

THIRD DIVISION

[G.R. No. 133365, September 16, 2003]

**PLATINUM TOURS AND TRAVEL, INCORPORATED, PETITIONER,
VS. JOSE M. PANLILIO, RESPONDENT.**

D E C I S I O N

CORONA, J.:

Before us is a petition for review on certiorari under Rule 45 of the Rules of Court assailing the January 15, 1998 decision^[1] of the Court of Appeals which ruled that:

x x x

Consequently, the respondent judge committed grave abuse of discretion in allowing the consolidation of Civil Case No. 96-635 with Civil Case No. 94-1634.

x x x We also leave it to the respondent Judge to decide whether he will return Civil Case No. 96-635 to Branch 146 or keep it in his docket but should he opt for the latter, he should act on it as a separate case from Civil Case No. 94-1634.

WHEREFORE, the petition is partially granted and the assailed Orders dated July 23, 1996 and September 17, 1996, allowing the consolidation of Civil Case No. 96-635 with Civil Case No. 94-1634 and denying petitioner's motion for reconsideration, respectively, are ANNULLED and SET ASIDE, with the consequent complete severance of the two (2) cases.^[2]

The facts follow:

On April 27, 1994, petitioner Platinum Tours and Travel Inc. (Platinum) filed a complaint for a sum of money with damages against Pan Asiatic Travel Corporation (PATC) and its president Nelida G. Galvez. Platinum sought to collect payment for the airline tickets which PATC bought from it. The case was docketed as Civil Case No. 94-1634.

On October 24, 1994, the Regional Trial Court of Makati City, Branch 62, rendered a judgment^[3] by default in favor of Platinum and ordered PATC and Nelida G. Galvez to solidarily pay Platinum actual damages of P 359,621.03 with legal interest, P 50,000 attorney's fees and cost of suit.

On February 10, 1995, a writ of execution was issued on motion of Platinum. Pursuant to the writ, Manila Polo Club Proprietary Membership Certificate No. 2133 in the name of Nelida G. Galvez was levied upon and sold for P479,888.48 to a

certain Ma. Rosario Khoo.

On June 2, 1995, private respondent Jose M. Panlilio filed a motion to intervene in Civil Case No. 94-1634. Panlilio claimed that, in October 1992, Galvez had executed in his favor a chattel mortgage over her shares of stock in the Manila Polo Club to secure her P1 million loan and that Galvez had already delivered to him the stock certificates valued at P5 million.

On June 9, 1995, the trial court denied Panlilio's motion for intervention:

Submitted for resolution is Jose M. Panlilio's Motion for Intervention dated May 31, 1995.

This Court has to deny the motion because (1) a decision had already been rendered in this case and that the only matters at issue is the propriety of the execution; (2) it will only delay or prejudice the adjudication of the rights of the original parties; and, (3) the Intervenor's rights may be fully protected in a separate action.^[4]

On January 29, 1996, the trial court declared the execution sale null and void due to irregularities in the conduct thereof.

On May 3, 1996, Panlilio filed against Galvez a collection case with application for a writ of preliminary attachment of the disputed Manila Polo Club shares, docketed as Civil Case No. 96-365. The case was raffled to Branch 146 of the Regional Trial Court of Makati City^[5]. In the meantime, Panlilio again attempted to intervene in Civil Case No. 94-1634, this time by incorporating in his complaint a motion to consolidate Civil Case No. 96-365 and Civil Case No. 94-1634.

On June 13, 1996, Judge Salvador Tensuan of Branch 146 granted the motion for consolidation on condition that Judge Roberto Diokno of Branch 62, who was trying Civil Case No. 94-1634, would not object thereto. Judge Diokno later issued an order, dated July 23, 1996, allowing the consolidation of the two cases and setting for hearing Panlilio's application for a writ of preliminary attachment.

Platinum, as plaintiff in Civil Case No. 94-1634, moved to reconsider the July 23, 1996 order of Judge Diokno but its motion was denied.

On January 31, 1997, Platinum filed a petition for certiorari at the Court of Appeals assailing, among others, the July 23, 1996 order of Judge Diokno allowing the consolidation of Civil Case No. 96-365 and Civil Case No. 94-1634.

In a decision dated January 15, 1998, the Court of Appeals annulled the assailed order but left it to Judge Diokno to decide whether to return Civil Case No. 96-365 to Judge Tensuan in Branch 146, or to keep it in his docket and decide it as a separate case.

Platinum filed a motion for partial reconsideration of the decision of the Court of Appeals, praying that Civil Case No. 96-365 be returned to Branch 146 or re-raffled to another RTC Branch of Makati. However, the motion was denied by the Court of Appeals on April 2, 1998.