

LEY CONSTRUCTION & DEVELOPMENT CORPORATION, LC BUILDERS & DEVELOPERS, INC., METRO CONTAINER CORPORATION, MANUEL T. LEY, AND JANET C. LEY, PETITIONERS, VS. PHILIPPINE COMMERCIAL ...

G.R. No. 160841. June 23, 2010

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

This instant Petition for Review on Certiorari under Rule 45 of the Rules of Court seeks to reverse the Decision[1] of the Court of Appeals dated April 11, 2003, dismissing petitioners' appeal from the Makati City Regional Trial Court (RTC) Order[2] dated July 28, 1994. The Court of Appeals dismissed the appeal on the ground that the notice of appeal was filed beyond the reglementary period.

The pertinent facts about the case follow.

From 1986 to 1990, petitioners Ley Construction and Development Corporation, LC Builders & Developers, Inc., Metro Container Corporation, Manuel T. Ley and Janet C. Ley secured 52 loans from the Philippine Commercial International Bank (PCIB, now Equitable PCIBank).[3] As collateral for said loans, petitioners executed real estate mortgages over several of their properties and chattel mortgages over their equipment and machinery.[4]

As the debts became due, PCIB made repeated demands for the borrowers to pay. Petitioners were able to pay some of their obligations, but 18 of the 52 loans remained unpaid.[5]

Thus, on August 16, 1991, PCIB filed separate requests for extrajudicial foreclosure with the sheriffs of Pasig City RTC and Valenzuela City RTC.[6] The sheriff of Valenzuela City RTC set the auction sale of personal properties on September 16, 1991, and the real property on October 3, 1991. The sheriff of Pasig City RTC set the public auction on September 24, 1991.

To forestall the scheduled auction sales, petitioners, on September 10, 1991, filed a Complaint[7] for injunction and damages with a prayer for the issuance of a temporary restraining order (TRO) before the Makati City RTC. One of the causes of action proffered was that PCIB had agreed to the extensions of the due date of the loans.[8] The Complaint for injunction and damages, docketed as Civil Case No. 91-2495, was aimed at enjoining the respective sheriffs of the Pasig City RTC and the Valenzuela City RTC from conducting the already scheduled foreclosure sales and any other sale of their mortgaged properties. The complaint also sought the restructuring of petitioners' debts.[9]

PCIB filed a motion to dismiss the complaint for injunction and damages (Civil Case No. 91-2495) before the Makati City RTC on the ground that it did not agree to petitioners' request for extra time to make good their obligations.

In an Order dated October 16, 1991, the Makati City RTC issued a preliminary injunction, enjoining the conduct

of the scheduled auction sales and denying PCIB's motion to dismiss.[10]

On November 20, 1991, PCIB filed a motion for reconsideration.[11]

On December 9, 1991, PCIB filed an Urgent Motion to Lift Writ of Preliminary Injunction, which was opposed by petitioners.[12]

The Makati City RTC, in an Order dated February 26, 1992, denied PCIB's motion for reconsideration of the Order dated October 16, 1991.[13] Although PCIB questioned the said Order with the Court of Appeals, it did not pursue the incident further after the latter court rendered an adverse ruling.

On February 1, 1993, PCIB filed an Answer to the complaint for injunction and damages.

A significant development of the injunction case happened on February 23, 1993, when the Makati City RTC granted PCIB's Second Motion to Lift Writ of Preliminary Injunction on the ground that said motion was unopposed.[14]

The February 23, 1993 Order of the Makati City RTC, which had lifted the preliminary injunction on the scheduled foreclosure sales, prompted PCIB to immediately cause the scheduling of the sheriff's extrajudicial foreclosure sales of the mortgaged properties in Mandaluyong City and Valenzuela City on March 30, 1993. The auction sale of the mortgaged chattels in Valenzuela City was scheduled on March 18, 1993.

The February 23, 1993 Order was opposed by petitioners, as they filed on March 30, 1993 an Emergency Motion for Reconsideration of the Order dated February 23, 1993 and to Expand Writ of Preliminary Injunction with Application for Temporary Restraining Order.

The Emergency Motion for Reconsideration was not the only remedy resorted to by petitioners to thwart the effect of the February 23, 1993 Order. Petitioners similarly filed two separate complaints in another venue. The first, filed with the Manila RTC, Branch 34, on March 17, 1993, docketed as Civil Case No. 93-65135, was a Complaint for Injunction and Damages with prayer for TRO against PCIB and the sheriff of Valenzuela City RTC enjoining them from proceeding with the auction sale scheduled on March 18, 1993. The second, also a complaint for Injunction with the Manila RTC, Branch 54, was filed on May 3, 1993 and docketed as Civil Case No. 93-65757, directed against the conduct of the auction sale of the Valenzuela City properties. Civil Case No. 93-65135 was subsequently dismissed based on the pendency of Civil Case No. 91-2495, while Civil Case No. 93-65757 was dismissed because petitioners engaged in forum shopping.

The issue over the validity of the February 23, 1993 Order of the Makati City RTC eventually reached the Court of Appeals on June 10, 1993, upon petitioners' filing of a petition for certiorari and mandamus assailing the said order. Petitioners argued that the February 23, 1993 Order, which granted ex parte the Second Motion for the Lifting of Preliminary Injunction, denied them the right to due process as they were deprived their chance to be heard on said motion considering that the service of the copy of the motion was not given to their counsel of record. On the allegation that they were guilty of forum shopping, petitioners countered that the causes of actions in the complaints filed with the Manila RTC were different from each other and vary as well from the cause of action with the injunction case (Civil Case No. 91-2495) pending with the Makati City RTC.

The Court of Appeals ruled in favor of petitioners and declared the February 23, 1993 Order null and void in its decision dated August 13, 1993.

On May 2, 1994, PCIB elevated the Court of Appeals' decision to this Court, the case was docketed as G.R. No. 114951.[15]

The instant controversy came to fore when, during the pendency of G.R. No. 114951, the Makati City RTC

rendered the questioned Order dated July 28, 1994, dismissing Civil Case No. 91-2495, on the ground of failure to prosecute. The pertinent portion of the Order reads:

It appearing that this case was instituted way back on September 10, 1991 and that since then until the present time, plaintiffs have not taken proper steps for the early disposition of this case, the Court hereby dismisses this case for failure to prosecute.[16]

On September 12, 1994, petitioners filed a motion for reconsideration of the foregoing Order. Petitioners contended that the RTC committed reversible error in dismissing the complaint on the ground of failure to prosecute.[17] Petitioners insisted that to constitute "failure to prosecute," there must be an unwillingness or lack of interest in prosecuting the action. According to petitioners, there was no failure to prosecute on their part since they had actively pursued their cause and had fought tooth and nail throughout the injunction proceedings at the trial court level all the way up to this Court. Besides, petitioners argued, length of time alone is not a gauge in the staleness of the claim, but such delay can only be appreciated if the same reasonably justifies the belief that the action had been abandoned, which was not the case here since petitioners had pursued their action up until the RTC rendered the questioned order. Petitioners likewise invoked liberal construction of the rules in order to promote justice. Petitioners attempted to justify the delay of the main case on account of the pendency of G.R. No. 114951.

The said motion was denied in an Order dated August 22, 2001.

On September 13, 2001, petitioners received the August 22, 2001 Order denying their motion for reconsideration.

On September 20, 2001, six days late, petitioners filed a notice of appeal.[18]

When the case had reached the Court of Appeals, the appellate court, without dealing on the merits, dismissed the same on the ground that petitioners' appeal was filed beyond the 15-day reglementary period, thereby rendering the appealed decision of the RTC final. The pertinent portion of the assailed decision reads:

IN VIEW OF ALL THE FOREGOING, the instant appeal is ordered DISMISSED. No cost.[19]

In a parallel proceeding, on July 18, 2003, this Court rendered a decision in G.R. No. 114951 dismissing Civil Case No. 91-2495 with prejudice on the grounds of forum shopping and violation of judicial stability by filing another case in a different court and venue, i.e., in Civil Case Nos. 93-65135 and 93-65757 in Manila, despite the pendency of Civil Case No. 91-2495, and with the objective of defeating the February 23, 1993 Order in the latter case. The Court also ruled that petitioners therein were accorded their right to due process, since they were served with a copy of the PCIB's Second Motion to Lift Writ of Preliminary Injunction. G.R. No. 114951 became final and executory on February 23, 2004.

Reverting to the instant proceedings, petitioners, in their Manifestation[20] dated March 5, 2004, enunciated the fact that this Court had rendered a decision in G.R. No. 114951, dismissing Civil Case No. 91-2495. Petitioners, however, averred that while the proceedings in G.R. No. 114951 and the instant petition both originated from Civil Case No. 91-2495, the issues raised in the two cases are different. It is petitioners' conviction that the issue in G.R. No. 114951 is the propriety of the trial court's Order dated February 23, 1993, a mere incident of Civil Case No. 91-2495, while the issue in the instant petition is the propriety of the trial court's Order dated July 28, 1994, dismissing the main case, Civil Case No. 91-2495.

In their Memorandum, petitioners stress that the six-day delay in filing their notice of appeal is a mere slight negligence and an excusable one, since they lost track of the case occasioned by the Makati City RTC's seven-year inaction before it resolved their motion for reconsideration of the Order dated July 28, 1994. Petitioners then likened their situation to that of the petitioner in *Trans International v. Court of Appeals*,[21]

where the Court allegedly held that a delay in the perfection of appeal does not warrant a dismissal. [22] They also reiterated their contention that they could not have been guilty of failure to prosecute their case, since they had been actively participating in the proceedings of the same.

PCIB counters that the instant petition, which is intended to revive Civil Case No. 91-2495, has been rendered moot by the earlier dismissal of the same in G.R. No. 114951. It further argues that the fact that the RTC resolved petitioners' motion for reconsideration after seven years is not a valid and excusable ground for them not to file their notice of appeal on time.

We deny the petition.

The rule is that when material facts or questions, which were in issue in a former action and were admitted or judicially determined, are conclusively settled by a judgment rendered therein, such facts or questions become res judicata and may not again be litigated in a subsequent action between the same parties or their privies regardless of the form of the latter.[23]

Jurisprudence provides that the concept of res judicata embraces two aspects.[24] The first, known as "bar by prior judgment," or "estoppel by verdict," is the effect of a judgment as a bar to the prosecution of a second action upon the same claim, demand or cause of action.[25] The second, known as "conclusiveness of judgment," otherwise known as the rule of autre action pendente, ordains that issues actually and directly resolved in a former suit cannot again be raised in any future case between the same parties involving a different cause of action.[26] The bar by prior judgment requires the following elements to be present for it to operate:

- (1) A former final judgment that was rendered on the merits;
- (2) The court in the former judgment had jurisdiction over the subject matter and the parties; and,
- (3) Identity of parties, subject matter and cause of action between the first and second actions.[27]

In contrast, the elements of conclusiveness of judgment are:

1. Identity of parties; and
2. Subject matter in the first and second cases.[28]

Conclusiveness of judgment does not require identity of the causes of action for it to work. If a particular point or question is in issue in the second action, and the judgment will depend on the determination of that particular point or question, a former judgment between the same parties will be final and conclusive in the second if that same point or question was in issue and adjudicated in the first suit; but the adjudication of an issue in the first case is not conclusive of an entirely different and distinct issue arising in the second.[29] Hence, facts and issues actually and directly resolved in a former suit cannot again be raised in any future case between the same parties, even if the latter suit may involve a different claim or cause of action.

Conclusiveness of judgment proscribes the relitigation in a second case of a fact or question already settled in a previous case. The second case, however, may still proceed provided that it will no longer touch on the same fact or question adjudged in the first case. Conclusiveness of judgment requires only the identity of issues and parties, but not of causes of action.

The instant petition is denied on the ground of res judicata under the concept of conclusiveness of judgment.

The presence of the first element is not disputed considering that the parties in G.R. No. 114951 and in this case are the same. Also attendant is the last element, identity of the subject matter or the issue. At first blush though, it may appear, as petitioners have argued, that the subject of G.R. No. 114951 is the Makati City RTC Order dated

February 23, 1993 granting PCIB's Second Motion to Lift Writ of Preliminary Injunction, whereas the instant recourse assails the July 28, 1994 Order of the same court dismissing Civil Case No. 91-2495 for failure to prosecute. A closer look, however, discloses that while at its inception G.R. No. 114951 initially dealt with the propriety of the February 23, 1993 Order of the Makati City RTC, later progress of the case, such as the filing of petitioners of two separate complaints in the Manila RTC essentially directed at the said order of the Makati trial court, shaped the case into a different form. The subject of the case veered away from its original issue - the validity of the February 23, 1993 Order. This time, the core issue emerged whether petitioners were guilty of forum shopping so as to make Civil Case No. 91-2495 dismissible on that ground. Simply stated, the issue in G.R. No. 114951 is whether Civil Case No. 91-2495 is dismissible. After judicious perusal, this Court in that case eventually found petitioners guilty of forum shopping and, thus, dismissed with prejudice Civil Case No. 91-2495. The Court thus decreed:

IN LIGHT OF ALL THE FOREGOING, the petition is GRANTED. The decision of the Court of Appeals in CA-G.R. SP No. 31251 is REVERSED AND SET ASIDE. The complaint of the private respondents in Civil Case No. 91-2495 is DISMISSED WITH PREJUDICE.[30]

The instant petition exactly ventures into the same issue, whether Civil Case No. 91-2495 is dismissible, albeit based on a different ground, that is, failure of the petitioners to prosecute the case.

There is, therefore, no point in resolving the various issues raised by petitioners in this case, since it will effectively reopen G.R. No. 114951, on which a final judgment has already been decreed, rendering it closed. To do so would set a bad precedent, leaving the door wide open for dissatisfied parties to relitigate unfavorable decisions to no end.[31] Without a doubt, this is completely inimical to the orderly and efficient administration of justice.[32]

WHEREFORE, premises considered, the instant petition is hereby DENIED.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Del Castillo, and Perez, JJ., concur.

[1] Penned by Associate Justice Conrado M. Vasquez, Jr. with Associate Justices Mercedes Gozo-Dadole and Rosemari D. Carandang, concurring; rollo, pp. 7-14.

[2] CA rollo, p. 140.

[3] Rollo, pp. 8 and 487.

[4] Id. at 487.

[5] Id. at 8.

[6] Id. at 84-85.

[7] Id. at 77-109.

[8] Id. at 86.

[9] Id. at 106-107.

[10] Id. at 8.

[11] CA rollo, p. 120.

[12] Id.

[13] Id. at 121.

[14] Id. at 42 and 122.

[15] Philippine Commercial International Bank v. Court of Appeals, 454 Phil. 338 (2003).

[16] CA rollo, p. 140.

[17] Rollo, pp. 309-351.

[18] Id. at 307-308.

[19] Id. at 13.

[20] Id. at 444-449.

[21] G.R. No. 128421, January 26, 1998, 285 SCRA 49.

[22] Rollo, p. 538.

[23] Carlet v. Court of Appeals, 341 Phil. 99, 108 (1997).

[24] Presidential Commission on Good Government v. Sandiganbayan, G.R. No. 157592, October 17, 2008, 569 SCRA 360, 372.

[25] Id.

[26] Id.

[27] Alcantara v. Department of Environment and Natural Resources, G.R. No. 161881, July 31, 2008, 560 SCRA 753, 771.

[28] Id.

[29] Id. at 771-772.

[30] Philippine Commercial International Bank v. Court of Appeals, supra note 15 at 371.

[31] Lee v. Regional Trial Court of Quezon City, Br. 85, 467 Phil. 997, 1013 (2004).

[32] Id.

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