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SECOND DIVISION

[G.R. No. 111685. August 20, 2001]

DAVAO LIGHT & POWER CO., INC., *petitioner, vs.* **THE HON. COURT OF APPEALS, HON. RODOLFO M. BELLAFLOR, Presiding Judge of Branch 11, RTC-Cebu and FRANCISCO TESORERO,** *respondents.*

SYNOPSIS

Petitioner filed a complaint for damages against Tesorero before the RTC of Cebu City. Tesorero, however, moved to dismiss the complaint on the ground of improper venue, among others. Allegedly, while petitioner claimed that its principal place of business is in Cebu City, the contract it executed with NAPOCOR and such other cases instituted by petitioner, all state that its principal office is in Davao City.

The RTC of Cebu City as the proper venue of the case filed by petitioner is upheld. It cannot be disputed that petitioner's principal office is in Cebu City, per its amended articles of incorporation and by-laws. And an action for damages, being a personal action, venue is determined pursuant to Rule 4, Sec. 2 of the Rules of Court. The contract executed between petitioner and NAPOCOR, and such other cases filed by petitioner wherein it stated that its residence is in Davao City, all these are immaterial considering that Tesorero is not a party to the contract and such other cases.

SYLLABUS

1. **REMEDIAL LAW; CIVIL PROCEDURE; VENUE AND JURISDICTION, DISTINGUISHED.—** The principal issue in the case at bar involves a question of venue. It is to be distinguished from jurisdiction, as follows: Venue and jurisdiction are entirely distinct matters. Jurisdiction may not be conferred by consent or waiver upon a court which otherwise would have no jurisdiction over the subject-matter of an action; but the venue of an action as fixed by statute may be changed by the consent of the parties and an objection that the plaintiff brought his suit in the wrong county may be waived by the failure of the defendant to make a timely objection. In either case, the court may render a valid judgment.

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Rules as to jurisdiction can never be left to the consent or agreement of the parties, whether or not a prohibition exists against their alteration.

2. **ID.; ID.; VENUE OF PERSONAL ACTIONS.**— An action for damages being a personal action, venue is determined pursuant to Rule 4, Section 2 of the Rules of Court, to wit: *Venue of personal actions.*— All other actions may be commenced and tried where the plaintiff or any of the principal plaintiffs resides, or where the defendant or any of the principal defendants resides, or in the case of a non-resident defendant where he may be found, at the election of the plaintiff.

APPEARANCES OF COUNSEL

Decuerdo Libre Paderanga & Morada for petitioner.
Amado L. Cantos for private respondent.

DECISION

DE LEON, JR., *J.*:

Before us is a petition for review on *certiorari* assailing the Decision dated August 31, 1993 rendered by the Sixteenth Division[1] of the Court of Appeals in CA-G.R. SP No. 29996, the dispositive portion of which states:

WHEREFORE, the petition for review filed by Davao Light & Power Co., Inc. is hereby DENIED DUE COURSE and the same is DISMISSED.

IT IS SO ORDERED.

The antecedent facts are:

On April 10, 1992, petitioner Davao Light & Power Co., Inc. filed a complaint for damages[2] against private respondent Francisco Tesorero before the Regional Trial Court of Cebu City, Branch 11. Docketed as CEB-11578, the complaint prayed for damages in the amount of ₱11,000,000.00.

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[1] Justice Jaime M. Lantin, *ponente*; Justice Fermin A. Martin, Jr. and Justice Ramon Mabutas, Jr., concurring.

[2] *Rollo*, pp. 312-320.

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In lieu of an answer, private respondent filed a motion to dismiss[3] claiming that: (a) the complaint did not state a cause of action; (b) the plaintiff's claim has been extinguished or otherwise rendered moot and academic; (c) there was non-joinder of indispensable parties; and (d) venue was improperly laid. Of these four (4) grounds, the last mentioned is most material in this case at bar.

On August 3, 1992, the trial court issued a Resolution[4] dismissing petitioner's complaint on the ground of improper venue. The trial court stated that:

> The plaintiff being a private corporation undoubtedly Banilad, Cebu City is the plaintiff's principal place of business as alleged in the complaint and which for purposes of venue is considered as its residence. xxx.
>
> However, in defendant's motion to dismiss, it is alleged and submitted that the principal office of plaintiff is at "163-165 P. Reyes Street, Davao City as borne out by the Contract of Lease (Annex 2 of the motion) and another Contract of Lease of Generating Equipment (Annex 3 of the motion) executed by the plaintiff with the NAPOCOR.
>
> The representation made by the plaintiff in the 2 aforementioned Lease Contracts stating that its principal office is at "163-165 P. Reyes Street, Davao City" bars the plaintiff from denying the same.
>
> The choice of venue should not be left to plaintiff's whim or caprises [sic]. He may be impelled by some ulterior motivation in choosing to file a case in a court even if not allowed by the rules of venue.
>
> Another factor considered by the Courts in deciding controversies regarding venue are considerations of judicial economy and administration, as well as the convenience of the parties for which the rules of procedure and venue were formulated xxx.
>
> Considering the foregoing, the Court is of the opinion that the principal office of plaintiff is at Davao City which for purposes of venue is the residence of plaintiff.
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> Hence, the case should be filed in Davao City.

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[3] Annex "D" of the Petition, *Id.*, pp. 61-110.

[4] Annex "H" of the Petition, *Id.*, pp. 146-148.

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The motion on the ground of improper venue is granted and the complaint DISMISSED on that ground.

SO ORDERED.

Petitioner's motion for reconsideration[5] was denied in an Order[6] dated October 1, 1992.

From the aforesaid resolution and order, petitioner originally filed before this Court on November 20, 1992 a petition for review on *certiorari* docketed as G.R. No. 107381.[7] We declined to take immediate cognizance of the case, and in a Resolution dated January 11, 1993,[8] referred the same to the Court of Appeals for resolution. The petition was docketed in the appellate court as CA-G.R. SP No. 29996.

On August 31, 1993, the Court of Appeals rendered the assailed judgment[9] denying due course and dismissing the petition. Counsel for petitioner received a copy of the decision on September 6, 1993.[10] Without filing a motion for reconsideration, petitioner filed the instant petition, assailing the judgment of the Court of Appeals on the following grounds:

5.01. Respondent Court of Appeals denied petitioner procedural due process by failing to resolve the third of the above-stated issues.

5.02. Petitioner's right to file its action for damages against private respondent in Cebu City where its principal office is located, and for which it paid ₱55,398.50 in docket fees, may not be negated by a supposed estoppel absent the essential elements of the false statement having been made to private respondent and his reliance on good faith on the truth thereof, and private respondent's action or inaction based thereon of such character as to change his position or status to his injury, detriment or prejudice.

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[5] Annex "I" of the Petition, *Id.*, pp. 149-167.

[6] Annex "M" of the Petition, *Id.*, pp. 269-270.

[7] Records, pp. 19-247.

[8] Records, p. 248.

[9] Records, pp. 325-334.

[10] Records, p. 335.

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The principal issue in the case at bar involves a question of venue. It is to be distinguished from jurisdiction, as follows:

> Venue and jurisdiction are entirely distinct matters. Jurisdiction may not be conferred by consent or waiver upon a court which otherwise would have no jurisdiction over the subject-matter of an action; but the venue of an action as fixed by statute may be changed by the consent of the parties and an objection that the plaintiff brought his suit in the wrong county may be waived by the failure of the defendant to make a timely objection. In either case, the court may render a valid judgment. Rules as to jurisdiction can never be left to the consent or agreement of the parties, whether or not a prohibition exists against their alteration.[11]

It is private respondent's contention that the proper venue is Davao City, and not Cebu City where petitioner filed Civil Case No. CEB-11578. Private respondent argues that petitioner is estopped from claiming that its residence is in Cebu City, in view of contradictory statements made by petitioner prior to the filing of the action for damages. First, private respondent adverts to several contracts[12] entered into by petitioner with the National Power Corporation (NAPOCOR) where in the description of personal circumstances, the former states that its principal office is at "163-165 P. Reyes St., Davao City." According to private respondent the petitioner's address in Davao City, as given in the contracts, is an admission which should bind petitioner.

In addition, private respondent points out that petitioner made several judicial admissions as to its principal office in Davao City consisting principally of allegations in pleadings filed by petitioner in a number of civil cases pending before the Regional Trial Court of Davao in which it was either a plaintiff or a defendant.[13]

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[11] *Santos III v. Northwest Orient Airlines*, 210 SCRA 256 (1992) cited in *Heirs of Pedro Lopez, et al. v. de Castro, et. al.*, 324 SCRA 591, 609 (2000).

[12] *Rollo*, pp. 82-107. Private respondent refers to the following: (1) contract dated July 30, 1979 for the lease of electric generating equipment; (2) contract dated September 4, 1974 also for the lease of electric generating equipment; and (3) undated 1984 contract of sale of electric generating equipment.

[13] *Rollo*, pp. 186-212. Cases where petitioner is plaintiff:

Case No.	Title	Br. Pending
Civil Case No. 17-195	*DLPC v. Cesar Maglalang*	(unstated)

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Practically the same issue was addressed in *Young Auto Supply Co. v. Court of Appeals*.[14] In the aforesaid case, the defendant therein sought the dismissal of an action filed by the plaintiff, a corporation, before the Regional Trial Court of Cebu City, on the ground of improper venue. The trial court denied the motion to dismiss; on *certiorari* before the Court of Appeals, the denial was reversed and the case was dismissed. According to the appellate tribunal, venue was improperly laid since the address of the plaintiff was supposedly in Pasay City, as evidenced by a *contract of sale, letters* and several *commercial documents* sent by the plaintiff to the defendant, even though the plaintiff's articles of incorporation stated that its principal office was in Cebu City. On appeal, we reversed the Court of Appeals. We reasoned out thus:

> In the Regional Trial Courts, all personal actions are commenced and tried in the province or city where the defendant or any of the defendants resides or may be found, or where the plaintiff or any of the plaintiffs resides, at the election of the plaintiff xxx.
>
> There are two plaintiffs in the case at bench: a natural person and a domestic corporation. Both plaintiffs aver in their complaint that they are residents of Cebu City, thus:
>
> xxx xxx xxx
>
> The Article of Incorporation of YASCO (SEC Reg. No. 22083) states:

Civil Case No. 18,128	*DLPC v. Industrial Rubber Manufacturing Corp.*	Br. 15
Civil Case No. 19,513-89	*DLPC v. Queensland Hotel*	Br. 8

Cases in which petitioner is a defendant:

Case No.	Title	Br. Pending
Civil Case No. 20,330-90	*Peter Arellano v. DLPC*	Br. 11
Civil Case No. 19520-89	*Fidelino Memorial Homes v. DLPC*	Br. 9
Civil Case No. 20,771-91	*V.S. Pichon Realty and Dev. Corp. v. DLPC*	Br. 9
Civil Case No. 19,640-89	*Davao Unicar Corporation* v. DLPC	Br. 8
Civil Case No. 21-274-92	*Ma. Corazon Relon Priego v. DLPC*	Br. 14

[14] 223 SCRA 670, 674 (1993).

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"THIRD. That the place where the principal office of the corporation is to be established or located is at Cebu City, Philippines (as amended on December 20, 1980 and further amended on December 20, 1984)" xxx.

A corporation has no residence in the same sense in which this term is applied to a natural person. But for practical purposes, a corporation is in a metaphysical sense a resident of the place where its principal office is located as stated in the articles of incorporation (*Cohen v. Benguet Commercial Co., Ltd.*, 34 Phil. 526 [1916] *Clavecilla Radio System v. Antillo*, 19 SCRA 379 [1967]). The Corporation Code precisely requires each corporation to specify in its articles of incorporation the "place where the principal office of the corporation is to be located which must be within the Philippines" (Sec. 14[3]). The purpose of this requirement is to fix the residence of a corporation in a definite place, instead of allowing it to be ambulatory.

In *Clavecilla Radio System v. Antillon*, 19 SCRA 379 ([1967]), this Court explained why actions cannot be filed against a corporation in any place where the corporation maintains its branch offices. The Court ruled that to allow an action to be instituted in any place where the corporation has branch offices, would create confusion and work untold inconvenience to said entity. By the same token, a corporation cannot be allowed to file personal actions in a place other than its principal place of business unless such a place is also the residence of a co-plaintiff or a defendant.

If it was Roxas who sued YASCO in Pasay City and the latter questioned the venue on the ground that its principal place of business was in Cebu City, Roxas could argue that YASCO was in estoppel because it misled Roxas to believe that Pasay City was its principal place of business. But this is not the case before us.

With the finding that the residence of YASCO for purposes of venue is in Cebu City, where its principal place of business is located, it becomes unnecessary to decide whether Garcia is also a resident of Cebu City and whether Roxas was in estoppel from questioning the choice of Cebu City as the venue. [italics supplied]

The same considerations apply to the instant case. It cannot be disputed that petitioner's principal office is in Cebu City, per its amended articles of incorporation[15] and by-laws.[16] An action for

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[15] *Rollo*, pp. 128-129.

[16] *Rollo*, p. 131.

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damages being a personal action,[17] venue is determined pursuant to Rule 4, Section 2 of the Rules of Court, to wit:

Venue of personal actions.—All other actions may be commenced and tried where the plaintiff or any of the principal plaintiffs resides, or where the defendant or any of the principal defendants resides, or in the case of a non-resident defendant where he may be found, at the election of the plaintiff.[18]

Private respondent is not a party to any of the contracts presented before us. He is a complete stranger to the covenants executed between petitioner and NAPOCOR, despite his protestations that he is privy thereto, on the rather flimsy ground that he is a member of the public for whose benefit the electric generating equipment subject of the contracts were leased or acquired. We are likewise not persuaded by his argument that the allegation or representation made by petitioner in either the complaints or answers it filed in several civil cases that its residence is in Davao City should estop it from filing the damage suit before the Cebu courts. Besides there is no showing that private respondent is a party in those civil cases or that he *relied* on such representation by petitioner.

WHEREFORE, the instant petition is hereby *GRANTED*. The appealed decision is hereby *REVERSED* and *SET ASIDE*. The Regional Trial Court of Cebu City, Branch 11 is hereby directed to proceed with Civil Case No. CEB-11578 with all deliberate dispatch. No pronouncement as to costs.

SO ORDERED.

Bellosillo (Chairman), Mendoza, Quisumbing, and *Buena, JJ.*, concur.

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[17] *Baritua v. Court of Appeals*, 267 SCRA 331, 335 (1997).

[18] Prior to the 1997 amendment, the provision read:

Sec. 2. *Venue in Courts of First Instance*

xxx xxx xxx

b) *Personal actions*—All other actions may be commenced and tried where the defendant or any of the defendants resides or may be found, or where the plaintiff or any of the plaintiff resides, at the election of the plaintiff.

xxx xxx xxx