

**BANGKO SENTRAL NG PILIPINAS, PETITIONER, VS. ORIENT
COMMERCIAL BANKING CORPORATION, JOSE C. GO, GEORGE C. GO,
VICENTE C. GO, GOTESCO PROPERTIES, INC., GO TONG ELECTRICAL
SUPPLY ...**

G.R. No. 148483. June 29, 2011

Ponente: VILLARAMA, JR., J.

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VILLARAMA, JR., J.:

The present petition although captioned as one for certiorari is hereby treated as a petition for review on certiorari under Rule 45, with prayer for issuance of temporary restraining order and writ of preliminary injunction. It seeks to annul and set aside the June 11, 2001 Decision[1] of the Court of Appeals (CA) in CA-G.R. SP No. 60509. The CA nullified the writs of preliminary attachment issued by the Regional Trial Court (RTC) of Manila, Branch 12 in Civil Case No. 99-95993 and ordered the dismissal of the amended complaint as against some of the named defendants.

Briefly, the facts as set forth in the CA Decision:

On February 13, 1998, herein respondent Orient Commercial Banking Corporation (OCBC) declared a bank holiday on account of its inability to pay all its obligations to depositors, creditors and petitioner Bangko Sentral ng Pilipinas (BSP).

On March 17, 1998, OCBC filed a petition for rehabilitation with the Monetary Board. The bank was placed under receivership and the Philippine Deposit Insurance Corporation (PDIC) was designated as Receiver. Pursuant to the Monetary Board's Resolution No. 1427, PDIC took over all the assets, properties, obligations and operations of OCBC. Respondent Jose C. Go, the principal and biggest stockholder of OCBC, with his affiliate companies (respondent corporations), challenged the said action of the PDIC before the RTC of Manila, Branch 44 (Civil Case No. 98-91265). Said case was dismissed and the dismissal was appealed to the CA.

During the pendency of Civil Case No. 98-91265, the Monetary Board adopted Resolution No. 602 dated May 7, 1999 directing the Receiver to proceed with the liquidation of OCBC. In June, 1999, the PDIC instituted Special Proceeding No. 99-94328 before the RTC of Manila, Branch 51 entitled "In Re: Petition for Assistance in the Liquidation of Orient Commercial Banking Corporation, Philippine Deposit Insurance Corporation, Petitioner".

On December 17, 1999, petitioner filed in the RTC of Manila (Branch 12) a complaint for sum of money with preliminary attachment (Civil Case No. 99-95993) against the respondents seeking to recover deficiency obligation owed by OCBC which then stood at P1,273,959,042.97 with interest at 8.894 % per annum, overdraft obligation of P1,028,000,000.00, attorney's fees and costs of suit.

On January 14, 2000, the RTC of Manila, Branch 12 issued an Order[2] in Civil Case No. 99-95993 granting petitioner's motion for preliminary attachment. On January 19, 2000, following the posting by petitioner of P50 million attachment bond issued by the Government Service Insurance System (GSIS), the corresponding writ was

issued ordering the Deputy Sheriffs to attach the real and personal properties of respondents to the value of petitioner's demand in the amount of P2,301,951,042.97, exclusive of interests and costs, as security for the said claim.[3]

Respondents filed with the CA a petition for certiorari questioning the aforesaid orders (CA-G.R. SP No. 60509). They also filed a consolidated motion to dismiss Civil Case No. 99-95993, which the trial court denied.[4]

On June 1, 2001, respondents filed an Urgent Motion to Resolve and/or to Issue a Temporary Restraining Order or a Writ of Preliminary Injunction. On June 11, 2001, the CA rendered the assailed decision dissolving the writ of attachment and ordering the RTC to desist from proceeding with Civil Case No. 99-95993 as against the respondents except Jose C. Go, Vicente C. Go and George C. Go. It appears, however, that a Manifestation with Motion to Admit Attached Opposition (to the Urgent Motion to Resolve and Issue a Temporary Restraining Order)[5] was filed by petitioner on June 6, 2001.

On June 27, 2001, petitioner filed a Very Urgent Manifestation[6] stating that: (1) the June 11, 2001 decision had to await finality as it was rendered without requiring the petitioner to file its comment, and because the complaint was dismissed despite massive evidence presented before the trial court on the participation of respondents in the commission of fraud against BSP; (2) of the total outstanding amount of P2,301,959,042.97 being collected by petitioner from the respondents, only P200 million was garnished and it is doubtful if the taxpayers' interest can be satisfied there being no assets that can be found in the name of respondents and no assets of OCBC were levied or garnished; and (3) petitioner had filed a Vigorous Opposition before the trial court as the respondents are prematurely implementing the CA decision, even as the petitioner still can elevate the case to this Court.

On July 2, 2001, the CA recalled its June 11, 2001 decision and granted a ten-day period for petitioner to file its comment. The ponente likewise inhibited himself from the case.[7]

On July 3, 2001, BSP filed the instant petition with the following prayer:

WHEREFORE, it is respectfully prayed that this Honorable Court:

1. Give due course to this petition.
2. Upon its filing and, before the application for the issuance of a writ of preliminary injunction is heard, order the issuance of a temporary restraining order immediately restraining the respondents from proceeding in any manner with the enforcement of the assailed decision [dated] June 11, 2001 in CA-G.R. SP No. 60509 until this petition is resolved with finality.
3. After hearing the application, order the issuance of a writ of preliminary injunction restraining the respondents from proceeding in any manner with the enforcement of the assailed decision June 11, 2001 in CA-G.R. SP No. 60509 until the instant case shall have been adjudicated on its merits.
4. After hearing the instant case on its merits, order that the writ of preliminary injunction be made permanent, nullifying the assailed decision [dated] June 11, 2001 in CA-G.R. SP No. 60509 which is sought to be reviewed and directing the resumption of the proceedings in Civil Case No. 99-95993.[8]

Respondents moved to dismiss the petition on grounds of forum shopping and submission of a defective certificate of non-forum shopping. Subsequently, petitioner filed an Omnibus Motion for clarification and for leave of court to admit comment on the motion to dismiss, to which the respondents filed their opposition. On February 22, 2002, respondents' Comment was filed and petitioner filed its Reply on July 2, 2002. On January 31, 2003, respondents filed an Urgent Motion to Lift, Quash and Dissolve the Writ of Preliminary Attachment Against the Properties of the Respondents Except Orient Commercial Banking Corporation. Petitioner filed its comment on the said motion on May 5, 2003.[9]

On January 5, 2004, petitioner filed a manifestation informing this Court that on December 16, 2003, the parties have agreed to settle their differences and executed a Compromise Agreement, which was approved by the RTC of Manila, Branch 12 on December 29, 2003. Attached to the said manifestation is the motion to approve judgment based on compromise agreement and the trial court's Order approving the same.[10]

Under the Compromise Agreement, the parties agreed to cause the dismissal of nineteen (19) pending civil cases in various courts, including the present case before this Court, CA-G.R. SP No. 60509 and Civil Case No. 95-95993, in consideration for the faithful compliance by the respondents of the agreed terms and conditions of payment of the total deficiency obligation of OCBC to petitioner amounting to Two Billion Nine Hundred Seventy-Four Million Nine Hundred Three Thousand Pesos (P2,974,903,000.00). Said outstanding indebtedness of OCBC is to be settled in the following manner:

A. A downpayment shall be made by the defendants through the DACION of certain real estate properties more particularly described in Annex "B" hereof.

a i)

The parties shall execute separate DEEDS OF DACION over the real estate properties described in Annex "B" upon the execution of the Agreement;

a ii)

All Capital Gains Tax on the properties for DACION shall be payable by the defendants but Documentary Stamp Tax, Transfer Tax and all registration fees on the DACION shall for the account of plaintiff.

B. The balance remaining after the DACION of the real estate properties shall be paid by the defendants within a period of ten (10) years but extendible for another five (5) years provided that the defendants shall religiously comply with the amortization schedule (Annex "C" hereof) for a continuous period of two (2) years from date of first amortization.

b i)

The foregoing outstanding balance shall be charged interest at 91-day T-bill rate upon execution of this Compromise Agreement repriced every three (3) months for a period of 10 years and payable monthly in arrears.

C. Additional Properties for Execution

c i)

To ensure payment of the monthly amortizations due under this Compromise Agreement, defendants Ever Crest Golf Club Resort, Inc. and Mega Heights, Inc. have agreed to have its real properties with improvements covered by TCT Nos. T-68963, T-68964, T-68966 and TDs ARPN-AA-17023-00582 and AA-17023-0058 shall be subject of existing writ of attachment to secure the faithful payment of the outstanding obligation herein mentioned, until such obligation shall have been fully paid by defendants to plaintiff.

c ii)

That all the corporate approvals for the execution of this Compromise Agreement by Ever Crest Golf Club Resort, Inc. and Mega Heights, Inc. consisting of stockholders resolution and Board of Directors approval have already been obtained at the time of the execution of this Agreement.

c iii)

Failure on the part of the defendants to fully settle their outstanding obligations and to comply with any of the

terms of this Compromise Agreement shall entitle the plaintiff to immediately ask for a Writ of Execution against all assets of the Ever Crest Golf Club Resort, Inc. and Mega Heights, Inc. now or hereafter arising from the signing of this Compromise Agreement.

x x x x

III. FUNDS UNDER GARNISHMENT

III i) The parties agreed that the existing funds under garnishment with Land Bank of the Philippines and PCI-Equitable Bank shall be subject of the following disposition:

(a)

75% of the total garnished amounts shall be released to defendants net of reimbursement for the expenses incurred by plaintiff involving the prosecution of this case with RTC-Manila, Branch 12 prior to the execution date of this Compromise Agreement.

(b)

25% of the total garnished amounts shall be paid and applied to defendants' amortizations per Annex "C".

III ii) Insofar as the garnishments on the rentals and all other income or revenues on the malls owned and operated by the defendants, the same shall continue to guarantee the stipulated amortization due from the defendants per the amortization schedule.[11]

A compromise agreement intended to resolve a matter already under litigation is a judicial compromise. Having judicial mandate and entered as its determination of the controversy, such judicial compromise has the force and effect of a judgment. It transcends its identity as a mere contract between the parties, as it becomes a judgment that is subject to execution in accordance with the Rules of Court.[12]

With the final settlement of the claims of petitioner against herein respondents, the issues raised in the present petition regarding the propriety of the issuance of writ of attachment by the trial court and the grave abuse of discretion allegedly committed by the appellate court in reversing the orders of the trial court, have now become moot and academic. "A moot and academic case is one that ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon would be of no practical use or value." [13] In such cases, there is no actual substantial relief to which petitioner would be entitled to and which would be negated by the dismissal of the petition.[14]

WHEREFORE, the petition is DENIED for being moot and academic. The case is hereby REMANDED to the Regional Trial Court of Manila, Branch 12 for continuation of proceedings to implement the Compromise Agreement in Civil Case No. 99-95993 dated December 22, 2003 approved by said court on December 29, 2003.

No costs.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Del Castillo, JJ., concur.

[1] Rollo (Vol. I), pp. 78-117. Penned by Associate Justice Bienvenido L. Reyes with Associate Justices Eubulo G. Verzola and Jose L. Sabio, Jr. concurring.

[2] CA rollo, pp. 419-426. Penned by Judge (now Associate Justice of the Court of Appeals) Rosmari D.

Carandang.

[3] Id. at 427-429.

[4] Id. at 477-489.

[5] Id. at 575-585.

[6] Id. at 601-614.

[7] Id. at 618-622.

[8] Rollo (Vol. I), pp. 63-64.

[9] Id. at 1060-1071, 1083-1103, 1153-1178, 1215-1231, 1433-1453 and Rollo (Vol. II), pp. 1479-1501.

[10] Rollo (Vol. II), pp. 1745-1761 and 1779-1780.

[11] Id. at 1754-1755 and 1757.

[12] *Rañola v. Rañola*, G.R. No. 185095, July 31, 2009, 594 SCRA 788, 794.

[13] See *Lacson v. MJ Lacson Development Company, Inc.*, G.R. No. 168840, December 8, 2010, p. 10, citing *Integrated Bar of the Philippines v. Atienza*, G.R. No. 175241, February 24, 2010, 613 SCRA 510, 522-523.

[14] *Chuidian v. Sandiganbayan*, G.R. Nos. 156383 & 160723, July 31, 2006, 497 SCRA 327, 344.

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