

PCI LEASING & #038; FINANCE, INC., PETITIONER, VS. SPOUSES GEORGE M. DAI AND DIVINA DAI, RESPONDENTS.

G.R. No. 148980. September 21, 2007

Ponente: CARPIO MORALES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-148980/>

CARPIO MORALES, J.:

Respondents, spouses George and Divina Dai, obtained a loan on June 16, 1994 from petitioner, PCI Leasing and Finance, Inc., evidenced by a promissory note[1] for the sum of P3,352,892 payable in monthly installments of P152,265 starting on July 16, 1994. The proceeds of the loan partly financed the purchase by respondents of a vessel-fishing boat which was named “F/B Sea Doll.” To secure the payment of the loan, respondents executed a chattel mortgage[2] over the vessel in favor of petitioner.

Both the promissory note and the chattel mortgage provided that, in case of failure to pay the installments or interest due thereon, the entire amount remaining unpaid shall immediately become due and payable.[3]

Respondents failed to pay the second and third installments which fell due on August 16, 1994 and September 16, 1994, respectively, prompting petitioner to file on October 27, 1994 before the Regional Trial Court (RTC) of Cebu City a complaint for replevin and damages, docketed as Civil Case No. CEB-16691, praying that the trial court:

- . . . issue a writ of replevin ordering the seizure of the vessel xxx complete with all its accessories and equipments [sic], together with the registration certificate and direct the delivery thereof to plaintiff in accordance with law and after due hearing, declare that plaintiff is entitled to the possession of the vessel and confirm its seizure and delivery to plaintiff;
- In the event that manual delivery of the said vessel cannot be effected, . . . render judgment in favor of plaintiff and against defendants ordering them to pay the plaintiff, the sum of P3,502,095.00 plus interest and penalty thereon from October 12, 1994 until fully paid as provided in the Promissory Note [;]
- In either case, . . . order defendants to pay jointly and severally the sum of P1,225,733.25 as attorney’s fees and liquidated damages, plus bonding fees and other expenses incurred in the seizure of the said vessel which will be proved during the trial.[4] (Emphasis and underscoring supplied)

In their Answer, respondents claimed that, inter alia, the possession of the vessel including its registration certificate had been surrendered to petitioner before the filing of the complaint. Respondents thus prayed for the award of damages and attorney’s fees by way of Counterclaim.

Following the filing by respondents of their Answer, petitioner foreclosed the chattel mortgage and bought the vessel at the public auction conducted on January 13, 1995 for P2,000,000.[5] A Certificate of Sale of the vessel in favor of petitioner was subsequently issued on January 16, 1995.

More than eight months later or on September 29, 1995, the Pre-trial of the case was conducted during which the following were defined as issues:

- Whether or not [petitioner] is entitled to recover damages from the [respondents]; and
- Whether or not [respondents] are entitled to recover damages in accordance with their counterclaim.[6]

By Decision[7] of February 3, 1997, Branch 58 of the Cebu RTC resolved both issues in the negative in this wise:

The evidence further shows that defendants were not able to pay off their obligation to plaintiff due to the fact that their fishing area in Batanes and their boat were badly damaged. Defendants in fact informed plaintiff of their predicament by sending plaintiff a copy of a letter explaining such predicament (Exh. "2"). There was no bad faith on defendants' part when they failed to comply with their obligation.

The Court is convinced that plaintiff is not entitled to recover from defendants attorney's fees and liquidated damages in the sum of P1,225,733.25. "In determining whether a penalty clause is 'iniquitous and unconscionable,' a court may very well take into account the actual damages sustained by a creditor who has been compelled to sue the defaulting debtor x x x." (Pacific Mills, Inc. vs. Court of Appeals, G.R. No. 87182, February 17, 1992, 206 SCRA 317, 327) No substantial damage having been sustained by plaintiff as it already had in its possession the certificate of registration of the vessel and had in fact foreclosed the mortgage on said vessel, its claim for attorney's fees and liquidated damages must fail.

On the second issue –

Defendants have not presented sufficient and convincing evidence to support their claim for moral and exemplary damages and attorney's fees. Hence, said claim is hereby denied for lack of merit.[8] (Emphasis and underscoring supplied)

Accordingly, the trial court dismissed the parties' respective claims for damages and attorney's fees. No appeal having been taken from the trial court's decision, it became final and executory.

More than a year and a half following the promulgation by the trial court of its decision in Civil Case No. CEB-16691 or on August 26, 1998, petitioner filed a complaint[9] for deficiency judgment and/or collection of sum of money before the Cebu RTC where it was docketed as Civil Case No. CEB-22585. In its complaint, petitioner alleged, inter alia, as follows:

x x x x

- Subsequent to the aforesaid sale the outstanding obligation of defendants to the plaintiff, inclusive of interest, and net of its P2,000,000.00, representing the proceeds of the aforesaid sale of the mortgaged property is Philippine Pesos: Nine Hundred Sixty-One Thousand (P961,000.00) as of January 16, 1995 exclusive of cost of suit and collection expenses;
- Payment of the aforesaid outstanding obligation representing the deficiency claims of the plaintiff arising from the said promissory note (Annex "A") is now long overdue but defendants failed and refused and still fail and refuse to pay the same despite demand from plaintiff;
- It is expressly stipulated in the promissory note (Annex "A") that in case the same is referred to an attorney-at-law for collection defendants shall pay attorney's fees in a sum equivalent to ten percent (10%) of the amount due and twenty-five percent (25%) of the total amount due as liquidated damages aside from expenses of collection an[d] costs of suit which amount is equivalent to P336,350.00[.]

x x x x[10] (Underscoring supplied)

Petitioner thus prayed that the court render judgment in its favor and against respondents, ordering them to pay.

- The amount of P961,000.00 representing the outstanding obligation of the defendants to the plaintiff exclusive of interest, and net of the proceeds of the aforesaid sale of the mortgaged property plus interest from

January 16, 1995;

- The amount of P336,350.00 as attorney's fees and liquidated damages;
- The costs of suit and collection expenses.

x x x x[11] (Underscoring supplied)

In their Answer[12] to the complaint in Civil Case No. CEB-22585, respondents pleaded bar by prior judgment[13] and Article 1484 of the Civil Code[14] which provides:

Art. 1484. In a contract of sale of personal property the price of which is payable in installments, the vendor may exercise any of the following remedies:

- Exact fulfillment of the obligation, should the vendee fail to pay;
- Cancel the sale, should the vendee's failure to pay cover two or more installments;
- Foreclose the chattel mortgage on the thing sold, if one has been constituted, should the vendee's failure to pay cover two or more installments. In this case, he shall have no further action against the purchaser to recover any unpaid balance of the price. Any agreement to the contrary shall be void. (Underscoring supplied)

By Decision of November 22, 1999, Branch 58 of the Cebu RTC, the same branch and presided by the same judge which decided Civil Case No. CEB-16691, dismissed Civil Case No. CEB-22585 in this wise:

It is . . . apparent that plaintiff's present action for deficiency judgment is barred by the prior judgment in CEB-16691. The parties and the cause of action in CEB-16691 and the instant case are the same. Plaintiff's prayer in CEB-16691 is in the alternative. Having availed of foreclosure of the chattel mortgage, plaintiff cannot anymore come to court again and avail of its second alternative prayer. The instant case should, therefore, be dismissed. (Section 1(f), Rule 16, 1997 Rules of Civil Procedure).

Parenthetically, let it be noted [that] in CEB-16691, plaintiff had foreclosed the mortgage and a certificate of sale was issued in its favor even before the pre-trial conference therein was conducted. Plaintiff did not make any move to amend the pre-trial order which limited the issues to be resolved therein to the damages claimed by the parties.[15] (Emphasis and underscoring supplied)

On appeal, the Court of Appeals, by Decision[16] dated March 12, 2001, brushed aside respondents' invocation of Article 1484 of the Civil Code on the ground that the same applies only to a case of sale of [personal] property payable in installments which is secured by a chattel mortgage between the vendor and the vendee over the thing sold,[17] citing Bicol Savings & Loan Association v. Guinhawa.[18]

The appellate court nevertheless affirmed the decision of the trial court on the ground of res judicata. Thus it held:

. . . [I]t is clear that appellant's present claim for deficiency judgment is among those matters which could have been adjudged in CEB-16691. While that earlier case is for replevin and damages, the appellant during the pendency of that case had extrajudicially foreclosed the chattel mortgage and the Certificate of Sale had been issued to it by the Provincial Sheriff as the highest bidder. Appellant after realizing the amount of P2,000,000.00 from the proceeds of the foreclosure sale, could have prayed for a deficiency judgment in the same action as in fact it pursued its claim for attorney's fees and liquidated damages therein, which claim was however, dismissed by the trial court. Appellant, however, did not press any demand for such deficiency judgment in said case and instead filed this present suit for deficiency judgment long after the trial court rendered judgment in the earlier case. It cannot, however, evade the application of res judicata by varying the form of its action herein since the causes of action in the first case and in the present suit are clearly identical[.] The same evidence which is necessary to sustain the second action would have been sufficient to authorize a recovery in the first, even if the forms or nature of the two actions are different. That appellant's cause of

action as such creditor-mortgagee of the defendant-appellees had already been fully determined and tried in the earlier case would have been sufficient to put an end to litigation of such claim or demand. The principle of res judicata is based on the salutary public policy against unnecessary multiplicity of suits. Indeed, it is to the interest of the public that there should be an end to litigation by the parties over a subject fully and fairly adjudicated, and an individual should not be vexed twice for the same cause.[19] (Underscoring supplied)

Its Motion for Reconsideration[20] having been denied by the appellate court,[21] petitioner filed the present Petition for Review[22] raising the issue of “whether or not a judgment in a replevin case and/or delivery of personal property would bar a subsequent action for deficiency judgment.”[23]

For res judicata 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 second actions, identity of parties, of subject matter and cause of action.[24]

Petitioner denies the existence of identity of causes of action between the replevin case and the case for deficiency judgment or collection of sum of money, thus:

Being a preparatory action for the foreclosure of the mortgage, necessarily therefore, the claim of the petitioner (deficiency judgment) which is the subject of Civil Case No. CEB-22585 was not yet covered or an issue in the said civil case. The deficiency claim of the petitioner is only determined after the extrajudicial foreclosure.

In this connection, Section 9 of Rule 60 of the 1997 Rules of Civil Procedure categorically defines or limits the judgment or decision that may be rendered by the court in an action for replevin, thus:Section 9. Judgment. – After trial of the issues, the court shall determine who has the right of possession to and the value of the property and shall render judgment in the alternative for the delivery thereof to the party entitled to the same, or for its value in case delivery can not be made and also for such damages as either party may prove, with costs.

Careful reading of the above-quoted procedural law would show that it does not authorize the court to render judgment on the deficiency after foreclosure.[25] (Underscoring supplied)

Petitioner’s position fails.

Petitioner ignores the fact that it prayed in the replevin case that in the event manual delivery of the vessel could not be effected, the court “render judgment in its favor by ordering [herein respondents] to pay . . . the sum of P3,502,095.00 plus interest and penalty thereon from October 12, 1994 until fully paid as provided in the Promissory Note.”[26]

Since petitioner had extrajudicially foreclosed the chattel mortgage over the vessel even before the pre-trial of the case, it should have therein raised as issue during the pre-trial the award of a deficiency judgment. After all, the basis of its above-stated alternative prayer was the same as that of its prayer for replevin – the default of respondents in the payment of the monthly installments of their loan.[27] But it did not.

Section 49 of Rule 39 of the 1964 Rules of Court, which governed petitioner’s complaint for replevin filed on October 27, 1994, and which Section is reproduced as Section 47 of the present Rules, reads:

SEC. 49. Effect of judgments or final orders. – The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:

- In case of a judgment or final order against a specific thing, or in respect to the probate of a will, or the administration of the estate of a deceased person, or in respect to the personal, political, or legal condition or status of a particular person or his relationship to another, the judgment or final order is conclusive upon the

title to the thing, the will or administration, or the condition, status or relationship of the person; however, the probate of a will or granting of letters of administration shall only be prima facie evidence of the death of the testator or intestate;

- In other cases, the judgment or final order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity; and

- In any other litigation between the same parties or their successors in interest, that only is deemed to have been adjudged in a former judgment or final order which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto. (Emphasis and underscoring supplied)

Paragraph (a) is the rule on res judicata in judgments in rem. Paragraph (b) is the rule on res judicata in judgments in personam. Paragraph (c) is the rule on conclusiveness of judgment.[28]

Petitioner contends that Section 9 of Rule 60 of the 1997 Rules of Court which reads:

Sec. 9. Judgment. – After trial of the issues, the court shall determine who has the right of possession to and the value of the property and shall render judgment in the alternative for the delivery thereof to the party entitled to the same, or for its value in case delivery cannot be made, and also for such damages as either party may prove, with costs,

does not authorize the court to render judgment on the deficiency after foreclosure, citing *BA Finance Corp. v. CA*. [29]

But replevin is, as the above-cited *BA Finance Corp.* case holds, usually described as a mixed action.

Replevin, broadly understood, is both a form of principal remedy and of a provisional relief. It may refer either to the action itself, i.e., to regain the possession of personal chattels being wrongfully detained from the plaintiff by another, or to the provisional remedy that would allow the plaintiff to retain the thing during the pendency of the action and hold it pendente lite. The action is primarily possessory in nature and generally determines nothing more than the right of possession. Replevin is so usually described as a mixed action, being partly in rem and partly in personam – in rem insofar as the recovery of specific property is concerned, and in personam as regards to damages involved. As an “action in rem,” the gist of the replevin action is the right of the plaintiff to obtain possession of specific personal property by reason of his being the owner or of his having a special interest therein. (Citations omitted, italics in the original, underscoring supplied)

Petitioner’s complaint for replevin was doubtless a mixed action – in rem with respect to its prayer for the recovery of the vessel, and in personam with respect to its claim for damages. And it was, with respect to its alternative prayer, clearly one in personam.

Following paragraph (b) of Section 49, Rule 39 of the 1964 Rules of Court, now 47 of Rule 39 of the present Rules, petitioner’s second complaint is unquestionably barred by res judicata.[30]

WHEREFORE, the petition is DENIED.

Costs against petitioner.

SO ORDERED.

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

[1] RTC records, p. 07.

[2] Id. at 08-11.

[3] Id. at 07, 10.

[4] CA rollo, p. 31.

[5] RTC records, p. 12; CA rollo, pp. 32, 36.

[6] CA rollo, p. 35.

[7] Id. at 30-37.

[8] Id. at 37.

[9] RTC records, pp. 01-06.

[10] Id. at 03-04.

[11] Id. at 04-05.

[12] Id. at 15-19.

[13] Id. at 17.

[14] Ibid.

[15] Id. at 71.

[16] Penned by Court of Appeals Associate Justice Martin S. Villarama, Jr. with the concurrences of Associate Justices Conrado M. Vasquez, Jr. and Perlita J. Tria Tirona. CA rollo, pp. 40-44.

[17] Id. at 43.

[18] The Court held in this case:

x x x The conclusion x x x reached by the lower court was erroneous because in the case at bar, the obligation contracted by the principal debtor (Depositario) with a solidary co-maker (private respondent herein), was one of loan secured by a chattel mortgage, executed by the principal debtor, and not a sale where the price is payable on installments and where a chattel mortgage on the thing sold was constituted by the buyer and, further, the obligation to pay the installments having been guaranteed by another. (Underscoring supplied) G.R. No. 62415, August 20, 1990, 188 SCRA 642, 646. Vide CA rollo, p. 43.

[19] Id. at 43-44.

[20] Id. at 45-50.

[21] Id. at 52.

[22] Rollo, pp. 08-19.

[23] Id. at 14.

[24] Development Bank of the Philippines v. Court of Appeals, G.R. No. 110203, May 9, 2001, 357 SCRA 626, 633.

[25] Rollo, p. 16.

[26] CA rollo, p. 31, underscoring supplied.

[27] Id. at 30-31. Vide Servicewide Specialists, Inc. v. Court of Appeals, 376 Phil. 602, 612 (1999): “When the mortgagee seeks a replevin in order to effect the eventual foreclosure of the mortgage, it is not only the existence of, but also the mortgagor’s default on, the chattel mortgage that, among other things, can properly uphold the right to replevy the property.”

[28] Regalado, REMEDIAL LAW COMPENDIUM, Vol. I.

[29] G.R. No. 102998, July 5, 1996, 258 SCRA 102, 110-111.

[30] Aguila v. J.M. Tuazon & Co., Inc., G.R. No. L-24223, February 23, 1968, 22 SCRA 690, 693-694; Viray v. Mariñas, et al., 151 Phil. 148, 152-153 (1973).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.