

## THIRD DIVISION

[ G.R. NO. 163735, November 24, 2006 ]

**GREEN ASIA CONSTRUCTION AND DEVELOPMENT CORPORATION  
AND SPS. RENATO AND DELIA LEGASPI, PETITIONERS, VS. THE  
HONORABLE COURT OF APPEALS AND PCI LEASING AND  
FINANCE, INC., RESPONDENTS.**

### DECISION

**QUISUMBING, J.:**

This special civil action for certiorari impugns the Decision<sup>[1]</sup> and Resolution<sup>[2]</sup> of the Court of Appeals, dated March 18, 2004 and May 26, 2004, respectively, in CA-G.R. CV No. 78117, for alleged grave abuse of discretion amounting to lack or excess of jurisdiction when it affirmed the Orders<sup>[3]</sup> of the Regional Trial Court of Angeles City, Branch 57 in LRC Case No. A-124-1088.

The facts are as follows:

On June 8, 1995, petitioner Green Asia Construction and Development Corporation (GACDC), represented by its president, petitioner Renato Legaspi, obtained a loan of P2,600,000<sup>[4]</sup> from private respondent PCI Leasing and Finance, Inc. (PCILFI).

As security, GACDC, represented by petitioner spouses Renato and Delia Legaspi, executed a real estate mortgage<sup>[5]</sup> for P450,000 in favor of PCILFI. The mortgage covered three parcels of land located in Barrio Balibago, Angeles City, under TCT Nos. 100362, 100363, and 100364.<sup>[6]</sup>

When GACDC failed to pay the loan on maturity, the mortgage was foreclosed extrajudicially. PCILFI was the highest bidder at the foreclosure sale. A certificate of sale<sup>[7]</sup> dated February 3, 1998 was accordingly issued to PCILFI and duly registered with the Registry of Deeds of Angeles City.

On April 12, 2000, PCILFI filed a petition for the issuance of a writ of possession<sup>[8]</sup> with the Regional Trial Court of Angeles City, Branch 57, docketed as LRC Case No. A-124-1088.

The trial court granted PCILFI's petition, thus:

**WHEREFORE,** let a writ of possession be issued in favor of petitioner PCI Leasing and Finance, Inc. directing the Sheriff of this Court to eject the Green Asia Construction and Development Corporation and all persons presently staying therein and claiming rights over the premises previously covered by TCT Nos. 100362, 100363, and 100364 of the Registry of Deeds of Angeles City, and to place the petitioner in

possession thereof.

**SO ORDERED.**<sup>[9]</sup>

On May 8 and May 30, 2002, GACDC filed an urgent omnibus motion<sup>[10]</sup> and a supplement to the urgent omnibus motion,<sup>[11]</sup> respectively, praying for the setting aside of the certificate of sale, cancellation of the writ of possession, and the suspension of the implementation of the said writ of possession.

On September 2, 2002, the trial court issued the first assailed order denying for lack of merit the aforesaid motion. GACDC's motion for reconsideration was denied in the second assailed order of October 14, 2002.

GACDC elevated the case to the Court of Appeals, which affirmed the assailed orders of the trial court, to wit:

**WHEREFORE,** finding no cogent reason to disturb the assailed Orders, the instant appeal is DENIED. The assailed orders dated September 2, 2002 and October 14, 2002 of the Regional Trial Court (RTC) of Angeles City, Branch 57 in LRC Case No. A-124-1088 are AFFIRMED.

**SO ORDERED.**<sup>[12]</sup>

Hence, the instant petition raising the following as issues:

1. WHETHER OR NOT THE PETITION IN LRC CASE NO. A-124-1088 IS PROPER IN FORM AND IN SUBSTANCE CONSIDERING THAT THE SIGNATORY OF THE VERIFICATION AND CERTIFICATION AGAINST FORUM SHOPPING, FLORECITA R. GONZALES, IS NOT DULY AUTHORIZED AS SUCH BY PCI LEASING AND/OR THERE WAS A FAILURE TO SHOW PROOF OF SUCH AUTHORITY.
2. WHETHER APPEAL IS AN APPROPRIATE REMEDY IN ACTIONS FOR THE ISSUANCE OF WRIT OF POSSESSION PURSUANT TO THE PROVISIONS OF ACT 3135, AS AMENDED.<sup>[13]</sup>

Petitioners contend that the petition for the issuance of writ of possession is not proper in form and substance because the verification and certification on non-forum shopping was not signed by PCILFI or its duly authorized representative. Further, petitioners argue that Section 8 of Act No. 3135<sup>[14]</sup> clearly provides that appeal in the proceedings in which possession was requested is the appropriate remedy.

Private respondent, however, counters that the finding of the trial court that the questioned petition was sufficient in form and substance is binding on this Court. It stresses that there is no specific requirement in the Rules of Court to include the Secretary's Certificate in the certification on non-forum shopping. Private respondent also argues that the assailed Orders of the trial court are not appealable since they are not in the nature of a judgment on the merits.

After serious consideration of the arguments raised by the parties, we find the petition without merit.