

SECOND DIVISION

[G.R. No. 144705, November 15, 2005]

**NANCY L. TY, PETITIONER, VS. BANCO FILIPINO SAVINGS
PROMULGATED: & MORTGAGE BANK, RESPONDENT.**

DECISION

AUSTRIA-MARTINEZ, J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the Decision^[1] dated May 11, 2000 of the Court of Appeals (CA) in CA-G.R. CV No. 53836, which reinstated the complaint for reconveyance of respondent before the Regional Trial Court (RTC), Branch 46, Manila; and the CA Resolution^[2] dated August 28, 2000, which denied petitioner's motion for reconsideration.

The factual background of the case is as follows:

On September 5, 1995, respondent Banco Filipino Savings & Mortgage Bank (Banco Filipino) filed Civil Case No. 95-75213 for reconveyance of two lots located in C.M. Recto and Hidalgo, Manila, covered by Transfer Certificate of Title Nos. 189468 and 135039 of the Registry of Deeds, Manila. Impleaded as defendants were Tala Realty Services Corporation (Tala Realty), herein petitioner Nancy L. Ty, Pedro B. Aguirre (Aguirre), Remedios A. Dupasquier (Dupasquier), Pilar D. Ongking (Ongking), Elizabeth H. Palma (Palma), Dolly W. Lim (Lim), Cynthia E. Mesina (Mesina), Rubencito M. Del Mundo (Del Mundo), Add International Services, Inc. (AISI) and Migsan Realty & Development Corporation.^[3]

On October 25, 1995, petitioner filed a motion to dismiss for lack of jurisdiction, *litis pendentia*, and lack of cause of action. She alleged that: the complaint failed to state the assessed value of the properties for jurisdictional purposes; there are four actions pending between the same parties for the same cause founded exactly on the same cause of action and supported by essentially the same evidence, namely: (a) Civil Case No. 95-75212 before RTC, Branch 45, Manila; (b) the present Civil Case No. 95-75213 before RTC, Branch 46, Manila; (c) Civil Case No. 54-M-95 before RTC, Branch 79, Malolos, Bulacan; and (d) Civil Case No. 95-75214 before RTC, Branch 47, Manila; the complaint states no cause of action against petitioner as she acted in her official capacity as a member of the board of respondent.^[4]

On November 13, 1995, Tala Realty, Aguirre, Dupasquier, Ongking, Palma, Lim, Mesina, Del Mundo and AISI filed their own motion to dismiss on the following grounds: (a) violation of Administrative Circular No. 04-94 on forum shopping; (b) respondent has no cause of action; (c) respondent's cause of action is barred by the principle of *in pari delicto*; and (d) venue of action was improperly laid.^[5]

On April 1, 1996, the RTC dismissed the complaint, ratiocinating in this wise:

Administrative Circular 04-94 provides that a party seeking relief in a complaint must swear to the truth that, among others, he has not submitted any other action or proceeding involving the same issues in the Supreme Court, Court of Appeals, or any other tribunal or agency.

In support thereof, the defendants cite the cases in the Regional Trial Courts of Iloilo City, Lucena City, Quezon City, Manila, Malolos Bulacan, Batangas, Urdaneta in Pangasinan, Davao City, Marikina, Cotabato, and La Union involving properties located in each of these localities, the reconveyance of which is sought by the plaintiff on the basis of one particular document, the minutes of the board of directors meeting of plaintiff held on April 17, 1979.

Of particular importance are the cases pending in Branch 47 of the Regional Trial Court of Manila involving a property located at Sta. Cruz District and Branch 45 involving properties located at Plaza Cervantes and Sta. Cruz district. The properties involved herein are located in Sampaloc and Quiapo Districts.

As a background, in 1979 plaintiff wanted to expand its operations and needed more properties to put up branches. Because it wanted to stay within the legal limits, that is 50% of its capital as investments in real states (sic), the plaintiff put up another corporation to hold these properties. The result was the incorporation of Tala Realty Services Corporation ("Tala"), one of the defendants. The properties involved in the cases pending in different Regional Trial Courts were those allegedly transferred to Tala by way of absolute sale.

...

A cause of action is a delict or wrong by which a defendant violates the right of the plaintiff. In these cases the delict or wrong by which defendant Tala allegedly violated the rights of plaintiff is Tala's refusal to reconvey the properties it is holding impliedly in trust for the benefit of plaintiff by virtue of plaintiff's Minutes of the Board of Directors Meeting held on April 17, 1979. Thus, the complaints in all these cases have one common allegation viz.

3.01 In 1979, Banco Filipino was expanding its operation so that it had to open more branches and acquire new branch sites. Since the expansion program and the acquisition of new branch required the purchase of real properties and since Banco Filipino at the time was concerned about keeping within its maximum limit of 50% of its capital assets for available investments by a bank in real state, its Board of Directors, upon motion of the defendant Nancy L. Ty herself, decide to warehouse some of the existing properties and branch sites in order to allow more flexibility in the opening of branches and to enable the bank to acquire new branch sites. (Minutes of

Banco Filipino Board of Directors Meeting dated 17, April 1979.).

It is clear the there is identity of causes of action.

There is also identity of issues, i.e., is there a trust relationship between plaintiff and defendants particularly Tala?

And finally there is identity of subject matters-the properties allegedly held in trust be defendants. It is immaterial that the properties were conveyed through different instruments and at different times.

The plaintiff therefore violated Administrative Order No. 04-94 of the Supreme Court. ...^[6]

Respondent filed a motion for reconsideration^[7] but it was dismissed by the RTC in its Order dated June 10, 1996.^[8]

Dissatisfied, respondent filed an appeal with the CA. On May 11, 2000, the CA reinstated the complaint. In setting aside the Orders dated April 1, 1996 and June 10, 1996 of the RTC, the CA held:

At first glance it would appear that the arguments of appellees on the similarities between the reconveyance complaints are persuasive to warrant the conclusion that appellant has only one cause of action in all these suits. But the similarities per se end with the introduction of the alleged trust agreement between the principal parties. The stark differences in the complaints are too obvious and cannot be ignored. These differences consist of: a) the properties and their respective locations are different; b) the deeds of conveyance for each properties are different; c) the lease contracts are different; and d) the current ownership of the properties being different in some cases, the parties in some cases are different from those in the others.

...

With the distinct factual circumstances in each of the conveyances and the supposed implementation of the trust, this Court at once wonders on the practical level whether it is administratively feasible to lump all these cases together in one forum. For one, third-party transferees of some properties as in the case of appellee Migsan Realty to which the C.M. Recto property is now allegedly titled will be impleaded in cases involving their subsequently-acquired properties, but they would have nothing to do with other cases involving Banco Filipino and Tala, et al. To add to the complication, the appellees herein will be first to insist on an extensive proof on the part of the plaintiff of each and every detail surrounding the transactions that may have occurred for each of the properties in order to determine whether such property is vested with the supposed trust. This means that a single court would have to receive 17 sets of evidence for and against Banco Filipino's claim of ownership of the 17 properties located in different jurisdictions. In the end, a single court would have to direct the registrar of deeds of 17 jurisdictions either to issue a new title

in favor of Banco Filipino or cancel the annotation of lis pendens, if any, if Tala's or a subsequent transferee's title is affirmed.

Although the manner by which the trust in each of the properties were allegedly implemented were the same, through a sale and subsequent counter lease, the fact remains that specific proof must be presented in order to determine whether or not the trust actually exists in each of the properties. There should be no dispute that the documents evidencing the implementation of the supposed trust and the current state of things for each property are not identical. Thus, independent appraisals must be made for each of them. To put it more succinctly, this Court is not minded to think that this is an "all or nothing" situation where the finding of a trust in one property shall automatically attach to the others. Certainly, this "all or nothing" concept does not appear (sic) to be the intention of the complaint, nor does it also appear to be the contention of any of the appellees.

...The complaints, identical in many respect though they may be, fashion a cause of action independent from each other, the alleged right of the plaintiff accrued only when the deed of conveyance in each case was executed, the right being particularly that of the person in whose favor a trust was created. Its alleged violation, on the face of the complaint occurred when the appellees allegedly turned "perfidious". Whether the violation as regard all the properties occurred at one time is not mentioned. There is no basis for this Court to surmise that there is only one sweeping revocation of the alleged trust which individually burdened all the properties. All in all, therefore, the alleged right was created independently for each of the properties through the independent execution or implementation of the supposed trust. This results to no less than a distinct cause of action for each such properties.

The opinion of this Court would have been different had all the properties been conveyed through one instrument. In this hypothetical scenario, the birth of the supposed right on the part of the appellant happened at one instance for all the properties, and regardless of the manner the appellee would later on turn "perfidious", the singleness of the cause will not be disturbed. In this assumed situation, what applied to one property necessarily applies to the rest and the "all or nothing" concept will apply.

...

In sum, by simply looking beyond the physical similarities of the complaints, it is apparent that the delict allegedly committed in each of the cases are distinct from each other. The alleged right of plaintiff was created independently for each of the properties through the independent execution or implementation of the supposed trust and this results to no less than a distinct cause of action for each such properties. This independent creation invariably resulted to the diverse evidences required to prove whether or not the appellant is entitled to recover the property concerned in each case. Hence, appellant correctly filed

independent suits for each conveyance signifying the alleged implementation of the trust.^[9]

Petitioner and Tala Realty, *et al.* filed separate motions for reconsideration^[10] but both were denied in the CA Resolution dated August 28, 2000.^[11]

Hence, the present petition for review on *certiorari* anchored on the following arguments:

I

THE COURT OF APPEALS DECIDED A QUESTION OF SUBSTANCE NOT IN ACCORD WITH THE RULES OF COURT, PRECEDENTS AND REMEDIAL LAW AUTHORITIES WHEN IT DECLARED THAT BANCO FILIPINO IS NOT GUILTY OF SPLITTING A CAUSE OF ACTION CONSIDERING THAT:

- A. THE ALLEGATIONS OF BANCO FILIPINO IN ALL ITS SEVENTEEN (17) COMPLAINTS PLEAD A VIOLATION OF THE SAME SINGLE TRUST AGREEMENT AND THUS CONSTITUTE ONLY ONE CAUSE OF ACTION.
- B. THE EXECUTION OF VARIOUS DEEDS OF CONVEYANCE DID NOT GIVE RISE TO VARIOUS TRUST AGREEMENTS BUT WAS, AS ALLEGED IN ALL SEVENTEEN (17) COMPLAINTS OF BANCO FILIPINO, MERELY PERFORMED IN IMPLEMENTATION OF THE SINGLE TRUST AGREEMENT.
- C. ALL SEVENTEEN (17) COMPLAINTS FILED BY BANCO FILIPINO REQUIRE THE PRESENTATION OF ESSENTIALLY THE SAME, IF NOT IDENTICAL, EVIDENCE IN ORDER TO ESTABLISH THE EXISTENCE OF THE PURPORTED TRUST RELATIONSHIP BETWEEN BANCO FILIPINO AND TALA UPON WHICH THE FORMER RELIES FOR RECONVEYANCE OF THE PROPERTIES.
- D. EVEN ASSUMING THAT THE COURT OF APPEALS' RULING THAT EACH DEED OF CONVEYANCE GAVE RISE TO A SINGLE INDEPENDENT CAUSE OF ACTION, STILL BANCO FILIPINO IS GUILTY OF SPLITTING A CAUSE OF ACTION AS IT INSTITUTED SEPARATE SUITS FOR THE RECONVEYANCE OF PROPERTIES COVERED BY A SINGLE DEED OF CONVEYANCE.

II

THE COURT OF APPEALS DISREGARDED THE RULES OF COURT AND APPLICABLE DECISIONS OF THE SUPREME COURT WHEN IT REFUSED TO DECLARE BANCO FILIPINO GUILTY OF FORUM SHOPPING CONSIDERING THAT BY SPLITTING A SINGLE CAUSE OF ACTION, BANCO FILIPINO HAS VIOLATED THE RULE AGAINST FORUM SHOPPING.

III