



Republic of the Philippines
 Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

CARLITO L. MIRANDO, JR., G.R. No. 205022
 Petitioner,

Present:

-versus-

BERSAMIN, CJ., *Chairperson,*
DEL CASTILLO, *Working Chairperson,*
JARDELEZA,

PHILIPPINE CHARITY SWEEPSTAKES OFFICE and
MANOLITO MORATO, A. REYES, JR.,* and
 Respondents. GISMUNDO,** JJ.

Promulgated:

JUL 03 2019

X ----- X

DECISION

JARDELEZA, J.:

A determination of where the preponderance of evidence lies entails an appreciation of the relative weight of the competing parties' evidence. It is a factual issue which, as a rule, cannot be entertained in a Rule 45 petition.

On March 9, 1996, respondent Philippine Charity Sweepstakes Office (PCSO) drew the lottery that yielded the following winning numbers: 15-22-23-24-34-36. It later announced that there was one winner of the jackpot prize of ₱120,163,123.00, who purchased the winning ticket at the Zenco Footsteps, Libertad, Pasay City lotto outlet (Zenco outlet).¹

Petitioner claimed that he is the owner of the winning ticket. On March 10, 1996, after he allegedly saw the winning numbers on a newspaper, he immediately went to the ACT Theater lotto outlet in Cubao, Quezon City where he purchased the ticket and handed it to the lady in the lotto booth. The latter fed the ticket in the lotto machine, after which the words "Congratulations, you win the jackpot prize" appeared on the monitor screen.² Since it was a Sunday and the PCSO was closed, petitioner decided to go to Baliuag, Bulacan where he was working as a coco lumber agent. Thereafter,

* Designated as Additional Member per Raffle dated June 19, 2019 in lieu of Associate Justice Rosmari D. Carandang.

** On official leave.

¹ *Rollo*, pp. 10-11.

² *Id.*

three months from the draw, he went to Aurora province and informed his family of the good news. After a week, or on March 18, 1996, he, together with his *kumpare*, went to the PCSO. He met with respondent Manolito Morato (Morato), former PCSO Chairman, to whom he presented his ticket to claim the prize.³ Morato allegedly asked him to sign the back of the lotto ticket then went inside his office with the ticket. After an hour, Morato told petitioner that he can no longer claim the prize because it was already claimed by someone else. Petitioner left the PCSO and later discovered that his ticket was altered.⁴

On July 3, 1996, petitioner, through Atty. Renan Castillo, wrote a letter to PCSO requesting for the release of the jackpot prize. In a letter dated July 17, 1996, Morato replied that the sole winning ticket was sold at the Zenco outlet and the prize had already been claimed. He warned that should petitioner pursue his false claim, PCSO will charge him of attempted *estafa* through falsification of government security.⁵

After almost five years, or on September 22, 2000, petitioner filed a complaint for damages against PCSO and Morato (respondents) before the Quezon City Regional Trial Court (RTC), where he sought payment of the lotto jackpot prize, moral and exemplary damages, and attorney's fees.⁶

For their part, respondents denied that petitioner was a *bona fide* holder of the winning ticket. They argued that a computer verification made at the PCSO main computer center showed that the winning ticket was sold to a lone winner from Batangas, who bought his ticket at the Zenco outlet.⁷ No bet and purchase of a lotto ticket with the winning numbers for the March 9, 1996 draw was ever made at the ACT Theater lotto outlet.⁸ Respondents also belied petitioner's claim that the latter visited the PCSO on March 18, 1996, stating that it was only through his July 3, 1996 letter that petitioner first represented himself to be the winner of the jackpot prize. However, the supposed original ticket was not presented and only a photocopy was attached to the letter.⁹ Respondents moreover argued that petitioner's belated claim is contrary to human behavior because a person in his right mind would hurriedly present the original ticket at the soonest possible time. On the contrary, petitioner waited for four months and sought the assistance of his lawyer to write a letter to PCSO rather than personally claim the prize. After Morato warned petitioner in the July 17, 1996 letter, petitioner did not pursue his claim until after over four years, by filing a complaint for damages.¹⁰

³ *Rollo*, p. 11.

⁴ *Id.* at 11-12.

⁵ *Id.* at 12, 110.

⁶ *Records*, pp. 6-10.

⁷ *Rollo*, p. 12.

⁸ *Records*, p. 159.

⁹ *Rollo*, p. 12.

¹⁰ *Id.* at 13.

During trial, petitioner presented eight witnesses including himself, while respondents presented two.¹¹ On April 27, 2005, the RTC rendered a Decision¹² dismissing the complaint for lack of legal and factual bases. It held that after evaluating the evidence presented by both parties, it became morally convinced that petitioner's claim was without basis. *First*, respondents had sufficiently established that the winner of the March 9, 1996 draw was not petitioner, based on the backup tapes from the main computer center where all transactions of lotto outlets are recorded. Moreover, the end of day reports generated in relation to all transactions of the lottery outlets showed that the winning ticket was purchased from the Zenco outlet and that the jackpot prize had been claimed.¹³ *Second*, respondents have proven that regardless of the kind of lotto machine used, the words "Congratulations, you win the jackpot prize" do not appear on the monitor screen. Instead, once a winning ticket is inserted in the machine, a prize claim ticket will come out. Petitioner was unable to present his prize claim ticket. *Third*, contrary to the claim of petitioner's witnesses that the Zenco outlet was not yet operational on March 9, 1996, respondents have proven that a lotto machine had already been installed at the Zenco outlet as early as 1994.¹⁴

On the other hand, the RTC held that petitioner's evidence left much to be desired. *First*, petitioner claimed to have validated his ticket on March 10, 1996, but failed to explain why it took him a week, or until March 18, 1996, before going to the PCSO. That he continued with his daily work and did not promptly claim the prize make his case incredible, especially in light of his assertion that he is poor.¹⁵ *Second*, the National Bureau of Investigation (NBI) Questioned Document Division rendered a report stating that petitioner's lotto ticket was tampered.¹⁶ Petitioner attributed the tampering to Morato. However, the RTC opined that if Morato or his subordinates tampered with the ticket and had no intention of honoring it, petitioner would not have been asked to sign it in the first place. The RTC concluded that it was petitioner who actually tampered with the ticket, *i.e.*, he bought the ticket after the draw, placed a bet on the winning combination after it was announced, erased the date and security code, and finally laid claim to the prize.¹⁷

Petitioner filed a motion for reconsideration, but it was denied. Hence, he filed an appeal before the Court of Appeals (CA).

¹¹ *Id.* at 105-118. Witnesses for petitioner: Edwin Alibuyog, Judge Luisito Cortez, Atty. Renan Castillo, Janet Rebusio-Ducayag, Rosanella Luna, Senior State Prosecutor Teresita Reyes-Domingo and Atty. Sotero Hernandez.

¹² *Id.* at 118-123. Witnesses for respondents: Roy Ledesma and Jonathan Garingo.

¹³ *Id.* at 102-130.

¹⁴ *Id.* at 124.

¹⁵ *Id.* at 126.

¹⁶ *Id.* at 127-128.

¹⁷ *Id.* at 128. According to the report, "[t]here is evidence of alteration by mechanical erasure (rubbing-off) on the area/portion where the date of draw, date of purchase and on the printed entries on the third line underneath the date of draw as well as on the security code found on the left side margin of the Lotto ticket, as shown by disturbance in the reflective quality of paper surface and fiber disturbance. The original entry could not be deciphered due to extensive erasures."

¹⁸ *Id.* at 128-129.

On January 31, 2012, the CA rendered its Decision¹⁸ which affirmed the RTC ruling in *toto*. Additionally, the CA anchored its findings on the following observations: *First*, petitioner's witness confirmed that the winning lotto ticket came from the DM Flipper type machine, which is the kind of machine installed at the Zenco outlet, and not the DM 20E machine that was installed at the ACT Theater lotto outlet.¹⁹ *Second*, when demonstration²⁰ was made in open court showing how a lotto machine validates a winning ticket, no objections, manifestations or irregularities were raised by petitioner.²¹ *Third*, the testimonies of the majority of petitioner's witnesses dealt with observations and opinions that they had on the demeanor of and statements made by petitioner pertaining to the alleged unjustified denial of his claim by the PCSO. While honest and straightforward, these testimonies dwelt on collateral matters and not on the main issue of who actually won the lottery drawn on March 9, 1996.²² *Fourth*, petitioner failed to prove his alleged visit to the two lotto outlets with NBI agents. Petitioner claimed that he, together with three NBI agents, went to the ACT Theater lotto outlet in December 1996 to interview its manager. The latter allegedly affirmed that the winning ticket came from the said outlet but refused to sign an affidavit because Morato might get mad at them. Petitioner and the NBI allegedly went to the Zenco outlet next. There, they spoke to a certain Tony Yap who denied that the winning ticket for the March 9, 1996 lotto draw came from that outlet since it only started operations on April 28, 1996. The CA concluded that these are bare allegations. Petitioner failed to identify or present the NBI agents, or even an incident report or written statement on the outcome of the investigation to confirm his narration.²³ *Fifth*, some of petitioner's witnesses claimed that their lives have been threatened because of their affiliation with petitioner. However, they did not present any police report, police blotter or any proof that the incidents they complained of actually happened.²⁴ *Sixth*, petitioner's *kumpare* who allegedly went to the PCSO with him on March 18, 1996 and met with Morato did not execute a statement to prove that such meeting actually took place. The CA opined that petitioner alleged circumstances of prejudice caused to him by respondents, yet failed to prove any.²⁵ Hence, it did not find strong and valid reasons to disturb the RTC's findings.²⁶

Petitioner sought reconsideration, but it was denied.²⁷ Hence, this petition.

¹⁸ *Id.* at 9-29; penned by Associate Justice Danton Q. Bueser, with Associate Justices Rosmari D. Carandang (now a Member of this Court) and Ricardo R. Rosario concurring.

¹⁹ *Id.* at 19-20.

²⁰ *Id.* at 20. The CA noted that there are two ways to validate a winning ticket. Upon manual verification, the machine did not generate the word "Congratulations!" on the monitor, as petitioner asserted. Only the number "0" appeared. Machine validation, on the other hand, yielded two tickets—the first containing the prize and serial number and the other containing the instruction on where to claim the prize.

²¹ *Id.*

²² *Rollo*, p. 22.

²³ *Id.* at 23.

²⁴ *Id.* at 24.

²⁵ *Id.*

²⁶ *Rollo*, p. 26.

²⁷ *Id.* at 31-32.

The Court initially denied the petition after finding that the CA did not commit any reversible error in affirming *in toto* the RTC Decision.²⁸ However, we subsequently granted petitioner's motion for reconsideration and reinstated the petition.²⁹

We deny the petition.

Petitioner comes before the Court through a petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure. He pleads for us to reconsider the consistent rulings of the CA and the RTC that the preponderance of evidence lies with respondents who were able to establish that petitioner was not the winner of the lottery drawn on March 9, 1996, and raises the following errors allegedly committed by the CA:

(i)

THE COURT OF APPEALS ERRED AND FAILED TO GIVE FULL WEIGHT AND MERIT TO THE CREDIBILITY, MATERIALITY, RELEVANCE, CORROBORATIVENESS (*sic*), AND COHESIVENESS OF PETITIONER'S TESTIMONIAL EVIDENCE AND DOCUMENTARY EVIDENCE, WHICH FAR OUTWEIGHED AND EMASCULATED RESPONDENTS' EVIDENCE, CONTRARY TO LAW AND THE EVIDENCE ADDUCED

(ii)

THE COURT OF APPEALS ERRED AND FAILED TO CONSIDER APPLICABLE AND APPROPRIATE LAWS, PROVISIONS OF THE RULES OF COURT, JURISPRUDENCE INVOKED BY PETITIONER IN HIS FORMAL OFFER OF EVIDENCE; COMMENT/OPPOSITION TO RESPONDENTS' FORMAL OFFER OF EVIDENCE, CONTRARY TO LAW AND THE EVIDENCE ADDUCED³⁰ (Emphasis in the original.)

It is settled that a Rule 45 petition pertains to questions of law and not to factual issues.³¹ A question of law arises when there is doubt as to what the law is on a certain state of facts. There is a question of fact, on the other hand, when the doubt arises as to the truth or falsity of the alleged facts,³² or when the query necessarily invites a calibration of the whole evidence considering mainly the credibility of witnesses, existence and relevancy of specific

²⁸ *Id.* at 166-167.

²⁹ *Id.* at 203.

³⁰ *Id.* at 44-45.

³¹ RULES OF COURT, Rule 45, Sec. 1.

³² *Tongonoh Holdings and Development Corporation v. Escañó, Jr.*, G.R. No. 190994, September 7, 2011, 657 SCRA 306, 314, citing *Republic v. Malabanan*, G.R. No. 169067, October 6, 2010, 632 SCRA 338, 345.

surrounding circumstances, their relation to each other and to the whole, and the probabilities of the situation.³³

To resolve the issue of whether petitioner was the jackpot prize winner of the lotto drawn on March 9, 1996, it will be necessary for the Court to look into the records of the case, evaluate the documentary and testimonial evidence presented by the parties, and decide on which side the preponderance of evidence lies. A determination of whether a matter has been established by a preponderance of evidence is, by definition, a question of fact as it entails an appreciation of the relative weight of the competing parties' evidence.³⁴ Since a question of fact is not the office of a Rule 45 petition, we have no choice but to deny the petition.

Moreover, it has been established that the findings of the trial court, especially when affirmed by the CA, are conclusive on this Court when supported by the evidence on record. The Supreme Court will not assess and evaluate all over again the evidence, testimonial and documentary, adduced by the parties to an appeal particularly where, such as here, the findings of both the trial court and the appellate court coincide. While there are exceptions to this rule, none of them is palpable in this case. We are convinced that the RTC and the CA independently scrutinized the record and substantiated their respective decisions with relevant evidence showing that petitioner's complaint was bereft of factual and legal bases.

At the end of the day, what petitioner has in his possession is a tampered lotto ticket, which by no stretch of the law he should benefit from. Petitioner does not deny the fact that the ticket was tampered, but accuses Morato of altering the ticket on the day they supposedly met at the PCSO on March 18, 1996. We agree with the RTC and the CA that neither the meeting nor the alleged tampering by Morato was proven by petitioner. Basic is the rule that he who alleges a fact has the burden of proving it, and a mere allegation is not evidence.³⁵

WHEREFORE, the petition is **DENIED**. The January 31, 2012 Decision and November 15, 2012 Resolution of the Court of Appeals in CA-G.R. CV No. 86399 are **AFFIRMED**.

SO ORDERED.

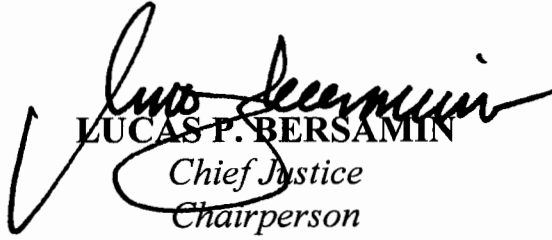

FRANCIS H. GARDELEZA
Associate Justice

³³ *DST Movers Corporation v. People's General Insurance Corporation*, G.R. No. 198627, January 13, 2016, 780 SCRA 498, 507. Citation omitted.

³⁴ *Id.* at 508.

³⁵ *MOF Company, Inc. v. Shin Yang Brokerage Corporation*, G.R. No. 172822, December 18, 2009, 608 SCRA 521, 527.

WE CONCUR:


LUCAS P. BERSAMIN
Chief Justice
Chairperson


MARIANO C. DEL CASTILLO
Working Chairperson
Associate Justice


ANDRES B. REYES, JR.
Associate Justice

(On Official Leave)
ALEXANDER G. GESMUNDO
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified 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.


LUCAS P. BERSAMIN
Chief Justice