

## SECOND DIVISION

[ G.R. No. 144374, November 11, 2005 ]

**ROMEO TESTON, REPRESENTED BY CONRADO COLARINA,  
PETITIONER, VS. DEVELOPMENT BANK OF THE PHILIPPINES,  
LAND BANK OF THE PHILIPPINES, AND SECRETARY OF  
AGRARIAN REFORM, RESPONDENTS.**

### DECISION

**AUSTRIA-MARTINEZ, J.:**

Before us is a petition for review on *certiorari* under Rule 45 of the Rules of Court, assailing the Decision<sup>[1]</sup> of the Court of Appeals (CA) dated March 9, 2000 in CA-G.R. SP No. 40609 which sustained the Order dated March 13, 1996 of the Regional Trial Court, Branch 48, Masbate, Masbate

(RTC) dismissing Special Civil Case (SCC) No. 4243; and the CA Resolution dated August 4, 2000, denying petitioner's motion for reconsideration.

The factual background of the case is as follows:

On November 3, 1993, petitioner Romeo Teston, through his attorney-in-fact, Conrado Colarina (petitioner), filed a complaint against respondents Development Bank of the Philippines (DBP), Land Bank of the Philippines (LBP) and Secretary of the Department of Agrarian Reform (DAR Secretary) for the determination and payment of just compensation of two parcels of agricultural land, docketed as SCC No. 4243.

In his complaint, petitioner alleges that: he is the owner of the said two parcels of agricultural land, situated in *Barangay* Lantangan, Mandaon, Masbate, covered by Transfer Certificate of Title (TCT) No. T-6176 and TCT No. T-6177, having purchased the same from DBP by way of Deed of Conditional Sale dated July 15, 1987; on December 1, 1998, he, through Colarina, voluntarily offered to sell the said parcels of land to the DAR Secretary, under the Comprehensive Agrarian Reform Law or Republic Act (R.A.) No. 6657; the DAR Secretary accepted the voluntary offer to sell for a total price of P12,172,854.63; the DBP, without notifying him and ignoring the Conditional Sale, transferred the parcels of land to the Government, through the DAR, for the coverage of the Comprehensive Agrarian Reform Program (CARP) and immediate distribution to farmer beneficiaries; after execution of the Deed of Conditional Sale in his favor, DBP has no more right to sell and transfer to the DAR the subject properties, which were already previously voluntarily offered for sale by him and accepted by the DAR.

On the same day, Colarina filed his own personal complaint against the Government Service Insurance System (GSIS), LBP and the DAR Secretary for the determination and payment of just compensation of fifteen parcels of agricultural land, docketed as

SCC No. 4242.

Colarina alleged that: the said fifteen parcels of agricultural land, situated in *Barrio Malaran* and *Lamintao*, Municipality of *Dimasalong* (now *Uson*), *Masbate*, with a total land area of 32,398,264 square meters, were mortgaged by the *Associated Agricultural Activities, Inc. (AAA)* to the *GSIS* as security for the payment of its loan; when *AAA* failed to pay the loan, *GSIS* foreclosed the mortgage on the lands, at public auction, *GSIS* was the highest bidder; on May 19, 1988, certificates of sale were issued and registered in the name of *GSIS*; on December 8, 1988, he bought the lots from *AAA*; on April 25, 1989, he voluntarily offered to sell said properties to the *DAR* under R.A. No. 6657; on May 6, 1989, he informed *GSIS* of his offer to sell the properties to the *DAR*; subsequently, *GSIS* consolidated ownership over the lots in its name; on November 5, 1990, *GSIS* executed a *Deed of Transfer* in favor of the *DAR*, by virtue of which, *TCT Nos. T-7882 to T-7891* were issued on December 11, 1990 in the name the *Republic of the Philippines* by the *Register of Deeds of Masbate*; on April 16, 1991, *TCT Nos. T-94 to T-103* were issued in the names of farmer beneficiaries; despite repeated demands, the *LBP* and the *DAR* refused to determine and pay the just compensation for the lots.

Both cases were raffled to *RTC, Masbate, Branch 48*.

In separate Answers in *SCC No. 4243*, respondents *DBP, LBP* and the *DAR Secretary* commonly averred that petitioner has no cause of action since he was never the owner of the properties under *TCT Nos. T-6176 and T-6177* because *DBP* rescinded the *Deed of Conditional Sale* for nonpayment of the purchase price.

On the other hand, in separate Answers in *SCC No. 4242*, respondents *GSIS, LBP* and *DAR Secretary* contend that *Colarina* has no cause of action since he is not the owner of the lands he voluntarily offered for *CARP* coverage; he only bought from *AAA* the right to redeem the property and he failed to exercise such right on May 19, 1989, within the one-year period allowed by the law.

Without any order of the *RTC* expressly consolidating *SCC No. 4242* and *No. 4243*, a notice of hearing of both cases was sent to the parties by the clerk of the *RTC*.<sup>[2]</sup> In an Order dated November 16, 1994, the *RTC* terminated the pre-trial in both cases.<sup>[3]</sup>

Subsequently, or on September 19, 1995, *GSIS* filed a motion to dismiss for failure of the complaint to state a cause of action. It argued that *Colarina* had no right to sell the lots to the *DAR* because what it acquired from *AAA* was only the right to redeem the lots in question; failing to so redeem, he never became the owner of said lots and therefore was not the real party-in-interest in the case.<sup>[4]</sup>

In an Order dated December 8, 1995, the *RTC* directed *Colarina* to file his comment or opposition thereto.<sup>[5]</sup>

In his opposition to the motion to dismiss, *Colarina* did not dispute the claim of *GSIS* that he failed to redeem subject property within the allotted period. He simply declared that *GSIS* was a necessary party in the case being the mortgagee of the lots.<sup>[6]</sup>

No pleading, manifestation or motion was filed by the petitioner or respondents DBP, LBP and the DAR Secretary concerning the motion to dismiss.

At the scheduled hearing of the motion to dismiss, the parties and counsels, except respondent DBP, failed to appear despite notice. Only respondent LBP filed a telegraphic motion for postponement. The RTC thus considered the motion to dismiss submitted for resolution.<sup>[7]</sup>

On March 13, 1996, the RTC issued its Order dismissing the complaints in both cases for failure to state a cause of action.<sup>[8]</sup> It ratiocinated thus:

...As admitted in the complaint that the properties in question in Spec. Civil Case No. 4242 has been foreclosed by the defendant Government Service Insurance System (GSIS). During redemption period the plaintiff acquired the said properties from its original owner, AAA Inc. However, what the plaintiff had actually acquired then was only the owner's right of redemption within the reglamentary (sic) period. ... So when the plaintiff made a voluntary offer to sell the properties in question to the Department of Agrarian Reform (DAR) he had no personality for the same inasmuch as he is not the real party in interest.

While the properties involved in Spec. Civil Case No. 4243 are concerned, T-6176 and T-6177 the same were allegedly acquired by plaintiff Romeo Teston from defendant DBP by virtue of a deed of conditional sale dated July 15, 1987, with DBP as conditional vendor and Romeo Teston as conditional vendee. However the said conditional sale was rescinded in 1990 in view of plaintiff's failure to update his account, who has been informed of said rescission per letter of DBP dated September 24, 1990.  
...

The DBP in transferring the properties in question to the DAR was only complying (sic) Executive Order 405 and 407 which provide the surrender to the DAR of all agricultural landholdings of the Government financial institution including that of defendant DBP. So the plaintiff, Romeo Teston has no right whatsoever to make any voluntary offer to sell the properties in question to the DAR much more to ask the Court (sic) determination and payment of just compensation.<sup>[9]</sup>

On March 25, 1996, a motion for reconsideration<sup>[10]</sup> was filed by Pejo Buenviaje & Associates, the common counsel of petitioner and Colarina, but it was denied by the RTC in its Order dated April 24, 1996.<sup>[11]</sup>

Dissatisfied, petitioner and Colarina filed separate petitions for review with the CA, docketed as CA-G.R. SP Nos. 40609<sup>[12]</sup> and 40610, respectively.

On October 28, 1996, the CA rendered its decision on Colarina's appeal in CA-G.R. SP No. 40610, setting aside the RTC's Order dated March 13, 1996, which dismissed SCC No. 4242.<sup>[13]</sup> However, on petition for review on *certiorari* with this Court by GSIS, entitled *Government Service Insurance System vs. Court of Appeals*, docketed as G.R. No. 128118, the Court, on February 15, 2002, set aside the CA decision and reinstated the RTC's Order dated March 13, 1996, which dismissed SCC

No. 4242.<sup>[14]</sup>

Meanwhile, on March 9, 2000, the CA rendered judgment in CA-G.R. SP No. 40609, affirming *in toto* the RTC's order which dismissed SCC No. 4243.<sup>[15]</sup> The CA held that: the RTC is given the option to have a joint hearing or to order consolidation if the motion involves a common question of law or fact, pursuant to Section 1, Rule 32 of the 1997 Rules of Civil Procedure; since SCC Nos. 4242 and 4243 have a common question of law and fact, which is the determination and payment of just compensation, the joint hearing conducted by the RTC is proper and valid; the rule clearly gives the RTC discretion to decide what course of action to take, that is, whether to have joint hearing/trial or to order the cases consolidated; furthermore, the Court may make such orders concerning proceedings therein to avoid unnecessary costs or delay and, in this case, to order the dismissal of both cases.

Petitioner filed a motion for reconsideration<sup>[16]</sup> but it was denied by the CA in its Resolution dated August 4, 2000.<sup>[17]</sup>

Hence, the present petition for review on *certiorari* anchored on a sole error, to wit:

THE COURT OF APPEALS ERRED IN UPHOLDING THE DISMISSAL BY THE TRIAL COURT OF THE COMPLAINT IN SPEC. CIVIL CASE NO. 4243 UPON A MOTION TO DISMISS DIRECTED AGAINST THE COMPLAINT IN SPEC. CIVIL CASE NO. 4242 EVEN ON ITS JUSTIFICATION THEREOF, NAMELY, THAT THE TRIAL COURT MAY MAKE SUCH ORDER IN VIEW OF CONSOLIDATION OF THE TWO CASES ALLOWED UNDER SEC. 1, RULE 31 OF THE RULES OF CIVIL PROCEDURE.<sup>[18]</sup>

Petitioner submits that no consolidation in contemplation of the Rules took place since there was no order for consolidation; the RTC only scheduled both cases for simultaneous hearing. He further argues that the RTC erred in dismissing in one order both cases based on a motion to dismiss directed against one case only. He maintains that failure to state a cause of action as ground of a motion to dismiss solely applies to the complaint in SCC No. 4242 and it cannot extend to the complaint in SCC No. 4243, unless the allegations in both complaints are entirely the same in all respects. Furthermore, he contends that the RTC, in finding that the complaint in SCC No. 4243 stated no cause of action, went beyond the allegations of the complaint.

On the other hand, respondent DBP submits that petitioner's argument regarding consolidation deals principally on technicalities and semantics. It avers that it cannot be denied that the two cases involved are of the same nature and pray for the same relief, *i.e.*, the determination and payment of just compensation, which petitioner admits in his petition. While admitting that there was no written order from the RTC expressly consolidating both cases, it maintains that the RTC scheduled both cases for simultaneous trial and hearing and all the conditions for consolidation are attendant herein. It contends also that the RTC did not abuse its discretion when it dismissed SCC No. 4243 in order to avoid unnecessary cost and delay since the ground for the dismissal of SCC No. 4242 is perfectly applicable to the former. Besides, it contends that, in dismissing SCC No. 4243, the RTC did not go beyond the averments of the complaint therein.