

SECOND DIVISION

[G.R. No. 106194, January 28, 1997]

**SANTIAGO LAND DEVELOPMENT CORPORATION, PETITIONER,
VS. THE HONORABLE COURT OF APPEALS AND THE HEIRS OF
NORBERTO J. QUISUMBING, RESPONDENTS.**

DECISION

MENDOZA, J.:

This is a petition for review on *certiorari* of the decision of the Court of Appeals, annulling certain orders issued by the Regional Trial Court of Makati, Branch 62 in Civil Case No. 10513, entitled Norberto J. Quisumbing v. Philippine National Bank, to wit:

- (1) Order, dated March 30, 1990, granting petitioner Santiago Land Development Corporation's motion for intervention and order admitting its answer in intervention;
- (2) Order, dated March 21, 1991, denying private respondent Quisumbing's motion to quash or disallow interrogatories and
- (3) Order, dated July 30, 1991, denying Quisumbing's motion for reconsideration.

The facts are as follows:

Norberto J. Quisumbing brought an action against the Philippine National Bank to enforce an alleged right to redeem certain real properties foreclosed by the Philippine National Bank. Quisumbing brought the suit as assignee of the mortgagor, Komatsu Industries (Phils.), Incorporated.

On November 21, 1989, with notice of the pending civil action,^[1] petitioner Santiago Land Development Corporation purchased from PNB one of the properties subject of the litigation, situated along Pasong Tamo Extension in Makati, for P90 Million.^[2]

On December 11, 1989, petitioner SLDC filed a motion to intervene, with its answer in intervention attached, alleging that it was the transferee pendente lite of the property and that any adverse ruling or decision which might be rendered against PNB would necessarily affect it (petitioner).^[3] In its attached answer, SLDC, aside from adopting the answer filed by PNB, raised as affirmative defenses the trial court's lack of jurisdiction based on the alleged failure of plaintiff Quisumbing to pay the docket fee and Quisumbing's alleged lack of cause of action against the PNB due to the invalidity of the deed of assignment to him.^[4]

On February 7, 1990, Quisumbing opposed SLDC's motion for intervention. He argued that SLDC's interest in the subject property was a mere contingency or

expectancy, which was dependent on any judgment which might be rendered for or against PNB as transferor. He further argued that the allowance of SLDC's motion would only make the proceedings complicated, expensive and interminable.^[5]

On March 30, 1990, the lower court issued an order granting petitioner's motion for intervention and admitting its answer in intervention. The court also directed the substitution of heirs in view of Norberto J. Quisumbing's demise and submitted for resolution PNB's motion to dismiss.^[6]

Petitioner SLDC, as intervenor, then served interrogatories upon private respondents and moved for the production, inspection and copying of certain documents.^[7] SLDC wanted to know whether there were documents to show that a consideration had been paid for the assignment of the right of redemption; if so, whether payment was made in cash or by check; and, if it was by check, in what banks the checking accounts were kept and whether the checks were still in its custody or possession.

Private respondents filed a motion to quash or disallow the interrogatories, which petitioner opposed. Subsequently, private respondents filed a reply to which petitioner SLDC responded by filing a rejoinder.^[8]

On March 21, 1991, the trial court denied private respondents' motion to quash or disallow interrogatories and instead granted petitioner SLDC's motion for the production, inspection and copying of certain documents.^[9] Private respondents moved for a reconsideration, but their motion was denied by the lower court in its order of July 30, 1991. Private respondents therefore filed a petition for certiorari with the Court of Appeals which rendered the decision, now the subject of this review, setting aside the orders dated March 30, 1990, March 21, 1991, and July 30, 1991 of the trial court.

In its petition before the Court, SLDC contends that the Court of Appeals erred thus:

^[1] THE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION, EXCEEDED ITS JURISDICTION AND/OR WAS PATENTLY IN ERROR IN TAKING COGNIZANCE OF AND RULING UPON THE FIRST ISSUE RAISED BY PRIVATE RESPONDENTS IN CA-G.R. SP NO. 25826 WHEN THIS ISSUE WAS NOT EVEN RAISED BY THEM BEFORE THE TRIAL COURT.

^[2] THE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION EXCEEDED ITS JURISDICTION AND/OR WAS PATENTLY IN ERROR IN TAKING COGNIZANCE OF THE PETITION RAISED BY PRIVATE RESPONDENTS IN CA-G.R. SP NO. 25826 SINCE THEY DID NOT RAISE ANY JURISDICTIONAL ERROR THEREIN BUT ONLY RAISED QUESTIONS AS TO PROCEDURAL ORDERS ISSUED BY THE TRIAL COURT IN THE RIGHTFUL EXERCISE OF ITS JURISDICTION AND DISCRETION.

^[3] EVEN IF THE COURT OF APPEALS WAS AUTHORIZED TO PASS UPON THE PROCEDURAL QUESTION RAISED BY PRIVATE RESPONDENTS IN CA-G.R. SP NO. 25826, IT ERRED IN BARRING THE TRIAL COURT, IN THE SOUND EXERCISE OF ITS SOUND DISCRETION, FROM ALLOWING PETITIONER TO INTERVENE — IN ONE OF THE CLASSIC OR

RECOGNIZED INSTANCES OF INTERVENTION — IN THE CIVIL ACTION UNDER SECTION 2 OF RULE 12 OF THE RULES OF COURT DESPITE COMPLIANCE WITH THE STANDARDS FOR INTERVENTION PRESCRIBED THEREIN.

[4] THE COURT OF APPEALS DENIED PETITIONER OF THE RIGHT TO GENUINELY OR EFFECTIVELY DEFEND ITSELF IN THE CIVIL ACTION DESPITE ITS HAVING ACQUIRED A REAL AND SUBSTANTIVE INTEREST IN THE SUBJECT MATTER OF THE CIVIL ACTION.

[5] PRIVATE RESPONDENTS FAILED TO OBJECT TO THE INTERROGATORIES IN THE MANNER PRESCRIBED BY THE RULES OF COURT AND THEY WERE THEREFORE BARRED FROM RAISING THEIR OBJECTIONS TO THE INTERROGATORIES.

[6] THE TRIAL COURT CORRECTLY DENIED PRIVATE RESPONDENTS' MOTION TO QUASH PETITIONER'S INTERROGATORIES.[10]

Petitioner's contentions are without merit.

Petitioner's first contention is without basis in fact. The fact is that the issue regarding the propriety of petitioner's motion for intervention was raised by private respondents before the trial court in their opposition to said motion.[11] Moreover, petitioner SLDC is estopped from questioning the appellate court's ruling on this issue since petitioner did not object to its consideration by the court in its comment on the petition filed in that court.[12]

Nor is it true that private respondents' petition for certiorari in the Court of Appeals did not raise a jurisdictional question. The petition specifically charged the RTC with gravely abusing its discretion in issuing its questioned orders, in granting petitioner's motion for intervention and in denying private respondents' motion to quash or disallow interrogatories. Clearly, the Court of Appeals correctly took cognizance of the issue regarding the propriety of petitioner SLDC's motion for intervention.

This brings us to the main question raised in the third and fourth assignments of errors, namely, whether petitioner, as transferee pendente lite of the property in litigation has a right to intervene.

Rule 12, §2 of the Rules of Court provides:

Sec. 2.Intervention. — A person may, before or during a trial be permitted by the court, in its discretion, to intervene in an action, if he has legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or when he is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof.

The question is whether this provision applies to petitioner in view of Rule 3, §20 governing transfers of interest pendente lite such as was alleged in the trial court by petitioner. This provision reads:

Sec. 20. Transfer of interest. — In case of any transfer of interest, the action may be