CITY OF CALOOCAN, REPRESENTED BY THE HONORABLE REYNALDO O. MALONZO, IN HIS CAPACITY AS CITY MAYOR, PETITIONER, VS. COURT OF APPEALS, GOTESCO INVESTMENTS, INC., JOSE GO AND YOLAN...

G.R. No. 145004. May 03, 2006

Ponente: TINGA, J.

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TINGA, J.:

The instant petition for review assails the 12 September 2000 Resolution[1] of the Court of Appeals in CA-G.R. SP. No. 53767 entitled "Gotesco Investments, Inc., et al. v. Hon. Victorino Alvaro, et al.," which ordered the dismissal of Civil Case No. C-18337 on the ground of forum-shopping.

The undisputed facts, as found by the Court of Appeals, follow.

On 02 August 1990, the Sangguniang Panlungsod (Sanggunian) of Caloocan City passed Ordinance No. 068 s. 1990 authorizing the city mayor, then Mayor Macario Asistio, Jr. to negotiate and enter into a contract of sale of the patrimonial property of the city comprising of 22,685.82 square meters covered by TCT No. 54327. Thereafter, on 06 September 1990, Mayor Asistio, on behalf of Caloocan City, and Jose C. Go of Ever Gotesco (Gotesco), executed a Deed of Absolute Sale over the aforementioned property for P136,114,800.00.[2]

However, the Commission on Audit (COA) disapproved the Deed of Sale. Nonetheless, on motion for reconsideration, the COA approved the proposed sale on the condition that the selling price is pegged at P8,926.39 per square meter, or P182,085,078.30 for the entire property. As a consequence thereof, on 23 October 1997, the Sanggunian passed an ordinance amending Ord. No. 068, directing that an amended deed of absolute sale be executed between the City and Gotesco, the terms and conditions of which be pursuant to the COA decision. The ordinance was initially vetoed by then incumbent mayor, Reynaldo O. Malonzo (Malonzo), on the ground that since the deed of sale earlier executed was valid and subsisting it was not incumbent upon him to execute an amended deed of conveyance over the same property; the Sanggunian, however, passed Resolution No. 0609 overriding the veto.[3]

On 28 November 1997, Gotesco executed an "Express Consent to the Novation of the Deed of Absolute Sale" with an "Amended Deed of Absolute Sale" embodying the amendments prescribed by Ord. No. 0236, wherein it agreed to buy the subject property for P182,085,078.30. Mayor Malonzo received the documents but refused to sign the amended deed of sale. [4]

In an opinion dated 12 March 1998, the Department of Interior and Local Government opined that the deed of absolute sale may be registered with the Register of Deeds of Caloocan City, the registration being a mere ministerial act on the part of the latter. Thereafter, Gotesco tendered P182,085,078.30 as payment for the property, as well as P910,425.39 for transfer tax and P9,687,440.17 for real estate tax to the City Treasurer and to Malonzo but these payments were refused. In view of the refusal, Gotesco filed Civil Case No. C-18274,[5] seeking the

consignation of the purchase price and tax payments.[6]

Meanwhile, on 02 April 1998, the Land Registration Authority allowed the registration of the subject deed of sale with its appurtenant documents with the Register of Deeds, and on 15 April 1998, TCT NO. 326321 covering the subject property was issued in Gotesco's name.[7]

On 16 April 1998, Caloocan City filed a petition for prohibition with application for preliminary injunction and prayer for the issuance of a temporary restraining order before the Regional Trial Court of Caloocan, docketed as Civil Case No. C-18308.[8] During the pendency of this suit, another case, docketed as Civil Case No. C-18337,[9] was filed for annulment of sale and cancellation of title.[10]

Gotesco moved for the dismissal of Civil Case No. 18337, but its motion was denied by the trial court through its Order dated 31 July 1998.[11] A motion for reconsideration was filed by Gotesco but it was likewise denied.

On 16 July 1999, Gotesco filed a petition for certiorari with the Court of Appeals, assailing the denial of its motion to dismiss. In its Decision of 10 January 2000, the appellate court dismissed the petition.[12] Gotesco moved for reconsideration of the Decision, raising as grounds therefore that i) Caloocan City and its counsel, the City Legal Officer, are guilty of forum-shopping; ii) there exists between the parties in Civil Cases Nos. C-18274, C-18308, C-18337, the elements of litis pendentia and/or res judicata; iii) the City Legal Officer is without authority to execute the verification, as well as the certification against forum-shopping in the Complaint docketed as Civil Case No. C-18337; and iv) the trial court committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing its questioned Order.[13]

In its 12 September 2000 Resolution, the Court of Appeals reversed its earlier ruling and granted the petition, and ordered the dismissal of Civil Case No. C-18337. According to the Court of Appeals, there is identity of principal parties and causes of action between the three (3) civil cases, and those cases are intimately related and/or intertwined with one another such that the judgment that may be rendered in one, regardless of which party would be successful, would amount to res judicata. However, there was no finding of grave abuse of discretion on the part of the trial court. Lastly, the Court of Appeals ruled that the certification against forum-shopping in Civil Case No. C-18337 was defective, for not having been signed by Mayor Malonzo, the plaintiff or principal party under oath, but instead by the City Legal Officer, who was only the counsel, and not a party to the case.

According to petitioner, the Court of Appeals had no basis for reversing its earlier Decision since private respondents did not present any new evidence or novel arguments, such that their motion for reconsideration contained mere reiterations of their original submissions in their petition.[14] Petitioner insists that it is not guilty of forum-shopping since the cases it filed involved different issues and causes of action. Thus, petitioner argues, there being different causes of action, issues and objectives between the cases, it cannot be said that forum-shopping exists.[15] Likewise, there can be no res judicata among the cases since i) they have different causes of action; ii) the evidence presented in Civil Case No. C-18308 are not sufficient to sustain the cause of action in the second case; iii) there is no identity of parties; and iv) there is no identity of subject matter.[16]

For their part, respondents claim that the petition was filed out of time.[17] Also, they aver that the petition is defective in form since i) it violated the material data rule; ii) it was instituted by a non-party, Reynaldo O. Malonzo, and not by the City of Caloocan, as in fact in the attached verification, Malonzo referred to himself as the "petitioner in the above-entitled case," and there was no resolution from the City Council authorizing him to file the instant petition; and iii) petitioner failed to attach a copy of the complaint in Civil Case No. C- 18274, which is material and relevant to the instant petition.[18]

Moreover, respondents argue that the Court of Appeals is correct in ruling that forum-shopping and litis pendentia

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exist. According to them, the factual allegations in the three (3) subject cases and even the annexes attached to the complaint are practically one and the same; even the principal parties are identical. Additionally, the causes of action in C-18337 are both subject of judicial inquiry in C-18274 and C-18337, thereby rendering it dismissible on the ground of litis pendentia or res judicata.[19]

Petitioner contends that its petition was seasonably filed and perfected, and complied with the material date rule.[20] Further, said petition was filed in accordance with the powers and duties of a mayor, as per the Charter of the City of Caloocan,[21] as well as under the Local Government Code (R.A. 7160), and thus needs no authority from the Sanggunian in order to institute actions or suits on behalf of the city.[22]

The petition must be denied.

The main question before us is the propriety of the dismissal of Civil Case No. C-18337 on the ground of forum-shopping. However, before dealing with this issue, the Court shall first resolve the dispute regarding the authority of a mayor to file cases on behalf of his city.

Sec. 455 of the Local Government Code provides, among others, the powers and duties of a city mayor, thus:

> Sec. 455. Chief Executive: Powers, Duties and Compensation.- (a) The city mayor, as the chief executive of the city government, shall exercise such powers and perform such duties and functions as provided by this Code and other laws.
>
> (b) For efficient, effective, and economical governance the purpose of which is the general welfare of the city and its inhabitants pursuant to Section 16 of this Code, the city mayor shall:
>
> (1) xxx;
>
> (3) Initiate and maximize the generation of resources and revenues, and apply the same to the implementation of development plans, program objectives and priorities as provided for under Section 18 of this Code, particularly those resources and revenues programmed for agro-industrial development and countryside growth and progress and, relative thereto shall:
> xxx
>
> (ix) Institute or cause to be instituted administrative or judicial proceedings for violation of ordinances in the collection of taxes, fees or charges, and for the recovery of funds and property; and cause the city to be defended against all suits to ensure that its interests, resources and rights shall be adequately protected.
>
> xxx. (emphasis supplied)

Meanwhile, Section 9 of the Charter of the City of Caloocan provides:

> Section 9. General powers and duties of the Mayor. - The Mayor shall have immediate control over the executive and administrative functions of the different departments of the city, subject to the supervision of the President of the Philippines. He shall have the following general powers and duties:
>
> xxx
>
> (d) To cause to be instituted judicial proceedings to recover property and funds of the city wherever found, to cause to be defended all suits against the city, and otherwise to protect the interests of the city;
>
> xxx.[23]

From the foregoing, it is clear that the mayor has the authority to file suits "for the recovery of funds and property" on behalf of the city, even without the prior authorization from the Sanggunian. This conclusion is strengthened by the fact that nowhere in the enumerated powers and duties of the Sanggunian[24] can one find the

requirement of such prior authorization in favor of the mayor for the purpose of filing suits on behalf of the city. Civil Case No. C-18308 was filed by Malonzo to enjoin the registration of what he deemed to be an anomalous deed of sale, while Civil Case No. C-18337 was instituted to annul the Deed of Absolute Sale and to cancel the title issued to Gotesco. Obviously, these suits were filed, initially to preserve, and subsequently to recover, the property subject of the said suits, to protect the interests of the City of Caloocan over the said parcel of land. Thus, it can be said that the institution of Civil Cases Nos. C-18308 and C-18337 was made within the bounds of Malonzo's authority as the city mayor.

However, being the proper party to file such suits, the mayor must necessarily be the one to sign the certification against forum-shopping, and not the City Legal Officer, who, despite being an official of the City, was merely its counsel and not a party to the case. Thus, the Court of Appeals was correct in holding that the certification against forum-shopping in Civil Case No. C-18337 is defective for having been signed by the City Legal Officer and not by Malonzo. This factor alone could well have led to the dismissal of Civil Case No. C-18337.[25] However, an even more compelling reason dictates that Civil Case No. C-18337 must be dismissed at all events. This is forum-shopping.

There is forum-shopping where a litigant sues the same party against whom another action or actions for the alleged violation of the same right and the enforcement of the same relief is/are still pending. The defense of litis pendentia in one case is a bar to the other/others; and, a final judgment is one that would constitute res judicata and thus would cause the dismissal of the rest.[26] For litis pendentia to be a ground for the dismissal of an action, the following requisites must concur: (a) identity of parties, or at least such parties who 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 with respect to the two preceding particulars in the two cases is such that any judgment that may be rendered in the pending case, regardless of which party is successful, would amount to res judicata in the other case.[27]

Civil Case No. C-18308,[28] entitled "City of Caloocan represented by the Honorable City Mayor Reynaldo O. Malonzo vs. Hon. Reynaldo Y. Maulit, in his capacity as Administrator of the Land Registration Authority, Atty. Yolanda Alfonso, in her capacity as Register of Deeds of Caloocan City, and Gotesco Investments, Inc. represented by Jose C. Go, President, and Macario A. Asistio III, in his capacity as former City Mayor of Caloocan City and the named vendor in the Absolute Deed of Sale dated 06 September 1990" was a special civil action which sought to "enjoin respondents from registering the anomalous sale in 1990 in deprivation of the petitioner's right to due process," and "from proceeding and implementing the void opinions of DILG and LRA."[29] On the other hand, Civil Case No. C-18337 entitled "City of Caloocan represented by the Honorable Reynaldo O. Malonzo, in his capacity as City Mayor vs. Gotesco Investments, Inc., Jose C. Go and Yolanda O. Alfonso" seeks to annul the Deed of Absolute Sale dated 06 September 1990 executed by Mayor Asistio in favor of Gotesco; to cancel Certificate of TCT No. 326321 in the name of Gotesco; and to reinstate TCT No. 54327 in the name of Caloocan City.[30] Meanwhile, Civil Case No. C-18274, entitled "Gotesco Investments, Inc. vs. Hon. Reynaldo O. Malonzo and Carlo V. Santos," was a case for consignation with a prayer to order the City Treasurer to accept the full purchase price, full payment of transfer tax and payment for real estate taxes tendered by Gotesco.[31]

The Court finds that the cases involve the same principal parties, to wit: the City of Caloocan and Gotesco Investments, Inc., while the other parties were merely impleaded as nominal parties. As this Court has previously held, absolute identity of parties is not required. It is enough that there is substantial identity of parties.[32]

There is identity of causes of action if the same evidence will sustain the second action. The principle applies even if the relief sought in the two cases may be different. [33] Civil Cases Nos. C-18337 and C-18308 are based on

the same set of facts, that is, the failure to execute an Amended Deed of Sale pursuant to City Ordinance No. 068. On the other hand, Civil Cases Nos. 18308 and 18274 question the nature of, and the procedure undertaken in the transfer of ownership of the subject land. Basically, the same set of evidence will have to be presented to support the causes of action in the three (3) cases, which as indicated earlier is characterized by singularity. Thus, a finding in one will sustain a finding in the other. The causes of action in Civil Case No. C-18337 being similarly subject of judicial inquiry in Civil Cases Nos. C-18274 and C-18337, Civil Case No. C-18337 is dismissible on the ground of litis pendentia. Moreover, the aforesaid cases are intimately related and/or intertwined with one another such that the judgment that may be rendered in one, regardless of which party would be successful, would amount to res judicata in the other.

Litigants are reminded that parties are not allowed to pursue simultaneous remedies in two different fora. Filing multiple petitions or complaints constitutes abuse of court processes, which tends to degrade the administration of justice, wreaks havoc upon orderly judicial procedure, and adds to the congestion of the heavily burdened dockets of the courts.[34] Litigants, no matter how noble their intentions for filing such suits, and no matter their zeal in pursuing their suits, are not excused from the coverage of the rule on forum-shopping.

One last note. The adjudication of this case is without prejudice to the resolution of the issues in the consignation case, Civil Case No. C-18274, if not yet resolved already.

WHEREFORE, the petition is DISMISSED.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio Morales, and Velasco, Jr., JJ., concur.

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[1] Penned by Associate Justice Bernardo LL. Salas, with Presiding Justice Salome A. Montoya and Associate Justice Mariano M. Umali, concurring.

[2]Resolution dated 12 September 2000, rollo, pp. 82-89, 83.

[3]Id.

[4]Id.

[5] Entitled "Gotesco Investments, Inc. v. Hon. Reynaldo O. Malonzo and Carlo V. Santos."

[6]Resolution dated 12 September 2000, rollo, pp. 82-89, 84.

[7] CA rollo, pp. 80-82.

[8]Entitled "City of Caloocan represented by the Honorable City Mayor Reynaldo O. Malonzo, v. Hon. Reynaldo Y. Maulit, in his capacity as Administrator of the Land Registration Authority, Atty. Yolanda Alfonso, in her capacity as Register of Deeds of Caloocan City, and Gotesco Investments, Inc. represented by Jose Go, President, and Macario A. Asistio III, in his capacity as former City Mayor of Caloocan City" and the named vendor in the Absolute Deed of Sale dated 06 September 1990.

[9]Entitled "City of Caloocan, represented by the Honorable Reynaldo O. Malonzo, in his capacity as City Mayor v. Gotesco Investments, Inc., Jose C. Go and Yolanda O. Alfonso, in her capacity as Register of Deeds, Caloocan City."

[10] Rollo, pp.123-134.

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[11] Id. at 148-155.

[12]Id. at 94-105.

[13] Motion for Reconsideration dated 31 January 2000, id. at 202-214.

[14] Id. at 47.

[15] Id. at 50.

[16] Id. at 68-69.

[17] Id. at 521.

[18] Id. at 522-528.

[19] Id. at 532-536.

[20] Id. at 445-447.

[21]Section 9. xxx

(d) To cause to be instituted judicial proceedings to recover property and funds of the city wherever found, to cause to be defended all suits against the city, and otherwise to protect the interests of the city; . . .

[22] Rollo, pp. 561-563.

[23] R.A. No. 3278, An Act Creating the City of Caloocan, took effect on 16 January 1962.

[24]R.A. 7160, Sec. 458.

[25] Sec. 5, Rule 7 of the Revised Rules of Civil Procedure provides that failure to comply with the requirements on the certification against forum-shopping shall be cause for the dismissal of the case without prejudice unless otherwise provided, upon motion and after hearing.

[26] Korea Exchange Bank v. Gonzales, G.R. Nos. 142286-87, 15 April 2005, 456 SCRA 224, 243.

[27] G.R. No. 123686, Spouses Melo v. Court of Appeals, 376 Phil. 204, 211 (1999).

[28] For Prohibition with Application for Preliminary Injunction and Prayer for Issuance of Temporary Restraining Order.

[29]Rollo, p. 49.

[30]Id. at 49-50.

[31] Id at 50.

[32] Korea Exchange Bank v. Gonzales, G.R. Nos. 142286-87, 15 April 2005, 456 SCRA 224, 243.

[33] Id. at 244.

[34] Wee v. Galvez , G.R. No. 147394, 11 August 2004, 436 SCRA 96, 108-109.

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