

SECOND DIVISION

[G.R. NO. 149739, July 14, 2006]

**STATE INVESTMENT HOUSE, INC., PETITIONER, VS. THE
HONORABLE COURT OF APPEALS AND ACTIVE WOOD PRODUCTS
CO., INC., RESPONDENTS.**

DECISION

CORONA, J.:

This is a petition for certiorari^[1] from the resolutions^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 55616.

On June 7, 1982, private respondent Active Wood Products Co., Inc. filed a case against petitioner State Investment House, Inc. for injunction with prayer for a temporary restraining order (TRO) and/or writ of preliminary injunction^[3] with the Regional Trial Court (RTC) of Malolos, Bulacan, Branch 20.^[4] Private respondent sought to prevent the extrajudicial foreclosure of mortgage on two parcels of land securing a loan it had obtained from petitioner. The case was docketed as Civil Case No. 6518-M.

Private respondent alleged that the real properties could not be foreclosed because the real estate mortgage covering them had undergone novation by the parties.

On June 9, 1982, the RTC issued a TRO and, on November 10, 1982, ordered private respondent to post an injunction bond for P6,000,000. The RTC then issued another order on December 17, 1982 restraining the foreclosure of the mortgage in order to maintain the status quo.^[5] For several months, the amount of the injunction bond was contested by the parties, preventing the RTC from issuing the writ right away.

On November 28, 1983, the RTC directed the issuance of a writ of preliminary injunction.^[6] This notwithstanding, ex-officio provincial sheriff Victorino P. Evangelista proceeded with the foreclosure sale on November 29, 1983 and sold the mortgaged properties to petitioner as highest bidder for a total bid price of P7,500,000.^[7]

On February 27, 1984, acting on several motions filed by private respondent, the RTC issued an order nullifying the auction sale conducted by sheriff Evangelista.^[8]

On April 17, 1984, the RTC issued a writ of preliminary injunction in favor of private respondent, ordering petitioner and the ex-officio provincial sheriff of Malolos, Bulacan to refrain from proceeding with the foreclosure sale of the mortgaged properties.^[9]

Petitioner challenged the RTC's February 27, 1984 order before the then Intermediate Appellate Court (IAC),^[10] which reversed the RTC. However, on certiorari, we reversed the IAC and upheld both the February 27, 1984 order nullifying the auction sale and the April 17, 1984 order issuing a writ of preliminary injunction.^[11]

On February 14, 1984, petitioner filed a petition for a writ of possession pending redemption of the lands by private respondent. This was docketed as LRC Case No. P-39-85, assigned to Branch 14 of the RTC of Malolos, Bulacan.^[12] Private respondent filed a motion in LRC Case No. P-39-85 for consolidation with Civil Case No. 6518-M pending before Branch 20.

However, private respondent also filed a motion in the said case (LRC Case No. P-39-85) to dismiss and/or suspend the proceedings until Branch 20 could resolve the issue of validity of the mortgage in Civil Case No. 6518-M. Judge Villajuan of Branch 14 thereafter issued an order holding in abeyance the resolution of LRC Case No. P-39-85 and directed its consolidation in Branch 20, provided Judge Legaspi did not object. Judge Legaspi, however, ordered the return of LRC Case No. P-39-85 to Branch 14, thus signifying his objection.

Private respondent elevated the matter via certiorari to the CA which upheld Judge Legaspi. Eventually, in *Active Wood Products Co., Inc. v. Court of Appeals*, we granted the consolidation.^[13]

Two years after the filing of the original case with the RTC, private respondent filed an amended complaint alleging that the real estate mortgage was null and void because what it secured was not a loan but merely an assignment of receivables.

Subsequently, private respondent filed a supplemental complaint dated August 23, 1990,^[14] impleading as an additional defendant sheriff Victorino Evangelista and seeking the award of P1 million for attorney's fees and other expenses, and P9 million for actual and moral damages. But the trial court dismissed this new complaint as to the inclusion of Evangelista as a defendant. On December 24, 1997, private respondent filed a petition for review with this Court to contest the dismissal (vis-à-vis Evangelista). This was docketed as G.R. No. 131372. We denied the petition, thus deleting sheriff Evangelista as an additional defendant.

On January 25, 1999, after the denial of the petition in G.R. No. 131372, petitioner filed a motion to set the case for pre-trial with respect to the supplemental complaint for additional damages.^[15] Private respondent's counsel repeatedly moved to cancel the pre-trial conferences set by the RTC.

Private respondent then filed an omnibus motion dated June 7, 1999,^[16] praying for the following:

1. That the eight (8) Real Estate Mortgage[s] be declared fully paid and automatically extinguished and/or;
2. That said eight (8) Real Estate Mortgage[s] be also declared [barred] by the statute of limitation[s];
3. That the seventeen (17) Comprehensive Security Agreement[s]; the four AGREEMENTS also [barred] by prescription and be declared without force and

effect;

4. The alleged Real Estate mortgages be both declared null and void and also [barred] by statute of limitations.
5. And all [petitioner's] claims or cause[s] of actions be dismissed, thereafter the above entitled case be dismissed without pronouncement as to [costs].^[17]

It also filed an urgent motion to cancel the pre-trial conference pending resolution of its omnibus motion. The RTC cancelled the pre-trial conference set on June 9, 1999 and set the hearing on the omnibus motion and the pre-trial conference with respect to the supplemental complaint on June 18 and July 23, 1999, respectively.

On July 7, 1999, after hearing, the RTC denied private respondent's omnibus motion.^[18] On July 23, 1999, private respondent filed a motion for reconsideration from the order denying its omnibus motion.^[19] This the RTC denied in an order dated September 8, 1999.

Private respondent filed with the Court of Appeals a petition for certiorari dated October 28, 1999^[20] questioning the July 7, 1999 and September 8, 1999 orders of the RTC. This petition was docketed as CA-G.R. SP No. 55616.

On January 27, 2000, private respondent filed a supplement to the October 28, 1999 petition, including a prayer for a TRO and/or a writ of preliminary injunction.^[21]

On February 15, 2000, the CA issued a resolution^[22] enjoining the RTC from deciding Civil Case No. 6518-M and setting for hearing private respondent's application for preliminary injunction on March 6, 2000.

During the hearing, it was agreed that: (a) private respondent would file a motion before the lower court to reset the case for hearing so that its counsel could cross-examine petitioner's witness and present rebuttal evidence, and (b) petitioner would not object to such a motion.^[23]

In a resolution dated March 9, 2000,^[24] the CA lifted the TRO it issued against the RTC on February 15, 2000 and suspended its own proceedings on private respondent's petition for certiorari, on the understanding that private respondent would file the motion in the trial court agreed upon by the parties.

Private respondent filed a motion for reconsideration from the March 9, 2000 resolution,^[25] which the CA partially granted in its assailed resolution. The effect of this partial grant was that the CA resumed its proceedings to determine the existence of prescription. The parties were directed to submit their memoranda.

Petitioner then filed a motion for reconsideration, which respondent court denied.^[26] Hence, this petition.

Petitioner anchors its case on the following grounds:

- 1) private respondent filed its motion for reconsideration from the respondent court's March 9, 2000 resolution out of time.