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FIRST DIVISION

[G.R. No. 88297. March 22, 1990]

JUDGE ENRIQUE T. JOCSON, EDILBERTO Y. EMPESTAN, and ATTY. PRESTON V. BARBASA, *petitioners, vs.* **HON. COURT OF APPEALS and BANK OF THE PHILIPPINE ISLANDS (BACOLOD MAIN BRANCH),** *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; PARTIES TO CIVIL ACTIONS; TRANSFEREE *PENDENTE LITE*; MERELY A PROPER PARTY WHO IS NOT INDISPENSABLE. — We hold that the respondent court erred when it declared that the decision rendered by the trial court was not binding on BPI because it had not been substituted for the original defendant and had not been notified of the proceedings against them. Rule 3 of Sec. 20 of the Rules of Court provides: SEC. 20. *Transfer of Interest.* — In case of any transfer of interest, the action may be continued by or against the original party unless the court upon motion directs the person to whom the interest is transferred to be substituted in the action or joined with the original party. This Court has declared in a number of decisions that a transferee *pendente lite* stands in exactly the same position as its predecessor-in-interest, the original defendant, and is bound by the proceedings had in the case before the property was transferred to it. It is a proper but not an indispensable party as it would in any event be bound by the judgment against his predecessor. This would follow even if it is not formally included as a defendant through an amendment of the complaint.

2. ID.; ID.; ID.; DUTY TO SUBSTITUTE AS PARTY LITIGANT LIES ON TRANSFEREE IN CASE AT BAR. — Sec. 4, Art. II, of the Articles of Merger between BPICC and BPI states that: SEC. 4. BPI shall acquire as liquidating dividends all of the assets of BPICC, it being understood that in consonance with the pertinent provisions of the Corporation Code, BPI shall be responsible and liable for all the liabilities and obligations of BPICC in the same manner as if BPI itself incurred such liabilities or

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obligations, and any claim, action or proceeding pending by or against BPICC shall be prosecuted by or against BPI. Neither the rights of creditors nor any lien upon the property of BPICC shall be impaired by the merger. Accordingly, BPI categorically agreed in Sec. 2, Art. III of the same instrument that: SEC. 2. *BPI shall take such measures as it may deem necessary or* advisable to substitute itself in all suits and proceedings where BPICC is a party and to substitute its name for BPICC in all titles, documents, deeds and papers where BPICC appears as a party. From the above stipulations, it is clear that the duty to substitute BPI in the proceedings before the trial court fell on BPI itself and not on any other party. It did not discharge that duty. Consequently, it cannot now claim that it is not bound by the judgment of February 10, 1988. Whether its failure to do so was due to negligence or to a desire to evade possible liability, there is no question that BPI should not benefit from such omission.

3. **ID.; ID.; ID.; ID.; APPEAL MADE BY TRANSFEROR BENEFITS THE TRANSFEREE.** — We do not agree that the judgment of the trial court against BPI has become final and executory because only FFLC and BPICC had appealed. There is a contradiction here. Surely, if the judgment is considered binding upon BPI as a transferee *pendente lite*, it should follow that the appeal made by the original party would also, by the same token, redound to the transferee's benefit. As it is the transferee that may ultimately be required to satisfy the judgment if it is affirmed on appeal, it is only fair that it be deemed to have also appealed, together with its predecessor-in-interest, from the decision of February 10, 1988.

4. **ID.; ID.; ID.; ID.; COURT HAS POWER TO IMPLEAD IN *SUBSTITUTION THE TRANSFERREE AS A REAL PARTY-IN-INTEREST IN FURTHERANCE OF JUSTICE.*** — We hereby declare it impleaded in substitution of the Bank of the Philippine Islands Credit Corporation. This step is in consonance with the settled rule that — By Section 110 of the Code of Civil Procedure courts are authorized and directed to allow a party to amend any pleading or proceeding at any stage of the action, in furtherance of justice and upon such terms, if any, as may be proper; Section 503 of the same code prohibits the reversal of any judgment on merely formal or technical grounds or for such error as has not prejudiced the rights of the excepting

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party. Under these provisions of law, this court has the power to amend by substituting the name of the real party-in-interest.

5. ID.; CIVIL PROCEDURE; APPEAL; IF ONCE PERFECTED, TRIAL COURT LOSSES JURISDICTION OVER THE CASE. — The appeal of Civil Case No. 2567 was perfected on March 15, 1988, and the trial court as a consequence lost jurisdiction over the matter. Hence, Judge Jocson had no more authority to order the issuance of the final writ of execution on October 25, 1988, when the case had already come under the exclusive appellate jurisdiction of the Court of Appeals and was, in fact, still pending resolution.

6. ID.; ID.; PLEADINGS; VERBOSE AND ANNOYINGLY DISORGANIZED PLEADINGS FROWNED UPON. — The Court cannot end this opinion without remarking on the slipshod and clumsy manner in which the petition was prepared. Extremely verbose and annoyingly disorganized, besides containing extraneous matters that only cluttered the record and unnecessarily took up the time of this tribunal, it could have been dismissed outright for insufficiency (or over-sufficiency) in form. Counsel should realize that conciseness of pleadings can advance one's cause much better than pretentious presentations that more often than not only reveal a paucity of logic and a sorry confusion over the issues of the case.

APPEARANCES OF COUNSEL

Preston V. Barbasa for and in his own behalf.
Agustin T. Locsin for respondent Bank of the Philippine Islands.

D E C I S I O N

CRUZ, *J.*:

On April 26, 1982, petitioner Preston V. Barbasa bought a brand new car from Southern Motors with Filinvest Finance and Leasing Corp. (FFLC) financing the account. This account was later assigned to Filinvest Credit Corp. (FCC), FFLC's sister company. On July 7, 1983, the car was repossessed by FFLC. On November 8, 1983, the petitioner, claiming that FFLC had acted illegally and maliciously, filed a complaint for damages

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against it.[1] Subsequently, the Bank of the Philippine Islands Credit Corporation (BPICC) having bought FCC, the complaint was amended to include BPICC as co-defendant.[2] On July 31, 1987, during the pendency of the case, the Bank of the Philippine Islands (BPI) acquired all the assets of its wholly-owned subsidiary, BPICC, as part of a SEC-approved merger plan. The merger was made known to the court by the petitioners, but BPI was not formally impleaded or substituted for BPICC. The defendants continued to be FFLC and BPICC.

On February 10, 1988, the trial court decided in favor of the private petitioner.[3] On February 22, 1988, Barbasa filed a motion for execution of the judgment. On the same day, respondents FFLC and BPICC filed a notice of appeal.[4] On March 4, 1988, Judge Enrique T. Jocson granted partial execution pending appeal for the sum of ₱400,000.00 upon a bond of ₱500,000.00.[5] On March 15, 1988, the notice of appeal was approved, with the court ordering the elevation of the records to the Court of Appeals.[6] On March 21, 1988, in view of the BPI merger, the writ of partial execution was served against the bank. The bank, under protest, delivered to the petitioner TCT No. 121486 to secure the judgment.[7] It then filed several motions to recall the issued writ, arguing that it was null and void because BPI had never been notified of the proceedings.[8]

Upon denial of its motions, BPI filed a petition for *certiorari* with this Court. The case was, however, remanded to the Court of Appeals. During the pendency of the appeal, the trial court

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[1] Original Records, Vol. 1, pp. 1-7.

[2] *Ibid.*, pp. 397-404.

[3] Annex "A", Original Records, Vol. 1, pp. 569-574.

[4] Annex "U", *Rollo*, p. 263.

[5] Annex "2", *Rollo*, p. 35.

[6] Annex "3", Original Records, Vol. II, p. 1231.

[7] Original Records, Vol. I, p. 779.

[8] *Ibid.*, pp. 533-535; 671; 674-676; 698.

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issued an order dated October 12, 1988, holding that since BPI had not appealed the decision of February 10, 1988, the same had become final and executory as to it.[9] Accordingly, on October 25, 1988, Judge Jocson ordered the issuance of a writ of final execution against BPI, at the same time lifting the earlier writ of partial execution.[10]

The order of October 25, 1988, was, upon remand, reversed by the respondent court in its decision dated March 7, 1989.[11] It declared that (1) the writ of partial execution was irregular since no special reason warranted its issuance; (2) the writ of final execution could not be issued against BPI since it was BPI Credit Corporation (formerly Fil-Invest Credit Corporation) that was merged with the Bank of the Philippine Islands and consequently it was BPI that should have been notified of the subsequent proceedings in Civil Case No. 2567. It rejected the claim that notice to BPICC was notice to the BPI, stressing that the merger was made as early as July 31, 1987, before the decision was promulgated, and no corresponding substitution had been made of the surviving corporation (BPI) in place of the absorbed defendants.

The petition before us challenges these rulings of the respondent court.

We hold that the respondent court erred when it declared that the decision rendered by the trial court was not binding on BPI because it had not been substituted for the original defendant and had not been notified of the proceedings against them.

Rule 3 of Sec. 20 of the Rules of Court provides:

SEC. 20. *Transfer of Interest.* — In case of any transfer of interest, the action may be continued by or against the original party unless the court upon motion directs the person to whom the interest is

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[9] *Id.*, Vol. II, pp. 1236-1238.

[10] *Id.*, pp. 1268-1274.

[11] *Rollo*, pp. 270-280.

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transferred to be substituted in the action or joined with the original party.

This Court has declared in a number of decisions that a transferee *pendente lite* stands in exactly the same position as its predecessor-in-interest, the original defendant, and is bound by the proceedings had in the case before the property was transferred to it. It is a proper but not an indispensable party as it would in any event be bound by the judgment against his predecessor. This would follow even if it is not formally included as a defendant through an amendment of the complaint.[12]

It is a no less significant consideration that Sec. 4, Art. II, of the Articles of Merger between BPICC and BPI states that:

> SEC. 4. BPI shall acquire as liquidating dividends all of the assets of BPICC, it being understood that in consonance with the pertinent provisions of the Corporation Code, BPI shall be responsible and liable for all the liabilities and obligations of BPICC in the same manner as if BPI itself incurred such liabilities or obligations, and any claim, action or proceeding pending by or against BPICC shall be prosecuted by or against BPI. Neither the rights of creditors nor any lien upon the property of BPICC shall be impaired by the merger.[13]

and, accordingly, BPI categorically agreed in Sec. 2, Art III of the same instrument that:

> SEC. 2. BPI shall take such measures as it may deem necessary or advisable to substitute itself in all suits and proceedings where BPICC is a party and to substitute its name for BPICC in all titles, documents, deeds and papers where BPICC appears as a party.[14]

From the above stipulations, it is clear that the duty to substitute BPI in the proceedings before the trial court fell on BPI itself and not on any other party. It did not discharge that duty.

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[12] *Fetalino v. Sanz*, 44 Phil. 691; *Associacion de Agricultores de Talisay Silay, Inc. v. Talisay Silay Milling Co., Inc.*, 88 SCRA 294.

[13] Original Records, Vol. I, p. 626.

[14] *Ibid.*, p. 627.

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Consequently, it cannot now claim that it is not bound by the judgment of February 10, 1988. Whether its failure to do so was due to negligence or to a desire to evade possible liability, there is no question that BPI should not benefit from such omission.

We do not agree that the judgment of the trial court against BPI has become final and executory because only FFLC and BPICC had appealed. There is a contradiction here. Surely, if the judgment is considered binding upon BPI as a transferee *pendente lite*, it should follow that the appeal made by the original party would also, by the same token, redound to the transferee's benefit. As it is the transferee that may ultimately be required to satisfy the judgment if it is affirmed on appeal, it is only fair that it be deemed to have also appealed, together with its predecessor-in-interest, from the decision of February 10, 1988.

To erase all doubt as to the status of the Bank of the Philippine Islands in the case below, we hereby declare it impleaded in substitution of the Bank of the Philippine Islands Credit Corporation. This step is in consonance with the settled rule that —

> By Section 110 of the Code of Civil Procedure[15] courts are authorized and directed to allow a party to amend any pleading or proceeding at any stage of the action, in furtherance of justice and upon such terms, if any, as may be proper; Section 503[16] of the same code prohibits the reversal of any judgment on merely formal or technical grounds or for such error as has not prejudiced the rights of the excepting party. Under these provisions of law, this court has the power to amend by substituting the name of the real party-in-interest.[17]

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[15] See Rule 10, Secs. 1-3, Rules of Court.

[16] See Rule 51, Sec. 5.

[17] *Alonso v. Villamor*, 16 Phil. 315; see also *Chua Kiong v. Whitaker*, 46 Phil. 578; *Cuyugan v. Dizon*, 79 Phil. 80; *Adiarte v. Tumaneng*, 88 Phil. 333.

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It is no longer necessary to determine the validity of the writ of partial execution as this was lifted by Judge Jocson when he ordered the issuance of the writ of final execution on October 25, 1988. But the latter writ is a different matter. The appeal of Civil Case No. 2567 was perfected on March 15, 1988, and the trial court as a consequence lost jurisdiction over the matter. Hence, Judge Jocson had no more authority to order the issuance of the final writ of execution on October 25, 1988, when the case had already come under the exclusive appellate jurisdiction of the Court of Appeals and was, in fact, still pending resolution.[18]

The Court cannot end this opinion without remarking on the slipshod and clumsy manner in which the petition was prepared. Extremely verbose and annoyingly disorganized, besides containing extraneous matters that only cluttered the record and unnecessarily took up the time of this tribunal, it could have been dismissed outright for insufficiency (or over-sufficiency) in form. Counsel should realize that conciseness of pleadings can advance one's cause much better than pretentious presentations that more often than not only reveal a paucity of logic and a sorry confusion over the issues of the case.

WHEREFORE, the challenged decision of the respondent court is hereby *MODIFIED* as above indicated. The orders of the trial court dated October 12, 1988 and October 25, 1988, are *REVERSED* and the writ of final execution is declared *NULL* and *VOID*. It is so ordered.

Narvasa (Chairman), Gancayco, Griño-Aquino, and *Medialdea, JJ.*, concur.

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[18] *Marcelo v. Estacio*, 69 Phil. 145.