

THIRD DIVISION

[G.R. No. 184015, February 08, 2012]

**SPOUSES MARIANO P. MARASIGAN AND JOSEFINA LEAL,
PETITIONERS, VS. CHEVRON PHILS., INC., ACCRA
INVESTMENTS, CORP., AND ANGARA ABELLO CONCEPCION
REGALA & CRUZ, RESPONDENTS.**

D E C I S I O N

MENDOZA, J.:

Challenged in this petition is the January 31, 2008 Decision^[1] of the Court of Appeals (CA), in CA-G.R. CV No. 85223, which reversed and set aside the January 4, 2005 Decision^[2] of the Regional Trial Court, Branch 61, Gumaca, Quezon (*RTC-Gumaca*), in Civil Case No. 2448-G, declaring the subject foreclosure sale and the consequent certificate of sale null and void and ordering the petitioners, Spouses Mariano P. Marasigan and Josefina Leal (*Spouses Marasigan*) to pay respondent Chevron Phils., Inc. (*Chevron [formerly Caltex Philippines, Inc.]*), moral damages, attorney's fees and costs of suit.

The Facts

Records disclose Spouses Marasigan were operators of a gasoline station in Montalban, Rizal, while Chevron is a corporation engaged in the business of refining, manufacturing, storing, distributing, and marketing of fuels, lubricants and other petroleum products. Spouses Marasigan and Chevron entered into a dealership and distributorship agreement wherein the former can purchase petroleum products from the latter on credit. To complete said agreement, Spouses Marasigan executed deeds of real estate mortgage over their properties, as collateral, in favor of Chevron.

Credit Lines	Location	Secured by	TCT No.
P1,886,000.00	Diliman, Q.C.		93559/290739
350, 000.00	Bo. Cambal, Mateo, Rizal	San75470	
3,242,000.00	Quezon City		227086
1,975, 600.00	Bo. Burgos, Rodriguez	TD No. 02-4813/TD	
	Rizal	No. 02-4860	
<u>1,600, 000.00</u>	Mulanay, Province	QuezonT- 199817	
P9,053,600.00			

Records further show that by September 30, 1993, Spouses Marasigan exceeded their credit line and owed Chevron the amount of P12,075,261.02. Spouses

Marasigan failed to pay the obligation despite oral and written demands from Chevron. Thus, Chevron through its counsel, the Angara Abello Concepcion Regala and Cruz (ACCRALAW), initiated foreclosure proceedings by filing a petition for extrajudicial foreclosure against the real estate mortgages executed by Spouses Marasigan in favor of Chevron.

Chevron, through ACCRALAW, was able to foreclose all the real estate mortgages on Spouses Marasigan's subject properties. Chevron, however, was only able to recover the total amount of P4,925,000.00 from the public auction sales of the mortgaged properties including the sale of the 167.1597 hectare coconut farm property located in Mulanay, Quezon, which was sold for P130,000.00 to the only bidder, ACCRA Investments, Corp. (ACCRAIN).

Subsequently, on November 7, 1995, Chevron filed a complaint (Civil Case No. 95-1619 for Sum of Money entitled "*Caltex Philippines, Inc. v. Sps. Mariano P. Marasigan and Marel Corporation*") against Spouses Marasigan before the RTC, Branch 136, Makati City (RTC-Makati) to recover the deficiency in the amount of P7,667,188.10. Chevron basically alleged therein that Spouses Marasigan's outstanding obligation as of October 15, 1995 was P7,667,188.10 and that said obligation remained unpaid.

In their Answer, Spouses Marasigan mainly alleged that they were greatly prejudiced because the foreclosure sales on the subject mortgaged properties were illegal and that the bid price of the Mulanay property in particular was shockingly low.

On February 8, 1996, Spouses Marasigan filed a complaint [Civil Case No. 2448-C for Declaration of Nullity and/or Annulment of Foreclosure with Damages entitled "*Sps. Mariano P. Marasigan and Josefina Leal Marasigan v. Caltex (Philippines), Inc., ACCRA Investment Corporation, Angara Abello Concepcion Regala & Cruz and Romeo N. Villafranca*"] against Chevron, ACCRAIN and ACCRALAW and Sheriff Romeo Villafranca before the RTC-Gumaca. Spouses Marasigan principally alleged therein that the bid price was grossly inadequate and shockingly low which rendered the foreclosure sale fatally defective and the foreclosure proceedings invalid and illegal. Chevron, ACCRAIN and ACCRALAW filed a motion to dismiss citing as ground Spouses Marasigan's failure to disclose in their certification against forum shopping the pending case filed before the RTC-Makati and the consequent violation of the rule on *litis pendentia*.

On August 21, 1996, the RTC issued an order^[3] denying the motion to dismiss, and ruling that there was no forum shopping because there was no decision yet in the RTC-Makati case (Civil Case No. 95-1619) when the RTC-Gumaca case (Civil Case No. 2448-G) was filed and that there were parties in the former who were not parties in the latter.

Chevron, ACCRAIN and ACCRALAW then filed their Answer with Compulsory Counterclaim alleging, among others, that the foreclosure sale was conducted in accordance with law and that the complaint in Civil Case No. 2448-G violated the rule on forum shopping and *litis pendentia*.

On January 4, 2005, the RTC-Gumaca rendered a decision in favor of Spouses Marasigan and against Chevron, ACCRAIN and ACCRALAW, the dispositive portion of

which reads, as follows:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendant:

1. Declaring the foreclosure sale of Mulanay property conducted by Provincial Sheriff of Gumaca on September 12, 1995 as well as the certificate of sale dated September 18, 1995 issued thereto as null and void and hereby ordered the same cancelled and set aside.
2. Ordering defendants jointly and severally to pay plaintiffs the amount of Php25,000.00 as moral damages, and the amount of Php50,000.00 as attorney's fees and costs of the suit.

The defendants counterclaim being merely the result of the filing of the plaintiff's complaint is hereby dismissed.

SO ORDERED.^[4]

Chevron, ACCRAIN and ACCRALAW appealed to the CA which summed up the issues to be resolved as follow:

- 1) Whether or not the instant case is dismissible on the grounds of forum shopping and *litis pendentia*;
- 2) Whether or not the foreclosure sale can be declared null and void for gross inadequacy of the price;
- 3) Whether or not appellees are entitled to moral damages, attorney's fees and costs of suit; and
- 4) Whether or not the appellants are entitled to their counterclaims.

On January 31, 2008, the CA rendered a decision reversing and setting aside the RTC decision. The CA ruled that Spouses Marasigan committed forum shopping and that all the elements of *litis pendentia* are present. Accordingly, Civil Case No. 2448-G, filed by Spouses Marasigan in the RTC-Gumaca was dismissible on the grounds of forum shopping and *litis pendentia*. The CA ruled as follows:

On the other hand, forum shopping is the act of the party against whom an adverse judgment has been rendered in one forum, of seeking another opinion in another forum other than by appeal or the special civil action of certiorari; or the institution of two or more actions or proceedings grounded on the same cause on the supposition that one or the other court would make a favorable disposition. We find that the

appellees committed forum shopping which is cause for the dismissal of the case. Under the last part of Section 5, Rule 7 of the Rules, if the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt as well as cause for administrative sanctions. Forum shopping is an act of malpractice because it abuses court processes.

The test for determining whether a party violates the rule against forum shopping is where a final judgment in one case will amount to *res judicata* in the action under consideration or where the elements of *litis pendentia* are present: The requisites of *litis pendentia* are the following: (a) identity of parties, or at least such as representing the same interests in both actions; (b) identity of rights asserted and relief prayed for, the relief founded on the same facts; and (c) identity of the two cases such that judgment in one, regardless of which party is successful, would amount to *res judicata* in the other.

In the instant case, We find the elements of *litis pendentia* present. On identity of parties, appellant Chevron and the appellees are the same parties in both cases. Appellant Chevron is the plaintiff while the appellees and Mareal Co., Inc. are the defendants in the Makati RTC case. On the other hand, in the instant case, the appellees are the plaintiffs while appellants Chevron, ACCRALAW and ACCRAIN are the defendants. It is of no moment that ACCRALAW and ACCRAIN are not party-plaintiffs in the Makati RTC case because the rule does not require absolute identity of parties; substantial identity of parties is sufficient. The fact that there are additional parties in the present case is not material as long as the principal parties – Chevron and the Spouses Marasigan – remain.

As to subject matter, the rights asserted by both parties are based on the same credit lines and real estate mortgages. In the Makati RTC case, appellant Chevron has to prove that deliveries of Chevron products were made pursuant to the credit lines and the real estate mortgages securing the same; and that the subsequent foreclosure are valid but there is still a deficiency after conducting the proceeds of the foreclosure sale from appellees' obligation. In the instant case, appellees seek to evade or diminish their liability under the credit lines and real estate mortgages by either having the foreclosure sale of the Mulanay property annulled or by collecting the alleged discrepancy between the market value of the property and the bid price offered by ACCRAIN. Thus, although the instant case pertains only to the Mulanay property, the resolution of both cases would require a determination of the validity and enforceability of the deliveries made by Chevron, of the real estate mortgages and foreclosure proceedings. In both cases, the same evidence would be presented and the same subject matter would be litigated. The difference in the form of the actions is of no moment as the test of identity of causes of action lies not in the form of an action but on whether the same evidence would support and establish the former and the present causes of action.

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It must be stressed that the appellees raised an affirmative defense in their amended answer in the Makati RTC case the illegality of the foreclosure sale of the Mulanay property; appellees raise the same issue in the instant complaint. There is no doubt that a judgment in the Makati RTC case as regards the validity of the foreclosure sale of the Mulanay property will constitute *res judicata* in the instant case, and vice versa.

Accordingly, the instant case is dismissible on the *litis pendentia* pursuant to Section 1 (e). Rule 16 of the Rules of Civil Procedure. The case is also dismissible on the ground of forum shopping since forum shopping exists where the elements of *litis pendentia* are present.

The Makati case should subsist because it was filed ahead and is an appropriate vehicle for litigating all issues in this controversy.

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We find no need to expound on the other issues raised in this case. Indeed, to do so would preempt the judgment of the RTC in Civil Case No. 95-1619 which is still pending with Branch 136, and result in the miscarriage of justice.

Aggrieved by the CA decision, Spouses Marasigan filed this petition praying for its reversal and setting aside anchored on the following

GROUND:

I

THE CA ERRED IN RULING THAT THE RTC-GUMACA ERRED WHEN IT DENIED RESPONDENTS' MOTION TO DISMISS ON THE GROUND OF FORUM SHOPPING AND *LITIS PENDENTIA*.

II

THE CA ERRED IN RULING THAT THE MAKATI CASE (CIVIL CASE NO. 95-1619) SHOULD SUBSIST BECAUSE IT WAS FILED AHEAD AND IS AN APPROPRIATE VEHICLE FOR LITIGATING ALL THE ISSUES IN THE CONTROVERSY.

III

THE COURT OF APPEALS GROSSLY ERRED IN NOT APPRECIATING THE DECISION OF ITS FIFTEENTH DIVISION DATED MAY 21, 1999 FINDING ANOMALY IN THE CONDUCT OF FORECLOSURE BY RESPONDENTS. RESPONDENTS DELIBERATELY OMITTED THE DECISION OF THE FIFTEENTH DIVISION IN ITS APPELLANTS'