

THIRD DIVISION

[G.R. No. 163344, March 20, 2009]

VILLARICA PAWNSHOP, INC., REPRESENTED BY ATTY. HENRY R. VILLARICA, MARIA CONSOLACION VALMADRID AND RAFAEL VALMADRID TAN, PETITIONERS, SPOUSES ROGER G. GERNALE AND NORAZON C. GERNALE, FAR EAST BANK & TRUST CO. (NOW BANK OF THE PHILIPPINE ISLANDS) AND THE REGISTER OF DEEDS OF MEYCAUAYAN, BULACAN, RESPONDENTS.

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Before the Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Decision^[1] of the Court of Appeals (CA) promulgated on January 26, 2004 and its Resolution^[2] dated April 22, 2004 in CA-G.R. SP No. 74967. The assailed Decision reversed and set aside the Orders dated September 10, 2002 and November 27, 2002 of the Regional Trial Court (RTC) of Malolos, Bulacan, Branch 10, in Civil Case No. 502-M-2002; while the questioned Resolution denied the Motion for Reconsideration of Villarica Pawnshop, Inc. (Villarica) represented by Atty. Henry R. Villarica, Maria Consolacion Valmadrid (Valmadrid) and Rafael Valmadrid Tan (Tan) [hereinafter collectively referred to as petitioners].

The facts of the case are as follows:

On May 29, 2002, herein respondent spouses Roger and Corazon Gernale (Gernale spouses) filed with the Regional Trial Court (RTC) of Malolos, Bulacan a Complaint for Quieting of Title and Damages^[3] against Villarica. The case was docketed as Civil Case No. 438-M-2002 and assigned to Branch 18 of RTC, Malolos.

The Gernale spouses alleged that on April 16, 1978, they purchased two parcels of land located at Marilao, Bulacan from Valmadrid as evidenced by two deeds of sale of even date; subsequently, they sought to register the sale and cause the transfer of the title to their names, but they failed because the then acting Register of Deeds of Marilao, Bulacan informed them that Transfer Certificate of Title (TCT) Nos. 90266 and 90267 covering the subject lots were among those totally burned during a conflagration that took place on March 7, 1987; on June 20, 1994 the Gernale spouses filed a petition for the reconstitution of the original copy of TCT Nos. 90266 and 90267; their petition was granted and the reconstituted titles TCT Nos. RT-46962(90266) and RT-46963(90267) were issued; by virtue of the deed of sale in favor of the Gernales, TCT Nos. T-286452(M) and T-286453(M) were subsequently issued in their names in 1996; thereafter, the Gernale spouses saw representatives of Villarica fencing the said properties; upon verification with the Registry of Deeds of Meycauayan, Bulacan, respondent spouses discovered that TCT Nos. T-225971(M) and T-225972(M), covering the same parcels of land which they bought, were issued in the name of Villarica in 1995; and the titles of Villarica were void, as the issuance

thereof proceeded from an illegal source. The Gernales prayed that the TCTs in the name of Villarica as well as all documents and conveyances relevant thereto be declared null and void, and that Villarica be ordered to pay them moral and exemplary damages and attorney's fees.

On July 1, 1998, the Gernale spouses mortgaged the subject properties to then Far East Bank & Trust Company, now Bank of the Philippine Islands (BPI).

On July 3, 2002, Villarica filed its Answer with Counterclaim^[4] denying the material allegations of the Complaint and contending in its special and affirmative defenses that it was the registered owner of 10 adjoining lots denominated as Lots 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22, with a total area of 3,102 square meters located at the De Castro Subdivision in Ibayo, Marilao, Bulacan; Lots 13, 14, 15, 16, 17 and 18 were purchased from Valmadrid on May 23, 1995; while Lots 19, 20, 21 and 22 were bought from Tan on even date; on June 7, 1995, separate and individual TCTs were issued for each lot; from May 23, 1995 up to the filing of its Answer, Villarica had been in actual, open, physical and continuous possession of the 10 lots, and it had been regularly paying real estate taxes thereon; Lots 13 and 14 were the parcels of land being claimed by the Gernale spouses; the deeds of sale in favor of the Gernale spouses which were supposedly executed on April 16, 1978 were fake; in her affidavit, Valmadrid denied having met or known respondent spouses or having sold Lots 13 and 14 to them; she claimed in said affidavit that her signature appearing in the Deed of Sale in favor of the Gernale spouses was falsified; and it was only in 1996 that the said Deed of Sale was registered with the Registry of Deeds of Meycauayan, Bulacan. As counterclaim, Villarica alleged that the Gernale spouses were guilty of malicious prosecution, and that they should be made liable for moral and exemplary damages as well as attorney's fees, litigation expenses and cost of suit.

Meanwhile, on June 25, 2002, petitioners filed with the RTC of Malolos, Bulacan, Branch 10, a Complaint,^[5] docketed as Civil Case No. 502-M-2002, for annulment and cancellation of titles and for damages against herein respondents. Petitioners raised material allegations which were substantially the same as the special and affirmative defenses contained in Villarica's Answer to the Complaint filed by the Gernales. However, in addition to the Gernale spouses, petitioners impleaded the Register of Deeds of Meycauayan, Bulacan as defendant, alleging that through connivance with respondent Roger Gernale or through manifest partiality, evident bad faith or gross inexcusable negligence, it caused the irregular, anomalous and unlawful issuance of TCT Nos. T-286452 and T-286453. Petitioners also impleaded BPI as additional defendant on the ground that, as a mortgagor, it was a real party-in-interest as well as a necessary party, because it stood to be benefited or injured by the judgment in the suit; and that its participation was necessary for a complete determination or settlement of the claim subject of the action. Petitioners prayed that the two deeds of sale, both dated April 16, 1978, and executed in favor of the Gernale spouses, be declared null and void; TCT Nos. T-286452 and T-286453 issued by the Registry of Deeds of Meycauayan, Bulacan in the name of the Gernale spouses be annulled and cancelled; the real estate mortgage executed by the Gernales in favor of BPI be declared null and void; and the Gernales be held liable for moral and exemplary damages, as well as attorney's fees, litigation expenses and cost of suit. The case was docketed as Civil Case No. 502-M-2002 and assigned to Branch 10 of RTC, Malolos.

On July 30, 2002, the Gernale spouses filed a Motion to Dismiss Civil Case No. 502-M-2002,^[6] contending that petitioners' allegations in their Complaint were identical with its allegations in its Answer with Counterclaim, and that all the elements of *litis pendentia* were present in the said cases. Respondent spouses also argued that the remedy of annulment and cancellation of titles was inefficacious and contrary to procedure, as the proper remedy was the filing of an action for quieting of title as had been done by them in Civil Case No. 438-M-2002.

Petitioners filed their Opposition to Motion to Dismiss^[7] asserting that the elements of *litis pendentia* were not present in the subject cases.

In its Order^[8] dated September 10, 2002, the RTC denied the Motion to Dismiss filed by the Gernale spouses and directed them to file their answer to petitioners' Complaint. Respondent spouses filed a Motion for Reconsideration,^[9] but the RTC denied it in its Order^[10] of November 27, 2002.

On January 17, 2003, the Gernales filed a petition for *certiorari* and *mandamus* with the CA questioning the September 10, 2002 and November 27, 2002 Orders of the RTC and reiterating their contention that *litis pendentia* existed.

On January 26, 2004, the CA rendered the presently assailed Decision, the dispositive portion of which reads as follows:

WHEREFORE, the petition for certiorari is hereby **GRANTED**. The assailed Orders of respondent Judge denying petitioners' motion to dismiss Civil Case No. 502-M-2002 is now reversed and set aside. Accordingly, public respondent is directed to dismiss Civil Case No. 502-M-2002 on the ground of *litis pendentia*.

SO ORDERED.^[11]

Petitioners filed a Motion for Reconsideration, but it was denied by the CA in its Resolution^[12] dated April 22, 2004.

Hence, herein petition based on the following Assignment of Errors:

1. CONTRARY TO THE SWEEPING, MANIFESTLY ERRONEOUS AND HIGHLY ARBITRARY CONCLUSION OF THE COURT OF APPEALS, THE TRIAL COURT DID NOT COMMIT ANY ABUSE OF DISCRETION OR EVEN ERROR OF JUDGMENT IN CORRECTLY, FAIRLY AND JUSTIFIABLY DENYING THE "MOTION TO DISMISS" OF RESPONDENTS ROGER G. GERNALE AND CORAZON C. GERNALE AND IN DIRECTING THEM TO ANSWER THE COMPLAINT OF THE PETITIONERS IN CIVIL CASE NO. 502-M-2002.
2. CONTRARY TO THE SWEEPING, MANIFESTLY ERRONEOUS AND HIGHLY ARBITRARY CONCLUSION OF THE COURT OF APPEALS, THERE IS CLEARLY AND EVIDENTLY NO "LITIS PENDENCIA" (sic) BETWEEN CIVIL CASE NO. 502-M-2002 WHERE ALL THE HEREIN PETITIONERS ARE THE PLAINTIFFS AND WHERE RESPONDENTS

GERNALES, FAR EAST BANK AND TRUST CO. (BPI) ARE THE DEFENDANTS, AND CIVIL CASE. NO. 438-M-2002 WHERE RESPONDENTS GERNALES ARE THE PLAINTIFFS AND WHERE VILLARICA PAWNSHOP, INC. IS THE ONLY DEFENDANT.^[13]

which boils down to the basic question of whether there is *litis pendentia* involving Civil Case Nos. 502-M-2002 and 438-M-2002.

However, before proceedings to resolve the main issue, we shall first address the question of whether the petition for *certiorari* filed by respondents with the CA was the proper remedy to question the orders of the RTC, which denied their motion to dismiss and their subsequent motion for reconsideration.

Petitioners contend that the CA erred in granting the Gernale spouses's petition for *certiorari*, because what was being questioned in the said petition was the September 10, 2002 Order of the RTC, which denied the Gernales's motion to dismiss Civil Case No. 502-M-2002 and the November 27, 2002 RTC Order which denied their motion for reconsideration. Petitioners aver that these are interlocutory orders which cannot be questioned in a petition for *certiorari*, and that the proper procedural remedy is to file an answer, go to trial, and if the decision is adverse, reiterate the same on appeal from the final judgment.

The petition lacks merit.

While indeed, the general rule is that the denial of a motion to dismiss cannot be questioned in a special civil action for *certiorari* which is not intended to correct every controversial interlocutory ruling,^[14] and that the appropriate recourse is to file an answer and to interpose as defenses the objections raised in the motion, to proceed to trial, and, in case of an adverse decision, to elevate the entire case by appeal in due course,^[15] this rule is not absolute.

Even when appeal is available and is the proper remedy, the Supreme Court has allowed a writ of *certiorari* (1) where the appeal does not constitute a speedy and adequate remedy; (2) **where the orders were also issued either in excess of or without jurisdiction or with grave abuse of discretion**; (3) for certain special considerations, as public welfare or public policy; (4) where in criminal actions, the court rejects rebuttal evidence for the prosecution as, in case of acquittal, there could be no remedy; (5) where the order is a patent nullity; and (6) **where the decision in the *certiorari* case will avoid future litigations.**^[16]

As will be shown forthwith, the CA correctly held that the RTC committed grave abuse of discretion in issuing its assailed orders. Moreover, the assailed decision of the CA will avoid future litigations that may arise from the judgments that will be issued by the trial courts where Civil Case Nos. 438-M-2002 and 502-M-2002 are pending. More importantly, it would avoid the possibility of conflicting decisions by these courts.

We now come to the main issue.

Litis pendentia as a ground for the dismissal of a civil action refers to that situation wherein another action is pending between the same parties for the same cause of

action, such that the second action becomes unnecessary and vexatious.^[17]

The underlying principle of *litis pendentia* is the theory that a party is not allowed to vex another more than once regarding the same subject matter and for the same cause of action.^[18]

This theory is founded on the public policy that the same subject matter should not be the subject of controversy in courts more than once, in order that possible conflicting judgments may be avoided for the sake of the stability of the rights and status of persons.^[19]

The requisites of *litis pendentia* are: (a) the identity of parties, or at least such as representing the same interests in both actions; (b) the identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (c) the identity of the two cases such that judgment in one, regardless of which party is successful, would amount to *res judicata* in the other.^[20]

With respect to the first requisite, the Court finds no error in the ruling of the CA that there is identity of parties in Civil Case Nos. 438-M-2002 and 502-M-2002. It is true that in Civil Case No. 502-M-2002, Valmadrid and Tan were added as plaintiffs, while BPI and the Register of Deeds of Meycauayan, Bulacan were added as defendants. However, identity of parties does not mean total identity of parties in both cases.^[21] It is enough that there is substantial identity of parties.^[22] The inclusion of new parties in the second action does not remove the case from the operation of the rule of *litis pendentia*.^[23] What is primordial is that the primary litigants in the first case are also parties to the second action.^[24] A different rule would render illusory the principle of *litis pendentia*.^[25] The facility of its circumvention is not difficult to imagine given the resourcefulness of lawyers.^[26] The fact that new parties were included in Civil Case No. 502-M-2002 does not detract from the fact that the principal litigants, Villarica and the Gernale spouses, are the same in both cases. Besides, it is clear that Valmadrid and Tan, being the previous owners from whom Villarica bought the subject properties, represent the same interests as the latter. On the other hand, the Register of Deeds of Meycauayan, Bulacan was impleaded merely as a nominal party.

With respect to the second and third requisites, hornbook is the rule that identity of causes of action does not mean absolute identity;^[27] otherwise, a party could easily escape the operation of *res judicata* by changing the form of the action or the relief sought.^[28] The test to determine whether the causes of action are identical is to ascertain whether the same evidence will sustain both actions, or whether there is an identity in the facts essential to the maintenance of the two actions.^[29] If the same facts or evidence would sustain both, the two actions are considered the same, and a judgment in the first case is a bar to the subsequent action.^[30] Hence, a party cannot, by varying the form of action or adopting a different method of presenting his case, escape the operation of the principle that one and the same cause of action shall not be twice litigated between the same parties or their privies.^[31]

Civil Case No. 438-M-2002 is for quieting of title and damages, while Civil Case No.