

VICTORIAS MILLING CO., INC., PETITIONER, VS. COURT OF APPEALS AND INTERNATIONAL PHARMACEUTICALS, INC. RESPONDENTS.

G.R. No. 168062. June 29, 2010

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

In an ejectment case mandated to be tried under summary procedure, the paramount consideration is its expeditious and inexpensive resolution without regard to technicalities.

This petition for certiorari assails the May 6, 2005 Resolution[1] of the Court of Appeals (CA) in CA-G.R. CEB-SP No. 00365 which granted the petition for certiorari filed before it by respondent International Pharmaceuticals, Inc. (IPI) and ordered the issuance of a writ of preliminary injunction enjoining the Municipal Circuit Trial Court (MCTC) of E.B. Magalona-Manapla, Negros Occidental from proceeding with Civil Case No. 392-M, an ejectment case, and disturbing IPI's possession of the leased premises until further orders.

Factual Antecedents

On March 4, 2004, petitioner Victorias Milling Co. (VMC), Inc., filed a complaint for unlawful detainer and damages against respondent IPI before the MCTC of E.B. Magalona-Manapla, docketed as Civil Case No. 392-M. On March 10, 2004, the sheriff served the summons upon Danilo Maglasang, IPI's Human Relations Department Manager.

On March 19, 2004, IPI filed its Answer with express reservation that said Answer should not be construed as a waiver of the lack of jurisdiction of the MCTC over the person of IPI, for non-service of summons on the proper person. It then filed an Omnibus Motion for Hearing of Affirmative Defenses raised in the Answer and moved for the suspension of proceedings.

Ruling of the Municipal Circuit Trial Court

On August 30, 2004, the MCTC issued an Order[2] denying the suspension of the proceedings of the case sought by IPI. It disposed as follows:

WHEREFORE, in accordance with the Rule on Summary Procedure, set this case for preliminary conference on September 29, 2004 at 9:30 o'clock in the morning.

SO ORDERED.[3]

The motion for reconsideration was denied.

Ruling of the Court of Appeals

Thus IPI filed a petition for certiorari with the CA, Cebu City to question the jurisdiction of the MCTC over its person.

On February 22, 2005, the CA directed VMC to file its comment, to which IPI filed its reply. VMC thereafter

filed its rejoinder.

In the meantime, in the MCTC, during the scheduled preliminary conference, IPI moved for the deferment of the preliminary conference while VMC moved for the termination of the same. The said preliminary conference was terminated and the parties were directed to submit the affidavits of their witnesses and other evidence together with their position papers. The parties subsequently submitted the required position papers with the MCTC.[4]

On May 6, 2005, the CA issued the assailed Resolution which states in full:

After going over the verified petition for certiorari and prohibition with prayer for a writ of preliminary injunction dated February 9, 2005, the comment dated March 7, 2005 filed by private respondent, the reply dated 23 March 2005 of petitioner, the rejoinder dated April 11, 2005 filed by the private respondent, taking into account that among others petitioner questions the jurisdiction of the trial court over its person because summons was served on its Human Relations Manager in violation of Section 11 of Rule 14 of the 1997 Rules on Civil Procedure, in order not to render ineffectual whatever judgment that may be rendered in the above-entitled case and to preserve the rights of the parties during the pendency of this case, conditioned upon the putting up of an injunction bond in the sum of P200,000.00 to answer for whatever damages that the private respondent may sustain should this Court [decide] that the petitioner is not entitled thereto, let a WRIT OF PRELIMINARY INJUNCTION be issued enjoining the public respondent Municipal Circuit Trial Court of E. B. Magalona-Manapla, Municipality of Magalona from proceeding with Civil Case No. 392-M and disturbing the possession of the petitioner over the leased premises during the pendency of this petition until further orders from this Court.

The parties are given twenty (20) days from receipt hereof to file simultaneously their respective memoranda on the merits amplifying their positions and supporting their arguments with pertinent jurisprudence on the matter.

SO ORDERED.[5]

VMC no longer filed a motion for reconsideration of the CA's Resolution, on the ground that the questioned CA Resolution is patently null and void and due

to the urgency of VMC's predicament. It instead immediately filed the present petition for certiorari.

Issues

Petitioner raises the following issues:

WHETHER X X X THE PUBLIC RESPONDENT CA HAD GRAVELY ABUSED ITS DISCRETION AMOUNTING TO A LACK OR EXCESS OF ITS JURISDICTION BY ORDERING THE ISSUANCE OF AN INJUNCTIVE WRIT ON THE BASIS OF, IN CONNECTION WITH, AND/OR AS AN INCIDENT OF A CLEARLY PROHIBITED/ DISALLOWED PETITION OR PLEADING (FOR CERTIORARI AND PROHIBITION AGAINST INTERLOCUTORY ORDERS IN AN EJECTMENT SUIT)

WHETHER X X X THE PUBLIC RESPONDENT CA HAD GRAVELY ABUSED ITS DISCRETION AMOUNTING TO AN EXCESS OF ITS JURISDICTION BY FAILING/REFUSING TO DISMISS/DENY OUTRIGHT THE PETITION FOR CERTIORARI AND PROHIBITION AS FILED BEFORE IT IN CA-G.R. CEB-SP NO. 00365 (AGAINST INTERLOCUTORY ORDERS IN AN EJECTMENT SUIT) NOTWITHSTANDING ITS EXPRESSLY BEING A PROHIBITED/ DISALLOWED PETITION/PLEADING UNDER THE PROVISIONS OF RULE 70, SEC. 13(7) OF THE [RULES] OF COURT

WHETHER X X X THE PUBLIC RESPONDENT CA HAD GRAVELY ABUSED ITS DISCRETION AMOUNTING TO AN EXCESS OF ITS JURISDICTION BY FAILING/REFUSING TO DISMISS/DENY OUTRIGHT THE PETITION FOR CERTIORARI AND PROHIBITION AS DIRECTLY FILED BEFORE

IT IN CA-G.R. CEB-SP NO. 00356 (AGAINST INTERLOCUTORY ORDERS IN AN EJECTMENT SUIT)
IN BLATANT DISREGARD OF THE HIERARCHY OF COURTS[6]

Petitioner's Arguments

Petitioner contends that the petition for certiorari filed by IPI assailing the MCTC's interlocutory order in an ejectment case is clearly and specifically prohibited under Section 13 of Rule 70 of the Rules of Court as well as the Rule on Summary Procedure. The rules being clear and unambiguous, it submits that the said petition should have been dismissed outright by the CA.

Petitioner also argues that *Go v. Court of Appeals*,[7] where the trial court ordered the "indefinite suspension" of the ejectment case therein, cannot be applied to the present case to favor IPI.

It further contends that the petition having been filed with the CA, and not the RTC, disregards the hierarchy of courts.

Finally, it alleges that IPI does not have a clear and unmistakable right to the property subject of the case as to be entitled to an injunctive writ. It emphasizes that the grant of the injunctive writ by the CA will serve no other purpose but to cause undue and unnecessary delay to what should be the speedy and summary disposition of the ejectment suit which is repugnant to public policy.

Respondent IPI's Arguments

IPI on the other hand contends that the Rule on Summary Procedure was not intended to undermine the rules of jurisdiction and rules on service of summons. It insists that in the present case, as in *Go v. Court of Appeals*,[8] there is a procedural void which justified the CA's act of providing an equitable remedy, of not immediately dismissing the petition for certiorari before it and of issuing the injunctive writ.

Our Ruling

The petition has merit.

There Is No Procedural Void That
Would Cause Delay

Rule 70 of the Rules of Court, on forcible entry and unlawful detainer cases, provides:

Sec. 13. Prohibited pleadings and motions.-The following petitions, motions, or pleadings shall not be allowed:

1. Motion to dismiss the complaint except on the ground of lack of jurisdiction over the subject matter, or failure to comply with section 12;
2. Motion for a bill of particulars;
3. Motion for a new trial, or for reconsideration of a judgment, or for reopening of trial;
4. Petition for relief from judgment;
5. Motion for extension of time to file pleadings, affidavits or any other paper;
6. Memoranda;
7. Petition for certiorari, mandamus, or prohibition against any interlocutory order issued by the court;
8. Motion to declare the defendant in default;
9. Dilatory motions for postponement;

10. Reply;
11. Third-party complaints;
12. Interventions. (Emphasis supplied)

Although it is alleged that there may be a technical error in connection with the service of summons, there is no showing of any substantive injustice that would be caused to IPI so as to call for the disregard of the clear and categorical prohibition of filing petitions for certiorari. It must be pointed out that the Rule on Summary Procedure, by way of exception, permits only a motion to dismiss on the ground of lack of jurisdiction over the subject matter but it does not mention the ground of lack of jurisdiction over the person. It is a settled rule of statutory construction that the express mention of one thing implies the exclusion of all others. *Expressio unius est exclusio alterius*. From this it can be gleaned that allegations on the matter of lack of jurisdiction over the person by reason of improper service of summons, by itself, without a convincing showing of any resulting substantive injustice, cannot be used to hinder or stop the proceedings before the MCTC in the ejectment suit. With more reason, such ground should not be used to justify the violation of an express prohibition in the rules prohibiting the petition for certiorari.

IPI's arguments attempting to show how the Rule on Summary Procedure or lack of rules on certain matters would lead to injustice are hypothetical and need not be addressed in the present case. Of primary importance here is that IPI, the real defendant in the ejectment case, filed its Answer and participated in the proceedings before the MCTC.

The purpose of the Rule on Summary Procedure is to achieve an expeditious and inexpensive determination of cases without regard to technical rules.[9] In the present case, weighing the consequences of continuing with the proceedings in the MCTC as against the consequences of allowing a petition for certiorari, it is more in accord with justice, the purpose of the Rule on Summary Procedure, the policy of speedy and inexpensive determination of cases, and the proper administration of justice, to obey the provisions in the Rule on Summary Procedure prohibiting petitions for certiorari.

The present situation, where IPI had filed the prohibited petition for certiorari; the CA's taking cognizance thereof; and the subsequent issuance of the writ of injunction enjoining the ejectment suit from taking its normal course in an expeditious and summary manner, and the ensuing delay is the antithesis of and is precisely the very circumstance which the Rule on Summary Procedure seeks to prevent.

The petition for certiorari questioning the MCTC's interlocutory order is not needed here. The rules provide respondent IPI with adequate relief. At the proper time, IPI has the right to appeal to the RTC, and in the meantime no injustice will be caused to it by waiting for the MCTC to completely finish resolving the ejectment suit. The proceedings before the MCTC being summary in nature, the time and expense involved therein are minimal. IPI has already raised the matter of improper service of summons in its Answer. The MCTC's error/s, if any, on any of the matters raised by respondent IPI can be threshed out during appeal after the MCTC has finally resolved the ejectment case under summary procedure.

As accurately pointed out by petitioner, *Go v. Court of Appeals*[10] does not support the case of respondent IPI. The factual milieu and circumstances of the said case do not fit with the present case. They are in fact the exact opposite of those in the present case before the court hearing the original ejectment case. Not only was there an absence of any "indefinite suspension" of the ejectment suit before the MCTC but likewise there was no "procedural void" that would otherwise cause delay in the summary and expeditious resolution thereof that transpired to warrant applicability of *Go v. Court of Appeals*. [11] It is worth pointing out that in *Go v. Court of Appeals*[12] the Supreme Court categorically upheld that "the purpose of the Rule on Summary Procedure is to

achieve an expeditious and inexpensive determination of cases without regard to technical rules. Pursuant to this objective, the Rule prohibits petitions for certiorari, like a number of other pleadings, in order to prevent unnecessary delays and to expedite the disposition of cases."

Considering that the petition for certiorari filed before the CA is categorically prohibited, the CA should not have entertained the same but should have dismissed it outright.

The other issues raised by petitioner, being unnecessary to resolve the main matter involved in this case, will no longer be discussed.

WHEREFORE, the petition is GRANTED. The May 6, 2005 Resolution of the Court of Appeals, together with the Writ of Preliminary Injunction, in CA-G.R. CEB-SP No. 00365 is NULLIFIED and SET ASIDE. The Court of Appeals is ORDERED to dismiss the petition for certiorari before it docketed as CA-G.R. CEB-SP No. 00365.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Leonardo-De Castro, and Perez, JJ., concur.

[1] CA rollo, pp. 518-519; penned by Associate Justice Ramon M. Bato, Jr. and concurred in by Associate Justices Mercedes Gozo-Dadole and Pampio A. Abarintos.

[2] Rollo, pp. 61-67; penned by Judge Evelyn G. Gengos.

[3] Id. at 67.

[4] CA rollo, pp. 518-519.

[5] Id. at 170-171.

[6] Id. at 257-258.

[7] 358 Phil.214, 224 (1998).

[8] Id.

[9] Id.

[10] Id.

[11] Id.

[12] Id.

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