

## THIRD DIVISION

[ G.R. No. 227889, September 28, 2020 ]

**GAYDEN A. SELOZA, PETITIONER, VS. ONSHORE STRATEGIC ASSETS (SPV-AMC), INC., RESPONDENT.**

### DECISION

**LEONEN, J.:**

A lot buyer may seek to annul a real estate mortgage before the Housing and Land Use Regulatory Board, which has exclusive jurisdiction over complaints of unsound real estate business practices. This, however, precludes one from seeking before the trial court an annulment of the extrajudicial foreclosure proceedings. Otherwise, as the second suit would arise from the same cause of action and parties as the first action, it would constitute forum shopping by way of *litis pendentia*.

This Court resolves the Petition for Review on Certiorari<sup>[1]</sup> filed by Gayden Seloza (Seloza) assailing the Decision<sup>[2]</sup> and Resolution<sup>[3]</sup> of the Court of Appeals, which affirmed the Regional Trial Court Orders<sup>[4]</sup> dismissing his Complaint because of *litis pendentia* and forum shopping.

On July 17, 2001, Seloza and First World Home Philippines, Inc. (First World) entered into a contract to sell a house and lot<sup>[5]</sup> in Bignay, Valenzuela City, worth P580,750.00.<sup>[6]</sup> Seloza had long completed payment on December 30, 2004, but First World executed a deed of absolute sale on September 26, 2008, and failed to deliver the new title to Seloza.<sup>[7]</sup>

Unknown to Seloza, in 2002, First World had loaned P75 million from United Overseas Bank Philippines (United Overseas Bank).<sup>[8]</sup> To secure its loan obligations, on December 30, 2002, First World executed a real estate mortgage on several lots in its Valenzuela housing project, including the property that Seloza paid for.<sup>[9]</sup>

On January 30, 2006,<sup>[10]</sup> United Overseas Bank transferred its rights over all outstanding obligations of First World, including the real estate mortgage, to Onshore Strategic Assets (SPC-AMV), Inc. (Onshore).<sup>[11]</sup>

When First World failed to pay its loans, on February 14, 2012, Onshore had the real estate mortgage extrajudicially foreclosed.<sup>[12]</sup> On April 10, 2012, a Notice of Sheriffs Sale setting the auction sale of the mortgaged properties was issued and published in public places. The auction was held on May 11, 2012, with Onshore as the sole bidder. Thus, on May 18, 2012, a Certificate of Sale was issued in its favor. It was registered and annotated in Transfer Certificate of Title No. V-59286 on May 24, 2012.<sup>[13]</sup>

In May 2012, Seloza discovered that a certificate of sale of the property was issued to Onshore.<sup>[14]</sup>

In October 2012, Seloza filed a Complaint<sup>[15]</sup> before the Regional Trial Court, seeking to annul the extrajudicial foreclosure sale with prayer for preliminary injunction. He contended that his unregistered rights are superior to the registered mortgage of Onshore because First World failed to apprise him of the mortgage and the foreclosure proceedings.<sup>[16]</sup>

Onshore moved to dismiss the Complaint for failure to implead First World as an indispensable party.<sup>[17]</sup>

On November 12, 2012, Seloza and the other lot buyers in the housing project filed an Omnibus Motion to implead Onshore in a case<sup>[18]</sup> pending before the Housing and Land Use Regulatory Board. In that case, filed on September 16, 2011,<sup>[19]</sup> they assail the validity of the real estate mortgages that First World had executed, including the property that involved Seloza.

On September 20, 2013, the Regional Trial Court dismissed<sup>[20]</sup> Seloza's Complaint for forum shopping. It found the requisites of *litis pendentia* present: the case had identity of parties, rights asserted, and reliefs prayed for with the case before the Housing and Land Use Regulatory Board, such that judgment in one case would amount to *res judicata* in the other. It also found that both complaints were based on the superiority of Seloza's unregistered deed of sale over Onshore's right as the assignee of the mortgage.<sup>[21]</sup> The dispositive portion of the Order reads:

IN VIEW OF THE FOREGOING, the Motion to Dismiss and the Supplement thereto are hereby GRANTED. The instant case is hereby DISMISSED on the ground of *litis pendentia*.

The prayer for the issuance of preliminary injunction is likewise denied for lack of merit.

SO ORDERED.<sup>[22]</sup>

On September 30, 2014, the Regional Trial Court denied Seloza's Motion for Reconsideration.<sup>[23]</sup>

In its April 22, 2016 Decision,<sup>[24]</sup> the Court of Appeals affirmed the Regional Trial Court's ruling, disposing as follows:

**ACCORDINGLY**, the instant appeal is **DENIED**. The Orders dated September 20, 2013 and September 30, 2014 of the Regional Trial Court (RTC), Branch 75 of Valenzuela city in Civil Case No. 1530-V-12 are hereby **AFFIRMED in toto**.

**SO ORDERED.**<sup>[25]</sup> (Emphasis in the original)

As with the lower court, the Court of Appeals found that all the requisites of *litis pendentia* were present.<sup>[26]</sup>

First, there was substantial identity of parties, since Seloza was one of the lot buyers who filed the case in the Housing and Land Use Regulatory Board against Onshore's predecessors-in-interest.<sup>[27]</sup>

Second, there was identity of causes of action and reliefs sought. The Court of Appeals found that both cases hinged on the validity of the real estate mortgage.<sup>[28]</sup> Thus, the same pieces of evidence would either establish both cases or fail to prove the cause of action. The validity of the foreclosure sale and the cancellation of the certificate of sale could not be determined without ruling on the validity of the real estate mortgage.<sup>[29]</sup>

Accordingly, for the third requisite, the Court of Appeals found that the judgment to be rendered by the Housing and Land Use Regulatory Board would amount to *res judicata* in the case before the trial court.<sup>[30]</sup>

In an October 19, 2016 Resolution,<sup>[31]</sup> the Court of Appeals denied Seloza's Motion for Reconsideration.

On November 19, 2016, Seloza filed this Petition<sup>[32]</sup> against Onshore.

In a February 6, 2017 Resolution,<sup>[33]</sup> this Court denied the Petition for failure to sufficiently show any reversible error in the assailed judgment to warrant the exercise of this Court's discretionary appellate jurisdiction.

On March 28, 2017, Seloza moved for reconsideration,<sup>[34]</sup> reiterating his argument that there was no identity of rights asserted and reliefs sought in the two cases. He argued that the judgment in the Housing and Land Use Regulatory Board case will not amount to *res judicata* in the Regional Trial Court case. Hence, there was no *litis pendentia* and forum shopping.

On July 31, 2017, this Court granted petitioner's Motion and reinstated the Petition.<sup>[35]</sup> Respondent filed its Comment/Opposition on October 4, 2017,<sup>[36]</sup> and petitioner filed his Reply on September 7, 2018.<sup>[37]</sup>

Petitioner argues that the Court of Appeals erred in finding that there was *litis pendentia*,<sup>[38]</sup> as the second and third requisites are wanting.

On the second requisite, petitioner contends that the cause of action in the Housing and Land Use Regulatory Board case was founded on First World's execution of mortgage over his property without his knowledge and consent, in violation of Section 18 of Presidential Decree No. 957. He and the other lot buyers prayed to cancel the mortgage contract. On the other hand, the trial court case was based on the lack of notice in the foreclosure proceedings.<sup>[39]</sup> He prayed that the certificate of sale from the foreclosure proceedings, not the mortgage contract itself, be canceled.<sup>[40]</sup>

As for the third requisite, petitioner argues that the Housing and Land Use Regulatory Board would only rule on the validity of the mortgage contract.

Regardless of its decision, the Regional Trial Court can validate or invalidate the foreclosure sale for lack of notice. Thus, judgment in one tribunal would not conflict with the judgment in another. There being no *litis pendentia*, petitioner insists that he did not commit forum shopping.<sup>[41]</sup>

For its part, respondent alleges that the Petition should be dismissed as it merely reiterated all its arguments already denied in the lower courts. Allegedly, petitioner did not raise new arguments warranting review under Rule 45 of the Rules of Court.<sup>[42]</sup>

Respondent asserts that the lower courts correctly found all the elements of *litis pendentia* present. It underscores that in his Complaint before the trial court, petitioner claimed that he was not aware of the mortgage contract and asserted the superiority of his right against Onshore. Thus, it argues that while the reliefs may be different, petitioner's causes of action in both cases hinge on the validity of the real estate mortgage.<sup>[43]</sup> Respondent also invokes *Goodland Company, Inc. v. Asia United Bank*,<sup>[44]</sup> which held that forum shopping exists when two cases are filed simultaneously, where one seeks to annul the extrajudicial foreclosure, and the other seeks to invalidate the real estate mortgage.<sup>[45]</sup>

Respondent further alleges that petitioner is guilty of splitting his cause of action, since both actions are premised on the same cause of action and essentially pray for the same relief.<sup>[46]</sup>

In his Reply, petitioner justifies the filing of the Petition since Rule 45 of the Rules of Court allows review of decisions that are contrary to law and applicable jurisprudence.<sup>[47]</sup>

He then alleges that his cause of action in the case before the Housing and Land Use Regulatory Board was based on unsound real estate practices under Presidential Decree No. 957, while respondent's extrajudicial foreclosure in 2012 was a supervening event assailed before the Regional Trial Court. Petitioner argues that this supervening event was a new and distinct cause of action that justifies his recourse to the Regional Trial Court.<sup>[48]</sup>

Finally, petitioner alleges that the Regional Trial Court does not have jurisdiction over violations of Presidential Decree No. 957. Similarly, he asserts that the Housing and Land Use Regulatory Board does not have jurisdiction to resolve matters of title, possession of real property, and any other interest in it. Thus, he maintains that *litis pendentia* does not lie.<sup>[49]</sup>

The following are the issues to be resolved:

First, whether or not *litis pendentia* exists in filing a complaint to annul the extrajudicial foreclosure proceedings while an action assailing the validity of the real estate mortgage is pending; and

Second, whether or not the Housing and Land Use Regulatory Board has jurisdiction to annul the extrajudicial foreclosure.

## I

Forum shopping is a ground for dismissing a complaint under Rule 7, Section 5 of the Rules of Court:

SECTION 5. *Certification against forum shopping.* - The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.

In *City of Taguig v. City of Makati*,<sup>[50]</sup> this Court reiterated the various forms of forum shopping and their requisites:

Jurisprudence has recognized that forum shopping can be committed in several ways:

(1) filing multiple cases based on the same cause of action and with the same prayer, the previous case not having been resolved yet (where the ground for dismissal is *litis pendentia*); (2) filing multiple cases based on the same cause of action and the same prayer, the previous case having been finally resolved (where the ground for dismissal is *res judicata*); and (3) filing multiple cases based on the same cause of action but with different prayers (splitting of causes of action, where the ground for dismissal is also either *litis pendentia* or *res judicata*).

Similarly, it has been recognized that forum shopping exists "where a party attempts to obtain a preliminary injunction in another court after failing to obtain the same from the original court."

The test for determining forum shopping is settled. In *Yap v. Chua, et al.*: