

SECOND DIVISION

[G.R. No. 123686, November 16, 1999]

SPS. APOLINARIO MELO AND LILIA T. MELO, AND JULIA BARRETO, PETITIONERS VS. THE HON. COURT OF APPEALS AND ARSENIA CORONEL, RESPONDENTS.

DECISION

MENDOZA, J.:

This is a petition for review on certiorari of the resolution^[1] of the Court of Appeals, dated January 2, 1996, affirming the denial by the Regional Trial Court, Branch 57, Angeles City, of the motion to dismiss filed by petitioners spouses Apolinario and Lilia Melo and Julia Barreto.

The facts are not disputed:

Private respondent Arsenia Coronel mortgaged to the Rural Bank of Mabalacat, Inc. a parcel of land in Angeles City, covered by T.C.T. No. 43872, to secure a loan of P60,000.00. Because of her failure to pay the loan, the bank caused the extra-judicial foreclosure of the mortgage pursuant to Act. No. 3135, as amended by Act No. 4118, as a result of which the land was sold to petitioners as the highest bidders. Petitioners then filed a Petition for the Ex-Parte Issuance of a Writ of Possession with the Regional Trial Court, Branch 60, Angeles City.^[2]

To counter the petition, private respondent filed, on June 8, 1995, a complaint for injunction against petitioners in the Regional Trial Court, Branch 57, Angeles City. In turn, petitioners moved to dismiss private respondent's action on the following grounds: (1) *litis pendentia*; (2) forum shopping; and (3) failure of private respondent to attach a certification of non-forum shopping to her complaint.^[3]

On July 3, 1995, private respondent amended her complaint by including the certification of non-forum shopping which stated:^[4]

AMENDED VERIFICATION/CERTIFICATION

I, ARSENIA CORONEL, being duly sworn in accordance with law do hereby declare and depose:

1. That I am the plaintiff in Civil Case No. 8022 filed before Branch 57 of the Regional Trial Court of Angeles City;
2. That I caused the foregoing complaint to be prepared and have read and understood the allegations thereof;

3. That said allegations are true and correct of my own personal knowledge;
4. That I have not commenced any other complaint/petition involving the same issues similar to the instant complaint;
5. That to the best of my knowledge or belief, there is no other complaint/petition filed involving the same issues at bar;
6. That there is, however, a Petition for Issuance of Writ of Possession filed against me by the defendants herein docketed as Cad. Case No. A-124-694 before Branch 60 of the Regional Trial Court, Angeles City;
7. That I execute this affidavit to attest to the truth of the foregoing.

FURTHER AFFIANT SAYETH NONE.

(SGD. ARSENIA CORONEL)

On August 7, 1995, the trial court denied petitioners' motion to dismiss explaining -

A reading of the complaint shows that the plaintiff, in order to exercise her right of redemption, seeks to prevent the defendants and the Register of Deeds of Angeles City from doing something. Paragraph 14 of the complaint reads as follows:

"14. That defendants are about to consolidate the ownership of the plaintiff's property (T.C.T. No. 43872 of the Register of Deeds of Angeles City) in their names and register the said consolidation of ownership with the Register of Deeds of Angeles City, upon the expiry date of the redemption period (June 9, 1995); the desire and willingness of the plaintiff to exercise her right of redemption notwithstanding."

It only avers that she has a right to redeem the property and that she is entitled to the reliefs prayed for, such as the issuance of a permanent injunction. Furthermore, the complaint states a sufficient cause of action which is set out in its paragraph 4 to 6, inclusive, that is, the right to redeem the property and to prevent the defendant-spouses Apolinario Melo and Lilia T. Melo and defendant Julio Barreto to consolidate their ownership over the property.

. . . .

On Forum Shopping:

In the case at bar, there is no forum shopping. There is forum shopping whenever, as a result of an adverse opinion in one forum, a party seeks a favorable opinion (other than by appeal or certiorari) in another, and the principle applies not only with respect to suits filed in the courts while an administrative proceeding is pending, in order to defeat administrative processes and in anticipation of an unfavorable administrative ruling and

a favorable court ruling.

The petition for the issuance of a writ of possession and the present case, as heretofore stated, are oceans apart, so to speak. Thus, even if a writ of possession is issued, this will not prevent the plaintiff from exercising her right to redeem the property, if warranted. And it may be added that an indemnity bond is required to be posted in order that possession may then be obtained under a writ which may be applied for *ex-parte*, pursuant to Section 7 of Act 3135 as amended by Act 116.

Plaintiff, in compliance with Circular No. 28-91 and Section 17 of the Interim Rules and Guidelines, submitted an Amended Verification/Certification.

On certiorari brought by petitioners, the Court of Appeals upheld the trial court's order. It ruled:

What happened in this case was totally different since the *ex-parte* petition for the issuance of a writ of possession was filed by the petitioners against private respondent. On the other hand, the complaint with preliminary injunction was filed by the private respondent against herein petitioners. It is not a case, therefore, of the private respondent instituting two (2) remedies in two (2) different fora. Her case entailed only one (1) forum, to be precise, with the RTC, Branch 57.

Hence, this petition for review on certiorari, raising the following issues: (1) whether private respondent is guilty of forum shopping by filing her complaint with preliminary injunction before the Regional Trial Court, Branch 57, Angeles City when there was a Petition for Ex-Parte Issuance of Writ of Possession pending before Branch 60 of the same court; and (2) whether there was substantial compliance by private respondent with the rule requiring the submission of a certification of non-forum shopping together with initiatory pleadings.

We shall deal with these issues seriatim.

To begin with, the essence of forum-shopping is the filing of multiple suits involving the same parties for the same cause of action, either simultaneously or successively, for the purpose of obtaining a favorable judgment.^[5] It exists where the elements of *litis pendentia* are present or where a final judgment in one case will amount to *res judicata* in another.^[6] On the other hand, for *litis pendentia* to be a ground for the dismissal of an action, the following requisites must concur: (a) identity of parties, or at least such parties who represent the same interests in both actions; (b) identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (c) the identity with respect to the two preceding particulars in the two cases is such that any judgment that may be rendered in the pending case, regardless of which party is successful, would amount to *res judicata* in the other case.^[7]

But, in the instant case, the petition for the *Ex-Parte* Issuance of a Writ of Possession which petitioners filed involved a different cause of action from the complaint for injunction filed by private respondent. Petitioners sought possession of the subject property, whereas private respondent sought to enjoin them from