

THIRD DIVISION

[G.R. NO. 169116, March 28, 2007]

**BANK OF THE PHILIPPINE ISLANDS, PETITIONER, VS. SPS.
IRENEO M. SANTIAGO AND LIWANAG P. SANTIAGO,
CENTROGEN, INC., REPRESENTED BY EDWIN SANTIAGO,
RESPONDENT.**

D E C I S I O N

CHICO-NAZARIO, J.:

Before this Court is a Petition for Review on *Certiorari* filed by petitioner Bank of the Philippine Islands (BPI) seeking to reverse and set aside the Decision^[1] of the Court of Appeals dated 3 March 2005 and its Resolution^[2] dated 28 July 2005 affirming the Order^[3] of the Regional Trial Court (RTC) of Santa Cruz, Laguna, Branch 91, dated 20 March 2003 enjoining the extrajudicial foreclosure sale of a parcel of land covered by Transfer Certificate of Title (TCT) No. T-131382 registered under the name of Spouses Ireneo and Liwanag Santiago. The dispositive portion of the Court of Appeals Decision reads:

WHEREFORE, premises considered, the petition is DISMISSED. The assailed orders dated March 20, 2003 and August 25, 2003 of the respondent court in Civil Case No. SC-4259 are hereby AFFIRMED.

Petitioner BPI is a banking institution duly organized and existing as such under the Philippine laws.

Private respondent Centrogen, Inc. (Centrogen) is a domestic corporation engaged in pharmaceutical business, duly organized and existing as such under the Philippine laws and represented in this act by its President, Edwin Santiago, son of private respondents Spouses Ireneo M. Santiago and Liwanag P. Santiago.

On several occasions, private respondent Centrogen obtained loans from Far East Bank and Trust Company (FEBTC) in different amounts, the total of which reached the sum P4,650,000.00, as evidenced by promissory notes executed by Edwin Santiago.

As a security for a fraction of the loan obligation, Ireneo M. Santiago executed a Real Estate Mortgage over a parcel of land covered by TCT No. T-131382 registered under his name and located at Sta Cruz, Laguna, with an area of 2,166 square meters (subject property).^[4] The mortgage secured the principal loan in the amount of P490,000.00. Later on, the same property secured another loan obligation in the amount of P1,504,280.00.^[5]

Subsequently, however, Centrogen incurred default and therefore the loan obligation became due and demandable.

Meanwhile, FEBTC merged with the BPI with the latter as the surviving corporation. As a result, BPI assumed all the rights, privileges and obligations of FEBTC.

On 13 December 2002, BPI filed an Extra-Judicial Foreclosure of Real Estate Mortgage^[6] over the subject property before the RTC of Sta. Cruz, Laguna. In order to validly effect the foreclosure, a Notice of Sale was issued by the Provincial Sheriff on 21 January 2003. On the same day, the Spouses Santiago were served with the copy of the Notice of Sale.

Upon receipt of the Notice of Sale, the Spouses Santiago and Centrogen filed a Complaint seeking the issuance of a Temporary Restraining Order and Preliminary and Final Injunction and in the alternative, for the annulment of the Real Estate Mortgage with BPI.

The complaint alleged that the initial loan obligation in the amount of P490,000.00, including interest thereon was fully paid as evidenced by Union Bank Check No. 0363020895 dated 20 December 2001 in the amount of P648,521.51 with BPI as payee. Such payment notwithstanding, the amount was still included in the amount of computation of the arrears as shown by the document of Extra-Judicial Foreclosure of Real Estate Mortgage filed by the latter.

In addition, the Spouses Santiago and Centrogen asseverated that the original loan agreement was for the amount of Five Million Pesos. Such amount will be supposedly utilized to finance the squalene project of the company. However, after the amount of Two Million Pesos was released and was accordingly used in funding the erection of the structural details of the project, FEBTC, in gross violation of the agreement, did not release the balance of Three Million Pesos that will supposedly finance the purchase of machineries and equipment necessary for the operation. As a result, the squalene project failed and the company groped for funds to pay its loan obligations.

On 27 February 2003, BPI was summoned to file and serve its Answer to the Complaint filed by Spouses Santiago and Centrogen. On the same day, the Sheriff served a copy of the summons to the Branch Manager of BPI Sta. Cruz, Laguna Branch, as evidenced by the Sheriff's Return,^[7] which reads:

SHERIFF'S RETURN

Respectfully returned the original summons and order dated February 2003 with the information that on February 27, 2003 the undersigned served the copy of summons together with the corresponding copy of complaint and its Annexes and order dated February 27, 2003, to defendants (sic) Bank of the Philippine Islands (BPI) thru the manager Ms. Glona Ramos at Sta. Cruz Laguna Branch, at Sta. Cruz, Laguna, to defendant Sheriff Marcial Opinion at the Office of the Provincial Sheriff of Laguna, R.T.C. (sic) Sta. Cruz, Laguna as shown by their signatures on the original summons and order.

Instead of filing an Answer, BPI filed a Motion to Dismiss^[8] the complaint on the ground of lack of jurisdiction over the person of the defendant and other procedural infirmities attendant to the filing of the complaint. In its Motion to Dismiss, BPI

claimed that the Branch Manager of its Sta. Cruz, Laguna Branch, was not one of those authorized by Section 11, Rule 14 of the Revised Rules of Court^[9] to receive summons on behalf of the corporation. The summons served upon its Branch Manager, therefore, did not bind the corporation. In addition, it was alleged that the complaint filed by the Spouses Santiago and Centrogen lacked a Certificate of Non-Forum Shopping^[10] and was therefore dismissible. Finally, BPI underscored that the person who verified the complaint was not duly authorized by Centrogen's Board of Directors to institute the present action as required by Section 23 of the Corporation Code.^[11]

In an Order^[12] dated 28 February 2003, the RTC denied the Motion to Dismiss and emphasized that the nature of the case merited its removal from the purview of Section 11, Rule 14 of the Revised Rules of Court. Based on the provisions of Section 5, Rule 58 of the Revised Rules of Court,^[13] the RTC declared that the instant Order is still valid and binding despite non-compliance with the provisions of Section 11, Rule 14 of the same Rules. The dispositive portion of the Order reads:

WHEREFORE, premises considered, the motion to dismiss is hereby denied because of the presence of extreme urgency wherein the Court has jurisdiction to act on the TRO despite lack of proper service of summons. Let the instant case be called for summary hearing on plaintiff's application for temporary restraining order.

After summary hearing on the Spouses Santiago and Centrogen's application for Temporary Restraining Order, the RTC, on 28 February 2003, issued an Order^[14] enjoining the Provincial Sheriff from proceeding with the extra-judicial foreclosure sale of the subject property until the propriety of granting a preliminary injunction is ascertained. The decretal portion of the said Order reads:

Wherefore, premises considered, the Court orders that pending the resolution of the plaintiff's prayer for preliminary injunction:

1. The Defendant Provincial Sheriff, his deputies, employees, and agents are enjoined from proceeding with the threatened extra-judicial foreclosure sale (to be conducted today) of the parcel of land owned by plaintiffs Spouses Ireneo M. Santiago and Liwanag P. Santiago located in (sic) Brgy. Sto. Angel Norte, Sta. Cruz, Laguna.
2. The application for a preliminary injunction is hereby set for hearing on March 10, 2003 at 1:30 pm. Further, the plaintiffs are hereby ordered to immediately file a bond amounting to One Hundred Thousand Pesos (P100,000.00) to answer for damages that Defendant Bank may sustain if the court should finally decide that the plaintiffs are not entitled thereto.

On 6 March 2003, the RTC ordered the service of new summons to BPI in accordance with the provisions of the Revised Rules of Court. The aforesaid Order reads:

To avoid further argument as regards the proper service of summons to Defendant Bank, the Branch Clerk of Court is hereby directed to issue another summons and serve copy of the same together with the

complaint and its annexes to any of the officers of the Defendant Bank as provided by the rules of civil procedure.^[15]

In compliance with the aforesaid Order, the Branch Clerk of Court caused the issuance of a new summons on 7 March 2003, a copy of which was served upon the Office of the Corporate Secretary of the BPI on 11 March 2003, as evidenced by the Sheriff's Return,^[16] which reads:

Sheriff's Return

This is to Certify that on March 11, 2003 the undersigned caused the service of summons together with the copy of complaint and its annexes to defendant Bank of the Philippine Islands (BPI) and receive (sic) by the Office of the Corporate Secretary dated March 11, 2003 at the BPI Building Ayala Avenue, Makati City.

On 20 March 2003, the RTC issued an Order granting the application for the issuance of a Writ of Preliminary Injunction filed by the Spouses Santiago and Centrogen. It enjoined the extra-judicial foreclosure sale of the subject property pending resolution of the main action for Annulment of Real Estate Mortgage or until further orders of the trial court. In issuing the Writ of Preliminary Injunction, it rationalized that to allow the foreclosure without hearing the main case would work injustice to the complainant and since Spouses Santiago and Centrogen claimed that the first loan in the amount of P490,000.00 secured by the property subject of the extra-judicial sale had long been paid by Centrogen through a Union Bank Check No. 0363020895 presented as evidence. The dispositive part of the Order reads:

Wherefore, premises considered, the Court orders that pending the resolution of the main action for the annulment of the real estate mortgage, etc., and /or order from this Court:

1. The Defendant Provincial Sheriff, his deputies, employees, and agents are enjoined from proceeding with the threatened extra-judicial foreclosure sale of the parcel of land covered by TCT No. T-131382 owned by Plaintiffs Spouses Ireneo M. Santiago and Liwanag P. Santiago located in Brgy. Sto. Angel, Sta. Cruz, Laguna.
2. The bond in the amount of One Hundred Thousand (P100,000.00) Pesos ordered by the Court to be posted by the plaintiffs to answer for damages that defendant bank may sustain if the court should finally decide that the plaintiffs are entitled thereto still stands.

The Motion for Reconsideration filed by BPI was denied by the RTC in its Order^[17] dated 25 August 2003.

Aggrieved, BPI filed a Petition for *Certiorari* before the Court of Appeals seeking the reversal of the adverse Orders of the RTC.

On 3 March 2005, the Court of Appeals rendered a Decision^[18] affirming the assailed Orders of the RTC and dismissing the Petition for *Certiorari* filed by BPI. The Court of Appeals declared that jurisdiction was acquired upon the service of new

summons. Before the assailed Orders were therefore issued, the RTC properly acquired jurisdiction over the person of BPI.

Undaunted, BPI filed this instant Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court. For our resolution are the following issues:

I.

WHETHER OR NOT THE RTC ACQUIRED JURISDICTION OVER THE PERSON OF BPI WHEN THE ORIGINAL SUMMONS WAS SERVED UPON THE BRANCH MANAGER OF ITS STA. CRUZ, LAGUNA BRANCH.

II.

WHETHER OR NOT THE RTC COMMITTED A GRAVE ABUSE OF DISCRETION IN ISSUING THE WRIT OF PRELIMINARY INJUNCTION.

BPI vehemently insists that the court *a quo* did not acquire jurisdiction over its person and consequently, the Order issued by the RTC, permanently enjoining the foreclosure sale, was therefore void and does not bind BPI.

We are not persuaded.

The pertinent provision of the Revised Rules of Court provides:

Sec. 11, Rule 14. Service upon domestic private juridical entity - When the defendant is a corporation, partnership or association organized under the laws of the Philippines with a juridical personality service may be made on the president, managing partner, general manager, corporate secretary, treasurer or in-house counsel.

Basic is the rule that a strict compliance with the mode of service is necessary to confer jurisdiction of the court over a corporation. The officer upon whom service is made must be one who is named in the statute; otherwise, the service is insufficient.^[19] The purpose is to render it reasonably certain that the corporation will receive prompt and proper notice in an action against it or to insure that the summons be served on a representative so integrated with the corporation that such person will know what to do with the legal papers served on him.

Applying the aforesaid principle in the case at bar, we rule that the service of summons on BPI's Branch Manager did not bind the corporation for the branch manager is not included in the enumeration of the statute of the persons upon whom service of summons can be validly made in behalf of the corporation. Such service is therefore void and ineffectual.

However, **upon the issuance and the proper service of new summons** on 11 March 2003, before the Writ of Preliminary Injunction was issued on 20 March 2003, **whatever defect attended the service of the original summons, was promptly and accordingly cured.**

It bears stressing, that on 7 March 2003, the Branch Clerk of Court issued a new summons which was properly served upon BPI's Corporate Secretary on 11 March 2003, as evidenced by the Sheriff's Return.