

## FIRST DIVISION

[ G.R. No. 203240, March 18, 2015 ]

**NORTHERN ISLANDS, CO., INC., PETITIONER, VS. SPOUSES DENNIS AND CHERYLIN \* GARCIA, DOING BUSINESS UNDER THE NAME AND STYLE "ECOLAMP MULTI RESOURCES," RESPONDENTS.**

### DECISION

**PERLAS-BERNABE, J.:**

Assailed in this petition for review on *certiorari*<sup>[1]</sup> are the Decision<sup>[2]</sup> dated January 19, 2012 and the Resolution<sup>[3]</sup> dated August 24, 2012 of the Court of Appeals (CA) in CA-G.R. SP No. 97448, ordering the Regional Trial Court of Quezon City, Branch 215 (RTC) to appoint a commissioner to determine the value of the attached properties of respondents Spouses Dennis and Cherylín Garcia (respondents), and to discharge any excessive attachment found thereby.

#### The Facts

On September 23, 2005, petitioner Northern Islands Co., Inc. (petitioner) filed a Complaint<sup>[4]</sup> with application for a writ of preliminary attachment, before the RTC against respondents, docketed as Civil Case No. Q-05-53699 (Main Case), which was subsequently amended<sup>[5]</sup> on October 25, 2005.<sup>[6]</sup> It alleged that: (a) from March to July 2004, petitioner caused the delivery to respondents of various appliances in the aggregate amount of P8,040,825.17;<sup>[7]</sup> (b) the goods were transported, shipped, and delivered by Sulpicio Lines, Inc., and were accepted in good order and condition by respondents' representatives;<sup>[8]</sup> (c) the parties agreed that the goods delivered were payable within 120 days, and that the unpaid amounts would earn interest at a rate of eighteen percent (18%) per annum;<sup>[9]</sup> (d) however, the value of the goods were not paid by respondents despite repeated demands;<sup>[10]</sup> and (e) respondents fraudulently asserted that petitioner had no proof that they had indeed received the quantity of the subject goods.<sup>[11]</sup>

In connection with the application for a writ of preliminary attachment, petitioner posted a bond, through Visayan Surety and Insurance Corporation, in the amount of ₱8,040,825.17. On November 7, 2005, the RTC issued the writ sought for.<sup>[12]</sup>

Instead of filing an answer, respondents filed on November 11, 2001, an Urgent Motion for Extension of Time to File Proper Pleading and Motion for Discovery (Production and Inspection)<sup>[13]</sup> (November 11, 2001 Motion), asking the RTC to allow them to photocopy and personally examine the original invoices, delivery cargo receipts, and bills of lading attached to the Amended Complaint, claiming that they could not "come up with an intelligent answer" without being presented with

the originals of such documents.<sup>[14]</sup>

Thereafter, or on January 11, 2006, respondents filed a Motion to Discharge Excess Attachment,<sup>[15]</sup> alleging that the attachment previously ordered by the RTC exceeded by P9,232,564.56 given that the estimated value of the attached properties, including the garnished bank accounts, as assessed by their appraiser, Gaudioso W. Lapaz (Lapaz), amounted to P17,273,409.73, while the attachment bond is only in the amount of P8,040,825.17.<sup>[16]</sup>

In an Order<sup>[17]</sup> dated February 28, 2006, the RTC denied the November 11, 2001 Motion, and, instead, directed respondents to file their answer, which the latter complied with through the filing of their Answer *Ad Cautelam Ex Abudante* with Compulsory Counterclaim<sup>[18]</sup> on April 3, 2006. Despite this, respondents again filed a Motion for Leave of Court to File Motion for Discovery (Production and Inspection)<sup>[19]</sup> (Motion for Discovery) on April 7, 2006.<sup>[20]</sup>

### **The RTC Ruling**

In an Order<sup>[21]</sup> dated June 21, 2006, the RTC, among others, denied the Motion to Discharge Excess Attachment, finding that the appraisal made by Lapaz was not reflective of the true valuation of the properties, adding too that the bond posted by petitioner stands as sufficient security for whatever damages respondents may sustain by reason of the attachment.<sup>[22]</sup>

On the other hand, the RTC granted the Motion for Discovery in accordance with Rule 27 of the Rules of Court, despite petitioner's claim that it did not have the originals of the documents being sought.<sup>[23]</sup>

However, no production or inspection was conducted on July 10, 2006 as the RTC directed since respondents received the copy of the above order only on July 11, 2006.<sup>[24]</sup>

On July 25, 2006, respondents filed a Motion for Partial Reconsideration of the Order dated June 21, 2006, specifically assailing the denial of their Motion to Discharge Excess Attachment. In this relation, they prayed that the RTC refer to a commissioner, pursuant to Rule 32 of the Rules of Court, the factual determination of the total aggregate amount of respondents' attached properties so as to ascertain if the attachment was excessive. Also, they prayed that the order for production and inspection be modified and that petitioner be ordered to produce the original documents anew for their inspection and copying. <sup>[25]</sup>

The foregoing motion was, however, denied by the RTC in an Order<sup>[26]</sup> dated August 23, 2006 for lack of merit. Thus, respondents elevated the matter to the CA via petition for *certiorari* and mandamus,<sup>[27]</sup> docketed as CA-G.R. SP No. 97448 (*Certiorari* Case).

In the interim, the RTC rendered a Decision<sup>[28]</sup> dated September 21, 2011 in the Main Case. Essentially, it dismissed petitioner's Amended Complaint due to the absence of any evidence to prove that respondents had agreed to the pricing of the

subject goods.<sup>[29]</sup>

The RTC's September 21, 2011 Decision was later appealed<sup>[30]</sup> by petitioner before the CA on October 27, 2011. Finding that the Notice of Appeal was seasonably filed, with the payment of the appropriate docket fees, the RTC, in an Order<sup>[31]</sup> dated January 25, 2012, ordered the elevation of the entire records of the Main Case to the CA. The appeal was then raffled to the CA's Eighth Division, and docketed as **CA-G.R. CV No. 98237**. On the other hand, records do not show that respondents filed any appeal.<sup>[32]</sup>

### **The CA Ruling in the *Certiorari* Case**

Meanwhile, the CA, in a Decision<sup>[33]</sup> dated January 19, 2012, partly granted the *certiorari* petition of respondents, ordering the RTC to appoint a commissioner as provided under Rule 32 of the Rules of Court as well as the subsequent discharge of any excess attachment if so found therein, and, on the other hand, denying respondents' Motion for Discovery.<sup>[34]</sup>

It held that: (a) on the issue of attachment, trial by commissioners under Rule 32 of the Rules of Court was proper so that the parties may finally settle their conflicting valuations;<sup>[35]</sup> and (b) on the matter of discovery, petitioner could not be compelled to produce the originals sought by respondents for inspection since they were not in the former's possession.<sup>[36]</sup>

Aggrieved, petitioner filed a Motion for Partial Reconsideration<sup>[37]</sup> on February 13, 2012 but was, however, denied in a Resolution<sup>[38]</sup> dated August 24, 2012, hence, the present petition.

### **The Issues Before the Court**

The issues presented for the Court's resolution are: (a) whether the RTC had lost jurisdiction over the matter of the preliminary attachment after petitioner appealed the decision in the Main Case, and thereafter ordered the transmittal of the records to the CA; and (b) whether the CA erred in ordering the appointment of a commissioner and the subsequent discharge of any excess attachment found by said commissioner.

### **The Court's Ruling**

The petition is meritorious.

Section 9, Rule 41 of the Rules of Court provides that **in appeals by notice of appeal, the court loses jurisdiction over the case upon the perfection of the appeals filed in due time and the expiration of the time to appeal of the other parties.**

In this case, petitioner had duly perfected its appeal of the RTC's September 21, 2011 Decision resolving the Main Case through the timely filing of its Notice of Appeal dated October 27, 2011, together with the payment of the appropriate docket fees. The RTC, in an Order<sup>[39]</sup> dated January 25, 2012, had actually