

## FIRST DIVISION

[ G.R. No. 209794, June 27, 2016 ]

**LAND BANK OF THE PHILIPPINES, PETITIONER, VS. SPOUSES JOSE AMAGAN AND AURORA AMAGAN, DOING BUSINESS UNDER THE TRADE NAME AND STYLE "A & J SEAFOODS AND MARINE PRODUCTS," AND JOHN DOE, RESPONDENTS.**

### DECISION

#### **CAGUIOA, J:**

The instant petition for review on certiorari under Rule 45 of the Rules of Court, with a prayer for the issuance of a Preliminary Mandatory Injunction and the grant of a Writ of Replevin, seeks to reinstate Petitioner Land Bank of the Philippines' (LBP) Complaint for Replevin<sup>[1]</sup> filed against Respondents Spouses Jose and Aurora Amagan (Respondents).

The issues raised in this case are pretty straightforward: (1) whether the Office of the Government Corporate Counsel (OGCC) is the principal law office of Government Owned and Controlled Corporations (GOCCs), and (2) whether the OGCC had validly consented to, or otherwise authorized, the participation of the LBP Legal Services Group, in the prosecution of the instant Complaint for Replevin.

In turn, the resolution of these issues is simple, direct and unequivocal. In a number of cases, this Court has consistently held that it is the OGCC, and not the LBP Legal Services Group, which is the principal law office tasked to primarily handle cases filed by or against LBP, but this does not preclude participation of the LBP Legal Services Group as long as the OGCC consents to such participation, and the LBP Legal Services Group acts under the control and supervision of the OGCC. It is beyond cavil in this case that indeed the OGCC has consented to the filing by the LBP Legal Services Group of the instant Complaint for Replevin, and its continued prosecution of the same. For these reasons, we grant the Petition, reverse and set aside the questioned orders of the Regional Trial Court, Branch 37, General Santos City, and accordingly order the reinstatement of Civil Case No. 8042.

The salient facts that gave rise to the foregoing issues are very simple:

On March 31, 2011, LBP, through the LBP Legal Services Group, filed a Complaint for Replevin,<sup>[2]</sup> docketed as Civil Case No. 8042 and raffled to Branch 37 of the Regional Trial Court of General Santos City (RTC).

After LBP filed an Amended Complaint, pursuant to the April 27, 2011 Order of the RTC, specifically indicating the properties and chattels subject of the same,<sup>[3]</sup> Respondents filed a Motion to Dismiss,<sup>[4]</sup> which was followed by another Motion to Dismiss (with Urgent Prayer for Quashal of Writ of Replevin)<sup>[5]</sup> both anchored on the

fact that the instant Complaint for Replevin was not filed or initiated by the OGCC, and that the LBP Legal Services Group is not authorized to initiate the instant complaint against Respondents.

In its Comment/Opposition filed on June 14, 2012,<sup>[6]</sup> LBP informed the RTC that the OGCC had, in fact, earlier issued Letters of Authority<sup>[7]</sup> as far back as June 5, 2009, already authorizing, and delegating its powers to, the LBP Legal Services Group, through Attys. Rosemarie M. Osoteo, Nestor A. Velasco, and Buenaventura R. Del Rosario, in order to appear as counsel for LBP in its current and future cases.

Subsequently, in a Manifestation and Confirmation of Authority dated August 28, 2012,<sup>[8]</sup> the OGCC confirmed the authority previously delegated to the aforementioned lawyers of the LBP Legal Services Department signed by no less than Government Corporate Counsel Raoul C. Creencia.<sup>[8a]</sup>

Notwithstanding the foregoing clarifications, the RTC, on April 18, 2013, issued the first assailed Order<sup>[9]</sup> dismissing the Petition for Replevin, to wit:

**WHEREFORE**, in view of all the foregoing and for the reason that plaintiff has strayed from the commonly accepted practice among agencies or instrumentalities of the government to avail of the service or facilities of the Government Service Insurance System for their insurable interest and for the complaint not being filed or instituted by the proper party, as provided by law, amounting to lack of cause of action, the Complaint for Replevin is **DISMISSED**.

The wrench [sic] of replevin imposed on the properties proceeding from the order of this court dated 18 July 2011 is lifted. Defendants are restored in good standing in the operation of the processing complex and all the machineries and facilities contained therein. Accordingly, the Sheriff of this court is relieved of his duties as custodial overseer of the complex. The visitorial authority of the Sheriff, on behalf of the court, stays unless revoked or modified by a competent court or authority.

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

In a Motion for Reconsideration dated April 29, 2013, signed by the OGCC, LBP sought to reconsider the first assailed Order.<sup>[11]</sup>

On October 1, 2013, the RTC issued the second assailed Order<sup>[12]</sup> denying the Motion for Reconsideration, to wit:

The court stands by its resolution. The complaint was not initiated by the Office of the Government Corporate Counsel as shown by the absence of the signature of any government corporate counsel in any part of the complaint. If it is any further indication of the non-participation of the OGCC in the complaint, the papers used did not bear the zeal [sic] of the agency. The authority to attend hearings on this case or even the signature of ATTY. RAOUL C. CREENCIA, a government corporate counsel, cannot supplant the mandatory requirement of the law for the complaint to be initiated by the OGCC. These assertions of plaintiff cannot

substitute for the specific act required of the OGCC to perform namely, to file the case directly or serve as a curative potion that could retroact to the time of the filing of the case.

The signature of ATTY. RAOUL C. CREENCIA, a Government Corporate Counsel in the Motion for Reconsideration filed by the Legal Department of Land Bank has just heightened the obvious that the complaint was not initiated by the OGCC as mandated by law. This is no simple technical defect that can be rectified by the simple expediency [sic] of affixing a signature of a government corporate counsel in the Motion for Reconsideration. This is too little too late. This is about substantive law which need to be observed or complied with to entrench the complaint with authority.

This court wishes to point out by way of further emphasis that the plaintiff bank deviated from a time honored practice among government agencies to engage the services of the Government Service Insurance System for their insurance needs and requirements. This may not be mandatory but is advisable.

**WHEREFORE**, for the foregoing reasons, plaintiffs Motion for Reconsideration is DENIED.

SO ORDERED.

Hence, this Petition, filed directly with this Court on pure questions of law.

As stated at the outset, we find meritorious, and accordingly grant, the Petition.

Section 10, Chapter 3, Title III, Book IV, of the Administrative Code of 1987 explicitly designates the OGCC as the principal law office of GOCCs and their subsidiaries, grants it control and supervision over all legal departments or divisions thereof, and empowers it to promulgate rules and regulations to effectively implement the objectives of the office of the OGCC:

Section 10. *Office of the Government Corporate Counsel.* - The Office of the Government Corporate Counsel (OGCC) shall act as the principal law office of all government-owned or controlled corporations, their subsidiaries, other corporate off-springs and government acquired asset corporations and shall exercise control and supervision over all legal departments or divisions maintained separately and such powers and functions as are now or may hereafter be provided by law. In the exercise of such control and supervision, the Government Corporate Counsel shall promulgate rules and regulations to effectively implement the objectives of the Office.

In turn, Rule 5, Section 1 of the Rules Governing the Exercise by the Office of the Government Corporate Counsel of its Authority, Duties and Powers as Principal Law Office of all GOCCs (2011 OGCC Rules) states that the OGCC shall handle all cases by the GOCCs, **unless the legal departments of its client government corporations or entities are duly authorized or deputized by the OGCC.**

This Court had earlier occasion to tackle this question in *Land Bank of the*