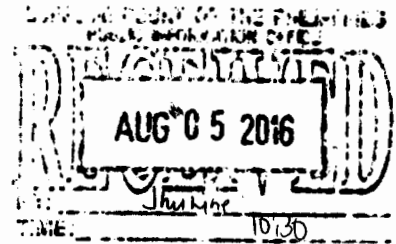




Republic of the Philippines
Supreme Court
 Manila



FIRST DIVISION

LAND BANK OF THE PHILIPPINES,

Petitioner,

G.R. No. 209794

Present:

- versus -

SERENO, *C.J.*, Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 PERLAS-BERNABE, and
 CAGUIOA, *JJ.*

SPOUSES JOSE AMAGAN AND AURORA AMAGAN, doing business under the trade name and style "A & J Seafoods and Marine Products," and John Doe,
 Respondents.

Promulgated:

JUN 27 2016

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DECISION

CAGUIOA, J.:

The instant petition for review on certiorari under Rule 45 of the Rules of Court, with a prayer for the issuance of a Preliminary Mandatory Injunction and the grant of a Writ of Replevin, seeks to reinstate Petitioner Land Bank of the Philippines' (LBP) Complaint for Replevin¹ filed against Respondents Spouses Jose and Aurora Amagan (Respondents).

The issues raised in this case are pretty straightforward: (1) whether the Office of the Government Corporate Counsel (OGCC) is the principal law office of Government Owned and Controlled Corporations (GOCCs), and (2) whether the OGCC had validly consented to, or otherwise authorized, the participation of the LBP Legal Services Group, in the prosecution of the instant Complaint for Replevin.

In turn, the resolution of these issues is simple, direct and unequivocal. In a number of cases, this Court has consistently held that it is the OGCC, and not the LBP Legal Services Group, which is the principal

¹ Denominated as "Recovery of Chattel" by Petitioner in the Complaint.

law office tasked to primarily handle cases filed by or against LBP, but this does not preclude participation of the LBP Legal Services Group as long as the OGCC consents to such participation, and the LBP Legal Services Group acts under the control and supervision of the OGCC. It is beyond cavil in this case that indeed the OGCC has consented to the filing by the LBP Legal Services Group of the instant Complaint for Replevin, and its continued prosecution of the same. For these reasons, we grant the Petition, reverse and set aside the questioned orders of the Regional Trial Court, Branch 37, General Santos City, and accordingly order the reinstatement of Civil Case No. 8042.

The salient facts that gave rise to the foregoing issues are very simple:

On March 31, 2011, LBP, through the LBP Legal Services Group, filed a Complaint for Replevin,² docketed as Civil Case No. 8042 and raffled to Branch 37 of the Regional Trial Court of General Santos City (RTC).

After LBP filed an Amended Complaint, pursuant to the April 27, 2011 Order of the RTC, specifically indicating the properties and chattels subject of the same,³ Respondents filed a Motion to Dismiss,⁴ which was followed by another Motion to Dismiss (with Urgent Prayer for Quashal of Writ of Replevin)⁵ both anchored on the fact that the instant Complaint for Replevin was not filed or initiated by the OGCC, and that the LBP Legal Services Group is not authorized to initiate the instant complaint against Respondents.

In its Comment/Opposition filed on June 14, 2012,⁶ LBP informed the RTC that the OGCC had, in fact, earlier issued Letters of Authority⁷ as far back as June 5, 2009, already authorizing, and delegating its powers to, the LBP Legal Services Group, through Attys. Rosemarie M. Osoteo, Nestor A. Velasco, and Buenaventura R. Del Rosario, in order to appear as counsel for LBP in its current and future cases.

Subsequently, in a Manifestation and Confirmation of Authority dated August 28, 2012,⁸ the OGCC confirmed the authority previously delegated to the aforementioned lawyers of the LBP Legal Services Department signed by no less than Government Corporate Counsel Raoul C. Creencia.^{8a}

² *Rollo*, pp. 87-92.

³ *Id.* at 175.

⁴ *Id.* at 285-290.

⁵ *Id.* at 291-297.

⁶ *Id.* at 300-302.

⁷ *Id.* at 303-307.

⁸ *Id.* at 316-319.

^{8a} *Id.* at 322-324.



Notwithstanding the foregoing clarifications, the RTC, on April 18, 2013, issued the first assailed Order⁹ dismissing the Petition for Replevin, to wit:

WHEREFORE, in view of all the foregoing and for the reason that plaintiff has strayed from the commonly accepted practice among agencies or instrumentalities of the government to avail of the service or facilities of the Government Service Insurance System for their insurable interest and for the complaint not being filed or instituted by the proper party, as provided by law, amounting to lack of cause of action, the Complaint for Replevin is **DISMISSED**.

The wrench [sic] of replevin imposed on the properties proceeding from the order of this court dated 18 July 2011 is lifted. Defendants are restored in good standing in the operation of the processing complex and all the machineries and facilities contained therein. Accordingly, the Sheriff of this court is relieved of his duties as custodial overseer of the complex. The visitorial authority of the Sheriff, on behalf of the court, stays unless revoked or modified by a competent court or authority.

SO ORDERED.¹⁰

In a Motion for Reconsideration dated April 29, 2013, signed by the OGCC, LBP sought to reconsider the first assailed Order.¹¹

On October 1, 2013, the RTC issued the second assailed Order¹² denying the Motion for Reconsideration, to wit:

The court stands by its resolution. The complaint was not initiated by the Office of the Government Corporate Counsel as shown by the absence of the signature of any government corporate counsel in any part of the complaint. If it is any further indication of the non-participation of the OGCC in the complaint, the papers used did not bear the zeal [sic] of the agency. The authority to attend hearings on this case or even the signature of ATTY. RAOUL C. CREENCIA, a government corporate counsel, cannot supplant the mandatory requirement of the law for the complaint to be initiated by the OGCC. These assertions of plaintiff cannot substitute for the specific act required of the OGCC to perform namely, to file the case directly or serve as a curative potion that could retroact to the time of the filing of the case.

The signature of ATTY. RAOUL C. CREENCIA, a Government Corporate Counsel in the Motion for Reconsideration filed by the Legal Department of Land Bank has just heightened the obvious that the complaint was not initiated by the OGCC as mandated by law. This is no simple technical defect that can be rectified by the simple expediency [sic] of affixing a signature of a government corporate counsel in the

⁹ Id. at 35-53. Penned by Judge Panambulan M. Mimbisa.

¹⁰ Id. at 52-53.

¹¹ Id. at 344-347.

¹² Id. at 54-55.



Motion for Reconsideration. This is too little too late. This is about substantive law which need to be observed or complied with to entrench the complaint with authority.

This court wishes to point out by way of further emphasis that the plaintiff bank deviated from a time honored practice among government agencies to engage the services of the Government Service Insurance System for their insurance needs and requirements. This may not be mandatory but is advisable.

WHEREFORE, for the foregoing reasons, plaintiff's Motion for Reconsideration is DENIED.

SO ORDERED.

Hence, this Petition, filed directly with this Court on pure questions of law.

As stated at the outset, we find meritorious, and accordingly grant, the Petition.

Section 10, Chapter 3, Title III, Book IV, of the Administrative Code of 1987 explicitly designates the OGCC as the principal law office of GOCCs and their subsidiaries, grants it control and supervision over all legal departments or divisions thereof, and empowers it to promulgate rules and regulations to effectively implement the objectives of the office of the OGCC:

Section 10. *Office of the Government Corporate Counsel.* - The Office of the Government Corporate Counsel (OGCC) shall act as the principal law office of all government-owned or controlled corporations, their subsidiaries, other corporate off-springs and government acquired asset corporations and shall exercise control and supervision over all legal departments or divisions maintained separately and such powers and functions as are now or may hereafter be provided by law. In the exercise of such control and supervision, the Government Corporate Counsel shall promulgate rules and regulations to effectively implement the objectives of the Office.

In turn, Rule 5, Section 1 of the Rules Governing the Exercise by the Office of the Government Corporate Counsel of its Authority, Duties and Powers as Principal Law Office of all GOCCs (2011 OGCC Rules) states that the OGCC shall handle all cases by the GOCCs, **unless the legal departments of its client government corporations or entities are duly authorized or deputized by the OGCC.**



This Court had earlier occasion to tackle this question in *Land Bank of the Philippines v. Teresita Panlilio-Luciano*,¹³ which authority was cited in the Letters of Authority issued by the OGCC,¹⁴ where it was already definitively held that the LBP Legal Department was not precluded from participating as counsel for LBP, as long as the OGCC consents to such participation, and the said Legal Department acts under the control and supervision of the OGCC. In *Land Bank of the Philippines v. AMS Farming Corporation*,¹⁵ this Court already recognized the letter of authority of the OGCC giving its conformity to and acquiescence for the LBP Legal Department to appear as its collaborating counsel in all LBP cases, and that there was no need for the concurrence of the COA since the LBP was being represented by its own Legal Department and was not incurring additional cost for the said legal services.

In *Luciano*, we already clarified the dynamics of OGCC's role as principal law office of all GOCCs and that of the LBP Legal Services Group¹⁶ – which ruling has been consistently invoked by this Court in a number of cases involving LBP:¹⁷

Does this ruling of the Court likewise preclude participation in this petition from the LBP Legal Department? It does not, so long as the OGCC consents to such participation, and the Legal Department so acts under the control and supervision of the OGCC. For all practical intents, the members of the LBP Legal Department would be free

¹³ G.R. No. 165428, July 13, 2005 (Unsigned Resolution).

¹⁴ *Rollo*, pp. 303-307.

¹⁵ 590 Phil. 170, 199 (2008).

¹⁶ In fact, this Court even acknowledged that both the OGCC and the legal department of a GOCC can each contribute their distinct advantages for the successful outcome of any case brought to them.

We do not discount the LBP Legal Department's unique position to assist in the litigation of this case. Its familiarity with the facts, as well as with the day-to-day workings of the LBP, invests it with distinct advantages in handling the petition that might not be shared by the members of the OGCC. From the prescribed statutory setup between the LBP Legal Department and the OGCC, we can discern similarities to the prevalent practice in law firms of having junior associates probe into the factual background of cases and prepare the initial drafts, their output subject to the review and approval of the firm's senior partner. The junior associate (or the LBP Legal Department) would have the advantage gained by proximity to the milieu, but the senior partner would have the advantage of a wider perspective enriched by experience. The correlative advantage of the OGCC might not necessarily be derived from years of experience, but putatively from its vantage point as overseer of all legal processes emanating from and involving all GOCCs.

The OGCC and the LBP Legal Department would be served well in accepting the prescribed statutory setup and acceding to the benefits of the imposed relationship. Indeed, the petition could have been dismissed outright considering that it was not filed by the OGCC. Instead, we have allowed it to stand thus far and even endeavored to elaborate upon it in quite a few extensive resolutions, not because the petition has obvious or indubitable merit, but out of a legitimate concern to see to it that the law is followed, with the framework established by the Administrative Code observed by the OGCC and the LBP Legal Department alike. It is hoped that the Court's atypical indulgence of this petition, as expressed by this *Resolution* and the two that came before it, would appropriately guide the LBP and the OGCC in future litigations. But the time would come for the present petition to be litigated solely on the merits.

¹⁷ See *Land Bank of the Philippines v. Martinez*, 556 Phil. 809 (2007); *Land Bank of the Philippines v. AMS Farming Corporation*, supra note 15; *Hernandez-Nievera v. Hernandez*, 658 Phil. 1 (2011).



to develop the theories behind this case, or to draft and co-sign pleadings. However, these actions must meet the approval of the OGCC, such approval being sufficiently evidenced by the OGCC's signature on the pleadings filed before this Court.¹⁸ (Emphasis supplied)

Here, there is no serious dispute that the OGCC had, in fact, directly participated as counsel for LBP when it filed its Manifestation and Confirmation of Authority before the RTC, attaching thereto the Letters of Authority it had earlier issued which authorized the lawyers in the LBP Legal Services Group to handle the instant case. To be sure, subsequent pleadings and motions in the RTC and in this Court were filed by the OGCC as the lead counsel of LBP, with the LBP Legal Services Group acting as collaborating counsel thereof. These filings of the OGCC clearly and unequivocally demonstrate the OGCC's control and supervision over the actions of the LBP Legal Services Group, and its approval of the actions already undertaken by the latter.

Considering that the OGCC already entered its appearance as lead counsel for LBP in the instant case, and had clearly demonstrated that the suit of LBP was being litigated by its "principal law office," then the ratiocination by the court *a quo* in its second assailed Order dated October 1, 2013 – that the complaint should still have been initiated by the OGCC – is clearly puerile, and unduly puts stress on a technicality that, in the final analysis, does not even exist. Accordingly, the assailed orders of April 18, 2013 and October 1, 2013 should be, as they are hereby, reversed.

As to the legality of LBP's act of obtaining the required replevin bond from a private insurance firm and not from the GSIS, this has been rendered a non-issue by the RTC itself as it had acknowledged the legality of obtaining bonds from private insurance companies.¹⁹

Lastly, as regards the Petition's prayer for the issuance of a Preliminary Mandatory Injunction to allow it and/or its authorized representatives to inspect and conduct an appraisal of the chattels mortgaged by Respondents to determine their current condition and value, we note that its exercise would, in this case, require a determination of the facts and circumstances on which the prayer is premised. As such, the lower court would be in a better position to hear and resolve these factual assertions.²⁰

In this connection, this Court has, in the past, under authority of Section 6, Rule 46 of the Rules of Court, remanded cases to lower courts for the reception of evidence and determination of facts.²¹ Given the urgency of

¹⁸ *Land Bank of the Philippines v. Teresita Panlilio-Luciano*, supra note 13.

¹⁹ *Rollo*, pp. 35-55.

²⁰ See *Heirs of Lorenzo and Carmen Vidad v. Land Bank of the Philippines*, 634 Phil. 9 (2010).

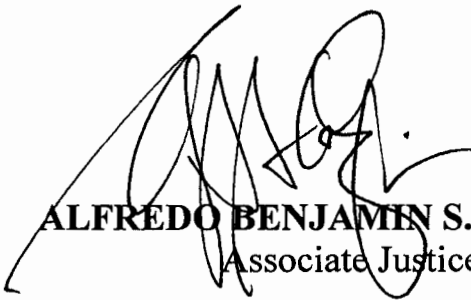
²¹ *Id.*

the matter, the RTC is ordered to act with dispatch on petitioner's prayer for the issuance of a Preliminary Mandatory Injunction and the grant of a Writ of Replevin.


WHEREFORE, PREMISES CONSIDERED, the petition for review filed by Petitioner Land Bank of the Philippines is **GRANTED**, as follows:

1. Civil Case No. 8042 is hereby **REINSTATED**; and
2. the Regional Trial Court, Branch 37, General Santos City is hereby directed to immediately set a hearing for the reception of evidence and accordingly resolve with dispatch the prayer for the issuance of a Preliminary Mandatory Injunction and the grant of a Writ of Replevin.

SO ORDERED.



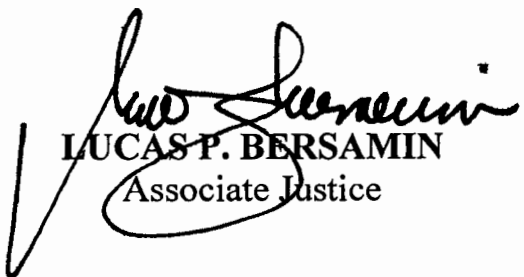
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



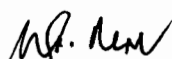
MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson



TERESITA J. LEONARDO-DE CASTRO
Associate Justice



LUCAS P. BERSAMIN
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the 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

