

## SECOND DIVISION

**[ G.R. No. 158866, September 09, 2013 ]**

**BANCO FILIPINO SAVINGS AND MORTGAGE BANK, PETITIONER,  
VS. TALA REALTY SERVICES CORPORATION, PEDRO B. AGUIRRE,  
REMEDIOS A. DUPASQUIER, PILAR D. ONGKING, ELIZABETH H.  
PALMA, DOLLY W. LIM, RUBENCITO M. DEL MUNDO, ADD  
INTERNATIONAL SERVICES, INCORPORATED, AND NANCY L. TY,  
RESPONDENTS.**

**[G.R. No. 181933]**

**NANCY L. TY, PETITIONER, VS. BANCO FILIPINO SAVINGS AND  
MORTGAGE BANK, RESPONDENT.**

**[G.R. No. 187551]**

**BANCO FILIPINO SAVINGS AND MORTGAGE BANK, PETITIONER,  
VS. COURT OF APPEALS, TALA REALTY SERVICES CORPORATION,  
NANCY L. TY, PEDRO B. AGUIRRE, REMEDIOS A. DUPASQUIER,  
PILAR D. ONGKING, ELIZABETH H. PALMA, DOLLY W. LIM,  
RUBENCITO M. DEL MUNDO, AND ADD INTERNATIONAL  
SERVICES, INCORPORATED, RESPONDENTS.**

### R E S O L U T I O N

**PERLAS-BERNABE, J.:**

Assailed in these consolidated petitions for review on *certiorari*<sup>[1]</sup> are the separate issuances of the Court of Appeals (CA) in relation to several complaints for reconveyance filed by Banco Filipino Savings and Mortgage Bank (Banco Filipino).

In particular, the petition in G.R. No. 158866 filed by Banco Filipino assails the CA's Decision<sup>[2]</sup> dated June 23, 2003 in CA-G.R. SP No. 43550 which affirmed the Orders of the Regional Trial Court (RTC) of San Fernando, La Union, Branch 66 (RTC-La Union) dated November 25, 1996<sup>[3]</sup> and January 22, 1997,<sup>[4]</sup> dismissing Banco Filipino's complaint for reconveyance in Civil Case No. 4992.

Meanwhile, the petition in G.R. No. 181933 filed by Nancy L. Ty (Nancy) assails the CA's Decision<sup>[5]</sup> dated June 19, 2007 and Resolution<sup>[6]</sup> dated February 20, 2008 in CA-G.R. SP No. 78241 which affirmed the Orders of the RTC of Parañaque City, Branch 274 (RTC-Parañaque City) dated January 13, 2003<sup>[7]</sup> and May 16, 2003,<sup>[8]</sup> denying Nancy's motion to dismiss Banco Filipino's complaint for reconveyance in Civil Case No. 95-0230.

Lastly, the petition in G.R. No. 187551 filed by Banco Filipino assails the CA's

Decision<sup>[9]</sup> dated December 12, 2008 and Resolution<sup>[10]</sup> dated April 3, 2009 in CA-G.R. CV No. 85159 which affirmed the Orders of the RTC of Las Piñas City, Branch 255 (RTC-Las Piñas City) dated August 31, 2004<sup>[11]</sup> and May 27, 2005,<sup>[12]</sup> dismissing Banco Filipino's complaint for reconveyance in Civil Case No. 96-0036.

### **The Facts**

Sometime in 1979, in the course of the expansion of its operations, Banco Filipino found the necessity of acquiring real properties in order to open new branch sites. In view, however, of the restriction imposed by Sections 25(a) and 34<sup>[13]</sup> of Republic Act No. 337<sup>[14]</sup> limiting a bank's real estate investments to only 50% of its capital assets, Banco Filipino, through its board of directors, decided to "warehouse" several of its properties.<sup>[15]</sup>

Upon her behest and initiative, Nancy, together with Tomas B. Aguirre (Tomas) and his brother Pedro B. Aguirre (Pedro) – all major stockholders of Banco Filipino – organized and incorporated Tala Realty Services Corporation (Tala Realty) to purchase and hold the real properties owned by Banco Filipino in trust.<sup>[16]</sup> Subsequently, Tomas, upon the insistence of his sister Remedios A. Dupasquier (Remedios), endorsed to the latter his shares in Tala Realty, which she eventually registered in the name of her own corporation, Add International Services, Inc. (Add International).<sup>[17]</sup> As a result, Remedios, together with Nancy and Pedro, had control of Tala Realty: Remedios exercised control through Add International and her nominee Elizabeth H. Palma (Elizabeth); Nancy through her nominees Pilar D. Ongking (Pilar), Dolly W. Lim (Dolly), and a certain Cynthia E. Mesina (Cynthia);<sup>[18]</sup> and Pedro through Tala Realty's President, Rubencito M. del Mundo (Rubencito).<sup>[19]</sup>

Banco Filipino entered into and, thereafter, proceeded to implement a certain trust agreement (trust agreement) with Tala Realty by selling to the latter some of its properties located in various cities and provinces nationwide. In turn, Tala Realty leased these properties to Banco Filipino.<sup>[20]</sup>

In August 1992, however, Tala Realty repudiated the trust agreement, asserted ownership and claimed full title over the properties, prompting Banco Filipino to institute a total of 17 complaints for the reconveyance of the said properties against Tala Realty and Add International, as well as Nancy, Tomas, Pedro, Remedios, Pilar, Dolly, Elizabeth, and Rubencito (defendants) in the various RTCs where the subject properties are found.<sup>[21]</sup>

The present consolidated petitions<sup>[22]</sup> stemmed from three of these reconveyance cases, in particular: (a) G.R. No. 158866 originated from Civil Case No. 4992<sup>[23]</sup> which involved two parcels of land situated in La Union;<sup>[24]</sup> (b) G.R. No. 181933 was derived from Civil Case No. 95-0230<sup>[25]</sup> which involved a total of 12 properties located in Parañaque City;<sup>[26]</sup> and (c) G.R. No. 187551 originated from Civil Case No. 96-0036<sup>[27]</sup> which involved one property found in Las Piñas City.<sup>[28]</sup>

Tala Realty, Add International, and the individual defendants, with the exception of Nancy, moved<sup>[29]</sup> for the dismissal of these complaints on the common grounds of

forum shopping, lack of cause of action, *in pari delicto* and the unenforceability of the trust agreement. On the other hand, Nancy separately filed motions to dismiss<sup>[30]</sup> the three complaints, raising the grounds of lack of jurisdiction, *lis pendens*, lack of cause of action as against her and prescription.

#### The Proceedings Antecedent to G.R. No. 158866

In an Order<sup>[31]</sup> dated November 25, 1996, the RTC-La Union granted the defendants' motions to dismiss on the ground of forum shopping. Taking into consideration the various complaints for reconveyance filed by Banco Filipino which were all hinged upon the same trust agreement executed with Tala Realty, the RTC-La Union ratiocinated that the cause of action as well as the evidence to be presented in the case before it are the same as the cause of action and evidence in the other reconveyance cases, thereby falling under the prohibition against forum shopping.

Banco Filipino's motion for reconsideration was denied by the same court in an Order dated January 22, 1997,<sup>[32]</sup> hence, the recourse to the CA *via* a petition for *certiorari* and *mandamus*,<sup>[33]</sup> docketed as CA-G.R. SP No. 43550.

In the said petition, Banco Filipino insisted that there could be no forum shopping when the reconveyance cases that it filed involved various sets of real properties found in different locations and covered by separate contracts of sale and lease, thus, giving rise to different causes of action.<sup>[34]</sup>

After due proceedings, the CA, through the assailed Decision<sup>[35]</sup> dated June 23, 2003, dismissed Banco Filipino's petition, finding that the reconveyance suits filed by the latter were all based on the same trust agreement with Tala Realty. In this regard, the CA held that all of the said cases are anchored upon an identical cause of action and would necessarily involve the same evidence.<sup>[36]</sup>

Dissatisfied, Banco Filipino filed the instant petition for review on *certiorari* before the Court, docketed as G.R. No. 158866, maintaining its stance that it did not engage in forum shopping.

#### **The Proceedings Antecedent to G.R. No. 181933**

In an Order<sup>[37]</sup> dated January 13, 2003, the RTC-Parañaque City denied the defendants' motions to dismiss the complaint, finding no concurrence of the elements of *litis pendentia*.<sup>[38]</sup> Thus, it held that Banco Filipino committed no forum shopping in the filing of the reconveyance cases. The RTC-Parañaque City likewise found that the allegations in the complaint sufficiently state a cause of action, and disregarded the question of *in pari delicto*, not being a proper ground in a motion to dismiss.<sup>[39]</sup>

The motions for reconsideration separately filed by the defendants were denied in the RTC-Parañaque City's May 16, 2003 Order.<sup>[40]</sup> However, only Nancy elevated the case to the CA *via* petition for *certiorari*,<sup>[41]</sup> docketed as CA-G.R. SP No. 78241. In her petition, she ascribed grave abuse of discretion on the part of the RTC-

Parañaque City in denying her motion to dismiss, insisting that Banco Filipino had only one cause of action and therefore, violated the rule on forum shopping when it split a single cause of action. She also reiterated that the complaint stated no cause of action as against her, and that Banco Filipino's claim had already prescribed.<sup>[42]</sup>

In the assailed Decision<sup>[43]</sup> dated June 19, 2007, the CA dismissed Nancy's petition, concurring with Banco Filipino's posturing that while there may be similarities in the factual antecedents of the reconveyance cases it had simultaneously instituted, the differences in the property locations, as well as in the manner by which the trusts were repudiated, gave rise to a distinct cause of action in all the 17 reconveyance cases.<sup>[44]</sup>

Nancy's motion for reconsideration was subsequently denied by the CA in a Resolution dated February 20, 2008,<sup>[45]</sup> hence, the petition for review on *certiorari* in G.R. No. 181933, imputing error upon the CA for not finding that the allegations in Banco Filipino's complaint were insufficient to establish a cause of action as against her. She also maintained that Banco Filipino's action had already prescribed and that the trust insisted upon by the latter was void due to the principle of *in pari delicto*, thus, no recovery can be made thereunder.

### **The Proceedings Antecedent to G.R. No. 187551**

In an Order<sup>[46]</sup> dated August 31, 2004, the RTC-Las Piñas City granted the defendants' motions to dismiss, finding that all the elements of *litis pendentia* exist in the case before it: there was an identity of parties in the 17 reconveyance cases filed by Banco Filipino and pending in different *fora*, identity of rights or causes of action founded on the same transaction and identity of reliefs sought, which is the recovery of its properties.<sup>[47]</sup>

Banco Filipino's motion for reconsideration was subsequently denied in the RTC-Las Piñas City's May 27, 2005 Order,<sup>[48]</sup> hence, Banco Filipino appealed to the CA, docketed as CA-G.R. CV No. 85159.

In a Decision<sup>[49]</sup> dated December 12, 2008, the CA dismissed Banco Filipino's appeal not on the ground of forum shopping but for lack of cause of action. In ruling that Banco Filipino committed no forum shopping when it filed 17 reconveyance cases based on the same trust agreement, the CA considered the rulings of the Court in G.R. No. 130184,<sup>[50]</sup> G.R. No. 139166<sup>[51]</sup> and in G.R. No. 144705<sup>[52]</sup> finding that the elements of *litis pendentia* are not present.

Nonetheless, the CA dismissed Banco Filipino's complaint on the ground of lack of cause of action, taking into account the Court's Decision in G.R. No. 137533<sup>[53]</sup> wherein it was pronounced that the implied trust between Banco Filipino and Tala Realty was "inexistent and void for being contrary to law."<sup>[54]</sup> Consequently, Banco Filipino cannot demand the reconveyance of its properties based on the said implied trust, effectively depriving it of any cause of action in these cases.

Aggrieved, Banco Filipino filed before the Court its petition for review on *certiorari* in G.R. No. 187551, raising the same issues that it had priorly advanced before the

appellate court.

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

At the core of the consolidated petitions is the essential and imperative question of whether the reconveyance complaints filed by Banco Filipino before the courts *a quo* can be allowed to prosper.

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

At the outset, the basic facts as well as the issues raised in these petitions have already been passed upon by the Court in its Decision<sup>[55]</sup> dated April 7, 2009 in G.R. Nos. 130088, 131469, 155171, 155201, and 166608 as well as its more recent Decision<sup>[56]</sup> dated June 27, 2012 in G.R. No. 188302. Pertinently, in these cases, the Court applied the earlier case of *Tala Realty Services Corporation v. Banco Filipino Savings & Mortgage Bank*, docketed as G.R. No. 137533,<sup>[57]</sup> wherein it declared, in no uncertain terms, that the implied trust agreement between Banco Filipino and Tala Realty is "inexistent and void for being contrary to law." As such, Banco Filipino cannot demand the reconveyance of the subject properties in the present cases; neither can any affirmative relief be accorded to one party against the other since they have been found to have acted *in pari delicto*,<sup>[58]</sup> viz.:

An implied trust could not have been formed between the Bank and Tala as this Court has held that "where the purchase is made in violation of an existing statute and in evasion of its express provision, no trust can result in favor of the party who is guilty of the fraud." x x x.

x x x x

x x x **[T]he Bank cannot use the defense of nor seek enforcement of its alleged implied trust with Tala since its purpose was contrary to law.** As admitted by the Bank, it "warehoused" its branch site holdings to Tala to enable it to pursue its expansion program and purchase new branch sites including its main branch in Makati, and at the same time avoid the real property holdings limit under Sections 25(a) and 34 of the General Banking Act which it had already reached. x x x

Clearly, the Bank was well aware of the limitations on its real estate holdings under the General Banking Act and that its "warehousing agreement" with Tala was a scheme to circumvent the limitation. Thus, the Bank opted not to put the agreement in writing and call a spade a spade, but instead phrased its right to reconveyance of the subject property at any time as a "first preference to buy" at the "same transfer price." This arrangement which the Bank claims to be an implied trust is contrary to law. Thus, while we find the sale and lease of the subject property genuine and binding upon the parties, we cannot enforce the implied trust even assuming the parties intended to create it. x x x "[T]he courts will not assist the payor in achieving his improper purpose by enforcing a resultant trust for him in accordance with the 'clean hands' doctrine." **The Bank cannot thus demand reconveyance of the property based on its alleged implied trust relationship with Tala.**