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FIRST DIVISION

[G.R. NO. 153267, June 23, 2005]

CHINA BANKING CORPORATION, PETITIONER, VS. HON. COURT OF APPEALS AND ARMED FORCES AND POLICE SAVINGS & LOAN ASSOCIATION, INC. (AFPSLAI), RESPONDENTS.

D E C I S I O N

QUISUMBING, J.:

For review is the **Decision**[1] dated November 23, 2001 of the Court of Appeals in CA-G.R. SP No. 65740, affirming the Orders[2] dated August 25, 2000 and April 17, 2001, of the Regional Trial Court of Quezon City, Branch 216, which denied petitioner's motion to dismiss the civil action for a sum of money filed by private respondent. Likewise impugned is the **Resolution**[3] dated April 24, 2002 of the Court of Appeals denying petitioner's motion for reconsideration of said decision.

The antecedent facts, as summarized by the appellate court, are as follows:

On September 24, 1996, private respondent Armed Forces and Police Savings and Loan Association, Inc. (AFPSLAI) filed a complaint for a sum of money against petitioner China Banking Corporation (CBC) with the Regional Trial Court of Quezon City, Branch 216.

In its Answer,[4] the petitioner admitted being the registered owner of the Home Notes, the subject matter of the complaint. These are instruments of indebtedness issued in favor of a corporation named Fund Centrum Finance, Inc. (FCFI) and were sold, transferred and assigned to private respondent. Thus, the petitioner filed a **Motion to Dismiss** alleging that the real party in interest was FCFI, which was not joined in the complaint, and that petitioner was a mere trustee of FCFI.

The trial court denied the motion to dismiss. Petitioner filed a motion for reconsideration, which the court a quo again denied. Petitioner elevated the case to the Court of Appeals through a Petition for Certiorari and Prohibition. The appellate court denied the petition for lack of merit. The petitioner then brought the matter to this Court via a Petition for Certiorari, under Rule 65. We dismissed the petition for being an improper remedy.

Petitioner filed another **Motion to Dismiss**, this time invoking prescription. The lower court denied said motion to dismiss for lack of merit. It held that it was not apparent in the complaint whether or not prescription had set in. Thus, the trial judge directed petitioner to present its evidence. However, petitioner instead filed a motion for reconsideration, which the trial court denied, ratiocinating thus:

> This Court finds that there are conflicting claims on the issue of whether or not the action has already prescribed. A full blown trial is in order to

determine fully the rights of the contending parties.[5]

Undeterred, petitioner impugned, through a petition under Rule 65, the two orders of the trial court claiming before the appellate court that:

> RESPONDENT COURT GROSSLY ERRED OR GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OF JURISDICTION IN DENYING THE MOTION TO DISMISS AND DECLARING THAT PRESCRIPTION HAS NOT SET IN AGAINST PRIVATE RESPONDENT.[6]

In its assailed **Decision**, the Court of Appeals dismissed the petition, ruling that:

> Since the defense of prescription under the facts obtaining did not rest on solid ground, the trial court took a more judicious move to direct the defendant therein, herein petitioner, to present its evidence. It is self-evident that with the evidence of both parties adduced, the trial court could proceed to decide on the merits of the case including prescription, and thus avoid collateral proceedings such as the one at bar that unduly prolong the final determination of the controversy. After all, prescription subsists as a valid issue in the decision process. The trial court wanted precisely a definite and definitive-factual premise to determine whether or not the action has prescribed. Surely, such exercise of judgment is not grave abuse of discretion correctible by writ of certiorari. If ever he erred, it was error in judgment. Errors of judgment may be reviewed only by appeal.[7]

Undaunted, petitioner now comes to this Court raising a simple issue:

> WHETHER [OR] NOT THE DATE OF MATURITY OF THE INSTRUMENTS IS THE DATE OF ACCRUAL OF CAUSE OF ACTION.[8]

Petitioner insists that upon the face of the complaint, prescription has set in. It claims that the Home Notes annexed to the pleading bearing a uniform maturity date of December 2, 1983 indicate the date of accrual of the cause of action. Hence, argues petitioner, private respondent's filing of the complaint for sum of money on September 24, 1996, is way beyond the prescriptive period of ten years under Article 1144[9] of the Civil Code. Citing *Soriano v. Ubat*,[10] petitioner maintains the prescription period starts from the time when the creditor may file an action, not from the time he wishes to do so.

However, private respondent counters that prescription is not apparent in the complaint because the maturity date of the Home Notes attached thereto is not the time of accrual of petitioner's action. Relying on *Elido, Sr. v. Court of Appeals*,[11] private respondent insists that the action accrued only on July 20, 1995, when demand to pay was made on petitioner. Private respondent also points out that since both the trial court and the appellate court found that prescription is not apparent on the face of the complaint, such factual finding should therefore be binding on this Court.

We find the petition without merit. The Court of Appeals validly dismissed the petition, there being no grave abuse of discretion committed by the trial court in denying petitioner's motion to dismiss the complaint on the ground of prescription.