

**CHEMPHIL EXPORT AND IMPORT CORPORATION, PETITIONER, VS.
THE HON. COURT OF APPEALS, (FORMERLY TWELFTH DIVISION);
PHILIPPINE INVESTMENTS SYSTEMS ORGANIZATION (PISO), BANK
OF THE P...**

G.R. No. 97217. April 10, 1992

Ponente: PARAS, J.

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PARAS, J.:

This is a special civil action for certiorari with preliminary injunction and restraining order, which seeks to annul and set aside the resolutions* dated August 9, 1990 and February 4, 1991 of the Former Twelfth Division of respondent Court of Appeals in CA--G.R. No. 26511 entitled "Dynerics, Inc. and Antonio M. Garcia, Plaintiffs v. Philippine Investments Systems Organization, Bank of the Philippine Islands, Rizal Commercial Banking Corporation and Land Bank of the Philippines, Defendants-Appellants, Chemphil Export and Import Corporation, Intervenor-Appellee," ordering the consolidation of the said CA-G.R. CV No. 26511 with CA--G.R. No. 20467.

It appears from the records that on September 25, 1984, Dynerics, Inc. and Antonio M. Garcia filed a civil action for declaratory relief and/or injunction with preliminary injunction against Philippine Investments Systems Organization, Bank of the Philippine Islands, Rizal Commercial Banking Corporation, Philippine Commercial and Industrial Bank (PCIB) and Land Bank of the Philippines (LBP), herein referred to as CONSORTIUM for brevity, with the Regional Trial Court, Branch 145, Makati, Metro Manila, docketed as Civil Case No. 8527 (Rollo, pp. 297-298). Thereafter, CONSORTIUM filed their respective answers with compulsory counterclaims. They likewise prayed for the issuance of a writ of preliminary attachment against Dynerics, Inc. and Antonio M. Garcia (*Ibid.*, p. 298).

On July 12, 1985, the trial court issued an order, denying the prayer of Dynerics, Inc. and Antonio M. Garcia for preliminary injunction. Finding sufficient grounds from the evidence presented, however, the trial court ordered the issuance of a consolidated writ of preliminary attachment as prayed for by private respondents (*Ibid.*). Thus, on July 19, 1985, the sheriff assigned to the trial court garnished various real and personal properties belonging to Dynerics, Inc., and Antonio M. Garcia, including the shares of stock belonging to the latter in Chemical Industries of the Philippines, Inc. (Chemphil, for brevity) (*Ibid.*, p. 199).

On May 20, 1988, the trial court issued an order, dismissing the complaint of Dynerics, Inc. and Antonio M. Garcia, together with the counterclaim of CONSORTIUM. From this order, CONSORTIUM appealed to respondent Court of Appeals, docketed as CA-G.R. CV No. 20467 entitled "Dynerics, Inc. and Antonio M. Garcia, Plaintiffs-Appellees v. Philippine Investments Systems Organization, et al., Defendants-Appellants." This appealed case was assigned to the Ninth Division of respondent Court of Appeals (*Ibid.*, p. 325).

On January 17, 1989 and during the pendency of the appeal in the aforementioned CA-G.R. CV No. 20467, CONSORTIUM and Antonio M. Garcia entered into a compromise agreement, which was approved by the Court of Appeals in a resolution dated May 22, 1989. By reason thereof, Antonio M. Garcia was dropped as a party to

the appeal, leaving the same to proceed but only insofar as Dynetics, Inc. is concerned (Ibid). Antonio M. Garcia, however, failed to comply with the terms of the said compromise agreement, prompting the CONSORTIUM to move for execution of the compromise judgment, which was granted by the trial court in an order dated August 11, 1989 (Ibid., pp. 39, 300). Consequently, several properties of Antonio M. Garcia were levied upon and sold in execution in favor of the CONSORTIUM, among which properties were the Chemphil shares of Antonio M. Garcia. A certificate of sale was issued in favor of the CONSORTIUM, the sheriff's return indicating that the Chemphil shares which were sold in execution were the same shares garnished on July 19, 1985 (Ibid., p. 39).

On August 30, 1989, CONSORTIUM filed with the trial court a motion to order the corporate secretary of Chemphil to enter in the stock and transfer books of Chemphil the sheriff's certificate of sale dated August 22, 1989 and to issue new certificates of stock in the name of the CONSORTIUM (Ibid.).

On September 4, 1989, the trial court issued an order directing the corporate secretary of Chemphil to "a) record and/or register the Certificate of Sale dated August 22, 1989 issued by the Deputy Sheriff Cristobal E. Jabson x x x; b) to cancel the certificate of stocks of plaintiff Antonio M. Garcia and all those which may have subsequently been issued in replacement thereof; and c) to issue in lieu of said shares new shares of stock in the name of PCIB, BPI, RCBC, LBP and PISO Bank in such proportion as their respective claims would appear in their suit." (Ibid., pp. 39-40).

On September 22, 1989, Chemphil Export and Import Corporation (CEIC, for brevity) filed with the trial court an urgent ex-parte motion for leave to intervene in Civil Case No. 8527, accompanied by an urgent motion which manifested, among others, that it had a preferred right over the disputed Chemphil shares because these shares were assigned to it by Ferro Chemicals, Inc., which purchased the aforementioned shares from Antonio M. Garcia (Ibid., p. 40). The trial court allowed CEIC to intervene in an order dated September 27, 1989. It likewise issued a cease-and-desist order and directed the corporate secretary of Chemphil not to enforce and implement the order of September 4, 1989 in an order dated September 28, 1989 (Ibid.).

After due hearing and submission of pleadings by both CONSORTIUM and CEIC, the trial court, on December 19, 1989, rendered a decision, the dispositive portion of which reads as follows:

"WHEREFORE, premises considered, the Urgent Motion dated September 25, 1989, filed by CEIC is hereby granted. Accordingly, the Order of September 4, 1989, is hereby SET ASIDE, and any and all acts of the Corporate Secretary of CHEMPHIL and/or whoever is acting for and in his behalf, as may have already been done, carried out or implemented pursuant to the Order of September 4, 1989, are hereby nullified.

Perforce, the CONSORTIUM's Motions dated October 3, 1989 and October 11, 1989, are both hereby DENIED, for lack of merit.

The Cease and Desist Order dated September 27, 1989, is hereby AFFIRMED and made PERMANENT.

SO ORDERED." (Ibid., p. 305).

Their motion for reconsideration having been denied, the CONSORTIUM appealed from the foregoing decision to the Court of Appeals, docketed as CA-G.R. CV No. 26511 and assigned to the former Twelfth Division of the said appellate court.

On April 4, 1990, CONSORTIUM filed a motion to consolidate CA-G.R. CV No. 26511 with CA-G.R. CV No. 20467 (Ibid., p. 328). CEIC vehemently opposed this motion to consolidate. Nonetheless, respondent Court of Appeals granted the CONSORTIUM's motion to consolidate in a resolution dated August 9, 1990 (Ibid., p. 36). On August 20, 1990, CEIC filed an urgent motion for reconsideration of the aforementioned resolution, alleging, among others, that there is no common question of law or fact or parties in CA-G.R. CV No. 20467 and CA-G.R.

CV No. 26511(Ibid., pp. 329-330).

On February 4, 1991, the Twelfth Division of respondent Court of Appeals issued a resolution, denying CEIC's motion for reconsideration (Ibid., p. 43). Hence, this petition.

The sole issue for resolution in this case is whether or not respondent Court of Appeals gravely abused its discretion when it ordered the consolidation of CA-G.R. CV No. 26511 with CA-G.R. CV No. 20467.

It is undisputed that both CA-G.R. CV No. 26511 and CA-G.R. CV No. 20467 find their origin in Civil Case No. 8527. In CA-G.R. CV No. 20467, the CONSORTIUM banks are questioning the order of the trial court in Civil Case No. 8527, dismissing their counterclaims, which, according to CEIC, resulted in the automatic dissolution of attachment levied on the disputed Chemphil shares (Ibid., p. 342). On the other hand, in CA-G.R. CV No. 26511, the primordial issue revolves around the ownership over the disputed Chemphil shares. Stated differently, both CEIC and the CONSORTIUM banks are contesting ownership over the disputed Chemphil shares that were (a) attached by the CONSORTIUM in Civil Case No. 8527; (b) sold by the same banks on execution to satisfy the judgment based on compromise rendered against Antonio M. Garcia in CA-G.R. CV No. 20467; and (c) claimed by CEIC in ownership during the execution of the judgment based on compromise rendered in CA-G.R. CV No. 20467 the result of which claim led to CA-G.R. CV No. 26511 (Ibid., p. 312). Such being the case, CA-G.R. No. 20467 and CA-G.R. CV No. 25611 are intimately and substantially related cases, thereby making their consolidation inevitable to avoid the possibility of conflicting decisions in both cases (Benguet Corporation, Inc. v. Court of Appeals, 165 SCRA 265 [1988]).

That CEIC is not a party in CA-G.R. CV No. 20467 does not militate against the consolidation of the two cases because under the Revised Internal Rules of the Court of Appeals, which was approved by this Court En Banc on October 20, 1988, consolidation may be allowed when the two cases to be consolidated involve the same parties and/or related questions of fact and/or law [Section 7(a)]. In short, for as long as two or more cases involve related questions of fact and/or law, as in the instant case, their consolidation is in order. Accordingly, the consolidation in question being called for, it cannot be justifiably argued, as CEIC does, that respondent Court of Appeals gravely abused its discretion when it ordered the consolidation of CA-G.R. CV No. 26511 with CA-G.R. CV No. 20467.

PREMISES CONSIDERED, this instant petition is DISMISSED for lack of merit.

SO ORDERED.

Melencio-Herrera, (Chairman), Regalado, and Nocon, JJ., concur.
Padilla, J., no part; former counsel of respondent Bank of PI.

* Penned by Associate Justice Artemon D. Luna and concurred in by Associate Justices Reynato S. Puno and Jorge S. Imperial

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