

## SECOND DIVISION

[ G.R. No. 182507, June 18, 2010 ]

**PHILIPPINE NATIONAL BANK, PETITIONER, VS. THE INTESTATE ESTATE OF FRANCISCO DE GUZMAN, REPRESENTED BY HIS HEIRS: ROSALIA, ELEUTERIO, JOE, ERNESTO, HARRISON, ALL SURNAMED DE GUZMAN; AND GINA DE GUZMAN, RESPONDENTS.**

### D E C I S I O N

**NACHURA, J.:**

Litigants should not be allowed to file identical motions repeatedly, speculating on the possible change of opinion of the court or of its judges.<sup>[1]</sup> We emphasize this principle in the present case and warn the parties to desist from the practice of filing several motions to dismiss which allege the same ground.

This is a petition for review on *certiorari* of Court of Appeals (CA) Decision<sup>[2]</sup> dated October 22, 2007 and Resolution<sup>[3]</sup> dated April 14, 2008, which affirmed the denial of petitioner's motion to dismiss.

Respondent Gina de Guzman obtained a P300,000.00 loan from petitioner, Philippine National Bank, secured by a real estate mortgage over a parcel of land registered in her name. Gina acquired the property from her father, Francisco de Guzman, through a Deed of Absolute Sale dated August 28, 1978. Gina's sister, Rosalia de Guzman, the beneficiary of the family home standing on the said lot, gave her consent to the mortgage.

Later, Rosalia filed a Complaint for Declaration of Nullity of Document, Cancellation of Title, Reconveyance, Cancellation of Mortgage, and Damages<sup>[4]</sup> against Gina and petitioner, alleging that the purported sale of the property by Francisco to Gina was fraudulent. The Complaint was then amended to replace respondent Intestate Estate of Francisco de Guzman as plaintiff.<sup>[5]</sup>

On January 21, 1999, the Regional Trial Court (RTC) dismissed the case due to plaintiff's failure to comply with its order to pay the legal fees so that alias summons could be served, thus:

A review of the records discloses that the plaintiffs failed to comply, despite due notice, with the order of this court dated November 17, 1998, as indicated in the registry return cards addressed to plaintiff Rosalia de Guzman-Poyaoan and her counsel as attached at the dorsal side of said order.

WHEREFORE, this court is constrained to dismiss this case on the ground that plaintiffs failed to comply with the aforementioned order to pay legal

fees to the Clerk of Court within five (5) days from receipt of the order so that an alias summons can be served by the sheriff of this court to defendant Gina de Guzman at her new address in Metro Manila, in consonance with Section 3, Rule 17 of the 1997 Rules of Civil Procedure.

SO ORDERED.<sup>[6]</sup>

No appeal was taken from this order; hence, the dismissal became final and executory.

Thereafter, on April 11, 2000, respondent Intestate Estate filed another Complaint,<sup>[7]</sup> also for Declaration of Nullity of Documents, Cancellation of Title, Reconveyance, Cancellation of Mortgage, and Damages, against Gina and petitioner, with essentially the same allegations as the former Complaint.

On June 1, 2000, petitioner filed a Motion to Dismiss<sup>[8]</sup> on the ground of *res judicata*, alleging that the Complaint is barred by prior judgment. In an Order<sup>[9]</sup> dated October 2, 2000, the RTC denied the motion. The court ruled that, since there was no determination of the merits of the first case, the filing of the second Complaint was not barred by *res judicata*. It also held that courts should not be unduly strict in cases involving procedural lapses that do not really impair the proper administration of justice.

On October 25, 2000, petitioner filed a Second Motion to Dismiss<sup>[10]</sup> on the ground of forum shopping. Petitioner argued that respondent Intestate Estate violated the rule against forum-shopping when it filed the Complaint despite knowing that a similar Complaint had been previously dismissed by the court.

The RTC, in an Order<sup>[11]</sup> dated March 13, 2001, denied the motion for lack of merit, and petitioner was directed to file its answer within five days. The court said that there was forum-shopping if a final judgment in one case would amount to *res judicata* in another case, and since it had already ruled in its previous order that the dismissal of the first complaint did not constitute *res judicata*, respondents were not guilty of forum-shopping.

Petitioner filed another Motion to Dismiss, raising the same ground, which was denied by the RTC in an Order dated May 31, 2001.<sup>[12]</sup>

Petitioner then filed an Omnibus Motion for Reconsideration<sup>[13]</sup> of the three RTC Orders, this time, raising the following grounds: (a) *res judicata*; (b) forum-shopping; (c) lack of jurisdiction over the person; and (d) complaint states no cause of action.

On January 15, 2002, the RTC denied the omnibus motion for lack of merit and gave petitioner five days within which to file its answer. The court held that the motion contained a mere rehash of the arguments raised in the three earlier Motions to Dismiss which had already been passed upon by the court in its three Orders and which contributed to the undue delay in the disposition of the case.<sup>[14]</sup>

Finally, petitioner filed an Answer<sup>[15]</sup> to the Complaint on February 19, 2002, again raising therein the issue of *res judicata*. Thereafter, the case was set for pre-trial.

Three years later, specifically on February 15, 2005, petitioner filed another Motion to Dismiss<sup>[16]</sup> with leave of court, alleging *res judicata* and forum-shopping.

On October 4, 2005, the RTC issued an Order<sup>[17]</sup> denying the Motion to Dismiss, declaring:

WHEREFORE, in view of the foregoing, the Motion to Dismiss is hereby DENIED.

No further Motion to Dismiss shall be entertained by this Court. Parties are directed to prosecute this case with dispatch.

Set the cross-examination of plaintiff Rosalia de Guzman Poyaoan on November 18, 2005 at 8:30 o'clock in the morning.

SO ORDERED.<sup>[18]</sup>

On November 6, 2006, the RTC denied petitioner's motion for reconsideration.

Petitioner filed a petition for *certiorari* with the CA, assailing these Orders. On October 22, 2007, the CA denied the petition, ruling in this wise:

WHEREFORE, the instant petition is hereby DENIED. ACCORDINGLY, the assailed Orders of Branch 57, Regional Trial Court of San Carlos City, Pangasinan dated 4 October 2005 and 6 November 2006, respectively, are AFFIRMED.

SO ORDERED.<sup>[19]</sup>

On April 14, 2008, the CA denied petitioner's motion for reconsideration.<sup>[20]</sup>

Petitioner then filed this petition for review on *certiorari*, raising the following issues:

The Court of Appeals erred in holding that an element of *res judicata*, i.e., that the disposition of the case must be a judgment or order on the merits is absent in the case.

The Court of Appeals erred when it ruled that *res judicata* has not set in so as to bar the filing of the second case.

The Court of Appeals erred in holding that the respondent had not violated the rule against forum-shopping.<sup>[21]</sup>