

## THIRD DIVISION

**[ G.R. No. 150922, September 21, 2004 ]**

**GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS),  
PETITIONER, VS. PHILIPPINE VILLAGE HOTEL, INC.,  
RESPONDENT.**

### **DECISION**

**PANGANIBAN, J.:**

Basic is the rule that a partial summary judgment is an interlocutory order, because it does not completely and finally dispose of a litigation. That the case below has been needlessly delayed is due to the error of petitioner itself in its choice of remedy. It cannot blame the Court of Appeals for the delay, because the latter was merely following proper procedures, for which it cannot be faulted.

### **The Case**

Before us is a Petition for Review<sup>[1]</sup> under Rule 45 of the Rules of Court, challenging the July 24, 2001 Decision<sup>[2]</sup> and the November 22, 2001 Resolution<sup>[3]</sup> of the Court of Appeals (CA) in CA-GR CV No. 61355. The assailed Decision disposed as follows:

“WHEREFORE, premises considered, this Court DISMISSES the appeal without prejudice.”<sup>[4]</sup>

The assailed Resolution denied petitioner’s Motion for Reconsideration.

### **The Facts**

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

“x x x. [Respondent] Philippine Village Hotel, Inc. (PVHI) has several outstanding accounts totalling P152 million in favor of [petitioner] Government Service Insurance System (GSIS). Due to PVHI’s default in its monthly amortization, [petitioner] on April 23, 1987 filed separate applications for extrajudicial foreclosure of the mortgages securing said obligations with the City Sheriff of Pasay City. After several legal and judicial skirmishes pertaining to the propriety of the applications for extrajudicial foreclosure of said mortgages, the legal impediments to said proceedings were finally eliminated. So, on October 13 and 14, 1988, the foreclosure proceedings were held and the GSIS emerged as the buyer at auction of the mortgaged properties. On May 11, 1989, GSIS filed an *Ex-Parte* Petition for the Issuance of a Writ of Possession before the Regional Trial Court, Branch III, Pasay City docketed therein as LRC Case No. 3079. On August 16, 1989, said court issued the writ of possession applied for.

"Meanwhile, the PVHI and GSIS amicably settled their dispute. On December 13, 1989, they entered into a Memorandum of Agreement by virtue of which the accounts of PVHI in favor of the GSIS were completely settled. Under the MOA, the total obligation of PVHI to GSIS was fixed at P300 million to be paid in the manner therein specified. It was further stipulated that the MOA was subject to the approval of the Office of the President and Commission on Audit.

"Of the P300 million obligation, PVHI was able to pay on time P30 million. x x x.

"On March 5, 1990, PVHI filed a Complaint for Specific Performance with Damages with the court **a quo** seeking for a judicial declaration of the validity and effectivity of the MOA and to compel GSIS to accept payment of the outstanding obligation of P270 million. This Complaint was docketed as Civil Case No. 90-52272 before the Regional Trial Court, Branch 2 in Manila. On March 6, 1990, the said court issued a Temporary Restraining Order restraining GSIS and the Sheriff of Pasay City from implementing the writ of possession issued by the Regional Trial Court, Branch III of Pasay City in LRC No. 3079 and from consolidating title to the properties covered by the foreclosed mortgages. This was followed with the issuance by the court a quo of a writ of preliminary injunction.

"The proceeding in the action for specific performance went its normal course until the PVHI has presented its evidence and rested its case. At this stage of the proceeding, PVHI filed a Motion for Partial Summary Judgment. The GSIS opposed said motion. On June 16, 1993, the court *a quo* rendered a Partial Summary Judgment confirming the validity of the MOA and directing PVHI to pay P 270 million to GSIS and the latter to accept the same and then to comply with all its obligations under the MOA."<sup>[5]</sup>

Consequently, petitioner interposed an appeal to the CA and claimed that the trial court had erred in (a) issuing the writ of preliminary injunction, (b) granting the Motion for Partial Summary Judgment, and (c) declaring the MOA effective and valid.<sup>[6]</sup>

### **Ruling of the Court of Appeals**

The Court of Appeals ruled that the appeal was an improper remedy, and that the proper mode of review was certiorari under Rule 65 of the Rules of Court.<sup>[7]</sup> It dismissed the recourse by virtue of Item No. 4 of Supreme Court Circular No. 2-90, according to which, inappropriate modes of appeal brought to this Court and the CA shall be dismissed.<sup>[8]</sup>

In denying petitioner's Motion for Reconsideration, the appellate court held that the cases relied upon were not applicable because of differences in factual milieu.<sup>[9]</sup>

Hence, this Petition.<sup>[10]</sup>

### **The Issues**

In its Memorandum, petitioner raises the following issues for our consideration:

"I.

Whether the Court of Appeals committed reversible error when it dismissed the appeal on procedural technicality instead of deciding the case on the merits.

- A. Whether the trial court's Partial Summary Judgment is a decision on the merits, which necessitates the adjudication of petitioner's appeal below on the merits and not on a mere technicality.
- B. Whether the Honorable Court of Appeals has the power and jurisdiction to pass upon the merits and/or validity of the Partial Summary Judgment.
- C. Whether circumstances present require the Court of Appeals, or even the Supreme Court, to pass upon the merits of the appealed case rather than dismiss the same on a mere technicality.

"II.

Whether the separate and corresponding approvals of the Office of the President and the Commission on Audit on the subject Memorandum of Agreement is a *sine qua non* for the effectivity of the said Contract."<sup>[11]</sup>

In more direct language, the issue is simply whether the CA -- on appeal -- may validly pass upon the Partial Summary Judgment issued by the RTC, considering that the latter has not adjudged the amount of recoverable damages. Should this issue be decided affirmatively, a corollary one is whether the MOA is valid.

**This Court's Ruling**

The Petition has no merit.

**Main Issue:**  
**Proper Remedy**

Petitioner argues that the CA should have taken cognizance of the appeal brought before it, because the principal issue in the case -- the validity of the MOA -- had allegedly been fully decided on the merits through the Partial Summary Judgment. Supposedly, the only issue that remains to be resolved by the trial court is the amount of liquidated damages, which may be the subject of a separate appeal.<sup>[12]</sup>

Petitioner adds that the appeal should not have been dismissed on a mere technicality. It stresses that the "most equitable, judicious, expeditious, practical, and inexpensive manner of resolving this case" is for it to be decided on its merits by this Court, considering in particular the amount of time already lost and the fact that the entire records of the case have been submitted and made available to the