

## THIRD DIVISION

[ G.R. No. 192737, April 25, 2012 ]

**NEMIA CASTRO, PETITIONER, VS. ROSALYN GUEVARRA AND  
JAMIR GUEVARRA, RESPONDENTS.**

### DECISION

**MENDOZA, J.:**

This is a petition for review on certiorari with prayer for the issuance of a writ of preliminary injunction and/or temporary restraining order, seeking to reverse and set aside the April 26, 2010 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 99763 and its June 29, 2010 Resolution,<sup>[2]</sup> denying petitioner's motion for reconsideration.

#### ***The Facts***

The case stems from a complaint for cancellation and/or discharge of check and defamation/slander with damages filed by petitioner Nemia Castro (*Castro*) against respondents, spouses Rosalyn and Jamir Guevarra (*Spouses Guevarra*), before the Regional Trial Court of Dasmariñas, Cavite, Branch 90 (*RTC-Br. 90*), and docketed therein as Civil Case No. 2187-00. Castro sought the cancellation of her undated Far East Bank and Trust Company (*FEBTC*) Check No. 0133501 in the amount of P1,862,000.00, contending that the total obligation for which said check was issued had already been fully paid. Moreover, she prayed that FEBTC Check Nos. 0133574 and 0133575 be declared as without value; that Rosalyn Guevarra (*Rosalyn*) be ordered to return her excess payments totaling P477,257.00, plus interest; and that she (*Castro*) be awarded exemplary damages, moral damages and attorney's fees.

In their answer with counterclaim, Spouses Guevarra claimed that there was no legal or factual basis to merit the discharge and cancellation of FEBTC Check No. 0133501. They stressed that the total partial payment made by Castro only amounted to P230,000.00, leaving an unpaid balance of P1,632,000.00.<sup>[3]</sup>

During the trial, Castro testified that pursuant to their rediscounting of check business arrangement, Rosalyn lent her cash of P1,362,000.00, which amount, they agreed, was to earn interest in the amount of P500,000.00. In turn, Castro issued to Rosalyn FEBTC Check No. 0133501 with a face value of P1,862,000.00. Later, Castro issued several postdated checks in favor of Rosalyn, representing installment payments on the amount covered by the subject check, which the latter subsequently encashed.

Sometime thereafter, Castro discovered that she had already settled the total obligation of P1,862,000.00 in full and had, in fact, overpaid. For said reason, Castro wrote a letter to Rosalyn informing the latter of her intention to order a "stop payment" of the postdated checks. On April 10, 2000, Castro instructed FEBTC to

stop the payment of FEBTC Check No. 0133501. She later learned from the bank that the subject check dated July 15, 2000 had been deposited on September 19, 2000.

To substantiate her allegation of full payment, Castro presented as evidence FEBTC Check No. 0123739 encashed by Jamir Guevarra with the notation "Final Payment for Check No. 186A0133501" at the dorsal portion of the checks. On January 21, 2003, she made her formal offer of evidence. The evidence offered was admitted by RTC-Br. 90 in an Order dated February 10, 2003.

After Castro rested her case, Spouses Guevarra started presenting their documentary evidence to disprove the claim of full settlement of FEBTC Check No. 0133501. They also presented their witnesses: Olivia F. Yambao, representative of the Bank of the Philippine Islands, Nueno Ave., Imus Branch (*formerly FEBTC*); and Nenita M. Florido.

Records show that in the course of the presentation of their evidence, Atty. Ernesto R. Alejandro (*Atty. Alejandro*), counsel for the Spouses Guevarra, requested the issuance of a subpoena *duces tecum* and *ad testificandum* requiring the bank manager of FEBTC, Nueno Ave., Imus, Cavite Branch to produce the microfilm of FEBTC Check No. 186A0123739 and to testify thereon. According to Atty. Alejandro, this piece of evidence would prove that the words "Final Payment for Check No. 186A0133501" had been written at the dorsal portion of the check only after its encashment.<sup>[4]</sup>

Judge Dolores Español (*Judge Español*), then presiding judge of RTC- Br. 90, denied Atty. Alejandro's request in an order dated September 12, 2003, reasoning out that Castro had already been extensively cross-examined by him on matters relative to FEBTC Check No. 0133501. Spouses Guevarra moved for reconsideration but their motion was denied by the trial court in an order dated October 6, 2003. Spouses Guevarra, thus, filed a petition for certiorari with prayer for temporary restraining order (TRO) and/or writ of injunction with the CA, which case was docketed as CA-G.R. SP No. 80561.<sup>[5]</sup>

Meanwhile, Spouses Guevarra moved for the resetting of the October 30, 2003 hearing to another date. On November 6, 2003, RTC-Br. 90 issued an order denying this request and, instead, declared Spouses Guevarra to have waived the further presentation of their evidence and directed them to submit their formal offer of evidence. The respondent spouses moved for the reconsideration of the November 6, 2003 Order. The said motion was denied in an order dated November 28, 2003. In the same order, the case was deemed submitted for decision.<sup>[6]</sup> Spouses Guevarra filed their motion to defer action on December 15, 2003, but the same was likewise denied, considering that no TRO or preliminary injunction was issued by the CA enjoining Judge Español from further proceeding with the case.

Thereafter, RTC-Br. 90 rendered its Decision dated December 22, 2003 in favor of Castro, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of plaintiff and against defendants Rosalyn Guevarra and Jamir Guevarra

ordering the discharge of Far East Bank and Trust Co. (FEBTC) Check No. 0070789 and its replacement FEBTC Check No. 0133501, which, defendant subsequently affixed the date July 15, 2000 thereto, both in the amount of P1,862,000.00, the same are hereby cancelled if not returned to the plaintiff. Further, FEBTC Check Nos. 0133574 and 0133575 dated March 24, 2000 and March 30, 2000, respectively, each in the amount of P10,000.00 are also hereby declared as without value. Likewise, the defendants are ordered to return to the plaintiff the amount of P477,257.00 representing the excess payment made by plaintiff plus legal interest of 12% per annum, from the filing of this complaint until fully paid. Further, defendants are ordered to pay plaintiff moral damages of P400,000.00, exemplary damages of P100,000.00, attorney's fees of P200,000.00, and the costs of suit.

Furthermore, for lack of factual and legal basis, Criminal Case No. 8624-01, entitled People of the Philippines vs. Nemia Castro, for Estafa under Article 315 (2-d), RPC in Relation to PD 818, is hereby DISMISSED. Thus, the Clerk of Court is directed to furnish the Municipal Trial Court of Imus, Cavite, with the copy of this Decision for its information and guidance with regard to the Criminal Cases involving FEBTC Check Nos. 0133574 and 0133575 pending before the said Court.

SO ORDERED.<sup>[7]</sup>

On January 26, 2004, Spouses Guevarra filed a motion for reconsideration<sup>[8]</sup> assailing the validity of the decision on the ground that it was promulgated after the retirement of Judge Español from the service. They added that the decision was contrary to law and the facts of the case, and that they were denied the right to present evidence.

On January 28, 2004, Spouses Guevarra filed their motion to re-raffle the case,<sup>[9]</sup> which was granted on even date by Judge Norberto Quisumbing, Jr., Executive Judge of the RTC, Imus, Cavite.<sup>[10]</sup> Subsequently, Civil Case No. 2187-00 was raffled to RTC, Branch 22 (*RTC- Br. 22*), presided by Judge Cesar Mangrobang (*Judge Mangrobang*).

Meanwhile, on February 18, 2004, the CA issued its Resolution,<sup>[11]</sup> in CA-G.R. SP No. 80561, denying the application of Spouses Guevarra for the issuance of a TRO.

Resolving the Motion to Defer Action and the Motion for Reconsideration of Spouses Guevarra, RTC-Br. 22 issued its Omnibus Order<sup>[12]</sup> dated December 15, 2004 granting the motion, thus, setting aside the RTC-Br. 90 December 22, 2003 Decision on the ground that it was promulgated after Judge Español retired from the service, holding in abeyance the further proceedings in the case. The decretal portion of the Omnibus Order states:

WHEREFORE, for being meritorious, defendants' Motion for Reconsideration is hereby granted, and the Court's decision dated December 22, 2003 is hereby reconsidered and set aside.

Further, in order not to intricate matters in this case considering that a Petition for Certiorari had been filed by the defendants before the Honorable Court of Appeals, let the proceedings of this case be held in abeyance until after the Court of Appeals shall have ruled on the pending petition.

SO ORDERED.<sup>[13]</sup>

On July 20, 2006, the CA promulgated its Decision<sup>[14]</sup> in CA-G.R. No. 80561, dismissing the petition for certiorari. The CA held that the issues raised therein had become moot and academic because of the rendition by RTC- Br. 90 of its December 22, 2003 judgment in Civil Case No. 2187-00.

On October 20, 2006, Spouses Guevarra filed a motion<sup>[15]</sup> before RTC- Br. 22, praying for the revival of the proceedings and/or new trial to enable them to complete their presentation of evidence by submitting alleged newly discovered evidence which could disprove Castro's claims. On March 23, 2007, Judge Mangrobang issued the questioned Order<sup>[16]</sup> and disposed of the incident in this wise:

WHEREFORE, premises considered, Defendants' Motion to Revive Proceedings and/or New Trial is hereby granted.

Hence, the new trial of this case is hereby set on April 27, 2007 at 8:30 in the morning.

SO ORDERED.<sup>[17]</sup>

Aggrieved, Castro filed a petition for certiorari<sup>[18]</sup> with prayer for TRO before the CA, assailing the March 23, 2007 Order of RTC-Br. 22 and collaterally attacking its December 15, 2006 Omnibus Order. She argued that Judge Mangrobang committed grave abuse of discretion in declaring the December 22, 2003 Decision as null and void and granting the motion of Spouses Guevarra for a new trial in Civil Case No. 2187-00.

On April 26, 2010, the CA denied the above petition. It opined that the petition should have been dismissed outright for failure of Castro to file a motion for reconsideration of the assailed Order. The CA also held that the issuance of the March 23, 2007 Order was not tainted with grave abuse of discretion, as Judge Mangrobang acted within the bounds of his authority and in the exercise of his sound discretion. The *fallo* of said decision reads:

WHEREFORE, premises considered, the instant petition is DENIED. The assailed Order of the RTC, Branch 22 of Imus, Cavite dated March 23, 2007 is AFFIRMED.<sup>[19]</sup>

Castro's motion for reconsideration was denied by the CA in its Resolution dated June 29, 2010.

## **ISSUES**

Undaunted, Castro filed the present petition for review on certiorari before this Court and raised the following issues:

- a) Whether a Motion for Reconsideration is required before filing a Petition for Certiorari under the circumstances of this case;
- b) Whether the Court of Appeals committed grave abuse of discretion in denying the Petition for Certiorari for lack of a Motion for Reconsideration of the December 15, 2004 Omnibus Order issued by the Presiding Judge, Branch 22, RTC, Imus, Cavite;
- c) Whether the service or mailing of copies of a judgment to the parties in a case is required in the promulgation of a judgment;
- d) Whether the December 22, 2003 Decision of Branch 90, RTC, Dasmariñas, Cavite is a void judgment;
- e) Whether the Court of Appeals committed grave abuse of discretion in denying the Petition for Certiorari in ruling that the Presiding Judge of Branch 22, RTC, Imus, Cavite did not abuse his discretion amounting to lack or excess of jurisdiction in issuing the March 23, 2007 Order.<sup>[20]</sup>

On November 15, 2010, the Court issued a resolution<sup>[21]</sup> denying Castro's application for the issuance of a TRO and/or writ of preliminary injunction.

A careful perusal of the pleadings filed by the parties leads the Court to conclude that this case revolves around the following core issues:

- 1) Whether RTC- Br. 22 had the authority to pass upon and resolve the motion for reconsideration of the December 22, 2003 Decision of RTC- Br. 90 and all subsequent matters submitted to it in Civil Case No. 2187-00;**
- 2) Whether a motion for reconsideration is required before the filing of a petition for certiorari under the circumstances of the case at bench; and**
- 3) Whether RTC-Br. 22 erred in granting a new trial of the case.**

In her petition, Castro takes exception to the general rule which requires a motion for reconsideration prior to the institution of a petition for certiorari. She argues that the December 15, 2004 Omnibus Order and the March 23, 2007 Order were both patently void. She further questions the authority of Judge Mangrobang to assume