

## THIRD DIVISION

**[ G.R. Nos. 182136-37, November 27, 2008 ]**

**BON-MAR REALTY AND SPORT CORPORATION, PETITIONER, VS. SPOUSES NICANOR AND ESTHER DE GUZMAN, EVELYN UY AND THE ESTATE OF JAYME UY, HON. LORNA CATRIS F. CHUA-CHENG, PRESIDING JUDGE, BRANCH 168 OF RTC-MARIKINA CITY, (FORMERLY PASIG CITY), HON. AMELIA A. FABROS, BRANCH 160 OF RTC-SAN JUAN, (FORMERLY PASIG CITY), AND THE REGISTRAR OF DEEDS OF SAN JUAN, RESPONDENTS.**

### RESOLUTION

**YNARES-SANTIAGO, J.:**

This resolves spouses Nicanor and Esther de Guzman's (the DE GUZMANS) Motion for Reconsideration of this Court's Decision dated August 29, 2008, the dispositive portion of which reads:

WHEREFORE, the Court hereby resolves as follows:

1) The petition in CA-G.R. SP No. 94945 is GRANTED. The assailed Decision of the Court of Appeals dated November 14, 2007 denying BON-MAR Realty and Sport Corporation's petition for intervention in Civil Case No. 56393 and granting Spouses Nicanor, Jr. and Esther de Guzman's motion for issuance of a writ of possession, and the Resolution dated March 17, 2008 denying reconsideration thereof, are REVERSED and SET ASIDE. The Regional Trial Court of Pasig City, Branch 168, in Civil Case No. 56393 is DIRECTED to receive evidence on Bon-Mar Realty and Sport Corporation's third-party claim with a view to determining the nature and extent of its claim to the subject lots and to hold in abeyance the enforcement of the writ of possession.

2) The petition in CA-G.R. SP No. 97812 is DISMISSED. The November 14, 2007 Decision of the Court of Appeals granting the leave to intervene of the Spouses Nicanor, Jr. and Esther de Guzman in SCA No. 2988-SJ, as well as the March 17, 2008 Resolution denying the motion for reconsideration are REVERSED and SET ASIDE. SCA No. 2988-SJ is ordered DISMISSED for being the wrong mode of remedy.

SO ORDERED.<sup>[1]</sup>

Specifically, they assail the portion of the Decision directing the Regional Trial Court of Pasig City, Branch 168 to allow petitioner Bon-Mar Realty and Sport Corporation (BON-MAR) the opportunity to introduce evidence on its third-party claim in Civil Case No. 56393 with a view to determining the nature and extent of its claim to the subject lots, as well as the denial of their prayer for the issuance of a writ of possession.

The DE GUZMANS argue that since the decision in Civil Case No. 67315<sup>[2]</sup> cannot bind them, the same being a proceeding *quasi in rem*, BON-MAR should not be allowed to intervene in Civil Case No. 56393 and, instead, they should be granted a writ of possession over the disputed lots; that BON-MAR's intervention in Civil Case No. 56393 is not proper since the case is now at its execution stage; that *res judicata* should instead set in; and that since the final and executory decision in CA-G.R. SP No. 82807 has settled BON-MAR's status as a stranger to the litigation in Civil Case No. 56393, the latter should thus be precluded from intervening in said case. Finally, they question the Court's finding that the decision in Civil Case No. 67315 declared BON-MAR as the DE GUZMANS' successor-in-interest to the disputed lots.

The motion is denied for lack of merit.

It is clear that BON-MAR has acquired legal interest over the subject lots by virtue of the final and executory decision in Civil Case No. 67315, which adjudged it as the owner of the disputed lots. The Rules of Court provide that a person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action.<sup>[3]</sup>

The final and executory decision in CA-G.R. SP No. 82807 cannot have the effect of *res judicata* against BON-MAR because its situation has changed after the decision in Civil Case No. 67315 was rendered and after it became final and executory. In other words, when the decision in Civil Case No. 67315 became final and executory, the decision in CA-G.R. SP No. 82807 lost its applicability. Having been declared by final judgment the owner of the disputed lots as a successor-in-interest of respondent DE GUZMANS - after the latter re-acquired title to the lots by virtue of the execution of the judgment in G.R. No. 109217, which is actually rooted in Civil Case No. 56393 - BON-MAR has acquired the legal interest to intervene in said case. Moreover, the evidence in Civil Case No. 67315 clearly indicate that indeed, the DE GUZMANS are attempting to execute *anew* the already executed judgment in Civil Case No. 56393. As successor-in-interest of the DE GUZMANS and possessing legal interest in the disputed lots by virtue of a final judgment in Civil Case No. 67315, BON-MAR became an indispensable party in Civil Case No. 56393, and should be allowed to intervene therein in order to protect itself against a possible double execution by the DE GUZMANS of the judgment in said case.

In several cases, intervention was allowed notwithstanding that it was belatedly filed.<sup>[4]</sup> This is one of those cases. As stated earlier on, the evidence in Civil Case No. 67315 strongly suggests that the DE GUZMANS are attempting to recover anew upon an already executed judgment, which is contrary to law and equity. If this were true, we cannot allow it. BON-MAR should thus be heard in this respect.

We do not subscribe to the DE GUZMANS' argument that since the decision in Civil Case No. 67315 cannot bind them, then the writ of possession should be issued in their favor. The most prudent course of action is to allow BON-MAR to be heard on its intervention *cum* third-party claim. Rather than sow further chaos and confusion and open the door to fraud, falsehood and misrepresentation should BON-MAR's