

FIRST DIVISION

[G.R. No. 202262, July 08, 2015]

JOSE C. GO, GOTESCO PROPERTIES, INC., GO TONG ELECTRICAL SUPPLY, INC., EVER EMPORIUM, INC., EVER GOTESCO RESOURCES AND HOLDINGS, INC., GOTESCO TYAN MING DEVELOPMENT, INC., EVERCREST CEBU GOLF CLUB, NASUGBU RESORTS, INC., GMCC UNITED DEVELOPMENT CORPORATION, AND GULOD RESORT, INC., PETITIONERS, VS. BANGKO SENTRAL NG PILIPINAS, AND REGISTER OF DEEDS OF NASUGBU BATANGAS, RESPONDENTS.

DECISION

BERSAMIN, J.:

By this appeal, the petitioners businessman Jose C. Go and eight corporations connected with him, namely: Gotesco Properties, Inc., Go Tong Electrical Supply, Inc., Ever Emporium, Inc., Ever Gotesco Resources and Holdings, Inc., Gotesco Tyan Ming Development, Inc., Evercrest Cebu Golf Club, Nasugbu Resorts, Inc., GMCC United Development Corporation and Gulod Resort, Inc. - challenge the decision promulgated on December 20, 2011,^[1] whereby the Court of Appeals (CA) dismissed their petition for *certiorari* for being moot and academic, and upheld the orders issued on June 4, 2009^[2] and August 6, 2009^[3] by the Regional Trial Court, Branch 39, in Manila (RTC) allowing respondent Bangko Sentral ng Pilipinas (Bangko Sentral) to levy on execution the properties indicated in the parties' court approved compromise agreement.

Antecedents

The genesis of this case is traced to the decision of the Court promulgated on June 29, 2011 in G.R. No. 148483 entitled *Bangko Sentral ng Pilipinas v. Orient Commercial Banking Corporation, et. al.*^[4] The facts relevant to our adjudication are reported therein, as follows:

On February 13, 1998, herein respondent Orient Commercial Banking Corporation (OCBC) declared a bank holiday on account of its inability to pay all its obligations to depositors, creditors and petitioner *Bangko Sentral ng Pilipinas* (BSP).

On March 17, 1998, OCBC filed a petition for rehabilitation with the Monetary Board. The bank was placed under receivership and the Philippine Deposit Insurance Corporation (PDIC) was designated as Receiver. Pursuant to the Monetary Board's Resolution No. 1427, PDIC took over all the assets, properties, obligations and operations of OCBC. Respondent Jose C. Go, the principal and biggest stockholder of OCBC, with his affiliates companies (respondent corporations), challenged the

said action of the PDIC before the RTC of Manila, Branch 44 (Civil Case No. 98-91265). Said case was dismissed and the dismissal was appealed to the CA.

During the pendency of Civil Case No. 98-91265, the Monetary Board adopted Resolution No. 602 dated May 1999 directing the Receiver to proceed with the liquidation of OCBC. In June, 1999, the PDIC instituted Special Proceeding No. 99-94328 before the RTC of Manila, Branch 51 entitled "In Re: Petition for Assistance in the Liquidation of Orient Commercial Banking Corporation, Philippine Deposit Insurance Corporation, *Petitioner*."

On December 17, 1999, petitioner filed in the RTC of Manila (Branch 12) a complaint for sum of money with preliminary attachment (Civil Case No. 99-95993) against the respondents seeking to recover deficiency obligation owed by OCBC which then stood at P1,273,959,042.97 with interest at 8.894% per annum, overdraft obligation at P1,028,000,000.00, attorney's fees and cost of suit.

On January 14, 2000, the RTC of Manila, Branch 12 issued an Order in Civil Case No. 99-95993 granting petitioner's motion for preliminary attachment. On January 19, 2000, following the posting of P50 million attachment bond issued by the Government Service Insurance System (GSIS), the corresponding writ was issued ordering the Deputy Sheriffs to attach the real and personal properties of respondents to the value of petitioner's demand in the amount of P2,301,951,042.97, exclusive of interest and costs, as security for the said claim.^[5] (citations omitted)

Eventually, the controversy reached the Court and during the pendency of the appeal, the parties entered into a compromise agreement, the pertinent provisions of which were as follows:

I. AMOUNT TO BE SETTLED

In consideration of this Compromise Agreement and subject to faithful compliance by the defendants of the terms hereof, the parties herein have agreed that the total amount of Deficiency Claim and Overdraft payable by defendants to plaintiff shall be equivalent to PESOS: TWO BILLION NINE HUNDRED SEVENTY-FOUR MILLION NINE HUNDRED THREE THOUSAND (PhP2,974,903.00) (sic) which amount shall be paid by the defendants in the following manner:

A. A down payment shall be made by the defendants through the DACION of certain real estate properties more particularly described in Annex "B" hereof.

a ii) The parties shall execute separate DEEDS OF DACION over the real estate properties described in Annex "B" upon the execution of the Agreement;

a ii) All Capital Gains Tax on the properties for DACION shall be payable by the defendants but Documentary Stamp Tax, Transfer

Tax and all registration fees on the DACION shall for the account of plaintiff.

B. The balance remaining after the DACION of the real estate properties shall be paid by the defendants within a period of ten (10) years but extendible for another five (5) years provided that the defendants shall religiously comply with the amortization schedule (Annex "C" hereof) for a continuous period of two (2) years from date of first amortization.

b i) The foregoing outstanding balance shall be charged interest at 91-day T-Bill rate upon execution of this Compromise Agreement repriced every three (3) months for a period of 10 years and payable monthly in arrears.

C. Additional Properties for Execution

c i) To ensure payment of the monthly amortizations due under this Compromise Agreement, **defendants Ever Crest Golf Club Resort, Inc., and Mega Heights, Inc., have agreed to have its real properties with improvements covered by TCT Nos. T-68963, T-6890, T-68966 and TD ARPN-AA-1702 00582 and AA-17023-005 shall be subject of existing writ of attachment to secure the faithful payment of the outstanding obligation herein mentioned, until such obligation shall have been fully paid by defendants to plaintiff.**

c ii) That **all the corporate approvals for the execution of this Compromise agreement by Ever Crest Golf Club Resort, Inc., and Mega Heights, Inc., consisting of stockholders resolution and Board of Directors approval have already been obtained at the time of the execution of this Agreement.**

c iii) Failure on the part of the defendants to fully settle their outstanding obligations and to comply with any of the terms of this Compromise Agreement **shall entitle the plaintiff to immediately ask for a Writ of Execution against all assets of the Ever Crest Golf Club Resort, Inc., and Mega Heights, Inc.,** now or hereafter arising upon the signing of this Compromise Agreement.

I. DISMISSAL OF ALL PENDING CASES

XXXX

II. FUNDS UNDER GARNISHMENT

XXXX

III. REPRESENTATION AND WARRANTIES

The signatories to this Compromise Agreement represent and pursuant to Bangko Sentral as follows:

- a. X X X
- b. **It has obtained the respective Board of Directors approval and other corporate authorizations for its execution, signing and delivery of this Compromise Agreement and its attachments.**
- c. The execution and delivery of this Compromise agreement and all other documents and deeds related thereto and the performance and observance by the parties of the respective terms and conditions thereof, shall not contravene or violate any provision of term of any contract or agreement entered into by the parties with any third party, nor contravene any provision or term of its Articles of Incorporation and By-Laws.
- d. **It shall defend the title and peaceful possession by Bangko Sentral of the Properties against all claims of third persons,** and shall indemnify and hold Bangko Sentral free and harmless from any and all losses, claims, damages, liabilities and expenses which it might suffer or incur as a result of this Compromise Agreement or any document or agreement entered into in connection therewith.
- e. It shall not execute or enter into any agreement or contract with any third party involving the **properties** which in any way, diminish, impair, prejudice or affect the rights, title and interest of **Bangko Sentral** over the properties acquired by or vested in **Bangko Sentral** pursuant to **Compromise Agreement** and all other documents executed between the parties in connection therewith.
- f. x x x^[6] (Emphasis Supplied)

The RTC eventually approved the compromise agreement on December 29, 2003,^[7] and the approval resulted in the denial of the petition in G.R. No. 148483.

But the controversy was not laid to rest by the execution of the compromise agreement because Go did not comply with its provisions. This prompted Bangko Sentral to move for the execution of the compromise agreement^[8] against the properties of Ever Crest Golf Club Resort, Inc. (Ever

Crest) and Mega Heights, Inc. (Mega Heights) which were levied upon by the sheriff. Initially, the RTC denied Bangko Sentral's motion to execute on December 12, 2008,^[9] but on Bangko Sentral's motion for reconsideration, the RTC relented and granted the motion. The writ of execution was issued on July 6, 2009.

The petitioners and Ever Crest then brought a petition for *certiorari* in the CA, imputing grave abuse of discretion amounting to lack or excess of jurisdiction to the