

ACTIVE WOOD PRODUCTS, CO., INC., PETITIONER, VS. HON. COURT OF APPEALS, STATE INVESTMENT HOUSE, INC., AND ATTY. VICTORINO P. EVANGELISTA, EX-OFFICIO, SHERIFF OF MALOLOS, BULACAN...

G.R. No. 86603. February 05, 1990

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

This is a petition for review on certiorari of a decision rendered by the Court of Appeals in LRC Case No. P-39-84 of Branch XIV.[1]

The facts narrated in the decision of the Court of Appeals are accurate.

Respondent Judge Legaspi is the presiding judge of Branch XX where Civil Case No. 6518-M is pending. LRC Case No. P-39-84 is pending in Branch XIV presided over by Judge Felipe N. Villajuan, Jr.

The LRC Case No. P-39-84 was initiated by the private respondent State Investment House, Inc., when it filed a petition for the issuance of a writ of possession over Active Wood's two parcels of land covered by TCT Nos. 262966 and 262967 of the Register of Deeds of Bulacan.

The mortgage on those lands which Active Wood had constituted in favor of State Investment to secure an indebtedness was foreclosed and the lands auctioned off to State Investment as the highest bidder. The certificate of sale issued to State Investment was registered on December 2, 1983.

In view of the foreclosure, Active Wood filed Civil Case No. 6518-M with the court a quo, which by its order dated February 27, 1984 declared as null and void the foreclosure and State Investment's certificate of sale.

On February 14, 1984 State Investment filed a petition for a writ of possession pending redemption of the lands by Active Wood. The petition, docketed as LRC Case No. P-39-84, was assigned to Branch XIV of said Regional Trial Court. On March 23, 1984 Judge Villajuan of Branch XIV granted the writ upon filing of a bond.

On April 18, 1984 State Investment filed a motion with Branch XIV in LRC Case No. P-39-84 to reduce the amount of bond required by the court.

Meanwhile on October 2, 1984 this Court set aside the order of Branch XX a quo that had earlier declared null and void the foreclosure and State Investment's certificate of sale.

On December 3, 1984 Judge Villajuan of Branch XIV denied State Investment's motion for reduction of bond and in the same order he set aside his previous order of March 23, 1984 which had granted State Investment the Writ of Possession conditioned upon the posting of bond.

On March 13, 1985, Active Wood filed a motion in LRC Case No. P-39-84 pending in Judge Villajuan's Branch XIV for the consolidation of said case with Civil Case No. 6518-M pending in respondent Judge's

Branch XX. Moreover, Active Wood filed a motion in said LRC Case No. P-39-84 to dismiss and/or suspend the proceedings of that case until Branch XX resolved the issue of validity of the mortgage raised in Civil Case No. 6518-M.

Acting on Active Wood's motions, Judge Villajuan of Branch XIV, in his order dated July 1, 1985, held in abeyance resolution of State Investment's petition for the Writ of Possession and directed that said LRC Case No. P-39-84 pending in his branch be consolidated with Civil Case No. 6518-M pending in respondent Judge's branch provided the latter would not object.

On November 28, 1985, the respondent judge issued his new assailed order returning the LRC Case No. P-39-84 to Branch XIV obviously signifying his objection to the proposed consolidation of that case with the case pending in his branch. Active Wood's motion for reconsideration of the order denying consolidation was also denied by respondent Judge in his now second challenged order of January 9, 1985.[2]

One fact was overlooked by the respondent court — that Civil Case No. 6518-M was filed by the petitioner herein on June 7, 1982, much ahead than the filing by the private respondent on February 1, 1984, of its "Petition for Writ of Possession."

In the light of the facts above-stated, the Court of Appeals denied the petition and ruled that the "consolidation or cases is proper when they involve a common question of law or fact and they are pending before the court." [3] The public respondent would like to impress that consolidation is proper only when two or more cases are before the same judge or branch and that consolidation is not allowed when the cases are pending before different courts or different branches of the same court.

Hence this petition was filed.

We rule in favor of the consolidation of the two cases.

The Rules of Court [4] provide:

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.

The rationale for consolidation is to have all cases, which are intimately related, acted upon by one branch of the court to avoid the possibility of conflicting decisions being rendered that will not serve the orderly administration of justice. [5] Time and again we have said that the rules of procedure must be liberally construed order to promote their object and to assist the parties in obtaining just, speedy, and inexpensive determination of every action and proceeding.

State Investment argues that the aforementioned provision of the Rules mention only actions, which means an ordinary suit in a court of justice by which one party prosecutes another for the enforcement or protection of a right, or the prevention or redress of a wrong. Civil Case No. 6518-M is such an action. [6] On the other hand, LRC, Case No. P-39-84 involving the Petition for a Writ of Possession is an ex-parte proceedings [7] and does not require notice to be given to the other parties. The two, action and proceedings, being different, can not be consolidated.

It is true that a petition for a writ of possession is made ex-parte to facilitate proceedings, being founded on a presumed right of ownership. Be that as it may, when this presumed right of ownership is contested and made the basis of another action, then the proceedings for writ of possession would also become seemingly groundless. The entire case must be litigated and if need be as in the case at bar, must be consolidated with a related case so as to

thresh out thoroughly all related issues.

Thus in the case at bar, this technical difference between an action and a proceeding becomes insignificant and consolidation becomes a logical conclusion.

The consolidation of cases becomes mandatory because it involves the same parties and the same subject matter which is the same parcel of land.[8] Such consolidation is desirable to avoid confusion and unnecessary costs and expenses with the multiplicity of suits. Thus the rules do not distinguish between cases filed before the same branch or judge and those that are pending in different branches, or before different judges of the same court, in order that consolidation may be proper, as long as the cases involve the resolution of questions of law or facts in common with each other. Therefore it appears that the respondent court in denying the motion for consolidation, has sanctioned the departure of the trial court from the usual course or judicial proceedings, thus calling for the exercise of the power of supervision of the Supreme Court. The respondent court has, indeed, committed a reversible error.

Consolidation of these two cases in Branch XX, in which the earlier case filed now pends, is more promotive of their expeditious and less expensive determination as well as the orderly administration of justice than if they were to remain in the two branches or the same court.

Even in the Supreme Court which sits en banc or in three divisions, the consolidation of cases with issues of fact or law intimately or substantially related pending in the same division or in different divisions, and en banc, be they assigned to the same ponente or to different ponentes, is practically given or conceded to the ponente assigned to the case with the lower number, i.e., the one filed earlier. We have found this practice beneficial and desirable from the results. We think the same advantage would accrue to the lower courts if they adhere to this procedure.

The delay in the determination of the controversy intimated by the respondent is all in the mind. One judge would be able to resolve the different aspects of these cases with more dispatch and accord than two judges.

WHEREFORE, the petition is GRANTED; the Decision promulgated on November 22, 1988 and the Order issued on January 10, 1989, both by the respondent Court of Appeals, are SET ASIDE; Civil Case No. 6518-M and LRC Case No. P-39-84 are consolidated in Branch XX of the Regional Trial Court, Third Judicial Region, at Malolos, Bulacan, for hearing and proper disposition without unnecessary delay.

Costs against the private respondent.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, and Regalado, JJ., concur.

Padilla, J., no part; former counsel of private respondent.

[1] Active Wood Products Co., Inc. v. Hon. Godofredo Legaspi, CA-G.R. SP Case No. 08352, November 22, 1988; Elbinias, Jesus M., ponente; Purisima, Fidel and Cui, Emeterio, JJ., concurring.

[2] Rollo, 72-74.

[3] Id., 74.

[4] RULES OF COURT, Rule 31, Sec. 1.

[5] Benguet Corp. Inc. v. Court of Appeals, No. L-80902, 165 SCRA 271, August 31, 1988; Vallacar Transit, Inc.

v. Yap, No. L-61308, 126 SCRA 503, December 29, 1983.

[6] Section 1, Rule 2, RULES OF COURT.

[7] GSIS vs. Hon. Court of Appeals, G.R. No. L-44278, January 20, 1989; Section 7, Act 3135, amended by Act 4118.

[8] Raymundo v. Felipe, No. L-30887, 42 SCRA 615, 616, December 24, 1971.

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