

**GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS), PETITIONER,
VS. THE HONORABLE SANDIGANBAYAN (SECOND DIVISION),
PHILIPPINE VILLAGE HOTEL, INC. (PVHI), REBECCO E. PANLILIO,
AND HONORA...**

G.R. No. 83385. November 26, 1990

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

On June 1, 1988, the Government Service Insurance System (GSIS, for brevity), filed this petition for certiorari under Rule 65 of the Revised Rules of Court praying for injunctive relief to stop the public respondent, the Sandiganbayan, from enforcing a temporary restraining order (TRO), dated May 15, 1988, issued by that court, directing the GSIS "to cease and desist from proceeding with the scheduled foreclosure sale of real estate and personal properties owned by the Philippine Village Hotel, Inc. on May 25, 1988 and on June 1, 1988." [1]

The records show that on September 18, 1972, the Philippine Village Hotel, Inc. (PVHI, for short) obtained a loan from the GSIS in the sum of P22 million, "which was increased to P30 million plus P6.5 million." [2] As security therefor, PVHI delivered to GSIS certain "machineries, equipment, vehicles, furnitures (sic) and fixtures, etc." [3] by way of real estate and chattel mortgages.

On June 6, 1986, the Philippine Commission on Good Government (PCGG, for short) issued a writ of sequestration by virtue of which the Commission levied on "all assets, properties, records and documents" [4] of the PVHI. On July 23, 1987, the Republic of the Philippines commenced in the Sandiganbayan an action for reconveyance and damages, among other things, against inter alia, PVHI President Rebecca Panlilio, and his wife, Erlinda Panlilio, docketed as Civil Case No. 0014 (PCGG Case No. 0015).

On April 23, 1987, the GSIS executed separate applications for extrajudicial foreclosure of real property and chattel mortgages securing PVHI's abovestated obligation, with the city sheriff of Pasay City. On the same date, then PCGG Secretary Ramon Diaz forwarded to Feliciano Belmonte, Jr., GSIS President and General Manager, a letter, clearing foreclosure. [5]

On May 24, 1988, Rebecca Panlilio filed a motion to enjoin foreclosure with the Sandiganbayan, on the ground, primarily, that the properties subject of foreclosure were in the custody of the "Anti-Graft Court", and allegedly, beyond the control of PVHI's creditors.

On May 15, 1988, the Sandiganbayan issued its challenged resolution.

Hence, the instant petition.

Pending further proceedings, the Sandiganbayan, on July 19, 1988, issued a resolution, denying Panlilio's motion to enjoin foreclosure and dissolving the TRO of May 15, 1988. The Sandiganbayan relied on the PCGG's clearance, dated April 23, 1987, giving the GSIS the go-signal to pursue foreclosure.

As a consequence thereof, the GSIS scheduled foreclosure on August 25, 1988.

On August 19, 1988, however, the PVHI filed a complaint docketed as Civil Case No. 88-45876 of the Regional Trial Court of Manila (Sergio Mabunay, presiding judge, Branch 24, the other public respondent herein) alleging, in the main, that its mortgage obligations to the GSIS had been extinguished and that accordingly, foreclosure was unwarranted.

On August 24, 1988, Judge Mabunay issued a temporary restraining order (TRO).

Promptly, the GSIS filed with the Court a supplemental petition alleging that the judge, in issuing a temporary restraining order (TRO), had gravely abused his discretion.

On October 11, 1988, Judge Mabunay issued a writ of preliminary injunction.

On the same date, the Court issued a temporary restraining order (TRO), "ordering the respondent Judge Sergio D. Mabunay, Regional Trial Court, Branch 24, Manila to CEASE and DESIST from further proceeding with Civil Case No. 88-45876, entitled 'Philippine Village Hotel, Inc. vs. Government Service Insurance System (GSIS), et al.,' more particularly from issuing any injunction against the foreclosure sale by petitioner GSIS of the Philippine Village and its contents, which has been re-scheduled for October 13, 1988." [6] On October 12, 1988, we set aside His Honor's order of October 11, 1988, "thus maintaining the Temporary Restraining Order issued by the Supreme Court on October 11, 1988."

On October 13, 1988, PVHI and Panlilio moved for the reconsideration of our twin Resolutions and for the lifting of the TRO issued by the Court on October 11, 1988. On the same date, we denied their urgent motion.

Thereafter, PVHI and Panlilio commented, and the GSIS replied. In its reply, the latter accused both PVHI and Panlilio of "forum-shopping".

On January 31, 1989, the Court issued a Resolution, directing "Spouses Panlilio, private respondents in this case, to SHOW CAUSE, within ten (10) days from notice, why no disciplinary action should be taken against them for forum-shopping." [7]

On March 9, 1989, the Panlilios filed their compliance. On April 21, 1989, the counsel for both PVHI and Panlilio filed similar compliances.

On August 10, 1989, this Court issued a Resolution, ordering furthermore the law partners, Castillo, Laman, Tan, and Pantaleon, counsel for PVHI and Panlilio, to show cause why they should not be administratively dealt with for forum-shopping. On September 11, 1989, Attys. Noel Laman, Ancheta Tan, and Polo Pantaleon filed a compliance.

On October 12, 1989, GSIS filed a motion to cite PVHI and Panlilio in contempt, informing the Court that as a result of this Court's Resolutions of October 11 and 12, 1988, the properties in controversy had been sold on foreclosure and that the GSIS itself was the highest bidder, and that it had sought a writ of possession with the Regional Trial Court (RTC) of Pasay City (LRC Case No. 3079). It also informed the Court that PVHI and Panlilio had also petitioned the RTC to have the sale annulled. The latter allegedly denied the petition (for annulment of the writ) and failing there, the private respondents allegedly went to the Court of Appeals (CA-G.R. SP No. 20336), which, however, also issued a denial.

On October 27, 1989, we issued a Resolution directing the law firm of Ponce Enrile, Cayetano, Reyes, and Manalastas to show cause why they should not be held in contempt for forum-shopping.

On December 13, 1989, Atty. Gregorio Castillo filed his compliance with the Resolution of the Court of August

10, 1989.

On May 9, 1990, Ponce Enrile, etc., in compliance with our October 27, 1989 Resolution, informed the Court that on March 26, 1990, the Sandiganbayan had approved a compromise agreement between the parties, founded on the settlement of all of the PCGG's claims against PVHI and Rebecca Panlilio. On August 30, 1990, however, the GSIS informed the Court that the said compromise agreement had been in fact disapproved by the Commission on Audit and the Office of the President, as a consequence of which, it had pursued steps to take possession of the properties by means of the writ of possession, and which, however, PVHI and the Panlilios had sought to defeat with yet another complaint in the RTC (Civil Case No. 90-52276, Napoleon Flojo, presiding judge), in the nature of a suit on the compromise agreement in question.

The matters before the Court are twofold: (1) on the merits, whether or not the respondent Sandiganbayan, in issuing the TRO of May 15, 1988 is guilty of a grave abuse of discretion to warrant certiorari; and (2) whether or not the private respondents and/or their counsel have resorted to forum-shopping.

On the first, the issue has become moot and academic, the TRO in question having been lifted as a result of the Sandiganbayan's resolution of July 19, 1988. It is well-established that the Court does not decide moot cases.[8]

However, the Court is aware that the matter has since led to a series of legal entanglements between the parties in various forums--for which GSIS now charges the Panlilios with forum-shopping--and the Court is afraid that unless the final word is said and the parties' bickerings put to a stop, the question is likely to fester at the expense of the orderly administration of justice. Hence, we resolved to give due course to this petition.

We have held that "forum-shopping" exists "whenever, as a result of an adverse opinion in one forum, a party seeks a favorable opinion (other than by appeal on certiorari) in another." [9] However, as we held in another case, "[b]oth actions [must] involve the same transactions, the same essential facts and circumstances." [10] The question, therefore, for purposes hereof, is: Did PVHI's twin actions (in the Sandiganbayan and before Judge Mabunay, Branch 24, RTC, Manila, the two public respondents herein) involve "the same transactions, the same essential facts and circumstances"?

In his motion before the Sandiganbayan, Rebecca Panlilio alleged:

3. There is no question that the instant action for reconveyance, reversion, accounting, restitution and damages is an action in rem which involves determination of title to or ownership of the properties listed in Annex "A" of the complaint, some of which are included in the notices of foreclosure sale issued by deputy sheriff Tijones. The said properties are in custodia legis and subject to the exclusive jurisdiction of this Honorable Court.[11]

In its suit brought with the Regional Trial Court, Branch 24, PVHI claimed:

21. As of 30 June 1986, plaintiff remitted to GSIS P98,924,227.80 in payment of its mortgage obligations. A portion of the amount, or P5,129,939.50, was used to redeem and service debenture notes issued by plaintiff in favor of GSIS. If GSIS had correctly applied the payments remitted by plaintiff from 15 December 1972 to 30 June 1980, plaintiff's original mortgage obligation of P36,500,000.00 including interests and penalties, should have been substantially settled if not totally extinguished.[12]

Under the circumstances, the Court is not minded to hold PVHI, or Rebecca Panlilio, or their counsel, in contempt, as prayed for, on account of forum-shopping.

Albeit the two incidents involved the same transactions, that is, the right of the GSIS to sell or foreclose the mortgaged properties, they did not involve the same sets of facts or circumstances. Panlilio's motion with the Sandiganbayan was anchored on GSIS's lack of authority to take hold of the assets in question--not because PVHI

owed it nothing--but because these assets were then in the custody of the Sandiganbayan, and hence, beyond the control of anybody else. Of course, PVHI was mistaken, because foreclosure was possible even if the Sandiganbayan had custody of the properties.[13] To be sure, a foreclosure will not divest the Sandiganbayan of its jurisdiction over those properties, and they remain under custodia legis subject to the resolution of that court as to whether or not they constitute so-called ill-gotten wealth. Also, the buyer acquires them subject to the risk of losing them later to the real owner, should they be found to be indeed, "ill-gotten". Be that as it may, PVHI's objection was based on contentions, although erroneous, that foreclosure was not permissible because the Sandiganbayan had control over the properties.

On the other hand, PVHI's suit with the Regional Trial Court of Manila was essentially to have the obligation itself declared extinguished, by reason of the fact that it has been paid, and that hence, PVHI owed GSIS nothing.

It would have been different had PVHI sought a ruling from the Sandiganbayan to have that obligation declared paid, and failing in that, gone to the Regional Trial Court on the same or similar relief. In that event, "forum-shopping" would have been a bar to a Regional Trial Court action.

The fact that PVHI had prayed for injunction (or temporary restraining order) in both cases is of no moment. As we said, PVHI's prayer for an injunctive writ with the Sandiganbayan was sought to be directed against the GSIS for exercising a perceived want of power on GSIS's part over properties subject matter of a pending PCGG case. Its motion, on the other hand, with the Regional Trial Court for a writ of injunction was against the very foreclosure proceeding itself. There can be no forum-shopping to speak of.

Anent PVHI's motion to annul the foreclosure sale, filed in LRC Case No. 3079 (in which the GSIS asked for a writ of possession), the Court finds nothing objectionable in such a recourse. Under Section 8, of Act. No. 3135, the remedy of a party aggrieved by foreclosure is indeed, to have the sale set aside.

Anent GSIS's charges of forum shopping, embodied in its manifestation dated August 30, 1990, against PVHI in connection with Civil Case No. 90-52272, instituted to enforce the compromise agreement (by way of specific performance) and to enjoin GSIS from taking possession of the mortgaged assets in question and from consolidating title thereto in its name, it is necessary for GSIS to file a separate application for contempt, since clearly, the matter must be taken up in a petition, not a mere manifestation.

WHEREFORE, the Court renders judgment as follows:

1. The proceedings in Civil Case No. 88-45876 (RTC, Manila, Sergio Mabunay, presiding judge) are moot and academic, foreclosure having been implemented and now a fait accompli;
2. Neither PVHI, Rebecca Panlilio, nor their counsel are guilty of forum-shopping in connection with the said Civil Case No. 88-45876, or CA-G.R. SP No. 20336 (Court of Appeals);
3. The Temporary Restraining Order issued in the Resolution dated October 11, 1989, enjoining Judge Sergio Mabunay from further proceedings in Civil Case No. 88-45876 is made permanent; and
4. The prayer for contempt is DENIED.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Gancayco, Padilla, Bidin, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

Feliciano, J., on leave.

[1] Rollo, 26.

[2] Id., 5.

[3] Id.

[4] Id., 82.

[5] See, id., 14.

[6] Id., 387.

[7] Id., 528.

[8] World-wide Insurance & Surety Co., Inc. vs. Court of Appeals, No. L-40797, March 16, 1987, 148 SCRA 494.

[9] Villanueva v. Adre, No. 80863, April 27, 1989, 172 SCRA 876, 882.

[10] Palm Avenue Realty Development Corporation v. Philippine Commission on Good Government No. 76296, August 31, 1987, 153 SCRA 579, 591.

[11] Rollo, id., 24.

[12] Id., 311.

[13] Note that under Article 2126 of the Civil Code, a mortgage follows whoever is in possession of the mortgaged property.

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