

THIRD DIVISION

[G.R. No. 182311, August 19, 2009]

FIDEL O. CHUA AND FILIDEN REALTY AND DEVELOPMENT CORPORATION, PETITIONERS, VS. METROPOLITAN BANK & TRUST COMPANY, ATTY. ROMUALDO CELESTRA, ATTY. ANTONIO V. VIRAY, ATTY. RAMON MIRANDA AND ATTY. POMPEYO MAYNIGO, RESPONDENTS.

DECISION

CHICO-NAZARIO, J.:

This is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, assailing the Decision,^[1] dated 31 January 2008, later upheld in a Resolution^[2] dated 28 March 2008, both rendered by the Court of Appeals in CA-G.R. CV No. 88087. The Court of Appeals, in its assailed Decision, affirmed the Order^[3] dated 3 July 2006 of Branch 258 of the Regional Trial Court of Parañaque City (RTC-Branch 258), dismissing the action for damages, docketed as Civil Case No. CV-05-0402, filed by petitioners Fidel O. Chua (Chua) and Filiden Realty and Development Corporation (Filiden), on the ground of forum shopping.

Petitioner Chua is president of co-petitioner Filiden, a domestic corporation, engaged in the realty business.^[4] Respondent Metropolitan Bank and Trust Co. (respondent Metrobank) is a domestic corporation and a duly licensed banking institution.^[5]

Sometime in 1988, petitioners obtained from respondent Metrobank a loan of P4,000,000.00, which was secured by a real estate mortgage (REM) on parcels of land covered by Transfer Certificates of Title (TCTs) No. (108020)1148, No. 93919, and No. 125185, registered in petitioner Chua's name (subject properties).^[6] Since the value of the collateral was more than the loan, petitioners were given an open credit line for future loans. On 18 September 1995, 17 January 1996, 31 July 1996, 21 January 1997, and 12 October 1998, petitioners obtained other loans from respondent Metrobank, and the real estate mortgages were repeatedly amended in accordance with the increase in petitioners' liabilities.^[7]

Having failed to fully pay their obligations, petitioners entered into a Debt Settlement Agreement^[8] with respondent Metrobank on 13 January 2000, whereby the loan obligations of the former were restructured. The debt consisted of a total principal amount of P79,650,000.00, plus unpaid interest of P7,898,309.02, and penalty charges of P552,784.96. Amortization payments were to be made in accordance with the schedule attached to the agreement.

In a letter^[9] dated 28 February 2001, the lawyers of respondent Metrobank demanded that petitioners fully pay and settle their liabilities, including interest and penalties, in the total amount of P103,450,391 as of 16 January 2001, as well as the

stipulated attorney's fees, within three days from receipt of said letter.

When petitioners still failed to pay their loans, respondent Metrobank sought to extra-judicially foreclose the REM constituted on the subject properties. Upon a verified Petition for Foreclosure filed by respondent Metrobank on 25 April 2001, respondent Atty. Romualdo Celestra (Atty. Celestra) issued a Notice of Sale dated 26 April 2001, wherein the mortgage debt was set at P88,101,093.98, excluding unpaid interest and penalties (to be computed from 14 September 1999), attorney's fees, legal fees, and other expenses for the foreclosure and sale. The auction sale was scheduled on 31 May 2001.^[10] On 4 May 2001, petitioners received a copy of the Notice of Sale.^[11]

On 28 May 2001, petitioner Chua, in his personal capacity and acting on behalf of petitioner Filiden, filed before Branch 257 of the Regional Trial Court of Parañaque (RTC-Branch 257), a Complaint for Injunction with Prayer for Issuance of Temporary Restraining Order (TRO), Preliminary Injunction and Damages,^[12] against respondents Atty. Celestra, docketed as **Civil Case No. CV-01-0207**. Upon the motion of petitioners, RTC-Branch 257 issued a TRO enjoining respondents Metrobank and Atty. Celestra from conducting the auction sale of the mortgaged properties on 31 May 2001.^[13]

After the expiration of the TRO on 18 June 2001, and no injunction having been issued by RTC-Branch 257, respondent Atty. Celestra reset the auction sale on 8 November 2001. On 8 November 2001, the rescheduled date of the auction sale, RTC-Branch 257 issued an Order directing that the said sale be reset anew after 8 November 2001. The Order was served on 8 November 2001, on respondent Atty. Celestra's daughter, Arlene Celestra, at a coffee shop owned by the former's other daughter, Grace Celestra Aguirre. The auction sale, however, proceeded on 8 November 2001, and a Certificate of Sale was accordingly issued to respondent Metrobank as the highest bidder of the foreclosed properties.^[14]

On 13 February 2002, petitioners filed with RTC-Branch 257 a Motion to Admit Amended Complaint^[15] in Civil Case No. CV-01-0207. The Amended Verified Complaint,^[16] attached to the said Motion, impleaded as additional defendant the incumbent Register of Deeds of Parañaque City. Petitioners alleged that the Certificate of Sale was a falsified document since there was no actual sale that took place on 8 November 2001. And, even if an auction sale was conducted, the Certificate of Sale would still be void because the auction sale was done in disobedience to a lawful order of RTC-Branch 257. Relevant portions of the Amended Complaint of petitioners read:

12-E. There was actually no auction sale conducted by [herein respondent] Atty. Celestra on November 8, 2001 and the CERTIFICATE OF SALE (Annex "K-2") is therefore a FALSIFIED DOCUMENT and for which the appropriate criminal complaint for falsification of official/public document will be filed against the said [respondent] Celestra and the responsible officers of [herein respondent] Metrobank, in due time;

12-F. But even granting that an auction sale was actually conducted and that the said Certificate of Sale is not a falsified document, the same

document is a nullity simply because the auction sale was done in disobedience to a lawful order of this Court and that therefore the auction sale proceeding is null and void ab initio.^[17]

Petitioners additionally prayed in their Amended Complaint for the award of damages given the abuse of power of respondent Metrobank in the preparation, execution, and implementation of the Debt Settlement Agreement with petitioners; the bad faith of respondent Metrobank in offering the subject properties at a price much lower than its assessed fair market value; and the gross violation by respondents Metrobank and Atty. Celestra of the injunction.

Petitioners also sought, in their Amended Complaint, the issuance of a TRO or a writ of preliminary injunction to enjoin respondent Atty. Celestra and all other persons from proceeding with the foreclosure sale, on the premise that no auction sale was actually held on 8 November 2001.

In an Order dated 6 March 2002, RTC-Branch 257 denied petitioners' application for injunction on the ground that the sale of the foreclosed properties rendered the same moot and academic. The auction sale, which was conducted by respondents Metrobank and Atty. Celestra, after the expiration of the TRO, and without knowledge of the Order dated 8 November 2001 of RTC-Branch 257, was considered as proper and valid.^[18]

Petitioners filed a Motion for Reconsideration of the 6 March 2002 Order of RTC-Branch 257. When RTC-Branch 257 failed to take any action on said Motion, petitioners filed with the Court of Appeals a Petition for *Certiorari*, docketed as CA-G.R. No. 70208. In a Decision dated 26 July 2002, the Court of Appeals reversed the 6 March 2002 Order of RTC-Branch 257 and remanded the case for further proceedings. The Supreme Court dismissed the appeal of respondents with finality. Thus, on 27 September 2005, RTC-Branch 257 set the hearing for the presentation of evidence by respondent Metrobank for the application for preliminary injunction on 9 November 2005.^[19]

On 2 November 2005, petitioners sought the inhibition of Acting Executive Judge Rolando How of RTC-Branch 257, who presided over Civil Case No. CV-01-0207. Their motion was granted and the case was re-raffled to RTC-Branch 258.^[20]

On 28 October 2005, petitioners filed with Branch 195 of the Regional Trial Court of Parañaque (RTC-Branch 195) a Verified Complaint for Damages against respondents Metrobank, Atty. Celestra, and three Metrobank lawyers, namely, Atty. Antonio Viray, Atty. Ramon Miranda and Atty. Pompeyo Maynigo. The Complaint was docketed as **Civil Case No. CV-05-0402**. Petitioners sought in their Complaint the award of actual, moral, and exemplary damages against the respondents for making it appear that an auction sale of the subject properties took place, as a result of which, the prospective buyers of the said properties lost their interest and petitioner Chua was prevented from realizing a profit of P70,000,000.00 from the intended sale.^[21]

Petitioners filed with RTC-Branch 195 a Motion to Consolidate^[22] dated 27 December 2005, seeking the consolidation of Civil Case No. CV-05-0402, the action

for damages pending before said court, with Civil Case No. CV-01-0207, the injunction case that was being heard before RTC-Branch 258, based on the following grounds:

2. The above-captioned case is a complaint for damages as a result of the [herein respondents'] conspiracy to make it appear as if there was an auction sale conducted on November 8, 2001 when in fact there was none. The properties subject of the said auction sale are the same properties subject of Civil Case No. 01-0207.

3. Since the subject matter of both cases are the same properties and the parties of both cases are almost the same, and both cases have the same central issue of whether there was an auction sale, then necessarily, both cases should be consolidated.

On 3 January 2006, respondents filed with RTC-Branch 195 an Opposition to Motion to Consolidate with Prayer for Sanctions, praying for the dismissal of the Complaint for Damages in Civil Case No. CV-05-0402, on the ground of forum shopping.^[23]

In an Order dated 23 January 2006, RTC-Branch 195 granted the Motion to Consolidate, and ordered that Civil Case No. CV-05-0402 be transferred to RTC-Branch 258, which was hearing Civil Case No. 01-0207.^[24]

After the two cases were consolidated, respondents filed two motions before RTC-Branch 258: (1) Motion for Reconsideration of the Order dated 23 January 2006 of RTC-Branch 195, which granted the Motion to Consolidate of petitioners; and (2) Manifestation and Motion raising the ground of forum shopping, among the affirmative defenses of respondents.^[25] RTC-Branch 258 issued an Order on 3 July 2006, granting the first Motion of respondents, thus, dismissing Civil Case No. CV-05-0402 on the ground of forum shopping,^[26] and consequently, rendering the second Motion of respondents moot. RTC-Branch 258 declared that the facts or claims submitted by petitioners, the rights asserted, and the principal parties in the two cases were the same. RTC-Branch 258 held in its 3 July 2006 Order^[27] that:

It is, therefore, the honest belief of the Court that since there is identity of parties and the rights asserted, the allegations of the defendant are found meritorious and with legal basis, hence, the motion is GRANTED and this case is DISMISSED due to forum shopping.

As regards the second motion, the same has already been mooted by the dismissal of this case.

WHEREFORE, premises considered, the Motion for Reconsideration filed by the defendants whereby this case is DISMISSED due to forum shopping and the Manifestation and Motion likewise filed by the defendants has already been MOOTED by the said dismissal.

From the foregoing Order of RTC-Branch 258, petitioners filed a Petition for Review

on *Certiorari* with the Court of Appeals, docketed as CA-G.R. CV No. 88087.

In a Decision dated 31 January 2008, the Court of Appeals affirmed the 3 July 2006 Order of RTC-Branch 258. The appellate court observed that although the defendants in the two cases were not identical, they represented a community of interest. It also declared that the cause of action of the two cases, upon which the recovery of damages was based, was the same, *i.e.*, the feigned auction sale, such that the nullification of the foreclosure of the subject properties, which petitioners sought in Civil Case No. CV-01-0207, would render proper the award for damages, claimed by petitioners in Civil Case No. CV-05-0402. Thus, judgment in either case would result in *res judicata*. The Court of Appeals additionally noted that petitioners admitted in their Motion for Consolidation that Civil Case No. CV-01-0207 and Civil Case No. CV-05-0402 involved the same parties, central issue, and subject properties.^[28] In its Decision,^[29] the appellate court decreed:

All told, the dismissal by the RTC-Br. 258 of the "second" case, Civil Case No. CV-05-0402, on the ground of forum shopping should be upheld as it is supported by law and jurisprudence.

WHEREFORE, the assailed order is **AFFIRMED**. Costs against the [herein petitioners].

Petitioners filed a Motion for Reconsideration of the afore-mentioned Decision, which the Court of Appeals denied in a Resolution dated 28 March 2008.^[30]

Hence, the present Petition, in which the following issues are raised^[31]:

I

WHETHER OR NOT THE "FIRST" AND THE "SECOND" CASES HAVE THE SAME ULTIMATE OBJECTIVE, I.E., TO HAVE THE AUCTION SALE BE DECLARED AS NULL AND VOID.

II

WHETHER OR NOT THE OUTCOME OF THE "FIRST" CASE WOULD AFFECT THE "SECOND" CASE.

The only issue that needs to be determined in this case is whether or not successively filing Civil Case No. CV-01-0207 and Civil Case No. CV-05-0402 amounts to forum shopping.

The Court answers in the affirmative.

The proscription against forum shopping is found in Section 5, Rule 7 of the 1997