

SECOND DIVISION

[G.R. No. 162575, December 15, 2010]

**BEATRIZ SIOK PING TANG, PETITIONER, VS. SUBIC BAY
DISTRIBUTION, INC., RESPONDENT.**

D E C I S I O N

PERALTA, J.:

Before us is a petition for review on *certiorari* filed by petitioner Beatriz Siok Ping Tang seeking to annul and set aside the Decision^[1] dated October 17, 2003 and the Resolution^[2] dated March 5, 2004 of the Court of Appeals (CA) in CA-G.R. SP No. 74629.

The antecedent facts are as follows:

Petitioner is doing business under the name and style of Able Transport. Respondent Subic Bay Distribution, Inc. (SBDI) entered in two Distributorship Agreements with petitioner and Able Transport in April 2002. Under the Agreements, respondent, as seller, will sell, deliver or procure to be delivered petroleum products, and petitioner, as distributor, will purchase, receive and pay for its purchases from respondent. The two Agreements had a period of one year, commencing on October 2001 to October 2002, which shall continue on an annual basis unless terminated by either party upon thirty days written notice to the other prior to the expiration of the original term or any extension thereof.

Section 6.3 of the Distributorship Agreement provides that respondent may require petitioner to put up securities, real or personal, or to furnish respondent a performance bond issued by a bonding company chosen by the latter to secure and answer for petitioner's outstanding account, and or faithful performance of her obligations as contained or arising out of the Agreement. Thus, petitioner applied for and was granted a credit line by the United Coconut Planters Bank (UCPB), International Exchange Bank (IEBank), and Security Bank Corporation (SBC). Petitioner also applied with the Asia United Bank (AUB) an irrevocable domestic standby letter of credit in favor of respondent. All these banks separately executed several undertakings setting the terms and conditions governing the drawing of money by respondent from these banks.

Petitioner allegedly failed to pay her obligations to respondent despite demand, thus, respondent tried to withdraw from these bank undertakings.

Petitioner then filed with the Regional Trial Court (RTC) of Quezon City separate petitions^[3] against the banks for declaration of nullity of the several bank undertakings and domestic letter of credit which they issued with the application for the issuance of a temporary restraining order (TRO) and writ of preliminary injunction. The cases were later consolidated and were assigned to Branch 101.

Petitioner asked for the annulment of the bank undertakings/letter of credit which she signed on the ground that the prevailing market rate at the time of respondent's intended drawings with which petitioner will be charged of as interests and penalties is oppressive, exorbitant, unreasonable and unconscionable rendering it against public morals and policy; and that to make her automatically liable for millions of pesos on the bank undertakings, these banks merely required the submission of a mere certification from the company (respondent) that the customer (petitioner) has not paid its account (and its statement of account of the client) without first verifying the truthfulness of the alleged petitioner's total liability to the drawer thereon. Therefore, such contracts are oppressive, unreasonable and unconscionable as they would result in her obtaining several millions of liability.

On November 28, 2002, a hearing was conducted for the issuance of the TRO and the writ of preliminary injunction wherein the petitioner and the bank representatives were present. On query of the respondent Judge Normandie Pizarro (Judge Pizarro) to the bank representatives with regard to the eventual issuance of the TRO, the latter all replied that they will abide by the sound judgment of the court. The court then issued an Order^[4] granting the TRO and requiring petitioner to implead respondent as an indispensable party and for the latter to submit its position paper on the matter of the issuance of the injunction. Petitioner and respondent submitted their respective position papers.

On December 17, 2002, the RTC rendered an Order,^[5] the dispositive portion of which reads:

ACCORDINGLY, let a Writ of Preliminary Injunction be issued restraining and enjoining herein Respondent UCPB, IEB, SB and AUB from releasing any funds to SBDI, pursuant to the Bank Undertakings and/or Domestic Standby Letter of Credit until further orders from this Court. Consequently, Petitioner is hereby DIRECTED to post a bond in the amount of TEN MILLION PESOS (P10,000,000.00), to answer for whatever damages respondent banks and SBDI may suffer should this Court finally decide that petitioner was not entitled thereto. ^[6]

The RTC found that both respondent and petitioner have reasons for the enforcement or non-enforcement of the bank undertakings, however, as to whether said reasons were justifiable or not, in view of the attending circumstances, the RTC said that these can only be determined after a full blown trial. It ruled that the outright denial of petitioner's prayer for the issuance of injunction, even if the evidence warranted the reasonable probability that real injury will occur if the relief for shall not be granted in favor of petitioner, will not serve the ends of justice.

Respondent filed with the CA a petition for *certiorari* with prayer for the issuance of a TRO and writ of preliminary injunction against respondent Judge Pizarro and petitioner. Subsequently, petitioner filed her Comment and respondent filed its Reply.

On July 4, 2003, the CA issued a Resolution^[7] granting the TRO prayed for by respondent after finding that it was apparent that respondent has a legal right under the bank undertakings issued by UCPB, SBC, and IEBank; and that until those

undertakings were nullified, respondent's rights under the same should be maintained.

On July 11, 2003, the CA issued a Supplemental Resolution^[8] wherein the Domestic Standby Letter of Credit issued by AUB was ordered included among the bank undertakings, to which respondent has a legal right.

On October 17, 2003, the CA rendered its assailed Decision, the decretal portion of which reads:

WHEREFORE, the petition is hereby GRANTED. The Order dated December 17, 2002 is hereby ANNULLED AND SET ASIDE. The writ of preliminary injunction issued by the lower court is hereby LIFTED.^[9]

In so ruling, the CA said that the grant or denial of an injunction rests on the sound discretion of the RTC which should not be intervened, except in clear cases of abuse. Nonetheless, the CA continued that the RTC should avoid issuing a writ of preliminary injunction which would, in effect, dispose of the main case without trial. It found that petitioner was questioning the validity of the bank undertakings and letter of credit for being oppressive, unreasonable and unconscionable. However, as provided under the law, private transactions are presumed to be fair and regular and that a person takes ordinary care of his concerns. The CA ruled that the RTC's issuance of the injunction, which was premised on the abovementioned justification, would be a virtual acceptance of petitioner's claim, thus, already a prejudgment of the main case. It also said that contracts are presumed valid until they are voided by a court of justice, thus, until such time that petitioner has presented sufficient evidence to rebut such presumption, her legal right to the writ is doubtful.

As to petitioner's claim of respondent's non-filing of a motion for reconsideration before resorting to a petition for *certiorari*, the CA said that it is not a rigid rule, as jurisprudence had said, that when a definite question has been properly raised, argued and submitted in the RTC and the latter had decided the question, a motion for reconsideration is no longer necessary before filing a petition for *certiorari*. The court found that both parties had fully presented their sides on the issuance of the writ of preliminary injunction and that the RTC had squarely resolved the issues presented by both parties. Thus, respondent could not be faulted for not filing a motion for reconsideration.

In a Resolution dated March 5, 2004, petitioner's motion for reconsideration was denied.

Hence, this petition, wherein petitioner raises the following assignment of errors:

I. THE HONORABLE COURT OF APPEALS A *QUO* COMMITTED A SERIOUS AND REVERSIBLE ERROR IN GIVING DUE COURSE AND GRANTING THE PETITION FOR *CERTIORARI* FILED BY PRIVATE RESPONDENT SBDI, DESPITE THE FACT THAT THE ORIGINAL PARTIES IN THE TRIAL COURT, WHO ARE EQUALLY MANDATED BY THE QUESTIONED ORDER OF THE TRIAL COURT, NAMELY; UCPB, IEBANK, SBC AND AUB, AS DEFENDANTS

IN THE MAIN CASE, WERE NOT IMPEADED AS INDISPENSABLE PARTIES IN THE PETITION.

II. THE HONORABLE COURT OF APPEALS A *QUO* COMMITTED A SERIOUS AND REVERSIBLE ERROR IN GIVING DUE COURSE AND GRANTING PRIVATE RESPONDENT SBDI'S PETITION WHEN THE LATTER ADMITTEDLY FAILED TO FILE A PRIOR MOTION FOR RECONSIDERATION BEFORE THE TRIAL COURT, MORESO WHEN INDISPENSABLE PARTIES WERE NOT IMPEADED WHICH SHOULD HAVE RENDERED THE COURT OF APPEALS IN WANT OF JURISDICTION TO ACT.^[10]

Petitioner claims that the CA decision is void for want of authority of the CA to act on the petition as the banks should have been impleaded for being indispensable parties, since they are the original party respondents in the RTC; that the filing with the CA of respondent's petition for *certiorari* emanated from the RTC Order wherein the banks were the ones against whom the questioned Order was issued; that the banks are the ones who stand to release hundred millions of pesos which respondent sought to draw from the questioned bank undertakings and domestic standby letter of credit through the *certiorari* proceedings, thus, they should be given an opportunity to be heard. Petitioner claims that even the CA recognized the banks' substantial interest over the subject matter of the case when, despite not being impleaded as parties in the petition filed by respondent, the CA also notified the banks of its decision.

Petitioner argues that a petition for *certiorari* filed without a prior motion for reconsideration is a premature action and such omission constitutes a fatal infirmity; that respondent explained its omission only when petitioner already brought the same to the attention of the CA, thus, a mere afterthought and an attempt to cure the fatal defects of its petition.

In its Comment, respondent contends that the banks which issued the bank undertakings and letter of credit are not indispensable parties in the petition for *certiorari* filed in the CA. Respondent argues that while the RTC preliminarily resolved the issue of whether or not petitioner was entitled to an injunctive relief, and the enforcement of any decision granting such would necessarily involve the banks, the resolution of the issue regarding the injunction does not require the banks' participation. This is so because on one hand the entitlement or non-entitlement to an injunction is a matter squarely between petitioner and respondent, the latter being the party that is ultimately enjoined from benefiting from the banks' undertakings. On the other hand, respondent contends that the issue resolved by the CA was whether or not the RTC gravely abused its discretion in granting the injunctive relief to respondent; that while the enforcement of any decision enjoining the implementation of the injunction issued by the RTC would affect the banks, the resolution of whether there is grave abuse of discretion committed by the RTC does not require the banks' participation.

Respondent claims that while as a rule, a motion for reconsideration is required before filing a petition for *certiorari*, the rule admits of exceptions, which are, among others: (1) when the issues raised in the *certiorari* proceedings have been duly raised and passed upon by the RTC or are the same as those raised and passed upon in the RTC; (2) there is an urgent necessity and time is of the essence for the

resolution of the issues raised and any further delay would prejudice the interests of the petitioner; and (3) the issue raised is one purely of law, which are present in respondent's case.

In her Reply, petitioner claims that the decree that will compel and order the banks to release any funds to respondent pending the resolution of her petition in the RTC will have an injurious effect upon her rights and interest. She reiterates her arguments in her petition.

Respondent filed a Rejoinder saying that it is misleading for petitioner to allege that the decree sought by respondent before the CA is directed against the banks; that even the dispositive portion of the CA decision did not include any express directive to the banks; that there was nothing in the CA decision which compelled and ordered the banks to release funds in favor of respondent as the CA decision merely annulled the RTC Order and lifted the writ of preliminary injunction. Respondent contends that the banks are not persons interested in sustaining the RTC decision as this was obvious from the separate answers they filed in the RTC wherein they uniformly maintained that the bank undertakings/letter of credit are not oppressive, unreasonable and unconscionable. Respondent avers that petitioner is the only person interested in upholding the injunction issued by the RTC, since it will enable her to prevent the banks from releasing funds to respondent. Respondent insists that petitioner's petition before the RTC and the instant petition have caused and continues to cause respondent grave and irreparable damage.

Both parties were then required to file their respective memoranda, in which they complied.

Petitioner's insistence that the banks are indispensable parties, thus, should have been impleaded in the petition for *certiorari* filed by respondent in the CA, is not persuasive.

In *Arcelona v. Court of Appeals*,^[11] we stated the nature of indispensable party, thus:

An indispensable party is a party who has such an interest in the controversy or subject matter that a final adjudication cannot be made, in his absence, without injuring or affecting that interest, a party who has not only an interest in the subject matter of the controversy, but also has an interest of such nature that a final decree cannot be made without affecting his interest or leaving the controversy in such a condition that its final determination may be wholly inconsistent with equity and good conscience. It has also been considered that an indispensable party is a person in whose absence there cannot be a determination between the parties already before the court which is effective, complete, or equitable. Further, an indispensable party is one who must be included in an action before it may properly go forward.

A person is not an indispensable party, however, if his interest in the controversy or subject matter is separable from the interest of the other parties, so that it will not necessarily be directly or injuriously affected by a decree which does complete justice between them. Also, a person is