

SECOND DIVISION

[G.R. No. 163117, December 18, 2009]

EQUITABLE PCI BANK, INC., PETITIONER, VS. MARIA LETICIA FERNANDEZ AND ALICE SISON VDA. DE FERNANDEZ, RESPONDENTS.

D E C I S I O N

CARPIO, J.:

The Case

This is a petition for review^[1] of the 29 October 2003^[2] and 1 April 2004^[3] Resolutions of the Court of Appeals in CA-G.R. SP No. 79804. In its 29 October 2003 Resolution, the Court of Appeals dismissed petitioner Equitable PCI Bank, Inc.'s (EPCIB)^[4] petition for certiorari and affirmed the 28 January 2003^[5] Order of the Regional Trial Court of Urdaneta City, Branch 45 (trial court), granting respondents Maria Leticia Fernandez and Alice Sison Vda. de Fernandez's (respondents) application for a writ of preliminary injunction. In its 1 April 2004 Resolution, the Court of Appeals denied EPCIB's motion for reconsideration.

The Facts

From 1998 to 2000, EPCIB extended several loans to respondents totaling P26,200,000. The loans were evidenced by several promissory notes executed by respondents in favor of EPCIB.^[6] The loans were also secured by real estate mortgages over five parcels of land covered by Transfer Certificate of Title Nos. 182321, 182866 and 182867, registered in the name of respondents, and Transfer Certificate of Title Nos. 224062 and 224063, registered in the name of Alice Sison Vda. de Fernandez.^[7]

The promissory notes matured and, despite demands by EPCIB, respondents failed to pay the loans. On 22 October 2002, pursuant to the provisions of the Deeds of Real Estate Mortgage, EPCIB filed a petition for the extra-judicial foreclosure of the mortgaged properties before the Office of the Clerk of Court, Urdaneta City.^[8] After due notice and publication, the foreclosure sale was scheduled on 16 December 2002.^[9]

On 11 December 2002, respondents filed with the trial court a complaint for annulment of real estate mortgages, notice of extra-judicial sale and foreclosure proceedings with application for a temporary restraining order or writ of injunction against EPCIB and Sheriff IV Crisanto M. Parajas.^[10]

On 16 December 2002, the trial court issued a 20-day temporary restraining order to enjoin the foreclosure sale.^[11] The trial court also set the hearing of respondents'

application for a writ of preliminary injunction on 6 January 2003.

On 28 January 2003, the trial court issued the writ of preliminary injunction enjoining the foreclosure of respondents' properties pending the final disposition of the case. The trial court's 28 January 2003 Order provides:

WHEREFORE, let a Writ of Preliminary Injunction be issued ordering the defendants bank and Sheriff and all persons acting under them to cease and desist from conducting the extrajudicial foreclosure with sale of the properties of the plaintiffs covered by TCT Nos. 224062, 224063, 182321, 182866 and 182867 and from undertaking disposition of said properties until further orders from the Court.

Pursuant to Section 4, Rule 58 of the New Rules of Court, the plaintiffs are hereby directed to file an injunction bond in the amount of P200,000.00 for said plaintiffs to pay such amount to the defendant bank, which they may sustain by reason of the injunction of the Court should it finally decide that the plaintiffs are not entitled thereto.

Said injunction bond shall be filed by the plaintiffs within fifteen (15) days receipt of a copy of this Order.

In the meantime, set the pre-trial of this case to March 3, 2003 at 8:30 o'clock in the morning.

SO ORDERED.^[12]

EPCIB filed a motion for reconsideration. In its 16 July 2003 Resolution,^[13] the trial court denied the motion.

On 10 October 2003, EPCIB filed a petition for certiorari before the Court of Appeals. EPCIB argued that the trial court issued the 28 January 2003 Order and 16 July 2003 Resolution without any factual or legal basis.

In its 29 October 2003 Resolution, the Court of Appeals dismissed EPCIB's petition for lack of merit.

EPCIB filed a motion for reconsideration. In its 1 April 2004 Resolution, the Court of Appeals denied the motion.

Hence, this petition.

The 28 January 2003 Order of the Trial Court

According to the trial court, the issuance of a writ of preliminary injunction rests upon the sound discretion of the court.^[14] The trial court declared that the foreclosure of respondents' properties would affect respondents' rights over the properties which, according to respondents, were already worth P100,000,000 as opposed to the loan of only P26,200,000.^[15] The trial court ruled that, pending the determination of the merits of the principal case, the foreclosure of the real estate

mortgage should be held in abeyance.

The 29 October 2003 Resolution of the Court of Appeals

According to the Court of Appeals, EPCIB failed to show that the trial court acted with grave abuse of discretion when it issued the order granting the writ of preliminary injunction. The Court of Appeals said an order granting a writ of preliminary injunction is an interlocutory order and as such, it cannot by itself be subject of an appeal or a petition for certiorari. The Court of Appeals added that the proper remedy of a party aggrieved by such an order is to bring an ordinary appeal from an adverse judgment in the main case, citing therein the grounds for assailing the interlocutory order. While the Court of Appeals admitted that there were some cases where the Supreme Court allowed a party to file a petition for certiorari where the assailed orders were patently erroneous and an appeal would not afford adequate and expeditious relief, the Court of Appeals declared that said circumstances were not present in this case.

The Issue

EPCIB raises the sole issue that:

THE HONORABLE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN SUMMARILY DISMISSING PETITIONER BANK'S PETITION FOR CERTIORARI BECAUSE THE TRIAL COURT BLATANTLY ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION WHEN IT ISSUED THE ASSAILED ORDERS.^[16]

The Ruling of the Court

The petition has merit.

While EPCIB admits that an interlocutory order cannot be the subject of an appeal or a petition for certiorari, EPCIB argues that where the interlocutory order was issued with grave abuse of discretion amounting to lack or excess of jurisdiction, such order may be questioned before the court on a petition for certiorari.

We agree with the Court of Appeals that interlocutory orders, because they do not dispose of the case on the merits, are not appealable.^[17] Likewise, the extraordinary writ of certiorari is generally not available to challenge an interlocutory order of the trial court. In such a case, the proper remedy of the aggrieved party is an ordinary appeal from an adverse judgment, incorporating in the appeal the grounds for assailing the interlocutory order.^[18] However, where the assailed interlocutory order is patently erroneous and the remedy of appeal would not afford adequate and expeditious relief, the Court may allow certiorari as a mode of redress.^[19]

EPCIB maintains that the trial court issued the writ of preliminary injunction without any factual or legal basis. EPCIB adds that respondents failed to show that they have a right which will be violated should the mortgaged properties be foreclosed. EPCIB also points out that respondents failed to establish that the foreclosure will