

SECOND DIVISION

[G.R. NO. 150134, October 31, 2007]

**ERNESTO C. DEL ROSARIO AND DAVAO TIMBER CORPORATION,
PETITIONERS, VS. FAR EAST BANK & TRUST COMPANY^[1] AND
PRIVATE DEVELOPMENT CORPORATION OF THE PHILIPPINES,
RESPONDENTS.**

D E C I S I O N

CARPIO MORALES, J.:

The Regional Trial Court (RTC) of Makati City, Branch "65" (sic)^[2] having, by Decision^[3] of July 10, 2001, dismissed petitioners' complaint in Civil Case No. 00-540 on the ground of *res judicata* and splitting of a cause of action, and by Order of September 24, 2001^[4] denied their motion for reconsideration thereof, petitioners filed the present petition for review on certiorari.

From the rather lengthy history of the present controversy, a recital of the following material facts culled from the records is in order.

On May 21, 1974, petitioner Davao Timber Corporation (DATICOR) and respondent Private Development Corporation of the Philippines (PDCP) entered into a loan agreement under which PDCP extended to DATICOR a foreign currency loan of US \$265,000 and a peso loan of P2.5 million or a total amount of approximately P4.4 million, computed at the then prevailing rate of exchange of the dollar with the peso.

The loan agreement provided, among other things, that DATICOR shall pay: (1) a service fee of one percent (1%) per annum (later increased to six percent [6%] per annum) on the outstanding balance of the peso loan; (2) 12 percent (12%) per annum interest on the peso loan; and (3) penalty charges of two percent (2%) per month in case of default.

The loans were secured by real estate mortgages over six parcels of land – one situated in Manila (the Otis property) which was registered in the name of petitioner Ernesto C. Del Rosario, and five in Mati, Davao Oriental – and chattel mortgages over pieces of machinery and equipment.

Petitioners paid a total of P3 million to PDCP, which the latter applied to interest, service fees and penalty charges. This left petitioners, by PDCP's computation, with an outstanding balance on the principal of more than P10 million as of May 15, 1983.

By March 31, 1982, petitioners had filed a complaint against PDCP before the then Court of First Instance (CFI) of Manila for violation of the Usury Law, annulment of

contract and damages. The case, docketed as Civil Case No. 82-8088, was dismissed by the CFI.

On appeal, the then Intermediate Appellate Court (IAC) set aside the CFI's dismissal of the complaint and declared void and of no effect the stipulation of interest in the loan agreement between DATICOR and PDCP.

PDCP appealed the IAC's decision to this Court where it was docketed as G.R. No. 73198.

In the interim, PDCP assigned a portion of its receivables from petitioners (the receivables) to its co-respondent Far East Bank and Trust Company (FEBTC) under a Deed of Assignment dated April 10, 1987^[5] for a consideration of P5,435,000. The Deed of Assignment was later amended by two Supplements.^[6]

FEBTC, as assignee of the receivables, and petitioners later executed a Memorandum of Agreement (MOA) dated December 8, 1988 whereby petitioners agreed to, as they did pay FEBTC ^[7] the amount of P6.4 million as full settlement of the receivables.

On September 2, 1992, this Court promulgated its Decision in G.R. No. 73198^[8] affirming *in toto* the decision of the IAC. It determined that after deducting the P3 million earlier paid by petitioners to PDCP, their remaining balance on the principal loan was only P1.4 million.

Petitioners thus filed on April 25, 1994 a Complaint^[9] for sum of money against PDCP and FEBTC before the RTC of Makati, mainly to recover the excess payment which they computed to be P5.3 million^[10] – P4.335 million from PDCP, and P965,000 from FEBTC. The case, Civil Case No. 94-1610, was raffled to Branch 132 of the Makati RTC.

On May 31, 1995, Branch 132 of the Makati RTC rendered a decision^[11] in Civil Case No. 94-1610 ordering PDCP to pay petitioners the sum of P4.035 million,^[12] to bear interest at 12% per annum from April 25, 1994 until fully paid; to execute a release or cancellation of the mortgages on the five parcels of land in Mati, Davao Oriental and on the pieces of machinery and equipment and to return the corresponding titles to petitioners; and to pay the costs of the suit.

As for the complaint of petitioners against respondent FEBTC, the trial court dismissed it for lack of cause of action, ratiocinating that the MOA between petitioners and FEBTC was not subject to this Court's Decision in G.R. No. 73198, FEBTC not being a party thereto.

From the trial court's decision, petitioners and respondent PDCP appealed to the Court of Appeals (CA). The appeal was docketed as CA-G.R. CV No. 50591.

On May 22, 1998, the CA rendered a decision^[13] in CA-G.R. CV No. 50591, holding that petitioners' outstanding obligation, which this Court had determined in G.R. No. 73198 to be P1.4 million, could not be increased or decreased by any act of the creditor PDCP.

The CA held that when PDCP assigned its receivables, the amount payable to it by DATICOR was the same amount payable to assignee FEBTC, irrespective of any stipulation that PDCP and FEBTC might have provided in the Deed of Assignment, DATICOR not having been a party thereto, hence, not bound by its terms.

Citing Articles 2154^[14] and 2163^[15] of the Civil Code which embody the principle of *solutio indebiti*, the CA held that the party bound to refund the excess payment of P5 million^[16] was FEBTC as it received the overpayment; and that FEBTC could recover from PDCP the amount of P4.035 million representing its overpayment for the assigned receivables based on the terms of the Deed of Assignment or on the general principle of equity.

Noting, however, that DATICOR claimed in its complaint only the amount of P965,000 from FEBTC, the CA held that it could not grant a relief different from or in excess of that prayed for.

Finally, the CA held that the claim of PDCP against DATICOR for the payment of P1.4 million had no basis, DATICOR's obligation having already been paid in full, overpaid in fact, when it paid assignee FEBTC the amount of P6.4 million.

Accordingly, the CA ordered PDCP to execute a release or cancellation of the mortgages it was holding over the Mati real properties and the machinery and equipment, and to return the corresponding certificates of title to petitioners. And it ordered FEBTC to pay petitioners the amount of P965,000 with legal interest from the date of the promulgation of its judgment.

FEBTC's motion for reconsideration of the CA Decision was denied, and so was its subsequent appeal to this Court.

On April 25, 2000, petitioners filed before the RTC of Makati a Complaint^[17] against FEBTC to recover the balance of the excess payment of P4.335 million.^[18] The case was docketed as Civil Case No. 00-540, the precursor of the present case and raffled to Branch 143 of the RTC.

In its Answer,^[19] FEBTC denied responsibility, it submitting that nowhere in the dispositive portion of the CA Decision in CA-G.R. CV No. 50591 was it held liable to return the whole amount of P5.435 million representing the consideration for the assignment to it of the receivables, and since petitioners failed to claim the said whole amount in their original complaint in Civil Case No. 94-1610 as they were merely claiming the amount of P965,000 from it, they were barred from claiming it.

FEBTC later filed a Third Party Complaint^[20] against PDCP praying that the latter be made to pay the P965,000 and the interests adjudged by the CA in favor of petitioners, as well as the P4.335 million and interests that petitioners were claiming from it. It posited that PDCP should be held liable because it received a consideration of P5.435 million when it assigned the receivables.

Answering^[21] the Third Party Complaint, PDCP contended that since petitioners were not seeking the recovery of the amount of P965,000, the same cannot be

recovered via the third party complaint.

PDCP went on to contend that since the final and executory decision in CA-G.R. CV No. 50591 had held that DATICOR has no cause of action against it for the refund of any part of the excess payment, FEBTC can no longer re-litigate the same issue.

Moreover, PDCP contended that it was not privy to the MOA which explicitly excluded the receivables from the effect of the Supreme Court decision, and that the amount of P6.4 million paid by petitioners to FEBTC was clearly intended as consideration for the release and cancellation of the lien on the Otis property.

Replying,^[22] FEBTC pointed out that PDCP cannot deny that it benefited from the assignment of its rights over the receivables from petitioners. It added that the third party claim being founded on a valid and justified cause, PDCP's counterclaims lacked factual and legal basis.

Petitioners thereafter filed a Motion for Summary Judgment^[23] to which FEBTC filed its opposition.^[24]

By Order of March 5, 2001, the trial court denied the motion for summary judgment for lack of merit.^[25]

On July 10, 2001, the trial court issued the assailed Decision dismissing petitioners' complaint on the ground of *res judicata* and splitting of cause of action. It recalled that petitioners had filed Civil Case No. 94-1610 to recover the alleged overpayment both from PDCP and FEBTC and to secure the cancellation and release of their mortgages on real properties, machinery and equipment; that when said case was appealed, the CA, in its Decision, ordered PDCP to release and cancel the mortgages and FEBTC to pay P965,000 with interest, which Decision became final and executory on November 23, 1999; and that a Notice of Satisfaction of Judgment between petitioners and FEBTC was in fact submitted on August 8, 2000, hence, the issue between them was finally settled under the doctrine of *res judicata*.

The trial court moreover noted that the MOA between petitioners and FEBTC clearly stated that the "pending litigation before the Supreme Court of the Philippines with respect to the Loan exclusive of the Receivables assigned to FEBTC shall prevail up to the extent not covered by this Agreement." That statement in the MOA, the trial court ruled, categorically made only the loan subject to this Court's Decision in G.R. No. 73198, hence, it was with the parties' full knowledge and consent that petitioners agreed to pay P6.4 million to FEBTC as consideration for the settlement. The parties cannot thus be allowed to welsh on their contractual obligations, the trial court concluded.

Respecting the third party claim of FEBTC, the trial court held that FEBTC's payment of the amount of P1,224,906.67 (P965,000 plus interest) to petitioners was in compliance with the final judgment of the CA, hence, it could not entertain such claim because the Complaint filed by petitioners merely sought to recover from FEBTC the alleged overpayment of P4.335 million and attorney's fees of P200,000.

Petitioners' motion for reconsideration^[26] of the July 10, 2001 decision of the trial court was denied by Order of September 24, 2001.

Hence, the present petition.

In their Memorandum,^[27] petitioners proffer that, aside from the issue of whether their complaint is dismissible on the ground of *res judicata* and splitting of cause of action, the issues of 1) whether FEBTC can be held liable for the balance of the overpayment of P4.335 million plus interest which petitioners previously claimed against PDCP in Civil Case No. 94-1610, and 2) whether PDCP can interpose as defense the provision in the Deed of Assignment and the MOA that the assignment of the receivables shall not be affected by this Court's Decision in G.R. No. 73198, be considered.

Stripped of the verbiage, the only issue for this Court's consideration is the propriety of the dismissal of Civil Case No. 00-540 upon the grounds stated by the trial court. This should be so because a Rule 45 petition, like the one at bar, can raise only questions of law (and that justifies petitioners' elevation of the case from the trial court directly to this Court) which must be distinctly set forth.^[28]

The petition is bereft of merit.

Section 47 of Rule 39 of the Rules of Court, on the doctrine of *res judicata*, reads:

Sec. 47. *Effect of judgments or final orders.* — The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:

x x x x

(b) In other cases, the judgment or final order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity; and

(c) In any other litigation between the same parties or their successors in interest, that only is deemed to have been adjudged in a former judgment or final order which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto. (Underscoring supplied)

The above-quoted provision lays down two main rules. Section 49(b) enunciates the first rule of *res judicata* known as "bar by prior judgment" or "estoppel by judgment," which states that the judgment or decree of a court of competent jurisdiction on the merits concludes the parties and their privies to the litigation and constitutes a bar to a new action or suit involving the same cause of action either before the same or any other tribunal.^[29]

Stated otherwise, "bar by former judgment" makes the judgment rendered in the first case an absolute bar to the subsequent action since that judgment is conclusive not only as to the matters offered and received to sustain it but also as to any other matter which might have been offered for that purpose and which could have been