6

Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **March 25, 2015** *which reads as follows:*

G.R. No. 164628 - REPUBLIC OF THE PHILIPPINES (San Vicente Elementary School), Petitioner, v. PEDRO DELA CRUZ, EMILIO DELA CRUZ, LAURO DELA CRUZ and ORLANDO BORJA, Respondents.

The petitioner appeals the decision promulgated on July 21, 2004,[1] whereby the Court of Appeals (CA) affirmed the denial of its motion for judgment on the pleadings by the Regional Trial Court (RTC), Branch 36, in Gapan, Nueva Ecija.

The decision of the CA shows the following antecedents:

On August 16, 1995, the petitioner, representing the San Vicente Elementary School in Gapan, Nueva Ecija, filed a complaint for *accion publiciana*, preliminary mandatory injunction and damages against respondents Pedro dela Cruz, Emilio dela Cruz, Lauro dela Cruz and Orlando Borja in the RTC, docketed as Civil Case No. 1519, alleging that on September 26, 1985, Evaristo Vasquez had donated a parcel of land to the Ministry of Education, Culture and Sports (later on the Department of Education, Culture and Sports, or DECS) where the San Vicente Elementary School was standing (school site); that the respondents had

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[1] *Rollo*, pp. 44-60; penned by then Associate Justice Mariano C. Del Castillo (now a Member of the Court), with Associate Justice Edgardo P. Cruz (retired) and Associate Justice Bienvenido L. Reyes (now a Member of the Court) concurring.

intruded into and occupied portions of the school site through force, strategy and stealth to the damage and prejudice of the school and its students; that it would be spending at least ₱50,000.00 for the related expenses of counsel; and that it was entitled to recover ₱1,000.00 as monthly rental for the use of the affected area until the respondents vacated the affected area.[2]

The respondents filed an answer with counterclaim dated September 12, 1995.

In the meantime, the Sangguniang Bayan (SB) of Cabiao, Nueva Ecija adopted a resolution asking then DECS Secretary Ricardo C. Gloria and the Solicitor General to allow the respondents to stay in the school site.

The petitioner filed an omnibus motion praying that the court take judicial notice of said resolution, and that the respondents be ordered to comment on the SB resolution. The respondents later manifested that they were agreeable to the SB resolution.[3]

On March 25, 1996,[4] however, then DECS Undersecretary Antonio Nachura wrote to Solicitor General Raul Goco a letter requesting the OSG to proceed with the pending ejectment case against the respondents, mentioning that the policy of the DECS was to have full control and management of school sites and buildings, and to disallow any school site or portion thereof from being disposed of by donation or by lease to any persons or entities for private purpose.

Thereafter, on April 12, 1996, the petitioner filed a motion for judgment on the pleadings, alleging:

> The Department of Education, Culture and Sports, thru its Undersecretary for Legal Affairs, Antonio F.B. Nachura, informed the Office of the Solicitor General in a letter xxx that the DECS is not amenable to the proposal of the Municipal Board of Cabiao to donate to defendants the land occupied by them, which are within the area covered by TCT No. 13595.
>
> The answer fails to tender an issue, or otherwise admits the material allegations of the complaint.

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2 Id. at 45-47.
3 Id. at 47.
4 Id. at 49.

> WHEREFORE, it is respectfully prayed that the Honorable Court direct judgment on the pleadings, in accordance with Rule 19 of the Rules of Court.[5]

On July 2, 1996, the respondents sought leave to admit their amended answer with counterclaim. The RTC denied the motion on the ground that there was no proof of service of the motion on the OSG, and that the amended answer with counterclaim substantially changed the defense interposed by the respondents.

The respondents moved for the reconsideration of the denial, but the RTC denied their motion.

The respondents still filed a second motion for reconsideration, which the RTC denied.

Undaunted, the respondents filed a third motion for reconsideration, entitled *Omnibus Motion*, whereby they reiterated their prayer for the admission of the amended answer. The petitioner opposed the motion, and insisted on the resolution of its motion for judgment on the pleadings.[6]

On September 5, 2000, the RTC issued an order granting the *Omnibus Motion* upon finding that the motion for leave to admit the amended answer had been served on the OSG, and that the answer tendered genuine issues that were proper for hearing.[7]

When the petitioner sought clarification on whether or not its motion for judgment on the pleadings had been denied, the RTC ruled that the motion for judgment on the pleadings had become moot and academic, and would no longer be necessary in the meantime.[8]

Aggrieved, the petitioner commenced a special civil action for *certiorari* in the CA, which, on January 13, 2003, promulgated its decision, decreeing:

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5 Id. at 50.
6 Id. at 52.
7 Id. at 53-54.
8 Id. at 54-55.

WHEREFORE, the instant petition is GRANTED. The assailed Orders are hereby ANNULLED and SET ASIDE. Accordingly, public respondent is hereby ORDERED to rule on petitioner's Motion for Judgment on the Pleadings.

SO ORDERED.[9]

On March 3, 2003, the RTC issued an order denying the motion for judgment on the pleadings, and holding that the respondents' answer, by setting up special and affirmative defenses, tendered an issue.[10]

The petitioner assailed the RTC's order of denial through *certiorari*.

On July 21, 2004, the CA dismissed the petition for *certiorari*, *viz.*:

The present petition failed to meet the third requirement, that there is no appeal or plain, speedy and adequate remedy in the ordinary course of law. Petitioner has still the remedy of a trial and in case of adverse decision, to file an appeal which is the adequate and proper remedy under the circumstances.

x x x x

The ground relied upon in the instant petition is an error of judgment which is best ventilated in an ordinary appeal. An error of judgment committed by a court in the exercise of its legitimate jurisdiction is not the same as "grave abuse of discretion". What certiorari should present is an error in jurisdiction and not an error in the exercise thereof. The errors which the court may commit in the exercise of its jurisdiction are mere errors of judgment which are reversible by appeal. Thus, appeal and not certiorari is the proper remedy for correcting the alleged error committed by a court. If the court has jurisdiction over the subject matter and of the person, its rulings upon all questions raised in the case are within its jurisdiction. However irregular or erroneous they may be, they cannot be corrected by certiorari. They must be corrected by appeal from the final decision.

The existence and availability of the right of appeal proscribes a resort to certiorari, because one of the requisites for availment of the latter remedy is precisely that there should be no appeal.

WHEREFORE, the instant petition is hereby **DISMISSED**. Accordingly, the assailed Order is hereby **AFFIRMED.**

SO ORDERED.[11]

[9] Id. at 104.
[10] Id. at 105-107.
[11] Id. at 57-59.

Hence, this appeal by petition for review on *certiorari*, with the petitioner submitting that:

> I. THE COURT OF APPEALS ERRED ON A QUESTION OF LAW WHEN IT RULED THAT THE PETITION FOR CERTIORARI UNDER RULE 65 OF THE RULES OF COURT IS NOT THE PROPER REMEDY TO ASSAIL THE TRIAL COURT'S CAPRICIOUS AND WHIMSICAL DENIAL OF PETITIONER'S MOTION FOR JUDGMENT ON THE PLEADINGS.
>
> II. THE COURT OF APPEALS ERRED ON A QUESTION OF LAW WHEN IT AFFIRMED THE TRIAL COURT'S DENIAL OF PETITIONER'S MOTION FOR JUDGMENT ON THE PLEADINGS.[12]

The petition for review on *certiorari* is denied.

The CA correctly dismissed the petition for *certiorari* because *certiorari* is a remedy designed for the correction of errors of jurisdiction, not errors of judgment.[13] The denial of the motion for judgment on the pleadings amounted to an error of judgment, not an error of jurisdiction. Even assuming that the denial was incorrect, as long as the RTC had jurisdiction over the subject matter, the correction of such ruling would be outside of the province of *certiorari*. Appeal is the remedy where the error is not one of jurisdiction, but of judgment.[14] However, as to the denial of the motion for judgment on the pleadings by the RTC, appeal would not avail because the denial was not a final order that disposed of the action.

It appears that the CA dismissed the petition for *certiorari* on the ground that the petitioner still had the remedy of appeal in due course. We agree with the CA that the availability of appeal was a valid reason that negated the remedy of *certiorari*. Indeed, the petitioner should not assail the denial of its motion for judgment on the pleadings because it had another recourse in the ordinary course of the proceedings, which was to proceed to the pre-trial and trial, and should the petitioner ultimately lose the case, to appeal the judgment as well as the denial of the motion for judgment on the pleadings.

On the merits of the denial of the motion for judgment on the pleadings, the CA did not err in upholding the RTC. The motion averred that the respondents' answer did not tender an issue, or otherwise admitted

[12] Id. at 28-29.

[13] *Tankeh v. Development Bank of the Philippines*, G.R. No. 171428. November 11, 2013, 709 SCRA 19, 42; citing *Tagle v. Euitable PCI Bank*, G.R. No. 172299, April 22, 2008, 552 SCRA 424, 440.

[14] *Madrigal Transport, Inc. v. Lapanday Holdings Corporation*, G.R. No. 156067, August 11, 2004, 436 SCRA, 123, 134.

the material allegations of the complaint. A reading of the answer of the respondents shows, however, that the respondents thereby specifically denied the material allegations of the complaint, and even set up an affirmative defense. The RTC explained the denial thusly:

> On the other hand, in their answer with counterclaim, defendants allege that:
>
> 1. They partly admit paragraphs 1 and 2 of the complaint, except the allegation that they squat on the land owned by the plaintiff denominated as Transfer Certificate of Title No. NT-13595, and specifically deny paragraphs 3, 4, 5 and 8 of the complaint;
>
> 2. They have no knowledge or information to form a belief as to the truth of [the] allegation[s] in paragraphs 7 and 9.
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> It appears defendant in their answer specifically denied the material allegations in the complaint. And in effect, defendants' answer tenders valid issues. Benavidez v. Alavastro, 12 SCRA 553, citing PNB v. Lacson, L-9419, May 29, 1957.
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> And the defendants allege the following affirmative defense in their Answer:
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> > "No.12. That the defendants are the possessors/owners in good faith of the land by virtue of inheritance from their parents' predecessors in interest."
>
> By setting up special and affirmative defense, defendants' answer unmistakably tenders issue. Ibid (sic)[15]

In a proper case for rendering a judgment on the pleadings, there is no ostensible issue at all because of the failure of the defending party's answer to raise an issue.[16] When the answer fails to tender any issue, that is, if it does not deny the material allegations in the complaint, or if it admits said material allegations of the adverse party's pleadings by admitting the truthfulness thereof or omitting to deal with them at all, a judgment on the pleadings is appropriate.[17] But, as the RTC made plain, the respondents tendered issues of fact.

The petitioner also claims that the respondents' defense of possession and ownership did not tender any genuine issue because they

[15] *Rollo*, p. 107.
[16] *Tan v. De la Vega*, G.R. No. 168809, March 10, 2006, 484 SCRA 538, 545.
[17] *Basbas v. Sayson*, G.R. No. 172660, August 24, 2011, 656 SCRA 151, 170.

had previously admitted the petitioner's ownership of the portions they were occupying, as observed by the CA in CA-G.R. SP No. 67287.[18] Their admission was supposedly embodied in the final and executory decision in CA-G.R. SP No. 67287, wherein the CA observed:

> On November 27, 1995, private respondents filed their Comment to Omnibus Motion of even date stating that they are agreeable to Resolution No. 109 s. of 1995 of the Sangguniang Bayan of Cabiao, Nueva Ecija requesting that the portion occupied by defendants (herein private respondents) be donated to them by DECS.[19]

The observation referred to, being only a statement in the narration of facts made by the CA in CA-G.R. SP No. 67287, did not in any way mean or imply a categorical admission of the petitioner's ownership, and could not be deemed an admission by the respondents, much less be regarded as a judicial finding by the CA of ownership on the part of the petitioner.

WHEREFORE, the Court **DENIES** the petition for review on *certiorari*; and **AFFIRMS** the decision promulgated on July 21, 2004 by the Court of Appeals.

No pronouncement on costs of suit.

SO ORDERED."

Very truly yours,

EDGAR O. ARICHETA
Division Clerk of Court
685

The Solicitor General (x)
Makati City

Court of Appeals (x)
Manila
(CA-G.R. SP No. 77835)

Mr. Pedro Dela Cruz, et al.
Respondents
San Fermin, Cauayan
3305 Isabela

- over -

[18] *Rollo*, p. 37.
[19] Id. at 96.

The Hon. Presiding Judge
Regional Trial Court, Br. 36
Gapan 3105 Nueva Ecija
(Civil Case No. 1519)

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85

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