

THIRD DIVISION

[G. R. NO. 164547, March 28, 2007]

**CGP TRANSPORTATION AND SERVICES CORPORATION,
PETITIONER, VS. PCI LEASING AND FINANCE, INCORPORATED,
RESPONDENT.**

D E C I S I O N

CHICO-NAZARIO, J.:

Before us is a Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court seeking to annul and set aside the 26 March 2004 *Decision*^[1] and 13 July 2004 *Resolution*^[2] of the Court of Appeals in CA G.R. SP No. 68528 entitled "*PCI Leasing and Finance, Inc. v. Hon. Alberto L. Lerma in His Capacity as Presiding Judge of Branch 256 of the Regional Trial Court of Muntinlupa City and CGP Transportation and Services Corporation.*" In the assailed decision, the Court of Appeals set aside the 27 March 2001^[3] and 30 August 2001^[4] *Orders* of the Regional Trial Court (RTC), Branch 256, of the City of Muntinlupa in LRC Case No. 99-020 entitled "*In re: Petition for Issuance of Writ of Possession for Real Properties Covered by Transfer Certificates of Title Nos. 172319 and 180241 of the Register of Deeds for Makati City (CGP Transportation & Services Corporation Properties).*" Herein respondent PCI Leasing and Finance, Incorporated (PCI) was originally the petitioner in the aforequoted case, while herein petitioner CGP Transportation and Services Corporation (CGP) was the oppositor therein.

This case stemmed from the extra-judicial foreclosure proceedings instituted by herein respondent PCI against the *Real Estate Mortgage*^[5] and the *Amendment of Real Estate Mortgage*^[6] executed by herein petitioner CGP.

The facts are as follows:

Petitioner CGP obtained two loans from respondent PCI, the collective principal sum of which amounted to Sixteen Million (P16,000,000.00) pesos. Both loans were secured by real estate mortgages over two parcels of land^[7] located in Bo. Cupang, Muntinlupa City, and covered by Transfer Certificates of Title Nos. 172319 and 180241 issued by the Registry of Deeds of Makati City.

Petitioner CGP failed to pay its indebtedness to respondent PCI pursuant to the terms and conditions extant on the face of the Promissory Notes covering the two loans aforementioned. Accordingly, the latter filed a petition for extra-judicial foreclosure of the real properties subject of the Real Estate Mortgage and the Amendment of Real Estate Mortgage, pursuant to Act No. 3135,^[8] as amended.

During the public auction held thereafter, respondent PCI was the highest bidder of the subject real properties. Consequently, the corresponding Certificates of Sale

were issued in the name of respondent PCI.

On 19 November 1997, the above-mentioned Certificates of Sale were registered with the Registry of Deeds of Makati City.

Petitioner CGP, however, failed to redeem the real properties during the redemption period; thus, respondent PCI insisted that actual possession thereof be turned over to it. Expectedly, petitioner CGP balked at the idea and refused the demand. On 12 April 1999, respondent PCI^[9] filed before the Regional Trial Court of Muntinlupa City, Branch 256, and docketed as LRC Case No. 99-020, a petition for an *ex-parte* issuance of a *Writ of Possession*. Petitioner CGP opposed the subject petition.

On 15 November 2000, the RTC issued an *Order* ruling against oppositor (herein petitioner) CGP's stance. The Order, in part, reads:

The petitioner is correct, the law expressly authorized the purchaser to petition for a writ of possession during the redemption period by filing an *Ex-parte* Motion under oath for that purpose and that the pendency of any separate civil action can be no obstacle to the issuance of the writ of possession which is a ministerial act of the trial court after a title on the property has been consolidated in the mortgage.

Accordingly, *Ex-parte* reception of evidence is scheduled on December 1, 2000, at 2:00 o'clock in the afternoon.^[10]

In its *Motion for Reconsideration*, petitioner CGP averred that the scheduled hearing was violative of the writ of preliminary injunction issued in its favor by the same trial court, albeit in a different case involving the same parties - particularly Civil Case No. 99-234, respecting a complaint for the annulment of the foreclosure proceedings earlier mentioned. It argued that notwithstanding the fact that the complaint for annulment of foreclosure proceedings had already been dismissed by the trial court, such order had not yet become final and executory inasmuch as it was appealed to the Court of Appeals. That being the case, the writ should still be considered in effect and subsisting.

On 27 March 2001, the RTC reconsidered its *Order*, viz:

[F]inding the grounds relied upon by the oppositor to be meritorious and considering further that there are several motions to be resolved yet by the court, the Motion for Reconsideration is GRANTED, the order of this court dated October 20, 2000 is set aside and the *ex-parte* proceedings is hereby nullified and set aside. The Preliminary Injunction previously issued is reinstated.^[11]

Consequently, it was respondent PCI's turn to file a *Motion for Reconsideration*.

In an Order dated 30 August 2001, the RTC stood pat on its position that the *Opposition* filed by herein petitioner CGP raised issues that needed to be heard in the presence of both parties. Said *Order* stated:

This resolves the Motion for Reconsideration filed by petitioner on the order of this court dated March 27, 2001, which granted the motion for reconsideration filed by Oppositor to the Order dated November 15,

2000.

There is basis to the pending motion of petitioner insofar as the reinstatement of preliminary injunction earlier issued by this court and submission for resolution of motions are concerned, as they all refer to Civil Case No. 99-234. This Court recognizes the snafu brought about by the several pleadings and pending incidents both in the instant case and Civil Case No. 99-234 which involved the same parties and the same subject matter.

Be that as it may, this court, after a careful review of the verified opposition of the oppositor, including its annexes, is not inclined to grant the ex-parte proceedings as asserted by the petitioner. This court reviewed the grounds of oppositor in its motion for reconsideration of the order dated November 15, 2000, which allowed ex-parte presentation of evidence in this case. These grounds are: (a) Presence on record of a verified opposition to the petition and (b) there was an injunction earlier issued by this court on September 3, 1999 on the complaint for annulment of foreclosure proceedings of the subject properties filed by oppositor in Civil Case No. 99-234 also before this court.

It is the considered view of this court that the verified opposition on record joined issues that need to be heard in the presence of both parties, a basic requirement of due process. The general rule frowns [on] ex-parte proceedings. When this court issued a writ of injunction in Civil Case No. 99-234, taking into consideration the allegations in the complaint it was convinced that there was a need for a status quo between the parties until all the issues joined therein are heard and disposed. On technical ground, the complaint in Civil Case No. 99-234 was dismissed by this court. Although it may be too late for this court to say, there were indeed pending incidents that needed to be resolved in Civil Case No. 99-234. Precisely, when this court mentioned of pending motions, it was actually referring to the pending incidents in Civil Case No. 99-234, as correctly pointed out by the Oppositor, petitioner at the time of the dismissal of the complaint in Civil Case No. 99-234, it has not filed yet its answer to the complaint in intervention of the plaintiff-intervenor. Petitioner, apparently, took advantage of the inadvertence in the issuance of the order of dismissal in Civil Case No. 99-234 when it kept silent of the fact that it has not filed yet an answer to the complaint in intervention.

This court is cognizant of the rule that the dismissal of the complaint on the merits automatically dissolves the injunction issued therein even if the decision or order of dismissal is on appeal. The dismissal of this court however, of the complaint in Civil Case No. 99-234 was not the result of trial on the merits but rather on mere technicality. It is in this light that this court believes that considering that the dissolution of the injunction was the consequence of the order of dismissal of the complaint in Civil Case No. 99-234, which was not the result of a trial on the merits, and the said order of dismissal is now the subject of appeal, there is a need to suspend the proceedings in this case until the said appeal is disposed.

Aggrieved, respondent PCI filed before this Court, a Petition for *Certiorari* under Rule 65 of the Revised Rules of Court, premised on the following grounds:

1. THE PUBLIC RESPONDENT ACTED WITH GRAVE ABUSE OF DISCRETION, AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION, WHEN IT NULLIFIED AND SET ASIDE THE EX PARTE PROCEEDINGS IN THE CASE A QUO.
2. THE PUBLIC RESPONDENT ACTED WITH GRAVE ABUSE OF DISCRETION, AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION, WHEN IT REINSTATED IN THE CASE A QUO THE PRELIMINARY INJUNCTION WHICH WAS ISSUED IN ANOTHER CASE (CIVIL CASE NO. 99-234).
3. THE PUBLIC RESPONDENT ACTED WITH GRAVE ABUSE OF DISCRETION, AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION, WHEN IT SET ASIDE IN THE CASE A QUO THE ORDER DATED 20 OCTOBER 2000 WHICH WAS ISSUED IN CIVIL CASE NO. 99-234.
4. THE PUBLIC RESPONDENT ACTED WITH GRAVE ABUSE OF DISCRETION, AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION, WHEN IT SUSPENDED THE PROCEEDINGS A QUO UNTIL THE APPEAL IN CIVIL CASE NO. 99-234 IS RESOLVED.^[13]

The petition (G.R. No. 150483) was, however, referred to the Court of Appeals by this Court for appropriate action in a *Resolution*,^[14] dated 3 December 2001, pursuant to Section 6, Rule 56 of the 1997 Revised Rules of Civil Procedure, factual issues being involved.

In response to the referral, the Court of Appeals docketed the petition as CA G.R. SP No. 68528.

In its *Decision* promulgated on 26 March 2004, the Court of Appeals granted herein respondent PCI's petition and set aside the RTC *Order* dated 30 August 2001. The dispositive portion reads:

WHEREFORE, the instant petition is hereby GRANTED. The orders dated March 27, 2001 and August 28 (sic), 2001 of the Regional Trial Court, Branch 256, Muntinlupa City, in LRC Case No. 99-020 are SET ASIDE. Further, the public respondent judge is ordered to continue with the proceedings and to decide the case with dispatch.^[15]

The appellate court found public respondent RTC Judge to have gravely abused his discretion amounting to lack or excess of jurisdiction in suspending the proceedings in LRC Case No. 99-020 relating to the writ of possession asked for by herein respondent PCI. The Court of Appeals did not favor the RTC Judge who, "in effect took cognizance of the proceedings in Civil Case No. 99-234, an action for annulment of foreclosure proceedings filed by"^[16] herein petitioner CGP - one that is entirely separate from the case earlier filed. Moreover, "[w]ith the dismissal of the main case, (an) injunction (issued therein) is automatically lifted and the dissolution thereof is not appealable." The Court of Appeals then clarified that though the