

SECOND DIVISION

[G.R. No. 228617, September 20, 2017]

**PLANTERS DEVELOPMENT BANK, PETITIONER, VS. SPOUSES
VICTORIANO AND MELANIE RAMOS, RESPONDENTS.**

DECISION

REYES, JR., J:

Before the Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, assailing the Decision^[1] dated July 5, 2016 and Resolution^[2] dated December 7, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 140264.

Antecedent Facts

The facts show that in July 2012, Spouses Victoriano and Melanie Ramos (Spouses Ramos) applied for several credit lines with Planters Development Bank (PDB) for the construction of a warehouse in Barangay Santo Tomas, Nueva Ecija.^[3] The said application was approved for P40,000,000.00, secured by Real Estate Mortgage^[4] dated July 25, 2012 over properties owned by the spouses, particularly covered by Transfer Certificate of Title (TCT) Nos. 048-2011000874 and 048-2011000875.

Subsequently, Spouses Ramos requested for additional loan and PDB allegedly promised to extend them a further loan of P140,000,000.00, the amount they supposed was necessary for the completion of the construction of the warehouse with a capacity of 250,000 cavans of palay.^[5] Despite the assurance of the bank, only P25,000,000.00 in additional loan was approved and released by PDB, which was secured by a Real Estate Mortgage^[6] over four (4) real properties covered by TCT Nos. 048-2012000909, 048-2012000443, 048-2012000445, and 048-2012000446.

Due to financial woes, Spouses Ramos were not able to pay their obligations as they fell due. They appealed to PDB for the deferment of debt servicing and requested for a restructuring scheme but the parties failed to reach an agreement.

On April 23, 2014, PDB filed a Petition for Extra-judicial Foreclosure of Real Estate Mortgage under Act 3135, as amended, before the Regional Trial Court of San Jose City, Nueva Ecija, which was docketed as EJC-2014-112-SJC. A Notice to Parties of Sheriff's Public Auction Sale dated May 7, 2014 was thereafter issued.^[7]

On June 18, 2014, Spouses Ramos filed a Complaint^[8] for Annulment of Real Estate Mortgages and Promissory Notes, Accounting and Application of Payments, Injunction with Preliminary Injunction and Temporary Restraining Order against PDB and its officers, namely, Ma. Agnes J. Angeles, Virgilio I. Libunao, Carmina S. Magallanes and Norberto P. Siega, also before the RTC of San Jose City, Nueva Ecija,

which was docketed as Civil Case No. 2014-485-SJC.

Instead of filing an Answer, PDB filed an Urgent Motion^[9] to Dismiss, alleging that the venue of the action was improperly laid considering that the real estate mortgages signed by the parties contained a stipulation that any suit arising therefrom shall be filed in Makati City only.^[10] It further noted that the complaint failed to state a cause of action and must therefore be dismissed.^[11]

Ruling of the RTC

In an Omnibus Order^[12] dated November 17, 2014, the RTC denied the Urgent Motion to Dismiss, the pertinent portions of which read as follows:

I. The Venue is Improperly Laid

Pursuant to autonomy of contract, Venue can be waived. Rule 5, Section 4(d) of the 1997 Rules of Civil Procedure allows parties to validly agree in writing before the filing of the action on the exclusive venue thereof. Indeed, on the defendants they have the contract where the venue allegedly agreed upon by them with the plaintiffs is Makati City. However, one of the contentions of the plaintiffs is that the contracts between them and the defendants take the form of an adhesion contract (par. 20, Complaint). As such, this Court has to apply Section 1, Rule 4 of the 1997 Rules of Civil Procedure regarding the venue of real actions to avoid ruling on the merits without any evidence that would sufficiently support the same.

II. The Complaint Fails to State a Cause of Action.

With such an issue raised, the Court examined the records and it has to tell the defendants that in civil cases before the Court orders the issuance of summons, it looks on whether or not the facts alleged on the Complaint are sufficient to constitute a cause of action and not whether the allegations of fact are true. Hence, as summons were issued in this case, the Court had already found that the allegations in the Complaint are sufficient to constitute a cause of action.

x x x x

FOREGOING CONSIDERED, the Motion to Dismiss is hereby DENIED.

x x x x

SO ORDERED.^[13]

Unyielding, PDB filed a motion for reconsideration of the Omnibus Order dated November 17, 2014, instead of filing an answer to the complaint. This prompted Spouses Ramos to file a motion to declare PDB in default. Subsequently, in an Order^[14] dated February 20, 2015, the RTC denied both motions, ratiocinating thus:

Necessarily, the defendants were allowed to file Motion to Dismiss before filing an Answer or responsive pleading. As a consequence of the Motion to Dismiss that the defendants filed, the running of the period during which the rules required her to file her Answer was deemed suspended. When the Court denied the Motion to Dismiss, therefore the defendants had the balance of the period for filing an Answer under Section 4, Rule 16 within which to file the same but in no case less than five days, computed from the receipt of the notice of denial of the Motion to Dismiss. x x x x

x x x x

However, after the Court denied the Motion to Dismiss, the defendants filed Motion for Reconsideration which is not precluded by the rules. Only after this Court shall have denied it would the defendants become bound to file the Answer to the Complaint. It is only if the defendants failed to file Answer after the period given by the foregoing rules would the plaintiff be entitled to have the defendants be declared in default. This was the same ruling of the Supreme Court in the case of *Narciso v. Garcia*, G.R. No. 196877, November 12, 2012.

With regard to the Motion for Reconsideration of the Omnibus Order dated November 17, 2014, there being no new arguments presented, the Court finds no cogent reason to reconsider and reverse the said Omnibus Order.

WHEREFORE, the Motion to Declare Defendants in Default and the Motion for Reconsideration are hereby DENIED.

SO ORDERED.^[15]

Aggrieved, PDB filed a petition for *certiorari* with the CA, imputing grave abuse of discretion on the RTC for denying its motion to dismiss, despite the fact that the venue was clearly improperly laid.

Ruling of the CA

In a Decision^[16] dated July 5, 2016, the CA denied the petition, the pertinent portion of which reads as follows:

The order of the public respondent in denying the motion to dismiss and the consequent denial of the motion for reconsideration is correct and judicious. Petitioner anchors its claim on the validity of the mortgage, and thereby the provisional therein on venue must be upheld. On the other hand, respondents anchor its claim on the invalidity of the mortgage, and thereby the complaint is filed in the proper venue. Clearly, no valid judgment can be passed upon the allegations of both parties.^[17]

Thus, having found no grave abuse on the part of the public respondent in denying the motion to dismiss and the resulting denial of the motion for reconsideration, We find no cogent reason to disturb or modify the assailed Decision. What the petitioners should have done was to file an

answer to the petition filed in the trial court, proceed to the hearing and appeal the decision of the court if adverse to them.^[18]

WHEREFORE, premises considered, the petition is **DENIED**. The Omnibus Order dated 17 November 2014 and the Order dated 20 February 2015 is hereby **AFFIRMED in TOTO**.

IT IS SO ORDERED.^[19]

PDB filed a motion for reconsideration but the CA denied the same in its Resolution dated December 7, 2016, the dispositive portion of which reads, thus:

WHEREFORE, in view of the foregoing, the motion for reconsideration is hereby DENIED.

IT IS SO ORDERED.^[20]

Unyielding, PDB filed the present petition with this Court, reiterating its claim that the CA erred in affirming the order of the RTC, which denied the motion to dismiss despite the improper venue of the case. It argues that since there is a stipulation on venue, the same should govern the parties.

Ruling of this Court

The petition is meritorious.

Rule 4 of the Rules of Civil Procedure provides the rules on venue in filing an action, to wit:

RULE 4

Venue of Actions

Section 1. *Venue of real actions.* — Actions affecting title to or possession of real property, or interest therein, shall be commenced and tried in the proper court which has jurisdiction over the area wherein the real property involved, or a portion thereof, is situated.

Forcible entry and detainer actions shall be commenced and tried in the municipal trial court of the municipality or city wherein the real property involved, or a portion thereof, is situated.

Section 2. *Venue of personal actions.* — All other actions may be commenced and tried where the plaintiff or any of the principal plaintiffs resides, or where the defendant or any of the principal defendants resides, or in the case of a non-resident defendant where he may be found, at the election of the plaintiff.

x x x x

Section 4. *When Rule not applicable.* — This Rule shall not apply.