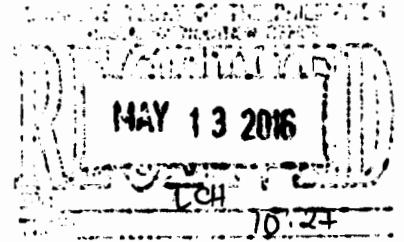




Republic of the Philippines  
**Supreme Court**  
Baguio City



**FIRST DIVISION**

**PARAMOUNT LIFE & G. R. No. 195728**  
**GENERAL INSURANCE**  
**CORPORATION,**  
Petitioner,

- versus -

**CHERRY T. CASTRO and**  
**GLENN ANTHONY T. CASTRO,**  
Respondents.

X ----- X

**CHERRY T. CASTRO and G. R. No. 211329**  
**GLENN ANTHONY T. CASTRO,**  
Petitioners, Present:

- versus -

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

**PARAMOUNT LIFE &**  
**GENERAL INSURANCE**  
**CORPORATION,**  
Respondent.

Promulgated:

**APR 19 2016**

X ----- X

**DECISION**

**SERENO, *CJ*:**

These Petitions for Review on Certiorari under Rule 45 of the Rules of Court originate from a Complaint<sup>1</sup> for Declaration of Nullity of Individual

<sup>1</sup> Rollo (G.R. No. 195728), pp. 35-44.

Insurance Contract (Civil Case No. 09-599<sup>2</sup>). The Complaint was instituted by Paramount Life & General Insurance Corporation (Paramount) against Cherry T. Castro and Glenn Anthony T. Castro (Castros) and filed before the Regional Trial Court, Makati City, Branch 61 (RTC), on 2 July 2009.

The Petition<sup>3</sup> docketed as G.R. No. 195728 assails the Court of Appeals (CA) Decision<sup>4</sup> dated 4 October 2010 and Resolution<sup>5</sup> dated 21 February 2011 in CA-G.R. SP No. 113972. The CA remanded the case to the RTC for the admission of the Castros' Third-Party Complaint against the Philippine Postal Savings Bank, Incorporated (PPSBI).<sup>6</sup>

On the other hand, the Petition<sup>7</sup> docketed as G.R. No. 211329 assails the Resolution<sup>8</sup> of the RTC in Civil Case No. 09-599 dated 11 February 2014. The trial court ordered that the Motion to Dismiss filed by the defendants (the Castros) be deemed expunged from the records, as they had previously been declared to be in default. Nonetheless, due to the protracted nature of the proceedings, the RTC allowed the plaintiff no more than two settings for the presentation of evidence.<sup>9</sup>

These Petitions have been consolidated as they involve the same parties, arise from an identical set of facts, and raise interrelated issues.<sup>10</sup> The Court resolves to dispose of these cases jointly.

### FACTS OF THE CASE

In 2004, the PPSBI applied for and obtained insurance from Paramount,<sup>11</sup> which accordingly issued Group Master Policy No. G-086<sup>12</sup> effective 1 September 2004. Under Section 20, Article IV of the said policy, "all death benefits shall be payable to the creditor, PPSBI, as its interest may appeal."<sup>13</sup>

Meanwhile, Virgilio J. Castro (Virgilio) - Cherry's husband and Glenn's father - obtained a housing loan from the PPSBI in the amount of ₱1.5 million.<sup>14</sup> PPSBI required Virgilio to apply for a mortgage redemption

<sup>2</sup> In the Complaint, the case was denominated as "Civil Case No. 09-598," but was later referred to as "Civil Case No. 09-599" in subsequent pleadings of the parties and issuances of the trial and the appellate courts.

<sup>3</sup> *Rollo* (G.R. No. 195728), pp. 12-34.

<sup>4</sup> *Id.* at 113-126; Penned by Associate Justice Juan Q. Enriquez, Jr., and concurred in by Associate Justices Ramon M. Bato, Jr. and Florito S. Macalino.

<sup>5</sup> *Id.* at 128-129.

<sup>6</sup> *Id.* at 125.

<sup>7</sup> *Rollo* (G.R. No. 211329), pp. 3-24

<sup>8</sup> *Id.* at 52-53; Penned by Assisting Judge Maria Amifaith S. Fider-Reyes.

<sup>9</sup> *Id.* at 53.

<sup>10</sup> *Id.* at 117; Pursuant to the Court's Resolution dated 23 April 2014.

<sup>11</sup> *Rollo* (G.R. No. 195728), p. 15.

<sup>12</sup> *Id.* at 45-55.

<sup>13</sup> *Id.* at 51.

<sup>14</sup> *Id.* at 62-63.

insurance (MRI) from Paramount to cover the loan.<sup>15</sup> In his application for the said insurance policy, Virgilio named Cherry and Glenn as beneficiaries.<sup>16</sup> Paramount issued Certificate No. 041913 effective 12 March 2008 in his favor, subject to the terms and conditions of Group Master Policy No. G-086.<sup>17</sup>

On 26 February 2009, Virgilio died of septic shock.<sup>18</sup> Consequently, a claim was filed for death benefits under the individual insurance coverage issued under the group policy.<sup>19</sup> Paramount however denied the claim, on the ground of the failure of Virgilio to disclose material information, or material concealment or misrepresentation.<sup>20</sup> It said that when Virgilio submitted his insurance application on 12 March 2008, he made some material misrepresentations by answering “no” to questions on whether he had any adverse health history and whether he had sought medical advice or consultation concerning it. Paramount learned that in 2005, Virgilio had sought consultation in a private hospital after complaining of a dull pain in his lumbosacral area.<sup>21</sup> Because of the alleged material concealment or misrepresentation, it declared Virgilio’s individual insurance certificate (No. 041913) rescinded, null, and absolutely void from the very beginning.<sup>22</sup>

On 2 July 2009, Paramount filed a Complaint<sup>23</sup> with the RTC docketed as Civil Case No. 09-599. It prayed that Application and Insurance Certificate No. 041913 covering the individual insurance of Virgilio be declared null and void by reason of material concealment and misrepresentation. It also prayed for attorney’s fees and exemplary damages.<sup>24</sup>

In their Answer with Counterclaim,<sup>25</sup> the Castros argued that Virgilio had not made any material misrepresentation. They contended that he had submitted the necessary evidence of insurability to the satisfaction of Paramount. They further argued that by approving Virgilio’s application, Paramount was estopped from raising the supposed misrepresentations.<sup>26</sup> The Castros made a counterclaim for actual and exemplary damages, as well as attorney’s fees, for the alleged breach of contract by Paramount arising from its refusal to honor its obligation as insurer of the ₱1.5 million loan.<sup>27</sup>

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<sup>15</sup> Id. at 63.

<sup>16</sup> Id. at 56.

<sup>17</sup> Id. at 56-57.

<sup>18</sup> Id. at 58.

<sup>19</sup> Id. at 59.

<sup>20</sup> Id. at 60.

<sup>21</sup> Id. at 59-60.

<sup>22</sup> Id. at 60.

<sup>23</sup> Id. at 35-42.

<sup>24</sup> Id. at 41.

<sup>25</sup> Id. at 61-73.

<sup>26</sup> Id. at 65.

<sup>27</sup> Id. at 67-69.

## STATEMENT OF THE CASES

***G.R. No. 195728***

On 29 October 2009, the Castros filed a motion<sup>28</sup> to include the PPSBI as an indispensable party-defendant. The RTC thereafter denied the motion, reasoning that Paramount's Complaint could be fully resolved without the PPSBI's participation.<sup>29</sup>

Consequently, the Castros filed a Motion for Leave to File a Third Party-Complaint and to Admit Attached Third-Party Complaint.<sup>30</sup> They argued that due to the death of Virgilio, and by virtue of Group Policy No. G-086 in relation to Certificate No. 041913, PPSBI stepped into the shoes of Cherry and Glen under the principle of "indemnity, subrogation, or any other reliefs" found in Section 22, Rule 6 of the Rules of Court.<sup>31</sup> This motion was likewise denied, on the ground that "what the defendants herein want is the introduction of a controversy that is entirely foreign and distinct from the main cause."<sup>32</sup> The Castros' Motion for Reconsideration was again denied in a Resolution<sup>33</sup> dated 19 April 2010.

On 13 May 2010, the Castros assailed the RTC Resolutions through a Petition for Certiorari filed with the CA.<sup>34</sup> They likewise subsequently filed a Motion for Leave of Court to File and to Admit Attached Supplemental Petition for Review.<sup>35</sup>

In its Decision<sup>36</sup> dated 4 October 2010, the CA partially granted the Petition by allowing a third-party complaint to be filed against the PPSBI. It ruled that the Castros were freed from the obligation to pay the bank by virtue of subrogation, as the latter would collect the loan amount pursuant to the MRI issued by Paramount in Virgilio's favor.<sup>37</sup> Paramount moved for reconsideration, but the CA denied the motion through a Resolution<sup>38</sup> dated 21 February 2011.

On 11 April 2011, Paramount filed a Petition for Review under Rule 45, arguing that the case could be fully appreciated and resolved without involving the PPSBI as a third-party defendant in Civil Case No. 09-599.<sup>39</sup>

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<sup>28</sup> Id. at 77-80.

<sup>29</sup> Id. at 85-86.

<sup>30</sup> Id. at 87-97.

<sup>31</sup> Id. at 95.

<sup>32</sup> Id. at 105.

<sup>33</sup> Id. at 111.

<sup>34</sup> Id. at 152.

<sup>35</sup> Id. at 152-172.

<sup>36</sup> Id. at 113-126.

<sup>37</sup> Id. at 125.

<sup>38</sup> Id. at 128-129.

<sup>39</sup> Id. at 12-29.

**G.R. No. 211329**

Meanwhile, on 7 January 2014, the Castros filed a Motion to Dismiss<sup>40</sup> the Complaint on the ground of failure to prosecute for an unreasonable length of time without justifiable cause and to present evidence *ex parte* pursuant to a court order. In a Resolution<sup>41</sup> dated 11 February 2014, the RTC denied the motion. Owing to its previous Order dated 26 May 2010, which declared the Castros as in default for failure to attend the pretrial, the RTC treated the Motion to Dismiss as a mere scrap of paper and expunged it from the records.

The Castros come straight to this Court via a Petition for Review<sup>42</sup> under Rule 45, assailing the RTC Resolution dated 11 February 2014.

**THE ISSUES**

1. Whether the CA erred in remanding the case to the RTC for the admission of the Third-Party Complaint against PPSBI
2. Whether the RTC erred in denying the Motion to Dismiss filed by the Castros

**THE COURT'S RULING****G.R. No. 195728**

The Castros sought to implead the PPSBI as a third-party defendant in the nullification case instituted by Paramount. They theorized that by virtue of the death of Virgilio and the mandate of the group insurance policy in relation to his individual insurance policy, the PPSBI stepped into the shoes of Cherry and Glenn. According to the Castros, upon Virgilio's death, the obligation to pay the third-party defendant (PPSBI) passed on to Paramount by virtue of the Mortgage Redemption Insurance,<sup>43</sup> and not to them as Virgilio's heirs.

In *Great Pacific Life Assurance Corp. v. Court of Appeals*,<sup>44</sup> we defined mortgage redemption insurance as a device for the protection of both the mortgagee and the mortgagor:

On the part of the mortgagee, it has to enter into such form of contract so that in the event of the unexpected demise of the mortgagor during the

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<sup>40</sup> *Rollo* (G.R. No. 211329), pp. 54-61.

<sup>41</sup> *Id.* at 52-53.

<sup>42</sup> *Id.* at 3-24.

<sup>43</sup> *Id.*

<sup>44</sup> 375 Phil. 142 (1999).

subsistence of the mortgage contract, the proceeds from such insurance will be applied to the payment of the mortgage debt, thereby relieving the heirs of the mortgagor from paying the obligation. In a similar vein, ample protection is given to the mortgagor under such a concept so that in the event of death, the mortgage obligation will be extinguished by the application of the insurance proceeds to the mortgage indebtedness.<sup>45</sup>

In this case, the PPSBI, as the mortgagee-bank, required Virgilio to obtain an MRI from Paramount to cover his housing loan. The issuance of the MRI, as evidenced by the Individual Insurance Certificate in Virgilio's favor, was derived from the group insurance policy issued by Paramount in favor of the PPSBI. Paramount undertook to pay the PPSBI "the benefits in accordance with the Insurance Schedule, upon receipt and approval of due proof that the member has incurred a loss for which benefits are payable."<sup>46</sup>

Paramount, in opposing the PPSBI's inclusion as a third-party defendant, reasons that it is only seeking the nullification of Virgilio's individual insurance certificate, and not the group insurance policy forged between it and the PPSBI. It concludes that the nullification action it filed has nothing to do with the PPSBI.

We disagree.

Should Paramount succeed in having the individual insurance certificate nullified, the PPSBI shall then proceed against the Castros. This would contradict the provisions of the group insurance policy that ensure the direct payment by the insurer to the bank:

Notwithstanding the provision on Section 22 "No Assignment" of Article IV Benefit Provisions, and in accordance with provisions of Section 6 "Amendment of this Policy" under Article II General Provisions of the Group Policy, it is hereby agreed that **all death benefits shall be payable to the Creditor, Philippine Postal Savings Bank** as its interest may appeal.<sup>47</sup> (Emphasis supplied.)

In allowing the inclusion of the PPSBI as a third-party defendant, the Court recognizes the inseparable interest of the bank (as policyholder of the group policy) in the validity of the individual insurance certificates issued by Paramount. The PPSBI need not institute a separate case, considering that its cause of action is intimately related to that of Paramount as against the Castros. The soundness of admitting a third-party complaint hinges on causal connection between the claim of the plaintiff in his complaint and a claim for contribution, indemnity or other relief of the defendant against the third-party defendant.<sup>48</sup> In this case, the Castros stand to incur a bad debt to

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<sup>45</sup> Id. at 148.

<sup>46</sup> *Rollo* (G.R. No. 195728), p. 45.

<sup>47</sup> Group Policy, Article IV, Section 20. See id. at 51.

<sup>48</sup> *Asian Construction and Development Corp. v. CA*, 498 Phil. 36 (2005).

the PPSBI – the exact event that is insured against by Group Master Policy No. G-086 – in the event that Paramount succeeds in nullifying Virgilio's Individual Insurance Certificate.

Paramount further argues that the propriety of a third-party complaint rests on whether the possible third-party defendant (in this case PPSBI) can raise the same defenses that the third-party plaintiffs (the Castros) have against the plaintiff. However, the Rules do not limit the third-party defendant's options to such a condition. Thus:

Section 13. *Answer to third (fourth, etc.)-party complaint.* — A third (fourth, etc.)-party defendant may allege in his answer his defenses, counterclaims or cross-claims, including such defenses that the third (fourth, etc.)-party plaintiff may have against the original plaintiff's claim. In proper cases, he may also assert a counterclaim against the original plaintiff in respect of the latter's claim against the third-party plaintiff.<sup>49</sup>

As seen above, the same defenses the third-party plaintiff has against the original plaintiff are just some of the allegations a third-party defendant may raise in its answer. Section 13 even gives the third-party defendant the prerogative to raise a counterclaim against the original plaintiff in respect of the latter's original claim against the defendant/third-party plaintiff.

In *Firestone Tire & Rubber Co. of the Phil. v. Tempongko*,<sup>50</sup> We ruled that a defendant is permitted to bring in a third-party defendant to litigate a separate cause of action in respect of the plaintiff's claim against a third party in the original and principal case. The objective is to avoid circuitry of action and unnecessary proliferation of lawsuits, as well as to expeditiously dispose of the entire subject matter arising from one particular set of facts, in one litigation.

The CA correctly ruled that to admit the Castros' Third-Party Complaint, in which they can assert against the PPSBI an independent claim they would otherwise assert in another action, would prevent multiplicity of suits.<sup>51</sup>

Considering also that the original case from which these present Petitions arose has not yet been resolved, the Court deems it proper to have all the parties air all their possible grievances in the original case still pending with the RTC.

Finally, the Court resolves the legal issues allegedly ignored by the CA, to wit: 1) whether legal grounds exist for the inhibition of Judge Ruiz

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<sup>49</sup> Rule 6, Section 13, Revised Rules of Court.

<sup>50</sup> 137 Phil. 239 (1969).

<sup>51</sup> *Rollo* (G.R. No. 195728), p. 125.

(the presiding judge); and 2) whether the defendants were properly declared as in default for failure to appear at pretrial.

The first issue is unmeritorious. Counsel for the Castros postulates that since six rulings of the judge are being assailed for grave abuse of discretion, the judge should inhibit himself.<sup>52</sup> According to counsel, no judge shall sit in any case if the latter's ruling is subject to review. The Court reminds counsel that the rule contemplates a scenario in which judges are tasked to review their own decisions on appeal, not when their decisions are being appealed to another tribunal.

With regard to the second issue, counsel apparently confuses a declaration of default under Section 3<sup>53</sup> of Rule 9 with the effect of failure to appear under Section 5<sup>54</sup> of Rule 18. Failure to file a responsive pleading within the reglementary period is the sole ground for an order of default under Rule 9.<sup>55</sup> On the other hand, under Rule 18, failure of the defendant to appear at the pre-trial conference results in the plaintiff being allowed to present evidence *ex parte*. The difference is that a declaration of default under Rule 9 allows the Court to proceed to render judgment granting the claimant such relief as his pleading may warrant; while the effect of default under Rule 18 allows the plaintiff to present evidence *ex parte* and for the Court to render judgment on the basis thereof. The lower court may have declared defendants therein *as* in default; however, it did not issue an order of default, rather, it ordered the plaintiff to present evidence *ex parte* in accordance with the Rules. In any case, the Castros could have availed themselves of appropriate legal remedies when the CA failed to resolve the issue, but they did not. They cannot now resurrect the issue through a Comment before this Court.

### **G.R. No. 211329**

As regards G.R. No. 211329, this Court finds that outright denial of the Petition is warranted, pursuant to our ruling in *Rayos v. City of Manila*.<sup>56</sup> In that case, We ruled that an order denying a motion to dismiss is

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<sup>52</sup> *Id.* at 146.

<sup>53</sup> Section 3. *Default; declaration of.* — If the defending party fails to answer within the time allowed therefor, the court shall, upon motion of the claiming party with notice to the defending party, and proof of such failure, declare the defending party in default. Thereupon, the court shall proceed to render judgment granting the claimant such relief as his pleading may warrant, unless the court in its discretion requires the claimant to submit evidence. Such reception of evidence may be delegated to the clerk of court.

xxxx

<sup>54</sup> Section 5. *Effect of failure to appear.* — The failure of the plaintiff to appear when so required pursuant to the next preceding section shall be cause for dismissal of the action. The dismissal shall be with prejudice, unless other-wise ordered by the court. A similar failure on the part of the defendant shall be cause to allow the plaintiff to present his evidence *ex parte* and the court to render judgment on the basis thereof.

<sup>55</sup> *Valentina Rosario v. Alonzo*, 118 Phil. 404 (1963).

<sup>56</sup> G.R. No. 196063, 14 December 2011, 662 SCRA 684.



interlocutory and, hence, not appealable.<sup>57</sup> That ruling was based on Section 1(b), Rule 41 of the Rules of Court, as amended, which provides:

SECTION 1. *Subject of appeal.* - An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

No appeal may be taken from:

x x x x

(b) An interlocutory order;

x x x x

In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65.

In the present case, the RTC's denial of the Motion to Dismiss was an interlocutory order, as it did not finally dispose of the case. On the contrary; the denial paved way for the case to proceed until final adjudication by the trial court.

Upon denial of their Motion to Dismiss, the Castros were not left without any recourse. In such a situation, the aggrieved party's remedy is to file a special civil action for certiorari under Rule 65 of the Rules of Court. However, the aggrieved parties herein resorted to filing a Petition for Review under Rule 45 before this Court. Even if the present Petition is treated as one for certiorari under Rule 65, it must still be dismissed for violation of the principle of hierarchy of courts. This well-settled principle dictates that petitioners should have filed the Petition for Certiorari with the CA, and not directly with this Court.

**WHEREFORE**, premises considered, the Petitions in G.R. Nos. 195728 and 211329 are **DENIED**.

**SO ORDERED.**



**MARIA LOURDES P. A. SERENO**  
Chief Justice, Chairperson

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<sup>57</sup> *Fil-Estate Golf and Development, Inc. v. Navarro*, 553 Phil. 48 (2007), citing *Lu Ym v. Nabua*, 492 Phil. 397 (2005).

WE CONCUR:

*Teresita Leonardo de Castro*  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

*Lucas Bersamin*  
**LUCAS P. BERSAMIN**  
Associate Justice

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

*Alfredo Benjamin S. Caguioa*  
**ALFREDO BENJAMIN S. CAGUIOA**  
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*  
**MARIA LOURDES P. A. SERENO**  
Chief Justice