SPOUSES RODOLFO CARPIO AND REMEDIOS ORENDAIN, PETITIONERS, VS. RURAL BANK OF STO. TOMAS (BATANGAS), INC., RESPONDENT.

G.R. NO. 153171. May 04, 2006

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Before us for resolution is the instant Petition for Review on Certiorari[1] assailing the Decision[2] dated September 28, 2001 of the Court of Appeals in CA-G.R. SP No. 58995, and its Resolution dated April 2, 2002, denying the Motion for Reconsideration.

The facts are:

On May 17, 1999, spouses Rodolfo Carpio and Remedios Orendain, petitioners, filed with the Regional Trial Court (RTC), Branch 83, Tanauan, Batangas, a Complaint (for annulment of foreclosure sale and damages) against the Rural Bank of Sto. Tomas, Batangas, Inc., respondent, and Jaime Ozaeta, clerk of court and ex-officio sheriff of the same court. In their Complaint, petitioners alleged that they are the absolute owners of a parcel of land with an area of 19,405 square meters, more or less, located at Barangay San Vicente, Sto. Tomas, Batangas. On May 30, 1996, they obtained a loan from respondent bank in the amount of P515,000.00, payable on January 27, 1996. To secure the loan, they executed on May 30, 1996 a real estate mortgage over the same property in favor of respondent bank. On July 26, 1996, without prior demand or notice to petitioners, respondent bank filed a Petition for Extra-Judicial Foreclosure of Mortgage. On September 26, 1996, sheriff Jaime Ozaeta conducted a public auction sale of the mortgaged property. Respondent bank was the only bidder for P702,889.77.

Petitioners further alleged that the sale was conducted without proper publication as the sheriff's notice of sale was published in a newspaper which is not of general circulation. On the same day the property was sold, the sheriff issued a certificate of sale in favor of respondent bank. On February 25, 1999, respondent bank executed an affidavit of consolidation of ownership over petitioners' property. They claimed that they were not notified of the foreclosure sale and were not given an opportunity to redeem their property.

On August 9, 1999, respondent bank filed its Answer with Counterclaim, denying specifically the material allegations of the complaint. It alleged inter alia that oral and written demands were made upon petitioners to pay their loan but they ignored the same; that they were properly notified of the filing of the petition for extra-judicial foreclosure of the mortgage; that there was proper publication and notices of the scheduled sale through public auction; and that petitioners were actually given more than two (2) years to redeem the property but they failed to do so.

By way of counterclaim, respondent bank alleged that it suffered: (a) actual damages of P100,000.00; (b) compensatory damages of P100,000.00; (c) moral damages of P500,000.00; and (d) litigation expenses of not less than P50,000.00.

On September 8, 1999, petitioners filed a motion to dismiss the counterclaim on the ground that respondent bank's counterclaim was not accompanied by a certification against forum shopping.

Respondent bank filed an opposition to the motion, contending that its counterclaim, which is compulsory in nature, is not a complaint or initiatory pleading that requires a certification against forum shopping.

On November 3, 1999, the RTC issued an Order denying the motion to dismiss the counterclaim for lack of merit, thus:

> x x x
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> Under Section 5, Rule 7 of the Rules of Court, the same requires the plaintiff or principal party to certify under oath the complaint or other initiatory pleading purposely to prevent forum shopping.
>
> In the case at bar, defendant Rural Bank's counterclaim could not be considered a complaint or initiatory pleading because the filing of the same is but a result of plaintiffs' complaint and, being a compulsory counterclaim, is outside the coverage of Section 5, Rule 7 of the Rules of Court.
>
> WHEREFORE, premises considered, the instant Motion is hereby denied for lack of merit.
>
> SO ORDERED.

Petitioners filed a Motion for Reconsideration of the above Order but it was likewise denied by the RTC in its Order dated April 4, 2000.

Thereafter, petitioners filed with the Court of Appeals a Petition for Certiorari under Rule 65 of the 1997 Rules of Civil Procedure, as amended, alleging that the RTC acted with grave abuse of discretion in holding that respondent bank's counterclaim need not be accompanied by a certification against forum shopping.

In its Decision[3] dated September 28, 2001, the Court of Appeals affirmed the assailed twin Orders of the RTC denying petitioners' motion to dismiss the counterclaim and dismissed the petition. Petitioners' motion for reconsideration was also denied in a Resolution dated April 2, 2002.

Hence, the instant Petition for Review on Certiorari.

The petition must fail.

Section 5, Rule 7[4] of the 1997 Rules of Civil Procedure, as amended, provides:

> Sec. 5. Certification against forum shopping. - The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.
>
> Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions. (Underscoring supplied)

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The rationale of the above provisions is to curb the malpractice commonly referred to as forum shopping - "an act of a party against whom an adverse judgment has been rendered in one forum of seeking and possibly getting a favorable opinion in another forum, other than by appeal or the special civil action of certiorari, or the institution of two or more actions or proceedings grounded on the same cause on the supposition that one or the other court would make a favorable disposition."[5]

Petitioners contend that the trial court and the Court of Appeals gravely abused their discretion in not dismissing respondent bank's counterclaim for lack of a certification against forum shopping.

Petitioners' contention is utterly baseless. It bears stressing that the Rule distinctly provides that the required certification against forum shopping is intended to cover an "initiatory pleading," meaning an "incipient application of a party asserting a claim for relief."[6] Certainly, respondent bank's Answer with Counterclaim is a responsive pleading, filed merely to counter petitioners' complaint that initiates the civil action. In other words, the rule requiring such certification does not contemplate a defendant's/respondent's claim for relief that is derived only from, or is necessarily connected with, the main action or complaint. In fact, upon failure by the plaintiff to comply with such requirement, Section 5, quoted above, directs the "dismissal of the case without prejudice," not the dismissal of respondent's counterclaim.

In sum, we find no reversible error committed by the Court of Appeals in issuing the challenged Decision and Resolution in CA-G.R. SP No. 58995.

WHEREFORE, the petition is DENIED. The assailed Decision and Resolution of the Court of Appeals in CA-G.R. SP No. 58995 are AFFIRMED. Costs against petitioners.

SO ORDERED.

Corona, Azcuna, and Garcia, JJ., concur.
Puno, (Chairperson), on leave.

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[1] Filed under Rule 45 of the 1997 Rules of Civil Procedure, as amended.

[2]Penned by Justice Eloy R. Bello, Jr. and concurred in by Justice Eugenio S. Labitoria and Justice Perlita J. Tria Tirona (all retired).

[3]Rollo, pp. 24-31.

[4] Procedure in the Regional Trial Courts.

[5] Santo Tomas University Hospital v. Surla, G.R. No. 129718, August 17, 1998, 294 SCRA 382, 391, citing Chemphil Export & Import Corporation v. Court of Appels, 251 SCRA 257.

[6]Santo Tomas University Hospital v. Surla, ibid., 294 SCRA 382, 391-392.

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