



Republic of the Philippines  
**Supreme Court**  
Manila

**FIRST DIVISION**

**AIDA PADILLA,**  
Petitioner,

**G.R. No. 207376**

Present:

**SERENO, C.J.,**  
*Chairperson,*  
**BERSAMIN,**  
**VILLARAMA, JR.,**  
**MENDOZA,\* and**  
**REYES, JJ.**

- versus -

**GLOBE ASIATIQUE REALTY  
HOLDINGS CORPORATION,  
FILMAL REALTY  
CORPORATION, DELFIN S.  
LEE and DEXTER L. LEE,**  
Respondents.

Promulgated.

**AUG 06 2014**

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**DECISION**

**VILLARAMA, JR., J.:**

Assailed in this petition for review under Rule 45 are the Orders<sup>1</sup> dated November 12, 2012 denying the motion to set the counterclaim for pre-trial and May 8, 2013 denying petitioner's motion for reconsideration, issued by the Regional Trial Court (RTC) of Pasig City, Branch 155 in Civil Case No. 73132.

**Factual Antecedents**

From the years 2005 to 2008, Philippine National Bank (PNB) entered into several Contracts to Sell (CTS) Facility Agreements<sup>2</sup> with respondents Globe Asiatique Realty Holdings Corporation (Globe Asiatique) and Filmal

\* Designated additional member per Special Order No. 1738 dated July 31, 2014.

<sup>1</sup> *Rollo*, pp. 61 to 61-A and 63-64. Penned by Judge Maria Gracia A. Cadiz-Casaclang.

<sup>2</sup> *Id.* at 188-271.

Realty Corporation (Filmal) represented by Delfin S. Lee and Dexter L. Lee, President and Vice-President, respectively, of the two corporations. PNB thereby agreed to make available to Globe Asiatique and Filmal CTS Facility in the amount not exceeding Two Hundred Million Pesos (₱200,000,000.00) to finance the purchase of certain Accounts Receivables or the in-house installment receivables of respondents arising from the sale of subdivision houses in their real estate/housing projects as evidenced by contracts to sell. These availments were later increased to a total amount of One Billion Two Hundred Million Pesos (₱1,200,000,000.00).<sup>3</sup>

Pursuant to and as a condition for the CTS Facility availments, respondents executed in favor of PNB several Deeds of Assignment<sup>4</sup> covering accounts receivables in the aggregate amount of One Billion One Hundred Ninety-Five Million Nine Hundred Twenty-Six Thousand Three Hundred Ninety Pesos and Seventy-two centavos (₱1,195,926,390.72). In the said instruments, respondents acknowledged the total amount of One Billion Three Hundred Ninety Five Million Six Hundred Sixty-Five Thousand Five Hundred Sixty-Four Pesos and Sixty-nine centavos (₱1,395,665,564.69) released to them by PNB in consideration of the aforesaid accounts receivables.<sup>5</sup>

Sometime in the first quarter of 2010, respondents defaulted in the payment of their outstanding balance and delivery to PNB of transfer certificates of title corresponding to the assigned accounts receivables, for which PNB declared them in default under the CTS Facility Agreements. Subsequently, respondents made partial payments and made proposals for paying in full its obligation to PNB as shown in the exchange of correspondence between respondents and PNB.

In a letter dated August 5, 2010,<sup>6</sup> PNB made a formal and final demand upon respondents to pay/settle the total amount of ₱974,377,159.10 representing their outstanding obligation. In the course of credit monitoring and verification, PNB claimed it discovered 231 out of 240 Contracts to Sell to have either inexistent addresses of buyers or the names of the buyers are non-existent or both.

Thereafter, PNB instituted Civil Case No. R-PSY-10-04228-CV (*Philippine National Bank v. Globe Asiatique Realty Holdings Corporation, Filmal Realty Corporation, Delfin S. Lee and Dexter L. Lee*) for recovery of sum of money and damages with prayer for writ of preliminary attachment before the RTC of Pasay City.

In their complaint, PNB alleged in detail the fraudulent acts and misrepresentations committed by respondents in obtaining PNB's

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<sup>3</sup> Id. at 272-275.

<sup>4</sup> Id. at 290-389.

<sup>5</sup> Id. at 19.

<sup>6</sup> Id. at 401-402.

conformity to the CTS Facility Agreements and the release of various sums to respondents in the total amount of ₱974,377,159.10. PNB accused respondents of falsely representing that they have valid and subsisting contracts to sell, which evidently showed they had no intention to pay their loan obligations. The Verification and Certification of Non-Forum Shopping attached to the complaint was signed by PNB's Senior Vice-president of the Remedial Management Group, Aida Padilla, who likewise executed an "Affidavit in Support of the Application for the Issuance of the Writ of Preliminary Attachment."

**Proceedings in the Pasay  
City RTC (Civil Case No.  
R-PSY-10-04228-CV)**

On August 25, 2010, the Pasay City RTC issued an Order<sup>7</sup> granting PNB's application for issuance of preliminary attachment after finding that defendants Globe Asiatique and Filmal "through the active participation or connivance/conspiracy of defendants Delfin and Dexter Lee from the revealing evidence presented by plaintiff are guilty of fraud in contracting their outstanding loan applications to plaintiff Philippine National Bank (PNB)."<sup>8</sup> The writ of preliminary attachment was accordingly issued on August 27, 2010 after PNB complied with the posting of attachment bond as ordered by the court.<sup>9</sup>

Defendants Delfin Lee and Dexter Lee filed their Answer with Counterclaim with motion to dismiss, arguing that PNB has no cause of action against them as there is nothing in the CTS Facility Agreements that suggest they are personally liable or serve as guarantors for Globe Asiatique and Filmal, and that they were just sued as signatories of the CTS Facility Agreements. They likewise filed a motion to discharge preliminary attachment.<sup>10</sup>

Defendants Globe Asiatique and Filmal also filed their Answer with Counterclaim denying PNB's allegations of fraud and misrepresentation particularly after PNB had accepted payments from the corporations. In their motion to discharge preliminary attachment, Globe Asiatique and Filmal asserted that the allegations of fraud in the complaint are without basis and no proof was presented by plaintiff on the existence of preconceived fraud and lack of intention to pay their obligations, citing their timely payments made to PNB. They further assailed the affidavit executed by Aida Padilla who they claimed has no personal knowledge of the subject transactions and there being no allegation of threat or possibility that defendant corporations will dispose of their properties in fraud of their

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<sup>7</sup> Id. at 1621-1628. Penned by Presiding Judge Pedro De Leon Gutierrez.

<sup>8</sup> Id. at 1627.

<sup>9</sup> Id. at 461-462.

<sup>10</sup> Id. at 720-729, 758-766.

creditors.<sup>11</sup>

In its Order<sup>12</sup> dated April 29, 2011, the Pasay City RTC denied defendants' motion to dismiss, motions to discharge preliminary attachment and to expunge or suspend proceedings, as well as PNB's motion to expunge.

In succession, the parties in Civil Case No. R-PSY-10-04228-CV filed the following motions:

- 1) Defendants' Motion for Reconsideration of the Order dated April 29, 2011 filed on May 27, 2011;
- 2) Plaintiff's Motion to Set Case for Pre-trial Conference filed on June 8, 2011;
- 3) Plaintiff's Motion for Summary Judgment filed on June 28, 2011;
- 4) Defendants' Motion for Leave to Admit Attached Amended Answer with Compulsory Counterclaim filed on July 12, 2011;
- 5) Defendants' Omnibus Motion (a) to discharge the writ of attachment on the ground of newly discovered evidence; (b) set preliminary hearing on affirmative defenses pleaded in the amended answer; (c) issue preliminary attachment against plaintiff on account of fraud in incurring the obligation as alleged in the amended answer; and (d) render partial summary judgment on the compulsory counterclaim, filed on July 26, 2011;
- 6) Defendants' Motion for Reconsideration of the Order dated July 29, 2011, with Motion to Continue with the Proceedings Involving Defendants' Omnibus Motion, filed on August 31, 2011;
- 7) Defendants' Motion to Set for Hearing their earlier motion to discharge the writ of attachment filed on January 24, 2012; and
- 8) Plaintiff's Motion to Expunge defendants' Reply (on defendants' motion to set hearing) filed on April 30, 2012.

Meanwhile, and before the Pasay City RTC could act upon the foregoing motions, defendants Globe Asiatique, Filmal, Delfin S. Lee and Dexter L. Lee filed on August 10, 2011 a complaint<sup>13</sup> for Damages in the

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<sup>11</sup> Id. at 707-715, 772-805.

<sup>12</sup> Id. at 731-743.

<sup>13</sup> Id. at 1559-1570.

RTC of Pasig City, Branch 155 docketed as Civil Case No. 73132.

On May 18, 2012, the Pasay City RTC issued an Order<sup>14</sup> resolving the pending motions, as follows:

WHEREFORE, the motion for reconsideration of the Order dated 27 May 2011 is denied insofar as the prayer to reconsider denial of the motion to dismiss. However, the prayer to expunge the Manifestation filed on 26 November 2010 is granted thus, the Manifestation is expunged.

The motion for leave and to admit amended answer is denied. The motion for reconsideration of the Order dated 29 July 2011 is likewise denied. The other prayers in the omnibus motion to set preliminary hearing of affirmative defenses in the amended answer, issuance of preliminary attachment based thereon and for partial summary judgment on the compulsory counterclaims in the amended answer are denied. Plaintiff's motion to expunge defendants' reply is likewise denied.

Hearing on plaintiff's motion for summary judgment is set on 19 June 2012 at 8:30 a.m., while hearing on defendants' motion to discharge the writ of preliminary attachment is set on 26 June 2012 at 8:30 a.m.

Action on plaintiff's motion to set the case for pre-trial is deferred until after resolution of the motion for summary judgment.

SO ORDERED.<sup>15</sup>

**Pasig City RTC Case**  
**(Civil Case No. 73132)**

In their Complaint against Judge Pedro De Leon Gutierrez and Aida Padilla (both sued in their personal capacity), respondents claimed that Globe Asiatique and Filmal are well-known and successful real estate developers whose projects were "being continuously supported by various banks and other financial institutions prior to the malicious and devastating unfounded civil action" filed by Aida Padilla (petitioner) which wrought havoc to their businesses and lives. As to the CTS Facility Agreements with PNB, respondents alleged that these were already novated by the parties who agreed upon a term loan starting May 31, 2010 and to expire on April 30, 2012. But despite her knowledge of such novation and that the obligation was not yet due and demandable, petitioner with malice and evident bad faith still executed a "perjured" Affidavit in support of the application for writ of preliminary attachment before the Pasay City RTC.

Respondents likewise sought to hold Judge Gutierrez personally liable for issuing the writ of preliminary attachment in favor of PNB notwithstanding that the obligation subject of PNB's complaint was sufficiently secured by the value of real properties sold to it by virtue of the CTS Facility Agreements and deeds of assignment of accounts receivables.

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<sup>14</sup> Id. at 1702-1711. Penned by Judge Wilhelmina B. Jorge-Wagan.

<sup>15</sup> Id. at 1710-1711.

They further contended that Judge Gutierrez blindly approved the attachment bond offered by PNB's sister company, PNB General Insurers Company, Inc. despite the fact that from its submitted documents, said insurer's authorized capital stock is only ₱400 million while its paid-up capital is only ₱312.6 million, which is way below the ₱974,377,159.10 attachment bond it issued.

Respondents thus prayed for a judgment ordering petitioner and Judge Gutierrez to pay moral damages, exemplary damages, litigation expenses, attorney's fees and cost of suit.

Judge Gutierrez moved to dismiss<sup>16</sup> the complaint against him on the following grounds: (1) respondents have no cause of action against him; and (2) the Pasig City court has no jurisdiction over the case and his person, movant being of co-equal and concurrent jurisdiction.

Petitioner filed her Answer With Compulsory Counterclaims,<sup>17</sup> praying for the dismissal of respondents' complaint on the following grounds: (1) submission of a false certification of non-forum shopping by respondents and their blatant commission of willful, deliberate and contumacious forum shopping (respondents failed to disclose a criminal complaint entitled "*Tbram Cuyugan v. Aida Padilla and Members of the Board of Directors of PNB*", docketed as I.S. No. XV-13-INV-11-H-01208 pending before the office of the City Prosecutor of Pasay City); (2) *litis pendentia*; (3) respondents' failure to attach the alleged actionable document, *i.e.* the supposed "new term loan", in violation of Section 7, Rule 8 of the Rules of Court; (4) failure to state a cause of action against petitioner; and (5) petitioner cannot be held personally liable for her official acts done for and in behalf of PNB.

On January 5, 2012, petitioner filed a motion for preliminary hearing on affirmative defenses, contending that respondents are parroting the very same arguments raised and relying on the same evidence they presented before the Pasay City RTC to establish the alleged novation and purported insufficiency of the attachment bond, which issues are still pending in the said court. It was thus stressed that respondents are evidently guilty of forum shopping.<sup>18</sup>

Respondents filed their Comment/Opposition,<sup>19</sup> arguing that there is nothing in their complaint that would slightly suggest they are asking the Pasig City RTC to issue any injunction or otherwise issue an order setting aside the writ of preliminary attachment issued by the Pasay City RTC, and neither did they ask for a ruling on whether said writ is illegal or whether Judge Gutierrez committed a grave abuse of discretion. They asserted that

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<sup>16</sup> Id. at 1720-1732.

<sup>17</sup> Id. 85-184.

<sup>18</sup> Id. at 1830-1851.

<sup>19</sup> Id. at 1873-1895.

what they seek from the Pasig City RTC is to allow them to recover damages from Judge De Leon for his tortious action in approving PNB's attachment bond. They also insisted that forum shopping and *litis pendentia* are absent in this case, contrary to petitioner's claims. Respondents likewise opposed<sup>20</sup> the motion to dismiss filed by Judge Gutierrez, citing this Court's ruling in *J. King & Sons Company, Inc. v. Judge Agapito L. Hontanosas, Jr.*<sup>21</sup> in support of their position that the separate complaint before another forum against the judge for his actionable wrong in a pending case before him can proceed independently without necessarily interfering with the court's jurisdiction, as what happened in the said case where the judge was merely penalized for gross misconduct and gross ignorance of the law without actually invalidating the judge's order approving the counter-bond without reviewing the documents presented.

In her Reply,<sup>22</sup> petitioner reiterated her previous arguments and additionally contended that in any event, there is no basis for respondents' claim for damages arising from the issuance of the writ of preliminary attachment before the Pasig City RTC considering that PNBGEN Bond No. SU-JC14-HO-10-0000001-00 is valid and sufficient to secure and answer for whatever damages respondents may have suffered by reason of such issuance should it be finally decided that PNB was not entitled to the said bond.

On April 2, 2012, the RTC of Pasig City issued an Order<sup>23</sup> dismissing Civil Case No. 73132 for lack of jurisdiction.

On May 7, 2012, petitioner filed a Motion to Set Counterclaims for Pre-Trial Conference.<sup>24</sup>

On October 22, 2012, the Pasig City RTC denied respondents' motion for reconsideration of the April 2, 2012 Order dismissing their complaint.<sup>25</sup> Respondents filed a Notice of Appeal<sup>26</sup> under Section 1(a), Rule 41 of the Rules of Court.

On November 12, 2012, the Pasig City RTC issued the first questioned Order, which reads:

x x x x

Records show that this Court, through then Acting Presiding Judge Amorфина Cerrado-Cezar, issued an Order dated April 2, 2012, dismissing the case on the ground that issues involved in this case already impinge upon the validity of the Order dated August 25, 2010 and Writ of Attachment dated August 27, 2010 issued by the Regional Trial Court,

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<sup>20</sup> Id. at 1857-1871.

<sup>21</sup> 482 Phil. 1 (2004).

<sup>22</sup> *Rollo*, pp. 1899-1936.

<sup>23</sup> Id. at 66-67.

<sup>24</sup> Id. at 1939-1948.

<sup>25</sup> Id. at 1997.

<sup>26</sup> Id. at 2007.

Branch 119, Pasay City, a court of concurrent and coordinate jurisdiction, in Civil Case No. R-PSY-10-04228 entitled “Philippine National Bank vs. Globe Asiatique Realty Holdings Corp. et al.” The ruling in said Order dated April 2, 2012, was affirmed by this Court per its Order dated October 22, 2012, whereby it reiterated that acting on the plaintiffs’ Complaint is a brazen violation of the principle of judicial stability, which essentially states that the judgment or order of a court of competent jurisdiction may not be interfered with by any court of concurrent jurisdiction for the simple reason that the power to open, modify or vacate the said order is not only possessed but is restricted to the court in which the judgment or order is rendered or issued. (Cojuangco vs. Villegas, 184 SCRA 374)

The foregoing principles are equally applicable to the counterclaims of Aida Padilla. Indeed, **to hear the counterclaims of defendant Aida Padilla will open the door, so to speak, for the plaintiffs to interpose as ostensible defenses its claims regarding the alleged illegality of the aforesaid orders and writ of attachment issued by the RTC of Pasay City. In effect this Court will be forced to dwell upon issues involving the pending civil case in the RTC Branch 199, Pasay City, thereby interfering, albeit indirectly, with said issues.** This is precisely the very evil which the Court sought to avoid when it dismissed the plaintiffs’ complaint. Therefore, upholding once more the principle of judicial stability, this Court is impelled to refuse to hear the counterclaims of defendant Padilla.

WHEREFORE, premises considered, the instant Motion filed by defendant Aida Padilla is DENIED without prejudice to the re-filing of defendant Aida Padilla’s causes of action against herein plaintiffs after final resolution of Civil Case No. R-PSY-10-04228 entitled “Philippine National Bank vs. Globe Asiatique Realty Holdings Corp, et al.”

SO ORDERED. (Emphasis supplied.)

Petitioner’s motion for reconsideration was likewise denied under the second assailed Order<sup>27</sup> dated May 8, 2013, as follows:

x x x x

Defendant Padilla argues that this Court has jurisdictional competence and authority to resolve her counterclaims notwithstanding the dismissal of the Complaint dated August 10, 2011 for violation of the principle of judicial stability. The resolution of her compulsory counterclaims will not require this Court to look into or pass upon the validity of the acts of the Regional Trial Court of Pasay City, Branch 119 in issuing the Writ of Attachment dated August 27, 2010. Defendant Padilla’s counterclaims arose directly from the malicious filing by the plaintiffs of the Complaint and are compulsory counterclaims which must be raised and resolved in the same action as the Complaint.

The Court remains unpersuaded of the propriety of proceeding to hear defendant Padilla’s counterclaims.

As movant herself stated, the grant of her counterclaim calls for the determination of the issue of whether or not herein plaintiffs had

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<sup>27</sup> Id. at 63-64.



maliciously filed the above-entitled Complaint against defendants. **Necessarily, the Court in threshing out such issue would be constrained to rule on whether the plaintiffs filed their complaint with a sinister design knowing fully well that their cause of action was baseless. Thus, the Court would have to pass upon the veracity or genuineness of plaintiffs' claims that they were unjustly injured by the orders and processes issued by RTC Branch 119, Pasay City, in Civil Case No. R-PSY-10-04228 entitled "Philippine National Bank vs. Globe Asiatique Realty Holdings Corp. et al." Hence, whatever ruling this Court may arrive at on said issues would inevitably impinge upon matters already pending before the RTC Branch 119, Pasay City.**

Once more, under the principle of juridical stability, the Court is constrained to refuse to hear defendant Padilla's counterclaims. Verily, this Court cannot allow itself to interfere – either directly, as desired by plaintiff, or indirectly, as defendant Padilla would have it – with the acts of a co-equal court.

WHEREFORE, premises considered, the instant Motion for Reconsideration filed by defendant Aida Padilla is hereby DENIED without prejudice to the re-filing of defendant Aida Padilla's causes of action against herein plaintiffs after resolution of Civil Case No. R-PSY-10-04228 entitled "Philippine National Bank vs. Globe Asiatique Realty Holdings Corp. et al."

SO ORDERED. (Emphasis supplied.)

### **The Petition**

Petitioner came directly to this Court raising the primordial legal issue of whether or not a court can take cognizance of a compulsory counterclaim despite the fact that the corresponding complaint was dismissed for lack of jurisdiction.

The present petition was de-consolidated from seven other petitions involving respondents and their transactions with Home Development Mutual Fund, as well as the pending criminal complaints arising therefrom.<sup>28</sup>

### **The Court's Ruling**

Before we resolve the legal question presented, we first address the issue of propriety of petitioner's resort to Rule 45.

Respondents are incorrect in arguing that petitioner adopted the wrong mode of appeal, stating that the remedy from the dismissal of her counterclaims without prejudice is a petition for certiorari under Rule 65 and not an appeal under Rule 45.

There is no dispute with respect to the fact that when an appeal raises

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<sup>28</sup> See Resolution dated June 3, 2014.

only pure questions of law, this Court has jurisdiction to entertain the same.<sup>29</sup> Section 1, Rule 45 of the 1997 Rules of Civil Procedure, as amended, provides:

SECTION 1. *Filing of petition with Supreme Court.* – A party desiring to appeal by certiorari from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on certiorari. The petition shall raise only questions of law which must be distinctly set forth.

In *Republic v. Sunvar Realty Development Corporation*,<sup>30</sup> this Court held:

Respondent Sunvar argued that petitioners' resort to a Rule 45 Petition for Review on *Certiorari* before this Court is an improper mode of review of the assailed RTC Decision. Allegedly, petitioners should have availed themselves of a Rule 65 Petition instead, since the RTC Decision was an order of dismissal of the Complaint, from which no appeal can be taken except by a *certiorari* petition.

The Court is unconvinced of the arguments of respondent Sunvar and holds that the resort by petitioners to the present Rule 45 Petition is perfectly within the bounds of our procedural rules.

As respondent Sunvar explained, no appeal may be taken from an order of the RTC dismissing an action without prejudice, but the aggrieved party may file a *certiorari* petition under Rule 65. Nevertheless, the Rules do not prohibit any of the parties from filing a Rule 45 Petition with this Court, in case **only questions of law are raised or involved**. This latter situation was one that petitioners found themselves in when they filed the instant Petition to raise only questions of law.

In *Republic v. Malabanan*, the Court clarified the three modes of appeal from decisions of the RTC, to wit: (1) by ordinary appeal or appeal by writ of error under Rule 41, whereby judgment was rendered in a civil or criminal action by the RTC in the exercise of its original jurisdiction; (2) by a petition for review under Rule 42, whereby judgment was rendered by the RTC in the exercise of its appellate jurisdiction; and (3) by a petition for review on *certiorari* before the Supreme Court under Rule 45. "The first mode of appeal is taken to the [Court of Appeals] on questions of fact or mixed questions of fact and law. The second mode of appeal is brought to the CA on questions of fact, of law, or mixed questions of fact and law. **The third mode of appeal is elevated to the Supreme Court only on questions of law.**" (Emphasis supplied.)

There is a question of law when the issue does not call for an examination of the probative value of the evidence presented or of the truth or falsehood of the facts being admitted, and the doubt concerns the correct application of law and jurisprudence on the matter. The resolution of the issue must rest solely on what the law provides on the given set of circumstances.

In the instant case, petitioners raise only questions of law with respect to the jurisdiction of the RTC to entertain a *certiorari* petition filed

<sup>29</sup> *Korea Exchange Bank v. Filkor Business Integrated, Inc.*, 430 Phil. 170, 179 (2002).

<sup>30</sup> G.R. No. 194880, June 20, 2012, 674 SCRA 320, 332-334.

against the interlocutory order of the MeTC in an unlawful detainer suit. At issue in the present case is the correct application of the Rules on Summary Procedure; or, more specifically, whether the RTC violated the Rules when it took cognizance and granted the *certiorari* petition against the denial by the MeTC of the Motion to Dismiss filed by respondent Sunvar. This is clearly a question of law that involves the proper interpretation of the Rules on Summary Procedure. Therefore, the instant Rule 45 Petition has been properly lodged with this Court.

In this case, petitioner raises the lone issue of whether the Pasig City RTC was correct in refusing to hear her counterclaims after the dismissal of respondents' complaint for lack of jurisdiction. Said issue involves the proper interpretation of the 1997 Rules of Civil Procedure, as amended, specifically on whether the dismissal of the complaint automatically results in the dismissal of counterclaims pleaded by the defendant. Since this is clearly a question of law, petitioner appropriately filed in this Court a Rule 45 petition.

On the lone issue raised in the petition, we rule for the petitioner.

A counterclaim is any claim which a defending party may have against an opposing party.<sup>31</sup> It is in the nature of a cross-complaint; a distinct and independent cause of action which, though alleged in the answer, is not part of the answer.<sup>32</sup>

Counterclaims may be either compulsory or permissive. Section 7, Rule 6 of the 1997 Rules of Civil Procedure provides:

*SEC. 7. Compulsory counterclaim.* – A compulsory counterclaim is one which, being cognizable by the regular courts of justice, arises out of or is connected with the transaction or occurrence constituting the subject matter of the opposing party's claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction. Such a counterclaim must be within the jurisdiction of the court both as to the amount and the nature thereof, except that in an original action before the Regional Trial Court, the counterclaim may be considered compulsory regardless of the amount.

In this case, petitioner's counterclaim for damages raised in her answer before the Pasig City RTC is compulsory, alleging suffering and injury caused to her as a consequence of the unwarranted filing of the baseless complaint filed by respondents. Said court, however, dismissed her counterclaim upon the same ground of lack of jurisdiction as its resolution supposedly would entail passing upon the validity of orders and processes still pending before the Pasig City RTC.

In *Metals Engineering Resources Corp. v. Court of Appeals*,<sup>33</sup> we reversed the trial court's order allowing private respondent to proceed with

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<sup>31</sup> Sec. 6, Rule 6, 1997 RULES OF CIVIL PROCEDURE.

<sup>32</sup> Justice Jose Y. Feria (Ret.) and Maria Concepcion S. Noche, Civil Procedure Annotated, Vol. 1, 2001 Ed., p. 277.

<sup>33</sup> G.R. No. 95631, October 28, 1991, 203 SCRA 273.

the presentation of his evidence in support of his counterclaim after the complaint was dismissed for not paying the correct docket fee and hence the trial court did not acquire jurisdiction over the case. We held that if the court does not have jurisdiction to entertain the main action of the case and dismisses the same, then the compulsory counterclaim, being ancillary to the principal controversy, must likewise be dismissed since no jurisdiction remained for any grant of relief under the counterclaim.<sup>34</sup>

Under the 1997 Rules of Civil Procedure, it is now explicitly provided that the dismissal of the complaint due to failure of the plaintiff to prosecute his case is “without prejudice to the right of the defendant to prosecute his counterclaim in the same or in a separate action.”<sup>35</sup> The effect of this amendment on previous rulings on whether the dismissal of a complaint carries with it the dismissal of the counterclaims as well, was discussed in the case of *Pinga v. The Heirs of German Santiago*,<sup>36</sup> thus:

Similarly, Justice Feria notes that “the present rule reaffirms the right of the defendant to move for the dismissal of the complaint and to prosecute his counterclaim, as stated in the separate opinion [of Justice Regalado in *BA Finance*.] Retired Court of Appeals Justice Herrera pronounces that the amendment to Section 3, Rule 17 settles that “nagging question” whether the dismissal of the complaint carries with it the dismissal of the counterclaim, and opines that by reason of the amendments, the rulings in *Metals Engineering, International Container*, and *BA Finance* “may be deemed abandoned.” On the effect of amendment to Section 3, Rule 17, the commentators are in general agreement, although there is less unanimity of views insofar as Section 2, Rule 17 is concerned.

To be certain, when the Court promulgated the 1997 Rules of Civil Procedure, including the amended Rule 17, **those previous jural doctrines that were inconsistent with the new rules incorporated in the 1997 Rules of Civil Procedure were implicitly abandoned insofar as incidents arising after the effectivity of the new procedural rules on 1 July 1997. *BA Finance*, or even the doctrine that a counterclaim may be necessarily dismissed along with the complaint, clearly conflicts with the 1997 Rules of Civil Procedure. The abandonment of *BA Finance* as doctrine extends as far back as 1997, when the Court adopted the new Rules of Civil Procedure. ... we thus rule that the dismissal of a complaint due to fault of the plaintiff is without prejudice to the right of the defendant to prosecute any pending counterclaims of whatever nature in the same or separate action. **We confirm that *BA Finance* and all previous rulings of the Court that are inconsistent with this present holding are now abandoned.** (Emphasis supplied.)**

Subsequently, in *Perkin Elmer Singapore Pte Ltd. v. Dakila Trading Corporation*<sup>37</sup> this Court held that while the declaration in *Pinga* refers to instances covered by Section 3, Rule 17 on dismissal of complaints due to the fault of plaintiff, it does not preclude the application of the same rule

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<sup>34</sup> Id. at 282.

<sup>35</sup> Sec. 3, Rule 17.

<sup>36</sup> 526 Phil. 868, 887-888 (2006).

<sup>37</sup> 556 Phil. 822, 849 (2007).

when the dismissal was upon the instance of defendant who correctly argued lack of jurisdiction over its person. Further, in stark departure from *Metals Engineering*, we declared that the court's jurisdiction over respondent's complaint is not to be confused with jurisdiction over petitioner's counterclaim, viz:

...Petitioner seeks to recover damages and attorney's fees as a consequence of the **unfounded suit** filed by respondent against it. Thus, petitioner's compulsory counterclaim is only consistent with its position that the respondent wrongfully filed a case against it and the RTC erroneously exercised jurisdiction over its person.

Distinction must be made in Civil Case No. MC99-605 as to the jurisdiction of the RTC over respondent's complaint and over petitioner's counterclaim – while it may have no jurisdiction over the former, it may exercise jurisdiction over the latter. The compulsory counterclaim attached to petitioner's Answer *ad cautelam* can be treated as a separate action, wherein petitioner is the plaintiff while respondent is the defendant. Petitioner could have instituted a separate action for the very same claims but, for the sake of expediency and to avoid multiplicity of suits, it chose to demand the same in Civil Case No. MC99-605. **Jurisdiction of the RTC over the subject matter and the parties in the counterclaim must thus be determined separately and independently from the jurisdiction of the same court in the same case over the subject matter and the parties in respondent's complaint.**<sup>38</sup> (Emphasis supplied.)

Still anchored on the pronouncement in *Pinga*, we then categorically ruled that a counterclaim arising from the unfounded suit may proceed despite the dismissal of the complaint for lack of jurisdiction over the person of defendant-counterclaimant, thus:

Also in the case of *Pinga v. Heirs of German Santiago*, the Court discussed the situation wherein the very filing of the complaint by the plaintiff against the defendant caused the violation of the latter's rights. As to whether the dismissal of such a complaint should also include the dismissal of the counterclaim, the Court acknowledged that said matter is still debatable, viz:

Whatever the nature of the counterclaim, it bears the same integral characteristics as a complaint; namely a cause (or causes) of action constituting an act or omission by which a party violates the right of another. The main difference lies in that the cause of action in the counterclaim is maintained by the defendant against the plaintiff, while the converse holds true with the complaint. Yet, as with a complaint, a counterclaim without a cause of action cannot survive.

x x x if the dismissal of the complaint somehow eliminates the cause(s) of the counterclaim, then the counterclaim cannot survive. Yet that hardly is the case, especially as a general rule. More often than not, the allegations that form the counterclaim are rooted in an act

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<sup>38</sup> Id. at 843-844.

or omission of the plaintiff other than the plaintiff's very act of filing the complaint. Moreover, such acts or omissions imputed to the plaintiff are often claimed to have occurred prior to the filing of the complaint itself. **The only apparent exception to this circumstance is if it is alleged in the counterclaim that the very act of the plaintiff in filing the complaint precisely causes the violation of the defendant's rights. Yet even in such an instance, it remains debatable whether the dismissal or withdrawal of the complaint is sufficient to obviate the pending cause of action maintained by the defendant against the plaintiff.**

Based on the aforequoted ruling of the Court, if the dismissal of the complaint somehow eliminates the cause of the counterclaim, then the counterclaim cannot survive. Conversely, if the counterclaim itself states sufficient cause of action then it should stand independently of and survive the dismissal of the complaint. **Now, having been directly confronted with the problem of whether the compulsory counterclaim by reason of the unfounded suit may prosper even if the main complaint had been dismissed, we rule in the affirmative.**

It bears to emphasize that petitioner's counterclaim against respondent is for damages and attorney's fees arising from the unfounded suit. **While respondent's Complaint against petitioner is already dismissed, petitioner may have very well already incurred damages and litigation expenses such as attorney's fees since it was forced to engage legal representation in the Philippines to protect its rights and to assert lack of jurisdiction of the courts over its person by virtue of the improper service of summons upon it.** Hence, the cause of action of petitioner's counterclaim is not eliminated by the mere dismissal of respondent's complaint.

It may also do well to remember that it is this Court which mandated that claims for damages and attorney's fees based on unfounded suit constitute compulsory counterclaim which must be pleaded in the same action or, otherwise, it shall be barred. **It will then be iniquitous and the height of injustice to require the petitioner to make the counterclaim in the present action, under threat of losing his right to claim the same ever again in any other court, yet make his right totally dependent on the fate of the respondent's complaint.**

If indeed the Court dismisses petitioner's counterclaim solely on the basis of the dismissal of respondent's Complaint, then what remedy is left for the petitioner? It can be said that he can still file a separate action to recover the damages and attorney's fees based on the unfounded suit for he cannot be barred from doing so since he did file the compulsory counterclaim in the present action, only that it was dismissed when respondent's Complaint was dismissed. However, this reasoning is highly flawed and irrational considering that **petitioner, already burdened by the damages and attorney's fees it may have incurred in the present case, must again incur more damages and attorney's fees in pursuing a separate action, when, in the first place, it should not have been involved in any case at all.**

**Since petitioner's counterclaim is compulsory in nature and its cause of action survives that of the dismissal of respondent's**

**complaint, then it should be resolved based on its own merits and evidentiary support.**<sup>39</sup> (Additional emphasis supplied.)

The above ruling was applied in *Rizal Commercial Banking Corporation v. Royal Cargo Corporation*<sup>40</sup> where we granted petitioner's prayer for attorney's fees under its Compulsory Counterclaim notwithstanding the dismissal of the complaint.

In the present case, the RTC of Pasig City should have allowed petitioner's counterclaim to proceed notwithstanding the dismissal of respondents' complaint, the same being compulsory in nature and with its cause not eliminated by such dismissal. It bears stressing that petitioner was hailed to a separate court (Pasig City RTC) even while the dispute between PNB and respondents was still being litigated, and she already incurred expenses defending herself, having been sued by respondents in her personal capacity. The accusations hurled against her were serious (perjury and misrepresentation in executing the affidavit in support of the application for writ of attachment before the Pasay City RTC) – with hints at possible criminal prosecution apart from that criminal complaint already lodged in the Pasig City Prosecutor's Office. The Pasig City RTC clearly erred in refusing to hear the counterclaims upon the same ground for dismissal of the complaint, *i.e.*, lack of jurisdiction in strict observance of the policy against interference with the proceedings of a co-equal court.

Respondents contend that if petitioner is allowed to prove her counterclaims before the Pasay City RTC, they have no choice but to justify their action in filing their case before the Pasig City RTC by going back to the allegations in their complaint that they are merely vindicating themselves against the perjured affidavit executed by petitioner which led to the issuance of the illegal orders of the Pasay City RTC that resulted to the damage and injury sustained by respondents. Obviously, respondents are invoking the same principle of judicial stability which we find inapplicable insofar as petitioner's counterclaim arising from respondents' unfounded suit.

As petitioner set forth in her Compulsory Counterclaim, there is actually no necessity for the Pasig City RTC, in ruling on the merits of the counterclaim, to pass upon the validity of the writ of attachment and related orders issued by the Pasay City RTC. Precisely, petitioner faulted the respondents in prematurely, and in a contumacious act of forum shopping, filing a separate damage suit when there is no final judicial determination yet of any irregularity in the attachment proceedings before the Pasay City RTC.

5.95. In this regard, it must be noted that in filing the present suit, plaintiffs' goal is to have the Honorable Court reexamine and review the pronouncements made by defendant Judge Gutierrez in the Pasay case.

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<sup>39</sup> Id. at 850-851.

<sup>40</sup> G.R. No. 179756, October 2, 2009, 602 SCRA 545, 563-564.

With all due respect, the Honorable Court certainly has no such power over the Pasay Court which is a co-equal court. While the power to determine whether or not a judgment or order is unjust is a judicial function, the hierarchy of courts should be respected:

“To belabor the obvious, the determination of whether or not a judgment or order is unjust – or was (or was not) rendered within the scope of the issuing judge’s authority, or that the judge had exceeded his jurisdiction and powers or maliciously delayed the disposition of a case – is an essentially judicial function, lodged by existing law and immemorial practice **in a hierarchy of courts and ultimately in the highest court of the land.** To repeat, no other entity or official of the Government, not the prosecution or investigation service or any other branch, nor any functionary thereof, has competence to review a judicial order or decision – whether final and executory or not – and pronounce it erroneous so as to lay the basis for a criminal or administrative complaint for rendering an unjust judgment or order. That prerogative belongs to the courts alone.” [Emphasis supplied]

5.96. Accordingly, **since there is no “final judicial pronouncement” yet on whether the filing of the *PNB Complaint* and the issuance of the writ of preliminary attachment violate any law, neither is there any basis for defendant Padilla to be held liable for damages on account of her official acts as Head of the Remedial Management Group of PNB.**

5.97. Clearly, the filing of this baseless, if not contemptuous, suit is nothing but a continuation of plaintiffs’ fraudulent attempt to evade the payment of undeniably due and demandable obligations. Accordingly, the complaint against defendant Padilla should be dismissed for utter lack of merit.<sup>41</sup> (Emphasis supplied.)

Ironically, while it is the respondents who erroneously and maliciously asked the Pasig City RTC to pass upon these issues still pending in a co-equal court, for which reason the said court dismissed their complaint, petitioner was not allowed to prove her counterclaim by reason of the unfounded suit in the same case as purportedly it will entail verifying respondents’ claim that they were prejudiced by the orders and processes in the Pasay City RTC. This situation exemplifies the rationale in *Perkin Elmer Singapore Pte Ltd.*<sup>42</sup> on requiring the petitioner to make the counterclaim in the present action, under threat of losing such right to claim the same ever again any other court, *yet make such right of the petitioner totally dependent on the fate of the respondents’ complaint.*

As fittingly expressed by petitioner in her Reply:

Pertinently, it is relevant to note that respondents never denied in their *Comment* that the institution of the case *a quo* was premature and violated the principle of judicial stability. Stated otherwise, respondents

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<sup>41</sup> *Rollo*, pp. 179-180.

<sup>42</sup> *Supra* note 37, at 851.




admit that they are the ones who have invited the court *a quo* to interfere with the rulings of the Pasay Court, which fortunately, the former refused to do so. **To allow the respondents to cite their own unlawful actions as a shield against the harm that they have inflicted upon petitioner Padilla would indubitably allow the respondents to profit from their own misdeeds.** With due respect, this cannot be countenanced by the Honorable Court.<sup>43</sup>

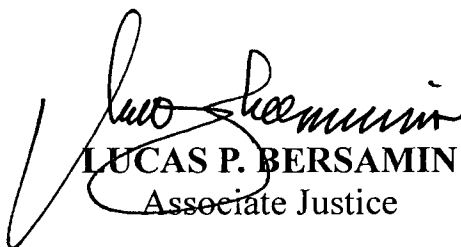
**WHEREFORE**, the petition is **GRANTED**. The Orders dated November 12, 2012 and May 8, 2013 of the Regional Trial Court of Pasig City, Branch 155 in Civil Case No. 73132 are hereby **REVERSED** and **SET ASIDE**. Said court is hereby directed to proceed with the presentation of evidence in support of the compulsory counterclaim of petitioner Aida Padilla.

**SO ORDERED.**

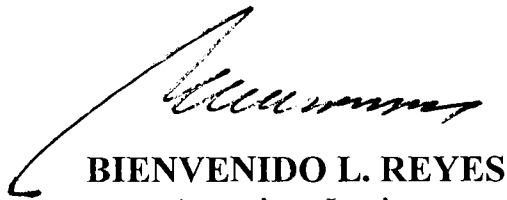
  
**MARTIN S. VILLARAMA, JR.**  
 Associate Justice

WE CONCUR:

  
**MARIA LOURDES P. A. SERENO**  
 Chief Justice  
 Chairperson

  
**LUCAS P. BERSAMIN**  
 Associate Justice

  
**JOSE CATRAL MENDOZA**  
 Associate Justice

  
**BIENVENIDO L. REYES**  
 Associate Justice

<sup>43</sup> Reply, p. 15.

## CERTIFICATION

Pursuant to Section 13, Article VIII of the 1987 Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO  
Chief Justice

