

SECOND DIVISION

[G.R. No. 114951, July 18, 2003]

PHILIPPINE COMMERCIAL INTERNATIONAL BANK, EX-OFFICIO SHERIFF OF THE REGIONAL TRIAL COURT OF VALENZUELA, METRO MANILA, CLERK OF COURT AND EX-OFFICIO SHERIFF OF THE REGIONAL TRIAL COURT OF PASIG, METRO MANILA AND JUDGE TEOFILO GUADIZ, JR., PRESIDING JUDGE, REGIONAL TRIAL COURT OF MAKATI, METRO MANILA, BRANCH 147, PETITIONERS, VS. COURT OF APPEALS, LEY CONSTRUCTION & DEVELOPMENT CORP., LC BUILDERS & DEVELOPERS, INC., METRO CONTAINER CORP., MANUEL T. LEY AND JANET C. LEY, RESPONDENTS.

DECISION

CALLEJO, SR., J.:

This is a petition for review on *certiorari* of the Decision^[1] of the Court of Appeals in CA-G.R. SP No. 31251 nullifying the Order of the Regional Trial Court (RTC) of Makati^[2] in Civil Case No. 91-2495 dated February 23, 1993 lifting the writ of preliminary injunction earlier issued by the said RTC.

The Antecedents

Between January 1988 to April 1990, the private respondents Ley Construction & Development Corporation (Ley Construction), LC Builders & Developers Corporation (LC Builders), Metro Container Corporation (MCC) and the spouses Manuel and Janet Ley obtained loans from the petitioner Philippine Commercial International Bank (PCIB) amounting to around to P98,800,000 evidenced by eighteen promissory notes. To secure the said loans, the private respondents executed real estate mortgages and amended real estate mortgages over its property situated in Mandaluyong covered by Transfer Certificate of Title (TCT) No. 43131, and its property situated in Valenzuela City covered by TCT Nos. 6572 and 6580. They also executed three chattel mortgages over several of their movable properties in favor of petitioner PCIB.

The private respondents defaulted in the payment of their obligations in the amount of P105,442,145 and despite demands made by petitioner PCIB, failed to pay their account. On August 16, 1991, petitioner PCIB filed separate requests for extrajudicial foreclosure of the amended real estate mortgages with the petitioner *ex-officio* sheriff of the RTC of Pasig City and with the petitioner *ex-officio* sheriff of the RTC of Valenzuela, and a letter for the extrajudicial foreclosure of chattel mortgage with the petitioner *ex-officio* sheriff of the RTC of Valenzuela.^[3] In due course, the petitioner *ex-officio* sheriff of Pasig City set the sale at public auction on September 24, 1991 of the property covered by TCT No. 43131 on September 24, 1991. Meanwhile, the petitioner *ex-officio* sheriff of Valenzuela City set the **sale of**

the personal properties at public auction on September 16, 1991 at the compound of the mortgagors at Barrio Pulang Lupa, Valenzuela, and the sale of properties covered by TCT Nos. 6572 and 6580 on October 3, 1991.

Before any of the auction sales could proceed, the private respondents, through their counsel, the law firm of Quisumbing Torres & Evangelista, filed a complaint against the petitioners PCIB and the ex-officio sheriffs on September 10, 1991 with the RTC of Makati, for injunction and damages with a prayer for the issuance of a temporary restraining order, seeking to enjoin the said sheriffs from selling at public auction the real and personal properties covered by the mortgage contracts. The private respondents as plaintiffs had eight causes of action against the petitioner. On their first to fourth causes of action, the private respondents as plaintiffs therein alleged *inter alia* that petitioner PCIB had agreed to the extensions of the due dates of the private respondents' loan to March 1992, with a moratorium on the payment of interest during the extension of the same; however, petitioner PCIB foreclosed the said mortgages before the lapse of the said extension. On their fifth to eighth causes of action, the private respondents alleged *inter alia* that the notice of sale of the chattels was defective because (a) it included the sale of the chattels for the payment of loans not covered by the said chattels; (b) it refers to the foreclosure of only one chattel mortgage but the properties sought to be sold covered all the properties subject of the three chattel mortgages, and as such, the requests to foreclose the chattel mortgages were premature; and (c) it failed to comply with the requirements of Section 14 of Act No. 1508, otherwise known as the Chattel Mortgage Law.

The private respondents prayed that a temporary restraining order or writ of preliminary injunction be issued enjoining the defendants sheriffs from conducting already scheduled auction sales, any other sale of the plaintiffs' assets, and any other foreclosure of the real estate mortgages and chattel mortgages and ordering the restructuring of the obligations of the plaintiffs Ley Construction and LC Builders so that they could be repaid on easier terms over a period of several years or at least until the current recession in the construction industry is over, and to condemn defendant PCIB to pay damages; and after due proceedings, judgment be rendered making permanent any writ of preliminary injunction which may have been issued by the court.

The case was raffled to the RTC of Makati Branch 147^[4] and docketed as Civil Case No. 91-2495.^[5]

On September 12, 1991, the RTC issued a temporary restraining order temporarily enjoining the petitioners sheriffs and their respective deputies from proceeding with the September 16 and 24, and October 3, 1991 auction sales, respectively.^[6] On September 16, 1991, the RTC issued another temporary restraining order enjoining the petitioner *ex-officio* sheriff of the RTC of Valenzuela and his deputies from proceeding with the October 3, 1991 auction sale.

Instead of filing an answer to the complaint, petitioner PCIB filed a motion to dismiss on the ground that it did not grant the private respondents any extension to pay their account; hence, the private respondents as plaintiffs had no cause of action against the petitioner.

The application for the issuance of a preliminary injunction was set for hearing. On October 16, 1991, the RTC issued an order denying the motion to dismiss and granting a writ of preliminary injunction enjoining the conduct of any of the auction sales, conditioned upon the posting of a bond by the private respondents in the amount of P1,000,000. On November 20, 1991, petitioner PCIB filed a motion for reconsideration of the October 16, 1991 Order, but the court denied the said motion per its Order on February 26, 1992. The private respondents posted the requisite injunction bond of P1,000,000.

Petitioner PCIB filed a petition for *certiorari* and *mandamus*^[7] with the Court of Appeals (CA) for the nullification of the October 16, 1991 and February 26, 1992 Orders of the RTC. While the case was still pending with the said court, the law firm of Quisumbing Torres & Evangelista withdrew their appearance as counsel for the private respondents with the conformity of the latter.^[8] The law firm of San Vicente De Leon & Associates entered its appearance as new counsel for the private respondents.

On January 14, 1993, the CA rendered its decision^[9] dismissing the petition.^[10] Entry of judgment was made of record on February 8, 1993.^[11] The private respondents, through the law firm of San Vicente De Leon & Associates, were served with a copy of the said entry of judgment.

With the dismissal of its petition by the CA, petitioner PCIB filed on February 3, 1993 its answer to the complaint in Civil Case No. 91-2495 in the RTC of Makati, serving a copy thereof on the law firm of San Vicente De Leon & Associates.^[12]

On February 4, 1993, the law firm of San Vicente De Leon & Associates filed a manifestation with the RTC that it had no authority to represent the private respondents in Civil Case No. 91-2495 as it was not the counsel of record in the said case.^[13] Petitioner PCIB filed a counter-manifestation stating that since the law firm of Quisumbing Torres & Evangelista had withdrawn its appearance and the law firm of San Vicente De Leon & Associates had entered its appearance, the copy of the petitioners' answer to the complaint was duly served on the private respondents through the latter law firm.^[14] Petitioner PCIB further manifested that, nonetheless, it was serving a copy of its answer to the complaint on the private respondents themselves. Petitioner PCIB served a copy of the said answer on the private respondents on February 4, 1993.^[15]

Simultaneous with the filing of its answer to the complaint, petitioner PCIB filed a second motion to lift the writ of preliminary injunction issued by the court on October 16, 1991 on the following grounds: (a) at the time of the filing of the said second motion, the private respondents' obligation had reached P161,033,070.49; hence, the bond filed by the private respondents in the amount of P1,000,000 was grossly inadequate; and (b) the extension alleged by the private respondents to have been granted to them by petitioner PCIB to pay their obligation had already lapsed.^[16] The petitioner served a copy of the said motion on the law firm of San Vicente De Leon & Associates.^[17]

On February 8, 1993, the law firm of San Vicente De Leon & Associates filed a manifestation with the RTC reiterating therein that it was not the counsel of record

in the said case, and as such was not authorized to represent the private respondents. The said law firm was the counsel of the private respondents only in CA-G.R. SP No. 27573 and not in Civil Case No. 91-2495 before the RTC.^[18]

Petitioner PCIB filed a second counter-manifestation that service to the law firm of San Vicente De Leon & Associates should be considered valid and binding on the private respondents because the law firm of Quisumbing Torres & Evangelista had already withdrawn its appearance as counsel of the private respondents in CA-G.R. SP No. 27573. Petitioner PCIB prayed to the court to order the private respondents to indicate which law office was their counsel. The petitioner served a copy of the said manifestation to the private respondents. It also served a copy of the second motion to lift the writ of preliminary injunction on February 9, 1993 on the private respondents.^[19] The private respondents did not file any opposition to the said motion, and likewise failed to appear during the hearing of February 12, 1993.

The private respondents thereafter engaged the service of Atty. Noel M. Malaya, who entered his appearance as counsel for the private respondents in Civil Case No. 91-2495 on February 15, 1993, serving a copy thereof on the petitioner's counsel.^[20] Atty. Malaya alleged in his appearance that the same was with the conformity of the private respondents. He did not file any opposition or comment on the second motion of petitioner PCIB.

On February 23, 1993, the RTC issued an order lifting the writ of preliminary injunction it previously issued for the following reasons: (a) there was no opposition to the petitioners' motion; and (b) the continued effectivity of the writ of preliminary injunction had become improvident.^[21]

With the lifting of the writ of preliminary injunction, the petitioner *ex-officio* sheriff of the RTC of Pasig issued on March 1, 1993 a notice of sheriff's sale, scheduling the sale of the Mandaluyong property on March 30, 1993.^[22] On March 2, 1993, the petitioner *ex-officio* sheriff of the RTC of Valenzuela likewise issued a notice of sheriff's sale setting the sale of the Valenzuela properties also on March 30, 1993.^[23] The sale of the mortgaged chattels at public auction was scheduled on March 18, 1993 **in front of the compound of the private respondents in Valenzuela, Metro Manila, where the chattels were located**. The private respondents were served with copies of the said notices. As required, the notices of sale for the real properties in Valenzuela were published in the Metropolitan Newsweek on its March 2, 13 and 20, 1993 issues.

Instead of filing with the RTC of Makati in Civil Case No. 91-2495 a motion for the reconsideration of its February 23, 1993 Order or a supplemental complaint therein, the private respondents filed on March 17, 1993 with the RTC of Manila, through Atty. Malaya, a complaint for injunction and damages against the petitioners docketed as Civil Case No. 93-65135^[24] with a prayer for a temporary restraining order to enjoin the respondents and proceeding with the auction sale of the mortgaged chattels on March 18, 1993. The private respondents alleged *inter alia* that the sale at public auction of the chattels had been enjoined by the RTC of Makati, Branch 147; and that they were suddenly notified that the sale at public auction was reset on March 18, 1993; they were not given the requisite notice of the sale of the mortgaged chattels on March 18, 1993 as mandated by Act No.

1508; and that the sale at public auction was to be conducted in a private place in front of the compound of the private respondents in Valenzuela and not in a public place as mandated by the said law. On the same day, Executive Judge Rosalio dela Rosa of the RTC of Manila issued a temporary restraining order enjoining the sale of the mortgaged chattels.^[25] The case was raffled to Branch 34 of the court.^[26] On March 18, 1993, the petitioners, as defendants therein, filed a motion to dismiss the complaint on the ground that the private respondents had no cause of action against them, serving a copy thereof to Atty. Malaya.

In a parallel development, the private respondents, through Atty. Malaya, opted to file a reply to the answer of petitioner PCIB. He filed a Motion dated March 23, 1993 to admit reply in Civil Case No. 91-2495 to the answer of petitioner PCIB. A copy of the motion was duly served on the counsel of petitioner PCIB. The private respondents set the hearing of their motion on April 2, 1993 at 10:00 a.m.

The foreclosure sale of the mortgaged real properties in Mandaluyong and Valenzuela proceeded as scheduled on March 30, 1993 with petitioner PCIB as the highest bidder. On March 30, 1993, the petitioner sheriff of the RTC of Valenzuela executed a certificate of sale over the said properties in favor of the petitioner.^[27] On March 31, 1993, the petitioner sheriff of the RTC of Pasig executed a certificate of sale over the properties in favor of petitioner PCIB. The private respondents were furnished with copies of the said certificates.

On March 31, 1993, the private respondents, **through the Quisumbing Torres & Evangelista Law Office**, filed in Civil Case No. 91-2495 an emergency motion for reconsideration, set for hearing on April 9, 1993 with an application for temporary restraining order of the February 23, 1993 Order of the court lifting the writ of preliminary injunction previously issued, for the reinstatement of the writ of preliminary injunction issued by the court on October 16, 1991,^[28] and for the expansion of the coverage of the said writ, thus:

WHEREFORE, plaintiffs urgently and respectfully pray that the Order dated 23 February 1993 be reconsidered, that the writ of preliminary injunction be immediately reinstated, and that said writ be expanded to enjoin defendants and their deputies, employees and agents from implementing the foreclosure and sheriff's sale of 30 March 1993, including but not limited to (a) the issuance of the certificate of sale, (b) the annotation of the sheriff's sale on Transfer Certificate of Title No. 43131, (c) the filing of any petition for a writ of possession of the subject real property, and (d) the consolidation of title in favor of defendant PCIB.

In the meantime and pending the hearing and resolution of this Emergency Motion, plaintiffs urgently and respectfully pray for the issuance of a temporary restraining order enjoining defendants and their deputies, employees and agents from implementing the foreclosure and sheriff's sale of 30 March 1993, including but not limited to (a) the issuance of the certificate of sale, (b) the annotation of the sheriff's sale on Transfer Certificate of Title No. 43131, and (c) the filing of any petition for writ of possession of the subject real property.^[29]