

EQUITABLE PHILIPPINE COMMERCIAL INTERNATIONAL BANK AND RAFAEL B. BUENAVENTURA, PETITIONERS, VS. HON. COURT OF APPEALS AND SANTA ROSA MINING CO., INC., RESPONDENTS.

G.R. No. 143556. March 16, 2004

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

For review on certiorari is the Court of Appeals' Decision[1] dated November 23, 1999 in CA-G.R. SP. No. 48187 and its Resolution[2] dated June 13, 2000 denying petitioners' motion for reconsideration. The Court of Appeals granted the petition for certiorari, prohibition and mandamus filed by petitioners insofar as it sought to annul the Order[3] dated March 4, 1998 of the Regional Trial Court of Quezon City, Branch 222, in Civil Case No. Q-95-25073, which denied petitioners' petition for relief from the trial court's order of default. In their motion for reconsideration, petitioners insisted that the appellate court likewise grant the prayer in their petition for certiorari, prohibition, and mandamus to make a definite ruling dismissing Civil Case No. Q-95-25073. The denial of this motion for reconsideration by the Court of Appeals is the principal subject of this petition.

The facts, as culled from records, are as follows:

On September 19, 1995, Sta. Rosa Mining Co., Inc., (hereafter Sta. Rosa), respondent herein, filed before the Regional Trial Court of Quezon City, Branch 222, a complaint for sum of money and damages against petitioners Philippine Commercial International Bank (now Equitable-PCIB), Rafael B. Buenaventura, the bank's former President, and Cynthia F. Lota (Lota, for brevity), the manager of the Cubao Branch. Sta. Rosa alleged that it lost income opportunity from its joint venture with Sa Amin sa San Jose Panganiban, Inc. (hereafter Sa Amin).

In its complaint, Sta. Rosa claimed that on October 21, 1993, it opened Savings Account No. 0453-52672-1 with PCIBANK, Cubao Branch by depositing a check amounting to P6,389,071.35 plus P100 in cash. On October 22, 1993, it informed the bank of its intention to convert its account into a savings/current/time deposit account and sought to obtain checkbooks pursuant thereto on October 26, 1993. The bank refused to issue the checkbooks allegedly due to a restraining order issued by the Securities and Exchange Commission (SEC) and supposedly furnished by a law office, enjoining the officers of Sta. Rosa from withdrawing the funds deposited under Savings Account No. 0453-52672-1. Sta. Rosa alleged further that in refusing to issue checkbooks, Lota was guilty of misrepresentation as verification with SEC showed that a copy of the SEC order was served on the bank only on October 27, 1993. Sta. Rosa further averred that the continued failure of petitioners to act decisively on the release of funds had caused undue harm and prejudice to its stockholders and the livelihood and social development projects of its joint venture partner, Sa Amin. Hence, Sta. Rosa is asking for actual damages of P9,238,800 as unrealized profits representing its 60% share of the net profits of the joint venture plus moral and exemplary damages and attorney's fees.

On October 6, 1995, petitioners filed a Motion to Dismiss on the grounds that Sta. Rosa was guilty of forum shopping and that the complaint stated no cause of action. Petitioners averred that Sta. Rosa was guilty of forum

shopping because the amount involved in the case was also the issue in Civil Case No. 6014, entitled “Sa Amin Sa Jose Panganiban, Inc. v. Sta. Rosa Mining Co., Inc.” before Regional Trial Court of Daet, Camarines Norte, Branch 39. Hence, it should have secured whatever relief before the RTC of Daet. Also, according to petitioners, Sta. Rosa had no cause of action because as judgment debtor in Civil Case No. 6014, Sta. Rosa has lost all rights over the funds deposited under Savings Account No. 0453-52672-1 since the same had already been garnished by RTC, Branch 39, in favor of the judgment creditor, Sa Amin.

Incidentally, petitioners became involved in Civil Case No. 6014 as a forced intervenor when the Daet court ordered the continuation of garnishment of the funds in Account No. 0453-52672-1 despite the temporary restraining order (TRO) and preliminary injunction issued earlier by the SEC in a case entitled “Alejandro S. Nava, et al. v. Deogenes N. Agellon” enjoining its release. Due to conflicting claims between two agencies, petitioners elevated the matter to the Court of Appeals through a petition for certiorari and prohibition in CA-G.R. SP No. 33674 seeking the annulment of the garnishment order issued by the Daet court. Petitioners refused to comply with said order due to an earlier TRO issued by the SEC. The Court of Appeals dismissed the petition and upheld the order of garnishment of the Daet court.[4]

In an Order[5] dated November 7, 1995, the RTC of Quezon City denied herein petitioners’ motion to dismiss. It noted that whether there was malice or not in their alleged defiance of the Daet court’s garnishment order which would entitle Sta. Rosa to damages could be established in the course of the trial. It also declared that Sta. Rosa did not engage in forum shopping to obtain a favorable opinion from the other court because when the Court of Appeals upheld the orders of garnishment of the Daet court directing petitioners to release the money in favor of Sa Amin, Sta. Rosa as judgment debtor in Civil Case No. 6014, in effect was able to obtain a favorable judgment which settled the case once and for all, enabling Sta. Rosa to resume its business. It likewise disagreed with petitioners’ claim that they did not violate any rights of Sta. Rosa. It added that defiance of the garnishment order had caused inconvenience not only to Sa Amin but also to Sta. Rosa, considering that the garnishment order would indirectly benefit Sta. Rosa.

On November 28, 1995, petitioners filed a Motion for Reconsideration[6] of the dismissal order, whereas Sta. Rosa filed a motion to declare petitioners in default for failure to file their Answer on November 28, 1995. In an Order[7] dated January 12, 1996, the lower court denied petitioners’ motion for reconsideration for being dilatory and pro forma but granted Sta. Rosa’s motion to declare petitioners in default. It stated that petitioners received the denial Order on November 13, 1995 and should have filed an Answer on November 28, 1995 and not a Motion for Reconsideration which reiterated the ground set forth in the Motion to Dismiss. Citing jurisprudence,[8] the court ruled that a motion for reconsideration which merely reiterates the grounds in the motion to dismiss is pro forma and will not toll the running of the period to file an Answer.

On March 5, 1996, petitioners filed a consolidated motion[9] to set aside the order of default and for reconsideration, which was denied for lack of merit on June 26, 1996.[10]

On October 14, 1996, petitioners filed a petition for relief[11] from the order of default which was also denied in an Order[12] dated March 4, 1998.

Petitioners then filed a petition for certiorari, prohibition and mandamus before the Court of Appeals, which seasonably set aside the order of default of the lower court and directed the latter to admit petitioners’ Answer and proceed to hear the case on the merits, thus:

WHEREFORE, the order of the public respondent dated March 4, 1998 is RESCINDED AND AVOIDED. Accordingly, the respondent judge, or whoever is now acting in his place and stead, is directed to grant the petition for relief filed by the petitioners, admit the petitioners’ answer, and thereafter proceed to hear the case

on the merits. Without costs.

SO ORDERED.[13]

The CA reasoned that default judgments are frowned upon, so that courts should be liberal in setting aside orders of default. It disagreed with the lower court's ruling that petitioners' motion for reconsideration was dilatory, for having been set for hearing one month and a half after its filing, and also pro forma, for merely reiterating the grounds already set forth in the motion to dismiss. The CA declared that a period of one and a half months is not unreasonable considering the subject matter of the case and that the motion was filed within the reglementary period, albeit on the last day for which the Answer should have been filed. It noted that while the motion reiterated grounds previously relied upon, it also set forth further pertinent facts and plausible arguments relative to Civil Case No. 6014, hence it cannot be deemed pro forma, much less intended to delay the inexorable march of events in this case.

Dissatisfied, petitioners filed this petition alleging that the Court of Appeals erred in its decision. According to petitioners, THE CASE A QUO SHOULD HAVE BEEN DISMISSED:

- ...AT THE FIRST INSTANCE BECAUSE STA. ROSA WAS GUILTY OF FORUM SHOPPING, CONSIDERING THERE WAS ALREADY A CASE INVOLVING THE SAME ISSUES PENDING WITH THE REGIONAL TRIAL COURT OF DAET.

- ...ON THE GROUND THAT STA. ROSA FAILED TO STATE A CAUSE OF ACTION, CONSIDERING THAT PETITIONERS COULD NOT RELEASE THE DEPOSITED AMOUNT IN QUESTION BY VIRTUE OF THE GARNISHMENT ISSUED BY BOTH THE SECURITIES AND EXCHANGE COMMISSION AND THE DAET COURT.

- ...ON THE GROUND OF RES JUDICATA, WHEN THE JUDGMENT OF THE DAET COURT WAS SATISFIED BY PETITIONER EQUITABLE-PCIB, WHICH INVOLVED THE RIGHT OF ENTITLEMENT OVER THE SAME FUNDS BEING BELATEDLY SUED UPON IN THE QUEZON CITY COURT.[14]

Briefly stated, the issues for resolution are:

- Whether or not Sta. Rosa is guilty of forum shopping in filing Civil Case No. Q-95-25073;
- Whether or not Civil Case No. Q-95-25073 should be dismissed for failure to state a cause of action; and
- Whether or not Civil Case No. Q-95-25073 should be dismissed on the ground of res judicata.

On the first issue, petitioners claim that Sta. Rosa is guilty of forum shopping when it filed a case for damages against petitioners for failure to release the funds in Savings Account No. 0453-52672-1 although the said funds were already subject of litigation in Civil Case No. 6014, where petitioners were also involved in view of the order of garnishment of the Daet court. Thus, petitioners argue that any claims for damages should have been pleaded in Civil Case No. 6014 but Sta. Rosa failed to do so, hence, such claims are deemed waived, and Sta. Rosa cannot now file another case involving the same parties, the same issues and the same object in another court.

Sta. Rosa denies the allegation of forum shopping because in the two cited cases there is no identity of parties, reliefs, or causes of action. According to Sta. Rosa, petitioners were not direct parties in the Civil Case No. 6014,

neither was Sa Amin a party in Civil Case No. Q-95-25073. Also, Civil Case No. 6014, a case for collection of money, is based on a cause of action separate and distinct from Civil Case No. Q-95-25073, which involves an action for damages.

A party is guilty of forum shopping when he repetitively avails of several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues either pending in, or already resolved adversely, by some other court.[15] For a charge of forum shopping to prosper, there must exist between an action pending in one court and another action before another court: (a) identity of parties, or at least such parties as represent the same interests in both actions; (b) identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (c) the identity of the two preceding particulars is such that any judgment rendered in the other action will, regardless of which party is successful, amount to res judicata in the action under consideration.[16]

In the cited cases, we find there is no identity of parties because the plaintiff in Civil Case No. 6014, Sta. Rosa, is not a party in Civil Case No. Q-95-25073, although both Sta. Rosa and petitioners are impleaded as parties in different capacities. In Civil Case No. 6014 petitioner PCIB (now Equitable-PCIB) is an intervenor, while Sta. Rosa is the defendant. On the other hand, in Civil Case No. Q-95-25073, Sta. Rosa is the plaintiff while petitioners are the defendants. Apparently, the parties represented different interests in these cases.

Neither is there identity of rights asserted or relief sought. In Civil Case No. 6014, Sta. Rosa is defending its right as a debtor in a collection case where petitioners are the intervenors, while in Civil Case No. Q-95-25073, Sta. Rosa is asserting its right as a depositor to file a damage suit against the defendant, now petitioner bank. Indeed, the two proceedings are far from identical so that a judgment in Civil Case No. 6014 will not amount to res judicata in Civil Case No. Q-95-25073, a matter we shall discuss later in detail.

On the second issue, petitioners contend that Sta. Rosa has no cause of action against them as there was no bad faith on their part when they refused to release the funds to Sta. Rosa since they were enjoined by the SEC from releasing the funds. Further, they were willing to release the funds in compliance with the Order of the Daet court after the denial of their petition for certiorari by the Court of Appeals were it not for the motion for reconsideration filed by SEC, among others, which prevented them from doing so.

Sta. Rosa argues that it has a cause of action for damages against petitioners as the bank's Cubao Branch Manager, Cynthia Lota, had maliciously misrepresented that she received the SEC TRO on October 25, 1993 when upon verification with the SEC, it turned out that a copy of the order was received by Lota only on October 27, 1993. Hence, for refusing to allow the withdrawal of funds deposited with petitioners, Sta. Rosa avers that its joint venture agreement with Sa Amin was prejudiced and they failed to realize the expected profits.

When a motion to dismiss is grounded on the failure to state a cause of action, a ruling thereon should be based only on the facts alleged in the complaint.[17] The rule is that only the allegations in the complaint may properly be considered in ascertaining the existence of a cause of action. Lack of cause of action must appear on the face of the complaint, and its existence may be determined only by the allegations of the complaint. Consideration of other facts is out of the question, and any attempt to prove extraneous circumstances is not allowed. Hence, the test of sufficiency of the facts found in a complaint as constituting a cause of action is whether or not, admitting the facts alleged, the court can render a valid judgment upon the same in accordance with the prayer in the complaint.[18]

In this case, for the purpose of resolving the second issue only, if the following factual allegations in the complaint are deemed admitted, Sta. Rosa might be entitled to relief, to wit: (1) On October 21, 1993, Sta. Rosa opened a savings account with petitioner PCIB Cubao branch; (2) On October 22, 1993, it conveyed its interest to

convert its savings account into savings/current/time deposit accounts; (3) Sta. Rosa sought to obtain from petitioner PCIB checkbooks but was refused allegedly due to a restraining order from SEC; (4) A verification with the SEC shows that a copy of the restraining order was received by PCIB only on October 27, 1993, 1:45 p.m.; and (5) The refusal of petitioners to issue checkbooks and to allow release of the funds prejudiced Sta. Rosa's stockholders and the livelihood and social development projects of their joint venture partner, Sa Amin.

These allegations would suffice to constitute a cause of action against petitioners. That petitioners have a valid defense is another matter. At any rate, matters such as the propriety of refusal to release the funds by petitioners and the actual date of receipt of the restraining order, among others, are matters for trial. They require evidentiary proof and support that can be better threshed out not upon a motion to dismiss but in a full blown trial on the merits. These matters, indeed, would not yet go into the question of the absence of a cause of action as a ground to dismiss.

On the third issue, petitioners claim *res judicata* since the issue of entitlement over the deposit account was finally laid to rest by virtue of petitioner bank's satisfaction of the judgment rendered by the Daet court. Sta. Rosa, however, disputes this claim and insists that petitioners failed to establish the existence of *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.[19] For a claim of *res judicata* to prosper, the following requisites must concur: (1) there must be a final judgment or order; (2) the court rendering it must have jurisdiction over the subject matter and the parties; (3) it must be a judgment or order on the merits; and (4) there must be, between the two cases, identity of parties, subject matter and causes of action.[20]

In the present case, while the first three requisites may be present, the fourth requisite is absent. As stated earlier, there is no identity of parties, subject matter and causes of action between Civil Case No. 6014 and Civil Case No. Q-95-25073. Contrary to petitioners' contention, the issue of damages in Civil Case No. Q-95-25073 could not and should not have been passed upon by the Daet court as it was not the subject matter in Civil Case No. 6014. While the deposit in Savings Account No. 0453-52672-1 was involved in both cases, causes of actions and reliefs prayed for are entirely different. Petitioners were forced to intervene in Civil Case No. 6014 because of their refusal to comply with the garnishment order on said funds in a collection case by Sa Amin against Sta. Rosa. But the petitioners became the main defendant in a damage suit filed by Sta. Rosa in Civil Case No. Q-95-25073 for the bank's alleged bad faith when it refused to issue checkbooks to the prejudice of Sta. Rosa. Indeed, the issue of damages was not involved in Civil Case No. 6014, hence, the judgment in said case by the Daet court is not conclusive and binding in Civil Case No. Q-95-25073 before the Quezon City court.

WHEREFORE, the petition is DENIED. The decision dated November 23, 1999, of the Court of Appeals in CA G.R. SP. No. 48187 ordering the lower court to admit petitioners' Answer and proceed to hear the case on the merits and the Order dated November 7, 1995 of the Regional Trial Court of Quezon City, Branch 222, denying petitioners' motion to dismiss, are AFFIRMED.

No pronouncement as to costs.

SO ORDERED.

Callejo, Sr., and Tinga, JJ., concur.

Puno, J., (Chairman), on leave.

Austria-Martinez, J., no part.

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- [1] Rollo, pp. 64-72. Penned by Associate Justice Renato C. Dacudao with Associate Justices Ma. Alicia Austria-Martinez and Salvador J. Valdez, Jr., concurring.
- [2] Id. at 80.
- [3] CA Rollo, p. 84.
- [4] CA Rollo, p. 164.
- [5] Rollo, pp. 140-141.
- [6] Id. at 142-151.
- [7] Id. at 152-154.
- [8] *Golden Country Farms, Inc. v. Sanvar Development Corporation*, G.R. No. 58027, 28 September 1992, 214 SCRA 295.
- [9] Rollo, pp. 155-162.
- [10] Id. at 163.
- [11] Id. at 164-173.
- [12] CA Rollo, p. 84.
- [13] Rollo, p. 72.
- [14] Id. at 29.
- [15] *Tantoy, Sr. v. Court of Appeals*, G.R. No. 141427, 20 April 2001, 357 SCRA 329, 333.
- [16] *Benedicto v. Court of Appeals*, G.R. No. 125359, 4 September 2001, 416 Phil. 722, 740.
- [17] *Indiana Aerospace University v. Commission on Higher Education (CHED)*, G.R. No. 139371, 4 April 2001, 356 SCRA 367, 385.
- [18] *Sarming v. Dy*, G.R. No. 133643, 6 June 2002, 383 SCRA 131, 142.
- [19] *Development Bank of the Philippines v. Court of Appeals*, G.R. No. 110203, 9 May 2001, 357 SCRA 626, 632.
- [20] *Sendon v. Ruiz*, G.R. No. 136834, 15 August 2001, 415 Phil. 376, 383.

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