Republic of the Philippines
Supreme Court
Baguio City

THIRD DIVISION

LUZON DEVELOPMENT BANK, TOMAS CLEMENTE, JR., and OSCAR RAMIREZ, Petitioners,	**G.R. No. 203530**
	Present:
	VELASCO, JR., *J., Chairperson,* PERALTA, MENDOZA,* REYES, and JARDELEZA, *JJ.*
- *versus* -	
	Promulgated:
ERLINDA KRISHNAN, Respondent.	April 13, 2015

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D E C I S I O N

PERALTA, *J.*:

This is a Petition for Review on *Certiorari* under Rule 45 of the 1997 Rules of Civil Procedure praying for the annulment of the Decision[1] dated March 27, 2012 and Resolution[2] dated September 11, 2012 of the Court of Appeals (*CA*) in CA-G.R. SP No. 120664, which affirmed the Orders dated September 24, 2010 and May 26, 2011, respectively, of Branch 30, Regional Trial Court (*RTC*) - Manila.

The factual antecedents, as found by the CA, are as follows:

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* Designated Acting Member in lieu of Associate Justice Martin S. Villarama, Jr., per Special Order No. 1966 dated March 30, 2015.

1 Penned by Associate Justice Juan Q. Enriquez, Jr., with Associate Justices Apolinario D. Bruselas and Manuel M. Barrios, concurring; *rollo*, pp. 22-29.

2 *Id.* at 31-32.

Petitioners Luzon Development Bank, Tomas Clemente, and Oscar Ramirez (hereafter petitioners) are the respondents in the complaint for Collection of Sum of Money and Damages filed by respondent Erlinda Khrishnan (hereafter respondent Erlinda) on February 7, 2001. Respondent Erlinda claimed that she is a client of respondent bank wherein she maintained several accounts including time deposits. On several occasions, when respondent Erlinda presented her Time Deposits Certificates amounting to ₱28,597,472.70 for payment because they have become due, petitioners refused to honor them for the reason that they were fraudulent. Respondent Erlinda likewise applied for a Preliminary Writ of Attachment which the RTC granted on February 27, 2001.

By virtue of the writ, petitioner bank's accounts in BPI Family Bank, Calamba, Laguna in the amount of ₱28,597,472.70 and its account amounting to ₱49,000,000.00 in the Central Bank were garnished.

On March 9, 2001, petitioners filed an urgent ex-parte Motion to Recall Quash and/or Lift Attachment or Garnishment (in excess of amounts in the writ). Respondent Erlinda opposed the motion.

On August 15, 2001, petitioners filed an Omnibus Motion seeking the substitution of their garnished account with government securities and the immediate resolution of their motion to discharge attachment and setting the motion for hearing, which respondent Erlinda opposed.

On May 22, 2002, the RTC resolved the pending incidents and required the petitioners to justify their motion to discharge the attachment. During pre-trial on May 23, 2002, respondents requested additional time to file a supplemental motion to justify their earlier motions which was granted and gave petitioners ten (10) days from receipt within which to comment or opposed (*sic*) it.

On September 8, 2003, the RTC issued an order lifting the attachment to which respondent Erlinda filed a motion for reconsideration. Respondent Erlinda also filed a Motion for Inhibition. On December 18, 2003, the RTC denied the motion for reconsideration but granted the motion for inhibition. The said Order was questioned by respondent Erlinda by way of Petition for Certiorari before the 7th Division which rendered a decision on November 15, 2006, the dispositive portion of which reads as follows:

> "WHEREFORE, the PETITION FOR CERTIORARI is GRANTED.
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> THE ORDERS dated September 8, 2003, and December 18, 2003 are NULLIFIED and SET ASIDE.
>
> The private respondents, as defendants in Civil Case No. 01-100046 entitled *Erlinda C. Krishnan v. Luzon Development Bank, et al.*, are ORDERED to file a counterbond in accordance with Sec. 12, Rule 57, 1997 *Rules of Civil Procedure*, within 10 days from the finality of this decision; otherwise, the REGIONAL TRIAL

> COURT, BRANCH 36, in Manila shall immediately reinstate the writ of attachment issued and implemented in Civil Case No. 01-100046.
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> Costs of suit to be paid by the respondents.
>
> SO ORDERED.

Petitioners' subsequent motion for reconsideration was denied. Thereafter, their petition and motion for reconsideration before the Supreme Court were likewise denied.

On May 09, 2008, respondent judge issued an Order directing respondent Erlinda to file a new attachment bond in the amount of ₱35,000,000.00 and petitioners to file a counterbond within ten days from notice of the filing and approval of the bond of respondent Erlinda. Petitioners moved for the reconsideration of the said Order which respondent judge denied and granted a period of fifteen days for respondent Erlinda to file an attachment bond.

Respondent Erlinda filed her attachment bond on June 25, 2009 in the amount of ₱35,000,000.00 through Visayan Surety and Insurance Corporation which was approved by respondent on July 7, 2009.

Meanwhile, on July 3, 2009, petitioners filed an Omnibus Motion praying that a hearing be held to determine the sufficiency of the attachment bond and they be allowed to deposit Certificates of Title of real property, and the issuance of the writ of attachment be held in abeyance.

On July 20, 2009, petitioners filed a motion for extension of time to comply and/or file the appropriate pleading and to hold in abeyance the reinstatement of the writ of attachment.

On January 28, 2010, petitioners filed a motion to admit bank property in lieu of counterbond which was opposed by respondent Erlinda.

On September 24, 2010, respondent judge denied petitioners' motion in the assailed Order. Their subsequent motion for reconsideration was denied on May 26, 2011.

On June 27, 2011, respondent judge issued an Order reinstating the Writ of Attachment dated March 1, 2001 for failure of petitioners to file the required counterbond. Respondent judge also issued an amended Reinstated Writ of Attachment directing respondent Sheriff Oscar L. Rojas (hereafter respondent Sheriff) to attach the real estate or personal properties of petitioners in the amount of ₱28,597,472.70. On June 30, 2011, the sheriff served the Notice of Garnishment and the Amended Reinstated Writ of Attachment.

On July 4, 2011, petitioners filed an urgent motion to recall, suspend or hold in abeyance and re-examination of the amended reinstated writ of preliminary attachment of June 27, 2011 which was opposed by respondent Erlinda.

> On July 19, 2011, respondent Sheriff issued a Sheriff's Partial Report. Thereafter, petitioners filed this petition for certiorari x x x.

In a Decision dated March 27, 2012, the CA dismissed petitioners' *certiorari* petition and affirmed the Orders of the RTC reinstating the Writ of Attachment for failure of petitioners to file the required counter-bond. The CA ruled that the RTC judge committed no grave abuse of discretion in denying petitioners' motion to admit bank property in lieu of counter-bond, thus, it held:

> WHEREFORE, premises considered, the petition is DISMISSED and accordingly, DENIED DUE COURSE. The Orders dated September 24, 2010 and May 26, 2011 are hereby AFFIRMED.
>
> SO ORDERED.[3]

Petitioners filed a motion for reconsideration against said decision, but the same was denied in a Resolution dated September 11, 2012.

Hence, petitioners filed this present petition raising the following grounds:

> IN THE FIRST ASSAILED ORDER THE HONORABLE COURT OF APPEALS ACTED WITH GRAVE ABUSE OF DISCRETION WHEN IT MISCONSTRUED AND FAILED TO RULE ON THE CORRECT LEGAL ISSUE PRESENTED IN THE PETITION FOR CERTIORARI.[4]
>
> IN THE SECOND ASSAILED ORDER THE HONORABLE COURT OF APPEALS AGAIN ACTED WITH GRAVE ABUSE OF DISCRETION WHEN IT FAILED TO PRESENT ANY LEGAL BASIS FOR STATING THAT RULE 39 OF THE REVISED RULES OF COURT DOES NOT APPLY.[5]

Simply stated, the issue for our resolution is whether the CA erred in affirming the RTC's decision which denied petitioners' motion praying that bank property be deposited in lieu of cash or a counter-bond.

In their petition, petitioners contend that it has the option to deposit real property, in lieu of cash or a counter-bond, to secure any contingent lien on its property in the event respondent wins the case. They argue that Section 2 of Rule 57 only mentions the term "deposit," thus, it cannot only be confined or construed to refer to cash.

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3 *Id*. at 28.
4 *Id*. at 7.
5 *Id*. at 10.

We rule in the negative.

Section 2, Rule 57 of the Rules of Court explicitly states that "[a]n order of attachment may be issued either *ex parte* or upon motion with notice and hearing by the court in which the action is pending, or by the Court of Appeals or the Supreme Court, and must require the sheriff of the court to attach so much of the property in the Philippines of the party against whom it is issued, not exempt from execution, as may be sufficient to satisfy the applicant's demand, **unless such party makes deposit or gives a bond as hereinafter provided in an amount equal to that fixed in the order**, which may be the amount sufficient to satisfy the applicant's demand or the value of the property to be attached as stated by the applicant, exclusive of costs."

Section 5 of the same Rule likewise states that "[t]he sheriff enforcing the writ shall without delay and with all reasonable diligence attach, to await judgment and execution in the action, only so much of the property in the Philippines of the party against whom the writ is issued, not exempt from execution, as may be sufficient to satisfy the applicant's demand, **unless the former makes a deposit with the court from which the writ is issued, or gives a counter-bond executed to the applicant, in an amount equal to the bond fixed by the court in the order of attachment or to the value of the property to be attached, exclusive of costs**."

From the foregoing, it is evidently clear that once the writ of attachment has been issued, the only remedy of the petitioners in lifting the same is through a cash deposit or the filing of the counter-bond. Thus, the Court holds that petitioner's argument that it has the option to deposit real property instead of depositing cash or filing a counter-bond to discharge the attachment or stay the implementation thereof is unmeritorious.

In fact, in *Security Pacific Assurance Corporation v. Tria-Infante*,[6] we held that one of the ways to secure the discharge of an attachment is for the party whose property has been attached or a person appearing on his behalf, to post a counterbond or make the requisite cash deposit in an amount equal to that fixed by the court in the order of attachment.[7]

Apropos, the trial court aptly ruled that while it is true that the word deposit cannot only be confined or construed to refer to cash, a broader interpretation thereof is not justified in the present case for the reason that a party seeking a stay of the attachment under Section 5 is required to make a deposit in an amount equal to the bond fixed by the court in the order of

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6 G.R. No. 144740, August 31, 2005, 468 SCRA 526.

7 *Security Pacific Assurance Corporation v. Tria-Infante, supra,* at 537-538.

attachment or to the value of the property to be attached. The proximate relation of the word "deposit" and "amount" is unmistakable in Section 5 of Rule 57. Plainly, in construing said words, it can be safely concluded that Section 5 requires the deposit of money as the word "amount" commonly refers to or is regularly associated with a sum of money.

In *Alcazar v. Arante*,[8] we held that in construing words and phrases used in a statute, the general rule is that, in the absence of legislative intent to the contrary, they should be given their plain, ordinary and common usage meaning. The words should be read and considered in their natural, ordinary, commonly-accepted and most obvious signification, according to good and approved usage and without resorting to forced or subtle construction. Words are presumed to have been employed by the lawmaker in their ordinary and common use and acceptation.[9] Thus, petitioners should not give a special or technical interpretation to a word which is otherwise construed in its ordinary sense by the law and broaden the signification of the term "deposit" to include that of real properties.

WHEREFORE, premises considered, the instant petition is **DENIED**. The Decision dated March 27, 2012 and Resolution dated September 11, 2012 of the Court of Appeals are hereby **AFFIRMED**.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

JOSE CATRAL MENDOZA
Associate Justice

BIENVENIDO L. REYES
Associate Justice

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8 G.R. No. 177042, December 10, 2012, 687 SCRA 507.
9 *Alcazar v. Arante, supra*, at 518-519.

FRANCIS H. JARDELEZA
Associate Justice

ATTESTATION

I attest 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.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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