

FIRST DIVISION

[G.R. No. 214934, April 12, 2016]

PACIFIC REHOUSE CORPORATION, PETITIONER, VS. JOVEN L. NGO, AS REPRESENTED BY OSCAR J. GARCIA, RESPONDENT.

D E C I S I O N

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*^[1] are the Decision^[2] dated March 20, 2014 and the Resolution^[3] dated October 8, 2014 of the Court of Appeals (CA) in CA-G.R. SP. No. 122222, which set aside the Omnibus Order^[4] dated April 7, 2011 and the Order^[5] dated September 30, 2011 of the Regional Trial Court of Imus, Cavite, Branch 20 (RTC), in consolidated **Civil Case No. 2031-08** and **LRC Case No. 1117-09** and consequently dismissed the complaint for specific performance and damages docketed as **Civil Case No. 2031-08**.

The Facts

On February 17, 1994, petitioner Pacific Rehouse Corporation (petitioner) entered into a Deed of Conditional Sale^[6] with Benjamin G. Bautista (Bautista) for the purchase of a 52,341-square meter parcel of land located in Imus, Cavite and covered by Transfer Certificate of Title (TCT) No. T-800 issued by the Registry of Deeds of the Province of Cavite (subject property), for a total consideration of P7,327,740.00. Under the contract, petitioner was to make a down payment of P2,198,322.00 upon its execution, with the balance to be paid upon completion by Bautista of the pertinent documents necessary for the transfer of the said property.^[7]

However, despite receipt of payment in the total amount of P6,598,322.00 and repeated offers to pay the balance in full, Bautista failed and refused to comply with his obligation to execute the corresponding deed of absolute sale and deliver the certificate of title of the subject property, and even sold the property to another buyer.^[8] Hence, on April 30, 2008, petitioner filed a complaint^[9] for specific performance and damages against Bautista, docketed as **Civil Case No. 2031-08**, praying for the delivery of a deed of transfer and other documents necessary to transfer the title in its favor, as well as the Owner's Copy of TCT No. T-800.^[10] Further, on May 9, 2008, petitioner caused the annotation of a Notice of *Lis Pendens* on TCT No. T-800 under Entry No. 9405^[11] in order to protect its rights over the subject property pending litigation.^[12]

After the parties had filed their respective responsive pleadings,^[13] the case was set for pre-trial. However, before the same could proceed, Bautista's counsel filed a Manifestation and Notice of Death^[14] informing the RTC that Bautista had died on

February 14, 2009. Thus, in an Order^[15] dated May 19, 2009, the RTC directed Bautista's counsel to substitute the latter's heirs and/or representatives in the action pursuant to Section 16, Rule 3 of the Rules of Court. Unfortunately, said counsel failed to comply due to lack of personal knowledge of the identities of the heirs of Bautista and their respective residences.^[16]

On the other hand, petitioner manifested that it had located Bautista's surviving spouse, Rosita Bautista, and as a result, was directed to amend the complaint to implead her as such.^[17] For failure of petitioner to comply with the foregoing directive, however, the RTC issued an **Order**^[18] **dated February 23, 2010** dismissing **Civil Case No. 2031-08** pursuant to Section 3, Rule 17 of the Rules of Court.

Upon petitioner's motion for reconsideration,^[19] the RTC issued an **Order**^[20] **dated September 20, 2010** setting aside its earlier Order dismissing **Civil Case No. 2031-08**. However, it held in abeyance the proceedings in said case until petitioner procures the appointment of an executor or administrator for the estate of Bautista pursuant to Section 16, Rule 3 of the Rules of Court.^[21]

Meanwhile, on May 6, 2009, respondent Joven L. Ngo, represented^[22] by Oscar J. Garcia (respondent), filed a Verified Petition for Cancellation of Notice of *Lis Pendens*^[23] against petitioner and the Register of Deeds of the Province of Cavite before the RTC, docketed as **LRC Case No. 1117-09**. Respondent alleged, *inter alia*, that on July 23, 2007, Bautista obtained a loan from him in the amount of P8,000,000.00 secured by a real estate mortgage over the subject property, and that the mortgage was registered with the Registry of Deeds of Cavite and annotated on TCT No. T-800 on July 24, 2007.^[24] Upon Bautista's default, the mortgage was foreclosed and the subject property was sold at a public auction, with respondent emerging as the highest bidder. Accordingly, a Certificate of Sale^[25] was issued in his favor, which was likewise registered and annotated^[26] on TCT No. T-800 on January 27, 2009. According to respondent, it was only on May 9, 2008 that he discovered petitioner's claimed interest over the subject property when he saw the latter's Notice of *Lis Pendens* in TCT No. T-800 under Entry No. 9405.^[27] In view of the said averments, respondent contended that Entry No. 9405 should be removed. He maintained that petitioner was aware of the real estate mortgage that was annotated on TCT No. T-800 in his favor as early as July 24, 2007 and that petitioner may no longer recover the subject property, considering that Bautista had lost ownership thereof when it was sold at a public auction and a certificate of sale was issued in respondent's favor.^[28] On February 11, 2010, TCT No. T-1322748^[29] was issued in his name with Entry No. 9405 carried over as an annotation.

In its opposition to **LRC Case No. 1117-09**,^[30] petitioner countered that respondent was not a mortgagee in good faith, having knowledge of the sale of the subject property to petitioner as early as November 2007 or even prior to the foreclosure proceedings.^[31] Likewise, asserting that the petition for cancellation of the notice *lis pendens* should have been filed instead in **Civil Case No. 2031-08** and not in a land registration case where the RTC exercised limited jurisdiction, petitioner moved for the consolidation of **Civil Case No. 2031-08** and **LRC Case No. 1117-09**.^[32]

In an Order^[33] dated February 24, 2010, the RTC denied petitioner's motion to consolidate **Civil Case No. 2031-08** and **LRC Case No. 1117-09**, holding that while both cases involved the same property and, as such, would adversely affect their respective claims, the former case had already been dismissed in an Order dated February 23, 2010.^[34]

Thereafter, on November 3, 2010, respondent filed an Urgent Motion for Cancellation of Notice of *Lis Pendens*^[35] praying for the cancellation of Entry No. 9405 carried over to TCT No. T-1322748. Petitioner opposed the said urgent motion^[36] and reiterated its prayer for the consolidation of **Civil Case No. 2031-08** and **LRC Case No. 1117-09**.^[37]

In an **Omnibus Order**^[38] dated April 7, 2011 (April 7, 2011 Omnibus Order), the RTC denied respondent's motion for being premature and for lack of legal basis, and instead, ordered the consolidation of **Civil Case No. 2031-08** and **LRC Case No. 1117-09**. The RTC ruled that while it had initially denied the consolidation, it was premised on an order of dismissal that was subsequently set aside.^[39] In this regard, the RTC opined that the consolidation was necessary in order to fully adjudicate the issues of the two cases, noting that the outcome in **Civil Case No. 2031-08** would adversely affect **LRC Case No. 1117-09** which involved the same subject property; conversely, a decision in the latter case would pre-empt the outcome of the former case. Further, the RTC ruled that **Civil Case No. 2031-08** would survive Bautista's death since it primarily involved property and property rights. Thus, the RTC directed petitioner to comply with its previous Order dated September 20, 2010 to procure the appointment of an administrator pursuant to Section 16, Rule 3 of the Rules of Court within a period of thirty (30) days.^[40]

Respondent's motion for reconsideration^[41] therefrom was denied in an **Order**^[42] dated September 30, 2011.

Accordingly, in compliance with the April 7, 2011 Omnibus Order, petitioner filed on July 20, 2011 a petition^[43] for the appointment of an administrator over the estate of Bautista before the RTC, docketed as **Sp. Proc. Case No. 1075-11**. Finding the petition to be sufficient in form and substance, the RTC issued a Notice of Hearing^[44] dated September 12, 2011, setting the case for initial hearing on November 14, 2011.^[45]

On November 8, 2011, respondent filed an Omnibus Motion to Dismiss^[46] **Sp. Proc. Case No. 1075-11** on the grounds that: (a) the RTC has no jurisdiction over the subject matter of the case, over the person of Bautista's surviving spouse, and over his person;^[47] (b) the petition failed to state a proper cause of action;^[48] (c) petitioner failed to comply with Rule 78 of the Rules of Court;^[49] and (d) the petition violated the rule on forum shopping and *litis pendentia*.^[50]

Thereafter, respondent also filed on December 2, 2011 a petition for *certiorari*^[51] before the CA, docketed as CA-G.R. SP No. 122222, claiming that the following orders of the RTC were issued without or in excess of its jurisdiction, or with grave

abuse of discretion amounting to lack or excess of jurisdiction: (a) Order dated February 24, 2010 initially denying the consolidation of **Civil Case No. 2031-08** and **LRC Case No. 1117-09**; (b) Order dated September 20, 2010 reinstating **Civil Case No. 2031-08**; (c) April 7, 2011 Omnibus Order consolidating **Civil Case No. 2031-08** and **LRC Case No. 1117-09** and ordering the petitioner to procure the appointment of an executor or administrator for the estate of Bautista; (d) Order dated September 30, 2011 upholding the April 7, 2011 Omnibus Order upon motion for reconsideration, and (e) the Notice of Hearing dated September 12, 2011 in **Sp. Proc. Case No. 1075-11**.

The CA Ruling

In a Decision^[52] dated March 20, 2014, the CA gave due course to the petition only with respect to the assailed April 7, 2011 Omnibus Order which ordered the consolidation of **Civil Case No. 2031-08** and **LRC Case No. 1117-09** and dismissed the petition as to the four (4) other assailed orders of the RTC due to procedural lapses.^[53] Nevertheless, the CA ruled in favor of respondent and accordingly, set aside the April 7, 2011 Omnibus Order of the RTC and ordered the dismissal of **Civil Case No. 2031-08**.^[54]

The CA held that the complaint for specific performance and damages in **Civil Case No. 2031-08** was an action *in personam* since its object was to compel Bautista to perform his obligations under the Deed of Conditional Sale and hence, rendered him pecuniarily liable. As such, the obligations in the contract attached to him alone and did not burden the subject property. Since the action was founded on a personal obligation, it did not survive Bautista's death. Hence, the CA concluded that the dismissal of the complaint by reason thereof, and not a resort to Section 16, Rule 3 of the Rules of Court, was the proper course of action. Consequently, the CA opined that the issue involving the propriety of the consolidation of the two cases had become moot and academic.^[55]

Petitioner moved for reconsideration^[56] but was denied in a Resolution^[57] dated October 8, 2014; hence, this petition.

The Issue Before the Court

The primordial issue for the Court's resolution is whether or not the CA correctly dismissed **Civil Case No. 2031-08** in view of Bautista's death.

The Court's Ruling

The petition is meritorious.

Section 16, Rule 3 of the Rules of Court governs the rule on substitution in case of death of any of the parties to a pending suit. It reads in full:

SEC. 16. Death of party; duty of counsel. - Whenever a party to a pending action dies, and the claim is not thereby extinguished, it shall be the duty of his counsel to inform the court within thirty (30) days after such death of the fact thereof, and to give the name and address of his legal representative or representatives. Failure of counsel to comply with

this duty shall be a ground for disciplinary action.

The heirs of the deceased may be allowed to be substituted for the deceased, without requiring the appointment of an executor or administrator and the court may appoint a guardian ad litem for the minor heirs.

The court shall forthwith order said legal representative or representatives to appear and be substituted within a period of thirty (30) days from notice.

If no legal representative is named by the counsel for the deceased party, or if the one so named shall fail to appear within the specified period, the court may order the opposing party, within a specified time, to procure the appointment of an executor or administrator for the estate of the deceased and the latter shall immediately appear for and on behalf of the deceased. The court charges in procuring such appointment, if defrayed by the opposing party, may be recovered as costs. (Emphasis and underscoring supplied)

Section 16, Rule 3 of the Rules of Court allows the substitution of a party-litigant who dies during the pendency of a case by his heirs, **provided that the claim subject of said case is not extinguished by his death**. As early as in *Bonilla v. Barcena*,^[58] the Court has settled that if the claim in an action affects property and property rights, then the action survives the death of a party-litigant, viz.:

The question as to whether an action survives or not depends on the nature of the action and the damage sued for. **In the causes of action which survive the wrong complained affects primarily and principally property and property rights, the injuries to the person being merely incidental**, while in the causes of action which do not survive the injury complained of is to the person, the property and rights of property affected being incidental. x x x.^[59] (Emphasis and underscoring supplied)

In the instant case, although the CA correctly pointed out that **Civil Case No. 2031-08** involves a complaint for specific performance and damages, a closer perusal of petitioner's complaint reveals that it actually prays for, *inter alia*, the delivery of ownership of the subject land through Bautista's execution of a deed of sale and the turnover of TCT No. T-800 in its favor. This shows that the primary objective and nature of **Civil Case No. 2031-08** is to recover the subject property itself and thus, is deemed to be a real action.^[60]

In *Gochan v. Gochan*,^[61] the Court explained that complaints like this are in the nature of real actions, or actions affecting title to or recovery of possession of real property, to wit:

In this jurisdiction, the dictum adhered to is that the nature of an action is determined by the allegations in the body of the pleading or complaint itself, rather than by its title or heading. **The caption of the complaint below was denominated as one for "specific performance and damages." The relief sought, however, is the conveyance or**