

ASIA UNITED BANK AND ABRAHAM CO, PETITIONERS, VS. GOODLAND COMPANY, INC., RESPONDENT.

G.R. No. 190231. December 08, 2010

Ponente: CORONA, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-190231/>

CORONA, C.J.:

This petition under Rule 45 seeks to reverse and set aside the August 11, 2009 decision[1] and November 10, 2009 resolution[2] of the Court of Appeals (CA) in CA-G.R. CV No. 91269. The CA decision and resolution affirmed the August 16, 2007[3] and December 5, 2007[4] orders of the Regional Trial Court (RTC) of Biñan, Laguna, Branch 25 dismissing Civil Case No. B-6242 with prejudice on the ground of willful and deliberate forum-shopping.

The antecedents follow.

On July 21, 1999, respondent Goodland Company, Inc. mortgaged[5] its two real properties in Laguna[6] to petitioner Asia United Bank (AUB) as security for the loans of Smartnet Philippines, Inc. (SPI). Respondent's vice president, Gilbert G. Guy,[7] signed the contract of real estate mortgage on its behalf.

On January 29, 2002, respondent sent a letter to petitioners[8] repudiating the mortgage over the Laguna properties and accusing them of fraud and falsification. Respondent claimed that Guy signed a blank deed of real estate mortgage on the understanding that the company would act as a third-party accommodation mortgagor for SPI. In other words, respondent did not intend to secure the loans of SPI or mortgage the Laguna properties. Petitioners, however, renege on this understanding, fraudulently filled up the blank pre-signed forms and registered the same. Thus, respondent demanded that petitioners release the encumbrance over the Laguna properties; otherwise, it would take appropriate legal actions for fraud against petitioners.[9] Petitioners ignored respondent's demand.

On January 16, 2003, respondent filed Civil Case No. B-6242[10] in the RTC of Biñan, Laguna, Branch 25. Respondent, essentially reiterating the contents of the January 29, 2002 letter,[11] sought to nullify the mortgage over the Laguna properties on the ground of fraud.[12]

Meanwhile, AUB foreclosed on the Laguna properties due to SPI's failure to pay its loans. The properties were sold in a public auction in which the bank emerged as the highest bidder.

On November 26, 2006, respondent filed Civil Case No. B-7110[13] in the RTC of Biñan, Laguna, Branch 25. Respondent sought to nullify the foreclosure of the Laguna properties on the ground that it never agreed to mortgage the same to AUB as security for SPI's loans.[14]

On the motion of AUB,[15] Civil Case No. B-7110 was dismissed with prejudice in an order dated March 15, 2007[16] on the ground of willful and deliberate forum-shopping.

On August 16, 2007, the RTC likewise dismissed Civil Case No. B-6242[17] on motion of petitioners.[18] It

noted that the allegations of and reliefs sought by respondent in Civil Case Nos. B-6242 and B-7110 were identical and that the respondent did not inform the court that it filed Civil Case No. 7110. Respondent therefore did not comply with its undertaking in the certificate of non-forum shopping that it would report the filing of a complaint involving the same or similar action or claim to the court within five days of learning that such a complaint had been filed.[19] Thus, the RTC found respondent guilty of engaging in willful and deliberate forum-shopping and consequently dismissed Civil Case No. B-6242 with prejudice.[20]

Respondent moved for reconsideration but it was denied in an order dated December 5, 2007.[21]

Respondent appealed the aforementioned August 16, 2007 and December 5, 2007 orders to the CA.[22]

In a decision dated August 11, 2009, [23] the CA granted the appeal holding that respondent asserted dissimilar rights and sought different reliefs in Civil Case No. B-6242 and Civil Case No. B-7110.[24] It, in effect, reinstated Civil Case No. B-6242.

Petitioners moved for reconsideration but it was denied in a resolution dated November 10, 2009.[25]

Petitioners thus availed of this recourse claiming that the CA erred in reinstating Civil Case No. 6242.[26] They assert that respondent committed willful and deliberate forum-shopping by filing Civil Case Nos. B-6242 and B-7110.

We grant the petition.

Forum shopping is the institution of two or more actions or proceedings grounded on the same cause, on the supposition that one or the other court would render a favorable disposition.[27] It exists when the elements of *litis pendentia* are present or where a final judgment in one case will amount to *res judicata* in another.[28]

In Civil Case No. B-6242, respondent sought to nullify the deed of real estate mortgage respondent executed in favor of the AUB on the ground that it did not consent to encumber the Laguna properties as security for SPI's loan. On the other hand, in Civil Case No. B-7110, respondent claimed AUB did not have a right to foreclose over the Laguna properties because it never agreed to mortgage the same.

A cursory examination of respondent's allegations in Civil Case No. B-6242 and B7110 reveals the similarity of the two actions. In both cases, respondent essentially claimed that it did not consent to the mortgage and, for this reason, sought to nullify both the mortgage and the foreclosure. Thus, by filing Civil Case No. B-7110 while Civil Case No. B-6242 was still pending, respondent engaged in willful and deliberate forum-shopping.

The pivotal issue in this petition is whether Civil Case No. B-6242 was aptly dismissed with prejudice.

Rule 7, Section 5 of the Rules of Court[29] requires every litigant to notify the court of the filing or pendency of a complaint involving the same or similar action or claim within five days of learning of that fact. While both Civil Case Nos. B-6242 and B-7110 were raffled to the same court, the RTC of Biñan, Laguna, Branch 25, respondent did not report the filing of Civil Case No. B-7110 in the proceedings of Civil Case No. 6242.[30] This fact clearly established respondent's furtive intent to conceal the filing of Civil Case No. B-7110 for the purpose of securing a favorable judgment. For this reason, Civil Case No. 6242 was correctly dismissed with prejudice.[31]

WHEREFORE, the petition is hereby GRANTED. The August 11, 2009 decision and November 10, 2009 resolution of the Court of Appeals in CA-G.R. CV No. 9126 are REVERSED and SET ASIDE. The August 16, 2007 and December 5, 2007 orders of the Regional Trial Court of Biñan, Laguna, Branch 25 in Civil Case No. B-6242 are REINSTATED.

No pronouncement as to costs.

SO ORDERED.

Leonardo-De Castro,[*] Del Castillo, Abad[**]and Perez, JJ., concur.

[*] Per Special Order No. 916 dated November 24, 2010.

[**] Per Special Order No. 917 dated November 24, 2010.

[1] Penned by Associate Justice Juan Q. Enriquez and concurred in by Associate Justices Celia C. Librea-Leagogo and Antonio L. Villamor of the Tenth Division of the Court of Appeals. Rollo, pp. 40-51.

[2] Penned by Associate Justice Juan Q. Enriquez and concurred in by Associate Justices Antonio L. Villamor and Jane Aurora C. Lantion of the Special Former Tenth Division of the Court of Appeals. Id., pp. 53-54.

[3] Penned by Presiding Judge Teodoro N. Solis. Id., pp. 259-264.

[4] Id., p. 276.

[5] Deed of real estate mortgage. Id., pp. 80-83.

[6] Covered by TCT Nos. T-321672 and T-321673. Id., pp. 72-79.

[7] The contract of real estate mortgage reveals that Mr. Guy was also president of SPI.

[8] Petitioner Abraham Co is president of AUB.

[9] Rollo, pp. 85-87.

[10] An action for declaration of nullity of real estate mortgage and damages.

[11] Respondent claimed that Guy signed a blank deed of real estate mortgage as a "comfort document" to show that SPI (which did not have substantial property) obtained the loans in good faith. In other words, it agreed to act as third-party accommodation mortgagor but did not consent to mortgage the Laguna properties as security for SPI's loans. For this reason, respondent claimed that the deed of real estate mortgage it allegedly executed was void. Id., pp. 55-71.

[12] Id., pp. 67-68.

[13] An application for preliminary injunction and/or annulment of extrajudicial foreclosure sale, sheriff's certificate of sale, consolidation of ownership, cancellation and/or issuance of new titles, writ of possession and damages with prayer for temporary restraining order, and/or writ of preliminary injunction.

[14] Rollo, pp. 181-211.

[15] Motion to dismiss dated December 10, 2006. Id., pp. 116-175.

[16] Penned by Acting Presiding Judge Romeo C. de Leon. Id., pp. 212-213.

[17] Supra, note 4.

[18] Motion to dismiss and supplemental motion to dismiss. Id., pp. 178 -186 and 214-223.

[19] See Rules of Court, Rule 7, Sec. 5:

Section 5. Certification against forum shopping. The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and

simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions. (emphasis supplied)

[20] Rollo, pp. 263- 264.

[21] Supra note 4.

[22] Notice of appeal dated January 4, 2008 and filed January 9, 2008. Id., p. 277.

[23] Supra note 1.

[24] Id., pp. 47-48.

[25] Supra note 2.

[26] Id., pp. 3-39.

[27] Metropolitan Bank and Trust Company v. Bance, G.R. No. 167280, 30 April 2008, 553 SCRA 507, 517-519 and Lo Bun Tiong v. Balboa, G.R. No. 158177, 28 January 2007, 542 SCRA 504, 509 (citations omitted).

[28] Yu v. Lim, G.R. No. 182291, 22 September 2010 (citations omitted). Litis pendentia requires the concurrence of the following requisites: (1) identity of parties, or at least such parties as those representing the same interests in both actions; (2) identity of rights asserted and reliefs prayed for, the reliefs being founded on the same facts; and (3) identity with respect to the two preceding particulars in the two cases, such that any judgment that may be rendered in the pending case, regardless of which party is successful, would amount to res judicata in the other case.

[29] Supra note 19.

[30] Rollo, p. 263.

[31] Air Materiel Wing Savings and Loan Association et al. v. Manay, et al., G.R. No. 175338, 29 April 2008, 552 SCRA 643, 654-655.

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.