

**\*\*Title:\*\*** Zomer Development Company, Inc. v. Special Twentieth Division of the Court of Appeals, Cebu City and Union Bank of the Philippines

**\*\*Facts:\*\***

Zomer Development Company, Inc. mortgaged three parcels of land in Cebu City to International Exchange Bank as a security for a loan. Upon failure to pay the indebtedness, the bank foreclosed the properties, which were subsequently sold at an auction where the bank was the highest bidder. The Certificates of Sale were registered, leading to the issuance of new Transfer Certificates of Title in the bank's name.

Zomer Development filed a complaint seeking the nullity of the foreclosure and challenged the constitutionality of Section 47 of Republic Act No. 8791 or the General Banking Law of 2002, arguing it breached the equal protection clause by providing shorter redemption periods for juridical entities compared to natural persons. The Regional Trial Court dismissed the complaint for not including the Republic as a party-defendant.

Upon appeal, the Court of Appeals dismissed the case, suggesting the complaint be filed before the Supreme Court instead, citing its discretionary power in entertaining actions for declaratory relief. Zomer Development filed a petition for mandamus with the Supreme Court to compel the Court of Appeals to decide on the constitutionality issue.

**\*\*Issues:\*\***

1. Whether the petition for mandamus was the proper remedy to compel the Court of Appeals to rule on the constitutionality of a statute.
2. Whether the case had become moot in light of the Supreme Court's decision in *Goldenway Merchandising Corporation v. Equitable PCI Bank*.
3. Whether the trial court erred in dismissing the complaint on grounds that the Republic was not impleaded as a party.

**\*\*Court's Decision:\*\***

1. **\*\*On the Proper Remedy:\*\*** The Supreme Court held that mandamus cannot be used to compel a discretionary act like the issuance of a declaratory relief. The correct remedy should have been a petition for certiorari, not mandamus.
2. **\*\*On the Mootness of the Case:\*\*** The Court found the petition moot because the constitutionality of Section 47 of Republic Act No. 8791 had already been settled in *Goldenway Merchandising Corporation v. Equitable PCI Bank*, where the Court upheld the validity of the shorter redemption period for juridical entities.

3. **On Impleading the Republic:** The Supreme Court determined the trial court erred in dismissing the complaint for not including the Republic as a party defendant, explaining that the failure of the Solicitor General to participate after being notified should not prejudice the litigant's cause.

**Doctrine:**

- The Court reiterated that a petition for mandamus cannot compel a discretionary act such as the issuance of a declaratory relief.
- The decision reaffirmed the constitutionality of Section 47 of Republic Act No. 8791, emphasizing that the equal protection clause allows for reasonable classification based on substantial distinctions with a legitimate government interest.

**Class Notes:**

- **Mandamus:** A writ issued to compel the performance of a ministerial duty; it cannot be used to compel discretionary acts.
- **Equal Protection Clause:** Permits reasonable classification if it is based on substantial distinctions, is germane to the purpose of the law, and applies equally to all members of the class.
- **Republic Act No. 8791, Section 47:** Sets different redemption periods for juridical persons and natural persons following the foreclosure of mortgaged properties.

**Historical Background:**

The case showcases the tension between juridical entities' obligations under mortgage contracts and the protection of rights under the General Banking Law of 2002. It highlights the judiciary's role in interpreting legislative intent and constitutional guarantees, particularly the equal protection clause. This decision is part of the evolving jurisprudence on the equal protection rights of corporate entities in comparison to natural persons.