



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

ELIZABETH A. HERNANDO,
Petitioner,

G.R. No. 259295

Present:

- versus -

CAGUIOA, J., Chairperson,
INTING,
GAERLAN,
DIMAAMPAO, and
SINGH,* JJ.

GOLDEN SUN FINANCE
CORPORATION, ILDEFONSO
M. VILLANUEVA, JR., in his
personal and official capacity as
Ex-Officio Sheriff, Regional Trial
Court, Bacolod City,

Promulgated:

Respondents.

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D E C I S I O N

INTING, J.:

Before the Court is a Petition for Review on *Certiorari*¹ (Petition) under Rule 45 of the Rules of Court assailing the Resolutions dated July 7, 2021² and December 7, 2021,³ of the Court of Appeals (CA) in CA-G.R. CV No. 114100 which dismissed the Appeal of petitioner Elizabeth

* On leave.

¹ *Rollo*, pp. 30–59.

² *Id.* at 10–18. Penned by Associate Justice Ramon M. Bato, Jr. and concurred in by Associate Justices Pablito A. Perez and Raymond Reynold R. Lauigan of the Fifth Division, Court of Appeals, Manila.

³ *Id.* at 10–18. Penned by Associate Justice Ramon M. Bato, Jr. and concurred in by Associate Justices Pablito A. Perez and Raymond Reynold R. Lauigan of the Former Fifth Division, Court of Appeals, Manila.

M

A. Hernando (Elizabeth) for being a wrong mode of appeal.

Elizabeth appealed the Resolution⁴ dated April 17, 2019, of Branch 12, Regional Trial Court (RTC), Laoag City that dismissed her Complaint⁵ for Nullification of Execution Sale on the ground of improper venue.

The Antecedents

On July 17, 2008, Elizabeth obtained a loan from respondent Golden Sun Finance Corporation (Golden Sun) in the principal amount of PHP 749,760.00, with interest at 76% for a period of 36 months, to be repaid through installment payments of PHP 20,826.67 per month. The loan was evidenced by a Promissory Note,⁶ which contained a stipulation on venue for any legal or court action arising under or by virtue of the agreement:

[A]ny legal or court action arising under or by virtue of this note shall be instituted before the proper courts of Bacolod City where the principal office of GOLDEN SUN FINANCE CORPORATION is located to the exclusion of all other courts and venues. By its signature hereunder, the Maker/Borrower irrevocably submits to such exclusive venues, and in case of judicial execution, the rights conferred under Rule 39 of the Rules of Court are hereby waived.⁷

To secure payment of the loan, Elizabeth executed a Chattel Mortgage⁸ over a Ford Everest in her possession. Similar to the Promissory Note, the Chattel Mortgage contained a venue stipulation stating that “any legal or court action arising under or by virtue of this Chattel Mortgage contract shall be instituted only before the proper courts of Bacolod City where the principal office of the MORTGAGEE is located to the exclusion of all other venues.”⁹

In accordance with the Promissory Note, Elizabeth issued to Golden Sun 36 post-dated checks, each with a face value of PHP 20,826.67.¹⁰ However, 28 of the 36 post-dated checks issued by

⁴ RTC records, pp. 237–242. Penned by Presiding Judge Nida B. Alejandro.

⁵ *Id.* at 1–7.

⁶ *Id.* at 123.

⁷ *Id.*

⁸ *Id.* at 8–11.

⁹ *Id.* at 9, Chattel Mortgage.

¹⁰ *Id.* at 13, Complaint in Civil Case No. 12-13986.



Elizabeth were dishonored when presented for payment.¹¹

Thus, for the 28 bounced checks issued by Elizabeth, Golden Sun instituted criminal cases for violation of Batas Pambansa Blg. 22.¹² The criminal cases were raffled to Branch 2, Municipal Trial Court in Cities (MTCC), Bacolod City and docketed as Criminal Case Nos. 09-12-17630 to 32 and 11-10-21066 to 89 (Criminal Cases). The 28 checks subject of the Criminal Cases represented an aggregate amount of PHP 583,146.76. This sum of money eventually became the subject of a Compromise Agreement¹³ dated February 16, 2017 in the Criminal Cases, wherein (1) Golden Sun recognized that Elizabeth had paid PHP 200,000.00 of the PHP 583,146.76, leaving a balance of PHP 383,146.76; and (2) the parties agreed that Elizabeth shall pay the remaining balance at PHP 20,000.00 per month until fully paid.

On July 20, 2012, Golden Sun filed with Branch 44, Regional Trial Court (RTC), Bacolod City (RTC Bacolod City) a Complaint¹⁴ for Sum of Money with Damages with Prayer for Preliminary Attachment to collect the amount of PHP 384,634.96 from Elizabeth. The RTC Bacolod City docketed the Complaint as Civil Case No. 12-13986 (Collection Case).¹⁵

Golden Sun averred that: (1) of the 36 checks that Elizabeth issued in connection with their loan agreement, three checks were cleared, while the 28 checks that bounced became the subject of the Criminal Cases; (2) five amortization payments under the loan agreement had not yet been paid by Elizabeth even though they were already due and demandable;¹⁶ and (3) as of July 17, 2012, the unpaid obligation amounted to the principal amount of PHP 104,133.35 plus liquidated damages, interest on principal, and other charges for insurance, attorney's fees, and notarial fees, in the total aggregate amount of PHP 384,634.96.¹⁷

During the proceedings in the Collection Case, the RTC Bacolod City granted Golden Sun's prayer for provisional reliefs and issued a Writ of Preliminary Attachment¹⁸ dated October 5, 2012 against the properties of Elizabeth that are not exempt from execution and equal to the value of

¹¹ *Id.* at 14, Complaint in Civil Case No. 12-13986.

¹² *Id.*

¹³ *Id.* at 33–34.

¹⁴ *Id.* at 12–16.

¹⁵ *Id.* at 30. Decision in the Collection Case.

¹⁶ *Id.* at 26, Letter dated May 17, 2012.

¹⁷ *Id.* at 27, Statement of Account.

¹⁸ *Id.* at 132. Issued by Presiding Judge Franklin J. Demonteverde.

Golden Sun's claim in the Collection Case.¹⁹

On April 4, 2013, the Writ of Preliminary Attachment was annotated on the Torrens certificates of title for several properties that are located in Laoag City (Laoag City properties), wherein Elizabeth was identified as a sole registered owner or part-owner, to wit: (1) Transfer Certificate of Title (TCT) No. T-34832;²⁰ (2) TCT No. T-37485;²¹ (3) TCT No. T-37493;²² (4) TCT No. T-37499;²³ (5) TCT No. T-38093;²⁴ (6) TCT No. T-38095;²⁵ (7) TCT No. T-38233;²⁶ (8) TCT No. T-38265;²⁷ and (9) TCT No. T-38270 (collectively, Laoag City TCTs).²⁸

Elizabeth failed to file an answer in the Collection Case. Thus, upon motion of Golden Sun, the RTC Bacolod City declared Elizabeth in default and allowed Golden Sun to present its evidence *ex-parte*. Eventually, the RTC Bacolod City rendered the Decision²⁹ dated December 4, 2014, and ordered Elizabeth to pay PHP 384,634.96 to Golden Sun, viz.:

WHEREFORE, in view of the foregoing, the Court hereby renders judgment in favor of plaintiff GOLDEN SUN FINANCE CORPORATION and against ELIZABETH A. HERNANDO, ordering defendant to pay the following amounts:

- 1) Three Hundred Eighty Four Thousand Six Hundred Thirty Four ([PHP] 384,634.96) Pesos and Ninety Six Centavos as actual damages with interest computed at twelve (12%)

¹⁹ *Id.* The writ of preliminary attachment relevantly states:

WHEREAS, plaintiff Golden Sun Finance Corporation with principal address at Corner Lopez Jaena and Malaspina Streets, Bacolod City has Complained on oath to the Court that defendant Elizabeth A. Hernando of No. 18, Gen. Luna St., Laoag City is justly obligated to the Golden Sun Finance Corporation in the amount of Three Hundred Eight Four & 96/100 (P384,634.00) [sic] Philippine Currency[.]

....

NOW THEREFORE, you are hereby commanded to attach the property, real and personal, not exempt from execution, of the above-named defendants, equal to the value of the said claim and costs of suit, and that you safely keep the same according to the provision of the Rules of Court, unless said defendants give sufficient security to pay such judgment as may be recovered in this case, in the manner provided for by the Rules of Court, and then submit to this Court your corresponding return of service of the Order and writ of preliminary attachment on said defendants with the proceedings you have taken, duly indorsed thereon.

²⁰ *Id.* at 41–45.

²¹ *Id.* at 46–50.

²² *Id.* at 51–55.

²³ *Id.* at 56–60.

²⁴ *Id.* at 60a–64.

²⁵ *Id.* at 65–69.

²⁶ *Id.* at 70–74.

²⁷ *Id.* at 75–79.

²⁸ *Id.* at 80–84.

²⁹ *Id.* at 30–32. Penned by Acting Presiding Judge Kathrine A. Go.

percent per annum from the filing of the Complaint until fully paid;

- 2) Attorney's fees equivalent to twenty five (25%) percent of the amount recovered; and
- 3) Cost of suit.

SO ORDERED.³⁰

Thereafter, upon Golden Sun's motion, the RTC Bacolod City issued a Writ of Execution³¹ dated May 21, 2015. On June 8, 2016, respondent Ildefonso M. Villanueva, Jr. (Sheriff Villanueva), as Clerk of Court IV and Ex-Officio Sheriff of the RTC Bacolod City, issued a Notice of Sale on Execution of Real Properties³² (Notice of Sale), which states that in order to satisfy the judgment in the Collection Case, he will sell the properties registered under the Laoag City TCTs in a public auction to be held on July 27, 2016.

On July 27, 2016, Sheriff Villanueva proceeded with the auction sale of the Laoag City properties wherein Golden Sun was declared as the highest bidder. Accordingly, on September 23, 2016, Sheriff Villanueva issued the Certificate of Sale on Execution, which states that he sold to Golden Sun all the rights and interest of Elizabeth in the Laoag City properties in the aggregate amount of PHP 1,800,000.00.³³

On December 6, 2017, Sheriff Villanueva issued to Golden Sun the Final Certificate of Sale on Execution (Final Certificate of Sale),³⁴ which states that the Laoag City properties were not redeemed despite the lapse of the redemption period.

³⁰ *Id.* at 32.

³¹ *Id.* at 137–138.

³² *Id.* at 139–142.

³³ *Id.* at 145–148.

³⁴ *Id.* at 189–192. The Final Certificate of Sale on Execution states:

NOW, THEREFORE, in view of the foregoing, I, ILDEFONSO M. VILLANUEVA, JR., Clerk of Court VI & Ex-Officio Sheriff of this Court, issue this –

Final Certificate of Sale on Execution

in favor of GOLDEN SUN FINANCE CORPORATION, a domestic corporation duly organized and existing under the laws of the Republic of the Philippines, with principal place of business at cor. L.N. Agustin Drive & Lopez Jaena Street, Bacolod City, Negros Occidental, over ELIZABETH A. HERNANDO's seven (7) real properties covered by TRANSFER CERTIFICATE OF TITLE Nos. T-37485, T-37499, T-38093, T-38095, T-38233, T-38265 and T-38093; ELIZABETH A. HERNANDO's *one-half (1/2) undivided share* in TRANSFER CERTIFICATE OF TITLE Nos. T-34832; and ELIZABETH A. HERNANDO's *undivided share equivalent to 383 square meters* in TRANSFER CERTIFICATE OF TITLE No. T-37493, all of the land records of the City of Laoag, Province of Ilocos Norte.

ISSUED AND SEALED this 06 December 2017 for Laoag City, Ilocos Norte, Philippines.

Proceedings in Branch 12, Regional Trial Court, Laoag City

Thereafter, on May 23, 2018, Elizabeth filed with Branch 12, RTC, Laoag City (RTC Laoag City) the Complaint³⁵ against Golden Sun and Sheriff Villanueva, praying that the Certificate of Sale and Final Certificate of Sale (collectively, Certificates of Sale) issued in the Collection Case be declared null and void, and that therein defendants be found jointly and severally liable for actual, moral, and exemplary damages, attorney's fees, and costs of suit. The RTC Laoag City docketed the Complaint as Civil Case No. 17318-12 (Nullity Case).³⁶

Elizabeth argued that the proper remedy of Golden Sun to collect any portion of the amount due under the Promissory Note was to foreclose on the Chattel Mortgage. She asserted that she was not notified of the public auction sale in the Collection Case and that Sheriff Villanueva exceeded his authority when he sold the Laoag City properties in excess of the judgment debt in the Collection Case.³⁷

RTC Laoag City issued summons to Golden Sun and Sheriff Villanueva on June 1, 2018.³⁸ Thereafter, Golden Sun filed its Answer (with Motion to Dismiss and Counterclaim)³⁹ wherein it insisted that the July 27, 2016 public auction sale in the Collection Case was valid and presumed regular. It alleged that Elizabeth was personally served a copy of the Notice of Sale on July 8, 2016 as stated in the Sheriff's Return⁴⁰ of Sheriff IV Ladislao S. Ventura. It also argued that a copy of the Notice of Sale was published on June 11, 2016 and June 18, 2016, by Country Post, a newspaper of general circulation in Bacolod City and the island of Negros.⁴¹ Golden Sun added that the Complaint was filed in the wrong venue because the Promissory Note contained a stipulation wherein the parties agreed that all actions arising under the Note shall be filed with the proper courts of Bacolod City.

In her Reply and Answer to Counterclaim with Opposition to Motion to Dismiss,⁴² Elizabeth reiterated her arguments in the Complaint. She asserted that the venue stipulation in the Promissory Note was not applicable because: *first*, Golden Sun disregarded the terms of the contract

³⁵ *Id.* at 1–7.

³⁶ *Id.* at 99, Summons in the Nullity Case.

³⁷ *Id.* at 5.

³⁸ *Id.* at 99 and 100.

³⁹ *Id.* at 110–121.

⁴⁰ *Id.* at 143.

⁴¹ *Id.* at 144, Affidavit of Publication.

⁴² RTC records, pp. 194–202.

when it filed the Collection Case instead of foreclosing on the Chattel Mortgage; and *second*, the properties subject of the Certificates of Sale are located in Laoag City, which meant that jurisdiction over the Nullity Case was lodged in the RTC Laoag City. Finally, Elizabeth averred that her obligation in the civil aspect of the Criminal Cases, on one hand, and the Collection Case, on the other, arose from a single agreement—the Promissory Note; hence, Golden Sun was unfairly collecting payment twice in two separate proceedings for one and the same obligation.

The Ruling of the RTC Laoag City

In the Resolution⁴³ dated April 17, 2019, the RTC Laoag City dismissed Elizabeth's Complaint on the ground of improper venue. It ruled that Elizabeth's cause of action is rooted in the Promissory Note because she was essentially questioning the manner by which Golden Sun collected payment for the loan obligation covered by the same Note, i.e., by filing the Collection Case instead of foreclosing the Chattel Mortgage. The RTC Laoag City concluded that based on the exclusive venue stipulation in the Promissory Note, Elizabeth should have filed her Complaint with the proper courts of Bacolod City.

Elizabeth sought a reconsideration⁴⁴ of the RTC Laoag City Resolution, but the RTC Laoag City denied it in the Order⁴⁵ dated August 22, 2019.

On September 5, 2019, Elizabeth filed her Notice of Appeal.⁴⁶ On September 6, 2019, the RTC Laoag City gave due course to her appeal and directed the Clerk of Court to elevate the case records to the CA.⁴⁷

The Ruling of the CA

In the Resolution⁴⁸ dated July 7, 2021, the CA dismissed Elizabeth's Appeal for having been filed under the wrong mode of appeal.

⁴³ *Id.* at 237–242.

⁴⁴ *Id.* at 243–246. *See* Motion for Reconsideration dated May 14, 2019.

⁴⁵ *Id.* at 257. Penned by Presiding Judge Nida B. Alejandro.

⁴⁶ *Id.* at 258–260. *See* Notice of Appeal dated September 5, 2019.

⁴⁷ *Id.* at 262, Order dated September 6, 2019.

⁴⁸ *Rollo*, pp. 10–18.

The CA determined that the RTC Laoag City's dismissal of the Complaint is a final order because it disposed of the whole case; hence, appeal was the appropriate remedy therefrom. However, the CA ruled that the issues of whether the RTC Laoag City correctly interpreted the exclusive venue stipulation under the Promissory Note, and whether it correctly applied the contractual provision under the given set of facts in the Nullity Case, were pure questions of law. Hence, the CA concluded that Elizabeth should have directly filed her appeal with the Court by way of a petition for review on *certiorari* under Rule 45 of the Rules of Court, not through an ordinary appeal. Accordingly, the CA applied Administrative Circular No. 2-90⁴⁹ dated March 9, 1990, which states that an appeal taken to the CA by the wrong or inappropriate mode shall be dismissed.

Elizabeth filed a Motion for Reconsideration⁵⁰ of the CA Resolution, but the CA denied it in the Resolution⁵¹ dated December 7, 2021.

Thus, the present Petition.⁵²

Petitioner's Arguments

Elizabeth argues that an ordinary appeal was the proper remedy from the RTC Laoag City's dismissal of the Complaint because it raised mixed questions of law and fact, i.e., the interpretation of the Promissory Note *vis-à-vis* the proceedings in the execution sale in the Collection Case.⁵³

At any rate, Elizabeth avers that the rules of procedure may be relaxed in the interest of substantial justice.⁵⁴ She implores the Court for

⁴⁹ Supreme Court Administrative Circular No. 2-90, Item 4, par. c, states:

4. *Erroneous Appeals*. – An appeal taken to either the Supreme Court or the Court of Appeals by the wrong or inappropriate mode shall be dismissed.

.....

c) Raising issues purely of law in the Court of Appeals, or appeal by wrong mode. – If an appeal under Rule 41 is taken from the regional trial court to the Court of Appeals and therein the appellant raises only questions of law, the appeal shall be dismissed, issues purely of law not being reviewable by said Court. So, too, if an appeal is attempted from the judgment rendered by a Regional Trial Court in the exercise of its appellate jurisdiction by notice of appeal, instead of by petition for review, the appeal is inefficacious and should be dismissed.

⁵⁰ *Rollo*, pp. 19–23.

⁵¹ *Id.* at 25–26.

⁵² *Id.* at 30–59.

⁵³ *Id.* at 41–42.

⁵⁴ *Id.* at 43.

liberality because the execution sale in the Collection Case is manifestly illegal and would unjustly deprive her of her interest in the nine Laoag City properties that were allegedly sold for PHP 1,800,000.00, even though the judgment debt against her in the Collection Case was only PHP 384,634.96.⁵⁵ She further points out that Golden Sun was unjustly enriching itself by collecting payment twice under the same Promissory Note: *first*, through the Collection Case; and *second*, through the Compromise Agreement in the Criminal Cases.⁵⁶ She reiterates that she had already fully paid her obligation to Golden Sun under their Compromise Agreement in the Criminal Cases.⁵⁷

Elizabeth asserts that the venue stipulation in the Promissory Note does not apply because: (1) Golden Sun itself breached the contract when it filed the Collection Case instead of foreclosing the Chattel Mortgage; (2) the real properties subject of the Final Certificate of Sale are located in Laoag City, and hence, jurisdiction over the Nullity Case is lodged in the RTC Laoag City; and (3) Sheriff Villanueva exceed his authority when he caused the execution sale of the nine Laoag City properties at a measly aggregate amount of PHP 1,800,000.00, even though the judgment debt in the Collection Case was only PHP 384,634.96.⁵⁸ Elizabeth thus prays that the CA Resolutions be set aside, and that the case be remanded to the court of origin for further proceedings.⁵⁹

Respondent's Arguments

In its Comment,⁶⁰ Golden Sun insists that the venue stipulation in the Promissory Note is controlling because Elizabeth's Complaint was only an offshoot of the parties' contractual relations, considering that the execution sale in the Collection Case was held precisely to satisfy Elizabeth's loan obligation to Golden Sun.⁶¹ It adds that as a secured creditor, it may seek satisfaction of Elizabeth's loan obligation either by foreclosing the Chattel Mortgage or filing a civil action for the collection of a sum of money. Golden Sun thus asserts that it acted within its rights when it chose to file the Collection Case instead of foreclosing the Chattel Mortgage.⁶²

⁵⁵ *Id.* at 47.

⁵⁶ *Id.* at 48–49.

⁵⁷ *Id.* at 48.

⁵⁸ *Id.* at 53.

⁵⁹ *Id.* at 55.

⁶⁰ *Id.* at 450–463.

⁶¹ *Id.* at 457–460.

⁶² *Id.* at 461.

Proceedings before the Court

After the filing of the Comment and pending resolution of the present case, the Court received the Motion to Withdraw Petition⁶³ filed by Elizabeth. She manifested that after she filed the Petition, the parties subsequently entered into a Compromise Agreement,⁶⁴ wherein they agreed to the following terms, among others: (1) Elizabeth shall pay to Golden Sun the amount of PHP 150,000.00 in cash for the settlement of the cadastral cases⁶⁵ involving the same parties; (2) upon payment of the foregoing sum of money, the cadastral cases and the counter-charges against Golden Sun shall be dismissed, the parties shall no longer file cases against each other, and the Certificate of Sale “of the subject titles issued in relation to Sum of Money under Civil Case No. 12-13986 (Collection Case) will also be ordered null and void;” and (3) Elizabeth will withdraw the case against Golden Sun for Annulment of Public Auction Sale, Certificate of Sale, Final Certificate of Sale on Execution and Damages under Civil Case No. 17318 (Nullity Case), which is the case before the Court.

Issues

The issues before the Court are: (1) whether the Motion to Withdraw Petition should be granted; (2) whether the CA correctly ruled that Elizabeth availed herself of the wrong mode of appeal when she contested the RTC Laoag City’s dismissal of her Complaint on the ground of wrong venue; and (3) whether the venue stipulation in the Promissory Note applies to the Complaint filed by Elizabeth for the declaration of nullity of the execution sale and Certificates of Sale in the Collection Case.

The Ruling of the Court

The Motion to Withdraw Petition is granted. The Petition is dismissed in view of the Compromise Agreement between the parties. Nonetheless, for the guidance of the bench and bar and in view of the novel issues involved, the Court resolves the case on the merits.

⁶³ *Id.* at 561–563.

⁶⁴ *Id.* at 564–567.

⁶⁵ Indicated as Cadastral Case Nos. 27 and 20 before Branch 16, RTC, Laoag City.

The Petition is dismissed due to the parties' compromise agreement

Pursuant to Rule 50, Section 3⁶⁶ of the Rules of Court, the withdrawal of an appeal is a matter of right before a responsive pleading has been filed.⁶⁷ After the filing of a responsive pleading, i.e., Comment, the withdrawal of the appeal is always a matter of discretion for the Court.⁶⁸

Here, the Motion to Withdraw Petition was filed after Golden Sun had already filed its Comment. Hence, the withdrawal of the appeal is only a matter of discretion on the part of the Court. Nonetheless, the Court finds that the dismissal of the Petition is proper under the premises.

A compromise is a contract whereby the parties, by making reciprocal concessions, avoid a litigation or put an end to one already commenced.⁶⁹ "It is an accepted, even desirable and encouraged, practice in courts of law and administrative tribunals."⁷⁰ Being a contract, the parties may establish such stipulations, clauses, terms, and conditions as they deem convenient, provided that they are not contrary to law, morals, good customs, public order, or public policy.⁷¹

As part of their compromise, the parties herein expressly agreed that Elizabeth shall cause the withdrawal of the present Petition. This stipulation is *not* contrary to law, morals, customs, public order, or public policy. Moreover, when the parties enter into a compromise and agree to terminate the dispute between them, the compromise may render a pending petition moot, which warrants the petition's dismissal.⁷² Thus, in accordance with the policy encouraging litigants to settle their dispute amicably, the Court grants the Motion to Withdraw Petition and dismisses the Petition.

⁶⁶ SECTION 3. *Withdrawal of appeal.* – An appeal may be withdrawn as of right at any time before the filing of the appellee's brief. Thereafter, the withdrawal may be allowed in the discretion of the court.

⁶⁷ *Melotindos v. Tobias*, 439 Phil. 910, 915 (2002).

⁶⁸ *Id.*

⁶⁹ CIVIL CODE, art. 2028.

⁷⁰ *Rañola v. Spouses Rañola*, 612 Phil. 307, 312 (2009); *DMG Industries, Inc. v. Philippine American Investments Corporations*, 553 Phil. 649, 654 (2007); *PNOC-EDC v. Abella*, 489 Phil. 515, 535 (2005); *Santiago, IV v. De Guzman*, 258 Phil. 135, 141 (1998).

⁷¹ *Hrs. of Zabala v. Court of Appeals*, 634 Phil. 464, 468 (2010); CIVIL CODE, art. 306.

⁷² *Ayala Land Inc. v. Navarro*, 472 Phil. 390, 398 (2004); *Ordonez v. Judge Gustilo*, 270 Phil. 579, 586 (1990); *Berenguer v. Arcangel*, A.C. No. 5436, September 29, 2004, 149 SCRA 164.

Importantly, while the Court generally declines to rule on the merits of a case that has been rendered moot, there are exceptions to the rule, to wit: (1) grave constitutional violations; (2) exceptional character of the case; (3) paramount public interest; (4) the case presents an opportunity to guide the bench, the bar, and the public; or (5) the case is capable of repetition yet evading review.⁷³

In the case at bar, the Court finds it proper to rule on the merits of the case for the guidance of the bench, the bar, and the public. Indeed, the Court has proceeded to rule on the merits of the case even though it has been rendered moot because the controversy involved a *novel* issue.⁷⁴

The same rationale applies to the case at bench, as it raises a novel issue on whether a venue stipulation contained in a loan agreement shall likewise apply to an action assailing an auction sale that was held to satisfy the loan obligation under the same agreement. To guide the bench, the bar, and the public, the Court deems it proper to resolve the merits of the case.

The venue stipulation in the Promissory Note does not apply to the Complaint in the Nullity Case

Rule 4 of the Rules of Court provides the rule on venue of actions, to wit:

SECTION 1. *Venue of real actions.* – Actions affecting title to or possession of real property, or interest therein, shall be commenced and tried in the proper court which has jurisdiction over the area wherein the real property involved, or a portion thereof, is situated.

Forcible entry and detainer actions shall be commenced and tried in the municipal trial court of the municipality or city wherein the real property involved, or a portion thereof, is situated.

SECTION 2. *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[.]

⁷³ *Oclarino v. Navarro*, 863 Phil. 949, 955 (2019).

⁷⁴ *National Union of Workers in the Hotel Restaurant and Allied Industries v. Court of Appeals*, 591 Phil. 570, 579 (2008).

SECTION 4. *When Rule not applicable.* – This Rule shall not apply.

- (a) In those cases where a specific rule or law provides otherwise; or
- (b) Where the parties have validly agreed in writing before the filing of the action on the exclusive venue thereof.

Golden Sun cites the venue stipulation in the Promissory Note and argues that the Complaint in the Nullity Case should have been filed with the courts of Bacolod City and not the RTC Laoag City. It avers that the Complaint is an offshoot of the Collection Case wherein the satisfaction of Elizabeth's loan obligation under the Promissory Note was in issue.

The Court disagrees with Golden Sun. The general rule on venue under Rule 4, Sections 1 and 2 of the Rules of Court, *not* the venue stipulation in the Promissory Note, applies to the Complaint.

First, the subject venue stipulation in the case pertains to *any legal or court action arising under or by virtue of* the Promissory Note. Thus, for the provision to apply, it must be shown that the Complaint in the Nullity Case arose under or by virtue of the Promissory Note. The Court finds that the foregoing condition was not met.

A perusal of the Complaint in issue readily reveals that it was filed *not* because of the terms or conditions in the Promissory Note, but because of the alleged impropriety of the execution sale of the nine Laoag City properties. Elizabeth essentially questioned the validity of the execution sale on the following grounds: *first*, she was supposedly not notified of the public auction; *second*, the Laoag City properties that were sold on execution allegedly had a value that greatly exceeded the judgment debt of PHP 384,634.96; and *third*, the properties were sold on execution despite the lack of any prior attempt to sequester the mortgaged Ford Everest.

From the foregoing, it is clear that the Complaint was filed due to incidents that are *distinct, independent, and separate* from the terms and conditions of the Promissory Note. Surely, it cannot be said that the actions of the Sheriff "arose under" or were "by virtue" of the Promissory Note. The Sheriff's actions were *not* based on the Promissory Note but were in pursuit of his duty to cause the enforcement and execution of the judgment in the Collection Case. Likewise, the execution sale did not arise

under or by virtue of the Promissory Note; instead, it was conducted as *part of the proceedings* in the Collection Case then pending before the RTC Bacolod City, which exercises supervisory control over the execution of its judgment.⁷⁵ The conduct of the execution sale by the Sheriff is *governed* by the pertinent provisions of Rule 39 of the Rules of Court on Execution, Satisfaction and Effect of Judgments,⁷⁶ not by the contractual stipulation of the parties.

Second, the Court has held that a contractual stipulation on venue applies if the complaint assails only the *terms, conditions, and/or coverage*, of a written instrument and not its validity.⁷⁷ The Complaint in the Nullity Case does *not* seek the enforcement of or assail the terms, conditions, and/or coverage of the Promissory Note; instead, it seeks the declaration of nullity of the execution sale and the Certificates of Sale issued in the Collection Case due to incidents that occurred independently of the agreement between the parties.

Third, for the venue stipulation in the Promissory Note to apply to the Complaint in the Nullity Case, it must be established that the parties intelligently and deliberately intended to exclude it from the rules on venue.

By stipulation, the parties may waive the legal venue provided in Rule 4, Section 4(b) of the Rules of Court.⁷⁸ However, because restrictive stipulations are in derogation of the general policy on venue for the convenience of the parties, the language of the agreement must be so *clear and categorical* as to leave no doubt on the parties' intention to limit the venue of their actions.⁷⁹ Further, waiver is the intentional relinquishment of a *known right*⁸⁰ which must already be in existence at the time of waiver.⁸¹ Thus, to bind the parties, the venue stipulation must have been *intelligently and deliberately intended by them* to exclude their case from the reglementary rules on venue.⁸²

⁷⁵ *Linden Suites, Inc. v. Meridien Far East Properties, Inc.*, 911 Phil. 655, 661 (2021), citing *Kukan International Corporation v. Reyes*, 646 Phil. 210, 224 (2010); *Carpio v. Judge Doroja*, 259 Phil. 467, 473 (1989). (Emphasis supplied)

⁷⁶ *Supena v. De la Rosa*, 334 Phil. 671, 675 (1997). (Emphasis supplied)

⁷⁷ *See Briones v. Court of Appeals*, 750 Phil. 891, 899 (2015). (Emphasis supplied)

⁷⁸ *Unimasters Conglomeration, Inc. v. Court of Appeals*, 335 Phil. 415, 424 (1997).

⁷⁹ *Id.* at 425. (Emphasis supplied)

⁸⁰ *D.M. Consunji, Inc. v. Court of Appeals*, 409 Phil. 275, 299 (2001). (Emphasis supplied)

⁸¹ *Camon v. Bezore*, 153 Phil. 299 (1973)

⁸² *Moles v. Intermediate Appellate Court*, 251 Phil. 711, 720–721 (1989). (Emphasis supplied)

In the present case, the venue stipulation in the Promissory Note does *not* clearly and categorically provide that it shall apply even to the situation contemplated in the Nullity Case. Again, the Complaint in the Nullity Case assailed the conduct of Sheriff Villanueva, who allegedly sold the Laoag City properties in an amount that greatly exceeded the judgment debt in the Collection Case and without due notice to Elizabeth. It cannot be said that Elizabeth's consent to the venue stipulation included her right of action for the nullification of the execution sale based on the conduct of the Sheriff as these matters had not yet occurred and would not have been *known* to Elizabeth at the time that she signed the Promissory Note.

The Court notes the statement in the Promissory Note that by her signature, Elizabeth “irrevocably submits to such exclusive venues, and *in case of judicial execution, the rights conferred under Rule 39 of the Rules of Court are hereby waived.*” However, the Court is not convinced that the foregoing stipulation includes a waiver of legal venue for the Nullity Case because the rule in venue is *not found* in Rule 39 but in Rule 4 of the Rules of Court.

Plainly, the subject venue stipulation is unclear, equivocal, and cannot be taken as a categorical waiver by the parties of the rules on venue insofar as the Complaint in the Nullity Case is concerned. Following case law,⁸³ any doubt as regards the applicability of the venue stipulation should be resolved against its application, and the general rule on venue under Rule 4, Sections 1 and 2 of the Rules of Court must instead be applied.

The Complaint in the Nullity Case is a personal action that may be filed at the place of residence of Elizabeth or of Golden Sun, at Elizabeth's election

Having settled the inapplicability of the venue stipulation in the Promissory Note to the Complaint in the Nullity Case, the Court proceeds to rule on the appropriate venue of the action.

⁸³ *Unimasters Conglomeration, Inc. v. Court of Appeals*, 335 Phil. 415 (1997); *Moles v. Intermediate Appellate Court*, 251 Phil. 711 (1989).



An action involving the nullification of agreements relating to real properties may be classified as a real action if it includes a prayer for the recovery of possession or title to the property involved.⁸⁴ If a complaint for the annulment or nullification of a deed of sale includes a prayer for the plaintiff to be judicially declared as the owner, or for the recovery or transfer of title to or possession of real property, then the complaint is a *real action*.⁸⁵

On the other hand, if title to or possession of the real property remains with the plaintiff, who only seeks a declaration of nullity of the pertinent agreement or transaction, then the action may be properly classified as a *personal action*.⁸⁶ Thus, in several cases,⁸⁷ the Court characterized an action for the nullification of agreements for a loan with real property mortgage and for the sale of real property as *personal actions* because there was no allegation by the plaintiff that the possession or title to the real property had been transferred to the defendant, and the complaint simply prayed for the nullification or rescission of the agreements in issue.

In the present case, Elizabeth's Complaint seeks the nullification of the execution sale of the nine Laoag City properties that was held on July 27, 2016, as well as the nullification of the Certificates of Sale issued to Golden Sun in the Collection Case. Her Complaint does *not* allege that the titles to or possession of the nine Laoag City properties have been transferred to Golden Sun, nor does she pray that she be restored in her possession or ownership of the said properties:

1. That the plaintiff is of legal age, Filipino, widow, and with residence and postal address at Brgy. 18, Gen. Luna St., Laoag City, Philippines, where she may be served with notices and legal processes of this Honorable Court;

....

15. That the defendant Ex-Officio Sheriff had sold in a purported public auction sale on **July 27, 2016**, and generated an amount of ONE MILLION EIGHT HUNDRED THOUSAND PESOS ([PHP]1,800,000.00), Philippine currency, *which is illegal and*

⁸⁴ *Racpan v. Barroga-Haigh*, 832 Phil. 1044 (2018).

⁸⁵ *Latorre v. Latorre*, 631 Phil. 88 (2010); *Serrano v. Delica*, 503 Phil. 71, 77 (2005); *Muñoz v. Llamas*, 87 Phil. 737 (1950). (Emphasis supplied)

⁸⁶ *Racpan v. Barroga-Haigh*, *supra*. (Emphasis supplied)

⁸⁷ *Racpan v. Barroga-Haigh*, *id.*; *Bank of the Philippine Islands v. Hontanosas, Jr.*, 737 Phil. 38 (2014); *Ruby Shelter Builders and Realty Development Corporation v. Formaran III*, 598 Phil. 105 (2009); *Chua v. Total Office Products and Services, Inc.*, 508 Phil. 490 (2005).

unlawful, as the principal amount of the judgment obligation is [PHP] 384,634.96. How, in high heaven, did the defendant Ildefonso M. Villanueva, Jr. got his valuation, and why did he sell all the properties. It is indispensable to point out that the judgment obligation, which is to be satisfied, is only P384,634.96[.]

16. That *the plaintiff was not notified of the said public auction sale*, and the proceedings undertaken thereat. In fact, the public auction sale should have been conducted in Laoag City where the properties are situated;

....

18. That there was even no explanation if the defendant Ex-officio Sheriff had looked for the said Motor Vehicle subject of the Chattel Mortgage, or was the basis of the indebtedness, *and if he looked for other personal properties of the plaintiff*, before resorting in shopping all the properties of the plaintiff and sold it at public auction, as his own valuation, and overwhelming misguided discretion;

....

20. That be that as it may, *the defendant Ex-Officio Sheriff had clearly exceeded his power and authority* in selling all the nine (9) parcels of land despite the measly amount of the balance of the plaintiff, and despite the remedy of replevin with respect to the motor vehicle;

....

PRAYER

WHEREFORE, premises considered, it is most respectfully prayed of this Honorable Court, that after due notice and hearing, a Decision be issued DECLARING the NULLITY of the Certificate of Sale on Execution (Annex "H" hereof) and Final Certificate of Sale on Execution (Annex "I" hereof).

Defendants shall likewise be made to pay, jointly and severally, to the plaintiff the following amount, to wit:

- a) Attorney's fees in the amount of [PHP] 50,000.00, representing the acceptance fee, plus [PHP] 1,500.00 per appearance in court, which shall be denominated as Actual Damages;
- b) Moral Damages in the amount of not less than [PHP] 100,000.00;
- c) Exemplary Damages in the amount at the discretion of this Honorable Court, but such amount shall not be less than [PHP] 50,000.00; and
- d) Costs of this suit.

Plaintiff likewise prays for such other relief and remedies that this Honorable Court may deem just and equitable under the premises.⁸⁸ (Emphasis and underscoring in the original; additional emphasis supplied)

Evidently, under the circumstances, Elizabeth's complaint for the nullification of the public auction sale and Certificates of Sale in the Collection Case is a *personal action*. Pursuant to Rule 4, Section 2 of the Rules of Court, the action may be commenced and tried at the place where Elizabeth resides, or where any of the defendants reside, at Elizabeth's election.

The Court is aware of the rule that until a judgment has been fully satisfied, the case in which an execution has been issued is regarded as still pending so that *all proceedings* on the execution are proceedings in the suit.⁸⁹ Thus, as a *general rule*, any controversy in the execution of judgment should be referred to the court which issued the writ of execution because it has the *inherent power* to control its own processes for the enforcement of its judgment and orders.⁹⁰ The proper recourse of a party who alleges that the sheriff committed an irregularity in the implementation of a writ of execution, or exceeded his or her authority under the writ, is to file a motion with an application for relief *from the same court that issued the judgment*, not from any other court.⁹¹ To hold otherwise would be to divide the jurisdiction of the appropriate forum in the resolution of incidents arising from execution proceedings.⁹²

However, the foregoing rule applies *only* when the judgment of the trial court has not yet been satisfied, for it is established that after a judgment has been fully satisfied, the case is deemed terminated once and for all and the trial court is deemed to have lost jurisdiction over the proceedings.⁹³ Thus, in *Spouses Malolos v. Dy*⁹⁴ and *Vda. de Salanga v. Alagar*,⁹⁵ the Court ruled that the judgment debtor could no longer assail the propriety of a public auction sale in the court that issued the judgment because the certificates of sale in favor of the highest bidder had already been issued and the judgment had already been satisfied; instead, the only

⁸⁸ RTC records, pp. 1–7.

⁸⁹ *Vda. de Paman v. Señeris*, 201 Phil. 290 (1982). (Emphasis supplied)

⁹⁰ *Mondejar v. Javellana*, 356 Phil. 1004 (1998). (Emphasis supplied)

⁹¹ *Collado v. Heirs of Triunfante, Sr.*, 563 Phil. 713 (2007). (Emphasis supplied)

⁹² *Mondejar v. Javellana*, 356 Phil. 1004 (1998).

⁹³ *Diamond Drilling Corp. of the Philippines v. Crescent Mining and Development Corp.*, 851 Phil. 583, 597 (2019); *Sps. Malolos v. Dy*, 382 Phil. 709, 716–717 (2000). (Emphasis supplied)

⁹⁴ 382 Phil. 709 (2000).

⁹⁵ 390 Phil. 1078 (2000).

available remedy to the judgment debtor was to file a *separate action* for the annulment of the auction sale with the appropriate court.

In the present case, Sheriff Villanueva supposedly exceeded his authority in the Collection Case by causing the public auction sale of the nine Laoag City properties allegedly without due notice to Elizabeth, without first attempting to levy on her personal property, i.e., the Ford Everest, and in selling the properties for PHP 1,800,000.00, in manifest excess of the judgment debt that was only in the amount of PHP 384,634.96. Certainly, Rule 39, Section 15⁹⁶ of the Rules of Court provides the requirements for a notice of sale of real properties on execution. Further, under Rule 39, Section 9(a) and (b),⁹⁷ there is a *specific*

⁹⁶ RULES OF COURT, Rule 39, sec. 15 relevantly states:

SECTION 15. *Notice of sale of property on execution.* – Before the sale of property on execution, notice thereof must be given as follows:

....

- (c) In case of real property, by posting for twenty (20) days in the three (3) public places abovementioned a similar notice particularly describing the property and stating where the property is to be sold, and if the assessed value of the property exceeds fifty thousand (P50,000.00) pesos, by publishing a copy of the notice once a week for two (2) consecutive weeks in one newspaper selected by raffle, whether in English, Filipino, or any major regional language published, edited and circulated or, in the absence thereof, having general circulation in the province or city;
- (d) In all cases, written notice of the sale shall be given to the judgment obligor, at least three (3) days before the sale, except as provided in paragraph (a) hereof where notice shall be given the same manner as personal service of pleadings and other papers as provided by section 6 of Rule 13.

The notice shall specify the place, date and exact time of the sale which should not be earlier than nine o'clock in the morning and not later than two o'clock in the afternoon. The place of the sale may be agreed upon by the parties. In the absence of such agreement, the sale of the property or personal property not capable of manual delivery shall be held in the office of the clerk of court of the Regional Trial Court or the Municipal Trial Court which issued the writ of or which was designated by the appellate court. In the case of personal property capable of manual delivery, the sale shall be held in the place where the property is located.

⁹⁷ RULES OF COURT, Rule 39, sec. 9 relevantly states:

SECTION 9. *Execution of judgments for money, how enforced.* –

(a) *Immediate payment on demand.* – The officer shall enforce an execution of a judgment for money by demanding from the judgment obligor the immediate payment of the full amount stated in the writ of execution and all lawful fees. The judgment obligor shall pay in cash, certified bank check payable to the judgment obligee, or any other form of payment acceptable to the latter, the amount of the judgment debt under proper receipt directly to the judgment obligee or his authorized representative if present at the time of payment. The lawful fees shall be handed under proper receipt to the executing sheriff who shall turn over the said amount within the same day to the clerk of court of the court that issued the writ.

If the judgment obligee or his authorized representative is not present to receive payment, the judgment obligor shall deliver the aforesaid payment to the executing sheriff. The latter shall turn over all the amounts coming into his possession within the same day to the clerk of court of the court that issued the writ, or if the same is not practicable, deposit said amounts to a fiduciary account in the nearest government depository bank of the Regional Trial Court of the locality.

The clerk of said court shall thereafter arrange for the remittance of the deposit to the account of the court that issued the writ whose clerk of court shall then deliver said payment to the judgment obligee in satisfaction of the judgment. The excess, if any, shall be delivered to the judgment obligor while the lawful fees shall be retained by the clerk of court for disposition as provided by

order by which the property of a judgment debtor may be executed upon for the satisfaction of a money judgment. In addition, the Sheriff must sell only so much of the property of the judgment debtor as is sufficient to satisfy the judgment and lawful fees. The sheriff's failure to observe the foregoing procedure may render the levy and the execution sale *invalid*, *unless* it is shown that the judgment debtor acceded to the non-observance of the rule.⁹⁸

Based on the allegations in the Complaint in the Nullity Case, Elizabeth's remedy would have been to file the appropriate motion with the RTC Bacolod City to set aside the public auction sale of the nine Laoag City properties. However, a Final Certificate of Sale had already been issued to Golden Sun as the highest bidder for the nine Laoag City properties at the total purchase price of PHP 1,800,000.00. Golden Sun does not contest that the amount is sufficient to satisfy the judgment debt against Elizabeth in the Collection Case.

In view of the foregoing circumstances, the only recourse available to Elizabeth was to institute a separate action against the execution sale and the Certificates of Sale to the extent that they allegedly exceeded the authority granted to Sheriff Villanueva for the satisfaction of the RTC Bacolod City's Decision⁹⁹ dated December 4, 2014. Hence, Elizabeth cannot be faulted in filing a separate Complaint for the nullification of the execution sale and Certificates of Sale issued to Golden Sun.

law. In no case shall the executing sheriff demand that any payment by check be made payable to him.

(b) *Satisfaction by levy.* – If the judgment obligor cannot pay all or part of the obligation in cash, certified bank check or other mode of payment acceptable to the judgment obligee, the officer shall levy upon the properties of the judgment obligor of every kind and nature whatsoever which may be disposed, of for value and not otherwise exempt from execution giving the latter the option to immediately choose which property or part thereof may be levied upon, sufficient to satisfy the judgment. If the judgment obligor does not exercise the option, the officer shall first levy on the personal properties, if any, and then on the real properties if the personal properties are insufficient to answer for the judgment.

The sheriff shall sell only a sufficient portion of the personal or real property of the judgment obligor which has been levied upon.

When there is more property of the judgment obligor than is sufficient to satisfy the judgment and lawful fees, he must sell only so much of the personal or real property as is sufficient to satisfy the judgment and lawful fees.

Real property, stocks, shares, debts, credits, and other personal property, or any interest in either real or personal property, may be levied upon in like manner and with like effect as under a writ of attachment.

⁹⁸ *Guillermo v. Orix Metro Leasing and Finance Corp.*, 881 Phil. 740 (2020); *24-K Property Ventures, Inc. v. Young Builders Corp.*, 801 Phil. 793 (2016). *Villarin v. Munasque*, 587 Phil. 257 (2008). (Emphasis supplied)

⁹⁹ RTC records, pp. 30–32.

To be clear, Elizabeth averred in the Complaint in the Nullity Case that she is a resident of Laoag City. Considering that the venue stipulation in the Promissory Note does not apply to the Complaint, Elizabeth properly filed it with the RTC Laoag City, the court that has jurisdiction over her place of residence. It was therefore erroneous for the RTC Laoag City to dismiss her Complaint on the ground of improper venue.


Unfortunately, in assailing the RTC rulings, Elizabeth incorrectly availed of the remedy of ordinary appeal to the CA instead of a special civil action for *certiorari*, which is the appropriate remedy therefrom.¹⁰⁰ The CA’s dismissal of her appeal was therefore proper for being a wrong remedy. Nonetheless, with the Compromise Agreement, the Petition is dismissed.

ACCORDINGLY, the Motion to Withdraw Petition is **GRANTED**. As prayed for by petitioner Elizabeth A. Hernando and in view of the Compromise Agreement between the parties, the Petition is **DISMISSED**.

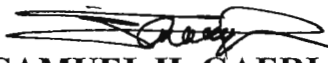
SO ORDERED.



HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

¹⁰⁰ See *Pillars Property Corp. v. Century Communities Corp.*, 848 Phil. 187, 195–198 (2019).

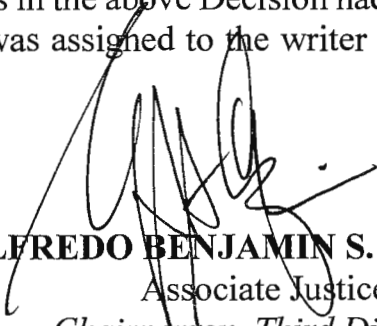

SAMUEL H. GAERLAN
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice

On leave
MARIA FILOMENA D. SINGH
Associate Justice


ATTESTATION

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


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice

