HARRY M. TANINGCO, CECILIA TANINGCO, ROSEMARIE ABORKA, FULGENCIA LIPAR, FE VILLAREAL-REPIEDAD, AGUINALDO REPIEDAD, MARY LOU REPIEDAD AND COMOPHI REPIEDAD, PETITIONERS, VS. LILIA...

G.R. NO. 153481. August 10, 2007

Ponente: GARCIA, J.

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GARCIA, J.:

Sought to be reversed and set aside via this petition for review on certiorari is the Decision[1] dated 30 April 2002 of the Court of Appeals (CA) in CA-G.R. SP No. 65282 which ANNULLED the following Orders of the Regional Trial Court (RTC) of Kalibo, Aklan, Branch 8 (Kalibo court, for brevity), in its (SEC) Civil Case No. 6262, to wit:

a) Order dated 14 March 2001, issuing an ex-parte Urgent Temporary Restraining Order (TRO) against respondents;

b) Order dated 2 April 2001, insofar as it denied respondents' motion to dismiss;

c) Order dated 6 April 2001, reiterating the denial of respondents' motion to dismiss; and

d) Order dated 30 April 2001, insofar as it denied respondents' motion for reconsideration,

and DISMISSED said Civil Case No. 6262 for forum shopping.

The pertinent undisputed facts follow:

On 22 January 2001, on the occasion of the annual stockholders' meeting of the Rural Bank of Banga (Aklan) (hereinafter simply referred to as the bank), respondents Dennis M. Taningco, Jose M. Taningco, Jr., Andrew M. Taningco and James M. Taningco got involved in an altercation with their brother, herein petitioner Harry M. Taningco (Harry, for brevity) relative to the fifty-one percent (51%) majority shares of stocks of the bank, which were transferred to Harry by virtue of Deeds of Sale and Memorandum of Agreement between Harry and their parents, namely, respondent Lilia M. Taningco and the latter's husband, Jose M. Taningco. The said deeds of sale are now subject of a case filed by the parents on 31 January 2001 before the RTC of Quezon City (QC court, for brevity), thereat docketed as Civil Case No. Q-01-43250, entitled "Spouses Jose M. Taningco and Lilia M. Taningco v. Spouses Harry and Cecilia Taningco," seeking the declaration of nullity of the aforesaid deeds of sale and the return of the disputed shares of stock of the bank and in another bank owned by the parents, the Rural Bank of Sta. Barbara (Iloilo).

Harry immediately left, even before the said annual stockholders' meeting could start on that day. Respondents, however, proceeded with the election of a new board of directors of the bank, voting themselves as the new corporate directors and officers thereof. Respondents, thereafter, placed Harry on preventive suspension and required him to explain why he should not be dismissed as manager of the bank.

On 28 February 2001, upon orders of respondent Lilia M. Taningco, Harry was dismissed as bank manager. Respondents then seized control of the corporation by relieving the bank's security guards. Respondents, thereafter, took physical possession and control of the bank's premises and properties.

On 5 March 2001, in Civil Case No. Q-01-43250, petitioners-spouses Harry and Cecilia Taningco filed a Manifestation with Urgent Ex-Parte Motion for Temporary Restraining and Protective Order. They alleged that the corporate take-over of the bank by the respondents was occasioned by violence due to the presence of respondents' armed guards.

On 12 March 2001, while their application for a TRO in Civil Case No. Q-01-43250 was still pending, petitioners-spouses Harry and Cecilia Taningco, together with their co-petitioners herein, filed with the RTC of Kalibo, Aklan (Kalibo court, for brevity), sitting as a corporate court, a Petition for Declaratory Relief, Mandamus, Prohibition, Preliminary Injunction with Temporary Restraining Order and Damages, thereat docketed as (SEC) Civil Case No. 6262, entitled "Harry Taningco, Cecilia Taningco, Rosemarie Aborka, Fulgencia Lipar, Fe Villareal-Repieded, Aguinaldo Repieded, Mary Lou Repiedad and Comophi Repiedad v. Lilia Taningco, Dennis Taningco, Jose Taningco, Jr. and James Taningco."

In an Order dated 14 March 2001, the Kalibo court, in (SEC) Civil Case No. 6262, issued an Urgent TRO, ordering the respondents, as defendants in that case, and any and all persons acting for and in their behalves, "to cease and desist from exercising corporate functions and from occupying the bank's premises, maintaining a status quo, by restoring the operation of the bank to the petitioners for a duration of seventy-two (72) hours from date hereof until all the parties are heard on notice in a summary hearing to be conducted for that purpose."

On 19 March 2001, respondents filed before the QC court their Opposition to petitioners' application of 05 March 2001 for the issuance of a TRO, arguing that the four (4) Deeds of Absolute Sale dated 19 August 2000 were simulated and falsified, hence, null and void ab initio. Such being the case, respondents argued that petitioners have not acquired ownership over the fifty-one percent (51%) controlling shares of stock of the two (2) rural banks, the same having been feloniously acquired and transferred. Respondents likewise contended before the QC court that the application for a TRO is unsubstantiated as it was based on Harry's pure hallucinations and fraudulent scheme. Respondents further denied that they used armed guards when they took over the operations of the bank (Rural Bank of Banga [Aklan]), but instead, there was only a peaceful change of the security guards under the respondents' direct supervision.

On 30 March 2001, this time before the Kalibo court, respondents, as defendants thereat, filed a motion to dismiss (SEC) Civil Case No. 6262 on grounds of forum shopping, litis pendentia, lack of jurisdiction and lack of cause of action.

In the meantime, the Kalibo court heard the application for TRO in the main case ([SEC] Civil Case No. 6262). It was during the said hearing that the Kalibo court discovered that a similar application for TRO was filed in the QC court by Harry, based on the same facts and seeking the same relief asked of the Kalibo court. Thus, in an Order dated 2 April 2001, the Kalibo court refused to extend the initial 72-hour TRO earlier issued per its Order of 14 March 2001, citing, as ground therefor, the pendency of a similar application before the QC court. In the same Order of 2 April 2001, the Kalibo court likewise denied respondents' motion to dismiss of 30 March 2001, with reservation of further discussing the reasons for the denial in an extended resolution to be subsequently issued.

Petitioners filed their Motion for Reconsideration on the Order dated 2 April 2001 insofar as it denied the extension of the 72-hour TRO.

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On 6 April 2001, with the Kalibo court's refusal to extend the 72-hour TRO, respondents on their part filed a Motion for Restoration averring that with the expiration of the 72-hour TRO granted by virtue of the Order dated 14 March 2001, and the denial of the extension thereof, they (respondents) should be restored as corporate directors/officers of the bank.

Also, on the same date, the Kalibo court issued its Order of 6 April 2001, which is the extended resolution it reserved to issue in its earlier Order of 2 April 2001, expounding on the reasons for the denial of respondents' motion to dismiss, ruling that there was no forum shopping because the issues raised in the two (2) pending cases were unrelated to each other: the case before the Kalibo court, (SEC) Civil Case No. 6262, relates to the illegal exercise of corporate acts by the respondents; while the other case before the QC court, Civil Case No. Q-01-43250, involves the issue of nullity of sale of the shares of stocks of Jose M. Taningco and his wife, herein respondent Lilia M. Taningco, to petitioners-spouses.

On 19 April 2001, respondent Dennis M. Taningco filed before the Kalibo court, in (SEC) Civil Case No. 6262, a Motion for Reconsideration of the Order dated 2 April 2001 insofar as said order also denied respondents' earlier motion to dismiss. Upon receipt of the subsequent 6 April 2001 Order expounding on the 2 April 2001 Order, Dennis also filed a Supplemental Motion for Reconsideration.

With three incidents now pending before the Kalibo court, namely, (1) petitioners' motion for reconsideration of the 2 April 2001 Order insofar as it denied to extend the 72-hour TRO; (2) respondent Dennis's motion for reconsideration and the supplement thereto; and (3) respondents' motion for restoration, the Kalibo court issued the Order dated 30 April 2001: (1) denying petitioners' motion for reconsideration for having become moot and academic by virtue of the lapse of the period within which a TRO may be extended; (2) denying respondent Dennis's motion and supplemental motion for reconsideration of the order denying the motion for the dismissal of (SEC) Civil Case No. 6262, considering that a motion to dismiss is a prohibited pleading under Section 8 of Rule 1 of the Interim Rules on Intracorporate Controversies; and (3) concerning the motion for restoration, deeming it wise and beneficial for the bank itself and for the public in general, to create a Management Committee pursuant to Rule 9 of the Interim Rules pending final determination of the issues in the main case.

The aforesaid Order of 30 April 2001 also reiterated that there was no violation of the rule on forum shopping considering that the petition itself in (SEC) Civil Case No. 6262 alleged and stated the pendency of Civil Case No. Q-01-43250 before the QC court, and pursuant to the ruling of this Court in Gabionza v. Court of Appeals,[2] such disclosure in the pleading itself is substantial compliance of the Rule.

Petitioners, in the meantime, also filed with the Kalibo court a motion to declare the herein respondents, as defendants in (SEC) Civil Case No. 6262, as in default.

On 4 June 2001, the Kalibo court issued an Order declaring respondents Lilia M. Taningco, Jose M. Taningco, Jr. and James M. Taningco as in default, and requiring respondents Dennis M. Taningco and Andrew M. Taningco to file their respective answers within five (5) days from receipt of the order.

Respondents forthwith elevated the matter to the CA via a petition for certiorari, prohibition, mandamus and injunction with prayer for preliminary injunction and TRO under Rule 65, thereat docketed as CA-G.R. SP No. 65282. In the herein assailed decision dated 30 April 2002, the appellate court granted the petition, thus:

> WHEREFORE, premises considered, the instant petition is GRANTED. The assailed Orders dated 14 March 2001, 2 April 2001, 6 April 2001 and 30 April 2001 are hereby nullified and set aside. Civil Case No. 6262 pending before the Regional Trial Court of Kalibo, Aklan is hereby DISMISSED on the ground of forum shopping.

SO ORDERED.

Aggrieved, it was petitioners' turn to elevate the matter to this Court via the present recourse on their submission that the CA erred:

I.

XXX IN FINDING THAT THE ELEMENTS OF LITIS PENDENTIA ARE PRESENT IN CIVIL CASE NO. Q-01-43250 PENDING BEFORE THE REGIONAL TRIAL COURT OF QUEZON CITY IN RELATION TO CIVIL CASE NO. 6262 PENDING BEFORE THE REGIONAL TRIAL COURT OF KALIBO, AKLAN.

II.

XXX IN DISMISSING CIVIL CASE NO. 6262 ON THE GROUND OF FORUM-SHOPPING.

III.

XXX IN FINDING THAT THE TRIAL COURT COMMITTED GRAVE ABUSE OF DISCRETION IN ISSUING THE TEMPORARY RESTRAINING ORDER (TRO) AND IN NOT GRANTING RESPONDENTS' MOTION FOR RESTORATION AFTER THE LAPSE OF THE TRO.

The recourse is impressed with merit.

We do not agree with the CA that litis pendentia exists between Civil Case No. Q-01-43250 (QC case) and (SEC) Civil Case No. 6262 (Kalibo case).

Litis pendentia has three basic requisites:

- Identity of parties, or at least such parties as those representing the same interests in both actions;

- Identity of rights asserted and reliefs prayed for, the reliefs being founded on the same facts; and

- The identity with respect to the two preceding particulars is such that any judgment that may be rendered in one case, regardless of which party is successful, would amount to res adjudicata in the other.[3]

Although there is a semblance of identity of parties in the two pending cases, it may be noted that the plaintiffs in the QC case are only the parents, Jose and Lilia Taningco, suing defendants Harry and his wife, Cecilia, in the parents' capacity as the supposed vendors of the disputed shares of stocks not only of the Rural Bank of Banga (Aklan) which is the bank involved in the Kalibo case, but also the shares of stock of the Rural Bank of Sta. Barbara (Iloilo), in favor of Harry, whereas the plaintiffs in the Kalibo case are the herein petitioners and the defendants are the stockholders and officers of the Rural Bank of Banga (Aklan), all of whom, with the exception of Lilia, are not parties in the QC case and are not privy to the alleged sale of the disputed shares of stocks of the two rural banks. Any apparent similarities in the two cases end there because patently, the rights asserted as well as the reliefs prayed for in the two cases are totally distinct from one another.

Absent the two first requisites of litis pendentia, the possibility of the existence of the third becomes nil. While judgment in the QC case may have bearing in the outcome of the Kalibo case, the Kalibo case is not outrightly dismissible on account of an adjudication in the QC case. Any adjudication in the QC case simply becomes an evidentiary matter like any court judgment involving rights of the parties that could affect the pending controversy in the Kalibo case. At best, any ruling that may be rendered in the QC case could simply become the law of the case between the parties insofar as the issue of ownership of shares is concerned. But until and unless the sale is declared void by the QC court, the Kalibo court has no jurisdiction to rule on the validity or regularity of the alleged sale of the shares of stock of the Rural Bank of Banga (Aklan) in favor of Harry because the defendants in the Kalibo case, except for Lilia Taningco, have no legal personality to assail such validity, not being privy to the

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alleged contract of sale between Jose and Lilia Taningco, as vendors, and Harry, as vendee.

Now, as regards the issue of forum shopping, we have ruled that one of the tests for forum shopping is the existence of litis pendentia. Expectedly, after having ruled out litis pendentia, the Court likewise rules out the existence of forum shopping in the case at bar.

> Forum shopping exists when, as a result of an adverse opinion in one forum, a party seeks a favorable opinion (other than by appeal or certiorari) in another, or when he institutes two or more actions or proceedings grounded on the same cause, on the gamble that one or the other court would make a favorable disposition.
>
> What is truly important to consider in determining whether forum shopping exists or not is the vexation caused the courts and parties-litigants by a party who asks different courts and/or administrative agencies to rule on the same or related causes and/or grant the same or substantially the same reliefs, in the process creating the possibility of conflicting decisions being rendered by the different fora upon the same issues.[4]

There can be no forum shopping when petitioners filed the Kalibo case, notwithstanding the pendency of the QC case because the two cases are not grounded on the same cause of action. We examined the causes of action in the two cases by going through the elements of a cause of action, namely:

> - a right in favor of the plaintiff by whatever means and under whatever law it arises or is created;
>
> - an obligation on the part of the named defendant to respect or not to violate such right; and
>
> - an act or omission on the part of such defendant in violation of the right of the plaintiff or constituting a breach of the obligation of the defendant to the plaintiff for which the latter may maintain an action for recovery of damages.[5]

QC case

Kalibo case

1. right in favor of the plaintiff:

Jose and Lilia Taningco's ownership rights over the shares of stock constituting 51% shares in the 2 rural banks.

Harry's right to exercise corporate powers as stockholder of the rural bank representing 51% of outstanding shares and his right to hold office as bank manager of the Rural Bank of Banga (Aklan).

2. obligation on the part of the named defendant:

Harry and his wife's obligation to recognize and respect said ownership rights of Jose and Lilia Taningco.

Minority stockholder's obligation to recognize and respect said corporate rights of Harry.

3. act or omission on the part of such defendant in violation of the right of the plaintiff:

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Alleged execution of spurious contracts of sale and memorandum of agreement transferring ownership of 51% shares in the rural bank in favor of Harry and his wife.

Alleged ouster of Harry and his wife as corporate directors of the Rural Bank of Banga (Aklan) and of Harry as manager thereof.

From the foregoing tabulation, it is clear that there is no identity of causes of action between the cases pending before the QC and the Kalibo courts, a significant circumstance which brings the cases out of the operative prohibition against forum shopping.

As to the propriety of the Kalibo court's issuance of the TRO, the Court finds no cogent reason to delve into the issue because of said TRO having already lapsed. The said court, however, is directed to restore the parties to the status quo prior to the issuance of the TRO in view of the expiration of the TRO and the non-issuance of a writ of preliminary injunction in favor of the plaintiffs therein.

WHEREFORE, the instant petition is GRANTED and the CA's Decision dated 30 April 2002 which dismissed (SEC) Civil Case No. 6262 pending before the Kalibo court is REVERSED and SET ASIDE. The annulled orders of the Kalibo court in the same case are reinstated. The said court, however, is directed to issue an order restoring the parties to the status quo ante the issuance of the temporary restraining order.

No costs.

SO ORDERED.

Puno, C.J., (Chairperson), Sandoval-Gutierrez, Corona, and Azcuna, JJ., concur.

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[1]Rendered by its Third Division, Associate Justice Josefina Guevara-Salonga, ponente, and the late Associate Justice Eubulo G. Verzola and (retired) Associate Justice Bernardo P. Abesamis, concurring; rollo, pp. 9-29.

[2] G.R. No. 112547, July 18, 1994, 234 SCRA 192.

[3]Philippine Woman's Christian Temperance Union, Inc. v. Abiertas House of Friendship, Inc., G.R. No. 125571, July 22, 1998, 292 SCRA 785.

[4] Municipality of Taguig v. Court of Appeals, G.R. No. 142619, September 13, 2005, 469 SCRA 588.

[5] Relucio v. Lopez, G.R. No. 138497, January 16, 2002, 373 SCRA 578.

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