



SUPREME COURT OF THE PHILIPPINES  
 PUBLIC RELATIONS DIVISION OFFICE  
**RECORDED**  
 JUL 28 2019  
 BY: BY:                       
 TIME: TIME:                     

Republic of the Philippines  
**Supreme Court**  
 Manila

**SECOND DIVISION**

**PRIME SAVINGS BANK,  
 REPRESENTED BY ITS  
 STATUTORY LIQUIDATOR,  
 THE PHILIPPINE DEPOSIT  
 INSURANCE CORPORATION,**  
 Petitioner,

**G.R. No. 208283**

Present:

CARPIO, J., Chairperson,  
 PERLAS-BERNABE,  
 CAGUIOA,  
 J. REYES, JR., and  
 LAZARO-JAVIER, JJ.

- versus -

**SPOUSES ROBERTO AND HEIDI  
 L. SANTOS,**

Promulgated:

Respondents.

19 JUN 2019

*[Handwritten signature]*

X-----X

**RESOLUTION**

**CAGUIOA, J.:**

Before the Court is a Petition for Review on *Certiorari*<sup>1</sup> (Petition) under Rule 45 of the Rules of Court filed by petitioner Prime Savings Bank (Prime Savings Bank), represented by its Statutory Liquidator, the Philippine Deposit Insurance Corporation (PDIC), against respondents Spouses Roberto and Heidi L. Santos (Sps. Santos), assailing the Resolution<sup>2</sup> dated February 16, 2012 (first assailed Resolution) and Resolution<sup>3</sup> dated July 2, 2013 (second assailed Resolution) (collectively, the assailed Resolutions) rendered by the Court of Appeals, Cagayan de Oro City (CA) in CA-G.R. SP No. 03348-MIN.

**The Facts and Antecedent Proceedings**

As culled from the records of the instant case, the essential facts and antecedent proceedings of the case are as follows:

<sup>1</sup> *Rollo*, pp. 16-33.  
<sup>2</sup> *Id.* at 38-39. Penned by Associate Justice Edgardo A. Camello with Associate Justices Carmelita Salandanan Manahan and Pedro B. Coraies, concurring.  
<sup>3</sup> *Id.* at 35-36. Penned by Associate Justice Edgardo A. Camello with Associate Justices Jhosep Y. Lopez and Henri Jean Paul B. Inting (now a member of this Court), concurring.

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On January 20, 1999, the Sps. Santos filed a Complaint for Rescission of Sale and Real Estate Mortgage with Prayer for Injunction (Complaint) with the Regional Trial Court of General Santos City, Branch 36 (RTC) against one Engr. Edgardo Torcende (Torcende) and Prime Savings Bank. The case was docketed as Civil Case No. 6492.

On January 7, 2000, or during the pendency of Civil Case No. 6492, the Monetary Board of the Bangko Sentral ng Pilipinas (BSP) issued Resolution No. 22<sup>4</sup> which prohibited Prime Savings Bank from doing business and placed it under receivership, with PDIC as the designated receiver. On April 27, 2000, and by virtue of Resolution No. 664,<sup>5</sup> the Monetary Board placed Prime Savings Bank under liquidation with PDIC as the designated Liquidator.

On July 19, 2000, pursuant to Section 30 of Republic Act No. (RA) 7653, also known as the New Central Bank Act, PDIC filed a Petition for Assistance in the Liquidation (PAL) of Prime Savings Bank, Inc. The case was docketed as Special Proceeding Case No. 11097 before the Regional Trial Court of Pasig City (Liquidation Court).

Meanwhile, on September 1, 2006, in Civil Case No. 6492, the RTC rendered a Decision in favor of the Sps. Santos and against Engr. Torcende and Prime Savings Bank. On March 21, 2007, Prime Savings Bank received a Notice of Garnishment<sup>6</sup> dated March 7, 2007. Attached to the Notice of Garnishment were the Entry of Final Judgment<sup>7</sup> dated February 13, 2007 and Writ of Execution<sup>8</sup> dated February 14, 2007.

Prime Savings Bank filed with the RTC a Motion to Lift (re: February 14, 2007 Writ of Execution and March 7, 2007 Notice of Garnishment)<sup>9</sup> with additional prayer that the Sps. Santos be directed to file a judgment claim in the Liquidation Court.

On August 16, 2007, finding merit in the position of Prime Savings Bank, the RTC issued an Order<sup>10</sup> lifting the Writ of Execution and Notice of Garnishment. The RTC cited Section 30 of RA 7653, which states that the assets of an institution under receivership or liquidation shall be deemed in *custodia legis* in the hands of the receiver and shall be exempt from any order of garnishment, levy, attachment, or execution.<sup>11</sup> The RTC further explained that the stay of the execution of the judgment is warranted due to the fact that Prime Savings Bank was placed under receivership. To execute

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<sup>4</sup> Id. at 53.

<sup>5</sup> Id. at 54.

<sup>6</sup> Id. at 56.

<sup>7</sup> Id. at 57-58.

<sup>8</sup> Id. at 59-61.

<sup>9</sup> Id. at 62-74.

<sup>10</sup> Id. at 77-80. Penned by Judge Isaac Alvero V. Moran.

<sup>11</sup> Id. at 78.



the judgment would unduly deplete the assets of Prime Savings Bank to the prejudice of the other depositors and credits.<sup>12</sup>

The Sps. Santos filed a Motion for Reconsideration<sup>13</sup> dated August 30, 2007 assailing the aforesaid Order of the RTC.

In its Order<sup>14</sup> dated September 29, 2009, the RTC reversed itself and granted the Motion for Reconsideration. The RTC ordered the enforcement of the Writ of Execution and Notice of Garnishment against Prime Savings Bank. Hence, on November 3, 2009, Prime Savings Bank received another Notice of Garnishment<sup>15</sup> dated October 26, 2009 from the Sheriff of the RTC, Alfredo T. Pallanan.

Hence, on December 19, 2009, Prime Savings Bank filed a Petition for *Certiorari* under Rule 65 with Prayer for the Issuance of Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction (WPI) (*Certiorari* Petition) before the CA. The matter was docketed as CA-G.R. SP No. 03348-MIN.

The *Certiorari* Petition sought the reversal of the RTC's Order allowing the execution and garnishment of Prime Savings Bank's assets, and that the RTC be enjoined from further acting on the Notices of Garnishment dated March 7, 2007 and October 26, 2009, in implementation of the Writ of Execution dated February 14, 2007.

### **The Ruling of the CA on the Application for the Issuance of a TRO/WPI**

On February 16, 2012, the CA issued the first assailed Resolution denying Prime Savings Bank's application for TRO and/or WPI. The first assailed Resolution reads:

Acting on the petitioner's application for the issuance of a temporary restraining order (TRO) and/or writ or (*sic*) preliminary injunction (WPI), and the Comment filed by respondents, the Court resolves to **DENY** the petitioner's application for the issuance of a TRO and/or a WPI for failure to demonstrate sufficiently that a clear legal right or an urgent necessity exists to justify the issuance of an injunctive relief.

SO ORDERED.<sup>16</sup>

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<sup>12</sup> Id. at 79.

<sup>13</sup> Id. at 81-86.

<sup>14</sup> Id. at 89-90.

<sup>15</sup> Id. at 91.

<sup>16</sup> Id. at 38-39.



Prime Savings Bank filed a Motion for Reconsideration<sup>17</sup> dated March 9, 2012, which was denied by the CA in its second assailed Resolution.

Hence, the instant Petition filed by Prime Savings Bank on September 11, 2013.

On August 1, 2014, the Sps. Santos filed their Comment,<sup>18</sup> while Prime Savings Bank filed its Reply<sup>19</sup> on July 13, 2015.

### Issue

The sole issue for the Court's consideration is whether the CA was correct in denying Prime Savings Bank's application for TRO and/or WPI, which was ancillary to its *Certiorari* Petition.

### The Court's Ruling

The instant Petition is denied.

First and foremost, the instant Petition, filed under Rule 45 of the Rules of Court, merits outright dismissal for having utilized the wrong remedy.

It is beyond argument that the assailed Resolutions rendered by the CA being questioned before the Court are mere interlocutory orders, dealing with Prime Savings Bank's application for the issuance of a TRO and/or WPI, which is a mere ancillary prayer attached to the main case of the *Certiorari* Petition, which seeks the reversal of the RTC's Order allowing the execution and garnishment of Prime Savings Bank's assets.

It is a hornbook principle that Rule 45 of the Rules of Court governs appeals from judgments or final orders, not interlocutory orders.<sup>20</sup> An interlocutory order cannot be the subject of appeal until final judgment is rendered for one party or the other.<sup>21</sup> Further, the Court has previously distinguished *certiorari*, as a mode of appeal under Rule 45, as a remedy that involves the review of the judgment, award, or final order on the merits, as compared to the original action for *certiorari* under Rule 65, which refers to a remedy that may be directed against an interlocutory order. No appeal may be taken from an interlocutory order. Instead, the proper remedy to assail such an order is to file a petition for *certiorari* under Rule 65.<sup>22</sup>

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<sup>17</sup> Id. at 40-52.

<sup>18</sup> Id. at 141-147.

<sup>19</sup> Id. at 162-173.

<sup>20</sup> *Calleja v. Panday*, 518 Phil. 801, 808 (2006).

<sup>21</sup> *Villasin v. Seven-Up Bottling Co. of the Philippines*, 107 Phil. 801, 803 (1960).

<sup>22</sup> *Spouses Perez v. Tan*, G.R. No. 186617, April 23, 2014, p. 4 (Unsigned Resolution).



Hence, Prime Savings Bank erred in resorting to this Rule 45 Petition in seeking the reversal of the CA's assailed Resolutions, which are mere interlocutory orders denying Prime Savings Bank's ancillary application for TRO and/or WPI.

In any case, even if the Court exercises liberality and treats the instant Petition as a Rule 65 Petition, the instant Petition still merits outright dismissal for having been rendered **moot and academic**.

As borne by the records of the Court, the *Certiorari* Petition, which was previously pending before the CA at the time of the filing of the instant Petition, was eventually decided by the CA **in favor of Prime Savings Bank** in its Decision dated July 29, 2015 and Resolution dated June 21, 2016. The Sps. Santos appealed the CA's unfavorable Decision in CA-G.R. SP No. 03348-MIN before the First Division of the Court. The appeal was docketed as G.R. No. 226193, entitled *Spouses Roberto and Heide L. Santos v. Prime Savings Bank (PSB) represented by its Statutory Liquidator, The Philippine Deposit Insurance Corporation (PDIC)*. In its Resolution<sup>23</sup> dated October 12, 2016, the Court, First Division denied the Petition for Review on *Certiorari* filed by the Sps. Santos. In its subsequent Resolution dated July 31, 2017, the Court, First Division denied the Sps. Santos' Motion for Reconsideration with finality.

Therefore, with the *Certiorari* Petition having been decided with finality, the instant Petition has been rendered moot and academic.

**WHEREFORE**, the instant Petition is **DISMISSED**.

**SO ORDERED**.




**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

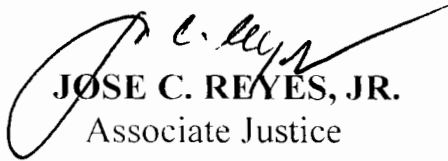
WE CONCUR:



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson

<sup>23</sup> Issued by the Division Clerk of Court.


  
**ESTELA M. PERLAS-BERNABE**  
 Associate Justice

  
**JOSE C. REYES, JR.**  
 Associate Justice

  
**AMY C. LAZARO-JAVIER**  
 Associate Justice

**ATTESTATION**

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**ANTONIO T. CAPIO**  
 Associate Justice  
 Chairperson, Second 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 Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**LUCAS P. BERSAMIN**  
 Chief Justice

