



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

SPOUSES BILL AND
VICTORIA HING,
Petitioners,

G.R. No. 179736

Present:

- versus-

CARPIO, *Chairperson,*
BRION,
DEL CASTILLO,
PEREZ, *and*
PERLAS-BERNABE, *JJ.*

ALEXANDER CHOACHUY, SR.
and ALLAN CHOACHUY,
Respondents.

Promulgated:

JUN 26 2013 *HC Cabalag/Perfetto*

X - - - - -

DECISION

DEL CASTILLO, *J.:*

“The concept of liberty would be emasculated if it does not likewise compel respect for [one’s] personality as a unique individual whose claim to privacy and [non]-interference demands respect.”¹

This Petition for Review on *Certiorari*² under Rule 45 of the Rules of Court assails the July 10, 2007 Decision³ and the September 11, 2007 Resolution⁴ of the Court of Appeals (CA) in CA-G.R. CEB-SP No. 01473.

Factual Antecedents

On August 23, 2005, petitioner-spouses Bill and Victoria Hing filed with the Regional Trial Court (RTC) of Mandaue City a Complaint⁵ for Injunction and Damages with prayer for issuance of a Writ of Preliminary Mandatory

¹ *Morfe v. Mutuc*, 130 Phil. 415, 434 (1968).

² *Rollo*, pp. 10-33.

³ CA *rollo*, pp. 111-116; penned by Associate Justice Isaias P. Dicdican and concurred in by Associate Justices Antonio L. Villamor and Stephen C. Cruz.

⁴ *Id.* at 128-129.

⁵ Records, pp. 1-8.

Injunction/Temporary Restraining Order (TRO), docketed as Civil Case MAN-5223 and raffled to Branch 28, against respondents Alexander Choachuy, Sr. and Allan Choachuy.

Petitioners alleged that they are the registered owners of a parcel of land (Lot 1900-B) covered by Transfer Certificate of Title (TCT) No. 42817 situated in Barangay Basak, City of Mandaue, Cebu;⁶ that respondents are the owners of Aldo Development & Resources, Inc. (Aldo) located at Lots 1901 and 1900-C, adjacent to the property of petitioners;⁷ that respondents constructed an auto-repair shop building (Aldo Goodyear Servitec) on Lot 1900-C; that in April 2005, Aldo filed a case against petitioners for Injunction and Damages with Writ of Preliminary Injunction/TRO, docketed as Civil Case No. MAN-5125;⁸ that in that case, Aldo claimed that petitioners were constructing a fence without a valid permit and that the said construction would destroy the wall of its building, which is adjacent to petitioners' property;⁹ that the court, in that case, denied Aldo's application for preliminary injunction for failure to substantiate its allegations;¹⁰ that, in order to get evidence to support the said case, respondents on June 13, 2005 illegally set-up and installed on the building of Aldo Goodyear Servitec two video surveillance cameras facing petitioners' property;¹¹ that respondents, through their employees and without the consent of petitioners, also took pictures of petitioners' on-going construction;¹² and that the acts of respondents violate petitioners' right to privacy.¹³ Thus, petitioners prayed that respondents be ordered to remove the video surveillance cameras and enjoined from conducting illegal surveillance.¹⁴

In their Answer with Counterclaim,¹⁵ respondents claimed that they did not install the video surveillance cameras,¹⁶ nor did they order their employees to take pictures of petitioners' construction.¹⁷ They also clarified that they are not the owners of Aldo but are mere stockholders.¹⁸

Ruling of the Regional Trial Court

On October 18, 2005, the RTC issued an Order¹⁹ granting the application

⁶ Id. at 2.

⁷ Id. at 3.

⁸ Id.

⁹ Id.

¹⁰ Id.

¹¹ Id.

¹² Id. at 4.

¹³ Id. at 5.

¹⁴ Id. at 8.

¹⁵ Id. at 23-26.

¹⁶ Id. at 24.

¹⁷ Id. at 25.

¹⁸ Id. at 24.

¹⁹ Id. at 51-56; penned by Judge Marilyn Lagura-Yap.

for a TRO. The dispositive portion of the said Order reads:

WHEREFORE, the application for a [T]emporary [R]estraining [O]rder or a [W]rit of [P]reliminary [I]njunction is granted. Upon the filing and approval of a bond by [petitioners], which the Court sets at ₱50,000.00, let a [W]rit of [P]reliminary [I]njunction issue against the [respondents] Alexander Choachuy, Sr. and Allan Choachuy. They are hereby directed to immediately remove the revolving camera that they installed at the left side of their building overlooking the side of [petitioners'] lot and to transfer and operate it elsewhere at the back where [petitioners'] property can no longer be viewed within a distance of about 2-3 meters from the left corner of Aldo Servitec, facing the road.

IT IS SO ORDERED.²⁰

Respondents moved for a reconsideration²¹ but the RTC denied the same in its Order²² dated February 6, 2006.²³ Thus:

WHEREFORE, the Motion for Reconsideration is hereby DENIED for lack of merit. Issue a [W]rit of [P]reliminary [I]njunction in consonance with the Order dated 18 October 2005.

IT IS SO ORDERED.²⁴

Aggrieved, respondents filed with the CA a Petition for *Certiorari*²⁵ under Rule 65 of the Rules of Court with application for a TRO and/or Writ of Preliminary Injunction.

Ruling of the Court of Appeals

On July 10, 2007, the CA issued its Decision²⁶ granting the Petition for *Certiorari*. The CA ruled that the Writ of Preliminary Injunction was issued with grave abuse of discretion because petitioners failed to show a clear and unmistakable right to an injunctive writ.²⁷ The CA explained that the right to privacy of residence under Article 26(1) of the Civil Code was not violated since the property subject of the controversy is not used as a residence.²⁸ The CA also said that since respondents are not the owners of the building, they could not have installed video surveillance cameras.²⁹ They are mere stockholders of Aldo,

²⁰ Id. at 55-56.

²¹ Id. at 75-79.

²² Id. at 98-99.

²³ Erroneously dated as February 6, 2005.

²⁴ Records, p. 99.

²⁵ CA *rollo*, pp. 2-12.

²⁶ Id. at 111-116.

²⁷ Id. at 113-114.

²⁸ Id. at 114.

²⁹ Id.

which has a separate juridical personality.³⁰ Thus, they are not the proper parties.³¹ The *fallo* reads:

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us **GRANTING** the petition filed in this case. The assailed orders dated October 18, 2005 and February 6, 200[6] issued by the respondent judge are hereby **ANNULLED** and **SET ASIDE**.

SO ORDERED.³²

Issues

Hence, this recourse by petitioners arguing that:

I.

THE X X X [CA] COMMITTED A REVERSIBLE ERROR WHEN IT ANNULLED AND SET ASIDE THE ORDERS OF THE [RTC] DATED 18 OCTOBER 2005 AND 6 FEBRUARY 2006 HOLDING THAT THEY WERE ISSUED WITH GRAVE ABUSE OF DISCRETION.

II.

THE X X X [CA] COMMITTED A REVERSIBLE ERROR WHEN IT RULED THAT PETITIONER SPOUSES HING ARE NOT ENTITLED TO THE WRIT OF PRELIMINARY INJUNCTION ON THE GROUND THAT THERE IS NO VIOLATION OF THEIR CONSTITUTIONAL AND CIVIL RIGHT TO PRIVACY DESPITE THE FACTUAL FINDINGS [OF] THE RTC, WHICH RESPONDENTS CHOACHUY FAILED TO REFUTE, THAT THE ILLEGALLY INSTALLED SURVEILLANCE CAMERAS OF RESPONDENTS CHOACH[U]Y WOULD CAPTURE THE PRIVATE ACTIVITIES OF PETITIONER SPOUSES HING, THEIR CHILDREN AND EMPLOYEES.

III.

THE X X X [CA] COMMITTED A REVERSIBLE ERROR WHEN IT RULED THAT SINCE THE OWNER OF THE BUILDING IS ALDO DEVELOPMENT AND RESOURCES, INC. THEN TO SUE RESPONDENTS CHOACHUY CONSTITUTE[S] A PURPORTEDLY UNWARRANTED PIERCING OF THE CORPORATE VEIL.

IV.

THE X X X [CA] COMMITTED A REVERSIBLE ERROR WHEN IT IGNORED THE SERIOUS FORMAL DEFICIENCIES OF BOTH THE PETITION AND THE MOTION FOR RECONSIDERATION DATED 15 MARCH 2006 OF RESPONDENT[S] CHOACH[U]Y AND GAVE X X X THEM DUE COURSE AND CONSIDERATION.³³

³⁰ Id. at 115.

³¹ Id.

³² Id. at 116. Emphases in the original.

³³ *Rollo*, pp. 20-21.

Essentially, the issues boil down to (1) whether there is a violation of petitioners' right to privacy, and (2) whether respondents are the proper parties to this suit.

Petitioners' Arguments

Petitioners insist that they are entitled to the issuance of a Writ of Preliminary Injunction because respondents' installation of a stationary camera directly facing petitioners' property and a revolving camera covering a significant portion of the same property constitutes a violation of petitioners' right to privacy.³⁴ Petitioners cite Article 26(1) of the Civil Code, which enjoins persons from prying into the private lives of others.³⁵ Although the said provision pertains to the privacy of another's residence, petitioners opine that it includes business offices, citing Professor Arturo M. Tolentino.³⁶ Thus, even assuming *arguendo* that petitioners' property is used for business, it is still covered by the said provision.³⁷

As to whether respondents are the proper parties to implead in this case, petitioners claim that respondents and Aldo are one and the same, and that respondents only want to hide behind Aldo's corporate fiction.³⁸ They point out that if respondents are not the real owners of the building, where the video surveillance cameras were installed, then they had no business consenting to the ocular inspection conducted by the court.³⁹

Respondents' Arguments

Respondents, on the other hand, echo the ruling of the CA that petitioners cannot invoke their right to privacy since the property involved is not used as a residence.⁴⁰ Respondents maintain that they had nothing to do with the installation of the video surveillance cameras as these were installed by Aldo, the registered owner of the building,⁴¹ as additional security for its building.⁴² Hence, they were wrongfully impleaded in this case.⁴³

³⁴ Id. at 173-176.

³⁵ Id. at 172.

³⁶ Id. at 174-175.

³⁷ Id.

³⁸ Id. at 27.

³⁹ Id.

⁴⁰ Id. at 153-154.

⁴¹ Id. at 152.

⁴² Id. at 154.

⁴³ Id. at 152.

Our Ruling

The Petition is meritorious.

The right to privacy is the right to be let alone.

The right to privacy is enshrined in our Constitution⁴⁴ and in our laws. It is defined as “the right to be free from unwarranted exploitation of one’s person or from intrusion into one’s private activities in such a way as to cause humiliation to a person’s ordinary sensibilities.”⁴⁵ It is the right of an individual “to be free from unwarranted publicity, or to live without unwarranted interference by the public in matters in which the public is not necessarily concerned.”⁴⁶ Simply put, the right to privacy is “the right to be let alone.”⁴⁷

The Bill of Rights guarantees the people’s right to privacy and protects them against the State’s abuse of power. In this regard, the State recognizes the right of the people to be secure in their houses. No one, not even the State, except “in case of overriding social need and then only under the stringent procedural safeguards,” can disturb them in the privacy of their homes.⁴⁸

The right to privacy under Article 26(1) of the Civil Code covers business offices where the public are excluded therefrom and only certain individuals are allowed to enter.

Article 26(1) of the Civil Code, on the other hand, protects an individual’s right to privacy and provides a legal remedy against abuses that may be committed against him by other individuals. It states:

Art. 26. Every person shall respect the dignity, personality, privacy and peace of mind of his neighbors and other persons. The following and similar

⁴⁴ Section 2, Article III of the Constitution provides:

Section 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

⁴⁵ *Social Justice Society (SJS) v. Dangerous Drugs Board*, G.R. Nos. 157870, 158633 & 161658, November 3, 2008, 570 SCRA 410, 431.

⁴⁶ Tolentino, Arturo M., *Commentaries and Jurisprudence on the Civil Code of the Philippines*, 1990 Edition, Volume I, p. 108.

⁴⁷ *Ople v. Torres*, 354 Phil. 948, 970 (1998).

⁴⁸ *Sony Music Entertainment (Phils.), Inc. v. Judge Español*, 493 Phil. 507, 516 (2005), citing *Villanueva v. Querubin*, 150-C Phil. 519, 525 (1972).

acts, though they may not constitute a criminal offense, shall produce a cause of action for damages, prevention and other relief:

(1) Prying into the privacy of another's residence;

x x x x

This provision recognizes that a man's house is his castle, where his right to privacy cannot be denied or even restricted by others. It includes "any act of intrusion into, peeping or peering inquisitively into the residence of another without the consent of the latter."⁴⁹ The phrase "prying into the privacy of another's residence," however, does not mean that only the residence is entitled to privacy. As elucidated by Civil law expert Arturo M. Tolentino:

Our Code specifically mentions "prying into the privacy of another's residence." This does not mean, however, that only the residence is entitled to privacy, because the law covers also "similar acts." **A business office is entitled to the same privacy when the public is excluded therefrom and only such individuals as are allowed to enter may come in.** x x x⁵⁰ (Emphasis supplied)

Thus, an individual's right to privacy under Article 26(1) of the Civil Code should not be confined to his house or residence as it may extend to places where he has the right to exclude the public or deny them access. The phrase "prying into the privacy of another's residence," therefore, covers places, locations, or even situations which an individual considers as private. And as long as his right is recognized by society, other individuals may not infringe on his right to privacy. The CA, therefore, erred in limiting the application of Article 26(1) of the Civil Code only to residences.

The "reasonable expectation of privacy" test is used to determine whether there is a violation of the right to privacy.

In ascertaining whether there is a violation of the right to privacy, courts use the "reasonable expectation of privacy" test. This test determines whether a person has a reasonable expectation of privacy and whether the expectation has been violated.⁵¹ In *Ople v. Torres*,⁵² we enunciated that "the reasonableness of a person's expectation of privacy depends on a two-part test: (1) whether, by his conduct, the individual has exhibited an expectation of privacy; and (2) this expectation is one that society recognizes as reasonable." Customs, community

⁴⁹ Pineda, Ernesto L., *Torts and Damages* (Annotated), 2004 Edition, p. 279.

⁵⁰ Supra note 46 at 110.

⁵¹ *In the Matter of the Petition for Issuance of Writ of Habeas Corpus of Sabio v. Senator Gordon*, 535 Phil. 687, 715 (2006).

⁵² Supra note 47 at 980.

norms, and practices may, therefore, limit or extend an individual's "reasonable expectation of privacy."⁵³ Hence, the reasonableness of a person's expectation of privacy must be determined on a case-to-case basis since it depends on the factual circumstances surrounding the case.⁵⁴

In this day and age, video surveillance cameras are installed practically everywhere for the protection and safety of everyone. The installation of these cameras, however, should not cover places where there is reasonable expectation of privacy, unless the consent of the individual, whose right to privacy would be affected, was obtained. Nor should these cameras be used to pry into the privacy of another's residence or business office as it would be no different from eavesdropping, which is a crime under Republic Act No. 4200 or the Anti-Wiretapping Law.

In this case, the RTC, in granting the application for Preliminary Injunction, ruled that:

After careful consideration, there is basis to grant the application for a temporary restraining order. The operation by [respondents] of a revolving camera, even if it were mounted on their building, violated the right of privacy of [petitioners], who are the owners of the adjacent lot. The camera does not only focus on [respondents'] property or the roof of the factory at the back (Aldo Development and Resources, Inc.) but it actually spans through a good portion of [the] land of [petitioners].

Based on the ocular inspection, the Court understands why [petitioner] Hing was so unyielding in asserting that the revolving camera was set up deliberately to monitor the on[-]going construction in his property. The monitor showed only a portion of the roof of the factory of [Aldo]. If the purpose of [respondents] in setting up a camera at the back is to secure the building and factory premises, then the camera should revolve only towards their properties at the back. [Respondents'] camera cannot be made to extend the view to [petitioners'] lot. To allow the [respondents] to do that over the objection of the [petitioners] would violate the right of [petitioners] as property owners. "The owner of a thing cannot make use thereof in such a manner as to injure the rights of a third person."⁵⁵

The RTC, thus, considered that petitioners have a "reasonable expectation of privacy" in their property, whether they use it as a business office or as a residence and that the installation of video surveillance cameras directly facing petitioners' property or covering a significant portion thereof, without their consent, is a clear violation of their right to privacy. As we see then, the issuance of a preliminary injunction was justified. We need not belabor that the issuance of a preliminary injunction is discretionary on the part of the court taking cognizance

⁵³ Id. at 981.

⁵⁴ Id. at 980.

⁵⁵ Records, p. 55.

of the case and should not be interfered with, unless there is grave abuse of discretion committed by the court.⁵⁶ Here, there is no indication of any grave abuse of discretion. Hence, the CA erred in finding that petitioners are not entitled to an injunctive writ.

This brings us to the next question: whether respondents are the proper parties to this suit.

A real party defendant is one who has a correlative legal obligation to redress a wrong done to the plaintiff by reason of the defendant's act or omission which had violated the legal right of the former.

Section 2, Rule 3 of the Rules of Court provides:

SEC. 2. *Parties-in-interest.* — A real party-in-interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party-in-interest.

A real party defendant is “one who has a correlative legal obligation to redress a wrong done to the plaintiff by reason of the defendant’s act or omission which had violated the legal right of the former.”⁵⁷

In ruling that respondents are not the proper parties, the CA reasoned that since they do not own the building, they could not have installed the video surveillance cameras.⁵⁸ Such reasoning, however, is erroneous. The fact that respondents are not the registered owners of the building does not automatically mean that they did not cause the installation of the video surveillance cameras.

In their Complaint, petitioners claimed that respondents installed the video surveillance cameras in order to fish for evidence, which could be used against petitioners in another case.⁵⁹ During the hearing of the application for Preliminary Injunction, petitioner Bill testified that when respondents installed the video surveillance cameras, he immediately broached his concerns but they did not seem to care,⁶⁰ and thus, he reported the matter to the barangay for mediation, and

⁵⁶ *Overseas Workers Welfare Administration v. Chavez*, G.R. No. 169802, June 8, 2007, 524 SCRA 451, 471.

⁵⁷ *Reyes v. Enriquez*, G.R. No. 162956, April 10, 2008, 551 SCRA 86, 92.

⁵⁸ CA rollo, pp. 114-115.

⁵⁹ Records, p. 3

⁶⁰ Id. at 54.

eventually, filed a Complaint against respondents before the RTC.⁶¹ He also admitted that as early as 1998 there has already been a dispute between his family and the Choachuy family concerning the boundaries of their respective properties.⁶² With these factual circumstances in mind, we believe that respondents are the proper parties to be impleaded.

Moreover, although Aldo has a juridical personality separate and distinct from its stockholders, records show that it is a family-owned corporation managed by the Choachuy family.⁶³

Also quite telling is the fact that respondents, notwithstanding their claim that they are not owners of the building, allowed the court to enter the compound of Aldo and conduct an ocular inspection. The counsel for respondents even toured Judge Marilyn Lagura-Yap inside the building and answered all her questions regarding the set-up and installation of the video surveillance cameras.⁶⁴ And when respondents moved for reconsideration of the Order dated October 18, 2005 of the RTC, one of the arguments they raised is that Aldo would suffer damages if the video surveillance cameras are removed and transferred.⁶⁵ Noticeably, in these instances, the personalities of respondents and Aldo seem to merge.

All these taken together lead us to the inevitable conclusion that respondents are merely using the corporate fiction of Aldo as a shield to protect themselves from this suit. In view of the foregoing, we find that respondents are the proper parties to this suit.

WHEREFORE, the Petition is hereby **GRANTED**. The Decision dated July 10, 2007 and the Resolution dated September 11, 2007 of the Court of Appeals in CA-G.R. CEB-SP No. 01473 are hereby **REVERSED** and **SET ASIDE**. The Orders dated October 18, 2005 and February 6, 200[6] of Branch 28 of the Regional Trial Court of Mandaue City in Civil Case No. MAN-5223 are hereby **REINSTATED** and **AFFIRMED**.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

⁶¹ Id. at 52.

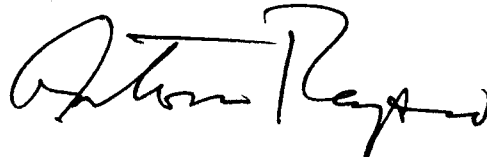
⁶² Id. at 53-55.

⁶³ Id. at 80-91.

⁶⁴ Id. at 58-71.

⁶⁵ Id. at 71.

WE CONCUR:



ANTONIO T. CARPIO

Associate Justice

Chairperson



ARTURO D. BRION

Associate Justice



JOSE PORTUGAL PEREZ

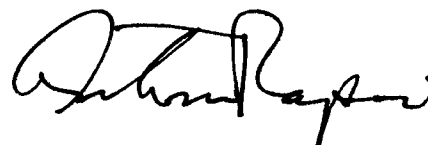
Associate Justice



ESTELA M. PERLAS-BERNABE
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.



ANTONIO T. CARPIO

Associate Justice

Chairperson



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

