

THIRD DIVISION

[G.R. No. 186271, February 23, 2011]

**CHATEAU DE BAIE CONDOMINIUM CORPORATION, PETITIONER,
VS. SPS. RAYMOND AND MA. ROSARIO MORENO, RESPONDENTS.**

DECISION

BRION, J.:

Before us is the petition for review on *certiorari* with prayer for a temporary restraining order filed by Chateau de Baie Condominium Corporation (*petitioner*) challenging the decision^[1] of the Court of Appeals (CA) that dismissed its petition for *certiorari*, prohibition and mandamus. The petition, the CA ruled upon, questioned the ruling^[2] of the Regional Trial Court (RTC), Branch 258, Parañaque City, that denied the petitioner's motion to dismiss the complaint filed by respondent spouses Raymond and Ma. Rosario Moreno.

This case is the second of two related cases submitted to us involving the condominium unit of Ma. Rosario Moreno. We had decided the first case - *Oscar S. Salvacion v. Chateau de Baie Condominium Corporation*, G.R. No. 178549^[3] - and our ruling has attained finality.

The Facts

Mrs. Moreno is the registered owner of a penthouse unit and two parking slots in Chateau de Baie Condominium (*Chateau Condominium*) in Roxas Boulevard, Manila. These properties are covered by Condominium Certificates of Title (CCT) Nos. 4153, 4154, and 4155 (*Moreno properties*). As a registered owner in Chateau Condominium, Mrs. Moreno is a member/stockholder of the condominium corporation.

Mrs. Moreno obtained a loan of P16,600,000.00 from Oscar Salvacion, and she mortgaged the Moreno properties as security; the mortgage was annotated on the CCTs.

Under Section 20 of Republic Act (R.A.) No. 4726 (*the Condominium Act*),^[4] when a unit owner fails to pay the association dues, the condominium corporation can enforce a lien on the condominium unit by selling the unit in an extrajudicial foreclosure sale.

On November 23, 2001, the petitioner caused the annotation of a Notice of Assessment on the CCTs of the Moreno properties for unpaid association dues amounting to P323,870.85. It also sent a demand letter to the Moreno spouses who offered to settle their obligation, but the petitioner declined the offer.

Subsequently, to enforce its lien, the president of the petitioner wrote the Clerk of

Court/*Ex-Officio* Sheriff of Parañaque City for the extrajudicial public auction sale of the Moreno properties. The extrajudicial sale was scheduled on February 10, 2005.
[5]

**The first case - the Salvacion Case (Civil Case No. 05-0061;
CA-G.R. SP No. 90339;
and G.R. No. 178549).**

To stop the extrajudicial sale, Salvacion, as mortgagee, filed, on February 3, 2005, a petition for *certiorari* and prohibition with prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction before the RTC, Branch 196, Parañaque City. The case was docketed as Civil Case No. 05-0061.^[6] The petition sought to prohibit the scheduled extrajudicial sale for lack of a special power to sell from the registered owner as mandated by Act No. 3135,^[7] and to declare the lien to be excessive.

On February 9, 2005, the RTC dismissed Salvacion's petition and denied the injunctive relief for lack of merit. The extrajudicial sale proceeded as scheduled, and the Moreno properties were sold to the petitioner, the lone bidder, for P1,328,967.12. The RTC denied Salvacion's motion for reconsideration.

Salvacion went to the CA *via* a petition for *certiorari* and prohibition (CA-G.R. SP No. 90339) and, among others, submitted the issue of whether the RTC erred in finding Section 5, Article 4 of the By-Laws of the petitioner as blanket authority to institute an extrajudicial foreclosure, contrary to Section 20 of R.A. No. 4726 and Section 1 of Act No. 3135.

On February 27, 2007, the CA's Third Division ruled that Act No. 3135 covers only real estate mortgages and is intended merely to regulate the extrajudicial sale of mortgaged properties. It held that R.A. No. 4726 is the applicable law because it is a special law that exclusively applies to condominiums. Thus, the CA upheld the validity of the extrajudicial sale.^[8] It ruled that R.A. No. 4726 does not require a special authority from the condominium owner before a condominium corporation can initiate a foreclosure proceeding. It additionally observed that Section 5 of the By-Laws of the petitioner provides that it has the authority to avail of the remedies provided by law, whether judicial or extrajudicial, to collect unpaid dues and other charges against a condominium owner. The CA's Third Division also denied Salvacion's motion for reconsideration.^[9]

Salvacion appealed to this Court through a petition for review on *certiorari*.^[10] The Court's Third Division denied the petition for technical infirmities and for failing to show that the CA committed any reversible error. An entry of judgment was made on January 24, 2008.^[11]

**The present case - the Moreno Case
(Civil Case No. 05-0183 and CA-G.R. SP No. 93217).**

While the Salvacion case was pending before the CA, the Moreno spouses filed before the RTC, Parañaque City, a complaint for intra-corporate dispute against the petitioner^[12] to question how it calculated the dues assessed against

them, and to ask an accounting of the association dues. They asked for damages and the annulment of the foreclosure proceedings, and prayed for the issuance of a writ of preliminary injunction. The case was raffled to Branch 258 and was docketed as Civil Case No. 05-0183.

The petitioner moved to dismiss the complaint on the ground of lack of jurisdiction, alleging that since the complaint was against the owner/developer of a condominium whose condominium project was registered with and licensed by the Housing and Land Use Regulatory Board (*HLURB*), the HLURB has the exclusive jurisdiction.

In an order dated October 15, 2005,^[13] the RTC denied the motion to dismiss because it was a prohibited pleading under the Interim Rules of Procedure Governing Intra-Corporate Controversies.^[14] It likewise ordered the motion to dismiss expunged from the records, and declared the petitioner in default for failing to answer within the reglementary period. The RTC denied the petitioner's motion for reconsideration in its order of January 20, 2006.^[15]

The petitioner went to the CA *via* a petition for *certiorari*, prohibition and mandamus under Rule 65 of the Rules of Court. It alleged grave abuse of discretion on the part of the RTC for not dismissing the Moreno spouses' complaint because (1) the Moreno spouses are guilty of forum shopping, (2) of *litis pendencia*, and (3) the appeal pending before the CA (CA-G.R. SP No. 90339 [SPL CV No. 05-0061]).

The CA's First Division denied the petition in its decision of August 29, 2008.^[16] It found no grave abuse of discretion on the part of the RTC because the complaint involved an intra-corporate dispute. It ruled:

Since the instant civil case involves an intra-corporate controversy, it is the RTC which has jurisdiction over the same pursuant to R.A. 8799 otherwise known as the Securities Regulation Code and Section 9 of the Interim Rules. The public respondent indeed correctly applied the provisions of the Interim Rules. And under Section 8(1), Rule 1 thereof, it is expressly stated that a Motion to Dismiss is a prohibited pleading. Thus, the motion to dismiss on the ground of lack of jurisdiction filed by petitioner must necessarily be denied and expunged from the record. Petitioner should have instead averred its defense of lack of jurisdiction and even the issue of forum shopping in its Answer. Section 6, par. (4), Rule 2 of the Interim Rules, explicitly provides that in the Answer, the defendant can state the defenses, including the grounds for a motion to dismiss under the Rules of Court.

Considering that the motion to dismiss filed by private respondent is a prohibited pleading, hence, it did not toll the running of the period for filing an Answer, the public respondent properly declared the petitioner in default for its failure to file its Answer within fifteen (15) days from its receipt of summons.^[17]

The CA's First Division also denied the petitioner's motion for reconsideration;^[18]