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SECOND DIVISION

[G.R. No. 241168; August 22, 2022]

BASES CONVERSION AND DEVELOPMENT AUTHORITY (BCDA), *Petitioner*, *v.* **PEDRO S. CALLANGAN, JR., ELIZABETH BARBA-AZARES, joined by her husband ORLANDO AZARES, represented by their attorney-in-fact, HENRY T. VILLEGAS,** *Respondents*.

D E C I S I O N

LEONEN, *J.*:

Generally, a partial summary judgment cannot be appealed separately until a full judgment is rendered on the entire case. However, an aggrieved party is not precluded from filing a petition for certiorari under Rule 65 when grave abuse of discretion attended the issuance of the partial summary judgment.

The issue of ownership is intertwined with one's entitlement to a tax declaration. A partial summary judgment directing the issuance of a tax declaration is issued in grave abuse of discretion when genuine issues of ownership are apparent on the face of the pleadings and their supporting documents and it is evident that a movant is not entitled to its issuance by law.

This resolves the Petition for Review on Certiorari directly filed before this Court by petitioner Bases Conversion and Development Authority (BCDA). The Petition assails the June 5, 2018[1] and July 27, 2018[2] Orders of the Regional Trial Court granting a partial summary judgment in favor of Pedro S. Callangan, Jr., Elizabeth Barba-Azares, and her husband Orlando Azares (Callangan, et

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1 *Rollo*, pp. 30–37. The June 5, 2018 Order in Civil Case No. 231 was penned by Acting Presiding Judge Felix P. Reyes of the Regional Trial Court, Taguig City, Branch 70.

2 Id. at 75–76. The July 27, 2018 Order was penned by Acting Presiding Judge Felix P. Reyes of the Regional Trial Court, Taguig City, Branch 70.

Supreme Court E-Library

al.) directing Officer-in-Charge City Assessor Roberto T. Villaluz (City Assessor Villaluz) to issue a tax declaration in their favor.

On June 12, 1957, President Carlos P. Garcia reserved several parcels of land in Taguig for military purposes, excluding the Diplomatic and Consular Area (DCA) within Fort Wm McKinley.[3]

On February 10, 2009, then President Gloria Macapagal-Arroyo declared the DCA as alienable and disposable and placed it under the administrative jurisdiction, supervision, and control of BCDA:

> Upon the recommendation of the Secretary of the Department of Environment and Natural Resources and by virtue of the powers vested in me by law, I, GLORIA MACAPAGAL-ARROYO, President of the Republic of the Philippines, do hereby declare as alienable and disposable certain parcels of land situated in Fort Bonifacio, Taguig, Metro Manila, Island of Luzon, containing an area of Ten (10) hectares, more or less, identified as the Diplomatic and Consular Area, subject to private rights if any there be, and to final ground survey, and transfer to the Bases Conversion and Development Authority (BCDA) the administration thereof.
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> Rel-00-000653
>
> A PARCEL OF LAND (Rel-00-000653, a relocation of Lot 2-A, Psd-50231 (Parcel 4, Psu-2031); situated in Barangay Fort Bonifacio, Municipality of Taguig, Province of Metro Manila, Island of Luzon. Bounded on the N., along line 1-2 by Lot 2-B, Subd. plan, Psd-50231; along line 2-3 by Lot 2-C, subd. plan, Psd-50231; on the E., along lines 3-4-5-6 by Lawton Avenue, on the SE., along line 6-7 by Lot 3, Swo007607-0011235-D, (Parcel 4, Psu-2031); and on the W., along line 71 by Lot 3-A (United States of America) Psd-50230 (Rel-00-000653, Sheet-1). Beginning at a point marked "1" of plan Rel-00-000653, being N. 61-56'W., 3429.85 m. from BLLM No. 1, M Cadm-590-D, Taguig, Cad. Mapping. Thence:
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> S. 89-22'E., 13.93 m. to point 2;
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> S. 89-22'E., 79.66 m. to point 3;

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[3] Proclamation No. 423 (1957), Reserving for Military Purposes Certain Parcels of the Public Domain Situated in the Municipalities of Pasig, Taguig, Parañaque, Province of Rizal and Pasay City.

Supreme Court E-Library

S. 11-07'W., 48.00 m. to point 4;

S. 04-29'W., 34.59 m. to point 5;

S. 00-25'E., 93.87 m. to point 6;

S. 71-40'W., 99.18 m. to point 7;

N. 03-16'E., 208.01 m. to point of beginning;

containing an area of SEVENTEEN THOUSAND ONE HUNDRED TWENTY THREE (17,123) SQUARE METERS.

All points referred to are indicated on the plan and are marked on the ground as follows: points 3 & 6 by G.I. Spike; point 7 by Old Pls. cyl. conc. mons. and the rest by cyl. conc. mons.

Rel-00-000653

A PARCEL OF LAND (Rel-00-000653, a relocation of Lot 3-A, Psd-50230 (Parcel 3, Psu-2031); situated in Barangay Fort Bonifacio, Municipality of Taguig, Province of Metro Manila, Island of Luzon. Bounded on the SE., S., & W., along lines 1-2-3-4-5-6 by Lot 1, Swo007607-001235-D (Parcel 3, Psu-2031); on the W., NW., S., N., along lines 6-7-8-9-10-11-12-13-14-15-16-17-18-19-20-21-22-23-24-25-26-27-28-29 by Swo-00-001417, (Port) of (Parcel 3, Psu-2031); and on the E., along line 29-1 by Lot 2-A, Psd-50231 (Rel-00-000653, Sheet2). Beginning at a point marked "1" of plan Rel-00-000653, being N. 65-10'W., 3347.90 m. from BLLM No. 1, M Cadm-590-D, Taguig, Cad. Mapping. Thence:

S. 71-40'W., 90.15 m. to point 2;

S. 87-05'W., 182.57 m. to point 3;

N. 89-06'W., 200.82 m. to point 4;

S. 51-48'W., 102.67 m. to point 5;

N. 11-57'W., 118.43 m. to point 6;

N. 61-45'E., 11.70 m. to point 7;

N. 25-24'E., 5.06 m. to point 8;

N. 23-18'W., 25.40 m. to point 9;

N. 47-36'E., 43.52 m. to point 10;

N. 79-52'E., 53.12 m. to point 11;

Supreme Court E-Library

S. 81-53'E., 32.23 m. to point 12;

N. 86-19'E., 43.99 m. to point 13;

S. 70-13'E., 50.43 m. to point 14;

S. 64-18'E., 22.05 m. to point 15;

S. 89-04'E., 39.44 m. to point 16;

N. 48-20'E., 13.90 m. to point 17;

N. 25-31'W., 18.13 m. to point 18;

N. 50-57'E., 14.47 m. to point 19;

S. 66-09'E., 14.70 m. to point 20;

N. 67-05'E., 29.26 m. to point 21;

N. 08-21'W., 7.10 m. to point 22;

N. 75-48'E., 58.72 m. to point 23;

S. 47-41'E., 33.88 m. to point 24;

N. 69-32'E., 66.35 m. to point 25;

N. 39-25'E., 43.98 m. to point 26;

N. 00-25'E., 36.18 m. to point 27;

N. 51-34'E., 24.65 m. to point 28;

S. 89-22'E., 71.52 m. to point 29;

N. 03-16'W., 208.01 m. to point of beginning;

containing an area of EIGHTY THREE THOUSAND NINE HUNDRED FIFTY-EIGHT (83,958) SQUARE METERS.

All points referred to are indicated on the plan and are marked on the ground as follows: Points 1, 2, 3, 4, 5 & 6 by Old Pls. cyl. conc. mons. and the rest by all P.S. cyl. conc. mons.

These lots were surveyed by Leandro M. Sanchez, Jr., Geodetic Engineer, on April 17-28, 1995 and was approved on June 6, 1996, in accordance with law and existing regulations promulgated thereunder.

The area covered by this proclamation shall be under the administrative jurisdiction, supervision and control of the Bases Conversion and

Supreme Court E-Library

Development Authority (BCDA), which shall be responsible in maintaining the usefulness of the area.[4]

Sometime in July 2017, Callangan, et al. filed a complaint, which they later amended, for the recovery of possession, cancellation, and issuance of tax declarations and damages against BCDA and City Assessor Villaluz. They contend that they are the owners of the properties covered by TCT Nos. (39596) 164-2015001705 and (39597) 164-2015001704, having purchased these properties from Jacobina B. Vizcarra and Felisa B. Vizcarra (Vizcarra Spouses) on September 30, 1976.[5] They claimed that the availed of the LRA Voluntary Title Standardization Program on September 2015 since the titles they had were old.[6]

Callangan, et al. alleged that they had been in prior open and possession of these lands from 1976 until in 2009 when BCDA invoked Proclamation No. 1725. They alleged that Lot 2-A of the DCA with an area of 17,123 square meters overlapped with their titles. Supposedly, BCDA was able to wrestle the possession out of Callangan, et al. by placing security guards, cordoning off the property, and posting notices to the public:[7]

BCDA Notice to the Public:

The property known as The Diplomatic and Consular Area in Fort Bonifacio, Taguig comprising of 101,081 sqms consisting of two (2) lots namely: Lot No. 3-A, PSD-50230 (survey no. REL-00-000653) with LA=83,958 sqms and Lot No. 2-A, PSD-50231 (survey no. REL-00-000653) with LA = 17,123 sqms belong to the Republic of the Philippines and is under the administration of the Bases Conversion and Development Authority (BCDA) by virtue of Proclamation No. 1725, series of 2009.

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4 Proclamation No. 1725 (2009), Declaring Certain Parcels of Land as Alienable and Disposable Identified as the Diplomatic and Consular Area Situated in Fort Bonifacio, Taguig, Metro Manila, Island of Luzon and Transferring to the Bases Conversion and Development Authority (BCDA) the Administration Thereof.

5 *Rollo*, p. 78.

6 Id.

7 Id. at 79.

Supreme Court E-Library

This property is NOT FOR SALE AND/OR DISPOSITION and the public is forwarned not to entertain any party not authorized by law to transact regarding said lots. BCDA is the only government agency authorized to dispose and/or administer all alienable and disposable public lands in Fort Bonifacio.

Unauthorized individual/groups who will transact in any capacity regarding this property will be prosecuted under the fullest extent of the law.

The public is, therefore, cautioned that any unauthorized transaction regarding the Diplomatic and Consular Area is void and has no legal effect. The Republic and/or BCDA shall not be liable for any damage such transaction may cause to any party.[8]

They further alleged that BCDA preempted the issuance of the tax declaration in its favor.[9] Callangan, et al. claimed the Bureau of Internal Revenue already gave them a Certificate Authorizing Registration for transfer of the property. However, as buyers of the property, they could not process the transfer of its ownership because City Assessor Villaluz was hesitant to process their application for a tax declaration. Thus, Callangan, et al. prayed for City Assessor Villaluz to cancel BCDA's tax declaration which infringed on their property and to issue a new one under the names of its previous owners, the Vizcarra Spouses.[10]

On August 3, 2017, BCDA filed its Answer, raising that the complaint is founded on a spurious claim of ownership. Allegedly, Original Certificate of Title No. 208, the origin title of TCT Nos. 39596 and 39597, was a 174-square meter property located in Pateros.[11] BCDA contended that the parcels of land being declared for tax declaration are within the DCA. Allegedly, in 1956, the DCA was to be given to the United States as part of its diplomatic and consular establishment. However, for lack of Congressional approval, the transfer did not push through.[12] BCDA referred to

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[8] Id.

[9] Id. at 82–83.

[10] Id. at 86.

[11] Id. at 126.

[12] Id. at 127.

Supreme Court E-Library

the case of *Acting Registrars of Land Titles and Deeds of Pasig City and Makati v. The Regional Trial Court, Branch 57, Makati City*,[13] that Original Certificate of Title No. 291, where DCA is allegedly located, was declared as government property. BCDA also invoked the regalian doctrine, saying that there being no showing that the subject property was reclassified or released as an alienable agricultural land or alienated to a private person, the property remained part of the inalienable public domain. Finally, BCDA raised its special patent application for the DCA that is pending with the Department of Environment and Natural Resources.[14]

City Assessor Villaluz filed his Answer. While admitting that his duty to issue tax declaration is ministerial, he argues that his office is not precluded from exercising diligence and prudence in issuing tax declarations especially if the property is being contested. In addition, the subject property has a very high market value.[15] He narrated that on April 17, 2017, he sent a letter to BCDA informing them about Callangan, et al.'s request for issuance of tax declaration over the subject property that overlaps with the property covered in BCDA's tax declaration. In reply, BCDA maintained its position that the property is owned by the State. City Assessor Villaluz then requested Callangan, et al. to file their position paper. However, before he can resolve the request, they filed the complaint before the trial court.[16]

On December 6, 2017, Callangan, et al. filed their motion for partial summary judgment. They argued that there was no genuine issue on the issuance of a tax declaration in favor of their predecessors-in-interest. They contend that upon the submission of the required documents, the City Assessor's duty to issue the tax declaration becomes ministerial.[17] They claim that in the Manual on Real Property Appraisal and Assessment Operations

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[13] 263 Phil. 568 (1990) [Per J. Sarmiento, En Banc].

[14] Id. at 128.

[15] Id. at 139.

[16] Id. at 140.

[17] Id. at 158.

Supreme Court E-Library

(Manual) of the Bureau of Local Government Finance, the due diligence that is required of a City Tax Assessor is to determine the authenticity of the documents submitted and not the ownership of the property being declared for tax purposes.[18] Thus, since the Bureau of Local Government Finance indorsed their application for tax declaration, there was no reason for City Assessor Villaluz not to release the tax declaration prayed for. There being no dispute on the ministerial duty of Villaluz to issue tax declarations over the subject property, a partial summary judgment may be issued on their first cause of action.[19]

BCDA contends that it is premature for the trial court to cancel its tax declaration because the main action is for recovery of possession and damages, while the issue of ownership should be threshed out in a separate proceeding.[20] Meanwhile, City Assessor Villaluz opposed the motion, arguing that a summary judgment will not address all the issues. He found it suspect that a property allegedly bought in 1976 was only being declared for taxation purpose 40 years later.[21] He alleged that his prudence and diligence in refusing to issue the tax declaration was also due to multiple persons claiming overlapping portions of the DCA.[22]

On June 5, 2018, the trial court issued the assailed Order granting the motion for partial summary judgment. It ruled that City Assessor Villaluz's Answer did not tender a genuine issue because he admits the nature of his functions as ministerial.[23] In ruling that Callangan, et al.'s application for tax declaration must be given due course, the trial court appreciated the Bureau of Local Government Finance's indorsement.[24] It found that with the admission of the material allegations and the entitlement by law sufficiently established, a partial summary judgment is proper:

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[18] Id. at 156.

[19] Id. at 158.

[20] Id. at 160–161.

[21] Id. at 164.

[22] Id. at 164–165.

[23] Id. at 34.

[24] Id. at 35.

WHEREFORE, in view of all the foregoing, a partial summary judgment is hereby rendered on the amended complaint of the plaintiffs against defendant VILLALUZ, ordering said defendant in his official capacity as Officer-in-Charge of the Office of the City Assessor, Taguig City, or any person who may assume the functions and duties of the City Assessor of Taguig City, to immediately issue tax declarations to Lots 1 and 2, PSD-43201 covered by TCT No. (39596) 164-2015001705 and TCT No. (39597) 164-2015001704 in the names of Jacobina B. Vizcarra and Felizsa B. Vizcarra, respectively.

SO ORDERED.[25] (Emphasis in the original)

BCDA and City Assessor Villaluz's respective motions for reconsideration were denied in a July 27, 2018 Order.[26]

Hence, BCDA filed a Petition for Review directly before this Court on September 7, 2018.

On September 24, 2018, respondents filed a motion to dismiss claiming that since the assailed order is interlocutory, filing a Petition for Review is premature.[27]

On September 17, 2018 petitioner filed its Manifestation while respondents filed their Comment on September 6, 2019.

Petitioner argues that the trial court committed a reversible error when it granted the motion for partial judgment as there is a genuine issue on respondents' entitlement to a tax declaration. Petitioner points out that the parcels of land respondents claim are State property. It asserts that it already has an existing tax declaration over the property by virtue of Presidential Proclamation No. 1725. Hence, the trial court should not have granted respondents claim without a full-blown trial on the merits.[28]

Petitioner also disputes the title of respondents, alleging that the Deed of Sale between respondents and the Vizcarra Spouses

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[25] Id. at 37.

[26] Id. at 75–76.

[27] Id. at 38–46.

[28] Id. at 58–59.

Supreme Court E-Library

is fictitious.[29] Moreover, the cancellation of petitioner's tax declaration in favor of respondents cannot be judicially resolved separately from the main case because it is intertwined with the issue of ownership and possession.[30] It further argues that it is the Vizcarra Spouses, not respondents, who are the real parties in interest. Without a showing that respondents were duly authorized to represent the owners, they cannot ask a relief for their behalf.[31]

On the other hand, respondents argue that the Petition for Review should be dismissed for being the wrong remedy because the June 5, 2018 Order is interlocutory.[32] Moreover, the Order was directed against City Assessor Villaluz. Thus, he is the real party in interest, and not petitioner. Respondents argue that the motion has no relation to the cancellation of petitioner's tax declaration, which is a different matter to be resolved during trial on the merits.[33] They claim petitioner's interest over the property is not affected with the issuance of tax declaration in their favor,[34] and that the City Assessor's duty to issue it to them is ministerial.[35]

The main issue is whether or not the trial court correctly granted the partial summary judgment. To answer this, the following sub-issues will also be resolved:

First, whether or not petitioner availed of the correct remedy.

Second, whether or not there is a genuine issue raised in the proceedings below.

Third, whether or not respondents are entitled by law to the issuance of a tax declaration in favor of their predecessors-in-interest.

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[29] Id. at 59.

[30] Id. at 60.

[31] Id. at 61–62.

[32] Id. at 312–318.

[33] Id. at 328–329.

[34] Id. at 29.

[35] Id. at 22.

Supreme Court E-Library

Lastly, whether or not petitioner BCDA is a real-party-in-interest to assail the partial summary judgment.

We grant the Petition.

I

Rule 35 of the Rules of Court allows for a summary judgment when there is no genuine issue as to any material fact:

> SECTION 1. *Summary judgment for claimant*. — A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory relief may, at any time after the pleading in answer thereto has been served, move with supporting affidavits, depositions or admissions for a summary judgment in his favor upon all or any part thereof.
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> . . . .
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> SECTION 3. *Motion and proceedings thereon*. — The motion shall be served at least ten (10) days before the time specified for the hearing. The adverse party may serve opposing affidavits, depositions, or admissions at least three (3) days before the hearing. After the hearing, the judgment sought shall be rendered forthwith if the pleadings, supporting affidavits, depositions, and admissions on file, show that, except as to the amount of damages, there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.

A summary judgment may dispose the case in full or in part.[36] Meanwhile, Section 4 of Rule 35 allows a partial summary judgment on matters that are not in controversy:

> SECTION 4. *Case not fully adjudicated on motion*. — If on motion under this Rule, judgment is not rendered upon the whole case or for all the reliefs sought and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel shall ascertain what material facts exist without substantial controversy and what are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. The facts so specified shall be deemed established, and the trial shall be conducted on the controverted facts accordingly.

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[36] RULES OF COURT, Rule 35, sec. 1.

Supreme Court E-Library

As a procedural device, summary judgment aims to avoid drawn-out litigations and allows the trial judge to grant immediate relief when material facts are not disputed.[37] Although summary in nature, it requires a meticulous examination of the records. The trial judge scrutinizes the pleadings and supporting documents, with the sole objective of ascertaining that no genuine issue exists as regards a material fact.[38] This has been described as a sifting process which allows the judge to simplify and expedite trial by focusing only on the assailed facts.[39]

Here, there is no dispute that the trial court issued an interlocutory summary judgment. Respondents seek the dismissal of the petition, arguing that Rule 45 is an incorrect remedy since the summary judgment issued is not a final judgment but only interlocutory as held in *Philippine Business Bank v. Chua*.[40]

To resolve this Petition, we must clarify the correct remedy in assailing a partial summary judgment. First, we must identify the nature of the summary judgment. Thereafter, we need to trace the evolution of remedies available to an aggrieved party in assailing a summary judgment.

I (A)

A summary judgment may be rendered either fully disposing the case or only partially. Its nature depends on whether the trial court rendered a full summary judgment or a partial summary judgment. A full summary judgment is in the nature of a final judgment if it satisfies the following requirements:

> A final judgment or order is one that finally disposes of a case, leaving nothing more for the court to do in respect thereto, such as an adjudication on the merits which, on the basis of the evidence presented at the trial, declares categorically what the rights and obligations of the parties are

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[37] *Solidbank Corporation v. Court of Appeals*, 439 Phil. 23 (2002) [Per J. Austria-Martinez, Second Division].

[38] *Viajar v. Estenzo*, 178 Phil. 561 (1979) [Per J. Guerrero, First Division].

[39] *Philippine Business Bank v. Chua*, 649 Phil. 131 (2010) [Per J. Brion, Third Division].

[40] *Rollo*, p. 165, Comment.

and which party is in the right, or a judgment or order that dismisses an action on the ground of res judicata or prescription, for instance. Just like any other judgment, a summary judgment that satisfies the requirements of a final judgment will be considered as such.[41] (Citation omitted)

In *Ybiernas v. Tanco-Gabaldon*,[42] this Court distinguished between the issue of entitlement to damages and determination of the amount of damages. Thus, a summary judgment recognizing the right to damages while ordering further proceedings for the determination of its exact amount, is considered a final judgment.[43]

The remedy for a summary judgment in the nature of a final judgment is an appeal under Rule 41 of the Rules of Court.[44] As will be discussed below, the discretionary review by way of a Rule 45 petition is also available, albeit in extraordinary cases.

I (B)

On the other hand, a summary judgment that does not fully dispose of the case is a partial summary judgment which is interlocutory in nature. *Philippine Business Bank v. Chua*[45] is instructive:

A careful reading of this section reveals that a partial summary judgment was never intended to be considered a "final judgment," as it does not "[put] an end to an action at law by declaring that the plaintiff either has or has not entitled himself to recover the remedy he sues for." The Rules provide for a partial summary judgment as a means to simplify the trial process by allowing the court to focus the trial only on the assailed facts, considering as established those facts which are not in dispute.

After this sifting process, the court is instructed to issue an order, the partial summary judgment, which specifies the disputed facts that have to be settled in the course of trial. In this way, the partial summary

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41 *Ybiernas v. Tanco-Gabaldon*, 665 Phil. 297, 308 (2011) [Per J. Nachura, Second Division].

42 665 Phil. 297 (2011) [Per J. Nachura, Second Division].

43 Id.

44 *Mercado v. Court of Appeals*, 245 Phil. 49 (1988) [Per J. Narvasa, First Division].

45 649 Phil. 131 (2010) [Per J. Brion, Third Division].

Supreme Court E-Library

judgment is more akin to a record of pre-trial, an interlocutory order, rather than a final judgment.

The differences between a "final judgment" and an "interlocutory order" are well-established. We said in *Denso (Phils.) Inc. v. Intermediate Appellate Court* that:

> [A] final judgment or order is one that finally disposes of a case, leaving nothing more to be done by the Court in respect thereto, e.g., an adjudication on the merits which, on the basis of the evidence presented at the trial, declares categorically what the rights and obligations of the parties are and which party is in the right; or a judgment or order that dismisses an action on the ground, for instance, of res judicata or prescription. Once rendered, the task of the Court is ended, as far as deciding the controversy or determining the rights and liabilities of the litigants is concerned. Nothing more remains to be done by the Court except to await the parties' next move . . . and ultimately, of course, to cause the execution of the judgment once it becomes "final" or, to use the established and more distinctive term, "final and executory."
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> . . . .
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> Conversely, an order that does not finally dispose of the case, and does not end the Court's task of adjudicating the parties' contentions and determining their rights and liabilities as regards each other, but obviously indicates that other things remain to be done by the Court, is "interlocutory," e.g., an order denying a motion to dismiss under Rule 16 of the Rules . . . Unlike a final judgment or order, which is appealable, as above pointed out, an interlocutory order may not be questioned on appeal except only as part of an appeal that may eventually be taken from the final judgment rendered in the case.

Bearing in mind these differences, there can be no doubt that the partial summary judgment envisioned by the Rules is an interlocutory order that was never meant to be treated separately from the main case[.][46] (Citations omitted)

The remedy to assail a partial summary judgment continues to evolve in our jurisprudence.

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[46] Id. at 141–143.

Supreme Court E-Library

The first case which discussed the remedy to assail a partial judgment is *Guevarra v. Court of Appeals*.[47] It established that there is no separate appeal available to assail a partial summary judgment because of its interlocutory nature. An aggrieved party may appeal the partial judgment with the entire case after trial is conducted on the substantial controversies.

In *Guevarra*, this Court hinted that a separate remedy may be available when the issuance of a partial summary judgment is invalid. While this Court did not expressly state the remedy, it was categorical that it was not an ordinary appeal. There, the parties erroneously assumed that the partial summary judgment may be appealed. Nevertheless, this Court found that it was invalidly issued. It was apparent in the pleadings and supporting documents filed that the parties had contradicting claims which tendered genuine issues and required the presentation of evidence. There was also no compliance with the procedural requirements for the issuance of a partial summary judgment.[48]

The general rule on the non-separability of appeal of a partial summary judgment was reiterated in *Province of Pangasinan v. Court of Appeals*[49] and *GSIS v. Philippine Village Hotel*.[50]

Province of Pangasinan added that a partial summary judgment is distinct from separate judgments governed by Rule 36, Section 5. Its nature and incidents are governed by Rule 34, Section 4. A partial summary judgment is interlocutory in nature and does not completely dispose an action. Thus, it cannot be the subject of a writ of execution.[51]

Meanwhile, in *GSIS*, this Court sustained the Court of Appeals in ruling that an appeal is not available to a partial summary judgment. There, the trial court did not resolve the issue on

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47 209 Phil. 240 (1983) [Per J. Vasquez, First Division].

48 Id.

49 292-A Phil. 873 (1993) [Per J. Nocon, Second Division].

50 482 Phil. 47 (2004) [Per J. Panganiban, Third Division].

51 *Province of Pangasinan v. Court of Appeals*, 292-A Phil. 873 (1993) [Per J. Nocon, Second Division].

Supreme Court E-Library

entitlement to damages and did not fully dispose of the complaint for specific performance and damages. Thus, the judgment was interlocutory and the Court of Appeals ruled that the proper remedy is a certiorari petition under Rule 65.[52] In upholding the ruling of the Court of Appeals, this Court reiterated *Guevarra* and *Province of Pangasinan*, stating that the appeal from a partial summary judgment shall be taken with the judgment from the entire case after trial on the merits.

There is an important qualification in *Guevarra* that the subsequent cases did not reiterate. The non-separability of assailing the issuance of a partial summary judgment from the main case is only the general rule. This doctrine is premised on the validity of the issuance of the partial summary judgment.[53] Thus, in *Heirs of Roxas v. Garcia*,[54] it was held that a summary judgment may only be corrected by way of "appeal or other direct review."[55] This was adopted in *Philippine Business Bank v. Chua*[56] to apply to a partial summary judgment that is interlocutory in nature. However, in *Philippine Business Bank*, the remedies were muddled as the different nature of the summary judgments rendered in both cases were disregarded.

In *Heirs of Roxas*, the trial court issued a summary judgment dismissing the complaint. This Court held that this is in the nature of a final judgment where the remedy of appeal is available. However, petitioners lost the remedy of appeal due to their own negligence or error in the choice of remedies, thus precluding their resort to certiorari. Nevertheless, this Court examined the assignment of errors in the petition and found that they are merely errors of judgment and not of jurisdiction.

This portion of the ruling in *Heirs of Roxas* was applied to a partial summary judgment in *Philippine Business Bank* where it

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[52] G.R. No. 150922, September 21, 2004 [Per J. Panganiban, Third Division].

[53] *Guevarra v. Court of Appeals*, 209 Phil. 240 (1983) [Per J. Vasquez, First Division].

[54] 479 Phil. 918 (2004) [Per J. Carpio Morales, En Banc].

[55] Id. at 927.

[56] 649 Phil. 131 (2010) [Per J. Brion, Third Division].

was held that certiorari is not the proper remedy to assail a partial summary judgment:

> Contrary to PBB's contention, however, certiorari was not the proper recourse for respondent Chua. The propriety of the summary judgment may be corrected only on appeal or other direct review, not a petition for certiorari, since it imputes error on the lower court's judgment. It is well settled that certiorari is not available to correct errors of procedure or mistakes in the judge's findings and conclusions of law and fact. As we explained in *Apostol v. Court of Appeals*:
>
> > As a legal recourse, the special civil action of certiorari is a limited form of review. The jurisdiction of this Court is narrow in scope; it is restricted to resolving errors of jurisdiction, not errors of judgment. Indeed, as long as the courts below act within their jurisdiction, alleged errors committed in the exercise of their discretion will amount to mere errors of judgment correctable by an appeal or a petition for review.
>
> In light of these findings, we affirm the CA's ruling that the partial summary judgment is an interlocutory order which could not become a final and executory judgment, notwithstanding respondent Chua's failure to file a certiorari petition to challenge the judgment. Accordingly, the RTC grievously erred when it issued the writ of execution against respondent Chua.[57] (Citations omitted)

Clarifying the ruling in *Philippine Business Bank*, it must be read in relation to the nature of the summary judgment rendered and should not preclude resort to certiorari. More so if the issuance of the partial summary judgment was attended by grave abuse of discretion. Nevertheless, we uphold that a partial summary judgment cannot be the subject of a writ of execution. By virtue of its interlocutory nature, it does not become final and executory.[58] This serves as the aggrieved party's guarantee that notwithstanding their decision to await the resolution of the entire case, the summary judgment will not attain finality and will not be executed against them.

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[57] *Philippine Business Bank v. Chua*, 649 Phil. 131, 148-149 (2010) [Per J. Brion, Third Division].

[58] *PAL Employees Savings and Loan Association, Inc. v. Philippine Airlines, Inc.*, 520 Phil. 502 (2006) [Per J. Panganiban, First Division].

Supreme Court E-Library

While *Guevarra* provides that appeal is also available to assail a partial summary judgment, an aggrieved party may only do so upon the completion of trial on the entire case. Thus, they have no immediate and effective recourse from an invalidly issued partial summary judgment. This remedial framework may not always be adequate. The parties will be bound by the partial summary judgment on issues deemed established for trial of other issues requiring the presentation of evidence.[59]

In *Ley Construction and Development Corporation v. Hyatt Industrial Manufacturing Corporation*:[60]

> Section 1, Rule 65 of the Rules of Court, clearly provides that a petition for certiorari is available only when "there is no appeal, or any plain, speedy and adequate remedy in the ordinary course of law." A petition for certiorari cannot coexist with an appeal or any other adequate remedy. The existence and the availability of the right to appeal are antithetical to the availment of the special civil action for certiorari. As the Court has held, these two remedies are "mutually exclusive."[61] (Citations omitted)

However, there are exceptions to the general rule that certiorari may be resorted to when an appeal may be available, these are: "(a) when public welfare and the advancement of public policy dictate; (b) when the broader interests of justice so require; (c) when the writs issued are null; (d) when the questioned order amounts to an oppressive exercise of judicial authority."[62]

To afford aggrieved litigants immediate relief, we clarify that the exceptional writ of certiorari is available to assail a partial summary judgment only when there is a clear showing of grave abuse of discretion in its rendition. Thus, the overarching exclusion of this remedy in *Philippine Business Bank* is deemed clarified to apply only to full summary judgments where the remedy of appeal is available.

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[59] *Guevarra v. Court of Appeals*, 209 Phil. 240 (1983) [Per J. Vasquez, First Division].

[60] 393 Phil. 633 (2000) [Per J. Panganiban, Third Division].

[61] Id. at 640–641.

[62] *Jan-Dec Construction Corporation v. Court of Appeals*, 517 Phil. 96, 105 (2006) [Per J. Austria-Martinez, First Division].

Supreme Court E-Library

I (C)

In *Julie's Franchise Corporation v. Ruiz*,[63] we discussed the nature of a writ of certiorari and its proper use:

> The special civil action for certiorari under Rule 65 is intended to correct errors of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction. The writ of certiorari is directed against a tribunal, board or officer exercising judicial or quasi-judicial functions that acted without or in excess of its or his jurisdiction or with grave abuse of discretion. Grave abuse of discretion means such capricious or whimsical exercise of judgment which is equivalent to lack of jurisdiction. To justify the issuance of the writ of certiorari, the abuse of discretion must be grave, as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and it must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined, or to act at all, in contemplation of law, as to be equivalent to having acted without jurisdiction.[64]

Indisputably, the discretion to grant or deny a motion for a summary judgment falls within the trial courts. However, the authority of the trial court to render summary judgment is limited and should be exercised within the bounds of the Rules on Summary Judgment. Rule 35 of the Rules of Court does not vest jurisdiction for the trial court to summarily try genuine issues on the basis of depositions and affidavits.[65]

It is settled that the manifest disregard of basic rules and procedures constitute grave abuse of discretion. *State Prosecutor Comilang v. Belen*[66] explained that a judge's "[o]bstinate disregard of basic and established rule of law or procedure amounts to inexcusable abuse of authority and gross ignorance of the law."[67]

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[63] 614 Phil. 108 (2009) [Per J. Carpio, First Division].

[64] Id. at 116.

[65] *Gatchalian v. Pavilin*, 116 Phil. 819 (1962) [Per J. Reyes, En Banc]. *See also Agcanas v. Nagum*, 143 Phil. 177 (1970) [Per J. Teehankee, En Banc].

[66] 689 Phil. 134 (2012) [Per Curiam, En Banc].

[67] Id. at 147.

Supreme Court E-Library

Necessarily, a partial summary judgment issued through gross ignorance of Rule 35 of the Rules of Court may be assailed through a writ of certiorari upon a showing of grave abuse of discretion.[68]

As early as *Auman v. Estenzo*,[69] this Court reversed the ruling of a trial court which went beyond its jurisdiction and granted a summary judgment in derogation of all the requirements for its rendition. There, no motion for summary judgment was ever filed, nor were there supporting affidavits and/or depositions supporting the same. The pleadings also raised genuine issues requiring the presentation of evidence. Despite these, the trial judge still ruled on the merits of the complaint and granted a right of way easement from the property of petitioner without receiving evidence on the matter.

While the Court in *Auman* did not expressly rule on the propriety of the direct appeal by way of a Rule 45 petition, the cases used to resolve the petition primarily relied on the limitation on the trial court's jurisdiction to summarily try factual issues without trial:

> Undoubtedly, respondent Judge is misguided in his concept of a summary judgment.
>
> It is settled that Rule 34 of the Rules of Court
>
> ". . . does not vest in the court jurisdiction summarily to try the issues on depositions and affidavits, but gives the court limited authority to enter summary judgment only if it clearly appears that there is no genuine issue of material fact. Upon a motion for summary judgment the Court's sole function is to determine whether there is an issue of fact to be tried, and all doubts as to the existence of an issued of fact must be resolved against the moving party. On a motion for summary judgment the court is not authorized to decide an issued of fact, but is to determine whether the pleadings and record before the court create an issue of fact to be tried. In others words, *the rule (Rule 34, Sec. 3) does not invest the court with jurisdiction summarily to try the factual issues on affidavits, but authorizes summary judgment only if it*

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[68] *Home Development Mutual Fund (HDMF) Pag-IBIG Fund v. Sagun*, 837 Phil. 608 (2018) [Per J. Bersamin, *En Banc*].

[69] 161 Phil. 681 (1976) [Per J. Muñoz Palma, First Division].

Supreme Court E-Library

> *clearly appears that there is no genuine issue as to any material fact*.["][70] (Emphasis in the original, citation omitted)

Recently, in *Republic v. Datuin*,[71] this Court affirmed that certiorari is available in assailing a summary judgment when there is a showing that the violation of the right to due process of the aggrieved party amounted to grave abuse of discretion:

> In several cases, the Court sustained as proper remedy a petition for certiorari where it was shown that the aggrieved party's right to due process was violated and the trial court was deemed to have been ousted of jurisdiction over the case.
>
> The Court in *Paz v. Court of Appeals*, ruled that Paz correctly elevated the case to the Court of Appeals through a petition for certiorari and not an ordinary appeal because his due process right was violated. The trial court in the case failed to conduct a mandatory pre-trial hearing before rendering summary judgment under the old Rules of Court. The affidavits of witnesses and pleadings in the records also showed there were genuine factual issues which called for a full-blown trial.
>
> In *Department of Education (DepEd) v. Cuanan*, Cuanan's recourse to a petition for certiorari was allowed instead of an appeal under Rule 43. Cuanan's right to due process was violated when he was not given copies of the DepEd's Petition for Review/Reconsideration to the Civil Service Commission.
>
> In *Spouses Leynes v. Court of Appeals*, the Court of Appeals was found to have gravely abused its discretion when it erroneously dismissed Spouses Leynes' petition for certiorari under Rule 65 allegedly as a wrong remedy instead of an appeal under Rule 42. In that case, the MCTC unjustly declared Spouses Leynes in default for their failure to file an answer within the reglementary period, thus, depriving them of the opportunity to counter the complaint against them.
>
> Here, the trial court deemed the Republic to have admitted all the affirmative defenses pleaded by respondents in their answer, including the genuineness and due execution of the very documents subject of the parties' conflicting claims, granted respondents' motion for summary

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[70] Id. at 696.

[71] G.R. No. 224076 July 28, 2020, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66457> [Per J. Lazaro-Javier, First Division].

Supreme Court E-Library

judgment based thereon, and rendered the summary judgment itself altogether in its Order dated September 3, 2013 which it subsequently affirmed under Order dated December 18, 2013. As will be shown in the succeeding discussion, the trial court committed grave abuse of discretion, amounting to excess or lack of jurisdiction when it rendered its assailed dispositions.[72] (Citations omitted)

Given the foregoing, it is clear that an aggrieved party is not precluded from filing a petition for certiorari to assail a partial summary judgment. However, it must be emphasized that a writ of certiorari is a mutually exclusive remedy. Once trial on the entire case has been completed, an aggrieved party cannot pursue an appeal and a petition for certiorari at the same time. Otherwise, they commit forum shopping.[73]

I (D)

Another confusion in the availability of remedy in assailing a partial summary judgment arise from the string of cases which loosely allowed a direct appeal under Rule 45 of the Rules of Court.[74] We clarify that a Rule 45 petition is only available to assail a full summary judgment and not a partial summary judgment because of its interlocutory nature. A Rule 45 petition is not available to assail an interlocutory order.[75]

The cases allowing a Rule 45 petition to assail a full summary judgment are premised on the finding that assailing a summary judgment involves purely questions of law:

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[72] Id.

[73] *Pilipino Telephone Corporation v. Radiomarine Network, Inc.*, 641 Phil. 15 (2010) [Per J. Leonardo-de Castro, First Division].

[74] *See BCDA v. Reyes*, 711 Phil. 631 (2013) [Per J. Perlas-Bernabe, Second Division]; *Heirs of Cabigas v. Limbaco*, 670 Phil. 274 (2011) [Per J. Brion, Second Division]; *Padilla v. Globe Asiatique Realty Holdings Corporation*, 740 Phil. 754 (2014) [Per J. Villarama, First Division]; and *Central Realty and Development Corporation v. Solar Resources, Inc.*, G.R. No. 229408, November 9, 2020, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66805> [Per J. Lazaro-Javier, Second Division].

[75] *Rivera v. Court of Appeals*, 452 Phil. 1014 (2003) [Per J. Corona, Third Division].

Supreme Court E-Library

Any review by the appellate court of the propriety of the summary judgment rendered by the trial court based on these pleadings would not involve an evaluation of the probative value of any evidence, but would only limit itself to the inquiry of whether the law was properly applied given the facts and these supporting documents. Therefore, what would inevitably arise from such a review are pure questions of law, and not questions of fact, which are not proper in an ordinary appeal under Rule 41, but should be raised by way of a petition for review on certiorari under Rule 45.[76]

However, the nature of assignment of errors is not the sole factor in allowing direct resort to this Court via Rule 45. Otherwise, a creative litigant would be emboldened to directly appeal a fragmented aspect of the case to the Highest Court, just because the assailed interlocutory order involves purely questions of law. To prevent this situation, the Rules of Court prescribe that review under a Rule 45 petition is discretionary upon this Court and will only be granted when there are special and important reasons warranting consideration:

SECTION 6. *Review discretionary*. — A review is not a matter of right, but of sound judicial discretion, and will be granted only when there are special and important reasons thereof. The following, while neither controlling nor fully measuring the court's discretion, indicate the character of the reasons which will be considered:

(a) When the court *a quo* has decided a question of substance, not theretofore determined by the Supreme Court, or has decided it in a way probably not in accord with law or with the applicable decisions of the Supreme Court; or

(b) When the court *a quo* has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such departure by a lower court, as to call for an exercise of the power of supervision. (4a)[77]

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[76] *Cucueco v. Court of Appeals*, 484 Phil. 254, 266 (2004) [Per J. Austria-Martinez, Second Division].

[77] RULES OF COURT, Rule 45, sec. 6.

Supreme Court E-Library

The significance of discretionary review under Rule 45 is highlighted in *Kumar v. People*[78] where we emphasized the role of an appeal by certiorari as the sole vehicle which provides a direct appeal to the Supreme Court. We have the discretion to deny a petition through a minute resolution when it has no other value except the application of established doctrines. Thus, it is not enough that the petition only raise questions of law, but the quality of the issues raised must be worthy of this Court's attention:

> [T]his Court is better advised to stay its hand and not entertain the appeal when there is no novel legal question involved, or when a case presents no doctrinal or pedagogical value whereby it is opportune for this Court to review and expound on, rectify, modify and/or clarify existing legal policy, or lay out novel principles and delve into unexplored areas of law.
>
> This Court may decline to review cases when all that are involved are settled rules for which nothing remains but their application. Also, when there is no manifest or demonstrable departure from legal provisions and/or jurisprudence. So too, when the court whose ruling is assailed has not been shown to have so wantonly deviated from settled procedural norms or otherwise enabled such deviation.
>
> Litigants may very well aggrandize their petitions, but it is precisely this Court's task to pierce the veil of what they purport to be questions warranting this Court's sublime consideration. It remains in this Court's exclusive discretion to determine whether a Rule 45 Petition is attended by the requisite important and special reasons.
>
> . . . .
>
> It is in keeping with this basic nature of certiorari as a prerogative writ that is issued only in extraordinary circumstances that Rule 45 of the Rules of Court sets stringent standards that must be satisfied before this Court is impelled to commit its limited time and resources to reviewing a case. As it seeks the issuance of an extraordinary prerogative writ, every Rule 45 petition must initially demonstrate itself to be compliant with the eight (8) standards previously discussed. Among others, it must raise questions of substance (i.e., issues that are of distinctly significant consequence and value) and not merely involve settled rules that need only he applied.[79] (Citations omitted)

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[78] G.R. No. 247661, June 15, 2020, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66335> [Per J. Leonen, Third Division].

[79] Id.

Supreme Court E-Library

The limitation on the use of a Rule 45 petition is consistent with the doctrine of hierarchy of courts. This policy is necessary to allow us to discharge our more important duties under the Constitution as we explained in *Diocese of Bacolod v. Commission on Elections*:[80]

> The doctrine that requires respect for the hierarchy of courts was created by this court to ensure that every level of the judiciary performs its designated roles in an effective and efficient manner. Trial courts do not only determine the facts from the evaluation of the evidence presented before them. They are likewise competent to determine issues of law which may include the validity of an ordinance, statute, or even an executive issuance in relation to the Constitution. To effectively perform these functions, they are territorially organized into regions and then into branches. Their writs generally reach within those territorial boundaries. Necessarily, they mostly perform the all-important task of inferring the facts from the evidence as these are physically presented before them. In many instances, the facts occur within their territorial jurisdiction, which properly present the 'actual case' that makes ripe a determination of the constitutionality of such action. The consequences, of course, would be national in scope. There are, however, some cases where resort to courts at their level would not be practical considering their decisions could still be appealed before the higher courts, such as the Court of Appeals.
>
> The Court of Appeals is primarily designed as an appellate court that reviews the determination of facts and law made by the trial courts. It is collegiate in nature. This nature ensures more standpoints in the review of the actions of the trial court. But the Court of Appeals also has original jurisdiction over most special civil actions. Unlike the trial courts, its writs can have a nationwide scope. It is competent to determine facts and, ideally, should act on constitutional issues that may not necessarily be novel unless there are factual questions to determine.
>
> *This court, on the other hand, leads the judiciary by breaking new ground or further reiterating — in the light of new circumstances or in the light of some confusions of bench or bar — existing precedents. Rather than a court of first instance or as a repetition of the actions of the Court of Appeals, this court promulgates these doctrinal devices in order that it truly performs that role*.[81] (Emphasis supplied, citation omitted)

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[80] 751 Phil. 301 (2015) [Per J. Leonen, En Banc.]

[81] Id. at 329–330.

Supreme Court E-Library

A question of law is not antithetical to an original action for certiorari under Rule 65. Although framed in the narrow lenses of grave abuse of discretion, a party aggrieved by a partial, interlocutory summary judgment can still raise questions of law in a Rule 65 petition. The temptation to elevate the partial, interlocutory summary judgment is ever present among litigants. Disallowing them to appeal is always a practical approach. Restricting their contest within the narrow remedial route of Rule 65 is a fair compromise.

Here, petitioner directly filed a Rule 45 petition raising only questions of law. It is evident that the petitioner availed the wrong remedy. Respondents are correct that they should have filed a petition for certiorari under Rule 65 since the partial summary judgment was interlocutory in nature.

In the interest of substantial justice, we excuse this procedural defect and relax the rules of procedure, *pro hac vice*.[82] The reminder in *Spouses Aurora v. Bontilao*[83] is relevant:

> Indeed, "[i]t is well to remember that this Court, in not a few cases, has consistently held that cases shall be determined on the merits, after full opportunity to all parties for ventilation of their causes and defense, rather than on technicality or some procedural imperfections. In so doing, the ends of justice would be better served. The dismissal of cases purely on technical grounds is frowned upon and the rules of procedure ought not to be applied in a very rigid, technical sense, for they are adopted to help secure, not override, substantial justice, and thereby defeat their very ends. Indeed, rules of procedure are mere tools designed to expedite the resolution of cases and other matters pending in court. A strict and rigid application of the rules that would result in technicalities that tend to frustrate rather than promote justice must be avoided."[84] (Citation omitted)

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[82] *National Steel Corporation v. Court of Appeals*, 436 Phil. 656 (2002) [Per J. Austria-Martinez, First Division].

[83] G.R. No. 238892, September 04, 2019, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65723> [Per J. Perlas-Bernabe, First Division].

[84] Id.

As will be discussed below, the trial court rendered the summary judgment in clear grave abuse of discretion amounting to a denial of petitioner's right to the plenary trial of their case. Its gross and reckless disregard of the basic Rules on Summary Judgment warrant the reversal of the assailed partial summary judgment.

II

A valid summary judgment has the following requirements: "(1) there must be no genuine issue as to any material fact, except for the amount of damages; and (2) the party presenting the motion for summary judgment must be entitled to a judgment as a matter of law."[85] In addition, the procedural requirements in Rule 35, such as filing a motion and a hearing on the motion, must be complied with.[86]

There is a genuine issue of fact when it calls for the presentation of evidence, one that is not "sham, fictitious, contrived, set up in bad faith and patently unsubstantial."[87] When pleaded facts appear to be uncontested or undisputed, then there is no question as to those facts and summary judgment is called for.[88] Even when a genuine issue appears to have been raised in the pleadings, the trial judge must go beyond the pleadings and examine the affidavits, depositions, and admissions presented by the movant showing that there is no genuine issue.[89] The movant has the burden to establish the absence of a genuine issue, and any doubt as to its

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[85] *Solidbank Corporation v. Court of Appeals*, 439 Phil. 23, 34 (2002) [Per J. Austria-Martinez, Second Division].

[86] *Calabaquib v. Republic*, 667 Phil. 653 (2011) [Per J. Del Castillo, First Division] citing *Cadirao v. Hon. Estenzo*, 217 Phil. 93, 101-102 (1984) [Per J. Cuevas, Second Division].

[87] *Paz v. Court of Appeals*, 260 Phil. 31, 36 (1990) [Per J. Paras, Second Division].

[88] *D.M. Consunji v. Duvaz Corporation*, 612 Phil. 423 (2009) [Per J. Velasco, Third Division] citing *Asian Construction and Development Corporation v. Philippine Commercial Industrial Bank*, 522 Phil. 168 (2006) [Per J. Garcia, Second Division].

[89] *Eland Philippines, Inc. v. Garcia*, 626 Phil. 735 (2010) [Per J. Peralta, Third Division] citing *Mariano Nocom v. Oscar Camerino, et al.*, 598 Phil. 214 (2009) [Per J. Azcuna, First Division].

Supreme Court E-Library

existence is resolved against the movant.[90] After the burden has been discharged, the opposing party "has the burden to show facts sufficient to entitle him [or her] to defend."[91] The trial judge must be "critical of the papers presented by the moving party and not of the papers in opposition."[92]

Here, petitioner contends that there is a genuine issue raised as regards respondents' entitlement to a tax declaration. Petitioner assails TCT Nos. (39596) 164-2015001705 and (39597) 164-2015001704 as spurious titles, allegedly originating from a 174-square meter parcel of land in Pateros.[93] In addition, petitioner claims the deed of sale from which respondents derive their supposed rights over the parcels of land is fictitious.[94] Petitioner asserts that the properties being claimed by respondents fall within the DCA, which is owned by the State, and that the DCA's administration was given to it by virtue of Proclamation No. 1725.[95] It also claims that respondents are not entitled to the judgment as a matter of law as they are not the registered owners of the subject parcels of land, and thus not real parties in interest.[96]

Upon examination of the records and relevant pleadings, we agree with petitioner that a genuine issue exists in this case.

The June 5, 2018 Order granting the partial summary judgment only considered respondents' "[a]mended complaint, pleadings, affidavits, [and] defendant Villaluz' Answer and his admissions."[97] It only limited itself to the issue of whether the issuance of a tax declaration is a ministerial task.

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90 *Viajar v. Estenzo*, 178 Phil. 561 (1979) [Per J. Guerrero, First Division].

91 *Estrada v. Consolacion*, 163 Phil. 540, 550 (1976) [Per J. Antonio, Second Division].

92 *Solidbank Corporation v. Court of Appeals*, 439 Phil. 23, 35 (2002) [Per J. Austria-Martinez, Second Division].

93 *Rollo*, p. 126.

94 Id. at 59.

95 Id. at 59.

96 Id. at 62.

97 Id. at 36.

The trial court completely missed the issue on respondents' ownership of the subject properties raised in petitioner's Answer which questioned the validity of respondents' titles.[98] In City Assessor Villaluz's Comment, he also stated that there are others alleging ownership over portions of the properties being claimed by respondents:

> 3.4. The claimants to subject properties are not only BCDA and the plaintiffs. Portions or large parts thereof are also being claimed by other persons. For easy reference, defendant Villaluz respectfully submits a vicinity map showing the areas of the different claimants, to wit:
>
> a. The plotted area in blue are the subject properties of the plaintiffs.
> b. The plotted area in green, which includes portions of the plaintiffs' subject properties, is being claimed by Luciano P. Paz.
> c. The plotted area in violet, which includes portions of the plaintiffs' subject properties, is being claimed by White Cross Foundation & Affiliates Philippines, Inc.
> d. The plotted area in red, which includes portions of the plaintiffs subject properties, is being claimed by Heirs of Delfin Casal.
> e. The plotted area in pink, which includes portions of the plaintiffs subject properties, is being claimed by Sps. Manuel L. Sepulveda & Atillana I. Sepulveda.
> f. The plotted area in yellow, which includes portions of the plaintiffs subject properties, is being claimed by BCDA.
> g. The plotted area in white, which includes portions of the plaintiffs subject properties, is being claimed by Florencia M. Rodriguez.[99]

These allegations raise a genuine issue of ownership, which the trial court attempted to isolate from the issue of respondents' entitlement to a tax declaration. However, ownership of property cannot be isolated from one's entitlement to a tax declaration. Precisely, a claim of ownership is the foundation of its issuance. In *Tallorin v. Tarona*:[100]

> The Court cannot discount the importance of tax declarations to the persons in whose names they are issued. Their cancellation adversely

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[98] Id. at 107.

[99] Id. at 165.

[100] 620 Phil. 268 (2009) [Per J. Abad, Second Division].

Supreme Court E-Library

affects the rights and interests of such persons over the properties that the documents cover. *The reason is simple: a tax declaration is a primary evidence, if not the source, of the right to claim title of ownership over real property, a right enforceable against another person*. The Court held in *Uriarte v. People* that, although not conclusive, a tax declaration is a telling evidence of the declarant's possession which could ripen into ownership.

In *Director of Lands v. Court of Appeals*, the Court said that no one in his right mind would pay taxes for a property that he did not have in his possession. This honest sense of obligation proves that the holder claims title over the property against the State and other persons, putting them on notice that he would eventually seek the issuance of a certificate of title in his name. Further, the tax declaration expresses his intent to contribute needed revenues to the Government, a circumstance that strengthens his bona fide claim to ownership.[101] (Emphasis supplied, citations omitted)

A certificate of title is not a conclusive evidence of ownership.

. . . Ownership is different from a certificate of title. The fact that petitioner was able to secure a title in her name did not operate to vest ownership upon her of the subject land. Registration of a piece of land under the Torrens System does not create or vest title, because it is not a mode of acquiring ownership. A certificate of title is merely an evidence of ownership or title over the particular property described therein. It cannot be used to protect a usurper from the true owner; nor can it be used as a shield for the commission of fraud; neither does it permit one to enrich himself at the expense of others. Its issuance in favor of a particular person does not foreclose the possibility that the real property may be co-owned with persons not named in the certificate, or that it may be held in trust for another person by the registered owner.[102] (Citations omitted)

Thus, it was grave abuse of discretion for the trial court to not consider the issue of ownership because respondents' second cause of action for the issuance of a tax declaration is founded on their supposed ownership of the subject properties. Respondents derive

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[101] Id. at 274–275.

[102] *Naval v. Court of Appeals*, 518 Phil. 271, 282-283 (2006) [Per J. Ynares-Santiago, First Division].

Supreme Court E-Library

their right from a 1976 Deed of Sale with the Vizcarra Spouses, the registered owners stated in TCT Nos. (39596) 164-2015001705 and (39597) 164-2015001704.[103] In directing the City Assessor to issue a tax declaration in favor of their predecessors-in-interest, the trial court recognized that the material facts in respondents' cause of action were not disputed. However, this is belied by the records showing that respondents' ownership of the subject properties are heavily disputed.

There are several circumstances which should have alerted the trial court of the existence of genuine issue on respondents' ownership of the properties.

First, there is an undisputed overlap between the properties claimed by respondents and the DCA under the administration of petitioner.[104] Second, there is already a prior issuance of Tax Declaration No. GL-019-03527 in favor of petitioner in 2009.[105] Third, the deed of sale was allegedly executed in 1976[106] but it was only in 2017, or 41 years later, that respondents filed the Complaint praying for the issuance of a tax declaration. Fourth, the trial court also ignored that it was the transferee of the subject properties, and not the owners, who were requesting for the issuance of a tax declaration in favor of the registered owners. Fifth, on their faces, TCT Nos. (39596) 164-2015001705 and (39597) 164-2015001704 were supposedly entered in the Registry of Deeds of Taguig City on June 20, 1955.[107] However, despite 21 years of their supposed ownership, the Vizcarra Spouses did not declare and pay the taxes due on the subject properties. Similarly, respondents alleged that they were in open and peaceful

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[103] *Rollo*, p. 78, Amended Complaint.

[104] The overlap of the subject properties being declared for taxation of respondents with the DCA was admitted in the Amended Complaint: "6. That Lot 2-A with area of 17,123 square meters mentioned and described in Proclamation No. 1725 overlaps Lots 1 and 2 of the plaintiffs' titled properties, as shown in the plan prepared by NAMRIA at the instance of defendant BCDA which is hereto attached as Annex 'G'."

[105] *Rollo*, p. 105.

[106] Id. at 94–95 and 101–102.

[107] *Rollo*, pp. 92 and 97.

Supreme Court E-Library

possession of the properties from 1976 to 2009, but even after 33 years of alleged continuous possession, they did not declare the same for taxation purposes. Finally, the subject properties are also being claimed as properties of the State, with a total assessed value of ₱82,190,400.00.

The obstinate refusal of the trial court judge to recognize several circumstances from the records where the existence of genuine issues are apparent is not just an error in judgment. This amounts to grave abuse of discretion.

Given the foregoing, City Assessor Villaluz's hesitation to issue a tax declaration in favor of respondents is understandable. The mere presentation of a certificate of title and the deed of sale did not vest ownership of the properties to respondents.[108] We find that City Assessor Villaluz diligently exercised his duties.

Issuing tax declarations is not a purely ministerial function. It involves the examination of documents presented and necessarily requires exercise of discretion.[109] In *Mercado v. Valley Mountain Mines Explorations, Inc.*,[110] the Court ruled that the writ of *mandamus* does not lie against a city assessor to correct a tax declaration of an auctioned property by adding the alleged co-owners. The documents submitted by those claiming entitlement to a tax declaration must "indicate the nature of [their] right or claim over the property covered by the tax declaration."[111]

Thus, the trial court should not have been hasty in rendering the partial summary judgment as the ownership of land is intertwined with one's entitlement to a tax declaration. It is apparent from the records that there is a genuine issue raised as regards respondents' ownership. Hence, before the issuance of a tax declaration, there should have been a full-blown trial to resolve the genuine issues raised by the parties.

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[108] *Naval v. Court of Appeals*, 518 Phil. 271 (2006) [Per J. Ynares-Santiago, First Division].

[109] *Mercado v. Valley Mountain Mines Explorations, Inc.*, 677 Phil. 13 (2011) [Per J. Villarama, Jr., First Division].

[110] 677 Phil. 13 (2011) [Per J. Villarama, Jr., First Division].

[111] Id. at 53–54.

Supreme Court E-Library

III

We also find grave abuse of discretion in the issuance of a tax declaration through a summary judgment since it does not appear that respondents are entitled by law to its issuance. The requirements for the issuance of a new tax declaration are as follows:

B. For Titled Property:

1. A certified true copy of free patent, homestead or miscellaneous sales application must be submitted;
2. A certified true copy of the title issued by the Registrar of Deeds, certifying among others, that the original copy of which is intact and existing in the said registry; and
3. Approved survey plan.[112]

Instead of applying the requirements enumerated in the Manual on Real Property Appraisal and Assessment Operations, the trial court merely relied on the April 20, 2017 Indorsement of the Bureau of Local Government Finance which allegedly determined respondents' entitlement to the issuance of a tax declaration:

Surprisingly, on the same issue of issuance of tax declarations under the names of the VIZCARRA, even the Department of Finance (DOF) through its Bureau of Local Government Finance in its 1st Indorsement dated 20 April 2017, had determined the entitlement of the applicants to the issuance of said document and recommended that the application should be given due course. Pertinent portion of said Indorsement is hereto quoted, as follows:

> 'To clarify, the MRPAAO, which was issued by the Secretary of Finance as Local Assessment Resolution No. 1-04, dated October 1, 2004, provided the following requirements relative to the issuance of a Tax Declaration:
>
> 'xxx . . .

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[112] Manual on Real Property Appraisal and Assessment Operations (Manual) of the Bureau of Local Government Finance, Chapter IV, Section 5 (B).

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For Titled Property:

1. A certified copy of free patent, homestead, or miscellaneous sales application must be submitted;
2. A certified true copy of the title issued by the Registrar of Deeds, certifying among others, that the original copy of which is intact and existing in the said registry; and
3. Approved survey plan.

Clearly, upon presentation of the very evidence of ownership, which is the Original Certificate of Title of Transfer Certificate of Title, the assessor concerned is duty bound to prepare of cause to prepare the corresponding tax declaration for the real property described therein. In case several assessments were issued to the different parties involving the same property/ies, preference is given to the assessment of the person who has the best title, and in case of default, to the actual possessor of the said property.

In this connection, and after a careful evaluation of the herein submitted documents, it can be surmised that:

1. The certified true electronic copies of TCT Nos. (39596) 164-2015001705 and (39597) 164-2015001704 are the authentic and validly registered at the RoD of Taguig City, as supported by the notation therein, which states: "Entered at Taguig City, Philippines on the 20th days (sic) of June, 1955";

2. There is an approved Subdivision Plan (Portion of I-38) as surveyed for Jacobina B. Vizcarra, et al. (Psd-43201) (Annex K)

Thus it appears, the claims of the Vizcarras are compliant with the abovementioned requirements for the issuance of a Tax Declaration pursuant to the MRPAAO.

xxx"[113]

From the reproduction of the 1st Indorsement in the June 5, 2018 Order, it appears that respondents were only able to present the certificate of title and an approved subdivision plan.[114] It does

[113] *Rollo*, pp. 35–36.

[114] Id. at 36.

Supreme Court E-Library

not appear from the records that a certified copy of free patent, homestead, or miscellaneous sales application was presented by the respondents. The law requires the presentation of all three documents for the issuance of a new tax declaration for a titled property. The requirement of free patent, homestead or miscellaneous sales application is important because only agricultural lands classified as alienable and disposable are susceptible to private ownership.[115]

While Proclamation No. 1725 qualifies that the declaration is subject to private rights, if any, it does not dispense with the burden of respondents to prove their title to the property, especially when such issue is apparent in the pleadings. Here, the Vizcarra Spouses, registered owners of the subject properties, have yet to establish their title, but their successors-in-interest were allowed a shortcut without a full-blown trial. The trial court gravely abused its discretion in allowing this even when genuine issue on respondents' title were raised which requires the presentation of evidence.

To recall, petitioner raised in its Answer that the DCA is considered inalienable public domain and state-owned.[116] Petitioner also claims that the 17,123-square meter portion of the DCA that overlaps with the property being claimed by respondents, is not titled.[117] Petitioner alleges that it has a special patent application pending with the Department of Environment and Natural Resources[118] and that the DCA was only declared as alienable and disposable under Proclamation No. 1725 on February 10, 2009.

From these, it cannot be shown that respondents have established their title to the property. The mere presentation of deeds of sale and TCT Nos. (39596) 164-2015001705 and

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[115] *Federation of Coron, Busuanga, Palawan Farmer's Association, Inc. v. Secretary of Department of Environment and Natural Resources*, G.R. No. 247866, September 15, 2020 <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66687> [Per J. Gesmundo, En Banc].

[116] *Rollo*, pp. 127–128.

[117] Id. at 127.

[118] Id. at 106.

Supreme Court E-Library

(39597) 164-2015001704 do not entitle them to the issuance of a tax declaration, without the presentation of evidence of their ownership in a full blown hearing where all parties are heard.

IV

Finally, we do not agree with respondents that the Motion for partial judgment was only directed against the City Assessor.[119] We also do not subscribe to the piecemeal view of the respondents on the issuance and cancellation of a tax declaration.

The Manual on Real Property Appraisal and Assessment Operations of the Bureau of Local Government Finance states the guidelines when several assessments are made on the same property:

> B. Cancellation of Assessments in Case Several Assessments are Made on One Property
>
> 1. In case several assessments are made on one and the same property, the duty of the assessor is to cancel all the assessments, except the one properly made; However, if any assessee or his representative shall object to the cancellation of the assessment made in his name, such assessment shall not be cancelled but the fact shall be noted on the Field Appraisal and Assessment Sheet (FAAS), tax declaration, assessment rolls and other property books of record. Preference, however, shall be given to the assessment of the person who has the best title to the property, or in default, thereof, of the person who has possession of the property.
>
> 2. When two persons have declared in their names the same property or a portion thereof and were issued corresponding tax declarations, a notation shall be made on the face of each tax declaration and the corresponding FAAS's the fact that the property or part thereof is also declared in the name of the other person.
>
> a. Thus, if Mr. A declared a property which is also declared in the name of Mr. B. there shall be noted on the face of the field appraisal and assessment sheet and tax declaration of Mr. A the following:

[119] Id. at 329.

Supreme Court E-Library

"Property is also declared in the name of Mr. B under Tax Declaration No. _____"

A similar notation shall also be made on the face of the Tax Declaration of Mr. B as "Property is also declared in the name of Mr. A under Tax Declaration No. _____"

b. If Mr. B declared only a portion of the land declared in the name of Mr. A, there shall be noted on the face of the FAAS and corresponding tax declaration of the latter, "Portion of ----(hectares or square meters) is also declared in the name of Mr. B under Tax Declaration No. _____." In the same manner, a notation "Also declared in the name of Mr. A under Tax Declaration No. ____ " shall be made on the face of the FAAS and tax declaration of Mr. B.

Those notations shall also be made on the assessment rolls and other records where both tax declarations are recorded.

Cancellation of either tax declaration under the first example shall be made only upon written request of one of the declared owners. If one party presents his certificate of title or evidence of his ownership to the property, the provincial, city or municipal assessor shall not immediately cancel the declaration of the other party, in which case, the assessor shall notify the latter of the request of the other declarant. If he refuses, the tax declaration shall not be cancelled.

c. If under the second example, Mr. B, the declared owner of the small area, requested the cancellation of his tax declaration, the assessor shall cancel said tax declaration. At the same time, the notation "Portion of _____ hectares or square meters is also declared in the name of Mr. B," on the face of the tax declaration issued in the name of Mr. A shall be deleted. A revised tax declaration shall then be issued.

d. If neither party consents to the cancellation of his tax declaration, *the tax declaration of the party with the best title, or the party in possession of the property, shall serve as the principal tax declaration*. In case of the second example, the tax declaration covering the whole property shall serve as the principal record.[120] (Emphasis supplied)

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[120] Manual on Real Property Appraisal and Assessment Operations of the Bureau of Local Government Finance, Chapter V, sec. 3 (B).

Supreme Court E-Library

The provision only applies when two tax declarations have already been issued over the same property being claimed by two persons. It has no direct application where the property is being declared by a transferee for the first time, as what respondents tried to do. Here, Tax Declaration No. GL-019-03527 was issued in favor of petitioner BCDA on the basis of Proclamation No. 1725. Directing the City Assessor to issue a tax declaration will also trigger the duty to cancel one improperly made. It will also force the City Assessor to annotate the claim of respondents in Tax Declaration No. GL-019-03527 given the overlap in the properties that they claim. Thus, the June 5, 2018 Order, in directing the City Assessor to issue a tax assessment in favor of respondents, also necessarily affected petitioner.

In rendering summary judgments, courts are advised to be careful in its discretion in expediting the proceedings because doing so is in derogation of a party's right to a plenary trial of their case.[121] Here, the trial court gravely abused its discretion in rendering the partial summary judgment directing the City Tax Assessor to issue the tax declaration in favor of respondents, especially since there exists a genuine issue on their ownership over the properties and that they do not appear, as a matter of law, entitled to the summary relief they prayed for.

ACCORDINGLY, the Petition is **GRANTED**. The June 5, 2018 and July 27, 2018 Orders of the Regional Trial Court, Branch 70 of Taguig City in Civil Case No. 231 are **REVERSED** and **SET ASIDE**.

SO ORDERED.

Lazaro-Javier, M. Lopez, J. Lopez, and *Kho, Jr., JJ.*, concur.

APPEARANCES OF COUNSEL

Office of the Government Corporate Counsel for petitioner.
HTVillegas Law Office, attorney-in-fact of respondents.

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[121] *Viajar v. Estenzo*, 178 Phil. 561 (1979) [Per J. Guerrero, First Division].