

THIRD DIVISION

[G.R. No. 173820, April 16, 2012]

**PRODUCERS BANK OF THE PHILIPPINES, PETITIONER, VS.
EXCELSA INDUSTRIES, INC., RESPONDENT.**

DECISION

PERALTA, J.:

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court filed by petitioner Producers Bank of the Philippines against respondent Excelsa Industries, Inc. assailing the Court of Appeals (CA) Decision^[1] dated April 4, 2006 and Resolution^[2] dated July 19, 2006 in CA-G.R. SP No. 46514. The assailed decision reversed the Regional Trial Court (RTC)^[3] Decision^[4] dated December 16, 1997 in the consolidated cases docketed as LR Case No. 90-787 and Civil Case No. 1587-A, while the assailed resolution denied petitioner's motion for reconsideration for lack of merit.

The present case stemmed from the same set of facts as in G.R. No. 152071^[5] entitled "*Producers Bank of the Philippines v. Excelsa Industries, Inc.*," which the Court promulgated on May 8, 2009. The relevant facts, as found by the Court in said case, are as follows:

Respondent obtained a loan from petitioner in the form of a bill discounted and secured credit accommodation in the amount of P200,000.00, secured by a real estate mortgage over real estate properties registered in its name.^[6] The mortgage secured also loans that might be extended in the future by petitioner in favor of respondent.^[7] Respondent thereafter applied for a packing credit line or a credit export advance with petitioner supported by a letter of credit issued by Kwang Ju Bank, Ltd. of Seoul, Korea, through Bank of the Philippine Islands. The application was approved.^[8] When respondent presented for negotiation to petitioner drafts drawn under the letter of credit and the corresponding export documents in consideration for its drawings in the amount of US\$5,739.76 and US\$4,585.79, petitioner purchased the drafts and export documents by paying respondent the peso equivalent of the drawings.^[9] The Korean buyer, however, refused to pay the export documents prompting petitioner to demand from respondent the payment of the peso equivalent of said export documents together with its due and unpaid loans.^[10] For failure of respondent to heed the demand, petitioner moved for the extrajudicial foreclosure of the real estate mortgage.^[11] At the public auction, petitioner emerged as the highest bidder.^[12] The corresponding certificate of sale was later issued and eventually registered. For failure of respondent to redeem the properties, the titles were consolidated in favor of petitioner and new certificates of title were issued in its name.^[13]

On November 17, 1989, respondent instituted an action for the annulment of extrajudicial foreclosure with prayer for preliminary injunction and damages against petitioner and the Register of Deeds of Marikina. The case was docketed as Civil Case No. 1587-A which was raffled to Branch 73 of the RTC of Antipolo, Rizal.^[14] On April 5, 1990, petitioner filed a petition for the issuance of a writ of possession, docketed as LR Case No. 90-787 before the same court. The RTC thereafter ordered the consolidation of the two cases, Civil Case No. 1587-A and LR Case No. 90-787.

On December 18, 1997, the RTC rendered a decision upholding the validity of the extrajudicial foreclosure and ordering the issuance of a writ of possession in favor of petitioner.^[15]

Aggrieved, respondent availed of two modes of appeal. Respondent appealed Civil Case No. 1587-A via ordinary appeal^[16] to the CA which was docketed as CA-G.R. CV No. 59931 and raffled to the First Division. Respondent likewise filed a special civil action for *certiorari* under Rule 65 of the Rules of Court as to LR Case No. 90-787^[17] also before the CA which was docketed as CA-G.R. SP. No. 46514 and was raffled to the Tenth Division. In both cases, respondent assailed the December 18, 1997 Decision of the RTC which is actually a joint decision on the two consolidated cases subject of the separate actions.

On May 30, 2001, the CA (First Division) rendered a decision in CA-G.R. CV No. 59931 reversing and setting aside the RTC decision thereby declaring the foreclosure of mortgage invalid and annulling the issuance of the writ of possession in favor of petitioner.^[18] Petitioner elevated the case to this Court and was docketed as G.R. No. 152071.

On April 4, 2006, the CA (Tenth Division) also rendered the assailed decision in CA-G.R. SP No. 46514, the dispositive portion of which reads:

WHEREFORE, premises considered, the instant petition is hereby **GRANTED. ACCORDINGLY**, the Decision dated December 18, 1997 of the Regional Trial Court of Antipolo, Rizal, Branch 73, is hereby **REVERSED**.

SO ORDERED.^[19]

While declaring that the case had become moot and academic in view of the May 30, 2001 decision of the CA (First Division), the CA (Tenth Division) decided on the merits of the case and resolved two issues, namely: (1) whether or not petitioner was the agent of respondent; and (2) whether or not the foreclosure of mortgage was valid.^[20] The decision substantially echoed the ruling of the CA (First Division) in CA-G.R. CV No. 59931.

Aggrieved, petitioner comes before the Court with the following arguments:

I.

The Petition for *Certiorari* should have been immediately dismissed by the Court of Appeals on the ground of FORUM SHOPPING.

II.

The Petition for *Certiorari* should have been immediately dismissed as there was a remedy (*i.e.*, Motion for Reconsideration and Appeal) available to the Respondent.

III.

The respondent's Petition, purportedly a Petition for *Certiorari* under Rule 65 of the Rules of Court, did not allege that any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction.

IV.

Even if the respondent's Petition is decided on the issues enumerated by the Court of Appeals in its questioned Decision, the Petition for *Certiorari* must be dismissed for utter lack of merit and for not being supported by the evidence on record.^[21]

The petition is meritorious.

The case stemmed from two separate cases – one for annulment of foreclosure in Civil Case No. 1587-A and another case for issuance of the writ of possession in LR Case No. 90-787. The cases were consolidated by the RTC and were eventually disposed of in one judgment embodied in the December 18, 1997 RTC decision. This notwithstanding, respondent treated the cases separately and availed of two remedies, an appeal in Civil Case No. 1587-A and a petition for *certiorari* under Rule 65 in LR Case No. 90-787. The appeal was decided by the CA (First Division) then eventually settled by the Court in G.R. No. 152071 on May 8, 2009. The petition for *certiorari*, on the other hand, was later decided by the CA (Tenth Division), which decision is now the subject of this present petition.

Respondent herein committed a procedural blunder when it filed a separate petition for *certiorari* before the CA, because when the two cases were consolidated and a joint decision was rendered, the cases lost their identities; and a petition for *certiorari* is not the proper remedy to assail a decision granting the issuance of a writ of possession.

Consolidation is a procedural device granted to the court as an aid in deciding how cases in its docket are to be tried so that the business of the court may be dispatched expeditiously and with economy while providing justice to the parties.^[22] It is governed by Rule 31 of the old Rules of Court^[23] which states: