

THIRD DIVISION

[G.R. No. 158332, February 11, 2008]

MARICALUM MINING CORPORATION, Petitioner, vs. REMINGTON INDUSTRIAL SALES CORPORATION, Respondent.

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

By way of Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, Maricalum Mining Corporation (petitioner) assails before this Court the February 10, 2003 Decision^[1] and May 21, 2003 Resolution^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 65209.

The facts in *Development Bank of the Philippines v. Court of Appeals and Remington Industrial Sales Corporation*^[3] (hereinafter referred to as "DBP v. CA") and *Philippine National Bank v. Court of Appeals and Remington Industrial Sales Corporation*^[4] (hereinafter referred to as "PNB v. CA") are relevant to the present case.

Remington Industrial Sales Corporation (private respondent) sued Marinduque Mining and Industrial Corporation (Marinduque Mining) for payment of P921,755.95 worth of construction materials and other merchandise. The complaint, docketed with the Regional Trial Court of Manila, Branch 19 (RTC) as Civil Case No. 84-25858, was amended four times to implead as co-defendants Philippine National Bank (PNB), Nonoc Mining and Industrial Corporation (Nonoc Mining), Development Bank of the Philippines (DBP), Asset Privatization Trust (APT), Island Cement Corporation (ICC) and petitioner, on the ground that they are assignees/ transferees of the real and personal properties, chattels, machineries, equipment and other assets of Marinduque Mining. In particular, petitioner was impleaded because "the properties, real and personal, chattels, machineries, equipment and all other assets of the Marinduque Mining & Industrial Corporation at Sipalay, Negros Occidental, mining projects at Rizal Province, which were foreclosed by the Philippine National Bank and Development Bank of the Philippines, were transferred to (petitioner) x x x."^[5]

On April 10, 1990, the RTC rendered the following Decision:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff, ordering the defendants Marinduque Mining & Industrial Corporation, Philippine National Bank, Development Bank of the Philippines, Nonoc Mining and Industrial Corporation, Maricalum Mining Corporation [petitioner], Island Cement Corporation and Asset Privatization Trust to pay , jointly and severally, the sum of P920,755.95, representing the principal obligation, including the stipulated interest as of June 22, 1984, plus ten percent (10%) surcharge per annum by way of penalty, until the amount is fully paid; the sum equivalent to 10% of the amount due as

and for attorney's fees; and to pay the costs.

SO ORDERED.^[6]

Petitioner and its co-defendants PNB, DBP, Nonoc Mining, ICC and APT filed with the CA an appeal docketed as CA-G.R. CV No. 27720.^[7] The CA dismissed their appeal in a Decision^[8] dated October 6, 1995.

DBP and PNB filed before the Court separate appeals, docketed as G.R. Nos. 126200 and 122710, respectively.

On its own, petitioner also attempted to institute an appeal with the Court by filing a motion for an extension of 30 days within which to file a petition for review on *certiorari* and to pay the legal fees. However, for lack of an affidavit of service as required under paragraph 2 of Supreme Court Circular No. 1-88 and Administrative Circular No. 3-96, the Court denied its motion in the Resolution^[9] of December 4, 1996, which became final on January 30, 1997.^[10] Petitioner also sought to intervene in *PNB v. CA* but the Court disallowed it due to the tardiness of its motion.^[11]

Thus, on December 5, 2000, private respondent filed with the RTC a Motion for Execution solely against petitioner on the ground that:

6. With the finality of the Honorable Supreme Court's resolution of denial of December 4, 1996 and the entry of said resolution in the book of entries of judgment itself, for which reason, issuance of a writ of execution for its satisfaction would be most proper at this stage against said [petitioner].^[12] (Emphasis supplied.)

Over petitioner's objection,^[13] the RTC granted the Motion for Execution in an Order^[14] dated March 9, 2001. It denied petitioner's Motion for Reconsideration^[15] in an Order dated May 10, 2001.^[16] Consequently, a Writ of Execution^[17] was issued on the basis of which certain bank accounts of petitioner were garnished.^[18] This prompted petitioner to file with the CA a Petition for *Certiorari* and Prohibition (With Preliminary Mandatory Injunction and Preliminary Injunction),^[19] docketed as CA-G.R. SP No. 65209.

In the interregnum, the Court rendered a Decision^[20] dated August 16, 2001 in DBP v. CA, thus:

WHEREFORE, the petition is GRANTED. The decision of the Court of Appeals dated October 6, 1995 and its Resolution promulgated on August 29, 1992 are REVERSED and SET ASIDE. ***The original complaint filed in the Regional Trial Court in CV Case No. 84-25858 is hereby DISMISSED.***

SO ORDERED^[21] (Emphasis supplied.)

which became final on September 27, 2001.

In *PNB v. CA*, the Court rendered a Decision^[22] dated October 12, 2001, the dispositive portion of which reads:

WHEREFORE, the Court REVERSES the decision of the Court of Appeals and in lieu thereof, enters judgment DISMISSING the complaint of Remington Industrial Sales Corporation in Civil Case No. 84-25858, Regional Trial Court, Branch 19, Manila, as against defendants Philippine National Bank and Development Bank of the Philippines[sic].

No costs.

SO ORDERED,^[23]

which became final on February 12, 2002.

Thus, citing *PNB v. CA*, petitioner filed in CA-G.R. No. 65209, a Manifestation^[24] urging it to dismiss the claim of private respondent and annul the March 9, 2001 and May 10, 2001 RTC Orders.

The CA rendered the February 10, 2003 Decision assailed herein, dismissing the Petition for *Certiorari* and Prohibition and affirming the questioned RTC Orders. It denied petitioner's Motion for Reconsideration.

Hence, petitioner is before the Court yet again on the following grounds:

I

The Court of Appeals seriously erred in affirming the orders dated March 9, 2001 and May 10, 2001 of Hon. Judge Zenaida R. Daguna granting the motion for execution as against herein petitioner Maricalum, a mere assignee/successor-in-interest of the Philippine National Bank and Development Bank of the Philippines.

- A. Petitioner Maricalum is merely an assignee/successor-in-interest when it acquired properties foreclosed by the Philippine National Bank (PNB, for brevity) and the Development Bank of the Philippines (DBP, for brevity) and a solidary judgment debtor in the complaint filed by respondent Remington docketed as Civil Case No. 84-25858
- B. This Honorable Court's Decision dated October 12, 2001 in G.R. No. 122710 in the case entitled "Philippine National Bank v. Court of Appeals and Remington Industrial Sales Corporation" [*PNB v. CA*] has consequently exonerated petitioner Maricalum from any liability, considering the latter is merely an assignee/successor-in-interest of PNB and DBP.
- C. By virtue of this Honorable Court's Decision dated October 12, 2001 in G.R. No. 122710, respondent Remington has no more cause of action against petitioner Maricalum, as said decision clearly and unequivocally declares that in Civil Case No. 84-25858, "x x x the

obligation remains with MMIC (Marinduque Mining and Industrial Corporation). x x x"

II

The Court of Appeals seriously erred when it declared that respondent Remington had acquired vested rights against herein petitioner Maricalum, a mere assignee/successor-in-interest of PNB and DBP.

- A. This Decision dated October 12, 2001 of this Honorable Court in G.R. No. 122710 is the law of the case and any right that respondent Remington may have acquired as against petitioner Maricalum prior thereto is contrary to law.
- B. The Decision dated October 12, 2001 of this Honorable Court in G.R. No. 122710 is a supervening event which renders impossible the execution of the monetary judgment in Civil Case No. 84-25858 as against petitioner Maricalum,
- C. The assailed Decision dated February 10, 2003 and Resolution dated May 21, 2003 of the Court of Appeals in CA G.R. SP No. 65209 is patently iniquitous and manifestly unjust.^[25]

This time, petitioner's recourse is not in vain.

Simplified, the issue is whether the Court's Decisions in *DBP v. CA and PNB v. CA* inured to the benefit of petitioner which was not a party to either case, as to bar execution of the April 10, 1990 RTC Decision, as affirmed in the October 6, 1995 CA Decision in CA-G.R. CV No. 27720, against it.

The CA ruled in the negative, thus:

It is a well-settled rule that the perfection of an appeal in the manner and within the period prescribed by law is not only mandatory but jurisdictional and the failure to perfect the appeal has the effect of rendering the judgment final and executory.

In the case at bench, the failure of the defendants, among them the petitioner, to perfect their appeal from the decision of this Court in CA-G.R. No. 27720, promulgated on 06 October 1995, affirming the decision of the trial court, rendered the said decision of the Court final and executory except as against Philippine National Bank and Development Bank of the Philippines.

The respective appeals filed by the Philippine National Bank and the Development Bank of the Philippine did not inure to the benefit of their co-defendants, including the petitioner, who did not appeal nor can it be deemed to be an appeal of such co-defendants from the judgment against them. Simply put, the appeals interposed by the Philippine National Bank and Development Bank of the Philippines, in no way, prevented the aforementioned decision of this Court from becoming final and executory as against the petitioner and the other defendants

notwithstanding the fact that all of said defendants were held solidarily liable in the said decision.

Once a decision becomes final and executory, vested rights are acquired by the winning party. As such, the winning party can have the said decision executed as a matter of right, and the issuance of a Writ of Execution becomes a ministerial duty of the court. By the same token, the sheriff's duty in the execution of a writ issued by a court is likewise purely ministerial.^[26] (Emphasis supplied.)

The Court holds otherwise.

Indeed, one party's appeal from a judgment will not inure to the benefit of a co-party who failed to appeal; and as against the latter, the judgment will continue to run its course until it becomes final and executory.^[27] To this general rule, however, one exception stands out: where both parties have a commonality of interests, the appeal of one is deemed to be the vicarious appeal of the other.^[28] As the Court held in *John Kam Biak Y. Chan, Jr. v. Iglesia ni Cristo*:

The modification made by this Court to the judgment of the Court of Appeals must operate as against Yoro, for as fittingly held by the court *a quo*:

While it is settled that a party who did not appeal from the decision cannot seek any relief other than what is provided in the judgment appealed from, nevertheless, when the rights and liability of the defendants are so interwoven and dependent as to be inseparable, in which case, the modification of the appealed judgment in favor of appellant operates as a modification to Gen. Yoro who did not appeal. In this case, the liabilities of Gen. Yoro and appellant being solidary, the above exception applies. ^[29]

In *Director of Lands v. Reyes*,^[30] the Court identified the circumstances indicative of a commonality in the interests of the parties, such as when: a) their rights and liabilities originate from only one source or title; b) homogeneous evidence establishes the existence of their rights and liabilities; and c) whatever judgment is rendered in the case or appeal, their rights and liabilities will be affected, even if to varying extents.

In *DBP v. CA and PNB v. CA*, the Court has conclusively adjudicated the commonality in the interests of DBP, PNB and petitioner, in relation to private respondent.

To recall *DBP v. CA*, the main issue resolved therein was whether Marinduque Mining and DBP and its transferees, including petitioner, are one and the same corporate entity such that the latter may be held liable for the obligations of the former. The contention of private respondent was that such piercing of the corporate veil separating Marinduque Mining, DBP and its transferees was warranted because DBP foreclosed on the mortgage of Marinduque Mining and acquired the latter's properties by auction sale but later dispersed said properties to various corporations, including petitioner, all for the fraudulent purpose of placing said properties beyond the reach of private respondent and thereby frustrating its efforts