

FIRST DIVISION

[G.R. No. 168062, June 29, 2010]

**VICTORIAS MILLING CO., INC., PETITIONER, VS. COURT OF
APPEALS AND INTERNATIONAL PHARMACEUTICALS, INC.
RESPONDENTS.**

D E C I S I O N

DEL CASTILLO, J.:

In an ejectment case mandated to be tried under summary procedure, the paramount consideration is its expeditious and inexpensive resolution without regard to technicalities.

This petition for *certiorari* assails the May 6, 2005 Resolution^[1] of the Court of Appeals (CA) in CA-G.R. CEB-SP No. 00365 which granted the petition for *certiorari* filed before it by respondent International Pharmaceuticals, Inc. (IPI) and ordered the issuance of a writ of preliminary injunction enjoining the Municipal Circuit Trial Court (MCTC) of E.B. Magalona-Manapla, Negros Occidental from proceeding with Civil Case No. 392-M, an ejectment case, and disturbing IPI's possession of the leased premises until further orders.

Factual Antecedents

On March 4, 2004, petitioner Victorias Milling Co. (VMC), Inc., filed a complaint for unlawful detainer and damages against respondent IPI before the MCTC of E.B. Magalona-Manapla, docketed as Civil Case No. 392-M. On March 10, 2004, the sheriff served the summons upon Danilo Maglasang, IPI's Human Relations Department Manager.

On March 19, 2004, IPI filed its Answer with express reservation that said Answer should not be construed as a waiver of the lack of jurisdiction of the MCTC over the person of IPI, for non-service of summons on the proper person. It then filed an Omnibus Motion for Hearing of Affirmative Defenses raised in the Answer and moved for the suspension of proceedings.

Ruling of the Municipal Circuit Trial Court

On August 30, 2004, the MCTC issued an Order^[2] denying the suspension of the proceedings of the case sought by IPI. It disposed as follows:

WHEREFORE, in accordance with the Rule on Summary Procedure, set this case for preliminary conference on September 29, 2004 at 9:30 o'clock in the morning.

SO ORDERED.^[3]

The motion for reconsideration was denied.

Ruling of the Court of Appeals

Thus IPI filed a petition for *certiorari* with the CA, Cebu City to question the jurisdiction of the MCTC over its person.

On February 22, 2005, the CA directed VMC to file its comment, to which IPI filed its reply. VMC thereafter filed its rejoinder.

In the meantime, in the MCTC, during the scheduled preliminary conference, IPI moved for the deferment of the preliminary conference while VMC moved for the termination of the same. The said preliminary conference was terminated and the parties were directed to submit the affidavits of their witnesses and other evidence together with their position papers. The parties subsequently submitted the required position papers with the MCTC.^[4]

On May 6, 2005, the CA issued the assailed Resolution which states in full:

After going over the verified petition for certiorari and prohibition with prayer for a writ of preliminary injunction dated February 9, 2005, the comment dated March 7, 2005 filed by private respondent, the reply dated 23 March 2005 of petitioner, the rejoinder dated April 11, 2005 filed by the private respondent, taking into account that among others petitioner questions the jurisdiction of the trial court over its person because summons was served on its Human Relations Manager in violation of Section 11 of Rule 14 of the 1997 Rules on Civil Procedure, in order not to render ineffectual whatever judgment that may be rendered in the above-entitled case and to preserve the rights of the parties during the pendency of this case, conditioned upon the putting up of an injunction bond in the sum of P200,000.00 to answer for whatever damages that the private respondent may sustain should this Court [decide] that the petitioner is not entitled thereto, let a WRIT OF PRELIMINARY INJUNCTION be issued enjoining the public respondent Municipal Circuit Trial Court of E. B. Magalona-Manapla, Municipality of Magalona from proceeding with Civil Case No. 392-M and disturbing the possession of the petitioner over the leased premises during the pendency of this petition until further orders from this Court.

The parties are given twenty (20) days from receipt hereof to file simultaneously their respective memoranda on the merits amplifying their positions and supporting their arguments with pertinent jurisprudence on the matter.

SO ORDERED.^[5]

VMC no longer filed a motion for reconsideration of the CA's Resolution, on the ground that the questioned CA Resolution is patently null and void and due

to the urgency of VMC's predicament. It instead immediately filed the present petition for *certiorari*.

Issues

Petitioner raises the following issues:

WHETHER X X X THE PUBLIC RESPONDENT CA HAD GRAVELY ABUSED ITS DISCRETION AMOUNTING TO A LACK OR EXCESS OF ITS JURISDICTION BY ORDERING THE ISSUANCE OF AN INJUNCTIVE WRIT ON THE BASIS OF, IN CONNECTION WITH, AND/OR AS AN INCIDENT OF A CLEARLY PROHIBITED/ DISALLOWED PETITION OR PLEADING (FOR CERTIORARI AND PROHIBITION AGAINST INTERLOCUTORY ORDERS IN AN EJECTMENT SUIT)

WHETHER X X X THE PUBLIC RESPONDENT CA HAD GRAVELY ABUSED ITS DISCRETION AMOUNTING TO AN EXCESS OF ITS JURISDICTION BY FAILING/REFUSING TO DISMISS/DENY OUTRIGHT THE PETITION FOR CERTIORARI AND PROHIBITION AS FILED BEFORE IT IN CA-G.R. CEB-SP NO. 00365 (AGAINST INTERLOCUTORY ORDERS IN AN EJECTMENT SUIT) NOTWITHSTANDING ITS EXPRESSLY BEING A PROHIBITED/ DISALLOWED PETITION/PLEADING UNDER THE PROVISIONS OF RULE 70, SEC. 13(7) OF THE [RULES] OF COURT

WHETHER X X X THE PUBLIC RESPONDENT CA HAD GRAVELY ABUSED ITS DISCRETION AMOUNTING TO AN EXCESS OF ITS JURISDICTION BY FAILING/REFUSING TO DISMISS/DENY OUTRIGHT THE PETITION FOR CERTIORARI AND PROHIBITION AS DIRECTLY FILED BEFORE IT IN CA-G.R. CEB-SP NO. 00356 (AGAINST INTERLOCUTORY ORDERS IN AN EJECTMENT SUIT) IN BLATANT DISREGARD OF THE HIERARCHY OF COURTS^[6]

Petitioner's Arguments

Petitioner contends that the petition for *certiorari* filed by IPI assailing the MCTC's interlocutory order in an ejectment case is clearly and specifically prohibited under Section 13 of Rule 70 of the Rules of Court as well as the Rule on Summary Procedure. The rules being clear and unambiguous, it submits that the said petition should have been dismissed outright by the CA.

Petitioner also argues that *Go v. Court of Appeals*,^[7] where the trial court ordered the "indefinite suspension" of the ejectment case therein, cannot be applied to the present case to favor IPI.

It further contends that the petition having been filed with the CA, and not the RTC, disregards the hierarchy of courts.