

SECOND DIVISION

[G.R. No. 193415, April 18, 2012]

**SPOUSES DAISY AND SOCRATES M. AREVALO, PETITIONERS, VS.
PLANTERS DEVELOPMENT BANK AND THE REGISTER OF DEEDS
OF PARAÑAQUE CITY, RESPONDENTS.**

D E C I S I O N

SERENO, J.:

This is a Rule 45 Petition for Review, which seeks to reverse the Decision dated 24 March 2010^[1] and Resolution dated 05 August 2010^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 110806. The CA affirmed the trial court's Decision not to grant petitioners' application for a writ of preliminary injunction.

As stated, this case involves the trial court's refusal to issue a writ of preliminary injunction in favor of petitioner Spouses Daisy and Socrates M. Arevalo (Spouses Arevalo) based on their failure to comply with Section 2 of the Procedure in Extra-Judicial or Judicial Foreclosure of Real Estate Mortgages (Procedure on Foreclosure)^[3] issued by this Court. This procedure required them to pay twelve percent (12%) per annum interest on the amount of the principal obligation, as stated in the application for foreclosure sale, before an injunctive writ may issue against the extra-judicial foreclosure of real estate mortgage.^[4]

We deny the instant Petition for the following reasons: (1) the Petition is moot, because the trial court has already dismissed the Complaint dated 07 April 2009 (the First Complaint),^[5] upon which petitioners' application for the provisional remedy of preliminary injunction was based; and (2) petitioners are guilty of forum-shopping.

The conflict between the parties arose from a Loan Agreement^[6] petitioners executed with respondent Planters Development Bank (Bank). Petitioners obtained from respondent Bank a ₱2,100,000 loan secured by a mortgage on their property situated in Muntinlupa. Due to their failure to pay the loaned amount, the Bank undertook to extra-judicially foreclose the mortgage. The Clerk of Court issued a Notice of Sheriff's Sale and set the auction sale on 21 and 28 April 2009.^[7]

Petitioners thereafter filed the First Complaint wherein they asked for the nullification of interests, penalties and other charges, as well as for specific performance with an application for a temporary restraining order (TRO) and writ of preliminary injunction to enjoin the then impending auction sale of their Muntinlupa property. They alleged that it was respondent Bank who breached its obligations under the loan agreement; and that the auction sale was premature, arbitrary and confiscatory, as their inability to pay the loan was caused and aggravated by the Bank's illegal schemes.^[8]

During the hearing of petitioners' application for preliminary injunction, the trial court ruled that, as a precondition for the issuance of the writ and pursuant to the Procedure on Foreclosure, petitioners were directed to pay 12% per annum interest on the principal obligation as stated in the application for foreclosure sale. Otherwise, the writ shall not issue.^[9] The trial court further ruled that the evidence in support of their application was evidentiary in nature and should thus be presented during trial.^[10]

Petitioner Spouses Arevalo sought to clarify the trial court's Order,^[11] inquiring whether they should be required to pay 12% per annum interest. They argue that the rule requiring the payment of 12% interest as a condition for the issuance of an injunctive writ against an impending foreclosure sale was applicable only when applicant alleges that the interest rate is unconscionable.^[12] According to petitioners, nowhere in the Complaint did they allege that the interest charges were unconscionable.^[13] Instead, what they raised in the First Complaint as their principal cause of action was the Bank's deliberate withholding of loan releases on various pretexts and the propriety of the acts of the Bank charging them with interests and penalties due to the delay caused by the Bank itself.^[14] The trial court, however, affirmed its earlier ruling.^[15]

Petitioners moved for reconsideration,^[16] but their motion was denied.^[17] Consequently, they did not pay the required interest; thus, no writ of preliminary injunction was issued in their favor.

Aggrieved, petitioner Spouses Arevalo filed a Rule 65 Petition^[18] with the CA to assail the Orders of the trial court involving the non-issuance of the injunctive writ.^[19]

Meanwhile, proceedings for the First Complaint ensued at the trial court. Acting on the Motion to Dismiss filed by respondent Bank, the trial court granted the motion and dismissed the First Complaint for lack of cause of action.^[20] Petitioner Spouses Arevalo then proceeded again to the CA to appeal^[21] the dismissal of the main case. The record does not reveal the status of the case.

With regard to the Rule 65 Petition to the CA questioning the non-issuance of the writ, respondent Bank filed its Comment^[22] thereon. Subsequently, the CA rendered the present assailed Decision dated 24 March 2010, affirming the applicability of Section 2 of the Procedure on Foreclosure. It ruled that the trial court was correct in refusing to issue the writ due to petitioners' inexplicable failure and even stubborn refusal to pay the accrued interest at 12% per annum.^[23] The CA held that the words used by petitioners in their First Complaint, such as "manifestly unjust," "purely potestative condition," "void ab initio," "clearly contravenes morals, good customs and public policy," "whimsical," "capricious violation of the legal and inherent principles of mutuality of contracts," "illegal, invalid, unilateral impositions"—all of which pertained to interest imposed by the Bank—undeniably meant that petitioners were challenging the interest for being unconscionable, while opting to use other words of similar import.^[24]

Petitioners moved for reconsideration, but the CA denied their motion.^[25]

Aggrieved, they filed the instant Rule 45 Petition to assail the Decision of the CA affirming the non-issuance of the injunctive writ.

There are thus two (2) cases arising from similar facts and circumstances; more particularly, the instant Rule 45 Petition and the appeal of the dismissal of the main case with the CA.^[26] It appears on record also that on 12 November 2010, petitioners filed yet another Complaint dated 11 November 2010^[27] (Second Complaint) with the trial court. This time, they prayed for the nullification of the real estate mortgage, the extra-judicial foreclosure sale, and the subsequent proceedings, with a prayer for preliminary injunction and TRO.

With regard to the instant Rule 45 Petition, petitioners assail the Decision and Resolution of the CA based on the following grounds:^[28] (1) they were deprived of the opportunity to present evidence on their application for a writ of preliminary injunction; and (2) the CA erred when it required them to pay 12% interest per annum based on Section 2 of the Procedure on Foreclosure, when the core of their First Complaint was not excessiveness of the interest but the Bank's supposed breach of their obligations in the loan agreement.^[29]

Respondent Bank, on the other hand, countered as follows:^[30] (1) petitioner Spouses Arevalo were not denied due process, since they were accorded several opportunities to be heard on their application for the issuance of an injunctive writ; (2) the CA correctly required petitioners to pay the interest; and (3) petitioner Spouses Arevalo were guilty of forum-shopping when they filed their Second Complaint. For forum-shopping, respondent Bank likewise moved to hold them in contempt,^[31] arguing that they had sought similar reliefs in their Second Complaint with the trial court as in the present Petition.

Petitioners filed their Reply^[32] and Comment^[33] to the charges on contempt.

Based on the parties' submissions, the following issues are presented for the resolution of this Court:

1. Whether the requirement to pay 12% interest per annum before the issuance of an injunctive writ to enjoin an impending foreclosure sale is applicable to the instant case; and
2. Whether petitioner Spouses Arevalo are guilty of forum-shopping and should consequently be punished for contempt.

RULING OF THE COURT

- I. The issue of the applicability to this case of the requirement to pay 12% interest per annum before the issuance of an injunctive writ to enjoin an impending foreclosure sale is moot.**

The Court rules that upon dismissal of the First Complaint by the trial court on 27 October 2009,^[34] the issue of whether the writ of injunction should issue has become moot. Although both parties failed to raise this particular argument in their submissions, we deny the instant Petition on this ground.

A case becomes moot and academic when there is no more actual controversy between the parties or useful purpose that can be served in passing upon the merits.^[35]

There remains no actual controversy in the instant Petition because the First Complaint has already been dismissed by the trial court. Upon its dismissal, the question of the non-issuance of a writ of preliminary injunction necessarily died with it.

A writ of preliminary injunction is a provisional remedy. It is auxiliary to, an adjunct of, and subject to the outcome of the main case.^[36] Thus, a writ of preliminary injunction is deemed lifted upon dismissal of the main case, any appeal therefrom notwithstanding,^[37] as this Court emphasized in *Buyco v. Baraquia*^[38] from which we quote:

The writ is provisional because it constitutes a temporary measure availed of during the pendency of the action and it is ancillary because it is a mere incident in and is dependent upon the result of the main action.

It is well-settled that the sole object of a preliminary injunction, whether prohibitory or mandatory, is to preserve the status quo until the merits of the case can be heard. It is usually granted when it is made to appear that there is a substantial controversy between the parties and one of them is committing an act or threatening the immediate commission of an act that will cause irreparable injury or destroy the status quo of the controversy before a full hearing can be had on the merits of the case.

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The present case having been heard and found dismissible as it was in fact dismissed, the writ of preliminary injunction is deemed lifted, its purpose as a provisional remedy having been served, the appeal therefrom notwithstanding.

Unionbank v. Court of Appeals enlightens:

xxx a **dismissal, discontinuance or non-suit of an action in which a restraining order or temporary injunction has been granted operates as a dissolution of the restraining order or temporary injunction,**” regardless of whether the period for filing a motion for reconsideration of the order dismissing the case or appeal therefrom has expired. **The rationale therefor is that even in cases where an appeal is taken from a judgment dismissing an action on the merits, the appeal does not suspend the judgment, hence the**

general rule applies that a temporary injunction terminates automatically on the dismissal of the action. (Emphases supplied.)

[39]

There will be no practical value in resolving the question of the non-issuance of an injunctive writ in this case. Setting aside the assailed Orders is manifestly pointless, considering that the First Complaint itself has already been dismissed, and there is nothing left to enjoin. The reversal of the assailed Orders would have a practical effect only if the dismissal were set aside and the First Complaint reinstated.^[40] In this case, however, petitioner Spouses Arevalo admitted to the impossibility of the reinstatement of the First Complaint when they filed their Second Complaint.^[41]

Even petitioners' plea that this Court give due course to the Petition for a ruling on the proper application of the Procedure on Foreclosure^[42] cannot compel us to resolve this issue.

The Constitution provides that judicial power "includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable."^[43] The exercise of judicial power requires an actual case calling for it. The courts have no authority to pass upon issues through advisory opinions, or to resolve hypothetical or feigned problems or friendly suits collusively arranged between parties without real adverse interests.^[44] Furthermore, courts do not sit to adjudicate mere academic questions to satisfy scholarly interest, however intellectually challenging.^[45] As a condition precedent to the exercise of judicial power, an actual controversy between litigants must first exist.^[46] An actual case or controversy involves a conflict of legal rights, an assertion of opposite legal claims susceptible of judicial resolution, as distinguished from a hypothetical or abstract difference or dispute.^[47] There must be a contrariety of legal rights that can be interpreted and enforced on the basis of existing law and jurisprudence.^[48]

This Court cannot issue a mere advisory opinion in relation to the applicability of the provisions of the Procedure on Foreclosure.

II. Petitioners are guilty of forum-shopping.

Petitioners have committed two distinct acts of forum-shopping,^[49] namely: (1) petitioners willfully and deliberately went to different courts to avail themselves of multiple judicial remedies founded on similar facts and raising substantially similar reliefs, and (2) they did not comply with their undertaking to report the filing of the Second Complaint within five days from its filing.

A. Petitioners filed multiple suits based on similar facts while seeking similar reliefs—acts proscribed by the rules on forum-shopping.

We rule that petitioners were guilty of willful and deliberate forum-shopping when they filed their Second Complaint with the trial court insofar as they undertook to obtain similar reliefs as those sought in the instant Petition.