

UNION BANK OF THE PHILIPPINES, PETITIONER, V. HON. SOCORRO B. INTING, IN HER CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF MANILA, BRANCH 4 AND SPOUSES EDDIE AND EL...

Ponente: ELBINIAS, J.

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ELBINIAS, J.:

Subject of this Petition for Certiorari[1] under Rule 65 of the Rules of Court is the Order[2] dated December 20, 2007 of the Regional Trial Court of Manila, Branch IV ("respondent court" for brevity) in Civil Case No. 00-97873 for "Damages." [3] The Petition also assails respondent court's Order[4] dated February 22, 2008 which denied petitioner Union Bank of the Philippines' ("petitioner Union Bank" or "petitioner" for brevity) eventual Motion for Reconsideration.[5]

The salient facts are as follows:

On June 28, 2000, private respondents Spouses Eddie and Eliza Tamondong ("private respondents" for brevity) filed before respondent court a Complaint[6] for "Damages" against petitioner Union Bank. In their Complaint[7], private respondents alleged that petitioner should be ordered to pay them Actual or Compensatory, Moral, Exemplary and Nominal Damages, Attorney's Fees, and Litigation Expenses because of the "scandalous and humiliating"[8] seizure of private respondents' van as a result of petitioner Union Bank's "false, perjurious, malicious and clearly unfounded"[9] Complaint for Replevin[10].

On May 4, 2001, respondent court rendered its Decision[11] finding petitioner Union Bank liable to private respondents for Damages.

Petitioner Union Bank appealed from respondent court's Decision[12] of May 4, 2001 to the Court of Appeals, Seventh Division ("CA – Seventh Division" for brevity). In its Decision[13] dated July 31, 2007, the CA – Seventh Division affirmed the Decision[14] of respondent court.

After the CA – Seventh Division's Decision[15] dated July 31, 2007 had become final and executory, private respondents filed a "Motion for Execution"[16] ("Motion" for brevity) of respondent court's Decision[17] dated May 4, 2001.

On December 20, 2007, respondent court granted private respondents' Motion[18] in its first assailed Order.[19] The dispositive portion of the Order decreed:

"Accordingly, the motion for execution is hereby granted. As prayed for, let a writ of execution be issued to enforce the final judgment of this Court.

SO ORDERED." [20]

After petitioner Union Bank's Motion for Reconsideration[21] was denied by respondent court in its other assailed Order[22] dated February 22, 2008, petitioner Union Bank filed the Petition[23] at bench seeking that:

"WHEREFORE, premises considered, it is most respectfully prayed of this Honorable Court to render a Decision declaring the: (i) Order of the Public Respondent dated 20 December 2007 granting the Motion for Execution filed by Sps. Tamondong; (ii) Order of the Public Respondent dated 22 February 2008 denying Petitioner's Motion for Reconsideration, NULL and VOID for having been issued with GRAVE ABUSE OF DISCRETION; and (iii) to issue an Order against Sps. Tamondong to cease and desist in the enforcement of the 04 May 2007 Order of the Public Respondent Court.

Likewise, Petitioner prays for the issuance of a TEMPORARY RESTRAINING ORDER (TRO) and/or WRIT OF INJUNCTION upon approval of the bond to be fixed by this Honorable Court.

Other reliefs just and equitable under the premises are also prayed for."[24] (Emphasis and italics were made in the original)

Petitioner Union Bank raised the following grounds:

"47.

PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT ISSUED JUDGMENT IN FAVOR [OF] SPS. TAMONDONG KNOWING FULLY WELL THAT IT HAS NO JURISDICTION TO HEAR AND DECIDE THE CASE

48.

PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT ALLOWED TO PROSECUTE THE CLAIM OF SPS. TAMONDONG AGAINST PETITIONER IN CIVIL CASE NO. 00-97873 WHICH SPS. TAMONDONG FILED IN VIOLATION OF THE RULE AGAINST FORUM-SHOPPING

49.

PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION IN ISSUING AN ORDER GRANTING THE MOTION FOR EXECUTION FILED BY SPS. TAMONDONG DESPITE KNOWLEDGE OF PENDING CASES WHICH ARE DETERMINATIVE OF THE RIGHT OF SPS. TAMONDONG TO RECOVER DAMAGES FROM PETITIONER

50.

50. PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT ISSUED AN ORDER GRANTING THE MOTION FOR EXECUTION OF SPS. TAMONDONG AND FURTHER DI[S]MISSED THE MOTION FOR RECONSIDERATION FILED BY PETITIONER, IN EFFECT DEPRIVING PETITIONER OF ITS RIGHT TO PROSECUTE ITS CASE AND TO RIGHTFULLY RECOVER THE UNPAID OBLIGATIONS OF SPS. TAMONDONG"[25] (Emphasis, italics and underlining made in the original)

To begin with, contrary to petitioner Union Bank's arguments in its assigned ground 47, petitioner Union Bank was already estopped from questioning the jurisdiction of respondent court over private respondents' Complaint[26] for Damages.

Petitioner Bank had argued that:

"xxx The subject matter of the complaint decided by the Public Respondent is the damages allegedly sustained by Sps. Tamondong in the Replevin Case before the MeTC-Branch 47 when the replevined vehicle was not returned to them by herein Petitioner.

xxx

xxx The Supreme Court in the case of *Manigo vs. IAC*, 183 SCRA 691 (1990), ruled that the claim for damages resulting from a wrongful seizure of personal property pursuant to a writ of replevin must be filed in the same action in which the said writ was issued, otherwise, it is barred. Moreover, the Supreme Court held that the remedy provided by law is exclusive in nature and failure to file a timely motion for the determination of damages results in the claimant's loss of his right to claim damages.

xxx

xxx Based on the foregoing provisions of the Rules of Court and the relevant jurisprudence, it is clear that the Public Respondent committed grave abuse of discretion for it has no jurisdiction over the subject matter of the complaint for damages filed by Sps. Tamondong on the ground that the law confer jurisdiction on the court where the Replevin Case was filed and not in the Public Respondent Court. Stated differently, the complaint for damages filed by Sps. Tamondong has to be instituted in the original Replevin Case on or before the appeal is perfected or before judgment becomes executory.

xxx The Public Respondent is neither the court where the main case was pending, which was MeTC-Branch 47 nor the court to which an appeal from the latter court was taken. It must be emphasized that the instant action is an independent, separate and complete new action from the main case with RTC-Branch 47. The complaint decided by Public Respondent Court in favor of Sps. Tamondong is barred from being tried by Public Respondent for it is without jurisdiction to entertain it. Therefore, whatever judgment and/or decision issued by Public Respondent constitutes grave abuse of discretion amounting to lack or excess of jurisdiction." [27] (Emphasis supplied)

Trumping petitioner Union Bank's allegations however, is that petitioner Union Bank could no longer question the jurisdiction of respondent court to hear and decide private respondents' Complaint [28] for Damages. This is because, as the records revealed, petitioner Union Bank raised the issue of jurisdiction only for the first time here after respondent court issued the Writ of Execution, or after almost eight (8) years had already elapsed from the time respondent court issued its Decision [29] in private respondents' Complaint [30] for Damages. Petitioner Union Bank had also already waived its defense of lack of jurisdiction when petitioner actively participated, without raising such lack of jurisdiction as a defense, in the trial of private respondents' Complaint [31] for Damages filed before respondent court. Moreover, petitioner failed to raise the issue of lack of jurisdiction when petitioner appealed from respondent court's Decision [32] of May 4, 2001 in the Complaint [33] for Damages to the CA – Seventh Division.

That a party, such as petitioner Union Bank, who failed to raise the defense of lack of jurisdiction within a reasonable time, as was the situation here, would be guilty of laches, such that therefore he could no longer assail the jurisdiction of a tribunal is pursuant to the declaration of the Supreme Court in *Lamsis, et al. v. Semon Dong-e*, G.R. No. 173021, October 20, 2010, as follows:

"As a rule, an objection over subject-matter jurisdiction may be raised at any time of the proceedings. This is because jurisdiction cannot be waived by the parties or vested by the agreement of the parties. Jurisdiction is vested by law, which prevails at the time of the filing of the complaint.

An exception to this rule has been carved by jurisprudence. In the seminal case of *Tijam v. Sibonghanoy*, the Court ruled that the existence of laches will prevent a party from raising the court's lack of jurisdiction. Laches is defined as the 'failure or neglect, for an unreasonable and unexplained length of time, to do that

which, by exercising due diligence, could or should have been done earlier; it is negligence or omission to assert a right within a reasonable time, warranting the presumption that the party entitled to assert it either has abandoned or declined to assert it.' Wisely, some cases have cautioned against applying Tijam, except for the most exceptional cases where the factual milieu is similar to Tijam.

In Tijam, the surety could have raised the issue of lack of jurisdiction in the trial court but failed to do so. Instead, the surety participated in the proceedings and filed pleadings, other than a motion to dismiss for lack of jurisdiction. When the case reached the appellate court, the surety again participated in the case and filed their pleadings therein. It was only after receiving the appellate court's adverse decision that the surety awoke from its slumber and filed a motion to dismiss, in lieu of a motion for reconsideration. The CA certified the matter to this Court, which then ruled that the surety was already barred by laches from raising the jurisdiction issue.

In case at bar, the application of the Tijam doctrine is called for because the presence of laches cannot be ignored. If the surety in Tijam was barred by laches for raising the issue of jurisdiction for the first time in the CA, what more for petitioners in the instant case who raised the issue for the first time in their petition before this Court." (Emphasis supplied)

Petitioner Union Bank could not also properly raise in its assigned ground 48 that private respondents had violated the rule on forum shopping. The reason is that, as was revealed by the records, petitioner Union Bank failed to raise such issue in the proceedings before the respondent court, in violation of the well-entrenched rule that no new issues could be raised first time on appeal. Such a rule was reiterated by the Supreme Court in *Ayala Land, Inc. and Capitol Citifarms, Inc. v. Castillo, et al.*, G.R. No. 178110, June 15, 2011, as follows:

"We cannot uphold respondents' proposition for us to disregard basic rules, particularly the rule that new issues cannot be raised for the first time on appeal. xxx

It is well established that issues raised for the first time on appeal and not raised in the proceedings in the lower court are barred by estoppel. Points of law, theories, issues, and arguments not brought to the attention of the trial court ought not to be considered by a reviewing court, as these cannot be raised for the first time on appeal. To consider the alleged facts and arguments belatedly raised would amount to trampling on the basic principles of fair play, justice, and due process. More important, if these matters had been raised earlier, they could have been seriously examined by the administrative agency concerned." (Emphasis supplied; Italics made in the original)

Petitioner Bank could no longer properly raise the issues of lack of jurisdiction and violation of the rule on forum shopping, especially at this point when respondent court's Decision[34] dated May 4, 2001 had long been final and executory. The rule is settled that once a judgment becomes final, it can no longer be subject to change, revision, amendment or reversal, as is pursuant to the following declaration of the Supreme Court in *Antonio Navarro v. Metropolitan Bank and Trust Company*, G.R. Nos. 165697 and 166481, August 4, 2009:

"No other procedural law principle is indeed more settled than that once a judgment becomes final, it is no longer subject to change, revision, amendment or reversal, except only for correction of clerical errors, or the making of nunc pro tunc entries which cause no prejudice to any party, or where the judgment itself is void. The underlying reason for the rule is two-fold: (1) to avoid delay in the administration of justice and thus make orderly the discharge of judicial business, and (2) to put judicial controversies to an end, at the risk of occasional errors, inasmuch as controversies cannot be allowed to drag on indefinitely and the rights and obligations of every litigant must not hang in suspense for an indefinite period of time. As the Court declared in *Yau v. Silverio*,

Litigation must end and terminate sometime and somewhere, and it is essential to an effective and efficient administration of justice that, once a judgment has become final, the winning party be, not through a mere

subterfuge, deprived of the fruits of the verdict. Courts must therefore guard against any scheme calculated to bring about that result. Constituted as they are to put an end to controversies, courts should frown upon any attempt to prolong them.

Indeed, just as a losing party has the right to file an appeal within the prescribed period, the winning party also has the correlative right to enjoy the finality of the resolution of his case by the execution and satisfaction of the judgment. Any attempt to thwart this rigid rule and deny the prevailing litigant his right to savor the fruit of his victory must immediately be struck down." (Emphasis supplied)

Contrary to petitioner Union Bank's arguments in its assigned grounds 49 and 50, respondent court properly issued the Writ of Execution of its Decision[35] dated May 4, 2001.

On this matter, petitioner Union Bank had argued that:

"72. As already intimated by Petitioner in its Comment/Opposition to the Motion for Execution filed by Sps. Tamondong, the issuance of the Writ of Execution would unjustly prejudice the rights of Petitioner to ventilate its claim and would in effect render nugatory all subsequent proceedings.

xxx

74. To proceed with the implementation of the Writ of Execution would in effect operate to make the issues pending with the Supreme Court moot and academic. It would render nugatory the very purpose for which Petitioner filed its Petition before the Supreme Court.

xxx

76. The issuance of the Orders dated 20 December 2007 and 22 February 2008 is nothing but an offshoot of the main case pending before the Supreme Court and the said Orders have no legal bases, hence, must be considered as null and void.

77. The issuance of the subject Orders left Petitioner without recourse against Sps. Tamondong for the recovery of the unpaid balance of their obligations which resulted in the deprivation of the Petitioner's right of its property without due process of law."[36] (Emphasis supplied)

Defeating petitioner Union Bank's arguments however, is that, as the records revealed, respondent court's Decision[37] dated May 4, 2001 had already become final and executory. This is so, considering that petitioner Union Bank failed to timely take an appeal from, or action on the CA – Seventh Division's Decision[38] dated July 31, 2007, which had affirmed respondent court's Decision[39] dated May 4, 2001 finding petitioner Union Bank to be liable for Damages to private respondents. Thus, private respondents were entitled to be issued in their favor, a Writ of Execution of such Decision[40] pursuant to Section 1, Rule 39 of the Rules of Court, which states:

"Section 1. Execution upon judgments or final orders. – Execution shall issue as a matter of right, on motion, upon a judgment or order that disposes of the action or proceeding upon the expiration of the period to appeal therefrom if no appeal has been duly perfected.

If the appeal has been duly perfected and finally resolved, the execution may forthwith be applied for in the court of origin, on motion of the judgment obligee, submitting therewith certified true copies of the judgment or judgments or final order or orders sought to be enforced and of the entry thereof, with notice to the adverse party." (Emphasis supplied)

Consequently, it was the ministerial duty of respondent court to grant the execution of its Decision[41] dated May 4, 2001 that had become final and executory. This being so is pursuant to the following pronouncement of the Supreme Court in *Anama v. Court of Appeals, et al.*, G.R. No. 187021, January 25, 2012:

"At any rate, it is undisputed that the August 21, 1991 RTC Decision in Civil Case No. 44940 is already final and executory. Once a judgment becomes final and executory, all the issues between the parties are deemed resolved and laid to rest. All that remains is the execution of the decision which is a matter of right. The prevailing party is entitled to a writ of execution, the issuance of which is the trial court's ministerial duty." (Emphasis supplied)

The ministerial duty of respondent court to grant the execution of the Decision[42] dated May 4, 2001, which had become final and executory, could not also be barred by petitioner's Petition for Certiorari (G.R. No. 181358 - formerly CA G.R. SP No. 92934) pending before the Supreme Court ("SC Petition" for brevity).

The questioned Decision and Orders in the SC Petition were not related to respondent court's Orders,[43] which were being assailed in the Petition at bench.

In the case at bench, petitioner Union Bank questions respondent court's Orders dated December 20, 2007[44] and February 22, 2008,[45] which issued a Writ of Execution of respondent court's Decision[46] dated May 4, 2001 in Civil Case No. 00-97873 for "Damages." [47]

On the other hand, petitioner's Petition before the SC assailed the Decision[48] of the CA in CA G.R. SP No. 92934, which had affirmed the Decision[49] dated July 22, 2005 of the Regional Trial Court of Pasay City, Branch 111 ("RTC-Branch 111" for brevity) in Civil Case No. 01-0259, which in turn resolved the propriety of the Orders dated July 27, 2001 and August 3, 2001[50] issued by the Metropolitan Trial Court, Branch 47 in Civil Case No. 342-00 for "Sum of Money with Prayer for a Writ of Replevin." [51] Petitioner's Petition before the SC also questioned the Resolution[52] of the CA in CA G.R. SP No. 92934, which denied petitioner Union Bank's eventual Motion for Reconsideration.[53]

Because of all these, petitioner Union Bank's allegation that the issuance of the Writ of Execution would unjustly prejudice its rights to ventilate in other pending cases, such as its Petition before the SC, is therefore misplaced.

All of these matters were as also found by the respondent court - which enjoys the presumption of regularity in the performance of its judicial functions,[54] - in its assailed Order[55] of December 20, 2007, to wit:

"As correctly pointed out by the plaintiffs, the case pending before the Court of Appeals is different and has no bearing to the present case although it involves the same parties and therefore irrelevant to the resolution of the motion or execution filed by the plaintiffs." [56] (Emphasis supplied)

Thus, after careful consideration of all the facts, arguments, and issues appearing on the records, as well as of the pertinent laws and jurisprudence, respondent court, in issuing the assailed Orders, was shown not to have committed grave abuse of discretion, which in turn is meant as such capricious and whimsical exercise of judgment that is equivalent to an excess or lack of jurisdiction.[57]

GIVEN ALL OF THESE, the Petition is DENIED.

SO ORDERED.

Didican (Chairman), and Paredes, JJ., concur.

[1] Rollo, pp. 57-86, "AMENDED PETITION FOR CERTIORARI".

[2] Rollo, p. 91.

[3] Rollo, pp. 99-104.

- [4] Rollo, p. 97.
- [5] Rollo, p. 14.
- [6] Rollo, pp. 99-104.
- [7] Rollo, pp. 99-104.
- [8] Rollo, p. 101.
- [9] Rollo, p. 101.
- [10] Rollo, pp. 112-116.
- [11] Rollo, pp. 92-96.
- [12] Rollo, pp. 92-96.
- [13] Rollo, pp. 219-238.
- [14] Rollo, pp. 92-96.
- [15] Rollo, pp. 219-238.
- [16] Rollo, p. 71.
- [17] Rollo, pp. 92-96.
- [18] Rollo, p. 71.
- [19] Rollo, p. 91.
- [20] Rollo, p. 91.
- [21] Rollo, p. 97.
- [22] Rollo, p. 97.
- [23] Rollo, pp. 57-86.
- [24] Rollo, p. 85.
- [25] Rollo, pp. 72-73.
- [26] Rollo, pp. 99-104.
- [27] Rollo, pp. 73-76.
- [28] Rollo, pp. 99-104.
- [29] Rollo, pp. 92-96.
- [30] Rollo, pp. 99-104.
- [31] Rollo, pp. 99-104.
- [32] Rollo, pp. 92-96.
- [33] Rollo, pp. 99-104.
- [34] Rollo, pp. 92-96.

- [35] Rollo, pp. 92-96.
- [36] Rollo, pp. 81-82.
- [37] Rollo, pp. 92-96.
- [38] Rollo, pp. 219-238.
- [39] Rollo, pp. 92-96.
- [40] Rollo, pp. 92-96.
- [41] Rollo, pp. 92-96.
- [42] Rollo, pp. 92-96.
- [43] Rollo, pp. 91, 97.
- [44] Rollo, p. 91.
- [45] Rollo, p. 97.
- [46] Rollo, pp. 92-96.
- [47] Rollo, pp. 99-104.
- [48] Rollo, pp. 193-204.
- [49] Rollo, pp. 156-162.
- [50] Rollo, p. 67.
- [51] Rollo, pp. 112-116.
- [52] Rollo, p. 205.
- [53] Rollo, p. 205.
- [54] *Ocenar v. Judge Mabutin*, A.M. No. MTJ-05-1582, February 28, 2005.
- [55] Rollo, p. 91.
- [56] Rollo, p. 91.
- [57] *First Women's Credit Corporation, et al. vs. Glicerio Perez, et al.*, G.R. No. 169026, June 15, 2006.

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