

FIRST DIVISION

[G.R. No. 191388, March 09, 2011]

ASIA UNITED BANK, CHRISTINE T. CHAN, AND FLORANTE C. DEL MUNDO, PETITIONERS, VS. GOODLAND COMPANY, INC., RESPONDENT.

D E C I S I O N

DEL CASTILLO, J.:

The costly consequence of forum shopping should remind the parties to ever be mindful against abusing court processes.

Before the Court is a Petition for Review^[1] under Rule 45 of the Rules of Court assailing the Decision^[2] dated June 5, 2009 of the Court of Appeals (CA) in CA-G.R. CV No. 90114, as well as its Resolution^[3] dated February 17, 2010, which denied a reconsideration of the assailed Decision. The dispositive portion

of the appellate court's Decision reads:

WHEREFORE, the appeal is **GRANTED** and the appealed Order dated March 15, 2007 is **REVERSED** and **SET ASIDE**. In lieu thereof, another is entered ordering the **DENIAL** of appellee bank's motion to dismiss and directing the **REINSTATEMENT** of appellant's complaint as well as the **REMAND** of the case to the trial court for further proceedings.

SO ORDERED.^[4]

Factual Antecedents

Respondent Goodland Company, Inc. (Goodland) executed a Third Party Real Estate Mortgage (REM) over two parcels of land located in the Municipality of Sta. Rosa, Laguna and covered by Transfer Certificates of Title (TCT) Nos. 321672^[5] and 321673^[6] in favor of petitioner Asia United Bank (AUB). The mortgage secured the obligation amounting to P250 million of Radiomarine Network, Inc. (RMNI), doing business as Smartnet Philippines, to AUB. The REM was duly registered on March 8, 2001 in the Registry of Deeds of Calamba, Laguna.^[7]

Goodland then filed a *Complaint*^[8] docketed as Civil Case No. B-6242 before Branch 25 of the Regional Trial Court (RTC) of Biñan, Laguna for the annulment of the REM on the ground that the same was falsified and done in contravention of the parties' verbal agreement (Annulment Case).

While the Annulment Case was pending, RMNI defaulted in the payment of its obligation to AUB, prompting the latter to exercise its right under the REM to extrajudicially foreclose the mortgage. It filed its *Application for Extrajudicial Foreclosure of Real Estate Mortgage under Act No. 3135, as amended* with the Office of the Executive Judge of the RTC of Biñan, Laguna on October 19, 2006.^[9] The mortgaged properties were sold in public auction to AUB as the highest bidder. It was issued a *Certificate of Sale*, which was registered with the Registry of Deeds of Calamba on November 23, 2006.

Before AUB could consolidate its title, Goodland filed on November 28, 2006 another *Complaint*^[10] docketed as Civil Case No. B-7110 before Branch 25 of the RTC of Biñan, Laguna, against AUB and its officers, petitioners Christine Chan and Florante del Mundo. This *Complaint* sought to annul the foreclosure sale and to enjoin the consolidation of title in favor of AUB (Injunction Case). Goodland asserted the alleged falsified nature of the REM as basis for its prayer for injunction.

A few days later, AUB consolidated its ownership over the foreclosed properties and obtained new titles, TCT Nos. T-657031^[11] and 657032,^[12] in its name from the Registry of Deeds of Calamba.

Petitioners then filed on December 11, 2006 a *Motion to Dismiss with Opposition to a Temporary Restraining Order* in the Injunction Case.^[13] They brought to the trial court's attention Goodland's forum shopping given the pendency of the Annulment Case. They argued that the two cases both rely on the alleged falsification of the real estate mortgage as basis for the reliefs sought.

Ruling of the Regional Trial Court (Injunction Case)

On March 15, 2007, the trial court acted favorably on petitioners' motion and dismissed the Injunction Case with prejudice on the grounds of forum shopping and *litis pendentia*.^[14] The trial court explained that the Injunction Case and the Annulment Case are both founded on the same transactions, same essential facts and circumstances, and raise substantially the same issues. The addition of the application for a writ of preliminary injunction does not vary the similarity between the two cases. The trial court further noted that Goodland could have prayed for injunctive relief as ancillary remedy in the Annulment Case. Finally, the trial court stated that any judgment in the Annulment Case regarding the validity of the REM would constitute *res judicata* on the Injunction Case.

Ruling of the Court of Appeals^[15] (Injunction Case)

Goodland appealed^[16] the same to the CA.

Meanwhile, AUB filed an *Ex-Parte Application for Writ of Possession* on December 18, 2006, which was granted on March 15, 2007. The writ was issued on March 26, 2007 and AUB obtained possession of the foreclosed properties on April 2, 2007.

On June 5, 2009, the CA promulgated its assailed Decision, which ruled in favor of Goodland and ordered the reinstatement of the Injunction Case in the trial court.^[17]

The CA rejected petitioners' contention that Goodland's appeal raised pure questions of law,^[18] which are within the jurisdiction of the Supreme Court under Rule 45.^[19] Instead, it found Goodland's Rule 41 appeal to be proper because it involved *both* questions of fact and of law. The CA held that a question of fact existed because petitioners themselves questioned in their Brief the veracity of Goodland's *Certification of Non-Forum Shopping*.^[20]

The CA conceded that Goodland's Brief failed to comply with the formal requirements, which are all grounds for the dismissal of the appeal,^[21] e.g., failure of the appellant to serve and file the required number of copies of its brief on all appellees and absence of page references to the record. However, it relaxed the rules so as to completely resolve the rights and obligations of the parties. The CA, however, warned Goodland that its future lapses will be dealt with more severely.^[22]

The CA further ruled against petitioners' argument that the delivery of the foreclosed properties to AUB's possession has rendered Goodland's appeal moot. It explained that the Injunction Appeal involving the annulment of extrajudicial foreclosure sale can proceed independently of petitioners' application for a writ of possession.^[23]

The CA then concluded that Goodland was not guilty of forum shopping when it initiated the Annulment and Injunction Cases. The CA held that the *reliefs sought* in the two cases were different. The Annulment Case sought the nullification of the real estate mortgage, while the Injunction Case sought the nullification of the foreclosure proceedings as well as to enjoin the consolidation of title in favor of petitioners.^[24] The CA further held that aside from the difference in reliefs sought, the two cases were independent of each other because the facts or evidence that supported their respective *causes of action* were different. The acts which gave rise to the Injunction Case (*i.e.*, the extrajudicial foreclosure proceedings) occurred long after the filing of the Annulment Case.^[25]

The appellate court also held that any decision in either case will not constitute *res judicata* on the other. It explained that the validity of the real estate mortgage has no "automatic bearing" on the validity of the extrajudicial foreclosure proceedings.^[26]

Moreover, according to the CA, the fact that Goodland stated in its *Certification of Non-Forum Shopping* in the Injunction Case that the Annulment Case was pending belied the existence of forum shopping.^[27]

Petitioners filed a Motion for Reconsideration^[28] on July 2, 2009, which was denied in the assailed Resolution of February 17, 2010.^[29]

Hence, the instant petition.

Ruling in G.R. No. 190231 (Annulment Case)

Contemporaneously with the proceedings of the Injunction Case, the earlier Annulment Case (Civil Case No. B-6242) was also dismissed by the trial court on the

ground of forum shopping on August 16, 2007.^[30]

Goodland filed an appeal^[31] of the dismissal to the CA, which appeal was granted. The CA ordered on August 11, 2009 the reinstatement of the Annulment Case in the trial court.^[32]

AUB then filed with this Court a *Petition for Review*,^[33] docketed as G.R. No. 190231 and entitled *Asia United Bank and Abraham Co v. Goodland Company, Inc.*

On December 8, 2010, the Court's First Division reversed the CA ruling and resolved the appeal in AUB's favor.^[34] The sole issue resolved by the Court was whether Goodland committed willful and deliberate forum shopping by filing Civil Case Nos. B-6242 (Annulment Case) and B-7110 (Injunction Case). The Court ruled that Goodland *committed forum shopping* because both cases asserted non-consent to the mortgage as the only basis for seeking the nullification of the REM, as well as the injunction of the foreclosure. When Goodland did not notify the trial court of the subsequent filing of the injunction complaint, Goodland revealed its "furtive intent to conceal the filing of Civil Case No. B-7110 for the purpose of securing a favorable judgment." Thus, the Court concluded that the trial court was correct in dismissing the annulment case with prejudice. The dispositive portion of the said Resolution reads as follows:

WHEREFORE, the petition is hereby **GRANTED**. The August 11, 2009 decision and November 10, 2009 resolution of the Court of Appeals in CA-GR CV No. 9126^[9] are **REVERSED** and **SET ASIDE**. The August 16, 2007 and December 5, 2007 orders of the Regional Trial Court of Biñan, Laguna, Branch 25 in Civil Case No. B-6242 are **REINSTATED**.^[35]

Goodland filed a Motion for Reconsideration^[36] but the same was denied with finality in the Court's Resolution dated January 19, 2011.

Issue^[37]

The parties present several issues for the Court's resolution. Most of these address the procedural infirmities that attended Goodland's appeal to the CA, making such appeal improper and dismissible. The crux of the case, however, lies in the issue of whether the successive filing of the Annulment and Injunction Cases constitute forum shopping.

Petitioners' Arguments

Petitioners maintain that Goodland is guilty of forum shopping because it sought in the Annulment Case to annul the REM on the ground that it was falsified and unlawfully filled-out; while in the Injunction Case, Goodland wanted to nullify the foreclosure sale arising from the same REM on the ground that the REM was falsified and unlawfully filled-out. Clearly, Goodland's complaints rise and fall on the issue of whether the REM is valid. This requires the presentation of the same evidence in

the Annulment and Injunction Cases.^[38]

Goodland's Arguments

Goodland counters that it did not commit forum shopping because the causes of action for the Injunction and Annulment Cases are different. The Annulment Case is for the annulment of REM; while the Injunction Case is for the annulment of the extrajudicial foreclosure sale. Goodland argues that any judgment in the Annulment Case, *regardless of which party is successful*, would not amount to *res judicata* in the Injunction Case.^[39]

Our Ruling

We grant the petition.

There is forum shopping "when a party repetitively avails of several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues either pending in or already resolved adversely by some other court."^[40] The different ways by which forum shopping may be committed were explained in *Chua v. Metropolitan Bank & Trust Company*:^[41]

Forum shopping can be committed in three ways: (1) filing multiple cases based on the same cause of action and with the same prayer, the previous case not having been resolved yet (where the ground for dismissal is *litis pendentia*); (2) filing multiple cases based on the same cause of action and the same prayer, the previous case having been finally resolved (where the ground for dismissal is *res judicata*); and (3) filing multiple cases based on the same cause of action, but with different prayers (splitting causes of action, where the ground for dismissal is also either *litis pendentia* or *res judicata*).

Common in these types of forum shopping is the identity of the cause of action in the different cases filed. Cause of action is defined as "the act or omission by which a party violates the right of another."^[42]

The cause of action in the earlier Annulment Case is the alleged nullity of the REM (due to its allegedly falsified or spurious nature) which is allegedly violative of Goodland's right to the mortgaged property. It serves as the basis for the prayer for the nullification of the REM. The Injunction Case involves the same cause of action, inasmuch as it also invokes the nullity of the REM as the basis for the prayer for the nullification of the extrajudicial foreclosure and for injunction against consolidation of title. While the main relief sought in the Annulment Case (nullification of the REM) is ostensibly different from the main relief sought in the Injunction Case (nullification of the extrajudicial foreclosure and injunction against consolidation of title), the cause of action which serves as the basis for the said reliefs remains the same — the alleged nullity of the REM. Thus, what is involved here is the third way of committing forum shopping, *i.e.*, filing multiple cases based on the same cause of action, but with different prayers. As previously held by the Court, there is still