

FIRST LEVERAGE AND SERVICES GROUP, INC., PETITIONER, VS. SOLID BUILDERS, INC., RESPONDENT.

G.R. No. 155680. July 02, 2012

Ponente: PERALTA, J.

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PERALTA, J.:

Before the Court is a petition for review on certiorari under Rule 45 of the Rules of Court seeking to reverse and set aside the Decision[1] and Resolution[2] dated June 17, 2002 and October 21, 2002, respectively, of the Court of Appeals (CA) in CA-G.R. SP No. 47218.

The instant petition arose from a Complaint for Annulment of Promise to Sell, Mandamus and Prohibitory Injunction filed with the Regional Trial Court (RTC) of Manila by herein petitioner First Leverage and Services Group, Inc. (First Leverage) against PNB Republic Bank (PNB Republic).

In its Amended Complaint,[3] wherein it impleaded herein respondent Solid Builders, Inc. (Solid Builders) as additional defendant, dated April 11, 1996, First Leverage alleged the following:

x x x x x x x x

2. [PNB] Republic is the owner of two (2) parcels of land situated in Kaybagal South, Tagaytay City, covered by Transfer Certificate of Title No. T-4211 with an area of 1,906,710 square meters and Transfer Certificate of Title No. T-4050 with an area of 369,234 square meters. Both parcels of land are part of the acquired assets of [PNB] Republic.

3. Sometime in the mid-1980's, [PNB] Republic put up the aforementioned parcels of land for sale by public bidding. Two (2) public biddings were conducted but both were considered failed public biddings for failure to meet certain requirements. Hence, [PNB] Republic put up the two (2) parcels of land for negotiated sale.

4. [The total appraised value of the said parcels of land as of June 16, 1994 was P73,817,000.00]

5. On June 20, 1994, the Loan Recovery and Acquired Assets Division (LRAAD, for brevity) of [PNB] Republic received a formal offer from Solid [Builders] for the purchase of the parcel of land covered by TCT No. T-4050, for P12,500,000.00 with thirty percent (30%) down payment and with the balance payable in five (5) years at nineteen percent (19%) interest per annum.

6. On June 23, 1994, the LRAAD received another formal offer from Solid [Builders] for the purchase of the parcel of land covered by TCT No. T-4211 for P47,000,000.00 with twenty percent (20%) down and with the balance payable in five (5) years at nineteen percent (19%) interest per annum.

7. In a letter dated July 7, 1994, Jeremias Dimla II, LRAAD's Senior Manager, informed Solid [Builders] that the latter's offer of P47,000,000.00 for the parcel of land covered by TCT No. 4211 was unacceptable but suggested that it improve its offer.

8. On August 2, 1994, LRAAD received a letter from Solid [Builders] proposing a package price for the two (2) parcels of land x x x for P61,000,000.00 with P1,000,000.00 option/earnest money, twenty-five percent

(25%) downpayment within ninety (90) days from date of acceptance/approval and with the balance payable quarterly for three (3) years at primary market interest rates.

9. On August 17, 1994, the LRAAD received a letter from [First Leverage] offering to purchase the two (2) parcels x x x for P70,000,000.00 in cash. Although none of the LRAAD employees admitted having received [First Leverage's] letter-offer, x x x Dimla admitted having received a copy thereof on August 18, 1994. x x x

10. The reason given by Jeremias Dimla II as regards the non-official receipt of the letter-offer of [First Leverage] was at the time the offer was made LRAAD had already received Solid [Builders'] acceptance letter dated August 15, 1994, as regards the APPROVAL by the LRAAD of Solid [Builder's] offer, contained in its letter dated August 2, 1994, subject to certain terms and conditions. Allegedly, the APPROVAL was communicated to Solid by a letter dated August 12, 1994, of the LRAAD through Jeremias Dimla II. Under this package the price for the two (2) parcels of land was P67,000,000.00 payable as follows: 30% downpayment payable within 90 days from receipt of approval; the balance payable within three (3) years by monthly amortization covered by postdated checks with interest at prevailing non-prime rate. Accordingly, [PNB] Republic refused to receive petitioner's letter-offer.

11. In a letter dated September 1, 1994, [First Leverage], through Atty. Ariel F. Aguirre, reiterated [its] offer to buy the two (2) parcels of land for P70,000,000.00 in CASH. Atty. Aguirre likewise demanded that Solid [Builders'] offer be rejected on the ground that Solid [Builders'] offer as against that of [First Leverage] was: first, prejudicial to [PNB] Republic; and secondly, would subject [PNB] Republic's officers to anti-graft charges. x x x

12. In reply to Atty. Aguirre's letter, [PNB] Republic x x x replied that [it] did not officially receive [First Leverage's] letter-offer of August 17, 1994, since as of August 17, 1994, [PNB] Republic had already contracted to sell the two (2) parcels of land to Solid [Builders]. x x x

13. Notwithstanding said [PNB] Republic's reply letter dated September 6, 1994, Atty. Aguirre persisted by forwarding another letter dated September 7, 1994, reiterating [First Leverage's] offer to buy the two (2) parcels of land for P70,000,000.00 in CASH. Atty. Aguirre, in addition, demanded that First Leverage be furnished copies of documents relative to [PNB] Republic's transaction with Solid [Builders].

14. Because of [PNB] Republic's failure to properly respond to Atty. Aguirre's letter, Atty. Aguirre forwarded a further letter dated September 14, 1994, again reiterating [First Leverage's] offer to purchase the two (2) parcels of land for P70,000,000.00 in CASH. x x x

15. On September 19, 1994, [PNB] Republic, despite the better offer of [First Leverage] and through the ultra vires acts of its officers, executed with Solid [Builders] a Deed of Promise to Sell covering the two (2) parcels of land. x x x

16. By reason of the threat of Atty. Aguirre of taking administrative, criminal and/or civil action against Republic and its officers by refusing to accept [First Leverage's] offer and [accepting] Solid [Builder's] offer, [PNB] Republic referred Atty. Aguirre's letter of September 14, 1994, to the Office of the Government Corporate Counsel [OGCC] for legal opinion.

17. The OGCC rendered an opinion, x x x, dated December 7, 1994, the thrust of which is as follows:

a) The Loans and Assets Recovery Committee, (Committee for brevity) to which LRAAD referred Solid [Builders'] offer for approval was not authorized to approve said offer for under existing policies any sale or disposition of acquired assets whose value exceeds P3,000,000.00 must be approved by [PNB] Republic's Board of Directors.

b) One of the essential requisites of a valid contract, insofar as [PNB] Republic and Solid [Builders are concerned], is missing, namely consent as provided for in Art. 1318 of the Civil Code.

x x x x x x x x

18. There are no existing offers within the period of negotiation except those submitted by [First Leverage] and Solid [Builders]. The period to negotiate the sale of the aforescribed two (2) parcels of land had already lapsed as clearly indicated by the alleged (though invalid) acceptance of Solid [Builders'] offer.

19. By letter dated December 13, 1994, [First Leverage] demanded that its offer be calendared for approval by [PNB] Republic's Board of Directors x x x. However, the Board of Directors, without any justifiable, valid or lawful reason, refused to approve [First Leverage's] valid, legal and subsisting offer which, as against Solid [Builders'] offers is definitely more advantageous to [PNB] Republic in particular and to the Government in general.

x x x x[4]

In its Answer to the Amended Complaint, PNB Republic denied the material allegations in the said Amended Complaint and contended that the Complaint states no cause of action; that the sale of the subject properties to Solid Builders was validly approved or thereafter ratified and confirmed by its board of directors; that PNB Republic was justified in selling the subject properties to Solid Builders because at that time, the latter's offer was the highest and most advantageous; at the time that First Leverage submitted its offer to buy the subject properties, the offer of Solid Builders was already approved.[5]

On the other hand, Solid Builders filed its Amended Answer asserting, in the same manner as PNB Republic, that the Complaint states no cause of action; that several months before First Leverage even thought of buying the disputed properties, Solid Builders and PNB Republic had already been negotiating the sale thereof which later led to the execution of a Deed of Promise to Sell the same; as of the time of execution of the said Deed, Republic had never known of any intention on the part of First Leverage to offer to buy the litigated properties; that First Leverage had not acquired any right over the said properties which can be protected; that the contract between Solid Builders and PNB Republic was legal and not ultra vires, and in accordance with the rules and regulations of the Bank. In its cross-claim against PNB Republic, Solid Builders prays that, if the disputed Deed of Promise to Sell is declared null and void, it shall be given the right to recover the amounts it had already paid to and received by PNB Republic, the value of the improvements it introduced on the subject property as well as compensatory and exemplary damages and attorney's fees.[6]

After Pre-Trial Conference was concluded, First Leverage filed a Motion for Judgment on the Pleadings and/or Resolution of Case Based on Admissions and Stipulations of Facts of the Parties. Solid Builders opposed the said Motion.

On December 23, 1996, the RTC rendered Judgment, the dispositive portion of which reads as follows:

WHEREFORE, in the interest of speedy and substantial justice, judgment is hereby rendered in favor of the plaintiff and against the two (2) defendants PNB Republic Bank and Solid Builders, Inc.:

- (a) Granting the plaintiff's instant Motion for Judgment on the Pleadings, etc., dated September 30, 1996;
- (b) Declaring null and void the alleged approval by the Loans and Assets Recovery Board Committee (LARBC) of the defendant Solid's verbal offer supposedly made on August 11, 1994 to buy the two (2) properties in question;
- (c) Declaring null and void the Deed of Promise to Sell, dated September 19, 1994, executed by and between the two (2) defendants;
- (d) Ordering the issuance of a Writ of Mandamus commanding the defendant Bank, thru its Board of Directors,

to approve within a period of ten (10) days from receipt hereof, the plaintiff's superior and written offer of August 17, 1994 to purchase the two (2) parcels of land involved herein for the cash price of P70,000,000.00 over that of the alleged verbal and inferior offer of the defendant Solid, payable in three (3) years on installment basis, in order to protect the public interest.

(e) Ordering the defendants to pay the costs of suit.

SO ORDERED.[7]

Solid Builders and PNB Republic filed their respective Motions for Reconsideration, but the RTC denied them in its Order[8] dated February 10, 1997.

Aggrieved, PNB Republic filed a special civil action for certiorari with this Court which case was referred to the CA. Subsequently, PNB Republic's petition for certiorari was subsequently denied due course and dismissed by the appellate court on the ground that the petition was resorted to as a substitute for a lost appeal.

Solid Builders, on the other hand, filed an appeal with the CA.

On June 17, 2002, the CA rendered its assailed Decision, which disposed as follows:

WHEREFORE, premises considered, as to defendant-appellant Solid Builders, the assailed decision of the lower court is hereby ANNULLED and SET ASIDE. The case is REMANDED to the lower court for further proceedings, and the lower court is (1) DIRECTED to SET for preliminary hearing the special and affirmative defenses of Solid Builders as grounds for the dismissal of the amended complaint of plaintiff-appellee First Leverage, (2) to RESOLVE with dispatch this particular incident, and (3) to PROCEED to trial on the merits, if warranted.

No pronouncement as to costs.

SO ORDERED.[9]

First Leverage filed a Motion for Reconsideration,[10] but the same was denied by the CA in its Resolution[11] dated October 21, 2002.

Hence, the instant petition for review on certiorari where First Leverage advances the following arguments:

I. THE LOWER COURT CORRECTLY RENDERED THE JUDGMENT DATED DECEMBER 23, 1996 AS A SUMMARY JUDGMENT;

II. SINCE ONLY SOLID BUILDERS, INC. APPEALED FROM THE JUDGMENT DATED DECEMBER 23, 1996, SAID JUDGMENT HAS BECOME FINAL AND EXECUTORY INsofar AS PNB-REPUBLIC IS CONCERNED; and

III. CONSEQUENTLY THE APPEAL OF SOLID BUILDERS HAS BECOME MOOT AND ACADEMIC INsofar AS FIRST LEVERAGE AND SERVICES GROUP, INC. IS CONCERNED.[12]

In its first assigned error, First Leverage argues that, in the instant case, there is no genuine issue as to any material or relevant fact which may proscribe a summary judgment; that the CA erred in not upholding the decision of the RTC because the same is supported by established facts, admissions and/or stipulations as well as documents admitted by the parties.

In its second and third assignments of error, First Leverage contends that since PNB Republic did not appeal the judgment of the RTC, the same has become final and executory insofar as PNB Republic is concerned. As such, First Leverage avers that it has already acquired vested rights enforceable by a writ of execution as against PNB

Republic. First Leverage concludes that the appeal of Solid Builders with the CA, which in essence seeks to enforce its contract with PNB Republic, is already rendered moot and academic, and that it has become *functus officio* insofar as First Leverage is concerned, considering that the said contract was already awarded in favor of the latter.

The Court finds the petition without merit.

At the outset, the Court stresses that First Leverage's first assigned error raises issues of fact. Certainly the questions as to whether First Leverage's formal offer to buy the subject properties was validly made within the negotiation period; whether its offer is more advantageous to PNB Republic and to the Government than the offer of Solid Builders; whether Solid Builders did not make any formal offer to buy the disputed properties; whether the Deed of Promise to Sell in favor of Solid Builders was validly approved by the Loan and Assets Recovery Board Committee and the Board of Directors of PNB Republic; and, whether the said Deed of Promise to Sell was hastily executed in violation of law and contrary to public policy, are all questions which call for a review of the evidence on record to determine if they have factual basis. However, it is settled that under Rule 45 of the Rules of Court, only questions of law may be raised in a petition for review on certiorari.[13] This Court is not a trier of facts and it is not its function to analyze or weigh evidence.[14] The jurisdiction of this Court over cases brought to it via petition for review on certiorari is limited to the review and rectification of errors allegedly committed by the lower courts.[15] These issues should be properly threshed out before the trial court.

Coming to the merits of the case, First Leverage contends that during the pre-trial conference, Solid Builders made admissions and entered into stipulation of facts, on the basis of which the RTC validly rendered its judgment.

The Court reiterates the ruling of the CA that what has been rendered by the RTC is not a judgment on the pleadings. Rather, it is a summary judgment.

Pertinent provisions of Section 1, Rule 34 of the Rules of Court state that:

Section 1. Judgment on the pleadings. – Where an answer fails to tender an issue, or otherwise admits the material allegations of the adverse party's pleading, the court may, on motion of that party, direct judgment on such pleading. x x x

On the other hand, Sections 1 and 3, Rule 35 of the same Rules provide:

Section 1. Summary judgment for claimant. – A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory relief may, at any time after the pleading in answer thereto has been served, move with supporting affidavits, depositions or admissions for a summary judgment in his favor upon all or any part thereof.

Sec. 3. Motion and proceedings thereon. – The motion shall be served at least ten (10) days before the time specified for the hearing. The adverse party may serve opposing affidavits, depositions, or admissions at least three (3) days before the hearing. After the hearing, the judgment sought shall be rendered forthwith if the pleadings show that, except as to the amount of damages, there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.

Where a motion for judgment on the pleadings is filed, the essential question is whether there are issues generated by the pleadings.[16] In a proper case for judgment on the pleadings, there is no ostensible issue at all because of the failure of the defending party's answer to raise an issue.[17] The answer would fail to tender an issue, of course, if it does not deny the material allegations in the complaint or admits said material allegations of the adverse party's pleadings by confessing the truthfulness thereof and/or omitting to deal with them at all.[18] If an

answer does in fact specifically deny the material averments of the complaint and/or asserts affirmative defenses (allegations of new matter which, while admitting the material allegations of the complaint expressly or impliedly, would nevertheless prevent or bar recovery by the plaintiff), a judgment on the pleadings would naturally be improper.[19]

In the case of a summary judgment, issues apparently exist— i.e., facts are asserted in the complaint regarding which there is as yet no admission, disavowal or qualification; or specific denials or affirmative defenses are in truth set out in the answer — but the issues thus arising from the pleadings are sham, fictitious or not genuine, as shown by affidavits, depositions, or admissions.[20]

In the present case, a perusal of the Amended Answer as well as the Pre-Trial Brief filed by Solid Builders would readily show that it denied the material allegations in First Leverage's Complaint and that defenses were raised to refute these allegations. Stated differently, Solid Builders' pleadings tendered factual issues. Hence, the CA correctly held that the RTC rendered a summary judgment and not a judgment on the pleadings.

The Court agrees with the CA, however, that even a summary judgment is not proper in the instant case.

Summary judgment is a procedural device resorted to in order to avoid long drawn out litigations and useless delays where the pleadings on file show that there are no genuine issues of fact to be tried.[21] A “genuine issue” is such issue of fact which requires the presentation of evidence as distinguished from a sham, fictitious, contrived or false claim.[22] There can be no summary judgment where questions of fact are in issue or where material allegations of the pleadings are in dispute.[23] A party who moves for summary judgment has the burden of demonstrating clearly the absence of any genuine issue of fact, or that the issue posed in the complaint is so patently unsubstantial as not to constitute a genuine issue for trial, and any doubt as to the existence of such an issue is resolved against the movant.[24]

It must be stressed that trial courts have limited authority to render summary judgments and may do so only when there is clearly no genuine issue as to any material fact.[25] As already stated, the burden of demonstrating clearly the absence of genuine issues of fact rests upon the movant, in this case First Leverage, and not upon Solid Builders who opposed the motion for summary judgment. Any doubt as to the propriety of the rendition of a summary judgment must thus be resolved against First Leverage.

In the present case, the Court agrees with the CA that genuine issues exist which call for a full blown trial. The CA held as follows:

First Leverage asserted in its amended complaint that there was no such valid perfected contract to sell. PNB Republic, however, insisted in its answer that the LARBC, duly authorized by the Bank's board of directors, validly approved the award of the properties to Solid Builders, and that even assuming that the LARBC was not fully authorized to approve the sale, the said action of LARBC was subsequently duly ratified and confirmed by the board of directors. Its co-defendant, Solid Builders, maintained also in its answer that the perfection, approval and execution of the deed of promise to sell in its favor were legal and not ultra vires. Thus, PNB Republic's and Solid Builders' respective answers to the complaint tendered an issue.[26]

Indeed, in its Amended Complaint, First Leverage contended that “[b]y [PNB] Republic's execution of a Deed of Promise to Sell with Solid [Builders], [PNB] Republic is determined to award the sale of the parcels of land covered by TCT No. 4050 and TCT No. 4211 to the damage and prejudice of [First Leverage] as well as the Government, in spite of the illegality of the approval of the offer of Solid [Builders] by the Loans and Assets Recovery Board Committee of [PNB] Republic. There is a compelling necessity, therefore, for a declaration of the nullity of the approval by said Committee of Solid [Builder's] offer to purchase the aforecited parcels of land.”[27]

On the other hand, in its Amended Answer, [Solid Builders] averred that “[PNB] Republic acts through duly authorized officers and the perfection, approval and execution of the Deed of Promise to Sell by [PNB] Republic in favor of Solid [Builders] was in accordance with the rules and regulations of the bank pursuant to its corporate mandate. [PNB] Republic has always maintained that the Deed of Promise to Sell the litigated property in favor of Solid [Builders] was legal and not ultra vires and up to this very moment [PNB] Republic and Solid [Builders] have been faithfully performing their respective obligations under the Deed of Promise to Sell the litigated property.”[28] In the same manner, respondent, in its Pre-Trial Brief, contended that “[t]he perfected contract by and between Defendant Solid [Builders] and PNB [Republic] was made in good faith and is not tainted by illegality, ultra vires act, nor infirmed by and for whatever reason, but is perfectly valid, legal and in full force and effect.”[29]

Thus, the Court finds no cogent reason to deviate from the ruling of the CA that genuine issues of fact were properly raised before the RTC, particularly with regard to the validity and existence of a perfected contract to sell, and that these issues could only be resolved through a full-blown hearing.

Anent the second and third assignment of errors, it is true that PNB Republic did not appeal the judgment of the RTC. This Court has always recognized the general rule that in appellate proceedings, the reversal of the judgment on appeal is binding only on the parties in the appealed case and does not affect or inure to the benefit of those who did not join or were not made parties to the appeal.[30] An exception to the rule exists, however, where a judgment cannot be reversed as to the party appealing without affecting the rights of his co-debtor, or where the rights and liabilities of the parties are so interwoven and dependent on each other as to be inseparable, in which case a reversal as to one operates as a reversal as to all.[31] This exception, which is based on a communality of interest of said parties, is recognized in this jurisdiction.[32] In the instant case, the rights and liabilities of Solid Builders and PNB Republic are, no doubt, intertwined and inseparable. The enforcement of the rights of Solid Builders under the contract it entered into with PNB Republic is completely dependent upon the latter's performance of its obligations thereunder. Assuming that Solid Builders' offer to purchase the disputed properties is subsequently proven to be superior to that of First Leverage, PNB Republic shall be required to proceed with its contract to sell the subject properties to Solid Builders. Thus, to allow the execution of the RTC judgment, by requiring PNB Republic to sell the questioned lots to First Leverage, without first determining with finality whether the latter's offer to buy the disputed properties is indeed superior to Solid Builders' offer would not only result in the deprivation of Solid Builders' right to due process but, more importantly, an unwarranted defeat or forfeiture of its substantive rights.

WHEREFORE, the instant petition is DENIED. The Decision of the Court of Appeals, dated June 17, 2002, as well as its Resolution of October 21, 2002 in CA-G.R. SP No. 47218, are AFFIRMED.

SO ORDERED.

Velasco, Jr., (Chairperson), Mendoza, Reyes,[*] and Perlas-Bernabe, JJ., concur.

[*] Designated Acting Member in lieu of Associate Justice Roberto A. Abad, per Special Order No. 1244 dated June 26, 2012.

[1] Penned by Associate Justice Jose L. Sabio, Jr., with Associate Justices Romeo A. Brawner (Chairman) and Mario L. Guariña III concurring; rollo, pp. 47-79.

[2] Id. at 81.

- [3] Annex “C” to Petition, pp. 82-91.
- [4] Id. at 83-88.
- [5] Annex “D” to Petition, rollo, pp. 121-131.
- [6] Annex “E” to Petition, rollo, pp. 171-176.
- [7] Rollo, pp. 244-245.
- [8] Id. at 247-248.
- [9] Id. at 78. (Emphases supplied.)
- [10] CA rollo, pp. 247-273.
- [11] Rollo, p. 81.
- [12] Id. at 34.
- [13] General Santos Coca-Cola Plant Free Workers Union-Tupas v. Coca-Cola Bottlers Phils., Inc., G.R. No. 178647, February 13, 2009, 579 SCRA 414, 417.
- [14] Quitoriano v. Department of Agrarian Reform Adjudication Board (DARAB), G.R. No. 171184, March 4, 2008, 547 SCRA 617, 627.
- [15] Id.
- [16] Tan v. De la Vega, G.R. No. 168809, March 10, 2006, 484 SCRA 538, 545.
- [17] Id.
- [18] Id.
- [19] Id.
- [20] Id.
- [21] Maritime Industry Authority v. Marc Properties Corporation, G.R. No. 173128, February 15, 2012.
- [22] Id.
- [23] Id.
- [24] Id.
- [25] Philippine Bank of Communications v. Go, G.R. No. 175514, February 14, 2011, 642 SCRA 693, 706, citing Asian Construction and Development Corporation v. Philippine Commercial International Bank, G.R. No. 153827, April 25, 2006, 488 SCRA 192.
- [26] Rollo, p. 69.
- [27] Annex “C” to Petition, id. at 89.
- [28] Annex “E” to Petition, id. at 173.
- [29] Annex “J” to Petition, id. at 208.
- [30] Dadizon v. Bernadas, G.R. No. 172367, June 5, 2009, 588 SCRA 678, 684.

[31] Republic v. Institute for Social Concern, G.R. No. 156306, January 28, 2005, 449 SCRA 512, 524, citing Tropical Homes, Inc. v. Fortun, G.R. No. 51554, January 13, 1989, 169 SCRA 81.

[32] Dadizon v. Bernadas, *supra* note 30.

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