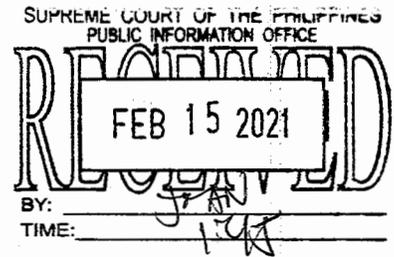




Republic of the Philippines  
Supreme Court  
Manila



THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **July 1, 2020**, which reads as follows:

**“G.R. No. 225657 – (LILIAN TORRES, petitioner v. ONSHORE STRATEGIC ASSETS [(SPV-AMC)], INC., respondent).** – This is a Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court, seeking the reversal and setting aside of the Decision<sup>2</sup> dated February 24, 2016 and Resolution<sup>3</sup> dated June 23, 2016 of the Court of Appeals (CA) in CA-G.R. CV No. 104215.

**Antecedents**

Petitioner Lilian Torres (petitioner) claims that sometime in 2002, she made a reservation with First World Homes Philippines, Inc. (FWHPI) for the purchase of a house and lot designated as Block 12, Lot 19 in Valenzuela Ville Subdivision, Barangay Bignay, Valenzuela City and covered by Transfer Certificate of Title (TCT) No. V-59259.<sup>4</sup> Thereafter, she paid the amount of ₱177,712.50 as thirty percent (30%) downpayment over the said property. Asserting that she had already paid the balance of the purchase price of the house and lot by September 20, 2003,<sup>5</sup> petitioner entered into an undated and unnotarized Deed of Absolute Sale<sup>6</sup> with FWHPI.

Meanwhile, on December 5, 2002, FWHPI executed a *Real Estate Mortgage* over the area covered by the Valenzuela Ville Subdivision, which the subject property is a part of; as security for a loan amounting to ₱75,000,000.00 that FWHPI obtained from the United Overseas Bank Philippines (UOBP). This was annotated at the back of TCT No. V-59259 as Entry No. 120373-77.<sup>7</sup> Later, in a Memorandum of Agreement dated January

<sup>1</sup> *Rollo*, pp. 13-30.

<sup>2</sup> *Id.* at 33-42; penned by Associate Justice Ramon R. Garcia and concurred in by Associate Justices Leoncia R. Dimagiba and Jhosep Y. Lopez.

<sup>3</sup> *Id.* at 44-45.

<sup>4</sup> *Id.* at 63-66.

<sup>5</sup> *Id.* at 56-58.

<sup>6</sup> *Id.* at 61-62.

<sup>7</sup> *Id.* at 64.

26, 2006, UOBP transferred its interest in the outstanding loan obligations of FWHPI to respondent Onshore Strategic Assets (SPV-AMC), Inc. (respondent).

FWHPI failed to pay its loan obligations to respondent. Accordingly, on February 14, 2012, respondent extrajudicially foreclosed the properties mortgaged by FWHPI, including the subject property, before the Regional Trial Court (RTC) of Valenzuela City. On May 18, 2012, the subject property was sold at a public auction sale, with respondent being declared the winning bidder and having the corresponding Certificate of Sale issued in its favor. This is evidenced by Entry No. 207793<sup>8</sup> at the back of TCT No. V-59259.

On October 12, 2012, petitioner filed with Branch 75 of the RTC of Valenzuela City a complaint<sup>9</sup> praying for the annulment of the extrajudicial foreclosure sale of the subject property, as well as injunctive relief, docketed as Civil Case No. 158-V-12 (or the RTC Case). She argued that she was never made aware of FWHPI's real estate mortgage over the subject property, and that her rights over the subject property, albeit unregistered, are superior to those of respondent.

On April 8, 2013, respondent filed a Manifestation and Supplemental Motion to Dismiss,<sup>10</sup> praying for the dismissal of the complaint on grounds of *litis pendentia*. Respondent contended that it had already been impleaded as a party by petitioner in a similar case which was pending with the Housing and Land Use Regulatory Board (HLURB), docketed as HLURB Case No. NCR REM 091611-14594 (or the "HLURB Case"). Respondent further argued that as embodied in petitioner's Omnibus Motion to Implead<sup>11</sup> dated September 19, 2012, filed before the HLURB, there is an identity of parties, rights asserted, and reliefs sought with regard to the RTC Case and the HLURB Case.

### The RTC's Ruling

In its Order<sup>12</sup> dated September 20, 2013, the RTC found merit in respondent's asseverations and dismissed petitioner's complaint. The trial court reasoned that the elements of *litis pendentia* are indeed present between the two cases, such that judgment in one would amount to *res judicata* in the other. Petitioner's Motion for Reconsideration<sup>13</sup> was denied by the RTC in its Order<sup>14</sup> dated September 30, 2014.

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<sup>8</sup> Id. at 66.

<sup>9</sup> Id. at 46-50.

<sup>10</sup> Id. at 94-104.

<sup>11</sup> Id. at 106-115.

<sup>12</sup> Id. at 130-133; rendered by Judge Lilia Mercedes Encarnacion A. Gepty.

<sup>13</sup> Id. at 134-137.

<sup>14</sup> Id. at 138.

Aggrieved, petitioner interposed an appeal with the CA. In her Brief,<sup>15</sup> petitioner advanced the argument that *litis pendentia* is not obtaining because the RTC Case involves the question of ownership over the subject property, the resolution of which does not fall within the jurisdiction of the HLURB. Furthermore, petitioner elaborated, the HLURB Case deals with the cancellation of the real estate mortgage covering the entire Valenzuela Ville Subdivision while the RTC Case involves the validity of the extrajudicial foreclosure sale of a specific lot in the said subdivision.

### The CA's Ruling

In the herein assailed Decision dated February 24, 2016, the CA denied petitioner's appeal. The appellate court gave its imprimatur to the trial court's finding on the existence of all of the elements of *litis pendentia*. The CA likewise decreed that since the HLURB Case was filed before the RTC Case, the former must be given preference over the latter. Petitioner's motion for reconsideration was denied by the CA in its June 23, 2016 Resolution.

### Issue

The Court is now tasked with resolving whether or not the CA committed a reversible error when it affirmed the dismissal of petitioner's complaint with the RTC on grounds of *litis pendentia*.

### Ruling of the Court

*Litis pendentia* is a Latin term that literally means "a pending suit" and is variously referred to as *lis pendens* and *auter action pendant*. As a ground for dismissing a civil action, it refers to the situation where two actions are pending between the same parties for the same cause of action, so that one of them becomes unnecessary and vexatious. It is based on the policy against multiplicity of suits.<sup>16</sup> This theory is founded on the public policy that the same subject matter should not be the subject of controversy in courts more than once, in order that possible conflicting judgments may be avoided for the sake of the stability of the rights and status of persons.<sup>17</sup>

*Litis pendentia* exists when the following requisites concur:

1. Identity of parties or of representation in both cases;
2. Identity of rights asserted and relief prayed for;
3. The relief must be founded on the same facts and the same basis; and

<sup>15</sup> Id. at 119-129.

<sup>16</sup> *Cruz v. Tolentino*, G.R. No. 210446, April 18, 2018, 861 SCRA 664, 677.

<sup>17</sup> *Pfleider v. Court of Appeals – Cebu City*, G.R. No. 196058, November 12, 2018.

4. Identity in the two preceding particulars should be such that any judgment which may be rendered in the other action, will, regardless of which party is successful, amount to *res judicata* on the action under consideration.<sup>18</sup>

In the case at bar, petitioner asserts that the RTC Case aims to nullify the Certificate of Sale issued to respondent as the winning bidder in the extrajudicial foreclosure sale of the subject property, while the HLURB Case aims to cancel the real estate mortgage that was executed over the properties in the Valenzuela Ville Subdivision where the subject property is located. Thus, petitioner maintains, *litis pendentia* does apply.

The petition is bereft of merit.

The Court finds that all of the elements of *litis pendentia* are obtaining in the case at bar.

First, there is identity of parties. In both cases, petitioner is the plaintiff or one of the plaintiffs while respondent is the defendant or one of the defendants.

Second, there is identity of rights asserted and reliefs prayed for in both cases. Specifically, petitioner's prayers as against respondent in the RTC Case and the HLURB Case read as follows:

**Civil Case No. 158-V-12**

WHEREFORE, premises considered, it is most respectfully prayed that, after due notice and hearing, a preliminary injunction be issued forthwith to restrain defendant Onshore Strategic Assets (SPV-AMC) from doing further foreclosure proceedings/acts against TCT No.V-59259 and other acts inimical to the interest of the plaintiff and that after trial, declaring void and ineffective Certificate of Sale dated May 18, 2012 issued relative to Foreclosure No. 7-V-12 as against plaintiff Lilian Torres and said injunction be made permanent, with costs, and with such further orders that are just and equitable under the premises.<sup>19</sup> (underscoring ours)

**HLURB Case No. NCR REM 091611-14594**

WHEREFORE, in the interest of justice and considering the explanation herein offered, it is respectfully prayed that respondent ONSHORE STRATEGIC ASSETS (SPV-AMC) INC. be impleaded as respondents in this instant case being an indispensable part [sic]; that the respondents be ordered to execute a certificate of cancellation of mortgage and/or complainants are praying for issuance of [a] Temporary Restraining Order in the event that an extrajudicial foreclosure will be executed and cease and desist order of paying monthly amortization to Pagibig be executed until the certificate of cancellation of mortgage will be secured x x x<sup>20</sup> (underscoring ours)

<sup>18</sup> *Goodland Company, Inc. v. Banco De Oro – Unibank, Inc. and Goodgold Realty Development Corporation*, G.R. No. 208543, February 11, 2019.

<sup>19</sup> *Rollo*, p. 53.

<sup>20</sup> *Id.* at 111.

Third, as can be gleaned above, the reliefs prayed for in the RTC Case and the HLURB Case are substantially the same. Both actions stem from the real estate mortgage that FWHPI executed over the subject property which, after foreclosure and public auction sale, led to respondent acquiring a Certificate of Sale over the same. The success of either party in both actions hinges on the validity of the real estate mortgage that attached the properties covered by the Valenzuela Ville Subdivision as security for FWHPI's loan. Thus, the reliefs prayed for are founded on the same facts and the same cause of action.

And fourth, any judgment in the RTC Case amounts to *res judicata* over the HLURB Case and vice versa. Here, the same facts or evidence would sustain both actions in that the judgment in the first case is a bar to the subsequent action.<sup>21</sup> At the risk of being repetitious, it must be stressed that both cases seek to nullify not only the real estate mortgage entered into by FWHPI, but also all of the consequential effects of its failure to pay its loan obligations to respondent – including the foreclosure of the subject property and, ultimately, the issuance of the Certificate of Sale in favor of respondent. A decision on the merits in one action is, in theory, also a decision on the other remaining action.<sup>22</sup>

All told, We find no reversible error on the part of the CA when it upheld the RTC's dismissal of petitioner's complaint on grounds of *litis pendentia*. Since the two actions were filed in two different fora, the petitioner is considered to be shopping for a favorable result<sup>23</sup> which, accordingly, merits the dismissal of one of her actions. As a rule, preference is given to the first action filed to be retained<sup>24</sup> which, in the instant case, is the HLURB Case.

**WHEREFORE**, the petition is **DENIED** for lack of merit. Accordingly, the Decision dated February 24, 2016 and Resolution dated June 23, 2016 of the Court of Appeals in CA-G.R. CV No. 104215 are hereby **AFFIRMED**.

**SO ORDERED.”**

Very truly yours,

*Misael Domingo C. Battung III*  
**MISAEL DOMINGO C. BATTUNG III**  
Division Clerk of Court  
GER  
1/17/21

<sup>21</sup> *Casa Milan Homeowners Association, Inc. v. The Roman Catholic Archbishop of Manila*, G.R. No. 220042, September 5, 2018.

<sup>22</sup> *BF Citiland Corporation v. BangkoSentral ng Pilipinas*, G.R. No. 224912, October 16, 2019.

<sup>23</sup> *Id.*

<sup>24</sup> *Benavidez v. Salvador*, 723 Phil. 332, 343 (2013).

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