

## **DEVELOPMENT BANK OF THE PHILIPPINES, PETITIONER, VS. COURT OF APPEALS, MANILA MANOR HOTEL, INC., AND SPOUSES GREGORIO AND LUZ DIZON, RESPONDENTS.**

*G.R. No. 110203. May 09, 2001*

Ponente: PANGANIBAN, J.

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### **PANGANIBAN, J.:**

The doctrine of res judicata bars the relitigation of the same cause of action over the same subject matter by substantially the same litigators. This principle frees the parties from undergoing all over again the rigors of unnecessary suits and repetitious trials. At the same time, it prevents the clogging of court dockets. Equally important, it stabilizes rights and promotes the rule of law.

#### **The Case**

Before us is a Petition for Review under Rule 45 of the Rules of Court, seeking the reversal of the December 28, 1992 Decision[1] of the Court of Appeals in CA-GR CV No. 05542. The dispositive portion of the assailed Decision reads as follows:

"WHEREFORE, the order appealed from is hereby REVERSED and SET ASIDE and Civil Case No. 84-24513 for annulment and damages is hereby reinstated. Let the records thereof be remanded to the court a quo for further proceedings. No costs."[2]

Also challenged is the May 11, 1993 CA Resolution denying the Motion for Reconsideration.

The instant case originated from the Order[3] dated March 14, 1985, issued by the Regional Trial Court (RTC) of Manila (Branch 17). On the ground of res judicata, the trial court dismissed Civil Case No. 84-24513 entitled, "The Manila Manor Hotel, Inc. v. The Development Bank of the Philippines." Ruled the RTC:

"Wherefore, the Order dated December 19, 1984 is hereby reconsidered and set aside, and this case is DISMISSED. No special pronouncement as to cost of suit."[4]

#### **The Facts**

On May 21, 1984, Manila Manor Hotel, Inc. filed before the RTC of Manila a Complaint for Annulment and Damages (Civil Case No. 84-24513) against the Development Bank of the Philippines (DBP).[5] On August 10, 1984, DBP filed a Motion to Dismiss on the ground of res judicata.[6] It argued that in Special Proceeding No. 83-17979 entitled "Gregorio Dizon, et al., v. DBP, et al.," the December 8, 1983 Order[7] of the RTC of Manila (Branch 33) had dismissed the legally identical action for failure to prosecute on the part of therein plaintiffs (the spouses Dizon).[8] This earlier civil case, a Petition for Declaratory Relief, had been filed on June 6, 1983.[9]

On September 12, 1984, the RTC (Branch 17) granted the Motion to Dismiss Civil Case No. 84-24513.[10]

On October 19, 1984, Manila Manor Hotel, Inc. filed a Motion for Reconsideration, which the trial court[11]

granted on December 19, 1984, in these words:

"After due consideration of the plaintiff's motion for reconsideration dated August 4, 1984 which shows that for one reason the dismissal order dated December 8, 1983 in Civil Case No. 83-17979 could not be taken to have the effect of an adjudication upon the merit, and therefore, res judic[a]ta will not lie, the order dated September 12, 1984 dismissing the complaint in the instant case is hereby reconsidered and set aside." [12]

Subsequently, Petitioner DBP (defendant therein) filed its own Motion for Reconsideration [13] of the December 19, 1984 Order. After hearing the parties, the trial court, on March 14, 1985, set aside its December 19, 1984 Order and, once again, dismissed Civil Case No. 84-24513. [14]

#### Ruling of the Court of Appeals

The Court of Appeals ruled that res judicata cannot bar the Manila Manor Complaint. First, it opined that there was no identity of parties between Special Proceedings No. 83-17979 for declaratory relief and Civil Case No. 84-24513 for annulment and damages. Second, it also held that there was no identity of subject matter and cause of action between the two cases. It declared: "No amount of reconciliation and/or interpretation of the allegations and prayers of the two (2) cases could justify a conclusion that the Special Proceedings (No. 83-17979) for declaratory relief under Rule 64 of the Rules of Court, which merely seeks a declaration of the rights and duties of the Dizon spouses and the DBP under the mortgage contract and Presidential Decree No. 385, apparently x x x non-adversarial proceedings and the Civil Case for annulment and damages, a highly contentious [case] are one and identical to the other." It added that the evidence that would sustain the civil case was "not necessarily the same evidence that would have been presented in the Special Proceedings for declaratory relief had [the latter] not been dismissed on a technicality."

Hence, this Petition. [15]

#### The Issues

Petitioner submits the following grounds for reversing the assailed CA Decision:

"I

Whether or not the Respondent Court abused its discretion when it whimsically and capriciously disregarded its earlier finding that there [was] here a commingling of personalities of the spouses (Gregorio & Luz Dizon) and the Manila Manor Hotel, Inc. x x x[, a] finding [that] made possible the allowance of an otherwise filed-out-of-time Appellant's Brief.

"II

Whether or not the Respondent Court erred when it said that there [was] no identity of parties in the instant case.

"III

Whether or not the Respondent Court erred when it said that there [was] no identity of cause of action in the instant case.

"IV

Whether or not the Respondent Court erred in its appreciation and application of the cases it cited in its questioned decision." [16]

In the main, petitioner asks the Court to determine whether res judicata is a bar to the complaint filed by Manila Manor Hotel in Civil Case No. 84-24513.

## The Court's Ruling

The Petition is meritorious.

Main Issue:

Res Judicata

Res judicata or bar by prior judgment is a doctrine which holds that a matter that has been adjudicated by a court of competent jurisdiction must be deemed to have been finally and conclusively settled if it arises in any subsequent litigation between the same parties and for the same cause.[17] Thus, "[a] final judgment on the merits rendered by a court of competent jurisdiction is conclusive as to the rights of the parties and their privies and constitutes an absolute bar to subsequent actions involving the same claim, demand, or cause of action." [18] Res judicata is based on the ground that "the party to be affected, or some other with whom he is in privity, has litigated the same matter in a former action in a court of competent jurisdiction, and should not be permitted to litigate it again." [19]

It frees the parties from undergoing all over again the rigors of unnecessary suits and repetitive trials. At the same time, it prevents the clogging of court dockets. Equally important, it stabilizes rights and promotes the rule of law.

For the doctrine to apply, four requisites must be met: (1) the former judgment or order must be final; (2) it must be a judgment or an order on the merits; (3) it must have been rendered by a court having jurisdiction over the subject matter and the parties; and (4) there must be, between the first and the second actions, identity of parties, of subject matter and of cause of action.[20]

We believe that all four requisites have been satisfied in the present case.

First Requisite:

Finality of the RTC Order

The December 8, 1983 Order issued by the RTC of Manila (Branch 33) dismissing Special Proceedings No. 83-17979 was a final order. As explained in *De Ocampo v. Republic*:

"An order is deemed final when it finally disposes of the pending action so that nothing more can be done with it in the lower court (*Mejia v. Alimorong*, 4 Phil. 572; *Insular Government v. Roman Catholic Bishop of Nueva Segovia*, 17 Phil. 487; *People v. Macaraig*, 54 Phil. 904). In other words, a final order is that which gives an end to the litigation (*Olsen & Co. v. Olsen*, 48 Phil. 238). The test to ascertain whether an order is interlocutory or final is: does it leave something to be done in the trial court with respect to the merits of the case? If it does, it is interlocutory; if it does not, it is final. (*Moran*, *Comments on the Rules of Court*, Vol. 1, 3rd ed. pp. 806-807). A final order is that which disposes of the whole subject-matter or terminates the particular proceedings or action, leaving nothing to be done but to enforce by execution what has been determined (2 Am Jur., section 22, pp. 861-862). *Reyes v. De Leon*, G.R. No. L-3720, June 24, 1952)." [21]

An order of dismissal of a complaint is a final disposition because, after its issuance, nothing else need be done by the trial court in respect to the merits of the case.

Second Requisite:

Judgment on the Merits

Petitioner contends that the December 8, 1983 Order had the effect of an adjudication upon the merits. We agree. Section 3, Rule 17 of the Rules of Court [22] in effect at the time, provided:

"SEC. 3. Failure to prosecute. -- If plaintiff fails to appear at the time of the trial, or to prosecute his action for

an unreasonable length of time, or to comply with these rules or any order of the court, the action may be dismissed upon motion of the defendant or upon the court's own motion. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise provided by court." (emphasis supplied)

Because the trial judge did not state that the dismissal was without prejudice, it is therefore clear, following the above-mentioned provision, that the Order was an adjudication upon the merits.

Third Requisite:

Court of Competent Jurisdiction

The RTC of Manila (Branch 33), which issued the December 8, 1983 Order of dismissal, had jurisdiction to hear and decide the Petition for Declaratory Relief[23] filed by the spouses Dizon. Ergo, it also has the power to order the dismissal of the action when warranted by the circumstances.

Fourth Requisite:

Identity of Parties, Subject

Matter and Cause of Action

In Special Proceedings No. 83-17979, the petitioners were Spouses Gregorio V. Dizon and Luz Mojares-Dizon, while the respondents were the Development Bank of the Philippines and the City Sheriff of Manila. The subject matter was the mortgage contract executed by the Dizon spouses and the DBP for the construction of the Manila Manor Hotel. The cause of action was the declaration of the rights and duties of petitioners and respondents under Presidential Decree No. 385 and the said mortgage contracts.

In Civil Case No. 84-24513, the litigants were the Manila Manor Hotel, Inc. as the plaintiff and the DBP as the defendant. The subject matter was the validity of the extrajudicial foreclosure of the properties mortgaged as security for the loan to build the Manila Manor Hotel. The cause of action was the annulment of the sale at public auction of the mortgaged properties and the consequent nullity of the certificate of sale issued by the sheriff in favor of the defendant.

We believe that there is an identity of parties, subject matter, and cause of action between the Special Proceedings (first case) and the Civil Action (second case). Although the parties to the two civil cases are not exactly the same, we believe that there is substantial identity to warrant the application of res judicata. In Republic v. Court of Appeals, the Court stressed that substantial identity of parties was enough, as follows:

"For purposes of res judicata, only substantial identity is required and not absolute identity. Parties in both cases need not be physically identical provided that there is privity between the parties or their successors-in-interest subsequent to the commencement of the previous cause of action, litigating for the same thing, title or capacity. The Court of Appeals correctly found in our view, that since all the aforecited cases were ultimately in the interest of these 'small fishermen,' there is privity of interest in all the cases." [24] (citations omitted)

The Dizon spouses filed the first case (1) to seek a declaration of their rights under the mortgage contract in view of their inability to meet the amortization and (2) to enjoin the foreclosure of the mortgaged properties of the Manila Manor Hotel, Inc. In its September 27, 1990 Resolution, [25] the CA already made a categorical factual finding that "the Manila Manor Hotel Inc. is owned and controlled by the Spouses Gregorio and Luz Dizon, it being a family corporation, with Gregorio as President." [26] Hence, while the second case was filed directly by the Manila Manor Hotel, Inc. in order to annul the foreclosure sale of its mortgaged properties, it is clear that the interests sought to be protected in both actions pertained to the same parties, regardless of their appellation. No

amount of verbal legerdemain can conceal that fact.

It is also clear that in both cases, the same subject matter is involved -- the sale at public auction of the Manila Manor Hotel in connection with the mortgage contract.

We also hold that there is identity of the cause of action. To determine the presence of identity of cause of action, the ultimate test is to consider whether the same evidence would sustain the cause of action in both the first and the second cases.[27] A careful review of the pleadings and other records shows that the same evidence in the declaratory relief will have to be reexamined to support the cause of action in the annulment case.

In the Petition for Declaratory Relief, herein respondents alleged that they could not meet the loan amortizations; that DBP had not acted on their application for restructuring; and that petitioner had been served notice of sale on extrajudicial foreclosure, without prior notification from DBP. The same allegations were repeated, albeit differently worded, in the Complaint for Annulment. The objectives of the two actions, however, were the same - to assail the foreclosure sale. Hence, in the special proceedings for declaratory relief, herein respondents prayed that the trial court enjoin the foreclosure proceedings and declare their rights and duties under the mortgage contract. In the civil action, they prayed for the annulment of the foreclosure sale. The two cases are different only in the form of action. But as the Court has held, "the employment of two different forms of action does not enable one to escape the operation of the principle that one and the same cause of action shall not be twice litigated." [28]

In sum, we hold that all the requisites of res judicata are present in this case.

Indeed, respondents contend that petitioner did not comply with the procedural legal requirements when it foreclosed extrajudicially the properties mortgaged in its favor. We are not persuaded. As can be gleaned from the pleadings and other records of the instant case, petitioner complied with the requirements set by RA No. 3135 ("An Act to Regulate the Sale of Property Under Special Powers Inserted in or Annexed to Real-Estate Mortgages") when it sold the mortgaged properties at public auction.

The City Sheriff of Manila served on the Dizon spouses Notice for the extrajudicial foreclosure of the mortgaged properties. In fact, two Notices were served on them: the first was sometime in April, 1983; and the second, on May 4, 1983.

The auction sale scheduled on June 15, 1983 at 10:00 a.m. did not take place, because the spouses were able to get a Temporary Restraining Order (TRO). The sale, however, eventually pushed through after the lapse of the TRO.

Instead of complying with the procedure provided in paragraph 2, Section 1 of PD No. 385, the Dizon spouses[29] allowed the TRO to lapse or be dissolved upon their failure to liquidate the remaining balance of their loan; at the time, they only paid for the outstanding arrearages, interests and other charges thereon.

Worse, the Dizon spouses allowed the case to be dismissed on December 8, 1983, when they did not appear during the scheduled trial on that said date. The Order of dismissal became final and executory when they failed to appeal. The inevitable consequence of such inadvertence, which private respondents find hard to accept, was that the Order became final and executory. As such, it constituted a bar to the filing of the subsequent civil action.

WHEREFORE, the Petition is GRANTED and the assailed Decision of the Court of Appeals is REVERSED; the RTC Order of March 14, 1985 is REINSTATED.

### **SO ORDERED.**

Melo, (Chairman), Vitug, Gonzaga-Reyes, and Sandoval-Gutierrez, JJ., concur.

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- [1] Penned by Justice Arturo B. Buena (Division chairman and now a member of this Court) and concurred in by Justices Asaali S. Isnani and Eduardo G. Montenegro, members.
- [2] Assailed CA Decision, p. 8; rollo, p. 14.
- [3] Penned by Judge Alfredo Marigomen.
- [4] Assailed RTC Order dated March 14, 1985, p. 3; rollo, p. 97; records, p. 83.
- [5] Complaint, pp. 1-5; records, pp. 1-5.
- [6] Motion to Dismiss, pp. 1-5; records, pp. 20-24.
- [7] Order dated December 8, 1983; records, p. 34. In its Motion to Dismiss the Complaint filed on August 10, 1984, petitioner mistakenly wrote the date December 8, 1984 instead of the correct date, which was December 8, 1983. This error was repeated all the way to the appellate court.
- [8] In the aforesaid Order, the dismissal is worded as follows: "For failure of the parties to appear showing their lack of interest to prosecute and to defend their case, the above-entitled case is hereby ordered dismissed without pronouncement as to costs."
- [9] Petition, pp. 1-4; records, pp. 25-28.
- [10] Records, p. 42.
- [11] Presided by Hon. Alfredo Marigomen.
- [12] Records, p. 63.
- [13] Records, pp. 65-70.
- [14] Order dated March 14, 1985, p. 3; records, p. 83.
- [15] To eliminate its backlog, the Court on February 27, 2001 resolved to redistribute long-pending cases to justices who had none, and who were thus tasked to prioritize these old cases. Consequently, this case was raffled to the ponente for study and report.
- [16] Petition for Review, pp. 11-12; rollo, pp. 29-30. Upper case used in the original.
- [17] *Gosnell v. Webb*, 66 CA2d 518, 521, 152 P2d 463 (1944); *Poochigian v. Layne*, 120 CA2d 757, 261 P2d 738 (1953).
- [18] *Republic v. Court of Appeals*, 324 SCRA 560, 565, February 3, 2000, per Quisumbing, J.
- [19] *Watkins v. Watkins*, 117 CA2d 610, 256 P2d 339 (1953).
- [20] *Esperas v. Court of Appeals*, GR No. 121182, October 2, 2000; *Republic v. Court of Appeals*, supra; *Ayala Land, Inc. v. Valisno*, 324 SCRA 522, 531-532, February 2, 2000; *Van Ngiah v. Rodriguez*, 324 SCRA 217, 220-221, January 31, 2000; *Pagsisihan v. Court of Appeals*, 95 SCRA 540, 545, January 28, 1980; *Vda. de Nator v. Court of Industrial Relations*, 4 SCRA 727, 733, March 30, 1962.
- [21] 9 SCRA 440, 443, October 31, 1963, per Bautista Angelo, J.; quoted in *Diesel Construction Company, Inc., v. Jollibee Foods Corp.*, 323 SCRA 844, 854, January 28, 2000.
- [22] At the time the December 8, 1983 Order was issued, the governing rules were the 1964 Rules of Court. These

rules on civil procedure were amended by the 1997 Revised Rules of Civil Procedure.

Section 3, Rule 17 of the 1997 Revised Rules of Civil Procedure amended the above-quoted provision as follows: "SEC. 3. Dismissal due to fault of plaintiff. -- If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his evidence in chief on the complaint, or to prosecute his action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court."

[23] Paragraph 1, Section 1, Rule 63 of the 1997 Rules of Civil Procedure provides who and where to file a petition for declaratory relief, to wit: "SEC. 1. Who may file petition. -- Any person interested under a deed, will, contract or other written instrument, whose rights are affected by a statute, executive order or regulation, ordinance, or any other governmental regulation may, before breach or violation thereof, bring an action in the appropriate Regional Trial Court to determine any question of construction or validity arising, and for a declaration of his rights or duties, thereunder."

Prior to the 1997 Rules, the filing of a petition for declaratory relief was governed by paragraph 1, Section 1, Rule 64 of the Rules of Court, to wit: "SEC. 1. Who may file petition. -- Any person interested under a deed, will, contract or other written instrument, whose rights are affected by a statute, executive order or regulation, may, before breach or violation thereof, bring an action to determine any question of construction or validity arising under the instrument or statute and for a declaration of his rights or duties, thereunder."

[24] *Supra*, 567.

[25] Written by Justice Venancio D. Aldecoa Jr., with the concurrence of Justices Gloria C. Paras (Division chairman) and Regina G. Ordoñez-Benitez.

[26] CA Resolution dated September 27, 1990, p. 2; rollo, p. 166. See also CA Records, p. 270.

[27] *Esperas v. Court of Appeals*, *supra*, citing *Bachrach Corporation v. Court of Appeals*, 296 SCRA 487, 494, September 25, 1998.

[28] *Yusingco v. Ong Hing Lian*, 42 SCRA 589, December 24, 1971, per Makasiar, J. See also *Villanueva v. CA*, 285 SCRA 180, January 28, 1998; *Rasay-Lahoz v. Leonor*, 38 SCRA 47, March 23, 1971.

[29] Section 2 of PD No. 385, which took effect in 1974, provides: "No restraining order, temporary or permanent injunction shall be issued by the court against any government financial institution in any action taken by such institution in compliance with the mandatory foreclosure provided in Section 1 hereof, whether such restraining order, temporary or permanent injunction is sought by the borrower(s) or any third party or parties, except after due hearing in which it is established by the borrower and admitted by the government financial institution concerned that twenty percent (20%) of the outstanding arrearages has been paid after the filing of foreclosure proceedings.

In case a restraining order or injunction is issued the borrower shall nevertheless be legally obligated to liquidate the remaining balance of the arrearages, paying ten percent (10%) of the arrearages outstanding as of the time of foreclosure, plus interest and other charges, on every succeeding thirtieth (30th) day after the issuance of such restraining order or injunction until the entire arrearages have been liquidated. These shall be in addition to the payment of amortizations currently maturing. The restraining order or injunction shall automatically be dissolved should the borrower fail to make any of the above-mentioned payments on due dates, and no restraining order or

injunction shall be issued thereafter. This shall be without prejudice to the exercise by the government financial institutions of such rights and/or remedies available to them under their respective charters and their respective contracts with their debtors, nor should this provision be construed as restricting the government financial institutions concerned from approving, solely at its own discretion, any restructuring, recapitalization, or any other arrangement that would place the entire account on a current basis, provided, however, that at least twenty (20%) of the arrearages outstanding at the time of the foreclosure is paid.

All restraining orders and injunctions existing as of the date of this Decree on foreclosure proceedings filed by said government financial institutions shall be considered lifted unless finally resolved by the court within (60) days from date hereof." (emphasis supplied)

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