

## FIRST DIVISION

[ G.R. No. 123050, January 20, 1999 ]

**SUICO INDUSTRIAL CORPORATION, SPS. ESMERALDO AND ELIZABETH SUICO, PETITIONERS, VS. COURT OF APPEALS AND PDCP DEVELOPMENT BANK, INC., RESPONDENTS.**

### D E C I S I O N

**AUSTRIA-MARTINEZ, J.:**

On January 19, 1987, petitioner Suico Industrial Corporation, represented by Esmeraldo Suico, its President, secured a loan of P2,500,000.00 payable in five (5) years, from respondent Private Development Corporation of the Philippines (now PDCP Bank). As security thereof, petitioner spouses mortgaged their two (2) real estate properties situated at Mandaue City, Cebu covered by Transfer Certificate of Title (TCT) Nos. 18324 and 23116. Sometime in 1991, petitioners obtained a second loan of P2,000,000.00 payable in five (5) years, and secured it with the same real properties, which was granted by respondent PDCP Bank.

For failure to pay the balance of the loan amounting to P3,900,000.00 as of 1993, respondent PDCP Bank caused the extrajudicial foreclosure of the real estate mortgage. It was adjudged as the highest bidder and a Certificate of Sale dated February 29, 1993 was duly issued by the Sheriff of Mandaue in its favor. Petitioner failed to redeem the said properties. After expiration of the one (1)-year redemption period, ownership over the properties were consolidated and TCT Nos. 34988 and 34987 were correspondingly issued in the name of respondent PDCP Bank.

On November 16, 1994, respondent PDCP Bank filed with the Regional Trial Court (RTC of Mandaue City, Branch 28 an "Ex parte Motion for the Issuance of Writ of Possession"<sup>[1]</sup> which was granted in an Order dated December 8, 1994.<sup>[2]</sup> On December 15, 1994, a writ of possession<sup>[3]</sup> was thereafter issued. However, the writ could not be enforced because on December 9, 1994, petitioners filed a "Complaint for Specific Performance, Injunction and Damages (with Prayer for Restraining Order)"<sup>[4]</sup> before the RTC of Mandaue City, Branch 56 seeking to enjoin respondent PDCP Bank from selling the mortgaged properties and from taking physical possession over the same during the pendency of the case.

On January 17, 1995, RTC Branch 56 issued an Order<sup>[5]</sup> granting the injunction sought for by petitioners (therein plaintiffs). It likewise deferred resolution of the motion to dismiss petitioners' complaint filed by respondent PDCP Bank (therein defendant). Pertinent portions of the order state that:

"During the hearing on Plaintiffs' application for preliminary injunction, Plaintiffs presented Esmeraldo Suico who testified that per arrangement with a certain Mae Siy and Fajardo , former officers of Defendant bank,

Plaintiffs were supposed to intentionally default in their payments and eventually consolidate title in Defendant. In exchange Defendant was supposed to allow a repurchase of the property by Plaintiffs or their recommendee at Five Million Pesos (P5,000,000.00).

"Also presented was Raul Perez, Asset Clerk of the Assessor's Office of Mandaue City, who testified that it was indeed herein Plaintiffs-spouses who facilitated the transfer of the lots to Defendant whose two representatives, even showed up to inquire if Plaintiffs had been at Perez' office.

"After careful consideration of the evidence so far submitted, this Court convinced that there indeed was an arrangement between herein Plaintiffs and Defendant as adverted to by Plaintiffs. This conviction by the Court however will naturally be influenced by whatever evidence the parties will present in the course of the trial of this case.

"The Court also realizes that a denial of the prayer for preliminary injunction will result in irreparable damage to Plaintiffs as a consequence of the dislocation of their family and business and possible loss of the properties under litigation should Defendant decide to dispose of the same.

"On the other hand, maintenance of status quo thru injunction will hardly prejudice the Defendant bank in whose name the properties have been already titled. Furthermore, Defendant's interest will be amply protected not only by the injunction bond which the Court will issue but also because the passage of time will certainly enhance the value of the properties.

"Foregoing considered, the Court in the interest of justice and equity, hereby GRANTS the injunction prayed for and accordingly orders the Defendant, its representatives and assigns (enjoined) from disposing of the properties covered by Transfer Certificate of Title Nos. 18324 and 23116 including improvements found therein or taking physical possession of the same until further orders from this Court.

"Bond is hereby fixed at Fifty Thousand Pesos (P50,000.00).

"Resolution of Defendant's Motion to Dismiss is deferred pending further reception of evidence.

"SO ORDERED."<sup>[6]</sup>

On January 18, 1995, RTC Branch 56 issued the Writ of Preliminary Injunction, providing therein:

"Whereas, on December 13, 1994, the Regional Trial Court, Branch 28 of Mandaue City, issued a Restraining Order in the above-entitled case, enjoining the defendant PDCP Bank, its attorneys, agents or its duly authorized officer or persons acting for and in their behalf from selling the mortgaged properties described in the complaint to persons not

recommended by plaintiffs and from taking physical possession over the same pending resolution of the prayer for issuance of permanent injunction.

"Whereas, after hearing, this Court on January 17, 1995, issued an Order expanding the restraining order dated December 13, 1994, issued by RTC Branch 28 into an order for the issuance of a writ of preliminary injunction, upon plaintiffs' posting of a bond in the amount of P50,000.00 conditioned for the payment of damages which the defendant may suffer by reason of the issuance of the injunction.

"Whereas, the bond as required was duly filed and approved by the Court on January 18, 1995.

"Whereas, you Private Development Corporation of the Philippines now known as PDCP Bank, your representatives and assigns are hereby ordered not to dispose of the properties covered by transfer Certificate of Title Nos. 18324 and 23116 including improvements found therein or to take physical possession of the same until further orders from this Court."

[7]

The Motion for Reconsideration (of the Order dated January 17, 1995) and the Motion to Dismiss (petitioners' complaint) both filed by respondent PDCP Bank were denied by RTC Branch 56 in an Order dated June 21, 1995.[8]

In its petition for certiorari and mandamus with prayer for a writ of preliminary prohibitory injunction filed with the Court of Appeals on June 26, 1995, respondent PDCP Bank prayed that the Order dated January 17, 1995 granting the writ of preliminary injunction be set aside, declared void and without any further force and effect. It likewise prayed that the sheriff of Mandaue City be ordered to implement the writ of possession.

On August 28, 1995, respondent Court of Appeals rendered the challenged decision<sup>[9]</sup> which ruled that RTC Branch 56 exceeded its jurisdiction when it issued the writ of injunction against the enforcement of the writ of possession granted by RTC Branch 28. It ratiocinated in this wise:

"In a Petition for Certiorari, the court must confine itself to the issue of whether or not the respondent court lacked or exceeded its jurisdiction or committed grave abuse of discretion (San Pedro vs. Court of Appeals, 235 SCRA 145). Here, the respondent Regional Trial Court exceeded its jurisdiction when it issued the writ of injunction complained of.

Well-settled is the rule that no court has the power to interfere by injunction with the judgments or orders of another court of concurrent jurisdiction having the power to grant the relief sought by injunction. x x x (Rafael Aquino, Sr., et al v. Judge Julito B. Valenciano, et al., A.M. No. Mtj-93-746, December 27, 1994, 239 SCRA 428; Prudential Bank v. Gapultos, No. L-41835, 19 January 1990, 181 SCRA 159; Darwin v. Tokonaga, G.R. No. 54177, 27 May 1991, 197 SCRA 442; Santos v.

Bayhon, G.R. No. 88643, 23 July 1991, 199 SCRA 525).

Here, the respondent court issued an injunction against the enforcement of the writ of possession granted by the Regional Trial Court, Branch 28. This cannot be done. It was the ministerial duty of the trial court to grant such writ of possession.

Said the Supreme Court:

'x x x With more reason, a purchaser can demand a writ of possession after the expiration of the redemption period. Thus, in *F. David Enterprises vs. Insular Bank of Asia & America*, we held:

'It is settled the buyer in a foreclosure sale becomes the absolute owner of the property purchased if it is not redeemed during the period of one year after the registration of sale. As such, he is entitled to the possession of the property and can demand it at any time following the consolidation of ownership in his name and the issuance to him of a new transfer certificate of title. The buyer can in fact demand possession of the land even during the redemption period except that he has to post a bond in accordance with Section 7 of Act 3135 as amended. No such bond is required after the redemption period if the property is not redeemed. Possession of the land then becoming an absolute right of the purchaser as confirmed owner. Upon proper application and proof of title, the issuance of the writ of possession becomes a ministerial duty of the court.' (*Aurora Gonzales Vda. de Zaballero, et al, v. Hon. Court of Appeals, et al.*, G.R. No. 106958, February 9, 1994, 229 SCRA 810; *F. David Enterprises vs. Insular Bank of Asia & America*, 184 SCRA 294)

Much as We sympathize with private respondents, it was clearly petitioner's right to ask for the writ and to acquire possession of subject properties and it is improper for the respondent court to stay implementation of said writ.

As to the other reasons advanced by petitioner, as stressed by private respondents, the same are questions of fact better left for respondent court's determination, at this stage of the litigation below.

'WHEREFORE, the petition is hereby GRANTED; and the questioned Order of January 17, 1995 is SET ASIDE. Costs against private respondents.

SO ORDERED."<sup>[10]</sup>

The motion for reconsideration having been denied in a Resolution dated December 12, 1995<sup>[11]</sup> petitioners filed this instant *certiorari* petition praying that the writ of preliminary injunction issued by RTC Branch 56 be upheld so that a trial on the merits of the case may ensue.