# CHINA BANKING CORPORATION, PETITIONER, VS. HELEN IGONIA, ALBERTO IGONIA, EDWIN IGONIA, ALVIN IGONIA AND SERGIO IGONIA, JR., RESPONDENTS.

*G.R. NO. 148997. July 12, 2007*

Ponente: AZCUNA, J.

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**AZCUNA, J.:**

This is a petition for review on certiorari under Rule 45 of the Rules of Court, as amended, challenging the Decision[1] of the Court of Appeals (CA) in CA-G.R. SP No. 60671 dated January 8, 2001, and its Resolution[2] dated July 10, 2001, denying the motion for reconsideration thereof. The assailed decision dismissed the petition for certiorari and prohibition under Rule 65 of the 1997 Rules of Civil Procedure and affirmed the Order[3] of the Regional Trial Court (RTC), Branch 93 of San Pedro, Laguna, in denying petitioner's motion to dismiss.

The subject of this controversy is part of a property originally known as Lot 78, Block 40, Plan NR-224 located at barangay San Vicente, San Pedro, Laguna with an area of 649 square meters. Eventually, the land was subdivided into Lot 78-A, covering an area of 581 sq. m., while Lot 78-B measured 68 sq. m. The lots later became the objects of an extrajudicial settlement and partition[4] among the legal heirs of Teodora Pili, who died intestate on December 20, 1960.

The deed of extrajudicial settlement was made and executed by the following persons:

> AMBROSIO IGONIA, of legal age, Filipino, married to Fe Lasan; LUISA O. IGONIA, of legal age, Filipino, surviving spouse of the late Sergio Igonia, widow; ALFONSO IGONIA, of legal age, Filipino, single; LORNA IGONIA, of legal age, Filipino, single; CORAZON IGONIA, of legal age, Filipino, married to Ireneo; MARIA VICTORIA, HELEN, ALBERTO, ENRICO, EDWIN, ALVIN & SERGIO, JR., all surnamed IGONIA, all minors and represented by their maternal guardian LUISA O. IGONIA; ANA IGONIA, of legal age, Filipino, WIDOW; MARTA IGONIA, of legal age, Filipino, married to Arcadio Ramirez;

all with residence and postal address at San Pedro, Laguna x x x[5]

In the deed of extrajudicial settlement, the parties agreed to divide the entire estate in the ensuing proportions:

> - To Ambrosio Igonia shall belong Lot 77, Block 40, Nr-224 consisting of 436 square meters & Lot 78-B, Block 40, Nr-224 consisting of 68 square meters;
>
> - To Luisa O. Igonia for herself and in behalf of the minor children Maria Victoria, Helen, Alberto, Enrico, Edwin, Alvin, & Sergio, Jr., all surnamed Igonia as their natural guardian shall belong Lot 78-A, Block 40, Nr-224, consisting of 581 square meters[6]

Respondents are children of Sergio Igonia, Sr., who inherited the property left by their grandmother, Teodora Pili, in representation of their deceased father.

On October 10, 1997, the spouses Ireneo V. Dizon and Maria Pilar Corazon O. Dizon, the latter being the

daughter Luisa O. Igonia, mortgaged Lot 78-A to petitioner China Banking Corporation as security for a loan in the amount of P1,200,000 allegedly without respondents' knowledge and consent. For failure to pay the principal amount of the obligation and the accrued interests, petitioner filed a petition for extrajudicial foreclosure of real estate mortgage before the RTC of San Pedro, Laguna on April 4, 1999.[7] Forthwith, a Notice of Extrajudicial Sale[8] was issued by the RTC of San Pedro, Laguna dated April 12, 1999 and signed by Juliet V. Ibana.[9] The public auction was scheduled on June 8, 1999 at 10 a.m. at the Office of the Provincial Sheriff of Laguna, Branches XXXI and XCIII in San Pedro, Laguna.

On May 3, 1999, respondents filed a complaint for Annulment of Title and Mortgage and Damages with Prayer for Preliminary Mandatory Injunction/Temporary Restraining Order against Luisa O. Igonia, petitioner China Banking Corporation, and Clerk of Court Ex-Oficio Sheriff Juliet V. Ibana. The case was docketed as Civil Case No. SPL-0479. Respondents alleged that through fraud, deceit, and misrepresentation, Luisa maneuvered to have their undivided inheritance, Lot 78-A, registered solely in her name on July 25, 1988 as evidenced by Transfer Certificate of Title (TCT) No. T-169642.[10] Respondents claimed that the deed of real estate mortgage is effective only with respect to the share of Luisa but is null and void with respect to the other half rightfully belonging to respondents. Respondents further added that they had not given any authority, verbal or in writing, for Luisa to enter into a contract of mortgage,[11] for and on behalf of the spouses Dizon, covering their share in favor of petitioner.

On June 8, 1999, the RTC, Branch 93, of San Pedro, Laguna, issued an Order[12] denying the application for preliminary mandatory injunction.

On June 9, 1999, petitioner filed before the trial court a motion to dismiss[13] on the ground that the complaint failed to state any cause of action against the bank. Thereafter, respondents filed a timely Opposition[14] to the motion to dismiss.

The trial court denied petitioner's motion to dismiss in an Order[15] dated May 18, 2000 on the ground that petitioner was deemed to have hypothetically admitted all the factual allegations in the complaint. A motion for reconsideration was filed by petitioner but this was denied by the RTC in an Order[16] dated July 24, 2000.

Not satisfied, petitioner filed a petition for certiorari and prohibition under Rule 65 of the 1997 Rules of Civil Procedure, as amended, with prayer for the issuance of writ of preliminary injunction and/or temporary restraining order before the CA.

On January 8, 2001, the CA dismissed the petition for certiorari and prohibition. In doing so, the appellate court explained that the denial of the motion to dismiss was an exercise of sound discretion and fair sense of judgment in disposing cases not on the basis of technicality. Moreover, the CA ruled that the allegation that the complaint stated no cause of action against petitioner was misplaced. It clarified that although the complaint showed Luisa as the main defendant, petitioner cannot alienate or extricate itself from being impleaded as it stood to be benefited or injured in the outcome of the main case. Lastly, the CA pronounced that the order denying the motion to dismiss was interlocutory in nature; thus, it cannot be the subject of a petition for certiorari.

Hence, the present petition.

Petitioner anchors its petition on the following grounds:

> I
>
> THE HONORABLE COURT OF APPEALS HAS DECIDED A QUESTION OF SUBSTANCE NOT IN ACCORD WITH THE RESOLUTE DECISIONS OF THIS HONORABLE COURT AS IT ERRONEOUSLY ALLOWED THE TRIAL COURT TO IGNORE THE WELL-ENTRENCHED RULE THAT THE DEEMED


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> HYPOTHETICAL ADMISSION OF THE COMPLAINT WHEN A MOTION TO DISMISS "FOR FAILURE TO STATE A CAUSE OF ACTION" IS FILED, IS OBSEQUIOUS TO ESTABLISHED EXCEPTIONS FOR WHICH, A MORE JUDICIOUS RESOLUTION OF THE MOTION TO DISMISS SHOULD BE OBSERVED.
>
> II
>
> THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN RULING THAT PETITIONER CANNOT ALIENATE OR EXTRICATE ITSELF FROM BEING IMPLEADED IN THE CASE BEFORE THE TRIAL COURT, THROUGH THE MOTION TO DISMISS, THEREBY PROMOTING IN EFFECT THE LEGALLY PROSCRIBED COLLATERAL ATTACK OF A TORRENS TITLE.[17]

Anent the first issue, petitioner reasons that the complaint, claiming fraud, deceit, and misrepresentation, is solely leveled against Luisa O. Igonia. Added to this is the fact that petitioner was not charged jointly and solidarily with Luisa. Petitioner emphasizes that the complaint dwells on claims directed exclusively to Luisa.

Anent the second issue, petitioner would persuade this Court that it could not have been part of the insinuated fraud, deceit, and misrepresentation allegedly committed by Luisa. It argues that should the complaint for annulment of title be allowed, the Court would be allowing collateral attack on the certificate of title. Furthermore, petitioner contends that it is a mortgagee in good faith because it found no encumbrance on the title or any flaw therein. Lastly, it avows that respondents are estopped from denying the title of their mother, Luisa, because a TCT was issued in her name and the subject property was already previously mortgaged to different banks and financial institutions before it was hypothecated in favor of the petitioner.

Respondents, on the other hand, argue that the questioned orders of the court a quo are interlocutory in nature and that no grave abuse of discretion has been shown to exist in their issuance.

Furthermore, respondents contend that petitioner is here raising questions of facts which is improper in a petition under Rule 45 of the Rules of Civil Procedure allowing only questions of law.

The petition fails.

The CA rightly held that no grave abuse of discretion attended the trial court's denial of petitioner's motion to dismiss.

As the appellate court pointed out:

> - The trial court denied plaintiff' s application for a preliminary mandatory injunction to restrain and enjoin defendant from proceeding with the extrajudicial foreclosure sale.
>
> - The allegations in the complaint, while directed at Luisa O. Igonia as the main defendant, are sufficient to support the inclusion of petitioner bank since it stands to be benefited or injured by the outcome of the case, thus falling under the concept of a real party in interest under Sec. 2 of Rule 3 of the 1997 Rules of Civil Procedure.
>
> - An order denying a motion to dismiss is interlocutory and the remedy is to file an answer and proceed to trial unless the same is attended by a patent grave abuse of discretion, which has not been shown in this case.

Furthermore, the other issues raised by petitioner are indeed either factual in nature or best addressed in a full-blown trial with all the parties being afforded the opportunity to present and ventilate their respective submissions.

In fine, the Court rules that the CA has not been shown to have erred in rendering its assailed decision and resolution.


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WHEREFORE, the petition is DENIED for lack of merit.

Costs against petitioner.

**SO ORDERED.**

Puno, C.J., (Chairperson), Corona, and Garcia, JJ., concur.
Sandoval-Gutierrez, J., on leave.

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[1] Penned by Associate Justice Juan Q. Enriquez, Jr., with Associate Justices Ruben T. Reyes (now the Presiding Justice of the Court of Appeals) and Presbitero J. Velasco, Jr. (now an Associate Justice of the Supreme Court), concurring. Rollo, pp. 46-52.

[2] Penned by Associate Justice Juan Q. Enriquez, Jr., with Associate Justices Presbitero J. Velasco, Jr. (now an Associate Justice of the Supreme Court) and Bienvenido L. Reyes, concurring. Id. at 52-55.

[3] Penned by Judge Francisco Dizon Pano. Id. at 93.

[4] Id. at 61-62.

[5] Id. at 61.

[6] Id.

[7] See Id. at 74-76.

[8] Id. at 77.

[9] Juliett V. Ibana in some Annexes.

[10] Rollo, pp. 63-67.

[11] Id. at 68-73.

[12] Id. at 78-81.

[13] Id. at 82-89.

[14] Id. at 90-92.

[15] Id. at 93.

[16] Id. at 116.

[17] Id. at 13.


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