

SECOND DIVISION

[G.R. No. 130088, April 07, 2009]

TALA REALTY SERVICES CORPORATION, ADD INTERNATIONAL SERVICES, INC., PEDRO AGUIRRE, REMEDIOS DUPASQUIER, ELIZABETH PALMA, PILAR ONGKING, DOLLY LIM, AND RUBENCITO DEL MUNDO, PETITIONERS, VS. THE HON. COURT OF APPEALS AND BANCO FILIPINO SAVINGS AND MORTGAGE BANK, RESPONDENTS.

[G.R. No. 131469]

TALA REALTY SERVICES CORPORATION, ADD INTERNATIONAL SERVICES, INC., PEDRO AGUIRRE, REMEDIOS DUPASQUIER, ELIZABETH PALMA, PILAR ONGKING, DOLLY LIM, AND RUBENCITO DEL MUNDO, PETITIONERS, VS. HON. ALICIA B. GONZALES-DECANO, IN HER CAPACITY AS PRESIDING JUDGE, REGIONAL TRIAL COURT OF PANGASINAN, BRANCH 48 AND BANCO FILIPINO SAVINGS AND MORTGAGE BANK, RESPONDENTS.

[G.R. No. 155171]

NANCY L. TY, PETITIONER, vs. HON. WENCESLAO E. IBABAO, PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF DAVAO CITY, BRANCH 33 AND BANCO FILIPINO SAVINGS AND MORTGAGE BANK, RESPONDENTS.

[G.R. No. 155201]

TALA REALTY SERVICES, INC., PEDRO AGUIRRE, REMEDIOS A. DUPASQUIER, DOLLY LIM, RUBENCITO DEL MUNDO AND ELIZABETH PALMA, PETITIONERS, VS. BANCO FILIPINO SAVINGS AND MORTGAGE BANK, RESPONDENT.

[G.R. No. 166608]

TALA REALTY SERVICES CORP., INC., PEDRO B. AGUIRRE, REMEDIOS A. DUPASQUIERE, DOLLY LIM, RUBENCITO M. DEL MUNDO AND ELIZABETH H. PALMA, PETITIONERS, VS. BANCO FILIPINO SAVINGS AND MORTGAGE BANK, RESPONDENT.

D E C I S I O N

CARPIO MORALES, J.:

From 1995-1996, Banco Filipino Savings and Mortgage Bank (Banco Filipino) which is a respondent in these five consolidated cases, filed before 17 Regional Trial Courts (RTC) nationwide 17 complaints for reconveyance of different properties against petitioners Tala Realty Services Corporation (Tala Realty), Nancy L. Ty (Nancy), Pedro B. Aguirre, Remedios A. Dupasquier (Remedios), Pilar D. Ongking (Pilar), Elizabeth H. Palma (Elizabeth), Dolly W. Lim (Dolly), Rubencito M. Del Mundo (del Mundo), Add International Services, Inc. (Add International), and Cynthia E. Messina (Cynthia).

Banco Filipino's complaints commonly alleged that in 1979, expansion of its operations required the purchase of real properties for the purpose of acquiring sites for more branches; that as Sections 25(a) and 34 of the General Banking Act^[1] limit a bank's allowable investments in real estate to 50% of its capital assets,^[2] its board of directors decided to warehouse some of its existing properties and branch sites. Thus, Nancy, a major stockholder and director, persuaded Pedro Aguirre and his brother Tomas Aguirre, both major stockholders of Banco Filipino, to organize and incorporate Tala Realty to hold and purchase real properties in trust for Banco Filipino; that after the transfer of Banco Filipino properties to Tala Realty, the Aguirres' sister Remedios prodded her brother Tomas to, as he did, endorse to her his shares in Tala Realty and registered them in the name of her controlled corporation, Add International.

Thus, Nancy, Remedios, and Pedro Aguirre controlled Tala Realty, with Nancy exercising control through her nominees Pilar, Cynthia, and Dolly, while Remedios exercised control through Add International and her nominee Elizabeth. Pedro Aguirre exercised control through his own nominees, the latest being Tala Realty's president, del Mundo.

In implementation of their trust agreement, Banco Filipino sold to Tala Realty some of its properties. Tala Realty simultaneously leased to Banco Filipino the properties for 20 years, renewable for another 20 years at the option of Banco Filipino with a right of first refusal in the event Tala Realty decided to sell them.

In August 1992, Tala Realty repudiated the trust, claimed the titles for itself, and demanded payment of rentals, deposits, and goodwill, with a threat to eject Banco Filipino.

Thus arose Banco Filipino's 17 complaints for reconveyance against Tala Realty, docketed and raffled to the branches of the courts to which they were filed, viz:

Case No.	Regional Trial Court (RTC)
Civil Case No. 95-127	Branch 57, Lucena
Civil Case No. 22493	Branch 28, Iloilo
Civil Case No. 545-M-95	Branch 84, Batangas City
Civil Case No. U-6026	Branch 48, Urdaneta, Pangasinan
Civil Case No. 4992	Branch 66, La Union

Civil Case No. 3036	Branch 13, Cotabato
Civil Case No. Q-95-24830	Branch 91, Quezon City
Civil Case No. 2506-MN	Branch 72, Malabon, Metro Manila
Civil Case No. 95-230	Branch 274, Parañaque
Civil Case No. 95-170-MK	Branch 272, Marikina
Civil Case No. 95-75212	Branch 45, Manila
Civil Case No. 95-75213	Branch 46, Manila
Civil Case No. 95-75214	Branch 47, Manila
Civil Case No. 23,821-95	Branch 33 Davao City
Civil Case No. 96-0036	Branch 255, Las Piñas
Civil Case No. 2176-AF	Branch 86, Cabanatuan City

Petitioners filed motions to dismiss all the complaints on the grounds of forum shopping, lack of cause of action, and pari delicto.^[3]

The present petitions (G.R. Nos. 130088, 131469, 166608, 155201, 155171) originated from Civil Case Nos. 2176-AF (the Cabanatuan City case), U-6026 (the Urdaneta case), 95-127 (the Lucena case), and 23, 821-95 (the Davao City case).

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In the Cabanatuan City case, the RTC granted petitioners' Motion to Dismiss^[4] by Order of August 20, 1996. Banco Filipino filed a Motion for Reconsideration, which was denied,^[5] drawing it to file a Petition for Certiorari and Mandamus^[6] before the Court of Appeals which docketed it as CA-G.R. SP No. 43344.

By Resolution^[7] of February 14, 1997, the Court of Appeals, finding CA-G.R. SP No. 43344 sufficient in form and substance, gave due course to it and ordered petitioners to file their Answer within ten days from notice.

Petitioners filed a motion to recall the appellate court's February 14, 1997 Resolution giving due course to the petition,^[8] arguing as follows:

Upon [Banco Filipino's] own admission, x x x its instant petition is a plea for the annulment of a lower court order granting a motion to dismiss. At the same time, [Banco Filipino] admits to have received the said order "on 17 January 1997," or, to be precise, twenty one (21) days prior to the institution of its instant petition with this Court (assuming the same to have been filed on its given date, February 2, 1997).

On the foregoing considerations alone, therefore, the mandatory, legal duty of this Court is to deny, not to grant, due course to this special civil action. x x x

x x x x

In the case on hand, [Banco Filipino] itself alleges that it received a copy of the Order dismissing its complaint on 23 August 1996,. Against this Order, it then filed on 7 September 1996 (the last day for perfecting an appeal therefrom) a motion for reconsideration which herein Respondent Judge denied on 13 January 1997. Petitioner received a copy of this Order denying its above motion 17 January 1997, Petitioner thus had only one or the following day, 18 July 1997, to file its mandatory "notice of appeal". Thereafter, beyond 18 January 1997, the said Order lapsed into finality. It was no longer legally appealable.^[9] (Underscoring in the original)

And petitioners brought to the attention of the Court of Appeals the pendency of G.R. No. 12711 before this Court, questioning the denial of their motion to dismiss in Civil Case No. 545-M-95 (the Batangas case), contending as follows:

[Banco Filipino] tenders one and only one issue in its instant petition, to wit: Did or did not Respondent Judge gravely abuse his discretion when he dismissed its complaint with him under Civil Case No. 2176-AF as violative of the Supreme Court's Administrative Circular on "forum shopping?"

The instant petition was filed with this Court on 07 February 1997. On this date, exactly the same issue above raised was already before the Supreme Court for ruling and/or judicial determination. Two weeks earlier, on 20 July 1997 to be exact, herein Private Respondents filed with the said Tribunal under G.R. No. 12711 a special civil action for certiorari and prohibition that precisely and specifically prayed for the condemnation of [Banco Filipino's] complaint with the Cabanatuan RTC, Branch 86, under Civil Case No. 2176-AF, (the very complaint involved in this petition, together with fifteen (15) other like suits, as "forum shopping." x x x^[10]

x x x x

[Banco Filipino] received its service copy of the above petition on 25 January 1997. On 7 February 1997 when it filed with this Court the instant petition, said Petitioner was thus already on full and official notice of the said petition with the Supreme Court under G.R. No. 127611. Entirely apart then from the undeniable fact that the instant petition thus likewise breaches the Supreme Court's circular against "forum shopping", there is the matter of [Banco Filipino's] criminal perjury in this case of attesting under oath that "no other action or proceeding is pending in any other court, tribunal or agency" x x x "involving the same issues" as those tendered in the instant petition.^[11]

The Court of Appeals denied the Motion to Recall by Resolution of June 17, 1997, declaring that its February 14, 1997 Resolution stands but the Answer should be submitted within ten days from notice. Hence, the first above-captioned petition for certiorari, and prohibition (G.R. No. 130088)^[12] raising the following arguments:

Respondent Court issued its two assailed Resolutions in knowing disregard of the prior jurisdiction much earlier assumed by this Court over the matters subject of its said Resolutions.^[13]

x x x x

In undisguised disdain and defiance of This Court's doctrinal instructions, Respondent Court substituted certiorari for a lost appeal.^[14]

x x x x

Respondent Court's determination that [Banco Filipino's] subject petition was "sufficient [in form] and substance" was in fact a mere cover of its whimsical prejudgment of the said petition as meritorious.^[15]

x x x x

Respondent Court issued its two Resolutions subject of this petition knowing that it was effectively undoing, or at least putting to ridicule and disrepute an earlier judgment of its co-equal Division of the Court of Appeals.^[16]

In its Comment,^[17] Banco Filipino argued that certiorari is not the appropriate remedy.^[18]

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In the Urdaneta case, the RTC denied petitioners' Motion to Dismiss by Order of March 13, 1996, finding that the questions presented therein are not indubitable, hence, holding in abeyance its resolution thereon until after the trial of the case.^[19] Petitioners' Motion for Reconsideration was denied.^[20]

In the meantime, as the 1997 Rules of Civil Procedure were promulgated, effective July 1, 1997, petitioners filed a motion^[21] urging the RTC to resolve the issues raised in the Motion to Dismiss, citing Rule 16, Section 3 of 1997 Rules of Civil Procedure which provides that "The court shall not defer the resolution of the motion for the reason that the ground relied upon is not indubitable." The RTC denied the motion, the orders denying the Motion to Dismiss and the Motion for Reconsideration having already become final and, in any event, petitioners had already filed their Answers.^[22] Petitioners filed a Motion for Reconsideration of the denial of their Motion for Reconsideration, contending that as the orders were interlocutory, they could not have gained finality. The motion was denied.^[23] Hence, the second above-captioned petition for certiorari, prohibition, and mandamus (G.R. No. 131469), contending that: