

## **FIRST DIVISION**

**[ G.R. No. 119231, April 18, 1996 ]**

**PHILIPPINE NATIONAL BANK, PETITIONER, VS. HON. PRES. JUDGE BENITO C. SE, JR., RTC, BR. 45, MANILA; NOAH'S ARK SUGAR REFINERY; ALBERTO T. LOOYUKO, JIMMY T. GO AND WILSON T. GO, RESPONDENTS.**

### **D E C I S I O N**

**HERMOSISIMA, JR., J.:**

The source of conflict herein is the question as to whether the Philippine National Bank should pay storage fees for sugar stocks covered by five (5) Warehouse Receipts stored in the warehouse of private respondents in the face of the Court of Appeals' decision (affirmed by the Supreme Court) declaring the Philippine National Bank as the owner of the said sugar stocks and ordering their delivery to the said bank. From the same facts but on a different perspective, it can be said that the issue is: Can the warehouseman enforce his warehouseman's lien before delivering the sugar stocks as ordered by the Court of Appeals or need he file a separate action to enforce payment of storage fees?

The herein petition seeks to annul: (1) the Resolution of respondent Judge Benito C. Se, Jr. of the Regional Trial Court of Manila, Branch 45, dated December 20, 1994, in Civil Case No. 90-53023, authorizing reception of evidence to establish the claim of respondents Noah's Ark Sugar Refinery, et al., for storage fees and preservation expenses over sugar stocks covered by five (5) Warehouse Receipts which is in the nature of a warehouseman's lien; and (2) the Resolution of the said respondent Judge, dated March 1, 1995, declaring the validity of private respondents' warehouseman's lien under Section 27 of Republic Act No 2137 and ordering that execution of the Court of Appeals' decision, dated December 13, 1991, be in effect held in abeyance until the full amount of the warehouseman's lien on the sugar stocks covered by five (5) quedans subject of the action shall have been satisfied conformably with the provisions of Section 31 of Republic Act 2137.

Also prayed for by the petition is a Writ of Prohibition to require respondent RTC Judge to desist from further proceeding with Civil Case No. 90-53023, except order the execution of the Supreme Court judgment; and a Writ of Mandamus to compel respondent RTC Judge to issue a Writ of Execution in accordance with the said executory Supreme Court decision.

### **THE FACTS**

In accordance with Act No. 2137, the Warehouse Receipts Law, Noah's Ark Sugar Refinery issued on several dates, the following Warehouse Receipts (Quedans): (a) March 1, 1989, Receipt No. 18062, covering sugar deposited by Rosa Sy; (b) March

7, 1989, Receipt No. 18080, covering sugar deposited by RNS Merchandising (Rosa Ng Sy); (c) March 21, 1989, Receipt No. 18081, covering sugar deposited by St. Therese Merchandising; (d) March 31, 1989, Receipt No. 18086, covering sugar deposited by St. Therese Merchandising; and (e) April 1, 1989, Receipt No. 18087, covering sugar deposited by RNS Merchandising. The receipts are substantially in the form, and contains the terms, prescribed for negotiable warehouse receipts by Section 2 of the law.

Subsequently, Warehouse Receipts Nos. 18080 and 18081 were negotiated and endorsed to Luis T. Ramos; and Receipts Nos. 18086, 18087 and 18062 were negotiated and endorsed to Cresencia K. Zoleta. Ramos and Zoleta then used the quedans as security for two loan agreements - one for P15.6 million and the other for P23.5 million - obtained by them from the Philippine National Bank. The aforementioned quedans were endorsed by them to the Philippine National Bank.

Luis T. Ramos and Cresencia K. Zoleta failed to pay their loans upon maturity on January 9, 1990. Consequently, on March 16, 1990, the Philippine National Bank wrote to Noah's Ark Sugar Refinery demanding delivery of the sugar stocks covered by the quedans endorsed to it by Zoleta and Ramos. Noah's Ark Sugar Refinery refused to comply with the demand alleging ownership thereof, for which reason the Philippine National Bank filed with the Regional Trial Court of Manila a verified complaint for "Specific Performance with Damages and Application for Writ of Attachment" against Noah's Ark Sugar Refinery, Alberto T. Looyuko, Jimmy T. Go and Wilson T. Go, the last three being identified as the sole proprietor, managing partner, and Executive Vice President of Noah's Ark, respectively.

Respondent Judge Benito C. Se, Jr., in whose sala the case was raffled, denied the Application for Preliminary Attachment. Reconsideration therefor was likewise denied.

Noah's Ark and its co-defendants filed an Answer with Counterclaim and Third-Party Complaint in which they claimed that they are the owners of the subject quedans and the sugar represented therein, averring as they did that:

*"9.\*\*\* In an agreement dated April 1, 1989, defendants agreed to sell to Rosa Ng Sy of RNS Merchandising and Teresita Ng of St. Therese Merchandising the total volume of sugar indicated in the quedans stored at Noah's Ark Sugar Refinery for a total consideration of P63,000,000.00,\*\*\*The corresponding payments in the form of checks issued by the vendees in favor of defendants were subsequently dishonored by the drawee banks by reason of 'payment stopped' and 'drawn against insufficient funds,'\*\*\*Upon proper notification to said vendees and plaintiff in due course, defendants refused to deliver to vendees therein the quantity of sugar covered by the subject quedans.*

*10. \*\*\* Considering that the vendees and first endorser of subject quedans did not acquire ownership thereof, the subsequent endorser and plaintiff itself did not acquire a better right of ownership than the original vendees/first endorser. "[1]*

The Answer incorporated a Third-Party Complaint by Alberto T. Looyuko, Jimmy T. Go and Wilson T. Go, doing business under the trade name and style Noah's Ark Sugar Refinery against Rosa Ng Sy and Teresita Ng, praying that the latter be ordered to deliver or return to them the quedans (previously endorsed to PNB and the subject of the suit) and pay damages and litigation expenses.

The Answer of Rosa Ng Sy and Teresita Ng, dated September 6, 1990, one of avoidance, is essentially to the effect that the transaction between them, on the one hand, and Jimmy T. Go, on the other, concerning the quedans and the sugar stocks covered by them was merely a simulated one being part of the latter's complex banking schemes and financial maneuvers, and thus, they are not answerable in damages to him.

On January 31, 1991, the Philippine National Bank filed a Motion for Summary Judgment in favor of the plaintiff as against the defendants for the reliefs prayed for in the complaint.

On May 2, 1991, the Regional Trial Court issued an order denying the Motion for Summary Judgment. Thereupon, the Philippine National Bank filed a Petition for Certiorari with the Court of Appeals, docketed as CA-G.R. SP. No. 25938 on December 13, 1991.

Pertinent portions of the decision of the Court of Appeals read:

*"In issuing the questioned Orders, the respondent Court ruled that 'questions of law should be resolved after and not before, the questions of fact are properly litigated.' A scrutiny of defendant's affirmative defenses does not show material questions of fact as to the alleged nonpayment of purchase price by the vendees/first endorsers, and which nonpayment is not disputed by PNB as it does not materially affect PNB's title to the sugar stocks as holder of the negotiable quedans.*

*What is determinative of the propriety of summary judgment is not the existence of conflicting claims from prior parties but whether from an examination of the pleadings, depositions, admissions and documents on file, the defenses as to the main issue do not tender material questions of fact (see Garcia vs. Court of Appeals, 167 SCRA 815) or the issues thus tendered are in fact sham, fictitious, contrived, set up in bad faith or so unsubstantial as not to constitute genuine issues for trial. (See Vergara vs. Suelto, et al., 156 SCRA 753; Mercado, et al. vs. Court of Appeals, 162 SCRA 75). The questioned Orders themselves do not specify what material facts are in issue. (See Sec. 4, Rule 34, Rules of Court).*

*To require a trial notwithstanding pertinent allegations of the pleadings and other facts appearing on the record, would constitute a waste of time and an injustice to the PNB whose rights to relief to which it is plainly entitled would be further delayed to its prejudice.*

*In issuing the questioned Orders, We find the respondent Court to have*

*acted in grave abuse of discretion which justify holding null and void and setting aside the Orders dated May 2 and July 4, 1990 of respondent Court, and that a summary judgment be rendered forthwith in favor of the PNB against Noah's Ark Sugar Refinery, et al., as prayed for in petitioner's Motion for Summary Judgment."*<sup>[2]</sup>

On December 13, 1991, the Court of Appeals nullified and set aside the orders of May 2 and July 4, 1990 of the Regional Trial Court and ordered the trial court to render summary judgment in favor of the PNB. On June 18, 1992, the trial court rendered judgment dismissing plaintiffs complaint against private respondents for lack of cause of action and likewise dismissed private respondents' counterclaim against PNB and of the Third-Party Complaint and the Third-Party Defendant's Counterclaim. On September 4, 1992, the trial court denied PNB's Motion for Reconsideration.

On June 9, 1992, the PNB filed an appeal from the RTC decision with the Supreme Court, G.R. No. 107243, by way of a Petition for Review on Certiorari under Rule 45 of the Rules of Court. This Court rendered judgment on September 1, 1993, the dispositive portion of which reads:

"WHEREFORE, the trial judge's decision in Civil Case No. 90-53023, dated June 18, 1992, is reversed and set aside and a new one rendered conformably with the final and executory decision of the Court of Appeals in CA-G.R SP. No. 25938, ordering the private respondents Noah's Ark Sugar Refinery, Alberto T. Looyuko, Jimmy T. Go and Wilson T. Go, jointly and severally:

(a) to deliver to the petitioner Philippine National Bank, 'the sugar stocks covered by the Warehouse Receipts/ Quedans which are now in the latter's possession as holder for value and in due course; or alternatively, to pay (said) plaintiff actual damages in the amount of P39.1 million,' with legal interest thereon from the filing of the complaint until full payment; and

(b) to pay plaintiff Philippine National Bank attorney's fees, litigation expenses and judicial costs hereby fixed at the amount of One Hundred Fifty Thousand Pesos (P150,000.00) as well as the costs.

SO ORDERED."<sup>[3]</sup>

On September 29, 1993, private respondents moved for reconsideration of this decision. A Supplemental/Second Motion for Reconsideration with leave of court was filed by private respondents on November 8, 1993. We denied private respondents' motion on January 10, 1994. .

Private respondents filed a Motion Seeking Clarification of the Decision, dated

September 1, 1993. We denied this motion in this manner:

*"It bears stressing that the relief granted in this Court's decision of September 1, 1993 is precisely that set out in the final and executory decision of the Court of Appeals in CA-G.R. SP No. 25938, dated December 13, 1991, which was affirmed in toto by this Court and which became unalterable upon becoming final and executory. "[4]*

Private respondents thereupon filed before the trial court an Omnibus Motion seeking among others the deferment of the proceedings until private respondents are heard on their claim for warehouseman's lien. On the other hand, on August 22, 1994, the Philippine National Bank filed a Motion for the Issuance of a Writ of Execution and an Opposition to the Omnibus Motion filed by private respondents.

The trial court granted private respondents' Omnibus Motion on December 20, 1994 and set reception of evidence on their claim for warehouseman's lien. The resolution of the PNB's Motion for Execution was ordered deferred until the determination of private respondents' claim.

On February 21, 1995, private respondents' claim for lien was heard and evidence was received in support thereof. The trial court thereafter gave both parties five (5) days to file respective memoranda.

On February 28, 1995, the Philippine National Bank filed a Manifestation with Urgent Motion to Nullify Court Proceedings. In adjudication thereof, the trial court issued the following order on March 1, 1995:

*"WHEREFORE, this court hereby finds that there exists in favor of the defendants a valid warehouseman's lien under Section 27 of Republic Act 2137 and accordingly, execution of the judgment is hereby ordered stayed and/ or precluded until the full amount of defendants' lien on the sugar stocks covered by the five (5) quedans subject of this action shall have been satisfied conformably with the provisions of Section 31 of Republic Act 2137. "[5]*

Consequently, the Philippine National Bank filed the herein petition to seek the nullification of the above-assailed orders of respondent judge.

The PNB submits that:

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PNB's RIGHT TO A WRIT OF EXECUTION IS SUPPORTED BY TWO FINAL AND EXECUTORY DECISIONS: THE DECEMBER 13, 1991 COURT OF APPEALS DECISION IN CA-G.R. SP. NO. 25938; AND, THE NOVEMBER 9, 1992 SUPREME COURT DECISION IN G.R NO. 107243. RESPONDENT RTC'S MINISTERIAL AND MANDATORY