

# Florendo vs. Paramount Insurance Corp.

## 624 Phil. 373 (2004)

### ### Facts

1. **\*\*Initial Transaction\*\***: On February 26, 1980, Rosario Florendo and her husband, Regalado Florendo, purchased five agricultural lots (around 9.5 hectares) in Dasmariñas, Cavite, from Adolfo C. Aguirre. The titles to the lots remained in Aguirre's name. The Florendos consistently paid real estate taxes thereafter.
2. **\*\*Discovery of Encumbrance\*\***: In 1998, after being refused by the Municipal Treasurer of Dasmariñas for tax payments, the Florendos discovered that Paramount Insurance Corp. had previously attached the lots and had the sheriff's sale in their favor annotated on the titles.
3. **\*\*RTC Proceedings\*\***: The Florendos filed an action against Paramount for annulment of its liens over the properties in the Regional Trial Court (RTC) of Imus, Cavite. Paramount contended that it lawfully annotated its notices and executions on Aguirre's titles, which were free of adverse claims.
4. **\*\*RTC Decision\*\***: On November 15, 2002, the RTC ruled in favor of the Florendos and ordered Aguirre to pay them damages. However, it required the Florendos to reimburse Paramount's bid amount and taxes paid on the properties, with interest.
5. **\*\*Execution Pending Appeal\*\***: After Paramount appealed to the Court of Appeals (CA), the Florendos filed a motion for execution pending appeal, citing Rosario's advanced age and illness, Paramount's alleged delaying tactics and possible insolvency, and their readiness to post a bond.
6. **\*\*RTC Granting Execution\*\***: The RTC granted the motion for execution pending appeal on February 11, 2003, conditioned on a bond of P4 million.
7. **\*\*Paramount's Appeal to CA\*\***: Paramount filed a special civil action of certiorari with the CA against the RTC's order of execution pending appeal.
8. **\*\*CA Decision\*\***: On August 31, 2004, the CA ruled in favor of Paramount, nullifying the RTC's order for lack of special reasons to justify execution pending appeal. The Florendos moved for reconsideration, which was denied.

### ### Issues

1. **\*\*Failure to Seek Reconsideration\*\***: Whether Paramount's failure to seek reconsideration of the RTC's order before filing for certiorari was proper.
2. **\*\*Forum Shopping\*\***: Whether Paramount's special civil action constituted forum

shopping, given its pending appeal of the main case.

3. **\*\*Justification for Execution Pending Appeal\*\***: Whether the CA erred in reversing the RTC's order for execution pending appeal for lack of good reasons.

### ### Court's Decision

#### #### One.

The Supreme Court held that the CA correctly dispensed with the requirement for a motion for reconsideration due to the urgency of halting the execution. The RTC had already issued a writ of execution, making enforcement imminent.

#### #### Two.

There was no forum shopping as Paramount's certiorari action focused on the RTC's alleged grave abuse of discretion in allowing execution pending appeal, separate from the merits of the RTC decision being challenged in the main case appeal.

#### #### Three.

The Supreme Court found the RTC erred in allowing execution pending appeal. It emphasized that execution pending appeal is an exception and must be firmly grounded on good reasons such as compelling circumstances to prevent a judgment from becoming illusory.

Rosario Florendo's health condition, while unfortunate, did not pertain to the wider Florendo heirs who were part of the execution order. Respondent Paramount's supposed delaying tactics and possible insolvency were speculative. Lastly, the bond posted was insufficient compared to the market value of the properties.

The CA's ruling in the main case reversing the RTC decision also undermined the basis for any execution.

### ### Doctrine

The Supreme Court reiterated that execution pending appeal is an exception to the general rule that cannot be permitted unless exceptional, compelling circumstances exist. These circumstances must be firmly grounded on the existence of good reasons, outweighing potential injury or damages to the losing party.

### ### Class Notes

- **Execution Pending Appeal**: Execution of a judgment can proceed ahead of the resolution of an appeal only under compelling circumstances superior to the injury or damages that might result.
- **Grave Abuse of Discretion**: For a certiorari action, it must be shown that the lower court made a capricious, whimsical, or arbitrary decision beyond mere error in judgment.
- **Forum Shopping**: The prohibition against forum shopping aims to prevent filing multiple cases involving the same issues. Separate legal remedies addressing different errors do not constitute forum shopping.

**Relevant Statutes/Provisions**:

- Rule 39, Section 2 of the Rules of Court on Execution Pending Appeal.
- **Doctrine of Res Judicata**: This doctrine prevents the parallel litigation of the same issue in multiple forums.

**Historical Background**

At the time, there was heightened awareness and judicial consideration aimed at preventing frivolous litigation procedures and ensuring that judgments are not rendered ineffective during the lengthy processes of appeal. The case reflects a balance between immediate execution of judgments and safeguarding appellants' rights pending appeal.