

LZK HOLDINGS AND DEVELOPMENT CORPORATION, PETITIONER, VS. PLANTERS DEVELOPMENT BANK, RESPONDENT.

G.R. No. 187973. January 20, 2014

Ponente: REYES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-187973/>

REYES, J.:

This resolves the appeal filed by petitioner LZK Holdings and Development Corporation (LZK Holdings) assailing the Decision[1] dated January 27, 2009 of the Court of Appeals (CA) in CA-G.R. S.P. No. 103267 affirming the Order[2] dated April 8, 2008 of the Regional Trial Court (RTC) of San Fernando City (San Fernando), La Union, Branch 66, which issued a writ of possession in favor of respondent Planters Development Bank (Planters Bank).

The facts are not disputed.

LZK Holdings obtained a P40,000,000.00 loan from Planters Bank on December 16, 1996 and secured the same with a Real Estate Mortgage over its lot located in La Union. The lot measures 589 square meters and is covered by Transfer Certificate of Title No. T-45337.

On September 21, 1998, the lot was sold at a public auction after Planters Bank extrajudicially foreclosed the real estate mortgage thereon due to LZK Holdings' failure to pay its loan. Planters Bank emerged as the highest bidder during the auction sale and its certificate of sale was registered on March 16, 1999.

On April 5, 1999, LZK Holdings filed before the RTC of Makati City, Branch 150, a complaint for annulment of extrajudicial foreclosure, mortgage contract, promissory note and damages. LZK Holdings also prayed for the issuance of a temporary restraining order (TRO) or writ of preliminary injunction to enjoin the consolidation of title over the lot by Planters Bank.

On December 27, 1999, Planters Bank filed an ex-parte motion for the issuance of a writ of possession with the RTC-San Fernando.

On March 13, 2000 or three (3) days before the expiration of LZK Holdings' redemption period, the RTC-Makati issued a TRO effective for 20 days enjoining Planters Bank from consolidating its title over the property. On April 3, 2000, the RTC-Makati ordered the issuance of a writ of preliminary injunction for the same purpose[3] but the writ was issued only on June 20, 2000 upon LZK Holdings' posting of a P40,000.00 bond.

In the meantime, Planters Bank succeeded in consolidating its ownership over the property on April 24, 2000. However, the proceedings for its ex-parte motion for the issuance of a writ of possession was suspended by the RTC-San Fernando in an Order dated May 11, 2000 in view of the TRO and writ of preliminary injunction issued by the RTC- Makati. Planters Bank moved for reconsideration but its motion was denied by the RTC-San Fernando in an Order dated September 1, 2000.[4]

Meanwhile, upon motion of LZK Holdings, the RTC-Makati declared as null and void the consolidated title of

Planters Bank in an Order[5] dated June 2, 2000. Such ruling was affirmed by the CA in a Decision[6] dated February 26, 2004 in CA-G.R. SP No. 59327. When the matter reached the Court via G.R. No. 164563, we sustained the CA's judgment in our Resolution[7] dated September 13, 2004.

Planters Bank also appealed the May 11, 2000 Order of the RTC-San Fernando which held in abeyance the resolution of its ex parte motion for the issuance of a writ of possession. This time, Planters Bank was victorious. The CA granted the appeal and annulled the assailed order of the RTC-San Fernando. Aggrieved, LZK Holdings sought recourse with the Court in a petition for review docketed as G.R. No. 167998.[8] In Our Decision dated April 27, 2007, we affirmed the CA's ruling and decreed that Planters Bank may apply for and is entitled to a writ of possession as the purchaser of the property in the foreclosure sale, viz:

"A writ of possession is a writ of execution employed to enforce a judgment to recover the possession of land. It commands the sheriff to enter the land and give possession of it to the person entitled under the judgment. It may be issued in case of an extrajudicial foreclosure of a real estate mortgage under Section 7 of Act No. 3135, as amended by Act No. 4118.

Under said provision, the writ of possession may be issued to the purchaser in a foreclosure sale either within the one-year redemption period upon the filing of a bond, or after the lapse of the redemption period, without need of a bond.

We have consistently held that the duty of the trial court to grant a writ of possession is ministerial. Such writ issues as a matter of course upon the filing of the proper motion and the approval of the corresponding bond. No discretion is left to the trial court. Any question regarding the regularity and validity of the sale, as well as the consequent cancellation of the writ, is to be determined in a subsequent proceeding as outlined in Section 8 of Act No. 3135. Such question cannot be raised to oppose the issuance of the writ, since the proceeding is ex parte. The recourse is available even before the expiration of the redemption period provided by law and the Rules of Court.

To emphasize the writ's ministerial character, we have in previous cases disallowed injunction to prohibit its issuance, just as we have held that issuance of the same may not be stayed by a pending action for annulment of mortgage or the foreclosure itself.

x x x x

x x x [Planters Bank], as the purchaser in the foreclosure sale, may apply for a writ of possession during the redemption period. In fact, it did apply for a writ on December 27, 1999, well within the redemption period. The San Fernando RTC, given its ministerial duty to issue the writ, therefore, should have acted on the ex parte petition. The injunction order is of no moment because it should be understood to have merely stayed the consolidation of title. As previously stated, an injunction is not allowed to prohibit the issuance of a writ of possession. Neither does the pending case for annulment of foreclosure sale, mortgage contract, promissory notes and damages stay the issuance of said writ.

Lastly, the trial on the merits has not even started. Until the foreclosure sale of the property in question is annulled by a court of competent jurisdiction, petitioner is bereft of valid title and of the right to prevent the issuance of a writ of possession to [Planters Bank]. Until then, it is the trial court's ministerial function to grant the possessory writ to [Planters Bank]."[9] (Citations omitted)

Armed with the above ruling, Planters Bank filed before the RTC-San Fernando a motion to set ex-parte hearing for the issuance of a writ of possession. LZK Holdings opposed the motion. In an Order dated April 2, 2008, the RTC-San Fernando denied the opposition and set the hearing on April 14, 2008. On April 8, 2008, the RTC-San Fernando issued another Order[10] declaring the scheduled hearing moot and academic and granting Planter Bank's ex-parte motion for the issuance of a writ of possession which was filed as early as December 27, 1999.

The decretal portion of the order reads:

WHEREFORE, premises considered, the petitiOn is hereby granted, hence the order setting the case for ex-parte hearing on April 14, 2008 is rendered moot and academic by this order. Let [a] Writ of Possession issue in favor of Planters Development Bank and the Deputy Sheriff of this Court is hereby directed to place Planters Development Bank or any of its authorized representatives in possession of the subject parcel of land, together with all the improvements existing thereon, covered by TCT- 45337 of the Register of Deeds for the province of La Union against LZK HOLDINGS AND DEVELOPMENT CORPORATION (referred to as LZK) including all other persons/occupants who are claiming rights under them and who are depriving [Planters Bank] of its right to possess the above-described property upon the filing of bond by [Planters Bank] in the amount of two million pesos (Php2,000,000.00).

SO ORDERED.[11]

In its herein assailed Decision[12] dated January 27, 2009, the CA affirmed the foregoing ruling and dismissed LZK Holdings' petition for certiorari docketed as CA-G.R. SP No. 103267. The CA likewise denied LZK Holdings' motion for reconsideration in its Resolution[13] dated May 12, 2009.

LZK Holdings then filed a motion before the Court for a 30-day extension within which to file a petition for review reckoned from the date of its receipt of the resolution granting such extension. In our Resolution dated July 15, 2009 we granted the motion but we ordered that the 30-day extended period shall be counted from the expiration of the original reglementary period.[14] As such, LZK Holdings had until July 23, 2009 to file its petition and not August 24, 2009 or the date when the petition was actually filed.

In our Resolution dated August 26, 2009, we denied the petition for being filed beyond the extended period pursuant to Section 5(a), Rule 56 of the Rules of Court and for lack of reversible error in the assailed judgment of the CA.[15] LZK Holdings moved for reconsideration[16] explaining that it was able to obtain a copy of the Court's July 15, 2009 Resolution on July 29, 2009 when Lourdes Z. Korshak, LZK Holdings' Chief Executive Officer, went to the Office of the Clerk of Court of the Third Division and that she still had to confront and get the case records from the company's previous counsel and then look for a substitute lawyer. LZK Holdings also claimed that the writ of possession issued to Planters Bank should be annulled for the following reasons, to wit:

(a) with the cancellation of Planters Bank's consolidated title, LZK Holdings remain to be the registered owner of the property and as such, the former had no right to apply for a writ of possession pursuant to *PNB v. Sanaa Marketing Corporation*,[17] which held that right of possession is based on the ownership of the subject property by the applicant;

(b) LZK Holdings was deprived of due process because the RTC did not conduct a hearing on Planter Bank's motion for the issuance of a writ of possession;

(c) the P2,000,000.00 bond posted by LZK Holdings does not conform with Section 7 of Act No. 3135 which mandates that the bond amount shall be equivalent to "twelve (12) months use of the subject property" which in this case amounted to P7,801,472.28 at the time the writ was issued.

In a Resolution[18] dated October 13, 2010 the Court took a liberal stance on the late filing of LZK Holdings' petition for review. Accordingly, its motion for reconsideration was granted and the petition for review reinstated.

However, after a re-examination of the substantive merits of the petition, the Court finds and stands by its initial determination that the CA committed no reversible error in affirming the issuance of a writ of possession by the RTC in favor of Planters Bank.

Under the principle of conclusiveness of judgment, the right of Planter's Bank to a writ of possession as adjudged

in G.R. No. 167998 is binding and conclusive on the parties.

The doctrine of res judicata by conclusiveness of judgment postulates that "when a right or fact has been judicially tried and determined by a court of competent jurisdiction, or when an opportunity for such trial has been given, the judgment of the court, as long as it remains unreversed, should be conclusive upon the parties and those in privity with them." [19]

All the elements of the doctrine are present in this case. The final judgment in G.R. No. 167998 was rendered by the Court pursuant to its jurisdiction over the review of decisions and rulings of the CA. It was a judgment on the merits of Planters Banks's right to apply for and be issued a writ of possession. Lastly, the parties in G.R. No. 167998 are the same parties involved in the present case.²⁰

Hence, LZK Holdings can no longer question Planter Bank's right to a writ of possession over the subject property because the doctrine of conclusiveness of judgment bars the relitigation of such particular issue.

Moreover, the authority relied upon by LZK Holdings defeats rather than support its position. The ruling in PNB [21] echoes the very same rationale of the judgment in G.R. No. 167998 that is the purchaser in foreclosure sale may take possession of the property even before the expiration of the redemption period by filing an ex parte motion for such purpose and upon posting of the necessary bond. [22]

The pronouncement in PNB that right of possession is based on the ownership of the subject property by the applicant pertains to applications for writ of possession after the expiration of the redemption period, a situation not contemplated within the facts of the present case.

We cannot also uphold the contentions of LZK Holdings that the RTC, in issuing the writ of possession, transgressed Act No. 3135. [23]

No hearing is required prior to the issuance of a writ of possession. This is clear from the following disquisitions in *Espinoza v. United Overseas Bank Phils.* [24] which reiterates the settled rules on writs of possession, to wit:

The proceeding in a petition for a writ of possession is ex parte and summary in nature. It is a judicial proceeding brought for the benefit of one party only and without notice by the court to any person adverse of interest. It is a proceeding wherein relief is granted without giving the person against whom the relief is sought an opportunity to be heard.

By its very nature, an ex parte petition for issuance of a writ of possession is a non-litigious proceeding. It is a judicial proceeding for the enforcement of one's right of possession as purchaser in a foreclosure sale. It is not an ordinary suit filed in court, by which one party sues another for the enforcement of a wrong or protection of a right, or the prevention or redress of a wrong. [25] (Citations omitted)

Given the ex-parte nature of the proceedings for a writ of possession, the RTC did not err in cancelling the previously scheduled hearing and in granting Planters Bank's motion without affording notice to LZK Holdings or allowing it to participate.

Anent the correct amount of surety bond, it is well to emphasize that our task in an appeal by petition for review on certiorari is limited, as a jurisdictional matter, to reviewing errors of law that might have been committed by the CA. [26] The allegations of incorrect computation of the surety bond involve factual matters within the competence of the trial court to address as this Court is not a trier of facts. The RTC found the amount of P2,000,000.00 to be sufficiently equivalent to the use of the property for a period of twelve (12) months. We are bound by such factual finding especially considering the affirmation accorded it by the CA.

In fine, the decision of the CA is in accordance with the law and jurisprudence on the matter. It correctly sustained

the Order of the RTC in issuing a writ of possession in favor of Planters Bank.

WHEREFORE, premises considered, the petitiOn is hereby DENIED. The Decision dated January 27, 2009 of the Court of Appeals in CA-G.R. S.P. No. 103267 is AFFIRMED.

SO ORDERED.

Sereno, C.J, (Chairperson), Leonardo-De Castro, Bersamin, and Villarama, Jr., JJ., concur.

[1] Penned by Associate Justice Teresita Dy-Liacco Flores with Associate Justices Rosmari D. Carandang and Sixto C. Marella, Jr., concurring; rollo, pp. 93-108.

[2] Issued by Judge Alpino P. Florendo; id. at 109-110.

[3] Id. at 111-113.

[4] Culled from the Court's Decision in the related case of LZK Holdings and Development Corp. v. Planters Development Bank, 550 Phil. 825, 827-828 (2007).

[5] Rollo, pp. 14-122.

[6] Id. at 140-151.

[7] Id. at 152.

[8] Entitled LZK Holdings and Development Corp. v. Planters Development Bank, 550 Phil. 825 (2007).

[9] Id. at 831-834.

[10] Rollo, pp. 109-110.

[11] Id. at 110.

[12] Id. at 93-108.

[13] Id. at 175176.

[14] Id. at 12.

[15] Id. at 344-345.

[16] Id. at 350-372.

[17] 503 Phil. 260 (2005).

[18] Rollo, p. 401.

[19] Spouses Noceda v. Arbizo-Directo, G.R. No. 178495, July 26, 2010, 625 SCRA 472, 480.

[20] The elements of res judicata are: (1) the judgment sought to bar the new action must be final; (2) the decision must have been rendered by a court having jurisdiction over the subject matter and the parties; (3) the disposition of the case must be a judgment on the merits; and (4) there must be as between the first and second action, identity of parties, subject matter, and causes of action. Should identity of parties, subject matter, and causes of action be shown in the two cases, then res judicata in its aspect as a "bar by prior judgment" would apply. If as between the two cases, only identity of parties can be shown, but not identical causes of action, then res judicata as "conclusiveness of judgment" applies. *Social Security Commission v. Rizal Poultry and Livestock Association*,

Inc., G.R. No. 167050, June 1, 2011, 650 SCRA 50, 57-58.

[21] Supra note 17.

[22] Id. at 272.

[23] AN ACT TO REGULATE THE SALE OF PROPERTY UNDER SPECIAL POWERS INSERTED IN OR ANNEXED TO REAL-ESTATE MORTGAGES.

[24] G.R. No. 175380, March 22, 2010, 616 SCRA 353.

[25] Id. at 358.

[26] *Baldueza v. Han. of Court of Appeals, et al.*, 590 Phil. 150, 154 (2008).

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.