

FIRST DIVISION

[G.R. No. 101632, January 13, 1997]

**GOVERNMENT SERVICE INSURANCE SYSTEM, PETITIONER, VS.
HON. COURT OF APPEALS AND PHILIPPINE VILLAGE HOTEL,
INC., RESPONDENTS.**

D E C I S I O N

VITUG, J.:

The instant petition for review on certiorari assails the reversal by the Court of Appeals, in a resolution of 14 June 1991, of its earlier 24th May 1990 decision^[1] that dismissed for lack of merit the petition for certiorari in CA-G.R. SP No. 20336 of respondent Philippine Village Hotel, Inc. ("PVHI"), challenging the order of the Regional Trial Court ("RTC") of Pasay City which threw out, for lack of jurisdiction, PVHI's petition to set aside the foreclosure of its properties by the Government Service Insurance System ("GSIS").

Private respondent PVHI, then also known as the "Sulo ng Nayon, Inc.," obtained, on 18 September 1972, a loan in the sum of twenty-two million pesos (P22,000,000.00) from the GSIS for the construction of a hotel on a land leased to PVHI by the Nayong Pilipino Foundation. In order to guarantee payment of the loan, PVHI hypothecated the hotel and its contents to the GSIS.^[2] On 24 April 1974 and 11 June 1975, the GSIS granted to PVHI two additional loan accommodations in the respective amounts of eight million pesos (P8,000,000.00) and six million five hundred thousand pesos (P6,500,000.00) subject to the same terms and conditions as the initial loan.

Subsequently, or some time in June of 1980, PVHI and GSIS entered into a lease-purchase agreement over a building annexed to the hotel (then under construction) for sixty-seven million eight hundred thousand pesos (P67,800,000.00). Under the agreement, PVHI was to pay monthly installments to the GSIS until the cost of the building would have been fully paid for. Meanwhile, PVHI secured from the GSIS debenture bonds totaling seven million pesos (P7,000,000.00).

Over the period from 15 December 1972 to 30 June 1986, PVHI paid to the GSIS the sum of ninety-eight million nine hundred twenty-four thousand two hundred twenty-seven pesos and eighty centavos (P98,924,227.80) but, when applied to PVHI's various liabilities in favor of GSIS, the loan obligation covered by the mortgage still remained in arrears. The demands for payment made by GSIS having been met instead by PVHI's constant requests for extension of time to pay, the GSIS finally instituted with the Sheriff of Pasay City separate foreclosure proceedings of real estate and chattel mortgages.

In the interim, or on 06 June 1986, the Presidential Commission on Good Government ("PCGG") issued a writ of sequestration over "all assets, properties,

records and documents" of the PVHI. On 23 July 1987, the Republic of the Philippines commenced in the Sandiganbayan Civil Case No. 0014 (PCGG Case No. 0015) an action against PVHI President Rebecco Panlilio and his wife Erlinda for reconveyance of the encumbered property, plus damages. PVHI, through the Panlilios, thereupon sought to restrain the impending foreclosure proceedings, aforesaid, by filing with the Sandiganbayan an ex-parte motion for the issuance of a temporary restraining order ("TRO") and preliminary injunction on the ground that the PVHI hotel building, by now a PCGG-sequestered property, was claimed to be beyond the reach of PVHI's creditors.

The Sandiganbayan issued, on 15 May 1988, the TRO, prompting the GSIS to file, on 01 June 1988, a petition for certiorari with this Court, docketed G.R. No. 83385, questioning the action of the Sandiganbayan. Later, acting on the manifestation of the PCGG that it had no objection to the foreclosure of the hotel by the GSIS, the Sandiganbayan ultimately denied PVHI's motion to enjoin the foreclosure; accordingly, the GSIS scheduled the foreclosure sale on 25 August 1988.

On 16 August 1988, or before the scheduled foreclosure of the property by the GSIS, PVHI filed with the Manila RTC (Branch 24), docketed Civil Case No. 88-45876, a complaint against the GSIS, the Sheriff and Register of Deeds of Pasay City, for a declaration of the release from mortgage of the property, injunction and damages. Judge Sergio Mabunay of the Manila RTC issued, on 24 August 1988, a TRO thereby constraining the GSIS to so include him as an additional respondent in G.R. No. 83385 for alleged abuse of discretion.

On 11 October 1989, Judge Mabunay issued a writ of preliminary injunction against the foreclosure sale. On even date, however, this Court, in G.R. No. 83385, issued a TRO "ordering the respondent Judge Sergio D. Mabunay, x x x to CEASE and DESIST from further proceeding with Civil Case No. 88-45876, x x x more particularly from issuing any injunction against the foreclosure sale by petitioner GSIS of the Philippine Village (Hotel) and its contents, x x x rescheduled for October 13, 1988."

[3] On 12 October 1988, this Court also set aside the 11th October 1988 order of Judge Mabunay. PVHI and the Panlilios sought, albeit unsuccessfully, a reconsideration of this Court's twin orders. On 13 and 14 of October 1988, the hotel was finally sold at public auction with the GSIS ultimately being declared the winning bidder.

In a move to obtain possession of the hotel, on 11 May 1989, the GSIS filed with the RTC of Pasay City an ex-parte petition, entitled "Philippine Village Hotel, Inc. vs. Government Service Insurance System, Sheriff of Pasay City and Register of Deeds of Pasay City," for a writ of possession in LRC Case No. 3079. PVHI, in turn, filed a motion to dismiss or suspend the proceedings before said court pending the final resolution of G.R. No. 83385 and Civil Case No. 88-45876 with the RTC of Manila. PVHI averred that the newly filed petition by the GSIS was premature since other issues had yet to be resolved, i.e., in Civil Case No. 88-45876, whether or not PVHI had fully paid its mortgage obligation to the GSIS and, in G.R. No. 83385, whether it was the RTC of Manila or the Sandiganbayan which had the proper jurisdiction over the sequestered property.

Judge Sofronio G. Sayo, Presiding Judge of RTC Pasay City, directed, on 16 August 1989, the issuance of a writ of possession in LRC Case No. 3079 upon the posting of a bond of two million pesos (P2,000,000.00) by the GSIS. PVHI filed a motion for

reconsideration and a supplemental motion for reconsideration of the order but both motions were, on 14 September 1989, denied by the court. On even date of 14 September 1989, PVHI filed with the same Pasay City RTC a petition to set aside the foreclosure sale with an application for the issuance of a temporary restraining order and preliminary injunction, asserting that the foreclosure sale was illegal not only because PVHI had supposedly paid in full its mortgage indebtedness to the GSIS but also because of alleged procedural infirmities that had attended the foreclosure.

In time, PVHI and the GSIS executed a Memorandum of Agreement ("MOA") providing, among other matters, that, until 01 March 1990 ("completion date"), GSIS should not consolidate ownership over the hotel nor enforce or implement the writ of possession issued in LRC No. 3079. The MOA, however, failed to get the approval of the President and the Commission on Audit before 01 March 1990 (a condition under the MOA). The GSIS thereupon requested the city sheriff of Pasay City to serve the writ of possession on PVHI. Upon receipt of the writ, PVHI filed a motion to hold in abeyance its implementation. The GSIS opposed the motion.

On 05 March 1990, PVHI and the Panlilios filed another complaint against the GSIS, docketed Civil Case No. 90-52276, before the RTC of Manila, Branch 2, presided over by Judge Napoleon Flojo, for the enforcement of the MOA.

In LRC Case No. 3079, Judge Sofronio G. Sayo, dismissed, on 14 March 1990, PVHI's petition to set aside the foreclosure sale on the ground of lack of jurisdiction as the court was said to be acting under a limited capacity as a land registration or cadastral court. On 22 March 1990, PVHI filed with the Court of Appeals a petition for certiorari, docketed CA-G.R. SP No. 20336, contending that Judge Sayo gravely abused his discretion in dismissing the petition to have the foreclosure sale set aside. In its comment, the GSIS prayed for the dismissal of the petition on various grounds, i.e., that PVHI engaged in forum-shopping, that the petition for certiorari could not be so used as a substitute for appeal which was the proper remedy available to PVHI, and that PVHI was barred by estoppel since it itself sought relief in Civil Case No. 90-52272.

In Civil Case No. 90-52272, Judge Flojo of RTC Manila, on 26 March 1990 following a hearing, issued a writ of preliminary injunction, subject to the filing by PVHI of a bond for two million pesos (P2,000,000.00), to restrain the enforcement of the writ of possession issued by Judge Sayo of the Pasay City RTC.

In CA-G.R. SP No. 20336, the Court of Appeals meanwhile rendered, on 24 May 1990, its decision upholding the GSIS and dismissing PVHI's petition against the order of RTC of Pasay City dismissing for lack of jurisdiction PVHI's petition to set aside the foreclosure by the GSIS. The motion for reconsideration and a supplemental motion for reconsideration were denied in the resolution of 21 November 1990. The appellate court (a) cited *PNB vs. Adil*^[4] to say that possession of a foreclosed property by a government institution was mandatory under Presidential Decree No. 385; (b) held that under Section 8 of Act No. 3135, an appeal was the proper remedy available to PVHI; and (c) ruled that there was no urgent need for the issuance of a writ of certiorari since PVHI itself was able to obtain a writ of preliminary injunction in Civil Case No. 90-52272. On the issue of forum-shopping, the Court of Appeals, after noting that there were altogether eight (8) cases then pending between the parties of which two (2) were instituted by the GSIS (G.R. No. 83385 and LRC Case No. 3079), said:

"Let it be observed that common to all of these cases involving the petitioner PVHI and respondent GSIS is the attempt of the GSIS to foreclose the mortgage executed over the Philippine Village Hotel by petitioner and GSIS's subsequent attempt to take possession thereof, and on the part of PVHI, its repeated attempts to stop the foreclosure and take over of the possession thereof. Furthermore, although the reliefs prayed for in all these cases filed by PVHI's counsel are ostensibly different, the essence of all of them is the same - the ultimate objective of preventing GSIS from foreclosing the mortgage and thereafter from taking possession of the Hotel."^[5]

Barely five days after the promulgation of the appellate court's resolution, or on 26 November 1990, this Court, en banc, rendered its decision^[6] in G.R. No. 83385. The decretal portion read:

"WHEREFORE, the Court renders judgment as follows:

"1. The proceedings in Civil Case No. 88-45876 (RTC, Manila, Sergio Mabunay, presiding judge) are moot and academic, foreclosure having been implemented and now a fait accompli;

"2. Neither PVHI, Rebecco Panlilio, nor their counsel are guilty of forum-shopping in connection with the said Civil Case No. 88-45876, or CA-G.R. SP No. 20336 (Court of Appeals);

"3. The Temporary Restraining Order issued in the Resolution dated October 11, 1989, enjoining Judge Sergio Mabunay from further proceedings in Civil Case No. 88-45876 is made permanent; and

"4. The prayer for contempt is DENIED.

"SO ORDERED."^[7]

A motion for clarification/modification of the decision by GSIS was, in its 26th February 1991 resolution, treated by this Court as one for reconsideration and so then denied with finality. Entry of judgment was made on 26 December 1990. On 11 February 1991, the records of the case were remanded to the Sandiganbayan. A motion to quash/set aside the entry of judgment filed by the GSIS was denied on 18 April 1991.

With this Court's decision in G.R. No. 83385, PVHI, on 13 December 1990, filed in CA-G.R. SP No. 20336 a manifestation and motion to rectify the appellate court's resolution of 21 November 1990, asseverating that the decision in G.R. No. 83385 "completely overhauls and virtually reverses this Court's (the Court of Appeals) subject Resolution as regards the propriety of PVHI's filing of its Petition to Set Aside Foreclosure Sale dated 13 September 1989 in LRC Case No. 3079 with the court a quo, as well as the issue of forum-shopping."^[8] Filing a counter-manifestation and opposition, the GSIS questioned PVHI's position which, allegedly, was in reality a second or substituted motion for reconsideration proscribed by Batas Pambansa Blg. 129 and the Internal Rules of the Court of Appeals.

On 14 June 1991, the Court of Appeals issued the now assailed resolution ordering

