

PHILIPPINE NATIONAL BANK, PETITIONER, VS. SANAO MARKETING CORPORATION, SPOUSES AMADO A. SANAO AND SOLEDAD F. SANAO AND SPOUSES WILLIAM (WILLY) F. SANAO AND HELEN SANAO AND THE C...*G.R. No. 153951. July 29, 2005*

Ponente: TINGA, J.

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Before the Court is a Petition for Review[1] under Rule 45 of the Rules of Court, wherein petitioner Philippine National Bank (PNB) seeks the review of the Decision[2] rendered by the Court of Appeals Thirteenth Division in C.A. G.R. SP No. 63162. The assailed Decision nullified two orders[3] of the Regional Trial Court (RTC) of Pili, Camarines Sur, Branch 32, which respectively granted PNB's petition for issuance of a writ of possession over seven (7) parcels of land and directed the execution pending appeal of such writ of possession.

The antecedents are as follows:

In July 1997, Sanao Marketing Corporation, the spouses Amado A. Sanao and Soledad F. Sanao and the spouses William (Willy) F. Sanao and Helen Sanao (all respondents herein), as joint and solidary debtors, obtained a loan in the amount of One Hundred Fifty Million Pesos (P150,000,000.00) from PNB secured by a real estate mortgage of several parcels of land situated in the municipalities of Pili, Tigaon and Camaligan, all of Camarines Sur, and Naga City.[4] The contract expressly provided that the mortgage shall be governed by the provisions of Act No. 3135, as amended.[5] The pertinent portions of said contract provide that:

....

F. FORECLOSURE, POWER OF ATTORNEY, RECEIVERSHIP

If at any time the Mortgagors fail or refuse to pay the obligation herein secured, or any of the amortization of such indebtedness when due, or to comply with any of the conditions and stipulations herein agreed, or shall during the time this mortgage is in force, institute insolvency proceedings or be involuntarily declared insolvent, or shall use the proceeds of this loan for purposes other than those specified herein, or if the mortgage cannot be recorded in or the Mortgagors fail to register the same with the corresponding Registry of Deeds, then all the obligations of the Mortgagors secured by this mortgage and all the amortization thereof shall immediately become due, payable and defaulted and the Mortgagee may immediately foreclose this mortgage judicially in accordance with the Rules of Court, or extrajudicially in accordance with Act No. 3135, as amended, and P.D. 385. For the purpose of extrajudicial foreclosure, the Mortgagors hereby appoint the Mortgagee their Attorney-in-Fact to sell the properties mortgaged under Act No. 3135, as amended, to sign all documents and perform any act requisite and necessary to accomplish said purpose and to appoint its substitute as Attorney-in-Fact with the same powers as above specified. In case of judicial foreclosure, the Mortgagors hereby consent to the appointment of the Mortgagee or of any of its employees as receiver, without any bond, to take charge of the mortgaged properties at once, and to hold possession of the same and the rents, benefits and profits derived from the mortgaged properties before the sale, less costs and expenses of the receivership. .

.. [6]

For failure of respondents to fully pay the loan upon its maturity, PNB caused the extrajudicial foreclosure of the mortgage through a certain Atty. Marvel C. Clavecilla (Atty. Clavecilla), a notary public for and in the City of Naga. The Notice of Extra-Judicial Foreclosure Sale announced that the sale of 13 titles consisting of 14 parcels of land located in Camarines Sur and Naga City is scheduled on 22 March 1999 at nine o'clock in the morning or soon thereafter, at the entrance of the Municipal Court of Pili, Camarines Sur. This notice was published in the 7, 14 and 21 February 1999 issues of the Vox Bikol- a weekly tabloid published every Sunday and circulated in the Bicol region and continents with Bicol communities.[7]

Thereafter, Atty. Clavecilla executed a Provisional Certificate of Sale[8] dated 26 April 1999 certifying that on the 22[nd] day of March 1999, at exactly ten o'clock in the morning, he sold at a public auction at the "lobby/main entrance of the Regional Trial Court, Hall of Justice, Naga City" the mortgaged properties to PNB for Two Hundred Thirteen Million One Hundred Sixty-Two Thousand Seven Hundred Eighty-Seven and Fifty Centavos (P213,162,787.50), which amount the latter considered as payment pro tanto of petitioners' loan.[9] This Provisional Certificate of Sale was registered with the Registry of Deeds of Camarines Sur on 3 May 1999 and with the Registry of Deeds of Naga City on 16 June 1999 for the properties respectively covered by their registries.[10]

On 26 April 2000, respondents Amado A. Sanao and Sanao Marketing Corporation filed a complaint[11] with the RTC of Naga City, Branch 61, against PNB, the Register of Deeds of the City of Naga and the Province of Camarines Sur, and Atty. Clavecilla, for the court to declare the Provisional Certificate of Sale and the auction and foreclosure proceedings null and void.[12]

On 11 August 2000, PNB filed with the RTC of Pili, Camarines Sur, Branch 32, a petition for the issuance of a writ of possession, docketed therein as Spec. Proc. P-1182, over the properties located in Pili that are covered by Transfer Certificates of Title Nos. 21448, 24221, 14133, 15218, 15489, 13856, 15216.[13]

To the petition, respondents Amado A. Sanao and Sanao Marketing Corporation interposed an answer in opposition, with special and affirmative defenses.[14]

PNB countered with its comments/reply to opposition.[15]

On 24 November 2000, the RTC of Pili issued its first assailed order,[16] granting the writ of possession prayed for by PNB.

Amado A. Sanao and Sanao Marketing Corporation filed a Motion for Reconsideration w/ Opposition to the Motion for Execution Pending Appeal,[17] which was denied per the second assailed order[18] dated 24 January 2001 of the RTC of Pili.[19]

Respondents then filed a Petition[20] for certiorari and prohibition under Rule 65 of the Rules of Court before the Court of Appeals, imputing grave abuse of discretion on the part of the RTC of Pili in the issuance of the two assailed orders. The Petition likewise prayed for the issuance of a temporary restraining order which the Court of Appeals granted on 15 February 2001, enjoining the RTC of Pili and PNB from implementing the challenged orders.

In their Memorandum,[21] respondents pointed out that the PNB had allegedly failed to submit the application for extrajudicial foreclosure of mortgage to the proper clerk of court after payment of the filing fee, in contravention of Supreme Court Administrative Order No. 3 and Administrative Circular No. 3-98. In addition, respondents averred that the foreclosure sale was null and void as it was done at the lobby/main entrance of the RTC Hall of Justice, Naga City and not at the entrance of the Municipal Trial Court of Pili, Camarines Sur as published.[22]

PNB, on the other hand, posited that the invoked administrative order is not applicable as extrajudicial proceedings conducted by a notary public, as in the case at bar, do not fall within the contemplation of the directive.[23]

With regard to the variance of the venues of the auction sale as published in Vox Bikol and as recorded in the Provisional Certificate of Sale, PNB asserted that there was no violation of Act No. 3135[24] or of the terms of the real estate mortgage contract,[25] as the sale of the mortgaged properties located in Camarines Sur were held in Naga City which is well within the territorial jurisdiction of said province.[26]

The Court of Appeals ruled in favor of herein respondents.[27] The Court of Appeals rendered a litany of lapses that the notary public committed in the conduct of the foreclosure proceedings which in its estimation had effectively undermined the soundness of the foreclosure sale. Accordingly, the Court of Appeals held that the Provisional Certificate of Sale, upon which the issuance of the writ of possession was based, is fatally infirm, and that consequently, the writ of possession was not validly issued as the procedural requirements for its issuance were not satisfied.[28]

Thus, the Court of Appeals declared null and void the two assailed orders of the RTC of Pili for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction.[29]

Aggrieved by the Decision, PNB filed the instant petition, arguing in the main that in nullifying the orders of the RTC of Pili, the Court of Appeals departed from the accepted and usual course of judicial proceedings as the issuance of writs of possession is purely ministerial on the part of the trial court.[30]

In their comment,[31] respondents point out that the instant petition should not be given due course as it is not sufficient in form and substance. Respondents proffered the following grounds, thus: (1) there was no special of attorney or Board Resolution or Secretary's Certificate attached to the petition which could serve as basis for the petitioners' signatory Domitila A. Amon to verify or attest to the truth of the allegations contained therein, in violation of existing laws and jurisprudence on the matter; (2) petitioners failed to move for a reconsideration of the assailed Decision of the Court of Appeals; (3) petitioners failed to disclose another similar case involving the same legal issues now pending in the Twelfth Division of the Court of Appeals, docketed as C.A. G.R. CV No. 73718, which is an appeal from an original petition for issuance of writ of possession filed by the same petitioner before the RTC of San Jose, Camarines Sur, Branch 58; (4) petitioner failed to furnish the Twelfth Division of the Court of Appeals a copy of the petition in C.A. G.R. No. 73718 pending therein, in violation of Section 5, Rule 7 of the 1997 Rules of Civil Procedure, which failure could lead to conflicting resolutions, between two divisions of the Court of Appeals and to the giving of inadequate information to the Supreme Court; and (5) the petition was only accompanied by Annexes A, B, C, D and E, which annexes do not satisfy the requirements laid down in Sections 4 and 5 of Rule 45 of the Rules of Court.[32]

Respondents also reiterate that the PNB in the conduct of the extrajudicial foreclosure proceedings did not comply with Administrative Order No. 3 and Administrative Circular No. 3-98, and that the notice of publication was not sufficient to justify the execution of the Provisional Certificate of Sale.[33]

Traversing the alleged procedural errors, PNB in its Reply[34] raise the following arguments:

First, Mrs. Domitila A. Amon had authority to sign and verify its petition under Board Resolution No. 15 dated 8 October 1997,[35] in line with her authority to prosecute and defend cases for and/or against the bank.[36]

Second, there are exceptions to the general rule that a motion for reconsideration must first be filed before elevating a case to a higher court. PNB insists that the Decision of the Court of Appeals is a patent nullity as it runs counter to the provisions of Act No. 3135 and existing jurisprudence stating that Administrative Order No. 3

covers judicial foreclosures.[37] As such, the filing of a motion for reconsideration prior to elevating the case on certiorari may be dispensed with.

Lastly, the case which according to respondents is not mentioned in the certification of non-forum shopping was commenced by respondents themselves, not PNB, and that the issues similar to those in the instant case have yet to be raised in respondents' appeal to the Court of Appeals. Moreover, the subject matter and the properties involved in the other case are altogether different.[38]

There is merit in the petition.

A writ of possession is "a writ of execution employed to enforce a judgment to recover the possession of land. It commands the sheriff to enter the land and give possession of it to the person entitled under the judgment." [39]

A writ of possession may be issued under the following instances:[40](1) in land registration proceedings under Section 17 of Act 496;[41] (2) in a judicial foreclosure, provided the debtor is in possession of the mortgaged realty and no third person, not a party to the foreclosure suit, had intervened; (3) in an extrajudicial foreclosure of a real estate mortgage under Section 7 of Act No. 3135, as amended by Act No. 4118;[42] and (4) in execution sales (last paragraph of Section 33, Rule 39 of the Rules of Court).[43]

The present case falls under the third instance. Under Section 7 of Act No. 3135, as amended by Act No. 4118, a writ of possession may be issued either (1) within the one-year redemption period, upon the filing of a bond, or (2) after the lapse of the redemption period, without need of a bond.[44] Section 7 of Act No. 3135, as amended by Act No. 4118, provides:

SECTION 7. In any sale made under the provisions of this Act, the purchaser may petition the Court of First Instance of the province or place where the property or any part thereof is situated, to give him possession thereof during the redemption period, furnishing bond in an amount equivalent to the use of the property for a period of twelve months, to indemnify the debtor in case it be shown that the sale was made without violating the mortgage or without complying with the requirements of this Act. Such petition shall be made under oath and filed in form of an ex parte motion in the registration or cadastral proceedings if the property is registered, or in special proceedings in case of property registered under the Mortgage Law or under section one hundred and ninety-four of the Administrative Code, or of any other real property encumbered with a mortgage duly registered in the office of any register of deeds in accordance with any existing law, and in each case the clerk of court shall, upon the filing of such petition, collect the fees specified in paragraph eleven of section one hundred and fourteen of Act Numbered Four hundred and ninety-six, and the court shall, upon approval of the bond, order that a writ of possession issue, addressed to the sheriff of the province in which the property is situated, who shall execute said order immediately.

Under the above-quoted provision, the purchaser in a foreclosure sale may apply for a writ of possession during the redemption period by filing an ex parte motion under oath for that purpose in the corresponding registration or cadastral proceeding in the case of property covered by a Torrens title. Upon the filing of such motion and the approval of the corresponding bond, the law also in express terms directs the court to issue the order for a writ of possession.[45]

A writ of possession may also be issued after consolidation of ownership of the property in the name of the purchaser. It is settled that the buyer in a foreclosure sale becomes the absolute owner of the property purchased if it is not redeemed during the period of one year after the registration of sale. As such, he is entitled to the possession of the property and can demand it any time following the consolidation of ownership in his name and the issuance of a new transfer certificate of title. In such a case, the bond required in Section 7 of Act No. 3135 is no longer necessary. Possession of the land then becomes an absolute right of the purchaser as confirmed owner. Upon proper application and proof of title, the issuance of the writ of possession becomes a ministerial duty of the

court.[46] It was held, thus:

As the purchaser of the properties in the extra-judicial foreclosure sale, the PNCB is entitled to a writ of possession therefore. The law on extrajudicial foreclosure of mortgage provides that a purchaser in an extrajudicial foreclosure sale may take possession of the foreclosed property even before the expiration of the redemption period, provided he furnishes the necessary bond. Possession of the property may be obtained by filing an ex parte motion with the regional trial court of the province or place where the property is situated. Upon filing of the motion and the required bond, it becomes a ministerial duty of the court to order the issuance of a writ of possession in favor of the purchaser. After the expiration of the one-year period without redemption being effected by the property owner, the right of the purchaser to the possession of the foreclosed property becomes absolute. The basis of this right to possession is the purchaser's ownership of the property. Mere filing of an ex parte motion for the issuance of the writ of possession would suffice, and no bond is required.[47]

Any question regarding the regularity and validity of the sale, as well as the consequent cancellation of the writ, is to be determined in a subsequent proceeding as outlined in Section 8 of Act No. 3135, as amended by Act No. 4118. Such question is not to be raised as a justification for opposing the issuance of the writ of possession, since, under the Act, the proceeding is ex parte.[48]

In case it is disputed that there was violation of the mortgage or that the procedural requirements for the foreclosure sale were not followed, Section 8 of Act No. 3135, as amended by Act No. 4118, provides, to wit:

SECTION 8. The debtor may, in the proceedings in which possession was requested, but not later than thirty days after the purchaser was given possession, petition that the sale be set aside and the writ of possession cancelled, specifying the damages suffered by him, because the mortgage was not violated or the sale was not made in accordance with the provisions hereof, and the court shall take cognizance of this petition in accordance with the summary procedure provided for in section one hundred and twelve of Act Number Four hundred and ninety-six; and if it finds the complaint of the debtor justified, it shall dispose in his favor of all or part of the bond furnished by the person who obtained possession. Either of the parties may appeal from the order of the judge in accordance with section fourteen of Act Numbered Four hundred and ninety-six; but the order of possession shall continue in effect during the pendency of the appeal.

The law is clear that the purchaser must first be placed in possession. If the trial court later finds merit in the petition to set aside the writ of possession, it shall dispose the bond furnished by the purchaser in favor of the mortgagor. Thereafter, either party may appeal from the order of the judge. The rationale for the mandate is to allow the purchaser to have possession of the foreclosed property without delay, such possession being founded on his right of ownership.[49]

It has been consistently held that the duty of the trial court to grant a writ of possession is ministerial. Such writ issues as a matter of course upon the filing of the proper motion and the approval of the corresponding bond. The court neither exercises its official discretion nor judgment.[50] The judge issuing the order following these express provisions of law cannot be charged with having acted without jurisdiction or with grave abuse of discretion.[51] If only to stress the writ's ministerial character, we have, in previous cases, disallowed injunction to prohibit its issuance, just as we have held that the issuance of the same may not be stayed by a pending action for annulment of mortgage or the foreclosure itself.[52]

In the case at bar, PNB has sufficiently established its right to the writ of possession. It presented as documentary exhibits the contract of real estate mortgage[53] and the Provisional Certificate of Sale[54] on the face of which appears proof of its registration with the Registry of Deeds in Camarines Sur on 3 May 1999. There is also no dispute that the lands were not redeemed within one year from the registration of the Provisional Certificate of Sale. It should follow, therefore, that PNB has acquired an absolute right, as purchaser, to the writ of possession.

The RTC of Pili had the ministerial duty to issue that writ, as it did actually, upon mere motion, conformably to Section 7 of Act No. 3135, as amended.[55]

However on certiorari, the Court of Appeals declared null and void the orders of the RTC of Pili granting the writ of possession and denying respondents' motion for reconsideration. The Court of Appeals exhaustively discussed the reasons for such a declaration, noting the procedural errors of PNB in the conduct of the foreclosure proceedings which allegedly rendered the foreclosure sale and the Provisional Certificate of Sale of doubtful validity.

The Court of Appeals relied on the case of *Cometa v. Intermediate Appellate Court*[56] in holding that "for a writ of possession to be validly issued in an extrajudicial foreclosure proceeding, all the procedural requirements should be complied with. Any flaw afflicting its stages could affect the validity of its issuance." [57] The Court of Appeals reproached the RTC of Pili Sur for granting the writ despite the existence of these alleged procedural lapses.

This was erroneous. The judge to whom an application for writ of possession is filed need not look into the validity of the mortgage or the manner of its foreclosure. In the issuance of a writ of possession, no discretion is left to the trial court. Any question regarding the cancellation of the writ or in respect of the validity and regularity of the public sale should be determined in a subsequent proceeding as outlined in Section 8 of Act No. 3135.[58]

In fact, the question of the validity of the foreclosure proceedings can be threshed out in Civil Case No. RTC 2000-00074, pending before the RTC of Naga City, Branch 61, which was filed by respondents before PNB had filed a petition for the issuance of a writ of possession. The Court of Appeals should not have ruled on factual issues on which the RTC of Naga had yet to make any finding. Besides, a review of such factual matters is not proper in a petition for certiorari.

Having noted the foregoing, the Court dispenses with the need to discuss the soundness of the foreclosure proceedings, the authenticity of the Provisional Certificate of Sale, and the applicability of Supreme Court Administrative Order No. 3 and Administrative Circular No. 3-98. A review of the foregoing matters properly lies within the jurisdiction of the RTC of Naga City, Branch 61.

It is worthy of note that the pendency of the case for annulment of the foreclosure proceedings is not a bar to the issuance of the writ of possession.[59] Pending such proceedings whose subject is the validity of the foreclosure proceedings, the purchaser in a foreclosure sale is entitled to the possession of property. Until such time the foreclosure sale is annulled, the issuance of the writ of possession is ministerial on the part of the RTC of Pili.[60]

In addition, the Court of Appeals' reliance on the case of *Cometa*[61] is misplaced. The cited case involved the issuance of a writ of possession following an execution sale. The declaration therein that the issuance of said writ is dependent on the valid execution of the procedural stages preceding it does not contemplate writs of possession available in extrajudicial foreclosures of real estate mortgages under Section 7 of Act No. 3135, as amended by Act No. 4118.

Considering that the RTC of Pili issued the writ of possession in compliance with the provisions of Act No. 3135, as amended, it cannot be charged with having acted in excess of its jurisdiction or with grave abuse of discretion. Absent grave abuse of discretion, respondents should have filed an ordinary appeal instead of a petition for certiorari. The soundness of the order granting the writ of possession is a matter of judgment with respect to which the remedy is ordinary appeal. An error of judgment committed by a court in the exercise of its legitimate jurisdiction is not the same as "grave abuse of discretion." Errors of judgment are correctible by appeal, while those of jurisdiction are reviewable by certiorari.[62]

Palpably, the Court of Appeals exceeded its jurisdiction when it granted respondents' petition for certiorari and set aside the orders dated 24 November 2000 and 24 January 2001 of the RTC of Pili in Spec. Proc No. P-1182, and also when it made a determination as to the validity of the foreclosure proceedings in clear violation of Act No. 3135. The contention, therefore, that the Court should not entertain the instant petition until a motion for reconsideration has been filed may not hold water where the proceeding in which the error occurred is a patent nullity. Thus, we hold that a motion for reconsideration may be dispensed with in the instant case.[63]

Anent the other procedural grounds for the denial of the instant petition, suffice it to say that PNB's rejoinder has sufficiently refuted respondents' assertions. We find and so hold that there was substantial compliance with the procedural requirements of the Court.

Although belatedly filed, the Resolution of the PNB Board amply demonstrates Mrs. Domitila A. Amon's authority to sign and verify the instant petition. PNB likewise was not obligated to disclose the alluded case pending before the Court of Appeals as it was not initiated by the bank and, more importantly, the subject matter and the properties involved therein are altogether different.[64] It is well to remember at this point that rules of procedure are but mere tools designed to facilitate the attainment of justice. Their strict and rigid application which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be avoided.[65] In proper cases, procedural rules may be relaxed or suspended in the interest of substantial justice.[66] And the power of the Court to except a particular case from its rules whenever the purposes of justice require it cannot be questioned.[67]

WHEREFORE, the instant petition is GRANTED. The Decision of the Court of Appeals dated 11 June 2002 in CA-G.R. S.P. No. 63162 is REVERSED and SET ASIDE. The orders dated 24 November 2000 and 24 January 2001 of the Regional Trial Court of Pili, Camarines Sur, Branch 32 in Spec. Pro. No. P-1182 directing the issuance of a writ of possession in favor of PNB are AFFIRMED.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Dated 2 August 2002; Rollo, pp. 8-31.

[2] Promulgated on 11 June 2002; Penned by Associate Justice Salvador J. Valdez, Jr. with the concurrence of Associate Justices Mercedes Gozo-Dadole and Amelita G. Tolentino; Id. at 34-49.

[3] Dated 24 November 2000 and 24 January 2001; In Spec. Pro. No. P-1182; Id. at 166 and 58, respectively.

[4] Id. at 10, 36.

[5] Id. at 50-55 and 76.

[6] Id. at 51.

[7] Id. at 36.

[8] Id. at 56-57.

[9] Id. at 36.

[10] Id. at 10-11.

[11] Which they amended on even date; Docketed as Civil Case No. RTC 2000-00074; id. at 108-114.

[12] Id. at 36-37.

[13] Id. at 37.

[14] Ibid.

[15] Ibid.

[16] Id. at 166.

[17] Dated 17 December 2000; Id. at 167-175.

[18] Id. at 58.

[19] Id. at 37.

[20] CA Rollo, pp. 1-28; Dated 12 February 2001.

[21] CA Rollo, pp. 246-272.

[22] Rollo, pp. 38-39.

[23] Id. at 39; Citing China Banking Corporation v. Court of Appeals, 333 Phil. 158 (1996)

[24] Entitled "An Act To Regulate the Sale of Property under Special Powers Inserted in or Annexed to Real-Estate Mortgages," approved on 6 March 1924; Section 2 of Act No. 3135 reads as follows:

SECTION 2. Said sale cannot be made legally outside of the province in which the property sold is situated; and in case the place within said province in which the sale is to be made is subject to stipulation, such sale shall be made in said place or in the municipal building of the municipality in which the property or part thereof is situated.

[25] Id. at p. 54; The pertinent portion of said contract reads as follows:

P. VENUE OF AUCTION SALE

It is hereby agreed that in case of foreclosure of this mortgage under Act No. 3135, as amended and P.D. No. 385, the auction sale shall be held at the capital of the province, if the properties are within the territorial jurisdiction of the province concerned, or shall be held in the city, if the properties are with the territorial jurisdiction of the city concerned.

[26] Id.at 40.

[27] Id. at 34-49.

[28] Id. at 40.

[29] Id. at 48.

[30] Id. at 15-18.

[31] Id. at 69-105; Dated 25 October 2002.

[32] Id. at 70-75.

[33] Id. at 84.

[34] Id. at 187-198.

[35] Attached to said Reply; Id. at 199.

[36] Id. at 194.

[37] Id. at 195; Citing China Banking Corporation v. Court of Appeals, 333 Phil. 158 (1996).

[38] Id. at 196.

[39] Black's Law Dictionary, 6[th] ed., p. 1611.

[40] Gatchalian v. Arlegui, No-L-35615, 17 February 1977, 75 SCRA 234, 244.

[41] Estipona v. Navaroo, No. L-41825, 30 January 1976, 69 SCRA 285, 291.

[42] Spouses Ong v. Court of Appeals, 388 Phil. 857, 863-864 (2000).

[43] Cometa v. Intermediate Appellate Court, No, L-69294, 30 June 1987, 151 SCRA 563, 567.

[44] Spouses Ong v. Court of Appeals, supra note 42 at 864.

[45] Samson v. Rivera, G.R. No. 154355, 20 May 2004, 428 SCRA 759, 767-768; Spouses Camacho v. Philippine National Bank, 415 Phil. 581, 586 (2001) citing De Gracia v. San Jose, 94 Phil. 623 (1954); Idolor v. Court of Appeals, G.R. No. 161028, 31 January 2005.

[46] Chailease Finance Corporation v. Ma, G.R. No. 151941, 15 August 2003, 409 SCRA 250, 253-254; Samson v. Rivera, G.R. No. 154355, 20 May 2004, 428 SCRA 759, 768-769; Idolor v. Court of Appeals, supra note 45.

[47] Laureano v. Bormaheco Inc., G.R. No. 137619, 6 February 2001, 351 SCRA 270, 275-276.

[48] Spouses Camacho v. Philippine National Bank, supra note 45; Samson v. Rivera, supra note 46 at 768.

[49] Spouses Ong v. Court of Appeals, supra note 42 at 865.

[50] Chailease Finance Corporation v. Ma, supra note 46 at 253; Spouses Ong v. Court of Appeals, supra note 42 at 865; Samson v. Rivera, supra note 46 at 768; Dayrit v. Philippine Bank of Communications, G.R. No. 140316, 1 August 2002, 386 SCRA 117, 123; A.G. Development Corporation v. Court of Appeals, 346 Phil. 136, 141 (1997).

[51] Spouses Ong v. Court of Appeals, supra note 42 at 866..

[52] Chailease Finance Corporation v. Ma, supra note 46 at 253.

[53] Rollo, pp. 128-132.

[54] Id. at 136.

[55] See Spouses De Vera v. Agloro, G.R. No. 155673, 14 January 2005. J. Callejo, ponente.

[56] Supra note 43.

[57] Rollo, p. 40.

[58] Chailease Finance Corporation v. Ma, supra note 46 at 255.

[59] Idolor v. Court of Appeals, supra note 45.

[60] Chailease Finance Corporation v. Ma, supra note 46 at 255.

[61] Supra note 43.

[62] Samson v. Rivera, *supra* note 46 at 759, 770.

[63] The Director of Lands v. Santamaria, 44 Phil. 594, 596 (1923).

[64] Rollo, p. 196.

[65] Solicitor General v. Metropolitan Manila Authority, G.R. No. 102782, 11 December 1991, 204 SCRA 837, 843.

[66] *Id.* at 842.

[67] National Commercial Bank of Saudi Arabia v. Court of Appeals, G.R. No. 124267, 18 August 2004, 437 SCRA 1, 8.

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