

THIRD DIVISION

[G.R. No. 233448, November 18, 2020]

SM PRIME HOLDINGS, INC., PETITIONER, VS. ALFREDO G. MARAÑON, JR., IN HIS OFFICIAL CAPACITY AS THE GOVERNOR OF THE PROVINCE OF NEGROS OCCIDENTAL AND CHAIRMAN OF THE COMMITTEE ON AWARDS AND DISPOSAL OF REAL PROPERTIES, THE PROVINCE OF NEGROS OCCIDENTAL, AND THE COMMITTEE ON AWARDS AND DISPOSAL OF REAL PROPERTIES OF THE PROVINCE OF NEGROS OCCIDENTAL AND ITS MEMBERS, NAMELY: PATRICK LACSON, ATTY. MARY ANN MANAYONLAMIS, NILDA * GENEROSO, LUCILLE I. CHAVEZ-PINES, MERLITA V. CAELIAN, ENRIQUE S. PINONGAN, ERNIE F. MAPA, SANGGUNIANG PANLALAWIGAN AND ITS MEMBERS, AND AYALA LAND, INC., RESPONDENTS.

DECISION

INTING, J.:

Assailed in this Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court are the Resolutions respectively dated March 3, 2017^[2] and July 26, 2017^[3] of Branch 48, Regional Trial Court, Bacolod City (RTC Branch 48) in Civil Case No. 14-14323 dismissing the complaint of SM Prime Holdings, Inc. (SMPHI) on the ground of forum shopping.

The Antecedents

On April 8, 2011, SMPHI wrote then Governor of the Province of Negros Occidental (the Province), Alfredo G. Marañon, Jr. (Gov. Marañon) offering to lease four properties owned by the Province.^[4] On June 8, 2011, the Province issued an Offer to Sell or Lease^[5] its properties through public auction. The Offer to Sell or Lease contained the eligibility requirements, terms and conditions, evaluation criteria, and the date of the opening of bids set on June 24, 2011.

On June 16, 2011, Gov. Marañon wrote SMPHI informing it that the Province intended to sell or lease all of its properties and not just the portions intended by the latter. Gov. Marañon further urged SMPHI to submit its bid proposal if it was interested in participating in the bidding. SMPHI replied^[6] saying that it would be inappropriate for it to join the bidding believing that its Letter dated April 8, 2011 constituted as an Unsolicited Proposal under Republic Act No. (RA) 6957,^[7] as amended by RA 7718.^[8]

The bidding took place as scheduled on June 24, 2011. However, because there was only one participant, which was Ayala Land, Inc. (ALI), the bidding was declared a failure; a second bidding was scheduled on July 7, 2011. In the second bidding, the

participants were ALI and SMPHI. However, since both of their respective bids were lower than the appraised value set by the Province's Committee on Awards and Disposal of Properties (the Committee), the second bidding was also declared a failure. By reason thereof, the Committee issued Resolution No. 11-001^[9] that formally declared the second bidding a failure and further stated that the disposal of the properties shall be done through negotiation. In connection therewith, ALI and SMPHI were invited to a conference.

After a discussion on the terms and conditions of the negotiated sale and lease of the properties, only ALI submitted a proposal. Eventually, ALI's offer was accepted resulting in the execution by the Province of a Deed of Conditional Sale^[10] (DCS) and Contract of Leas^[11] (COL) both dated April 26, 2012 in favor of ALI.

On May 21, 2014, SMPHI filed a Complaint For Declaration of Nullity of the Deed of Conditional Sale and Contract of Lease^[12] before the RTC Branch 48. SMPHI invoked Article 1409^[13] of the Civil Code asserting that the Province fraudulently manipulated the bidding in favor of ALI. According to SMPHI, the Province violated Commission on Audit (COA) Circular No. 92-386, Prescribing Rules and Regulations on Supply and Property Management in the Local Governments, as amended.^[14]

SMPHI illustrated the fraud allegedly committed by the Province in the following manner: a) only SMPHI and ALI had expressed interest in the properties of the Province; b) that with SMPHI making an unsolicited proposal ahead of the Offer to Sell or Lease in the form of its Letter dated April 8, 2011 to Gov. Marañon, the latter was made aware that only ALI would submit an offer; c) that with only one bidder, the Committee would have a reason to declare a failure of bidding; d) that during the second bidding, the Committee, after ascertaining that SMPHI had submitted a superior offer than ALI, still declared a failure to bid; e) that this paved the way for the negotiated sale and lease of the properties; and f) that the disclosure of the floor price set by the Committee after the latter had seen that SMPHI submitted a higher offer than ALI was part of the scheme to manipulate the results and ensure that the Province could proceed to a negotiated sale and lease with ALI.

In response to the complaint, respondents^[15] filed a Joint Answer with Counterclaim^[16] contending, among others, that SMPHI had already brought the same issues before the COA, which had rendered the Decision No. 2012-147^[17] on September 21, 2012; and that Branch 50, RTC, Bacolod City (RTC Branch 50) in Special Civil Action (SCA) Case No. 11-13803 already found no grave abuse of discretion on the part of the Province in issuing Resolution No. 11-001 in its Decision^[18] dated January 23, 2014.

By way of special and affirmative defenses, respondents contended that SMPHI is guilty of forum shopping since there were other cases that had been filed involving the same parties and cause of action, and arising from the same incident, to wit: the aforesaid SCA Case No. 11-13803; CA-G.R. CEB-SP No. 06084; and Consulta No. 5337 before the Land Registration Authority (LRA). Thus, they prayed for the dismissal of the case.

ALI also filed its answer to the complaint where it likewise prayed for the dismissal of the case on the ground of forum shopping.

Later, respondents filed a Motion for Preliminary Hearing^[19] on their affirmative defenses. The RTC Branch 48 granted the motion and directed the parties to submit their respective memoranda.

In the assailed Resolution^[20] dated March 3, 2017, the RTC Branch 48 dismissed SMPHI's complaint on the ground of forum shopping. It held that the case before it and the other cases as above-mentioned have a common ultimate goal-to nullify the award of the sale and lease of the properties of the Province to ALI by assailing the bidding dated July 7, 2011.

SMPHI filed a motion for reconsideration of the Resolution dated March 3, 2017,^[21] but the RTC Branch 48 denied it in a Resolution^[22] dated July 26, 2017.

Hence, this petition.

The sole issue to be resolved by the Court is whether SMPHI committed forum shopping warranting the dismissal of its complaint before the RTC Branch 48. The issue being a pure question of law, direct appeal to this Court *via* Rule 45 is proper pursuant to Section 2(c) of Rule 41 which states:

SEC. 2. *Modes of appeal.* -

x x x x

(c) Appeal by *certiorari*. - In all cases where only questions of law are raised or involved, the appeal shall be to the Supreme Court by petition for review on *certiorari* in accordance with Rule 45.

The Court's Ruling

The petition lacks merit.

Forum shopping consists in the act of a party against whom an adverse judgment has been rendered in one forum, of seeking another, and possibly favorable, opinion in another forum (other than by appeal or by special civil action of *certiorari*), or the institution of two or more actions or proceedings grounded on the same cause on the supposition that one or the other court would make a favorable disposition.^[23]

The rationale for the rule against forum shopping is as follows:

It is an act of malpractice for it trifles with the courts, abuses their processes, degrades the administration of justice and adds to the already congested court dockets. What is critical is the vexation brought upon the courts and the litigants by a party who asks different courts to rule on the same or related causes and grant the same or substantially the same reliefs and in the process creates the possibility of conflicting decisions being rendered by the different fora upon the same issues, regardless of whether the court in which one of the suits was brought has no jurisdiction over the action.^[24]

Is there forum shopping in the instant case? The answer must be in the affirmative. To shed light on this finding, the Court deems it proper to trace a, bit of the history surrounding the controversy, and demonstrate the presence of forum shopping in the case at bar.

Records show that after the issuance of Resolution No. 11-001 on July 13, 2011, SMPHI filed a Petition^[25] for *Certiorari* under Rule 65 of the Rules of Court, with an application for issuance of a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction (WPI), docketed as SCA Case No. 11-13803 against Gov. Marañon and members of the Committee before the RTC Branch 50, Bacolod City. The issue in that case was whether the issuance of Resolution No. 11-001 declaring the second bidding held on July 7, 2011 and the resort to negotiation for the sale and lease of the Province's properties was tainted with grave abuse of discretion. SMPHI sought to nullify Resolution No. 11-001 and be declared as the winning bidder. On its request for a TRO, SMPHI sought to restrain respondents from proceeding with the submission of bid proposals that was scheduled on July 15, 2011. However, the RTC Branch 50 denied the application for a TRO in an Order dated July 14, 2011. SMPHI's petition was later amended^[26] to include as respondents the members of the Sangguniang Panlalawigan.

During the pendency of SCA Case No. 11-13803, SMPHI filed before the Court of Appeals (CA) a petition for *certiorari* with application for a TRO and/or WPI docketed as CA-G.R SP No. 06084 assailing the Order dated July 14, 2011 of the RTC Branch 50 which denied its application for a TRO. On September 6, 2011, the CA denied SMPHI's prayer for WPI.^[27] SMPHI moved for reconsideration, but the CA denied it in a Decision^[28] dated February 16, 2012, the *fallo* of which reads:

WHEREFORE, finding no basis to reverse, modify, amend or set aside our Resolution dated September 6, 2011, petitioner's Motion for reconsideration, is DENIED. In the same wise, finding no merit in the Petition seeking to nullify the Order dated July 14, 2011 of the Regional Trial Court, Branch 50, Bacolod City, in Civil Case No. 11-13803, the Petition is DISMISSED. Costs against petitioner.

SO ORDERED.^[29]

Meanwhile, after trial in due course in SCA Case No. 11-13803, RTC Branch 50 rendered a Decision^[30] dated January 23, 2014 denying SMPHI's petition for lack of merit. It found no grave abuse of discretion in the issuance of Resolution No. 11-001.

The RTC Branch 50 exhaustively discussed as follows:

Respondent Committee's decision to declare a failure of the July 27, 2011 public bidding a failure is not without any basis. Section 178 of COA Circular No. 92-386 which prescribes the rules and regulations on supply and property management in the local governments, including the disposal of supplies and property, expressly provides, that:

"SEC. 178. Basis of Award. - Award shall be given to the highest complying bidder, provided the offer is not less than the appraised value

of the property being sold."

Considering that the offers of both petitioner and Ayala were both below the appraised value of P19,500.00 fixed by respondent Committee, the latter deemed it proper and necessary not to give the award to the petitioner despite being the highest bidder, pursuant to the above-quoted circular, otherwise, the members of respondent Committee would have been liable for violating the same. Since no award could be made to any of the two bidders, consequently, respondent Committee has to declare a failure of bidding.

x x x x

Petitioner insists that it should be declared the winning bidder since there was no failure of the July 7, 2011 public bidding and it offered a bid higher than that of Ayala. Petitioner cited COA Circular No. 88-296 which provides that there is a failure of bidding in any of the following instances: (a) if there is only one offeror; or (b) if all the offers/tenders are non-complying or unacceptable. According to the petitioner, since there was more than one bidder and it offered the highest bid which was acceptable, respondent Committee gravely abused its discretion in declaring the July 7, 2011 public bidding. Petitioner explained that while its bid of P18,888.00 is below the floor price of P19,500.00 fixed by respondent Committee, the difference of P612.00 is not excessive because it represents only 3% of the floor price, and since the difference is not excessive, respondent Committee should have accepted petitioner's winning bid because according to the petitioner, under COA Memorandum Nos. 91-712 and 88-659 "if the difference is found not excessive the sale may be allowed in audit."

It is true that there was more than one bidder, yet the offers of the two bidders are unacceptable to respondent Committee because they were both below the floor price of P19,500.00 which the Committee fixed pursuant to its mandate. Since the offers of both the petitioner and Ayala are unacceptable, then, based on COA Circular No. 88-296, the July 27, 2011 public bidding is a failure. Even if petitioner offered the highest bid it did not vest on said petitioner the right to be declared the winning bidder in light of the express reservation in the Offer to Sell or Lease, which states that:

"The Provincial Government reserves the right to reject any or all bids, to waive any informalities therein or to accept only such bid as may be considered most advantageous to the government." x x x

It is well settled that where such reservation is made in the an Invitation to Bid, the highest or lowest bidder, as the case may be, is not entitled to an award as a matter of right (*C&C Commercial Corp. v. Menor*, L-28360, 27 January 1983, 120 SCRA 112, cited in the case of *J.G. Summit Holdings, Inc. v. Court of Appeals*, G.R. No. 124293, September 24, 2003). Even the lowest bid or any bid may be rejected or, in the exercise