

## SECOND DIVISION

[ G.R. NO. 159915, March 12, 2009 ]

**BACHRACH CORPORATION, PETITIONER, VS. PHILIPPINE PORTS  
AUTHORITY, RESPONDENT.**

### DECISION

**BRION, J.:**

We have before us the Petition for Review on *Certiorari* <sup>[1]</sup> filed by the petitioner, Bachrach Corporation (*petitioner*), that seeks to reverse the Court of Appeal (CA) rulings dismissing the petitioner's appeal for failure to file an appeal brief.<sup>[2]</sup>

#### ANTECEDENTS

The respondent Philippine Ports Authority (*respondent*), as lessor, entered into a 99-year contract of lease with the petitioner over its properties denominated as Blocks 180 and 185. The lease will expire in the years 2017 and 2018, respectively. Since the rentals for these properties were based on the rates prevailing in the previous decades, the respondent imposed rate increases. Separately from these properties, the respondent owned another property - Lot 8, Block 101 - covered by its own lease contract that expired in 1992. This lease has not been renewed, but the petitioner refused to vacate the premises. The respondent thus filed, and prevailed in, an ejectment case involving this property against the petitioner.

The parties tried to extrajudicially settle their differences. A Compromise Agreement was drafted in 1994, but was not fully executed by the parties.<sup>[3]</sup> Only the petitioner, its counsel, and the respondent's counsel signed; the respondent's Board of Directors was not satisfied with the terms and refused to sign the agreement.

To compel the respondent to implement the terms of the Compromise Agreement, the petitioner filed a complaint for specific performance with the Regional Trial Court (RTC) of Manila, Branch 42. The case was docketed as Civil Case No. 95-73399 and covered only the subjects of the Compromise Agreement - Blocks 180 and 185.<sup>[4]</sup> Seeking to include Lot 8, Block 101 in the complaint, the petitioner filed a Motion for Leave to File and for Admission of Attached Supplemental and/or Amended Complaint. In an Order dated June 26, 2000,<sup>[5]</sup> the trial court denied this motion, stating that:

The amendment/supplement sought in the instant motion seeks the inclusion of Lot 8, Block 101 as one of the real properties subject matter of this case.

Granting for the sake of argument, but not in any way insinuating that plaintiff has a right to demand performance of the "Compromise Agreement," this Court can only mandate performance of its provisions.

And considering that the "Compromise Agreement" speaks only of Block Nos. 185 and 180, this Court can only direct actual performance by defendant Philippine Ports Authority of its terms and conditions, and that is with respect to the lease of these blocks (185 and 180) and no other. It would therefore be a mistake for this court to grant the motion and allow inclusion of Lot 8, Block 101, as one of the subject matters of the "compromise agreement." If ever the plaintiff has any legal right over Lot 8, Block 101 as one of the subject matters of the "compromise agreement," it has to be a subject matter of another case but certainly not in this case.<sup>[6]</sup>

On December 5, 2000, the petitioner filed a complaint for Specific Performance against the same respondent, Philippine Ports Authority, this time involving Lot 8, Block 101. This case was docketed as Civil Case No. 00-99431.<sup>[7]</sup> The petitioner also sought the consolidation of this case with the earlier Civil Case No. 95-73399.<sup>[8]</sup>

On September 26, 2001, the RTC of Manila, Branch 42 dismissed the Civil Case No. 00-99431 complaint on the grounds of *res judicata*, forum shopping, and failure of the complaint to state a cause of action. <sup>[9]</sup>

The petitioner elevated the dismissal to the CA. On February 20, 2002, the petitioner received the February 13, 2002 notice of the court requiring it to file its Brief within a period of 45 days from receipt of the Order, which was to expire on April 6, 2002. Two days prior to the expiration of this period, the petitioner filed a motion for a 45-day extension of time to file the brief. No brief was filed within the extended period. On November 11, 2002, the CA dismissed the appeal *via* a resolution whose pertinent portion reads:

For failure of the plaintiff-appellant, Bachrach Corporation to file the required brief, the appeal is hereby considered DISMISSED pursuant to Section 1 (e), Rule 50 of the 1997 Rules of Civil Procedure, as amended.

The Motion for Extension of Time to File Appellant's Brief is NOTED.

**SO ORDERED.**<sup>[10]</sup>

On December 11, 2002, the petitioner filed a Motion for Reconsideration (with Motion to Admit Attached Brief).<sup>[11]</sup> The CA denied the motion in its September 8, 2003 resolution, paving the way for the filing of the present petition.

### **THE PETITION**

The petition asks the Court to liberally apply the rules of procedure, grant its appeal, and thereby require the CA to entertain the appeal it dismissed. The petitioner raises the following issues:

I.

WHETHER OR NOT THE COURT OF APPEALS ERRED IN NOT GIVING A LIBERAL APPLICATION OF SECTION 1(E) RULE 50 OF THE RULES OF COURT TO THE PRESENT CASE CONSISTENT WITH SECTION 6, RULE 1