

FIRST DIVISION

[G.R. NO. 164548, September 27, 2006]

PHILIPPINE NATIONAL BANK, PETITIONER, VS. RJ VENTURES REALTY & DEVELOPMENT CORPORATION AND RAJAH BROADCASTING NETWORK, INC., RESPONDENTS.

DECISION

CHICO-NAZARIO, J.:

Before this Court is a Petition for Review filed under Rule 45 of the Rules of Court assailing the 31 March 2004 Decision^[1] and the 8 July 2004 Resolution^[2] of the Court of Appeals in CA-G.R. SP No. 56119. The challenged Decision disposed, thus:

IN VIEW OF ALL THE FOREGOING, the instant petition is hereby GRANTED, the assailed Orders dated July 28, 1999 and October 26, 1999, respectively, [are] **REVERSED AND SET ASIDE**, and the preliminary injunction earlier issued is reinstated. No cost.^[3]

The assailed Resolution denied petitioner Philippine National Bank's (PNB's) Motion for Reconsideration dated 3 May 2004.

The Antecedents

As culled from the records, the facts show that on 26 February 1999, respondents RJ Ventures Realty & Development Corporation (RJVRD) and Rajah Broadcasting Network, Inc. (RBN) filed a Complaint for Injunction with Prayer for Issuance of Temporary Restraining Order and Writ of Preliminary Injunction^[4] against petitioner PNB and Juan S. Baun, Jr.^[5] with the Regional Trial Court (RTC), Branch 66 of Makati City, and docketed as Civil Case No. 99-452.

In its Complaint, respondents contended that on 13 June 1996, First Women's Credit Corporation (FWCC) received an invitation to bid from PNB anent the sale of an 8,000 square meter property, located at Paseo de Roxas corner Sen. Gil. Puyat Avenue, Makati City, and covered by Transfer Certificate of Title No. S-15223 (Buendia Property).^[6] On 10 July 1996, FWCC bid the amount of P455,000.00 per square meter or a total of P3,640,000,000.00; and pursuant to PNB Rules and Regulations on the Acceptance and Evaluation of Proposals, it deposited ten percent (10%) of the offered price or P364,000,000.00 with the PNB by way of two checks, No. 418796 and No. 418797, in the amounts of P312,000,000.00 and P52,000,000.00, respectively.^[7] On 11 July 1996, FWCC submitted a revised offer increasing its bid by P5,000.00 per square meter or a total additional amount of P40,000,000.00. In view of the increase, FWCC deposited with PNB an additional amount of P4,000,000.00.^[8] On 17 July 1996, FWCC was awarded the Buendia Property.^[9] PNB's Notice of Award to FWCC set a condition that within thirty (30)

calendar days from receipt of the same, the successful offeror shall tender payment of the balance of the purchase price in the form of a manager's or cashier's check. [10] On 24 July 1996, FWCC, invoking Section 7.2^[11] of the PNB Rules requested PNB to finance the entire balance of the purchase price.^[12] On 17 September 1996 and pending action on its loan application, FWCC assigned all its rights, claims, interest, and title over the Buendia Property to RJVRD.^[13] The latter assumed the right to purchase the Buendia Property and the obligations of FWCC to PNB on the balance of the bid price.

Respondents further posited that PNB initially refused to finance the entire balance of the purchase price except to the extent of seventy-five percent (75%) thereof.^[14] However, PNB finally agreed to grant a loan to RJVRD equivalent to eighty percent (80%) of the purchase price or for the amount of P2,944,000,000.00. The grant was conditioned on the deposit by RJVRD with PNB of an additional ten percent (10%) of the purchase price to the first ten percent (10%) downpayment which the former had paid. Otherwise stated, RJVRD was required to raise an additional amount of P368,000,000.00.^[15] Moreover, to allow RJVRD to raise the additional amount, PNB proposed to lend RBN the required amount, the latter being an affiliate company of RJVRD, which amount will be available for relending to RJVRD.^[16]

Respondents described the said arrangement in this wise:

15.0 PNB shall extend a loan to RBN in the amount of P350,000,000.00 which in turn would be loaned to RJVRD.

15.1 The proceeds of the loan shall be used by RJVRD to partially pay the additional 10% or P368,000,000.00 deposit on the Property. PNB documents would however show that the loan was for the expansion of RBN.

15.2 Mr. Ramon P. Jacinto, the majority stockholder of RJVRD will pledge to PNB 70% of his shares of stock in RBN and 40% of his shares of stock in FWCC. ^[17]

Moreover, in their Complaint *a quo*, respondents avowed that on 30 September 1996, following the payment by RJVRD to PNB of the additional deposit of P368,000,000.00, the parties entered into a loan agreement wherein PNB will finance the balance of the purchase price in the amount of P2,944,000,000.00 subject to conditions, *inter alia*, that after the transfer of the Buendia Property in the name of RJVRD, the same shall be mortgaged in favor of PNB. On even date, RJVRD and PNB executed a Loan Agreement.^[18] A Deed of Sale^[19] and a Real Estate Mortgage,^[20] both dated 30 September 1996 were similarly executed between RJVRD and PNB over the Buendia Property. The Loan Agreement included a two-way peso/dollar convertibility feature at the option of RJVRD; hence, to avail of a lower interest rate, RJVRD converted its peso loan to US dollar based on a rate of exchange of P26.23 to US\$1.00, or for a total amount of US\$112,237,895.54.

Respondents claimed that RJVRD undertook to engage foreign investors for the project. It entered into negotiations with Hyundai Construction of South Korea which

were eventually suspended. Its talks with Siemens of Austria, and Property Investment and Development Management Corporation of Singapore failed.^[21] Respondents interposed further that the Asian currency crisis on 11 July 1997 caused a depreciation of the Philippine peso which correspondingly increased the obligation of RJVRD to PNB from P2,944,000,000.00 to P5,405,301,470.82 inclusive of interest.^[22] On 30 September 1997, in an effort to continue the project, RJVRD entered into a joint venture agreement with Fil-Estate Management Incorporated for the development of the Buendia Property. RBN secured another loan from PNB in the amount of P100,000,000.00, part of which was used in paying the interest for the loan it had secured in favor of RJVRD. In addition, as and by way of security, RBN assigned in favor of PNB, all its rights and interest over radio and television frequencies issued by the National Telecommunications Commission, located in Tuguegarao, Baguio, Manila, Cebu, Bacolod, Iloilo, including those in Cagayan de Oro (FM Stations), and Manila (AM Station and TV-UHF Station).^[23] On September 1997, RJVRD paid PNB the accrued interest on the loan amounting to P353,478,628.88. RBN also updated its first account with PNB by paying about P41,000,00.00. In March 1998, RJVRD, RBN and PNB entered into discussions on the restructuring of the loans. Respondents alleged that while discussions were ongoing, the accounts of RJVRD and RBN became delinquent.^[24] PNB sent RJVRD, a notice,^[25] dated 2 June 1998, declaring their accounts delinquent and demanding the settlement of the same.^[26]

Respondents asserted that prior to 11 June 1998, in line with the continuing discussions between PNB and RBN for the restructuring of the loan, PNB required the redenomination of RBN's loan as a condition for its restructuring.^[27] On 11 June 1998, RBN sent a letter to PNB in agreement to the redenomination of the loan, stating therein the agreed terms for the restructuring of the loan. RJVRD sent a letter to PNB agreeing to redenominate its own loan based on PNB's initial proposal, which letter was returned to RJVRD for the reason that, at that time, the proposals for the restructuring of the RJVRD loan component did not call for the redenomination of the loan of RJVRD.^[28] On 24 June 1998, RBN sent a letter to PNB, confirming to redenominate the loan under the terms stated in its letter of 11 June 1998.^[29] On 9 September 1998, respondents asseverated that PNB made a call to RJVRD, asking the latter to redenominate its loans. On the same date, RJVRD sent PNB, a letter in agreement to the redenomination.^[30] On 23 October 1998, the RJ Groups of Companies sent Mr. Benjamin Palma Gil, president of PNB, a proposal for the settlement of respondents' accounts, including a request for the restructuring of the loans.^[31]

On 25 January 1999, PNB, through its counsel, sent RBN a demand letter, requiring the latter to settle their outstanding account of P841,460,891.91.^[32] In a letter similarly dated 25 January 1999, PNB by counsel, demanded from RJVRD the settlement of its total obligation of P5,405,301,470.82.^[33] On 28 January 1999, RBN sent a letter to PNB's counsel, expressing its surprise to receive the demand letter despite their continuing negotiations with PNB for the restructuring of its accounts.^[34] In its letter, RBN said that it was, in fact, required by PNB to redenominate its dollar loans into pesos as an initial step for the restructuring of the account, and which it has complied.^[35] On even date, RJVRD sent a letter to PNB's counsel emphasizing that it had not been advised of any adverse development in

their negotiation with PNB nor had it been informed of the discontinuance of the negotiation. RJVRD sought for additional time to justify its proposal to PNB with the aim of arriving at a friendly settlement.^[36]

On 18 February 1999, PNB made a demand to RBN to turnover the possession and/or control of Broadcasting Equipment Inventory located at No. 33, Dominican Hills, Baguio City.^[37] On 18 February 1999, RJVRD received a Notice of Extrajudicial Sale, dated 1 February 1999 for the sale of the Buendia Property^[38] to be held on 2 March 1999 at the City Hall, Makati City.

Respondents manifested in their Complaint that when RJVRD, as assignee of FWCC purchased the Buendia Property from PNB, the Philippine economy was progressive; that it was under this favorable economic scenario that RJVRD agreed to the terms and conditions of the loan agreements; however, following the Asian economic crisis of July 1997, and with the depreciation of the Philippine peso, the loan of RJVRD which was denominated in US dollars rose from P2,944,000,000.00 (US\$112,237,895.54) to P5,405,301,470.82.^[39] According to respondents, from the original contract price of P3,680,000,000.00, RJVRD already made a payment of P736,000,000.00, representing twenty-percent (20%) of the value of the Buendia Property and P353,478,628.88, representing interest on the loan or a total of P1,089,478,628.88; and that PNB never effectively lost control over the Buendia Property, considering that simultaneous with the execution of the Loan Agreement between RJVRD and PNB, RJVRD executed a Real Estate Mortgage over the Buendia Property in favor of PNB. Furthermore, respondents sought to find recourse under Article 19^[40] of the Civil Code. They contended that the action on the part of PNB to foreclose the collaterals pledged or mortgaged by RJVRD and RBN, including the extrajudicial sale of the Buendia Property on 2 March 1999 at the City Hall of Makati City, and the planned take over of RBN's radio facilities in Baguio City would be, among others, premature.^[41]

Finally, in support of its Application for the Issuance of a Temporary Restraining Order and a Writ of Preliminary Injunction, respondents alleged that RJVRD and RBN would suffer great and irreparable injury by the extrajudicial foreclosure of the property and the take over of RBN's radio facilities in Baguio, unless a Temporary Restraining Order and/or Writ of Preliminary Injunction is issued enjoining defendants from implementing the Notice of Extrajudicial Sale dated 1 February 1999, and enjoining PNB from taking possession and control of RBN's radio facilities in Baguio City. Respondents maintained that the commission or continuance of the acts complained of during the litigation or the non-performance thereof would work injustice to RJVRD and RBN. They manifested their willingness to post a bond as the court *a quo* may fix in its discretion, to answer for whatever damages PNB may sustain for the reason of the restraining order or injunction, if finally determined that respondents are not entitled thereto.

Acting on respondent's prayer for the issuance of a Temporary Restraining Order, the RTC, issued an Order^[42] dated 2 March 1999, denying the same. The RTC held that the evidence showed that respondents are in default of payment of its loan from PNB, amounting to P5,405,301,470.82, including interests and penalties. According to the RTC, the respondents failed to prove that they have a clear right to restrain the foreclosure of the Buendia Property; whereas, it is PNB which has a clear right

to the Buendia Property. The RTC opined that the evidence failed to prove that respondents will suffer "irreparable injury" if the foreclosure of the Buendia Property is not enjoined, for under the law, respondents have one (1) year from the date of the registration of the sale with the Register of Deeds within which to redeem the Buendia Property; thus, respondents will have a chance to recover the ownership thereof by way of redemption. Finally, the RTC ruled that the rule of equity is on the side of PNB considering that the Buendia Property was formerly owned by PNB. The RTC denied the application for Temporary Restraining Order for lack of merit, and held that the exposure of PNB in the transaction amounted to P5,405,301,470.82, while the exposure of respondents is P1,089,478,628.00.^[43]

On 2 March 1999, the Buendia Property was sold in a public auction conducted by Atty. Juan S. Buan, Notary Public of Makati City.^[44] There being no other bidder, the Buendia Property was sold to PNB for the amount of P2,800,000,000.00. On 3 May 1999, RBN received a Notice of Extrajudicial Sale from PNB, specifying therein that the property covered by Broadcasting Equipment Inventory located at No. 33 Dominical Hills, Baguio City will be sold for cash at public auction to the highest bidder on 10 May 1999, at the City Hall, Baguio City, pursuant to the terms of the Deed of Chattel Mortgage dated 19 June 1994 to satisfy the mortgage indebtedness of P841,460,491.91.^[45]

Following this development, on 4 May 1999, respondents filed an Urgent Application for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction.^[46] Respondents prayed that a Temporary Restraining Order be issued enjoining PNB or any persons acting under its instructions from foreclosing on any other collaterals pledged or mortgaged by respondents to PNB, particularly that which is subject of the Notice of Extrajudicial Sale to be conducted by Notary Public Perlita Chan-Rondez in Baguio City on 10 May 1999. It was likewise prayed that after due proceedings, a Writ of Preliminary Injunction be similarly issued. ^[47]

On 7 May 1999, the RTC issued an Order^[48] granting the Writ of Preliminary Injunction respondents' application for the issuance of a Temporary Restraining Order (TRO), upon posting of a bond in the amount of P1,000,000.00.

On 27 May 1999, the RTC issued an Order,^[49] granting the Writ of Preliminary Injunction, enjoining PNB from foreclosing all collaterals pledged or mortgaged by respondents to PNB, in particular those described in Exhibits A to L thereof, after the posting of a bond in the amount of P5,000,000.00.^[50] According to the court, the right of PNB to foreclose the chattel mortgages is still challenged by the respondents and therefore, is not yet clearly established. Hence, if PNB is allowed to foreclose the subject chattel mortgages, the determination of the right of PNB to foreclose the subject properties will become moot and academic. Subsequently, on 28 May 1999, a Writ of Preliminary Injunction was issued.

On 9 June 1999, PNB filed a Motion for Reconsideration^[51] of the Order of 27 May 1999. PNB averred, *inter alia*, that RBN failed to produce any evidence to substantiate and support its claim that it is entitled to the Writ of Preliminary Injunction in order to enjoin PNB from foreclosing on the subject chattels. According to PNB, it was able to show that RBN failed without justifiable cause or reason to service the credit facilities extended to it. PNB advanced the argument that RBN has