

## SECOND DIVISION

[ G.R. No. 179257, November 23, 2015 ]

**UNITED ALLOY PHILIPPINES CORPORATION, PETITIONER, VS.  
UNITED COCONUT PLANTERS BANK [UCPB] AND/OR  
PHILIPPINE DEPOSIT INSURANCE CORPORATION [PDIC],  
JAKOB VAN DER SLUIS AND ROBERT T.CHUA, RESPONDENTS.**

### DECISION

**DEL CASTILLO, J.:**

"[T]he dismissal of the principal action x x x [carries] with it the denial, disallowance or revocation of all reliefs ancillary to the main remedy sought in that action."<sup>[1]</sup>

Challenged in this Petition for Review on *Certiorari*<sup>[2]</sup> is the August 17, 2007 Decision<sup>[3]</sup> of the Court of Appeals, Cagayan de Oro City Station (CA CDO) in CA-G.R. SP No. 67079 dismissing petitioner United Alloy Philippines Corporation's (UniAlloy) Petition for *Certiorari* and *Mandamus* filed therewith. In said Petition, UniAlloy sought to nullify the Orders dated September 13<sup>[4]</sup> and 14,<sup>[5]</sup> 2001 of the Regional Trial Court (RTC), Branch 40, Cagayan de Oro City in Civil Case No. 2001-219 that dismissed its Complaint for Annulment and/or Reformation of Contract and Damages with Prayer for A Writ of Preliminary Injunction or Temporary Restraining Order (TRO)<sup>[6]</sup> and ordered it to surrender the possession of the disputed premises to respondent United Coconut Planters Bank (UCPB).

#### ***Factual Antecedents***

UniAlloy is a domestic corporation engaged in the business of manufacturing and trading on wholesale basis of alloy products, such as ferrochrome, ferrosilicon and ferromanganese. It has its principal office and business address at Phividec Industrial Area, Tagaloan, Misamis Oriental. Respondent UCPB, on the other hand, is a banking corporation while respondent Robert T. Chua (Chua) is one of its Vice-Presidents. Respondent Jakob Van Der Sluis is a Dutch citizen and was the Chairman of UniAlloy. Respondent Philippine Deposit Insurance Corporation is the assignee-in-interest of UCPB as regards the loan account of UniAlloy.

On September 10, 1999, UniAlloy and UCPB entered into a Lease Purchase Agreement<sup>[7]</sup> (LPA) wherein UniAlloy leased from UCPB several parcels of land with a total area of 156,372 square meters located in Barangay Gracia, Tagaloan, Misamis Oriental,<sup>[8]</sup> The three-year lease commenced on August 1, 1999 to run until July 31, 2002 for a monthly rent: of P756/700.00. The parties stipulated that upon the expiration of the lease, UniAlloy shall purchase the leased properties for P300 million to be paid on staggered basis. UniAlloy also obtained loans from UCPB.

On August 27, 2001, however, UniAlloy filed the aforesaid Complaint<sup>[9]</sup> against

respondents. It claimed that, thru misrepresentation and manipulation, respondent Jakob Van Der Sluis took full control of the management and operation of UniAlloy; that respondents connived with one another to obtain fictitious loans purportedly for UniAlloy as evidenced by Promissory Note Nos. 8111-00-00110-6, 8111-00-20031-1, and 8111-01-20005-6 for P6 million, US\$10,000.00, and US\$320,000.00, respectively; that UCPB demanded payment of said loans; and, that UCPB unilaterally rescinded the LPA. UniAlloy prayed that judgment be issued: (i) ordering the annulment and/or reformation of the three Promissory Notes; (ii) nullifying UCPB's unilateral rescission of the LPA; (iii) enjoining UCPB from taking possession of the leased premises; and (iv) ordering respondents to jointly and severally pay nominal and exemplary damages, as well as attorney's fees of P500,000.00 each. As ancillary relief, UniAlloy prayed for the issuance of a temporary restraining order and/or writ of preliminary injunction.

On the same day, the Executive Judge of the RTC, Cagayan de Oro City issued a 72-hour TRO directing UCPB to cease and desist from taking possession of the disputed premises.<sup>[10]</sup> The following day, respondent Jakob Van Der Sluis filed a Motion to Dismiss and Opposition to the Application for Injunction or TRO<sup>[11]</sup> on the grounds of improper venue, forum-shopping,<sup>[12]</sup> *litis pendentia*, and for being a harassment suit under the Interim Rules of Procedure for Intra-Corporate Cases. He argued that the LPA specifically provides that any legal action arising therefrom should be brought exclusively in the proper courts of Makati City. The Complaint did not disclose the pendency of Civil Case No. 2001-156 entitled "*Ernesto Paraiso and United Alloy Philippines Corporation v. Jakob Van Der Sluis*" before Branch 40, as well as CA-G.R. SP No, 66240 entitled "*Jakob Van Der Sluis v. Honorable Epifanio T. Nacaya, et al.*" He further averred that what UniAlloy sought to enjoin is already *fait accompli*.

Respondents UCPB and Chua, on the other hand, filed a Motion to Dismiss & Motion to Recall Temporary Restraining Order.<sup>[13]</sup> In addition to the ground of improper venue, they raised the issue of lack of authority of the person who verified the Complaint as no secretary's certificate or a board resolution was attached thereto.

During the hearing on the writ of preliminary injunction on August 30, 2001, the RTC directed the parties to maintain the *status quo* by not disturbing the possession of the present occupants of the properties in question pending resolution of respondents' motions,

On September 13, 2001, the RTC, acting as Special Commercial Court, issued an Order<sup>[14]</sup> granting the motions to dismiss and ordering the dismissal of the case on the grounds of improper venue, forum-shopping and for being a harassment suit. The RTC held that venue was improperly laid considering that the Promissory Notes sought to be annulled were issued pursuant to a Credit Agreement which, in turn, stipulates that any legal action relating thereto shall be initiated exclusively in the proper courts of Makati City. It also opined that UniAlloy committed forum-shopping for failing to disclose in its certificate of non-forum-shopping the pendency of Civil Case No, 2001-156 which involves the same parties, the same transactions and the same essential facts and circumstances. The cases, as ruled by the RTC, have also identical causes of action, subject matter and issues. The dispositive portion of the September 13, 2001 Order reads:

ACCORDINGLY, finding meritorious that the venue is improperly laid and the complain[an]t engaged in forum-shopping and harassment of defendant Jakob Van der Sluis, this case is hereby DISMISSED rendering the prayer issuance of a writ of preliminary injunction moot and academic, and ordering plaintiff to turn over possession of the subject premises of the properties in question at Barangay Gracia, Tagoloan, Misamis Oriental to defendant United Coconut Planters Bank.

SO ORDERED.<sup>[15]</sup>

Upon UCPB's motion, the RTC issued another Order<sup>[16]</sup> dated September 14, 2001 directing the issuance of a writ of execution to enforce its September 13, 2001 Order. Accordingly, a Writ of Execution<sup>[17]</sup> was issued directing the Sheriff to put UCPB in possession of the disputed premises. It was satisfied on September 17, 2001.<sup>[18]</sup> The employees of UniAlloy were evicted from the leased premises and UCPB's representatives were placed in possession thereof.

On September 25, 2001, UniAlloy received copies of the RTC Orders.<sup>[19]</sup> And on October 9, 2001, it filed with the Court of Appeals, Manila Station (CA Manila) its petition in CA-G.R. SP No. 67079 attributing grave abuse of discretion on the part of the court *a quo* in (i) dismissing its petition on the grounds of improper venue, forum-shopping and harassment, (ii) ordering the turnover of the property in question to UCPB after the dismissal of the Complaint, and (iii) applying the Interim Rules of Procedure for Intra-corporate Controversies.

On October 18, 2001, the CA Manila issued a TRO. After hearing, the CA Manila issued a Resolution<sup>[20]</sup> dated February 18, 2002 granting UniAlloy's ancillary prayer for the issuance of a writ of preliminary injunction upon posting of a bond in the amount of P300,000.00.

UniAlloy posted the requisite bond.

However, no writ of preliminary injunction was actually issued by the CA Manila because of this Court's March 18, 2002 Resolution<sup>[21]</sup> in G.R. No. 152238 restraining it from enforcing its February 18, 2002 Resolution. G.R.No. 152238 is a Petition for *Certiorari* initiated by UCPB assailing said Resolution of CA Manila. And, in deference to this Court, the CA Manila refrained from taking further action in CA-G.R. SP No. 67079 until G.R. No. 152238 was resolved.<sup>[22]</sup>

On January 28, 2005, this Court rendered its Decision<sup>[23]</sup> in G.R. No. 152238 finding no grave abuse of discretion on the part of the CA in issuing its February 18, 2002 Resolution and, consequently, denying UCPB's petition.

Thereafter, and since this Court's Decision in G.R. No. 152238 attained finality, UniAUoy filed with the CA Manila a Motion to Issue and Implement Writ of Preliminary Mandatory Injunction.<sup>[24]</sup> In the meantime, the records of CA-G.R. SP No. 67079 were forwarded to CA CDO pursuant to Republic Act No. 8246.<sup>[25]</sup>

On May 31, 2006, the CA CDO issued a Resolution<sup>[26]</sup> denying UniAlloy's motion. It

found that UniAUoy had lost its right to remain in possession of the disputed premises because it defaulted in the payment of lease rentals and it was duly served with a notice of extrajudicial termination of the LPA. Said court also found that UniAUoy vacated the leased premises and UCPB was already in actual physical possession thereof as of August 24, 2001, or three days before UniAUoy filed its complaint with the RTC. Hence, it could no longer avail of the remedy of preliminary injunction to regain possession of the disputed premises.

UniAUoy filed a Motion for Reconsideration,<sup>[27]</sup> which was denied in the CA CDO's November 29, 2006 Resolution.<sup>[28]</sup>

On August 17, 2007, the CA CDO issued the assailed Decision denying UniAlloy's petition and affirming the RTC's questioned Orders. It opined inter alia that UniAUoy erred in resorting to a Rule 65 petition because its proper recourse should have been to appeal the questioned Orders of the RTC, *viz.*:

It is plain from the record, though, that Unialloy had lost its right to appeal. The time to make use of that remedy is gone. It is glaringly obvious that Unialloy resorted to this extraordinary remedy of certiorari and mandamus as a substitute vehicle for securing a review and reversal of the questioned order of dismissal which it had, by its own fault, allowed to lapse into finality. Unfortunately, none of the arguments and issues raised by Unialloy in its petition can adequately brand the 13 September 2001 Order as void on its face for being jurisdictionally flawed, nor mask the fact that it became final and executory by Unialloy's failure to file an appeal on time. And so, even if the assailed order of dismissal might arguably not have been entirely free from some errors in substance, or lapses in procedure or in findings of fact or of law, and which that account could have been reversed or modified on appeal, the indelible fact, however is that it was never appealed. It had become final and executory. It is now beyond the power of this Court to modify it.<sup>[29]</sup>

Hence, this Petition raising the following issues for Our resolution:

1. Whether the Court of Appeals (Cagayan de Oro City) erred, or acted without, or in excess of jurisdiction, or committed grave abuse of discretion amounting to lack, or excess of jurisdiction in DENYING United Alloy's Motion to Issue and Implement Writ of Preliminary Mandatory Injunction in this case, DESPITE the earlier resolution dated February 18, 2002 issued by the same Court of Appeals (Manila) of coordinate and co-equal jurisdiction which granted United Alloy's Motion for Issuance of Preliminary Injunction upon bond of P300,000.00, and DESPITE this Honorable Court's decision dated January 28, 2005 in the certiorari case G.R. No. 152238 filed by UCPB to assail the Court of Appeals's Resolution of February 18, 2002, which decision sustained the said resolution of February 18, 2002, and DENIED UCPB's petition in said G.R. No. 152238.

As sub-issue - Whether the Court of Appeals (Cagayan de Oro City) disregarded the rule that every court must take cognizance of

decisions the Supreme Court has rendered, because they are proper subjects of mandatory judicial notice. The said decisions more importantly, form part of the legal system, and failure of any court to apply them shall constitute an abdication of its duty to resolve a dispute in accordance with law and shall be a ground for administrative action against an inferior court magistrate x x x

2. Whether x x x the Court of Appeals (Cagayan de Oro City) decided this case in accord with law and the evidence, and so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of the supervisory power of this Honorable Court, and to entitle this petition to allowance and the review sought in this case.<sup>[30]</sup>

### **Issue**

The basic issue to be resolved in this case is whether the CA CDO erred in dismissing UniAlloy's Petition for *Certiorari* and Mandamus. For if the said court did not commit an error then it would be pointless to determine whether UniAlloy is entitled to a writ of preliminary injunction pursuant to CA Manila's February 18, 2002 Resolution which was issued as a mere ancillary' remedy in said petition.

### **Our Ruling**

The Petition is devoid of merit.

Before delving on the focal issue, the Court shall first pass upon some procedural matters.

#### ***UniAlloy availed of the proper remedy in assailing the RTC's September 13, 2001 Order dismissing its Complaint***

In its Comment,<sup>[31]</sup> UCPB defends the CA CDO in denying due course to UniAlloy's Petition for *Certiorari* and Mandamus. It posits that UniAlloy should have filed with the RTC a Notice of Appeal from the Order dated September 13, 2001 instead of a Rule 65 petition before the CA, Respondents Jakob Van der Sluis and Chua echo UCPB's contention that UniAlloy resorted to a wrong mode of remedy and that the dismissal of its complaint had become final and executory which, in turn, rendered UniAlloy's Rule 65 petition before the CA moot and academic.<sup>[32]</sup>

In its Consolidated Reply,<sup>[33]</sup> UniAlloy counter-argues that it filed a Rule 65 petition with the CA because the remedy of appeal is inadequate as the RTC had already directed the issuance of a writ of execution and that the RTC Orders are patently illegal.

UniAlloy availed of the correct remedy. Under Section 1 Rule 16 of the Rules of Court, the following may be raised as grounds in a motion to dismiss: