

## FIRST DIVISION

[ G.R. No. 170281, January 18, 2008 ]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE ANTI-MONEY LAUNDERING COUNCIL, PETITIONER, VS. GLASGOW CREDIT AND COLLECTION SERVICES, INC. AND CITYSTATE SAVINGS BANK, INC., RESPONDENTS.**

### D E C I S I O N

**CORONA, J.:**

This is a petition for review<sup>[1]</sup> of the order<sup>[2]</sup> dated October 27, 2005 of the Regional Trial Court (RTC) of Manila, Branch 47, dismissing the complaint for forfeiture<sup>[3]</sup> filed by the Republic of the Philippines, represented by the Anti-Money Laundering Council (AMLC) against respondents Glasgow Credit and Collection Services, Inc. (Glasgow) and Citystate Savings Bank, Inc. (CSBI).

On July 18, 2003, the Republic filed a complaint in the RTC Manila for civil forfeiture of assets (with urgent plea for issuance of temporary restraining order [TRO] and/or writ of preliminary injunction) against the bank deposits in account number CA-005-10-000121-5 maintained by Glasgow in CSBI. The case, filed pursuant to RA 9160 (the Anti-Money Laundering Act of 2001), as amended, was docketed as Civil Case No. 03-107319.

Acting on the Republic's urgent plea for the issuance of a TRO, the executive judge<sup>[4]</sup> of RTC Manila issued a 72-hour TRO dated July 21, 2003. The case was thereafter raffled to Branch 47 and the hearing on the application for issuance of a writ of preliminary injunction was set on August 4, 2003.

After hearing, the trial court (through then Presiding Judge Marivic T. Balisi-Umali) issued an order granting the issuance of a writ of preliminary injunction. The injunctive writ was issued on August 8, 2003.

Meanwhile, summons to Glasgow was returned "unserved" as it could no longer be found at its last known address.

On October 8, 2003, the Republic filed a verified omnibus motion for (a) issuance of *alias* summons and (b) leave of court to serve summons by publication. In an order dated October 15, 2003, the trial court directed the issuance of *alias* summons. However, no mention was made of the motion for leave of court to serve summons by publication.

In an order dated January 30, 2004, the trial court archived the case allegedly for failure of the Republic to serve the *alias* summons. The Republic filed an *ex parte* omnibus motion to (a) reinstate the case and (b) resolve its pending motion for leave of court to serve summons by publication.

In an order dated May 31, 2004, the trial court ordered the reinstatement of the case and directed the Republic to serve the *alias* summons on Glasgow and CSBI within 15 days. However, it did not resolve the Republic's motion for leave of court to serve summons by publication declaring:

Until and unless a return is made on the alias summons, any action on [the Republic's] motion for leave of court to serve summons by publication would be untenable if not premature.

On July 12, 2004, the Republic (through the Office of the Solicitor General [OSG]) received a copy of the sheriff's return dated June 30, 2004 stating that the *alias* summons was returned "unserved" as Glasgow was no longer holding office at the given address since July 2002 and left no forwarding address.

Meanwhile, the Republic's motion for leave of court to serve summons by publication remained unresolved. Thus, on August 11, 2005, the Republic filed a manifestation and *ex parte* motion to resolve its motion for leave of court to serve summons by publication.

On August 12, 2005, the OSG received a copy of Glasgow's "Motion to Dismiss (By Way of Special Appearance)" dated August 11, 2005. It alleged that (1) the court had no jurisdiction over its person as summons had not yet been served on it; (2) the complaint was premature and stated no cause of action as there was still no conviction for estafa or other criminal violations implicating Glasgow and (3) there was failure to prosecute on the part of the Republic.

The Republic opposed Glasgow's motion to dismiss. It contended that its suit was an action *quasi in rem* where jurisdiction over the person of the defendant was not a prerequisite to confer jurisdiction on the court. It asserted that prior conviction for unlawful activity was not a precondition to the filing of a civil forfeiture case and that its complaint alleged ultimate facts sufficient to establish a cause of action. It denied that it failed to prosecute the case.

On October 27, 2005, the trial court issued the assailed order. It dismissed the case on the following grounds: (1) improper venue as it should have been filed in the RTC of Pasig where CSBI, the depository bank of the account sought to be forfeited, was located; (2) insufficiency of the complaint in form and substance and (3) failure to prosecute. It lifted the writ of preliminary injunction and directed CSBI to release to Glasgow or its authorized representative the funds in CA-005-10-000121-5.

Raising questions of law, the Republic filed this petition.

On November 23, 2005, this Court issued a TRO restraining Glasgow and CSBI, their agents, representatives and/or persons acting upon their orders from implementing the assailed October 27, 2005 order. It restrained Glasgow from removing, dissipating or disposing of the funds in account no. CA-005-10-000121-5 and CSBI from allowing any transaction on the said account.

The petition essentially presents the following issue: whether the complaint for civil forfeiture was correctly dismissed on grounds of improper venue, insufficiency in form and substance and failure to prosecute.

The Court agrees with the Republic.

### **The Complaint Was Filed In The Proper Venue**

In its assailed order, the trial court cited the grounds raised by Glasgow in support of its motion to dismiss:

1. That this [c]ourt has no jurisdiction over the person of Glasgow considering that no [s]ummons has been served upon it, and it has not entered its appearance voluntarily;
2. That the [c]omplaint for forfeiture is premature because of the absence of a prior finding by any tribunal that Glasgow was engaged in unlawful activity: [i]n connection therewith[,] Glasgow argues that the [c]omplaint states no cause of action; and
3. That there is failure to prosecute, in that, up to now, summons has yet to be served upon Glasgow.<sup>[5]</sup>

But inasmuch as Glasgow never questioned the venue of the Republic's complaint for civil forfeiture against it, how could the trial court have dismissed the complaint for improper venue? In *Dacoycoy v. Intermediate Appellate Court*<sup>[6]</sup> (reiterated in *Rudolf Lietz Holdings, Inc. v. Registry of Deeds of Parañaque City*),<sup>[7]</sup> this Court ruled:

The ***motu proprio* dismissal** of petitioner's complaint by [the] trial court **on the ground of improper venue is plain error....** (emphasis supplied)

At any rate, the trial court was a proper venue.

On November 15, 2005, this Court issued A.M. No. 05-11-04-SC, the Rule of Procedure in Cases of Civil Forfeiture, Asset Preservation, and Freezing of Monetary Instrument, Property, or Proceeds Representing, Involving, or Relating to an Unlawful Activity or Money Laundering Offense under RA 9160, as amended (Rule of Procedure in Cases of Civil Forfeiture). The order dismissing the Republic's complaint for civil forfeiture of Glasgow's account in CSBI has not yet attained finality on account of the pendency of this appeal. Thus, the Rule of Procedure in Cases of Civil Forfeiture applies to the Republic's complaint.<sup>[8]</sup> Moreover, Glasgow itself judicially admitted that the Rule of Procedure in Cases of Civil Forfeiture is "applicable to the instant case."<sup>[9]</sup>

Section 3, Title II (Civil Forfeiture in the Regional Trial Court) of the Rule of Procedure in Cases of Civil Forfeiture provides:

Sec. 3. *Venue of cases cognizable by the regional trial court.* - A petition for civil forfeiture shall be filed **in any regional trial court of the judicial region where the monetary instrument, property or proceeds representing, involving, or relating to an unlawful activity or to a money laundering offense are located; provided,**

*however, that where all or any portion of the monetary instrument, property or proceeds is located outside the Philippines, the petition may be filed in the regional trial court in Manila or of the judicial region where any portion of the monetary instrument, property, or proceeds is located, at the option of the petitioner. (emphasis supplied)*

Under Section 3, Title II of the Rule of Procedure in Cases of Civil Forfeiture, therefore, the venue of civil forfeiture cases is any RTC of the judicial region where the monetary instrument, property or proceeds representing, involving, or relating to an unlawful activity or to a money laundering offense are located. Pasig City, where the account sought to be forfeited in this case is situated, is within the National Capital Judicial Region (NCJR). Clearly, the complaint for civil forfeiture of the account may be filed in any RTC of the NCJR. Since the RTC Manila is one of the RTCs of the NCJR,<sup>[10]</sup> it was a proper venue of the Republic's complaint for civil forfeiture of Glasgow's account.

### **The Complaint Was Sufficient In Form And Substance**

In the assailed order, the trial court evaluated the Republic's complaint to determine its sufficiency in form and substance:

At the outset, this [c]ourt, before it proceeds, takes the opportunity to examine the [c]omplaint and determine whether it is sufficient in form and substance.

Before this [c]ourt is a [c]omplaint for Civil Forfeiture of Assets filed by the [AMLC], represented by the Office of the Solicitor General[, ] against Glasgow and [CSBI] as necessary party. The [c]omplaint principally alleges the following:

- (a) Glasgow is a corporation existing under the laws of the Philippines, with principal office address at Unit 703, 7<sup>th</sup> Floor, Citystate Center [Building], No. 709 Shaw Boulevard[, ] Pasig City;
- (b) [CSBI] is a corporation existing under the laws of the Philippines, with principal office at Citystate Center Building, No. 709 Shaw Boulevard, Pasig City;
- (d) As events have proved, aforestated bank account is related to the unlawful activities of Estafa and violation of Securities Regulation Code;
- (c) Glasgow has funds in the amount of P21,301,430.28 deposited with [CSBI], under CA 005-10-000121-5;
- (e) The deposit has been subject of Suspicious Transaction Reports;
- (f) After appropriate investigation, the AMLC issued Resolutions No. 094 (dated July 10, 2002), 096 (dated July 12, 2002), 101 (dated July 23, 2002), and 108 (dated

August 2, 2002), directing the issuance of freeze orders against the bank accounts of Glasgow;

- (g) Pursuant to said AMLC Resolutions, Freeze Orders Nos. 008-010, 011 and 013 were issued on different dates, addressed to the concerned banks;
- (h) The facts and circumstances plainly showing that defendant Glasgow's bank account and deposit are related to the unlawful activities of Estafa and violation of Securities Regulation Code, as well as to a money laundering offense [which] [has] been summarized by the AMLC in its Resolution No. 094; and

- Because defendant Glasgow's bank account and deposits are related to the unlawful activities of Estafa and violation of Securities Regulation Code, as well as [to] money laundering offense as aforesated, and being the subject of covered transaction reports and eventual freeze orders, the same should properly be forfeited in favor of the government in accordance with Section 12, R.A. 9160, as amended.<sup>[11]</sup>
- (i)

In a motion to dismiss for failure to state a cause of action, the focus is on the sufficiency, not the veracity, of the material allegations.<sup>[12]</sup> The determination is confined to the four corners of the complaint and nowhere else.<sup>[13]</sup>

In a motion to dismiss a complaint based on lack of cause of action, the question submitted to the court for determination is the sufficiency of the allegations made in the complaint to constitute a cause of action and not whether those allegations of fact are true, for said motion must hypothetically admit the truth of the facts alleged in the complaint.

**The test of the sufficiency of the facts alleged in the complaint is whether or not, admitting the facts alleged, the court could render a valid judgment upon the same in accordance with the prayer of the complaint.**<sup>[14]</sup> (emphasis ours)

In this connection, Section 4, Title II of the Rule of Procedure in Cases of Civil Forfeiture provides:

*Sec. 4. Contents of the petition for civil forfeiture.* - The petition for civil forfeiture shall be verified and contain the following allegations:

- (a) The name and address of the respondent;
- (b) A description with reasonable particularity of the monetary instrument, property, or proceeds, and their location; and
- (c) The acts or omissions prohibited by and the specific provisions of the Anti-Money Laundering Act, as amended, which are alleged to be the grounds relied upon for the forfeiture of the monetary instrument, property, or proceeds; and