

**PRODUCERS BANK OF THE PHILIPPINES, PETITIONER, VS. EXCELSA INDUSTRIES, INC., RESPONDENT.***G.R. No. 173820. April 16, 2012*

Ponente: PERALTA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-173820/>**PERALTA, J.:**

This is a petition for review on certiorari under Rule 45 of the Rules of Court filed by petitioner Producers Bank of the Philippines against respondent Excelsa Industries, Inc. assailing the Court of Appeals (CA) Decision[1] dated April 4, 2006 and Resolution[2] dated July 19, 2006 in CA-G.R. SP No. 46514. The assailed decision reversed the Regional Trial Court (RTC)[3] Decision[4] dated December 16, 1997 in the consolidated cases docketed as LR Case No. 90-787 and Civil Case No. 1587-A, while the assailed resolution denied petitioner's motion for reconsideration for lack of merit.

The present case stemmed from the same set of facts as in G.R. No. 152071[5] entitled "Producers Bank of the Philippines v. Excelsa Industries, Inc.," which the Court promulgated on May 8, 2009. The relevant facts, as found by the Court in said case, are as follows:

Respondent obtained a loan from petitioner in the form of a bill discounted and secured credit accommodation in the amount of P200,000.00, secured by a real estate mortgage over real estate properties registered in its name.[6] The mortgage secured also loans that might be extended in the future by petitioner in favor of respondent.[7] Respondent thereafter applied for a packing credit line or a credit export advance with petitioner supported by a letter of credit issued by Kwang Ju Bank, Ltd. of Seoul, Korea, through Bank of the Philippine Islands. The application was approved.[8] When respondent presented for negotiation to petitioner drafts drawn under the letter of credit and the corresponding export documents in consideration for its drawings in the amount of US\$5,739.76 and US\$4,585.79, petitioner purchased the drafts and export documents by paying respondent the peso equivalent of the drawings.[9] The Korean buyer, however, refused to pay the export documents prompting petitioner to demand from respondent the payment of the peso equivalent of said export documents together with its due and unpaid loans.[10] For failure of respondent to heed the demand, petitioner moved for the extrajudicial foreclosure of the real estate mortgage.[11] At the public auction, petitioner emerged as the highest bidder.[12] The corresponding certificate of sale was later issued and eventually registered. For failure of respondent to redeem the properties, the titles were consolidated in favor of petitioner and new certificates of title were issued in its name.[13]

On November 17, 1989, respondent instituted an action for the annulment of extrajudicial foreclosure with prayer for preliminary injunction and damages against petitioner and the Register of Deeds of Marikina. The case was docketed as Civil Case No. 1587-A which was raffled to Branch 73 of the RTC of Antipolo, Rizal.[14] On April 5, 1990, petitioner filed a petition for the issuance of a writ of possession, docketed as LR Case No. 90-787 before the same court. The RTC thereafter ordered the consolidation of the two cases, Civil Case No. 1587-A and LR Case No. 90-787.

On December 18, 1997, the RTC rendered a decision upholding the validity of the extrajudicial foreclosure and ordering the issuance of a writ of possession in favor of petitioner.[15]

Aggrieved, respondent availed of two modes of appeal. Respondent appealed Civil Case No. 1587-A via ordinary appeal[16] to the CA which was docketed as CA-G.R. CV No. 59931 and raffled to the First Division. Respondent likewise filed a special civil action for certiorari under Rule 65 of the Rules of Court as to LR Case No. 90-787[17] also before the CA which was docketed as CA-G.R. SP. No. 46514 and was raffled to the Tenth Division. In both cases, respondent assailed the December 18, 1997 Decision of the RTC which is actually a joint decision on the two consolidated cases subject of the separate actions.

On May 30, 2001, the CA (First Division) rendered a decision in CA-G.R. CV No. 59931 reversing and setting aside the RTC decision thereby declaring the foreclosure of mortgage invalid and annulling the issuance of the writ of possession in favor of petitioner.[18] Petitioner elevated the case to this Court and was docketed as G.R. No. 152071.

On April 4, 2006, the CA (Tenth Division) also rendered the assailed decision in CA-G.R. SP No. 46514, the dispositive portion of which reads:

WHEREFORE, premises considered, the instant petition is hereby GRANTED. ACCORDINGLY, the Decision dated December 18, 1997 of the Regional Trial Court of Antipolo, Rizal, Branch 73, is hereby REVERSED.

SO ORDERED.[19]

While declaring that the case had become moot and academic in view of the May 30, 2001 decision of the CA (First Division), the CA (Tenth Division) decided on the merits of the case and resolved two issues, namely: (1) whether or not petitioner was the agent of respondent; and (2) whether or not the foreclosure of mortgage was valid.[20] The decision substantially echoed the ruling of the CA (First Division) in CA-G.R. CV No. 59931.

Aggrieved, petitioner comes before the Court with the following arguments:

I.

The Petition for Certiorari should have been immediately dismissed by the Court of Appeals on the ground of FORUM SHOPPING.

II.

The Petition for Certiorari should have been immediately dismissed as there was a remedy (i.e., Motion for Reconsideration and Appeal) available to the Respondent.

III.

The respondent's Petition, purportedly a Petition for Certiorari under Rule 65 of the Rules of Court, did not allege that 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.

IV.

Even if the respondent's Petition is decided on the issues enumerated by the Court of Appeals in its questioned Decision, the Petition for Certiorari must be dismissed for utter lack of merit and for not being supported by the evidence on record.[21]

The petition is meritorious.

The case stemmed from two separate cases – one for annulment of foreclosure in Civil Case No. 1587-A and another case for issuance of the writ of possession in LR Case No. 90-787. The cases were consolidated by the RTC and were eventually disposed of in one judgment embodied in the December 18, 1997 RTC decision. This notwithstanding, respondent treated the cases separately and availed of two remedies, an appeal in Civil Case No. 1587-A and a petition for certiorari under Rule 65 in LR Case No. 90-787. The appeal was decided by the CA (First Division) then eventually settled by the Court in G.R. No. 152071 on May 8, 2009. The petition for certiorari, on the other hand, was later decided by the CA (Tenth Division), which decision is now the subject of this present petition.

Respondent herein committed a procedural blunder when it filed a separate petition for certiorari before the CA, because when the two cases were consolidated and a joint decision was rendered, the cases lost their identities; and a petition for certiorari is not the proper remedy to assail a decision granting the issuance of a writ of possession.

Consolidation is a procedural device granted to the court as an aid in deciding how cases in its docket are to be tried so that the business of the court may be dispatched expeditiously and with economy while providing justice to the parties.[22] It is governed by Rule 31 of the old Rules of Court[23] which states:

Section 1. Consolidation. – When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.[24]

As aptly observed by the Court in *Republic of the Philippines v. Sandiganbayan, et al.*,[25] Rule 31 is completely silent on the effect/s of consolidation on the cases consolidated; on the parties and the causes of action involved; and on the evidence presented in the consolidated cases.[26] In the same case, the Court declared that the effect of consolidation would greatly depend on the sense in which the consolidation is made. Consolidation of cases may take place in any of the following ways:

(1)

Where all except one of several actions are stayed until one is tried, in which case the judgment in the one trial is conclusive as to the others. This is not actually consolidation but is referred to as such. (quasi-consolidation)

(2)

Where several actions are combined into one, lose their separate identity, and become a single action in which a single judgment is rendered. This is illustrated by a situation where several actions are pending between the same parties stating claims which might have been set out originally in one complaint. (actual consolidation)

(3)

Where several actions are ordered to be tried together but each retains its separate character and requires the entry of a separate judgment. This type of consolidation does not merge the suits into a single action, or cause the parties to one action to be parties to the other. (consolidation for trial)[27]

In this case, there was a joint hearing and the RTC eventually rendered a Joint Decision disposing of the cases both as to the validity of the foreclosure (subject of Civil Case No. 1587-A) and the propriety of the issuance of a writ of possession (subject of LR Case No. 90-787). This being so, the two cases ceased to be separate and the parties are left with a single remedy to elevate the issues to the appellate court. This is bolstered by the fact that when the appeal in CA-G.R. CV No. 59931 was disposed of by the CA (First Division) by reversing the RTC decision, the appellate court not only declared the foreclosure of mortgage invalid but likewise annulled the

issuance of the writ of possession. Again, when the Court finally settled the issues in G.R. No. 152071, it reversed and set aside the CA decision and reinstated that of the RTC thereby disposing of the said two issues.

Assuming that respondent could still treat the original cases separately and could avail of separate remedies, the petition for certiorari under Rule 65 was incorrectly availed of to assail the issuance of the writ of possession.

A special civil action for certiorari could be availed of only if a tribunal, board, or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction; and if there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law.[28] It has been repeatedly held in a number of cases[29] that the remedy of a party from the trial court's order granting the issuance of a writ of possession is to file a petition to set aside the sale and cancel the writ of possession, and the aggrieved party may then appeal from the order denying or granting said petition.[30] When a writ of possession had already been issued as in this case,[31] the proper remedy is an appeal and not a petition for certiorari.[32] To be sure, the trial court's order granting the writ of possession is final.[33] The soundness of the order granting the writ of possession is a matter of judgment, with respect to which the remedy of the party aggrieved is ordinary appeal.[34] As respondent availed of the wrong remedy, the appellate court erred in not dismissing outright the petition for certiorari.

We would like to stress at this point that when respondent received the unfavorable decision of the RTC dated December 18, 1997, it appealed the decision to the CA assailing the validity of the foreclosure. The CA (First Division) reversed and set aside the RTC decision, declared the foreclosure invalid, and annulled the issuance of the writ of possession.[35] When it rendered the assailed decision, the CA (Tenth Division) addressed the issues raised by respondent which were the very same issues raised by it in its appeal. In short, the assailed decision was a mere reiteration of the findings and conclusions of the CA (First Division). This emphasizes the error committed by the CA (Tenth Division) in rendering the assailed decision.

On May 8, 2009, in G.R. No. 152071, we reversed and set aside the CA (First Division) decision in CA-G.R. CV No. 59931 and reinstated that of the RTC. In other words, we settled once and for all the validity of the foreclosure and the propriety of the issuance of the writ of possession. This should have put to rest the petitioner's claim over the properties subject of the foreclosure sale if not for respondent's erroneous resort to the court. The rights of the parties should, therefore, be governed by the Court's decision in G.R. No. 152071.

WHEREFORE, premises considered, the petition is hereby GRANTED. The Court of Appeals Decision dated April 4, 2006 and Resolution dated July 19, 2006 in CA-G.R. SP No. 46514 are SET ASIDE. The parties are bound by the decision of the Court in G.R. No. 152071 entitled "Producers Bank of the Philippines v. Excelsa Industries, Inc." promulgated on May 8, 2009.

### **SO ORDERED.**

Velasco, Jr., (Chairperson), Abad, Mendoza, and Perlas-Bernabe, JJ., concur.

---

[1] Penned by Associate Justice Monina Arevalo-Zenarosa, with Associate Justices Andres B. Reyes, Jr. (now Presiding Justice) and Rosmari D. Carandang, concurring; rollo, pp. 43-57.

[2] Id. at 59-61.

[3] Branch 73, Antipolo, Rizal.

[4] Penned by Presiding Judge Mauricio M. Rivera; rollo, pp. 86-94.

- [5] G.R. No.152071, May 8, 2009, 587 SCRA 370.
- [6] *Producer's Bank of the Philippines v. Excelsa Industries, Inc.*, supra, at 372.
- [7] Id. at 372-373.
- [8] Id. at 372.
- [9] Id. at 373.
- [10] Id. at 373-374.
- [11] Id. at 374.
- [12] Id. at 374.
- [13] Id.
- [14] Id. at 375.
- [15] Id.
- [16] Rollo, p. 313.
- [17] Id.
- [18] *Producer's Bank of the Philippines v. Excelsa Industries, Inc.*, supra note 5, at 377.
- [19] Rollo, p. 56.
- [20] Id. at 51.
- [21] Id. at 21-22.
- [22] *Republic of the Philippines v. Sandiganbayan, et al.*, G.R. No. 152375, December 13, 2011.
- [23] The Rules applicable at the time of the consolidation of Civil Case No. 1587-A and LR Case No. 90-787.
- [24] The provision was copied verbatim in the present Rules.
- [25] G.R. No. 152375, December 13, 2011.
- [26] Id.
- [27] Id.
- [28] *Equitable PCI Bank, Inc. v. DNG Realty and Development Corporation*, G.R. No. 168672, August 9, 2010, 627 SCRA 125, 135; *Sagarbarria v. Philippine Business Bank*, G.R. No. 178330, July 23, 2009, 593 SCRA 645, 655.
- [29] *Parents-Teachers Association (PTA) of St. Mathew Christian Academy v. Metropolitan Bank and Trust Co.*, G.R. No. 176518, March 2, 2010, 614 SCRA 41; *Mallari v. Banco Filipino Savings and Mortgage Bank*, G.R. No. 157660, August 29, 2008, 563 SCRA 664;
- [30] *Mallari v. Banco Filipino Savings and Mortgage Bank*, supra, at 670.
- [31] Records, LR Case No. 90-787, pp. 468-469.
- [32] *Parents-Teachers Association (PTA) of St. Mathew Christian Academy v. Metropolitan Bank and Trust Co.*,

supra note 29, at 59.

[33] Metropolitan Bank and Trust Company v. Tan, G.R. No. 159934, June 26, 2008, 555 SCRA 502, 512.

[34] Sagarbarria v. Philippine Business Bank, supra note 28, at 655.

[35] Producers Bank of the Philippines v. Excelsa Industries, Inc., supra note 5, at 377.

**ABOUT BATAS.ORG**

# Study smarter at BATAS.org

*The Philippine bar review and law-school companion built around how your brain actually remembers.*

**The complete Philippine law library - free for everyone.**

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

**Audio case-brief lectures.**

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

**Bar review built on the science of memory.**

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

**The full law-school curriculum.**

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

**Mock exams that tell you where you stand.**

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

**A study planner that keeps you on pace.**

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

**Start free at <https://batas.org>**

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.