

**ALLGEMEINE-BAU-CHEMIE PHILS., INC., PETITIONER, VS.
METROPOLITAN BANK & TRUST CO., HONORABLE N. C.
PERELLO, PRESIDING JUDGE OF THE REGIONAL TRIAL
COURT-MUNTINLUPA, BRANCH 276 AN...**

G.R. No. 159296. February 10, 2006

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

The appellate court's denial of petitioner Allgemeine-Bau-Chemie Phils., Inc.'s petition to enjoin the implementation of a writ of possession issued by Branch 276, Regional Trial Court (RTC) of Muntinlupa City in favor of private respondent Metropolitan Bank and Trust Co. (Metrobank) is the subject of the present petition for review.

Under a loan agreement[1] dated November 19, 1996, Asian Appraisal Holdings, Inc. (AAHI) obtained a loan amounting to P442,500,000 from Solidbank Corporation (Solidbank) for the construction of Asian Star Building, a 20 storey commercial condominium built on lots covered by TCT Nos. 205967 and 205969[2] located at the Filinvest Corporate City, Alabang, Muntinlupa City.

As security for the loan, AAHI executed a security agreement[3] or real estate mortgage dated November 19, 1996 over its property consisting of the lots covered by TCT Nos. 205967 and 205969 and the condominium built thereon including all units, parking slots, common areas and other improvements, machineries and equipment. The real estate mortgage was registered with the Register of Deeds on November 19, 1996 and duly annotated on the individual Condominium Certificates of Title (CTC) on even date.

On November 17, 1999, AAHI entered into a contract to sell[4] with petitioner for the purchase of Units 1004 and 1005 covered by CTC No. 54666[5] and CTC No. 54667[6], respectively, and the right to the exclusive use of parking slots P515, P516, P517, and P514 covered by CTC No. 54986,[7] CTC No. 54987,[8] CTC No. 54988,[9] CTC No. 54985[10] (the subject properties), respectively, for a total purchase price of P23,571,280.

On December 22, 1999, the parties executed an addendum[11] to the contract to sell whereby AAHI assigned to petitioner the right to the exclusive use of parking slot P504 covered by CTC No. 54975 for a consideration of P600,000, which petitioner paid on even date.

By separate letters[12] dated March 23, 2000, AAHI and Solidbank informed petitioner of the real estate mortgage forged by them and was advised to remit its monthly amortizations for the units and parking slots it purchased to Solidbank. Petitioner was also requested to inform Solidbank of the total installments it had paid for these units and parking slots and the balance still due thereon[13]

Petitioner which occupied the condominium units as its place of business had, by October 2001, fully settled its obligation to AAHI in the total amount of P26,588,409.30.[14]

On October 21, 2000, as AAHI defaulted on its loan obligation, Metropolitan Bank and Trust Company

(Metrobank), to which the banking operations of Solidbank were integrated, filed before the Muntinlupa RTC a Petition for Extra-Judicial Foreclosure of the Real Estate Mortgage.[15]

AAHI not long after filed on October 30, 2000 also before the Muntinlupa RTC a complaint[16] against Solidbank, for Specific Performance with Preliminary Injunction to enjoin the foreclosure of the real estate mortgage, docketed as Civil Case No. 00-196, and raffled to Branch 256 of the RTC.

On October 31, 2000, the mortgaged properties were sold at public auction to the highest bidder, Metrobank, to which a Certificate of Sale was issued.[17] The Certificate of Sale was registered with the Register of Deeds of Muntinlupa City and annotated on the individual CTCs on April 4, 2001.[18]

On January 24, 2002, Metrobank filed an Ex-Parte petition for the Issuance of a Writ of Possession[19]of the properties subject of the foreclosed mortgage. The petition was docketed as LRC Case No. 02-007 and raffled to Branch 276, RTC of Muntinlupa. The petition was granted and a writ of possession was issued on April 9, 2002.[20]

Also on April 9, 2002, petitioner filed before Branch 256 of the RTC in Civil Case No. 00-196 (AAHI's complaint against Solidbank for Specific Performance with Preliminary Injunction) a motion for intervention,[21]to which it attached a complaint-in-intervention[22] with prayer for the annulment of the extra-judicial foreclosure sale, delivery of title, and damages and for the issuance of a temporary restraining order and/or writ of preliminary injunction enjoining Metrobank to consolidate its title and to take possession of its properties.

The court Sheriff on April 15, 2002 issued a notice to vacate[23]which was served on May 16, 2002 upon all building occupants who were advised to make the necessary arrangements with Metrobank regarding their occupancy.[24]

In the meantime, the Motion for Reconsideration of the April 9, 2002 Order of Branch 276 filed by AAHI was denied by Order[25] dated May 13, 2002, prompting it to file before the appellate court a petition for a writ of preliminary injunction.

Petitioner filed on June 18, 2002 a separate petition for the issuance of a temporary restraining order and a writ of preliminary injunction with the appellate court,[26] docketed as CA-G.R. SP No. 71217, also to enjoin the implementation of the writ of possession issued by Branch 276 of the Muntinlupa RTC. In its petition, petitioner alleged that its complaint-in-intervention in Civil Case No. 00-196 pending in Branch 256 is its principal action but as the said court could not enjoin Branch 276 from implementing the writ of possession, both courts being of equal jurisdiction, it had no choice but to file the petition with the appellate court.[27]

On August 22, 2002, the Tenth Division of the Court of Appeals granted petitioner's prayer for, and issued a temporary restraining order[28] in CA-G.R. SP No. 71217. By Decision[29]of January 22, 2003, the Seventh Division of the Court of Appeals denied, however, petitioner's prayer for the issuance of a writ of preliminary injunction for failure to establish a clear and unmistakable right to the subject properties.[30]

The motion for reconsideration of the above-said Resolution of January 22, 2003 having been denied by the appellate court by Resolution[31]dated July 23, 2003, petitioner now comes before this Court on a petition for review, alleging that the appellate court committed grave and palpable error in denying its prayer for a writ of preliminary injunction in flagrant violation of laws and jurisprudence.[32]

The petition fails.

It is axiomatic that what determines the nature of an action and hence, the jurisdiction of a court, are the allegations of the complaint and the character of the relief sought.[33] Petitioner's only prayer in CA-G.R. No.

71217 is "for the preservation of the status quo, that is, petitioner, having in possession over the subject properties for several years, shall retain such possession until the controversy [Civil Case No. 00-196] before the said trial court [Branch 276, RTC of Muntinlupa City] has been finally resolved and respondents be prevented from taking over such possession." [34]

Clearly, what petitioner filed with the appellate court was an original action for preliminary injunction which is a provisional and extra-ordinary remedy calculated to preserve or maintain the status quo of things and is availed of to prevent actual or threatened acts, until the merits of the case can be heard.

An original action for injunction is outside the jurisdiction of the Court of Appeals, however. Under B.P. 129, the appellate court has original jurisdiction only over actions for annulment of judgments of the RTCs and has original jurisdiction to issue writs of mandamus, prohibition, certiorari, habeas corpus and quo warranto, and auxiliary writs or processes whether or not they are in aid of its appellate jurisdiction. [35]

The appellate court's jurisdiction to grant a writ of preliminary injunction is limited to actions or proceedings pending before it, as Section 2 of Rule 58 of the Rules clearly provides:

SECTION 2. Who may grant preliminary injunction. – A preliminary injunction may be granted by the court where the action or proceeding is pending. x x x (Emphasis supplied),

or in a petition for certiorari, prohibition or mandamus under Section 7 of Rule 65, thus:

SECTION 7. Expediting proceedings; injunctive relief. – The court in which the petition is filed may issue orders expediting the proceedings, and it may also grant a temporary restraining order or a writ of preliminary injunction for the preservation of the rights of the parties pending such proceedings. The petition shall not interrupt the course of the principal case unless a temporary restraining order or a writ of preliminary injunction has been issued against the public respondent from further proceeding in the case. (Emphasis supplied)

In the case at bar, petitioner's complaint-in-intervention in Civil Case No. 00-196 was pending before Branch 256 of the Muntinlupa RTC, not with the appellate court. Petitioner's petition before the appellate court does not show, nay allege, that in issuing the writ of possession, the Muntinlupa RTC acted without or in excess of its jurisdiction or with grave abuse of discretion for it to be treated as either one for certiorari [36] or prohibition. [37]

Thus, for want of jurisdiction, the petition before the appellate court should have been dismissed outright.

At all events, it is well-settled that an order granting or denying a preliminary injunction is not appealable. [38] WHEREFORE, the petition is, in light of the foregoing discussions, DENIED.

Costs against petitioner.

Quisumbing, (Chairperson), Carpio and Tinga, JJ., concur.

[1] CA rollo, pp. 190-217.

[2] Id. at 374.

[3] Id. at 218-227.

[4] Id. at 37-42.

[5] Id. at 43-46.

[6] Id. at 47-49.

[7] Id. at 53-55.

[8] Id. at 56-58.

[9] Id. at 59-61.

[10] Id. at 62-65.

[11] Id. at 50-52.

[12] Id. at 99-100.

[13] Id. at 100.

[14] Rollo, p. 9.

[15] CA rollo, p. 146.

[16] Id. at 110-117.

[17] Id. at 147.

[18] Ibid.

[19] Id. at 140-150.

[20] Id. at 151-154.

[21] Id. at 118-124.

[22] Id. at 125-139.

[23] Id. at 157.

[24] Id. at 323.

[25] Id. at 158.

[26] Id. at 2-21.

[27] Id. at 11-12.

[28] Id. at 275-277.

[29] Id. at 321-327, penned by Justice Remedios A. Salazar-Fernando, with the concurrence of Justices Ruben T. Reyes and Edgardo F. Sundiam.

[30] Id. at 325-326.

[31] Id. at 382.

[32] Rollo, p. 20.

[33] *Del Mar v. Philippine Amusement and Gaming Corporation*, G.R. No. 138298, November 29, 2000, 346 SCRA 485, 500.

[34] CA rollo, p. 332.

[35] Batas Pambansa Blg. 129, AN ACT REORGANIZING THE JUDICIARY, APPROPRIATING FUNDS THEREOF, AND FOR OTHER PURPOSES, Section 9 thereof provides:

SEC. 9. Jurisdiction. – The Intermediate Appellate Court shall exercise:

- (1) Original jurisdiction to issue writs of mandamus, prohibition, certiorari, habeas corpus, and quo warranto, and auxiliary writs or processes, whether or not in aid of its appellate jurisdiction;
- (2) Exclusive original jurisdiction over actions for annulment of judgments of Regional Trial Courts;

[36] Section 1, Rule 65 of the Revised Rules of Court provides:

SEC. 1. Petition for certiorari. – When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

x x x x

[37]Section 2, Rule 65 of the Revised Rules of Court provides:

SEC. 2. Petition for prohibition. – When the proceedings of any tribunal, corporation, board, officer or person, whether exercising judicial, quasi-judicial or ministerial functions, are without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent to desist from further proceedings in the action or matter specified therein, or otherwise granting such incidental reliefs as law and justice may require. x x x

x x x x

[38]Diokno v. Reyes, et al., 7 Phil. 385, 387 (1907).

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