

## SECOND DIVISION

[ G.R. No. 187262, January 10, 2019 ]

**ENGINEERING GEOSCIENCE, INC., PETITIONER, V. PHILIPPINE SAVINGS BANK, RESPONDENT.**

### DECISION

**CARPIO, J.:**

#### The Case

G.R. No. 187262 is a petition<sup>[1]</sup> filed by Engineering Geoscience, Inc. (EGI) against Philippine Savings Bank (PSBank) assailing the Decision<sup>[2]</sup> promulgated on 13 November 2008 and the Resolution<sup>[3]</sup> promulgated on 19 March 2009 by the Court of Appeals (CA) in CA-G.R. SP No. 102885.

The CA granted PSBank's petition for certiorari and prohibition, and annulled and set aside the Orders dated 24 August 2007<sup>[4]</sup> and 23 January 2008<sup>[5]</sup> of Branch 80, Regional Trial Court, Quezon City (trial court) in Civil Case No. Q-91-9150. Accordingly, the CA reinstated the trial court's Decision dated 12 January 1993.<sup>[6]</sup>

#### The Facts

The present case has been before the CA twice. The CA summarized the events which occurred before PSBank filed a petition for certiorari and prohibition before it:

The present action stemmed from a *Complaint With Prayer For Writ Of Preliminary Injunction And Restraining Order* instituted by private respondent Engineering Geoscience, Inc. (EGI) against petitioner [PSBank] together with Metropolitan Bank & Trust Co., Inc. (MBTC), Manuela F. Lorenzo, Marino V. Cachero and Silverio P. Bernas, which seeks the annulment of its loan contract with [PSBank].

It appears that EGI obtained a loan from [PSBank] in the principal amount of Twenty Four Million Sixty Four Thousand (Php24,064,000.00) Pesos as evidenced by a Promissory Note dated February 14, 1990. To secure the loan, EGI, through its President, Jose Rolando Santos, executed a Real Estate Mortgage on February 13, 1990 in favor of [PSBank] over two parcels of land, more particularly described and covered by Transfer Certificate of Title Nos. 292874 and 249866. As agreed by the parties, the schedule of payment for said loan shall be as follows: (a) Php1,443,840.00 representing interest for two (2) quarters commencing on May 14, 1990 and three months thereafter; (b) Php1,850,626.00 (Principal and interest) quarterly for twenty six (26) quarters starting November 14, 1990 and every three (3) months thereafter.

EGI was only able to make partial payments on its loan as it fell due based on the above schedule of payment, and after paying a total amount of only Php3,223,192.91 or only half of the amortizations due amounting to Php6,588,932.00, EGI made no further payments to [PSBank] after its last payment made on November 29, 1990 in the amount of Php 160,000.00. Thus, [PSBank] invoked the acceleration clause under the promissory note and sent a demand letter dated February 11, 1991 demanding full payment of its loan obligation.

[PSBank's] demand letter went unheeded, prompting [PSBank] to file a petition for extra-judicial foreclosure of mortgage under Act No. 135 on May 21, 1991, with the Office of the Ex-Officio Sheriff, Regional Trial Court of Quezon City. The foreclosure sale was set on June 26, 1991 but the same did not push through on account of the *Complaint With Prayer For Writ Of Preliminary Injunction and Restraining Order* filed by EGI before the [trial court]. The [trial court] issued an Order dated August 26, 1991 granting EGI's prayer for issuance of writ of preliminary injunction and effectively enjoined [PSBank] from proceeding with the foreclosure sale.

**Before the case materialized into a full-blown trial, [PSBank] and EGI submitted a Joint Motion For Approval Of Compromise Agreement dated December 29, 1992, which was approved by the [trial court] in a Decision dated January 12, 1993,** whereby the parties agreed as follows:

- 1). Plaintiff (EGI) expressly and unconditionally acknowledges its loan obligation to defendant Philippine Savings Bank (PABank) [sic] under the Promissory Note, Annex C-Complaint, which loan obligation is duly secured by a real estate mortgage on two (2) parcels of land, together with the improvements thereon, covered by Transfer Certificate of Title (TCT) Nos. 292874 and 249866 issued by the Register of Deeds of Quezon City as evidenced by the Real Estate Mortgage, Annex A-Complaint.
- 2). In full and final settlement of plaintiff's aforesaid obligation, plaintiff undertakes to pay PSBank the amount of Thirty Eight Million Two Thousand One Hundred Eighty-Two Pesos and Fifty Six Centavos (P38,002,182.56). This amount of P38,002,182.56 is payable, in full, without interest, on or before 31 December 1993, subject to the provision of paragraph 4 below.
- 3). (a) In the event that the partial payments made by plaintiff should not reach the amount of P26,376,000.00 by 31 December 1993, the deadline for the payment of the obligation as stated in the preceding paragraph 2, plaintiff shall execute in favor of PSBank a Deed of Absolute Sale for the transfer and conveyance of the properties covered by TCT Nos. 292874 and 249866 for the amount of P26,376,000.00 as the agreed consideration.

(b) To implement the foregoing sale, plaintiff irrevocably constitutes and appoints the Branch Clerk of Court, Regional Trial Court of Quezon City, Branch 80, as its attorney-in-fact to execute and deliver to PSBank the corresponding Deed of Absolute Sale and such other deeds as are necessary for the transfer in the name of PSBank of the titles to the properties now covered by TCT Nos. 292874 and 249866 as fully to all intents and purposes as if the deeds were directly executed and delivered by plaintiff.

(c) With respect to the amount of P11,626,182.56 representing the net obligation of plaintiff, PSBank shall be entitled to the issuance of a writ of execution for the collection of the balance.

4). (a) In the event, however, that plaintiff's partial payment up to 31 December 1993 would reach the amount of P26,376,000.00, the period for the payment of the balance of P11,626,182.56 shall be automatically extended up to 31 December 1995 and this balance shall be payable under the following terms:

(i). The balance of P11,626,182.56 shall earn a fixed rate of interest of eighteen percent (18%) per annum;

(ii). The balance, together with the agreed interest, shall be payable in two (2) equal installments, the first installment amounting to P5,813,091.28 (principal) plus P2,092,712.86 (interest) or a total amount of P7,905,804.14 to be due and payable on 31 December 1994, and the second installment amounting to P5,812,091.28 (principal) plus P1,046,356.43 (interest) or a total amount of P6,859,447.71, to be due and payable on 31 December 1995.

(b) If the balance or any portion thereof be not paid when due, the parties agrees [sic] that the properties covered by TCT Nos. 292874 and 249866 shall be sold to public auction, for which purposes the parties authorize the Clerk of Court and Ex-Officio Sheriff of the Regional Trial Court of Quezon City to conduct a public auction for the sale of these properties.

(c) If the properties are sold at public auction for an amount which is less than the full amount of the obligation of P38,002,182.56, PSBank shall be entitled to recover the deficiency by means of writ of execution.

(d) If the properties are sold and PSBank is declared as the highest bidder, PSBank shall also be entitled to the issuance of a writ of possession without bond.

(5). In the event plaintiff defaults in the payment of the entire obligation or any of the installments indicated above, and a Deed of Absolute Sale over the properties is executed by plaintiff in favor of PSBank, plaintiff agrees to pay to the latter transfer and registration expenses in the amount of P1,900,000.00.

(6). During the implementation of this Compromise Agreement and until one (1) year from the registration of the Certificate of Sale of the properties pursuant to par. 4(b) in favor of PSBank, the President of plaintiff corporation, Jose Rolando Santos, his immediate family and relatives, may continue to occupy, use and possess the properties without having to pay rentals or other charges to PSBank on account of such occupation, use and possession. In the event, however, that the said occupants refuse and fail to vacate the properties after the expiration of the one year period indicated above, PSBank is entitled to the issuance of a writ of possession to eject them and place PSBank in physical possession of the properties.

(7). Plaintiff agrees to pay PSBank and Metrobank, by way of attorney's fees, the amount of P50,000.00 each through postdated checks. (8). Upon complete payment and full compliance by plaintiff [with] all the terms and conditions herein agreed upon, defendant shall immediately return to plaintiff, after the payment of the last installment herein stipulated, the owner's duplicate of TCT Nos. 292874 and 249866, together with the corresponding Release or Cancellation of Real Estate Mortgage.

(9). In consideration of the parties' mutual covenants and undertakings, the parties agree to waive, abandon, and renounce their respective claims and counterclaims against each other in the above-captioned case.

(10). The parties' representatives signing this Compromise Agreement expressly warrant that they have been duly authorized to represent and bind their respective corporations.

Notwithstanding the above court-approved compromise agreement, EGI still failed to comply with the terms and conditions thereof. Thus, petitioner [PSBank] was constrained to file a *Motion for Execution* of the [trial court's] *Decision* on their compromise agreement. Accordingly, a *Writ of Execution* dated July 18, 1994 was issued in favor of [PSBank]. However, before the same could be served, the [trial court] issued an Order dated August 31, 1994, stating:

Considering that the Court needs to be enlightened and clarified on certain matters relative to the Writ of Execution, meanwhile, let the implementation of the same be held in abeyance until further orders from this Court.

In the meanwhile, set this case for conference on SEPTEMBER 14, 1994 at 8:30 a.m. Notify all the parties and their counsels.

SO ORDERED.

In turn, [PSBank] filed an urgent motion to set aside the above Order, arguing that the terms and conditions of the parties' compromise agreement as contained in the *Decision* dated January 12, 1993 [are] clear, and that [PSBank] is entitled to the satisfaction of the said *Decision* in its favor as the same states that it is final and executory and to delay its execution unjustifiably prejudices [PSBank].

Thus, finding [PSBank's] argument to be well-founded, the [trial court] subsequently issued an *Order* dated December 12, 1994 reinstating the writ of execution for the implementation of its *Decision*. Accordingly, a Deed of Absolute Sale dated February 27, 1995 was executed by Branch Clerk of Court Atty. Amador Pineda, as attorney-in-fact of EGI, in favor of [PSBank] over EGI's mortgaged properties covered by TCT Nos. 292874 and 249866 in accordance with the terms set in the *Decision*. Thereafter, TCT Nos. 292874 and 249866 were cancelled and replaced by TCT Nos. N-136360 and N-136261, respectively. After the properties were registered under its name, [PSBank] filed an *Ex-Parte Motion For The Issuance Of A Writ Of Possession*, which was granted by the [trial court] in an *Order* dated February 1, 1996.

However, EGI filed an *Urgent Motion For Reconsideration Of The Order Dated February 1, 1996*, alleging that under paragraph (6), they still have one (1) year from registration of the sale of the mortgaged properties within which to vacate the properties and it is only after the lapse of such period that [PSBank] may move for issuance of a writ of possession. The motion was denied by the [trial court] in an *Order* dated June 4, 1996.

After the denial of its urgent motion, EGI challenged the said *Order* before this Court by way of a *Petition* under Rule 45 of the Rules of Court, docketed as CA-G.R. SP No. 41348. The Third Division of this Court rendered a *Decision* dated February 27, 2004 dismissing EGI's petition, the same being the wrong remedy. The same Division further held that the issuance of the writ of possession is a ministerial duty of the [trial court] for purposes of implementing the parties' compromise agreement as contained in the *Decision* dated January 12, 1993, which has long become final and executory.

EGI's petition having been dismissed, [PSBank] filed a *Motion For Issuance Of Writ Of Possession* before the [trial court], alleging that with the dismissal of EGI's petition before this Court and with the properties having been transferred under its name, [PSBank] is now entitled to the issuance of the writ as a matter of right. The same was granted in an *Order* dated March 17, 2005 and a *Notice To Vacate* was subsequently served on EGI.

At this juncture, Attys. Nemesio R. Briones and Pacito M. Pineda, Jr. filed their *Entry of Appearance* with the [trial court] as collaborating counsels for EGI and subsequently filed an *Urgent Motion For Reconsideration*,