

## SECOND DIVISION

[ G.R. No. 165585, November 20, 2013 ]

**GOVERNMENT SERVICE INSURANCE SYSTEM, PETITIONER, VS.  
PRUDENTIAL GUARANTEE AND ASSURANCE, INC.,  
DEVELOPMENT BANK OF THE PHILIPPINES, AND LAND BANK OF  
THE PHILIPPINES, RESPONDENTS.**

[G.R. NO. 176982]

**GOVERNMENT SERVICE INSURANCE SYSTEM, PETITIONER, VS.  
PRUDENTIAL GUARANTEE AND ASSURANCE, INC., RESPONDENT.**

### D E C I S I O N

**PERLAS-BERNABE, J.:**

Assailed in these consolidated petitions for review on *certiorari*<sup>[1]</sup> are separate issuances of the Court of Appeals (CA) in relation to the complaint for sum of money filed by Prudential Guarantee and Assurance, Inc. (PGAI) against the Government Service Insurance System (GSIS) before the Regional Trial Court of Makati City, Branch 149 (RTC), docketed as Civil Case No. 01-1634.

In particular, the petition in G.R. No. 165585 assails the Decision<sup>[2]</sup> dated May 26, 2004 and Resolution<sup>[3]</sup> dated October 6, 2004 of the CA in CA-G.R. SP No. 69289 which affirmed the Order<sup>[4]</sup> dated February 14, 2002, as well as the Order,<sup>[5]</sup> Notices of Garnishment,<sup>[6]</sup> and Writ of Execution,<sup>[7]</sup> all dated February 19, 2002, issued by the RTC authorizing execution pending appeal.

On the other hand, the petition in G.R. No. 176982 assails the Decision<sup>[8]</sup> dated October 30, 2006 and Resolution<sup>[9]</sup> dated March 12, 2007 of the CA in CA-G.R. CV No. 73965 which dismissed the appeal filed by GSIS, affirming with modification the Order<sup>[10]</sup> dated January 11, 2002 of the RTC rendering judgment on the pleadings.

#### The Facts

Sometime in March 1999, the National Electrification Administration (NEA) entered into a Memorandum of Agreement<sup>[11]</sup> (MOA) with GSIS insuring all real and personal properties mortgaged to it by electrical cooperatives under an Industrial All Risks Policy (IAR policy).<sup>[12]</sup> The total sum insured under the IAR policy was P16,731,141,166.80, out of which, 95% or P15,894,584,108.40 was reinsured by GSIS with PGAI for a period of one year or from March 5, 1999 to March 5, 2000.<sup>[13]</sup> As reflected in Reinsurance Request Note No. 99-150<sup>[14]</sup> (reinsurance cover) and the Reinsurance Binder<sup>[15]</sup> dated April 21, 1999 (reinsurance binder), GSIS agreed to pay PGAI reinsurance premiums in the amount of ₱32,885,894.52 per

quarter or a total of P131,543,578.08.<sup>[16]</sup> While GSIS remitted to PGAI the reinsurance premiums for the first three quarters, it, however, failed to pay the fourth and last reinsurance premium due on December 5, 1999 despite demands. This prompted PGAI to file, on November 15, 2001, a Complaint<sup>[17]</sup> for sum of money (complaint) against GSIS before the RTC, docketed as Civil Case No. 01-1634.

In its complaint, PGAI alleged, among others, that: (a) after it had issued the IAR policy, it further reinsured the risks covered under the said reinsurance with reputable reinsurers worldwide such as Lloyds of London, Copenhagen Re, Cigna Singapore, CCR, Generali, and Arig;<sup>[18]</sup> (b) the first three reinsurance premiums were paid to PGAI by GSIS and, in the same vein, NEA paid the first three reinsurance premiums due to GSIS;<sup>[19]</sup> (c) GSIS failed to pay PGAI the fourth and last reinsurance premium due on December 5, 1999;<sup>[20]</sup> (d) the IAR policy remained in full force and effect for the entire insurable period and, in fact, the losses/damages on various risks reinsured by PGAI were paid and accordingly settled by it;<sup>[21]</sup> (e) PGAI is under continuous pressure from its reinsurers in the international market to settle the matter;<sup>[22]</sup> and (f) GSIS acknowledged its obligation to pay the last reinsurance premium as it, in turn, demanded from NEA the fourth and last reinsurance premium.<sup>[23]</sup>

In its Answer,<sup>[24]</sup> GSIS admitted, among others, that: (a) its request for reinsurance cover was accepted by PGAI in a reinsurance binder;<sup>[25]</sup> (b) it remitted to PGAI the first three reinsurance premiums which were paid by NEA;<sup>[26]</sup> and (c) it failed to remit the fourth and last reinsurance premium to PGAI.<sup>[27]</sup> It, however, denied, *inter alia*, that: (a) it had acknowledged its obligation to pay the last quarter's reinsurance premium to PGAI;<sup>[28]</sup> and (b) the IAR policy remained in full force and effect for the entire insurable period of March 5, 1999 to March 5, 2000.<sup>[29]</sup> GSIS also proffered the following affirmative defenses: (a) the complaint states no cause of action against GSIS because the non-payment of the last reinsurance premium only renders the reinsurance contract ineffective, and does not give PGAI a right of action to collect;<sup>[30]</sup> (b) pursuant to the regulations issued by the Commission on Audit, GSIS is prohibited from advancing payments to PGAI occasioned by the failure of the principal insured, NEA, to pay the insurance premium;<sup>[31]</sup> and (c) PGAI's cause of action lies against NEA since GSIS merely acted as a conduit.<sup>[32]</sup> By way of counterclaim, GSIS prayed that PGAI be ordered to pay exemplary damages, including litigation expenses, and costs of suit.<sup>[33]</sup>

On December 18, 2001, PGAI filed a Motion for Judgment on the Pleadings<sup>[34]</sup> averring that GSIS essentially admitted the material allegations of the complaint, such as: (a) the existence of the MOA between NEA and GSIS; (b) the existence of the reinsurance binder between GSIS and PGAI; (c) the remittance by GSIS to PGAI of the first three quarterly reinsurance premiums; and (d) the failure/refusal of GSIS to remit the fourth and last reinsurance premium.<sup>[35]</sup> Hence, PGAI prayed that the RTC render a judgment on the pleadings pursuant to Section 1, Rule 34 of the Rules of Court (Rules). GSIS opposed<sup>[36]</sup> the foregoing motion by reiterating the allegations and defenses in its Answer.

On January 11, 2002, the RTC issued an Order<sup>[37]</sup> (January 11, 2002 Order) granting PGAI's Motion for Judgment on the Pleadings. It observed that the admissions of GSIS that it paid the first three quarterly reinsurance premiums to PGAI affirmed the validity of the contract of reinsurance between them. As such, GSIS cannot now renege on its obligation to remit the last and remaining quarterly reinsurance premium.<sup>[38]</sup> It further pointed out that while it is true that the payment of the premium is a requisite for the validity of an insurance contract as provided under Section 77 of Presidential Decree No. (PD) 612,<sup>[39]</sup> otherwise known as "The Insurance Code," it was held in *Makati Tuscany Condominium Corp. v. CA*<sup>[40]</sup> (Makati Tuscany) that insurance policies are valid even if the premiums were paid in installments, as in this case.<sup>[41]</sup> Thus, in view of the foregoing, the RTC ordered GSIS to pay PGAI the last quarter reinsurance premium in the sum of ₱ 32,885,894.52, including interests amounting to ₱6,519,515.91 as of July 31, 2000 until full payment, attorney's fees, and costs of suit.<sup>[42]</sup> Dissatisfied, GSIS filed a notice of appeal.<sup>[43]</sup>

Meanwhile, PGAI filed a Motion for Execution Pending Appeal<sup>[44]</sup> based on the following reasons: (a) GSIS' appeal was patently dilatory since it already acknowledged the validity of PGAI's claim;<sup>[45]</sup> (b) GSIS posted no valid defense as its Answer raised no genuine issues;<sup>[46]</sup> and (c) PGAI would suffer serious and irreparable injury as it may be blacklisted as a consequence of the non-payment of premiums due.<sup>[47]</sup> PGAI also manifested its willingness to post a sufficient surety bond to answer for any resulting damage to GSIS.<sup>[48]</sup> The latter opposed<sup>[49]</sup> the motion asserting that there lies no sufficient ground or urgency to justify execution pending appeal. It also claimed that all its funds and properties are exempted from execution citing Section 39 of Republic Act No. (RA) 8291,<sup>[50]</sup> otherwise known as "The Government Service Insurance System Act of 1997."<sup>[51]</sup>

On February 14, 2002, the RTC issued an Order<sup>[52]</sup> (February 14, 2002 Order) granting PGAI's Motion for Execution Pending Appeal, conditioned on the posting of a bond. It further held that only the GSIS Social Insurance Fund is exempt from execution. Accordingly, PGAI duly posted a surety bond which the RTC approved through an Order<sup>[53]</sup> dated February 19, 2002, resulting to the issuance of a writ of execution<sup>[54]</sup> and notices of garnishment<sup>[55]</sup> (February 19, 2002 issuances), all of even date, against GSIS.

### **The CA Proceedings Antecedent to G.R. No. 165585**

Aggrieved by the RTC's February 14, 2002 Order, as well as the February 19, 2002 issuances, GSIS – without first filing a motion for reconsideration (from the said order of execution) or a sufficient *supersedeas* bond<sup>[56]</sup> – filed on February 26, 2002 a petition for *certiorari* <sup>[57]</sup> before the CA, docketed as **CA-G.R. SP No. 69289**, against the RTC and PGAI. It also impleaded in the said petition the Land Bank of the Philippines (LBP) and the Development Bank of the Philippines (DBP) as nominal parties so as to render them subject to the writs and processes of the CA.<sup>[58]</sup>

In its petition, GSIS argued that: (a) none of the grounds proffered by PGAI justifies

the issuance of a writ of execution pending appeal;<sup>[59]</sup> and (b) all funds and assets of GSIS are exempt from execution and levy in accordance with RA 8291.<sup>[60]</sup>

On April 4, 2002, the CA issued a temporary restraining order (TRO)<sup>[61]</sup> enjoining the garnishment of GSIS' funds with LBP and DBP. Nevertheless, since the TRO's effectivity lapsed, GSIS' funds with the LBP were eventually garnished.<sup>[62]</sup>

On May 26, 2004, the CA rendered a Decision<sup>[63]</sup> dismissing GSIS' petition, upholding, among others, the validity of the execution pending appeal pursuant to the RTC's February 14, 2002 Order as well as the February 19, 2002 issuances. It found that the impending blacklisting of PGAI constitutes a good reason for allowing the execution pending appeal (also known as "discretionary execution") considering that the imposition of international sanctions on any single local insurance company puts in grave and immediate jeopardy not only the viability of that company but also the integrity of the entire local insurance system including that of the state insurance agency. It pointed out that the insurance business thrives on credibility which is maintained by honoring financial commitments.

On the claimed exemption of GSIS funds from execution, the CA held that such exemption only covers funds under the Social Insurance Fund which remains liable for the payment of benefits like retirement, disability and death compensation and not those covered under the General Insurance Fund, as in this case, which are meant for investment in the business of insurance and reinsurance.<sup>[64]</sup>

GSIS' motion for reconsideration<sup>[65]</sup> was denied by the CA in a Resolution<sup>[66]</sup> dated October 6, 2004. Hence, the petition for review on certiorari in **G.R. No. 165585**.<sup>[67]</sup>

### **The CA Proceedings Antecedent to G.R. No. 176982**

Separately, GSIS also assailed the RTC's January 11, 2002 Order which granted PGAI's Motion for Judgment on the Pleadings through an appeal<sup>[68]</sup> filed on October 7, 2002, docketed as CA G.R. CV No. 73965.

GSIS averred that the RTC gravely erred in: (a) rendering judgment on the pleadings since it specifically denied the material allegations in PGAI's complaint; (b) ordering execution pending appeal since there are no justifiable reasons for the same; and (c) effecting execution against funds and assets of GSIS given that RA 8291 exempts the same from levy, execution and garnishment.<sup>[69]</sup>

For its part, PGAI maintained that: (a) the judgment on the pleadings was in order given that GSIS never disputed the facts as alleged in its complaint; (b) the discretionary execution was proper in view of the dilatory methods employed by GSIS in order to evade the payment of a valid obligation; and (c) the general insurance fund of GSIS, which was attached and garnished by the RTC, is not exempt from execution.<sup>[70]</sup>

In a Decision<sup>[71]</sup> dated October 30, 2006, the CA sustained the RTC's January 11, 2002 Order but deleted the awards of interest and attorney's fees for lack of factual

and legal basis.<sup>[72]</sup>

The CA ruled that judgment on the pleadings was proper since GSIS did not specifically deny the genuineness, due execution, and perfection of its reinsurance contract with PGAI.<sup>[73]</sup> In fact, PGAI even settled reinsurance claims during the covering period rendering the reinsurance contract not only perfected but partially executed as well.<sup>[74]</sup>

Passing on the issue of the exemption from execution of GSIS funds, the CA, citing *Rubia v. GSIS*<sup>[75]</sup> (*Rubia*), held that the exemption provided for by RA 8291 is not absolute since it only pertains to the social security benefits of its members; thus, funds used by the GSIS for business investments and commercial ventures, as in this case, may be attached and garnished.<sup>[76]</sup>

GSIS' motion for reconsideration<sup>[77]</sup> was denied by the CA in a Resolution<sup>[78]</sup> dated March 12, 2007. Hence, the present petition for review on *certiorari* in **G.R. No. 176982**.<sup>[79]</sup>

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

In these consolidated petitions, the essential issues are the following: (a) in **G.R. No. 165585**, whether the CA erred in (1) upholding the RTC's February 14, 2002 Order authorizing execution pending appeal, and (2) ruling that only the Social Insurance Fund and not the General Fund of the GSIS is exempt from garnishment; and (b) in **G.R. No. 176982**, whether the CA erred in sustaining the RTC's January 11, 2002 Order rendering judgment on the pleadings.

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

The petitions are partly meritorious.

#### ***A. Good reasons to allow execution pending appeal and the nature of the exemption under Section 39 of RA 8291.***

The execution of a judgment pending appeal is an exception to the general rule that only a final judgment may be executed.<sup>[80]</sup> In order to grant the same pursuant to Section 2,<sup>[81]</sup> Rule 39 of the Rules, the following requisites must concur: (a) there must be a motion by the prevailing party with notice to the adverse party; (b) there must be a good reason for execution pending appeal; and (c) the good reason must be stated in a special order.<sup>[82]</sup>

Good reasons call for the attendance of compelling circumstances warranting immediate execution for fear that favorable judgment may yield to an empty victory. In this regard, the Rules do not categorically and strictly define what constitutes "good reason," and hence, its presence or absence must be determined in view of the peculiar circumstances of each case. As a guide, jurisprudence dictates that the "good reason" yardstick imports a superior circumstance that will outweigh injury or damage to the adverse party.<sup>[83]</sup> Corollarily, the requirement of "good reason" does not necessarily entail unassailable and flawless basis but at the very least, an