jorgenetics; and (b) March 15, 2013

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44 Id. at 228.
45 Id. at 230-286.
46 Id. at 93-94.
47 Id. at 87.
48 Id. at 73-94.
49 Id. at 87-88.
50 Id. at 108-111.

Order, which mandated the reinstatement of the case pursuant to the March 29, 2011 Decision in CA G.R. SP. No. 114682 but which likewise ordered the return of the properties subject of replevin to Jorgenetics.[51]

Notably, TTAI filed a *Manifestation and Motion*[52] on December 13, 2017, where it manifested that the trial court has rendered a May 2, 2017 decision on the merits in the main case, declaring TTAI as the rightful possessor of the hogs and ordering Jorgenetics to pay TTAI the deficiency judgment in the amount of ₱14,999,980.00 along with interest, attorney's fees, and costs of the suit. TTAI manifested that in view of the lapse of the period to move for the reconsideration or appeal the above indicated Decision without any action on the part of the parties, the said Decision had become final and executory which renders the Petitions moot and academic. Accordingly, TTAI moved for the dismissal of the instant petitions before this Court.

Issues

The main issues for resolution are:

(a) Whether the resolution of the Petitions has become moot in view of the decision on the merits in Civil Case No. Q-08-63757;

(b) Whether the Petitions should be dismissed for failure of Jorgenetics to comply with the rules on verification and certification of non-forum shopping;

(c) Whether the February 4, 2010 Order became final and executory upon the lapse of the 15-day period to file an ordinary appeal under Rule 41 of the Rules of Civil Procedure;

(d) Whether Jorgenetics, in filing an application for damages and motion for issuance of a writ of execution after the trial court's issuance of a decision dismissing the complaint for replevin, may be considered to have submitted itself to the jurisdiction of the trial court; and

(e) Whether the return of the hogs seized by virtue of the writ of replevin is proper.

Our Ruling

The Petitions are denied for lack of merit.

The instant Petitions have not been mooted despite the issuance

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[51] Id. at 55-71.

[52] *Rollo* (G.R. No. 201044), Vol. 2, pp. 814-823.

of a decision on the merits in the main case.

Before the Court delves into the issues raised in the Petitions, We shall resolve first TTAI's *Manifestation and Motion* which seeks the dismissal of the Petitions for being moot and academic, in view of the favorable ruling on the merits TTAI secured in the main case which has become final and executory. In the said decision, the trial court declared TTAI as the rightful possessor of the livestock subject of the chattel mortgage in view of Jorgenetics' default in the payment of its obligations, and the eventual sale by public auction of the mortgaged property to respondent which were found by the trial court to be legitimate. [53]

An issue becomes moot when it ceases to present a justiciable controversy such that a determination thereof would be without practical value.[54] In such cases, there is "no actual substantial relief to which petitioner would be entitled to and which would be negated by the dismissal of the petition."[55] Courts will not determine questions that have become moot and academic because there is no longer any justiciable controversy to speak of. The judgment will not serve any useful purpose or have any practical legal effect because, in the nature of things, it cannot be enforced.[56]

The crux of the controversy in the case at bench is whether the trial court has obtained jurisdiction over the person of petitioner or alternatively, whether the February 4, 2010 order of the trial court dismissing the complaint for lack of jurisdiction over petitioner had already become final and executory and thus may no longer be disturbed. In connection thereto, it must be stressed that any judgment rendered or any proceedings conducted by a court which has no jurisdiction over the person of the defendant is null and void.[57]

Thus, should the Court rule in favor of petitioner, the complaint for replevin will be dismissed and all proceedings conducted, including the decision on the merits invoked by respondent in its *Manifestation and Motion*, will be considered null and void. "A void judgment is in effect no judgment at all," and "[a]ll acts performed under it and all claims flowing out of it are void."[58] "The judgment is vulnerable to attack even when no appeal has been taken," and "does not become final in the sense of depriving a party of [their] right to question its validity."[59]

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53 Id. at 829.
54 *Philippine Savings Bank v. Senate Impeachment Court*, 699 Phil. 35-36 (2012).
55 Id., citing *Gancho-on v. Secretary of Labor and Employment*, 337 Phil. 654, 658 (1997).
56 Id., citing *Sales v. Commission on Elections*, 559 Phil. 593 (2007).
57 *Pacific Rehouse Corp. v. Court of Appeals*, 730 Phil. 325, 344 (2014).
58 *Lingkod Manggagawa sa Rubberworld v. Rubberworld*, 542 Phil. 203, 213 (2007)
59 Id. at 213-214.

Guided by the foregoing, We find that the Petitions are not moot as a favorable ruling to Jorgenetics will entail the setting aside of the trial court's judgment on the merits in view of lack of jurisdiction over its person.

The chairperson and president of a corporation may sign the verification and certification without need of board resolution. Moreover, lack of authority of a corporate officer to undertake an action on behalf of the corporation may be cured by ratification through the subsequent issuance of a board resolution.

TTAI contends that Mr. Romeo J. Jorge, the chairperson and president of petitioner, had no authority to file the Petition in G.R. No. 201044 on behalf of Jorgenetics at the time of the filing thereof, and that the belated submission of the Board Resolution indicating Mr. Jorge's authority and ratifying the filing of the Petition will not cure the defect.

We disagree.

In *Cagayan Valley Drug Corp. v. Commissioner of Internal Revenue,*[60] this Court ruled that certain officials or employees of a corporation can sign the verification and certification on its behalf without need of a board resolution, such as but not limited to the chairperson of the board of directors, the president of a corporation, the general manager or acting general manager, personnel officer, and an employment specialist in a labor case. Moreover, the "lack of authority of a corporate officer to undertake an action on behalf of the corporation may be cured by ratification through the subsequent issuance of a board resolution, recognizing the validity of the action or the authority of the concerned officer."[61]

Given the foregoing, Mr. Jorge, as the chairperson and president of petitioner, is sufficiently authorized to sign the verification and certification on behalf of Jorgenetics. Any doubt on his authority to sign the verification and certification is likewise obviated by the secretary's certificate it submitted upon the orders of this Court, which ratified Mr. Jorge's authority to represent petitioner and file the Petition in G.R. No. 201044.

A variance in the date of the verification with the date of the

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[60] 568 Phil. 572, 581 (2008).

[61] *Fausto v. Multi Agri-Forest and Community Development Cooperative,* 797 Phil. 259, 275 (2016).

Petition is not fatal to petitioner's case.

TTAI alleges that the Petition in G.R. No. 222691 should be dismissed outright, since the verification and certification of non-forum shopping was signed by Mr. Jorge and notarized a day prior to the date of the Petition.

This contention must fail.

The purpose of a verification in the petition is to secure an assurance that the allegations of a pleading are true and correct, are not speculative or merely imagined, and have been made in good faith. To achieve this purpose, the verification of a pleading is made through an affidavit or sworn statement, confirming that the affiant has read the pleading whose allegations are true and correct of the affiant's personal knowledge or based on authentic records.[62]

In connection thereto, a variance in the date of the verification with the date of the petition is not necessarily fatal to Jorgenetics' case since the variance does not necessarily lead to the conclusion that no verification was made, or that the verification was false. It does not necessarily contradict the categorical declaration made by Jorgenetics in its affidavit that its representatives read and understood the contents of the pleading.

To demand the litigants to read the *very same document* that is to be filed in court is too rigorous a requirement.

> [W]hat the Rules require is for a party to read the contents of a pleading without any specific requirement on the form or manner in which the reading is to be done. [W]hat is important is that efforts were made to satisfy the objective of the Rule, that is, to ensure good faith and veracity in the allegations of a pleading, thereby allowing the courts to act on the case with reasonable certainty that the petitioners' real positions have been pleaded.[63]

We find the verification and certification of non-forum shopping attached to the Petition in G.R No 222691 sufficiently compliant in achieving the said objective.

An order dismissing an action for lack of jurisdiction over the parties to the case is cognizable under a special civil action for *certiorari*.

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[62] *National Housing Authority v. Basa, Jr.*, 632 Phil. 471, 490 (2010).

[63] *Peak Ventures Corp. v. Heirs of Villareal*, 747 Phil. 320, 331-333 (2014); *Spouses Valmonte v. Alcala*, 581 Phil. 505, 513-516 (2008).

Jorgenetics asserts that the proper remedy to assail the February 4, 2010 Order of the trial court, which dismissed the complaint for replevin due to lack of jurisdiction over the person of defendant, is through an ordinary appeal under Section 1, Rule 41 of the Rules of Court. Thus, it claims that the 15-day period to file an appeal under Rule 41 had already lapsed and the February 4, 2010 Order had long become final and executory when TTAI filed a petition for *certiorari* to assail the same, and that the appellate court no longer had the power to reinstate the complaint in view of the finality of the said order.

We find no error in the ruling of the appellate court that a petition for *certiorari* under Rule 65 of the Rules of Court is the proper remedy to question the trial court's order dismissing the replevin case on the ground of lack of jurisdiction. An order granting a motion to dismiss on the ground that the court has no jurisdiction over the person of the defendant is without prejudice to the refiling of the same action or claim.[64] In connection thereto, Section 1, Rule 41 clearly provides that an order dismissing an action without prejudice may not be appealed *via* a Rule 41 petition, and must instead be assailed through a petition for *certiorari* under Rule 65:

> SECTION 1. *Subject of Appeal.* — An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.
>
> **No appeal may be taken from**:
>
> x x x x
>
> (h) **An order dismissing an action without prejudice.**
>
> **In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65.** (n) [Emphasis supplied]

Under the circumstances, the special civil action for *certiorari* under Rule 65 availed of by TTAI – and not an appeal via Rule 41 - was the correct remedy to challenge the February 4, 2010 Order, which dismissed the complaint for replevin for lack of jurisdiction.

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[64] Sections 1 (a) and 5, Rule 16 of the RULES OF COURT provide:
SECTION 1. *Grounds.* — Within the time for but before filing the answer to the complaint or pleading asserting a claim, a motion to dismiss may be made on any of the following grounds:
(a) That the court has no jurisdiction over the person of the defending party;
x x x x
SECTION 5. *Effect of Dismissal.* — Subject to the right of appeal, an order granting a motion to dismiss based on paragraphs (f), (h) and (i) of Section 1 hereof shall bar the refiling of the same action or claim. (n)

Jorgenetics' insistence that the order of dismissal has become final and executory and may no longer be set aside by the court *a quo* must likewise fail. TTAI's timely filing of a Motion for Reconsideration over the order of dismissal and thereafter, a Rule 65 petition before the CA, clearly prevented the February 4, 2010 Order from becoming final and executory. To find otherwise would result in an anomalous situation where TTAI would be deprived of its right to file a petition for *certiorari* to assail the February 4, 2010 Order, which is a remedy clearly afforded to it under the Rules of Court.

Considering that the February 4, 2010 Order did not attain finality, We agree with the appellate court's ruling that the trial court acted in grave abuse of discretion in ordering the implementation of the February 4, 2010 Order, moreso because the court *a quo* already reversed and set aside the March 29, 2011 Decision in CA G.R. SP. No. 114682 at the time it ordered the implementation of the same.

Jorgenetics, in seeking to recover damages in the main action on the bond of the writ of replevin, is deemed to have voluntarily submitted to the jurisdiction of the court.

Jorgenetics alleges that the appellate court erred in finding that its filing of the *Motion for the Issuance of a Writ of Execution with Application for Damages* amounted to a voluntary submission to the trial court's jurisdiction.

We disagree.

Jurisdiction over the person of the defendant in civil cases is acquired by service of summons. However, "even without valid service of summons, a court may still acquire jurisdiction over the person of the defendant if the latter voluntarily appears before it."[65] "If the defendant knowingly does an act inconsistent with the right to object to the lack of personal jurisdiction as to [them], like voluntarily appearing in the action, [they are] deemed to have submitted [themselves] to the jurisdiction of the court."[66]

Thus, a defendant is deemed to have voluntarily submitted themselves to the jurisdiction of the court if they seek affirmative relief from the court. This includes the filing of motions to admit answer, for additional time to file

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[65] *Tujan-Militante v. Nustad*, 811 Phil. 192, 197-198 (2017). *See* also Section 20, Rule 14 of the RULES OF COURT which provides:

> Section 20. *Voluntary Appearance.* — The defendant's voluntary appearance in the action shall be equivalent to service of summons. The inclusion in a motion to dismiss of other grounds of relief aside from lack of jurisdiction over the person of the defendant shall not be deemed a voluntary appearance.

[66] *Carson Realty & Management Corp. v. Red Robin Security Agency*, 805 Phil. 562, 577 (2017).

answer, for reconsideration of a default judgment, and to lift order of default with motion for reconsideration.[67]

We have likewise held that a party is deemed to have submitted themselves to the jurisdiction of the court when, after the opposing party sought the execution of the decision, they file a motion asking for the resetting of the hearing without reserving their continuing objection to the lower court's lack of jurisdiction over their person. [68] "[T]he active participation of a party in the proceedings is tantamount to an invocation of the court's jurisdiction and a willingness to abide by the resolution of the case, and will bar said party from later on impugning the court or body's jurisdiction."[69]

However, this rule is "tempered by the concept of conditional appearance, such that a party who makes a special appearance to challenge, among others, the court's jurisdiction over [their] person cannot be considered to have submitted to its authority x x x A special appearance operates as an exception to the general rule on voluntary appearance," but only when the defendant explicitly and unequivocably poses objections to the jurisdiction of the court over their person. [70]

Applying the foregoing principles to the instant case, the Court finds that Jorgenetics voluntarily submitted itself to the jurisdiction of the trial court when it filed a motion for the issuance of a writ of execution and an application for damages against the replevin bond without objecting to the jurisdiction of the trial court.

The Rules provide that an application for damages on the replevin bond shall only be claimed, ascertained, and granted in accordance with Section 20, Rule 57 of the Rules of Court, which provides:

> SEC. 20. *Claim for damages on account of illegal attachment.* — **If the judgment on the action be in favor of the party against whom attachment was issued**, he may recover, upon the bond given or deposit made by the attaching creditor, any damages resulting from the attachment. **Such damages may be awarded only upon application and after proper hearing, and shall be included in the final judgment.** The application must be filed before the trial or before appeal is perfected or before the judgment becomes executory, with due notice to the attaching creditor and his surety or sureties, setting forth the facts showing his right to damages and the amount thereof.
>
> If the judgment of the appellate court be favorable to the party against whom the attachment was issued, he must claim damages sustained during the pendency of the appeal by filing an application with notice to the party in whose favor the attachment was issued or his surety or sureties, before the

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[67] *United Coconut Planters Bank v. Spouses Sy*, G.R. No. 204753, March 27, 2019.
[68] *Cezar v. Ricafort-Bautista*, 536 Phil. 1037, 1047-1048 (2006)
[69] *Navida v. Dizon*, 664 Phil. 283, 329 (2011).
[70] *Carson Realty & Management Corp. v. Red Robin Security Agency,* supra note 47, at 576-577, citing *Philippine Commercial International Bank v. Spouses Dy,* 606 Phil. 615 (2009).

> judgment of the appellate court becomes executory. The appellate court may allow the application to be heard and decided by the trial court. [Emphases supplied]

Under the said provision, an application for damages against the bond presupposes that a trial on the merits in the main case was conducted and the defendant obtained a favorable judgment from the court.[71] Moreover, the damages to which the defendant would be entitled to, if any, would require the conduct of a hearing. In other words, petitioner's act of filing an application for damages against the replevin bond in the same action is tantamount to requesting the trial court to conduct a trial on the merits of the case and adjudicating rightful possession to Jorgenetics, and to thereafter conduct a hearing on Jorgenetics' application for damages. This is clearly an invocation of the court's jurisdiction and a willingness to abide by the resolution of the case. Hence, Jorgenetics is deemed to have submitted itself to the jurisdiction of the court.

Jorgenetics' assertion that it was merely invoking the residual authority of the trial court when it requested the latter to rule on its application for damages comes up empty. In *Development Bank of the Philippines v. Carpio,*[72] We clarified that a trial court acquires residual jurisdiction over a case once a trial on the merits has been conducted, the court renders judgment, and the aggrieved party appeals therefrom.

Hence, We ruled therein that the trial court may not be considered to have acquired residual jurisdiction over a replevin case if the complaint is dismissed without prejudice, and the trial court may not rule on the application for damages on the assumption that it has residual powers over the case:

> The "residual jurisdiction" of the trial court is available at a stage in which the court is normally deemed to have lost jurisdiction over the case or the subject matter involved in the appeal. This stage is reached upon the perfection of the appeals by the parties or upon the approval of the records on appeal, but prior to the transmittal of the original records or the records on appeal. In either instance, the trial court still retains its so-called residual jurisdiction to issue protective orders, approve compromises, permit appeals of indigent litigants, order execution pending appeal, and allow the withdrawal of the appeal.
>
> From the foregoing, it is clear that **before the trial court can be said to have residual jurisdiction over a case, a trial on the merits must have been conducted; the court rendered judgment; and the aggrieved party appealed therefrom.**

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[71] *See also* Section 9, Rule 60 of the RULES OF COURT which provides:
Section 9. *Judgment.* — **After trial of the issues** the court shall determine who has the right of possession to and the value of the property and shall render judgment in the alternative for the delivery thereof to the party entitled to the same, or for its value in case delivery cannot be made, and also for such damages as either party may prove, with costs. (9a) [Emphasis supplied]

[72] 805 Phil. 99 (2017).

xxxx

> Here, the RTC dismissed the replevin case on the ground of improper venue. Such dismissal is one *without prejudice* and does not bar the refiling of the same action; hence, it is not appealable. **Clearly, the RTC did not reach, and could not have reached, the residual jurisdiction stage as the case was dismissed due to improper venue, and such order of dismissal could not be the subject of an appeal. Without the perfection of an appeal, let alone the unavailability of the remedy of appeal, the RTC did not acquire residual jurisdiction. Hence, it is erroneous to conclude that the RTC may rule on DBP's application for damages pursuant to its residual powers.**[73] [Emphasis supplied]

Moreover, Jorgenetics argues that the trial court had yet to rule on its application for damages and motion for writ of execution at the time of filing of the petition for *certiorari* before the CA. Thus, it is erroneous to claim that the trial court committed grave abuse of discretion when there is no action yet that may be regarded as such at the time of the filing of CA G.R. SP. No. 114682. On the other hand, TTAI argues that the fact petitioner's application for damages was given due course amounts to grave abuse of discretion, as the trial court essentially recognized an affirmative relief, like the prayer for damages, from a party that it has no jurisdiction over.

We agree with TTAI. It is undisputed that at the time of the filing of the petition with the appellate court, the trial court already took cognizance of the application for damages by setting the hearing for the same and requiring the parties to file their respective pleadings thereto despite its previous order dismissing the case for replevin for lack of jurisdiction. And while the trial court had yet to rule on the application for damages at the time of the filing of the petition for *certiorari* with the appellate court, the records clearly show that the trial court, while CA G.R. SP. No. 114682 was pending, explicitly ruled that Jorgenetics was entitled to damages against the replevin bond despite its earlier order dismissing the complaint.

In any event, any doubt on the voluntary submission of Jorgenetics to the trial court's jurisdiction has been eliminated by the multiple affirmative reliefs it sought from the trial court as shown in the record, such as its urgent *ex-parte* motion for deposit of auction proceeds, motion for inhibition, and motion for writ of execution and/or writ of possession. These motions are clearly affirmative reliefs sought by Jorgenetics tantamount to voluntary submission to the jurisdiction of the trial court.

In light of the foregoing, We find that the CA did not commit any error in reinstating the complaint for replevin in view of Jorgenetics' active participation in the proceedings before the trial court, and in finding that the trial court committed grave abuse of discretion in taking cognizance of the

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[73] Id. at 108-111.

application for damages despite its earlier order dismissing the complaint for lack of jurisdiction.

The issue on the validity and efficacy of the writ of replevin is mooted in view of the final and executory decision on the merits in the main case.

Finally, it may be noted that one of the issues raised by the parties in the G.R. No. 222691 is the validity and efficacy of the writ of replevin and in connection thereto, whether the return of the hogs seized by virtue of the writ, and as ordered in the trial court's October 18, 2012 and March 15, 2013 Orders, is proper. In view of the trial court's final and executory decision in the main case adjudicating rightful possession to TTAI, We find the issue to be moot and academic.

> Replevin is an action for the recovery of personal property. It is both a principal remedy and a provisional relief. When utilized as a principal remedy, the objective is to recover possession of personal property that may have been wrongfully detained by another. When sought as a provisional relief, it allows a plaintiff to retain the contested property *during the pendency of the action.*[74]

Being provisional and ancillary in character, the existence and efficacy of the writ of replevin depends on the outcome of the case.[75] Ancillary writs are not causes of action in themselves, but mere adjuncts to the main suit with the sole object of preserving the status *quo* until the merits of the case can be heard. [76] An ancillary writ "cannot survive the main case of which it is an incident because an ancillary writ loses its force and effect after the decision in the main petition."[77]

Considering that a decision has already been rendered in the main case, adjudicating rightful possession of the livestock to TTAI, and which may be maintained in light of the Court's foregoing ruling that the trial court validly acquired jurisdiction over Jorgenetics, We find that any disposition by this Court on the validity and efficacy of the writ of replevin, which was merely ancillary to the main action, serves no practical purpose. Thus, a discussion on the said issue is moot and may be dispensed with.

WHEREFORE, the Petitions in G.R. No. 201044 and 222691 are **DENIED**. Accordingly, the March 29, 2011 Decision and February 29, 2012 Resolution of the Court of Appeals in CA-G.R. SP. No. 114682 and the October 29, 2014 Decision and January 8, 2016 Resolution in C.A.-G.R. SP No. 130075 are **AFFIRMED**.

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[74] *Enriquez v. The Mercantile Insurance Co., Inc.*, G.R. No. 210950, August 15, 2018.
[75] *Olympia International, Inc. v. Court of Appeals*, 259 Phil. 841, 851 (1989).
[76] *Carpio-Morales v. Court of Appeals*, 772 Phil. 672, 736 (2015).
[77] *Zuneca Pharmaceutical v. Natrapharm, Inc.*, 773 Phil. 60, 70 (2015).

SO ORDERED.

RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:

MARVIC M. V. F. LEONEN
Associate Justice
Chairperson

HENRI JEAN PAUL B. INTING
Associate Justice

EDGARDO L. DELOS SANTOS
Associate Justice

JHOSEP Y. LOPEZ
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.

MARVIC M. V. F. LEONEN
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.

ALEXANDER G. GESMUNDO
Chief Justice