

## SECOND DIVISION

[ G.R. No. 233922, January 24, 2018 ]

### MA. VICTORIA M. GALANG, PETITIONER, VS. PEAKHOLD FINANCE CORPORATION AND THE REGISTER OF DEEDS OF CALOOCAN CITY, RESPONDENTS.

#### DECISION

##### PERLAS-BERNABE, J.:

Before the Court is a petition for review on *certiorari*<sup>[1]</sup> assailing the Decision<sup>[2]</sup> dated April 21, 2017 and the Resolution<sup>[3]</sup> dated August 29, 2017 of the Court of Appeals (CA) in CA-G.R. CV No. 107678, which affirmed the Order<sup>[4]</sup> dated February 22, 2016 of the Regional Trial Court (RTC) of Caloocan City, Branch 126 (RTC-Br. 126) in Civil Case No. C-22988, dismissing the complaint filed by petitioner Ma. Victoria M. Galang (Galang) for annulment of deed of real estate mortgage and foreclosure proceedings on the ground of forum shopping.

#### The Facts

This case stemmed from a complaint for annulment of deed of real estate mortgage and foreclosure proceedings<sup>[5]</sup> filed by Galang against respondent Peakhold Finance Corporation (Peakhold) before the RTC of Caloocan City, Branch 123 (RTC-Br. 123), docketed as Civil Case No. C-22988 (**Annulment Case**).<sup>[6]</sup> Essentially, the complaint alleged that: (a) Galang is the registered owner of a 150-square meter (sq. m.) lot located at Deparo, Caloocan City, and covered by Transfer Certificate of Title No. 327548 (subject lot); (b) the subject lot was mortgaged to Peakhold without her knowledge and consent; (c) Peakhold foreclosed the subject lot, and eventually, acquired the same via an auction sale; and (d) as such, the mortgage must be annulled as her signature in the mortgage document was forged/falsified.<sup>[7]</sup>

While the **Annulment Case** was pending, Peakhold filed an *Ex-Parte* Petition for Issuance of Writ of Possession (*Ex-Parte* Petition)<sup>[8]</sup> over the subject lot, before the RTC of Caloocan City, Branch 122 (RTC-Br. 122), docketed as LRC Case No. C-6032, to which Galang filed her opposition<sup>[9]</sup> on June 11, 2012. In a Decision<sup>[10]</sup> dated November 27, 2012, the RTC-Br. 122 granted Peakhold's *Ex-Parte* Petition, noted Galang's opposition,<sup>[11]</sup> and ordered the issuance of a writ of possession in favor of Peakhold.<sup>[12]</sup> Initially, Galang filed a motion for extension of time to file a petition for review<sup>[13]</sup> before the CA, docketed as CA-G.R. SP No. 128171.<sup>[14]</sup> Further, Galang filed a Petition for Relief from Judgment<sup>[15]</sup> before the RTC-Br. 122 (**Petition for Relief Case**) on February 11, 2013, contending that the *Ex-Parte* Petition is not summary in nature and should have been threshed out in an adversarial proceeding, as it essentially deals with the validity of the subject deed.<sup>[16]</sup> After filing the

**Petition for Relief Case**, Galang manifested that he is withdrawing the filing of the intended petition for review before the CA, which was granted on April 24, 2013.<sup>[17]</sup>

Thus, on May 7, 2013, Peakhold, through a Motion to Dismiss,<sup>[18]</sup> sought the dismissal of the **Petition for Relief Case** on the ground of forum shopping. In a Resolution<sup>[19]</sup> dated September 2, 2013, the RTC-Br. 122 granted the said motion, holding that Galang deliberately failed to mention in her Petition for Relief from Judgment that she likewise filed a petition for review before the CA, which had not been effectively withdrawn at the time the Petition for Relief Case was filed.<sup>[20]</sup> With the subsequent denial<sup>[21]</sup> of the motion for reconsideration,<sup>[22]</sup> Galang elevated the matter to the CA via a petition for *certiorari* and *mandamus*,<sup>[23]</sup> docketed as CA-G.R. SP No. 133782 (**Certiorari Case**).

During the pendency of the **Certiorari Case**, the **Annulment Case** was re-raffled to the RTC-Br. 126.<sup>[24]</sup> Considering the implementation of the writ of possession, Galang was prompted to file a Motion for Leave to Amend Complaint and to Admit Attached Amended Complaint (Amended Complaint)<sup>[25]</sup> on September 23, 2014, incorporating her additional prayer for reconveyance of the subject lot. In response, Peakhold moved to dismiss<sup>[26]</sup> the **Annulment Case** on the ground of, *inter alia*, forum shopping, since the Amended Complaint failed to disclose that Galang has a pending **Certiorari Case** before the CA, as well as a complaint for qualified theft (Criminal Complaint)<sup>[27]</sup> against the President of Peakhold and a certain Jocelyn "Gigi" Cortina-Donasco (Donasco) before the Office of the City Prosecutor of Caloocan City (OCP Caloocan).<sup>[28]</sup>

### **The RTC-Br. 126 Ruling**

Initially, the RTC-Br. 126 issued an Order<sup>[29]</sup> dated October 12, 2015, denying Peakhold's motion to dismiss. It found that the causes of actions and reliefs prayed for in the **Annulment** and **Certiorari Cases** are different from those in the **Criminal Complaint**. It further held that, assuming that the Order dismissing the **Petition for Relief Case** is reversed, there is still no violation of the rule against forum shopping, since the prayers/reliefs in the Annulment Case are different from those in the **Petition for Relief Case**.<sup>[30]</sup>

On reconsideration,<sup>[31]</sup> however, the RTC-Br. 126 issued an Order<sup>[32]</sup> dated February 22, 2016, finding Galang guilty of forum shopping, considering that the **Petition for Relief Case**, together with the **Annulment** and **Certiorari Cases**, all have a common cause of action/relief – that is the reconveyance of the subject lot to Galang.<sup>[33]</sup>

Aggrieved, Galang moved for reconsideration,<sup>[34]</sup> but the same was denied in an Order<sup>[35]</sup> dated June 20, 2016; hence, the appeal<sup>[36]</sup> before the CA, docketed as CA-G.R. CV No. 107678.<sup>[37]</sup>

### **The CA Ruling**

In a Decision<sup>[38]</sup> dated April 21, 2017, the CA affirmed the RTC-Br. 126 ruling. It held that Galang is guilty of forum shopping as she failed to indicate the pendency of the **Certiorari Case** before the CA, as well as the **Criminal Complaint** before the OCP Caloocan in her Amended Complaint in the **Annulment Case**. More significantly, it noticed that there is identity of parties, rights asserted/causes of action, and reliefs prayed for among the aforesaid cases.<sup>[39]</sup>

Dissatisfied, Galang sought reconsideration<sup>[40]</sup> thereof, which was denied in a Resolution<sup>[41]</sup> dated August 29, 2017; hence, the instant petition.

In the interim, the CA issued a Decision<sup>[42]</sup> dated September 23, 2015, dismissing the **Certiorari Case** for lack of merit.<sup>[43]</sup> While it found Galang not to have committed forum shopping – since the supposed filing of the petition for review, *i.e.*, CA-G.R. SP No. 128171, was simply filed out of oversight – it nevertheless sustained the RTC-Br. 122's dismissal of the **Petition for Relief Case**, given that petitioner failed to establish the existence of extrinsic fraud, as in fact, she was able to file her comment and had her day in court. In any event, it could not rule upon the existence of forum shopping, as the petition for review, being the basis of the forum shopping allegation, had already been expunged by the CA.<sup>[44]</sup> Galang also moved for its reconsideration,<sup>[45]</sup> but the same was denied in a Resolution<sup>[46]</sup> dated August 23, 2016.

### **The Issue Before the Court**

The core issue for the Court's resolution is whether or not the CA erred in finding that Galang committed forum shopping when she failed to declare the pending **Certiorari Case** and **Criminal Complaint** in her Amended Complaint in the **Annulment Case**.

### **The Court's Ruling**

The petition is meritorious.

Forum shopping is the act of a litigant who repetitively availed of several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues, either pending in or already resolved by some other court, to increase the chances of obtaining a favorable decision if not in one court, then in another.<sup>[47]</sup> It can be committed in three (3) ways: (1) by filing multiple cases based on the same cause of action and with the same prayer, the previous case not having been resolved yet (where the ground for dismissal is *litis pendentia*); (2) by filing multiple cases based on the same cause of action and with the same prayer, the previous case having been finally resolved (where the ground for dismissal is *res judicata*); and (3) by filing multiple cases based on the same cause of action but with different prayers (splitting of causes of action, where the ground for dismissal is also either *litis pendentia* or *res judicata*).<sup>[48]</sup>

Thus, to determine whether a party violated the rule against forum shopping, it is essential to ask whether a final judgment in one case will amount to *res judicata* in another or whether the following elements of *litis pendentia* are present: (a) identity of parties, or at least such parties as representing the same interests in both actions; (b) identity of rights asserted and reliefs prayed for, the relief being founded on the same facts; and (c) the identity of the two (2) preceding particulars, such that any judgment rendered in the other action will, regardless of which party is successful, amount to *res judicata* in the action under consideration.<sup>[49]</sup>

In this instance, Galang filed a total of four (4) cases, namely:

(a) the **Annulment Case** seeking to annul the allegedly fraudulent mortgage document involving the subject lot;

(b) the **Petition for Relief Case** seeking to set aside the *ex-parte* writ of possession issued in Peakhold's favor;

(c) the **Certiorari Case** imputing grave abuse of discretion on the part of RTC-Br. 122 in dismissing the **Petition for Relief Case** on the ground of forum shopping; and

(d) the **Criminal Complaint** seeking to indict the President of Peakhold and Donasco for the crime of Qualified Theft.

A judicious perusal of the records reveals that there is no identity of causes of actions and reliefs prayed for among the said cases. As already adverted to, the **Annulment Case** seeks to nullify the mortgage document executed in Peakhold's favor, as well as the subsequent foreclosure proceedings, given that the alleged real estate mortgage covering the subject lot was void for having been executed without Galang's knowledge and consent. In the **Petition for Relief Case**, Galang sought to set aside the *ex parte* writ of possession, contending that the same should have been threshed out in an adversarial proceeding, since it involves a fictitious deed of real estate mortgage, where the mortgagor therein is supposedly an impostor of Galang; while the **Certiorari Case** sought to revive the **Petition for Relief Case** which was dismissed on the ground of forum shopping. Finally, the **Criminal Complaint** involves the determination of whether or not there is probable cause to indict the President of Peakhold and Donasco for Qualified Theft.

Similarly, the issues raised and determined in these cases likewise differ. In the **Annulment Case**, the issue is whether or not the deed of real estate mortgage is void, thereby entitling Galang to the recovery of the subject lot. In the **Petition for Relief Case**, the issue is whether or not extrinsic fraud was actually employed by Peakhold during the *Ex-Parte* Petition proceedings. In the **Certiorari Case**, the issue is whether or not the RTC-Br. 122 acted with grave abuse of discretion when it affirmed the dismissal of Galang's **Petition for Relief**. Lastly, in the **Criminal Complaint**, the issue is whether or not there is probable cause to believe that the President of Peakhold and Donasco committed the crime of Qualified Theft and should stand trial therefor.

Given the above, the Court finds that Galang correctly declared in the Amended Complaint in the **Annulment Case** that she did not commence any action or