



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEDRO LUKANG,

Petitioner,

G.R. No. 195374

Present:

- versus -

VELASCO, JR., *J.*, Chairperson,
PERALTA,
ABAD,
MENDOZA, and
LEONEN, *JJ.*

PAGBILAO DEVELOPMENT
CORPORATION and
EDUARDO T. RODRIGUEZ,

Respondents.

Promulgated:

March 10, 2014

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DECISION

MENDOZA, *J.*:

This petition for review under Rule 45 of the Rules of Court assails the October 21, 2010 Decision¹ and the January 19, 2011 Resolution² of the Court of Appeals (CA) in CA-G.R. SP No. 108809, which nullified and set aside the May 13, 2008 Order³ of the Regional Trial Court (RTC), Branch 53, Lucena City, granting the petitioner's application for a writ of preliminary injunction.

The Facts:

The patriarch of the family, Arsenio Lukang (*Arsenio*), and Mercedes Dee (*Mercedes*) lived as husband and wife in Calamba, Laguna, from 1922 to 1934 and begot three (3) children, namely, Domingo, Rosalina and Olympia.

¹ *Rollo*, pp. 18-195. Penned by Associate Justice Ramon M. Bato, Jr. and concurred in by Associate Justice Juan Q. Enriquez, Jr. and Associate Justice Florito S. Macalino.

² *Id.* at 196-197.

³ *Id.* at 288-293.

In 1935, he started cohabiting with Leoncia Martinez (*Leoncia*), with whom he had ten (10) children, namely, Elpidio, Socorro, Manuel, Pedro, Teresita, Simeon, Eugenio, Hilaria, Concepcion, and Carlos.

During their cohabitation in Lucena, Quezon, they acquired several real properties located in Pagbilao, Quezon, to wit:

- (a) Transfer Certificate of Title (*TCT*) Nos. T-44547⁴ with an area of 257,967 square meters;
- (b) TCT No. T-44548⁵ with an area of 40,000 square meters;
- (c) TCT No. T-44549⁶ with an area of 5.0078 hectares; and
- (d) TCT No. T-44550⁷ consisting of 5.0803 hectares.

The said properties were then registered in the name of “ARSENIO LUKANG, married to Mercedes Dee, ½ share and Leoncia Martinez, single, ½ share.”

Arsenio and Leoncia later acquired four (4) more parcels of land covered by TCT No. T-103094, TCT No. T- 101425, TCT No. T-125349, and TCT No. T-125348. It was allegedly agreed that the said properties should be registered in the name of Simeon, one of their children, in trust for the other heirs and should be owned in common by their family.

When Arsenio died in 1976, his 13 children and Mercedes, executed the Extrajudicial Settlement of Estate,⁸ in which they agreed to adjudicate and transfer among themselves the rights, interest and ownership of the four (4) parcels of land covered by TCT Nos. T-44547, T-44548, T-44549, and T-44550. There was, however, no agreement to partition the properties as they remained common to all the heirs.

Years later, after the execution of the Extrajudicial Settlement of Estate, Mercedes, together with her three (3) children, Rosalina, Domingo, and Olympia, executed another document, denominated as *Pagbabahaging Labas sa Hukuman Na May Pagtalikod sa Karapatan*,⁹ dated December 19, 1987, wherein the parties declared that they were the only heirs of Arsenio and partitioned the half portion of the four (4) parcels of land covered by

⁴ Id. at 204.

⁵ Id. at 205.

⁶ Id. at 206.

⁷ Id. at 207.

⁸ Id. at 208-211.

⁹ Id. at 64-66.

TCT Nos. T-44547, T-44548, T-44549, and T-44550 among themselves, with Mercedes waiving her supposed share in favor of her three (3) children.

In 1988, Simeon, alleging that the certificates of title of the properties covered by TCT Nos. T-103094, T-101425, T-125349, and T-125348 were lost, filed a petition for the issuance of the owner's duplicate copy before the RTC, Branch 57, Lucena City. As a result, new owner's duplicate copies of the allegedly lost titles were issued in his favor. Thereafter, Simeon, in a deed of donation, transferred the said properties in favor of his children, Benedict, Heile and Madeleine. Consequently, TCT Nos. T-103094, T-125348 and T-125349 were cancelled, and TCT No. T-241034 was issued in the name of Benedict; TCT No. 241035 in the name of Heile; and TCT No. 241036 in the name of Madeleine.¹⁰ Furthermore, Simeon purportedly executed the *Bilihang Lampasan and Pagbibilihang Lubusan*, where he sold the land covered by TCT No. 101425 in favor of Mercedes, Rosalina, Leoncia, and Elpidio.

In the meantime, on February 15, 1989, Mercedes, through Rosalinda, filed the Petition for the Issuance of the Owner's Duplicate of TCT Nos. T-44547, T-44548, T-44549 and T-44550¹¹ before the RTC, Branch 58, Lucena City. The RTC, in its Order,¹² dated March 27, 1989, granted the petition and new titles were issued in favor of Mercedes. Unknown to Leoncia, Rosalina caused the segregation of the one-half portion of the said properties in her (Leoncia's) favor and the division of the remaining half among her and her siblings, Domingo and Olympia. Hence, TCT Nos. T-44547, T-44548, T-44549, and T-44550 were cancelled and new titles were issued: TCT Nos. T-247219,¹³ T-247221,¹⁴ T-247223,¹⁵ and T-247225¹⁶ in the names of Rosalina, Domingo and Olympia, while TCT Nos. T-247220,¹⁷ T-247222,¹⁸ T-247224,¹⁹ and T-247226²⁰ were registered in the name of Leoncia.

On September 26, 1990, Leoncia and her children, claiming that the titles of TCT Nos. T-44547, T-44548, T-44549, and T-44550 were not lost but in her (Leoncia's) possession, filed a complaint²¹ for annulment of extrajudicial partition, affidavit of segregation and annulment of the new certificates of title, which was docketed as Civil Case No. 90-124. The said case was consolidated with Civil Case No. 89-79, a case for recovery of four

¹⁰ Petition, id. at 153.

¹¹ Id. at 230-233.

¹² Id. at 243-247.

¹³ Id. at 222.

¹⁴ Id. at 223.

¹⁵ Id. at 224.

¹⁶ Id. at 225.

¹⁷ Id. at 226.

¹⁸ Id. at 227.

¹⁹ Id. at 228.

²⁰ Id. at 229.

²¹ Id. at 198-202.

(4) owner's duplicate copy of TCTs filed by Simeon against his brother Pedro. The cases were raffled to RTC, Branch 53, Lucena City.

Subsequently, Leoncia, through Pedro, registered her adverse claim on February 3, 1989 on TCT Nos. T-241034, T-242429, TCT No. T-241036, T-241035, and T-242427 as Entry No. 530545. He further caused the annotation of a notice of lis pendens on TCT No. T-247221 as Entry No. 556192 on October 1, 1990, and on TCT Nos. T-241034, T-242429, TCT No. T-241036, T-241035, and T-242427 as Entry No. 538916 on November 6, 1989.

In 1993, while Civil Case No. 89-79 and Civil Case No. 90-124 were still pending, respondent Pagbilao Development Corporation (*PDC*) purchased from Simeon, Mercedes and Rosalina the six (6) properties which were the subject of the two cases. Thus, TCT Nos. T-241034, T-242429, T-241036, T-241035, T-247221, and T-242427 were cancelled and new titles, TCT Nos. T-282100,²² T-282101,²³ T-282102,²⁴ T-282103,²⁵ T-282104,²⁶ and T-282105²⁷ were issued in favor of PDC. Accordingly, the annotations were carried over to PDC's titles.

When Pedro and the other heirs learned of the sale of the subject properties to PDC, they filed a motion to require Simeon and Rosalina to explain why they sold the properties without permission from the RTC.²⁸ On April 23, 2008, they also filed an application for a writ of preliminary injunction with *ex-parte* prayer for temporary restraining order (*TRO*).²⁹ They alleged that they were in actual and physical possession of the subject properties; and that PDC entered into the said premises, destroyed some structures therein and started to construct improvements on the properties without their consent.

In its Order, dated April 23, 2008, the RTC³⁰ granted the issuance of the TRO effective for a period of twenty (20) days.

On May 13, 2008, after due hearing, the RTC issued the Order³¹ granting the application for writ of preliminary injunction by which it restrained PDC from wresting possession of the subject properties and ordering the movant, Pedro, to file a bond.

²² Id. at 248.

²³ Id. at 249.

²⁴ Id. at 250.

²⁵ Id. at 251.

²⁶ Id. at 252.

²⁷ Id. at 253.

²⁸ Id. at 267-270 and 272-275.

²⁹ Id. at 279-281.

³⁰ Id. at 285-286.

³¹ Id. at 288-292.

PDC filed a motion for reconsideration but it was denied in the RTC Order,³² dated March 18, 2009.

On May 29, 2009, Pedro posted a bond in the amount of One Million Pesos (**₱1,000,000.000**).³³

PDC filed a petition for *certiorari* before the CA assailing the issuance of the writ of preliminary injunction. The CA, in its Decision, dated October 21, 2010, granted the petition and set aside the May 13, 2008 and March 18, 2009 Orders of the RTC. The CA explained that Pedro's right over the said properties was not clear as it was contingent on the outcome or result of the cases pending before the RTC; that it was not a present right but a contingent or future right which was not covered by injunction; and that there was no paramount necessity because there would be no great and irreparable injury. Moreover, PDC, as the registered owner of the said properties, had the right to enjoy the same as provided under Articles 428 and 429 of the Civil Code.

Pedro filed a motion for reconsideration but it was denied in the CA Resolution, dated January 19, 2011. Hence, this petition, anchored on the following

ISSUES

I

THE COURT OF APPEALS ERRED IN CONSISTENTLY TURNING AWAY FROM THE ISSUE OF RESPONDENT PAGBILAO'S STATUS AS A TRANSFEREE PENDENTE LITE WHEN THAT IS THE MAIN ISSUE IN THE FIRST PLACE

II

THE COURT OF APPEALS ERRED IN RULING THAT PAGBILAO AS REGISTERED OWNER OF THE SUBJECT PROPERTIES HAVE THE RIGHT TO ENJOY AND EXCLUDE OTHER PERSONS FROM THE ENJOYMENT THEREOF

III

THE COURT OF APPEALS ERRED IN RULING THAT THE TRIAL COURT PRE-JUDGED THE MAIN CASE AND SHIFTED THE BURDEN OF PROOF ON THE HEIRS OF SIMEON LUKANG

³² Id. at 297-300.

³³ Id. at 294-295.

IV

**THE COURT OF APPEALS ERRED IN RULING THAT NON-
ISSUANCE OF THE INJUNCTIVE RELIEF IS NOT OF
PARAMOUNT NECESSITY NOR WILL IT CAUSE GREAT AND
IRREPARABLE INJURY TO PEDRO LUKANG**

V

**THE COURT OF APPEALS ERRED IN HOLDING THAT THE
TRIAL COURT COMMITTED GRAVE ABUSE OF DISCRETION
IN NOT FIXING THE BOND.**

Synthesized, the issues boil down to the question of whether or not the RTC committed grave abuse of discretion when it issued the May 13, 2008 Order granting the writ of preliminary injunction.

A writ of preliminary injunction is a provisional remedy which is adjunct to a main suit, as well as a preservative remedy issued to maintain the *status quo* of the things subject of the action or the relations between the parties during the pendency of the suit.³⁴ The purpose of injunction is to prevent threatened or continuous irremediable injury to the parties before their claims can be thoroughly studied and educated. Its sole aim is to preserve the *status quo* until the merits of the case are fully heard.³⁵ Under Section 3, Rule 58 of the Rules of Court, an application for a writ of preliminary injunction may be granted if the following grounds are established:

- (a) That the applicant is entitled to the relief demanded, and the whole or part of such relief consists in restraining the commission or continuance of the act or acts complained of, or in requiring the performance of an act or acts, either for a limited period or perpetually;
- (b) That the commission, continuance or non-performance of the act or acts complained of during the litigation would probably work injustice to the applicant; or
- (c) That a party, court, agency or a person is doing, threatening, or is attempting to do, or is procuring or suffering to be done, some act or acts probably in violation of the rights of the applicant respecting the subject of the action or proceeding, and tending to render the judgment ineffectual.

³⁴ *Orocio v. Anguluan*, G.R. Nos. 179892-93, January 30, 2009, 577 SCRA 531, 547.

³⁵ *Bank of the Philippine Islands v. Santiago*, 548 Phil. 314, 329 (2007).

Thus, a writ of preliminary injunction may be issued upon the concurrence of the following essential requisites, to wit: (a) the invasion of right sought to be protected is material and substantial; (b) the right of the complainant is clear and unmistakable; and (c) there is an urgent and paramount necessity for the writ to prevent serious damage.³⁶ While a clear showing of the right is necessary, its existence need not be conclusively established. Hence, to be entitled to the writ, it is sufficient that the complainant shows that he has an ostensible right to the final relief prayed for in his complaint.³⁷

The well-entrenched rule is that the grant or denial of the writ of preliminary injunction rests upon the sound discretion of the court. The trial court is given a wide latitude in this regard. Thus, in the absence of a manifest abuse, such discretion must not be interfered with.³⁸ “Grave abuse of discretion in the issuance of writs of preliminary injunction implies a capricious and whimsical exercise of judgment that is equivalent to lack of jurisdiction, or where the power is exercised in an arbitrary or despotic manner by reason of passion, prejudice or personal aversion amounting to an evasion of positive duty or to a virtual refusal to perform the duty enjoined, or to act at all in contemplation of law.”³⁹

In the present case, the Court finds the RTC grant of injunction to be in order. The pertinent parts of its order read:

It is to be emphasized that the deeds of sale between the vendors of the six parcels of land and the Pagbilao Development Corporation were executed on June 1, 1993. The Affidavit of Adverse Claim of Leoncia Martinez Vda. De Lukang and the Notice of Lis Pendens of Pedro Lukang over the six properties were all inscribed on February 3, 1989.

There is no question, therefore, that when the Pagbilao Development Corporation bought the properties from the vendors, it had full knowledge that there were questions involving ownership of the parcels of land it bought.

Likewise there is no question that Pagbilao Development Corporation did not take any step to have the annotation or encumbrance in each title cancelled. [Emphases supplied]

³⁶ *Almeida v. Court of Appeals*, 489 Phil. 648, 662-663 (2005).

³⁷ *Borromeo v. Court of Appeals*, 573 Phil. 400, 411 (2008).

³⁸ *Land Bank of the Philippines v. Continental Watchman Agency Incorporated*, 465 Phil. 607, 618 (2004).

³⁹ *Dela Rosa v. Valdez*, G.R. No. 159101, July 27, 2011, 654 SCRA 467, 480.

The annotation of an adverse claim and notice of *lis pendens* over the subject properties is a notice to third persons that there is a controversy over the ownership of the land and serves to preserve and protect the right of the adverse claimants during the pendency of the controversy.⁴⁰ The principle of filing a notice of *lis pendens* is based on public policy and necessity, the purpose of which is to keep the properties in litigation within the power of the court until the litigation is terminated in order to prevent the defeat of the judgment by subsequent alienation; and in order to bind a purchaser, *bona fide* or otherwise, to the judgment that the court would subsequently promulgate. It serves as an announcement to the whole world that a particular real property is in litigation and as a **warning that those who acquire an interest in the property do so at their own risk -- they gamble on the result of the litigation over it.**⁴¹

Here, it must be noted that the annotations of adverse claim and *lis pendens* have been inscribed in the certificates of titles on the following dates February 3, 1989, November 6, 1989 and October 1, 1990, more than three (3) years before PDC bought the subject properties in 1993. It would have been different if the adverse claims and *lis pendens* were not annotated in the titles. With PDC having been officially aware of them, there can be no grave abuse of discretion that can be attributed to the RTC for issuing the writ of preliminary injunction. There is no question that when PDC purchased the property, the petitioner and other intervenors were in **actual possession** of the property and their **claims adverse** to its predecessors-in-interest were **annotated** in the very titles of the properties. In fact, these annotations were **carried over** to PDC's title. **PDC cannot invoke its being the registered owner to dispossess the present possessors for, precisely, when it brought the properties, it was charged with the knowledge that the ownership and sale of the subject properties by its predecessors-in-interest have been questioned by their co-heirs.** Inevitably, PDC is deemed to have obtained the properties subject to the outcome of the litigation among the heirs of Arsenio.

During the hearing, Pedro and the other heirs were able to convince the RTC that they had a right over the properties which should be protected while being litigated. Convinced, the RTC made a preliminary determination that their right should be protected by a writ of preliminary injunction. Their claimed ownership and actual possession were then being violated by PDC which had started entering the premises and preparing the property for the construction of a power plant for liquefied natural gas. Unless legally stopped, such act would indeed cause irreparable damage to the petitioner and other claimants. As claimed co-owners, the petitioner and the other heirs have the right to remain in possession of the subject properties *pendente lite*. The legal or practical remedy of PDC, who gambled

⁴⁰ *Los Baños Rural Bank, Inc. v. Africa*, 433 Phil. 930, 944 (2002).

⁴¹ *Romero v. Court of Appeals*, 497 Phil. 775, 784-785 (2005); and *J. Casim Construction Supplies, Inc. v. Registrar of Deeds of Las Piñas*, G.R. No. 168655, July 2, 2010, 622 SCRA 715, 723-724.

its lot in purchasing the properties despite the annotations, is to await the final outcome of the cases or to amicably settle its problems with all the co-owners, co-heirs or claimants.

With regard to the issue of the injunctive bond, the Court has time and again ruled that the posting of the bond is a condition *sine qua non* before a writ of preliminary injunction may issue.⁴² Its purpose is to secure the person enjoined against any damage that he may sustain in case the court should finally decide that the applicant was not entitled thereto.⁴³ The rule, does not mean, however, that the injunction maybe disregarded since it becomes effective only after the bond is actually filed in court.⁴⁴ In fact, in the case of *Consolidated Workers Union v. Court of Industrial Relations*,⁴⁵ the Court declared that it was erroneous for the labor court not to require the party to file a bond. Yet, the Court did not annul the writ of injunction but instead ordered the said court to determine the appropriate amount of bond to be posted by the party.

In fine, it is erroneous for the CA to rule that the RTC committed grave abuse of discretion simply because it failed to fix the amount of the bond. This error caused “no substantial prejudice” that would warrant the quashal of the writ of injunction.⁴⁶ As a matter of fact, Pedro posted a bond in the amount of One Million Pesos (₱1,000,000.00), the sufficiency or insufficiency of which was never questioned by PDC before the RTC. Hence, the Court will not discuss the sufficiency of the bond not only because the issue was not raised before the RTC but also it involves a question of fact.

WHEREFORE, the petition is **GRANTED**. The assailed October 21, 2010 Decision and the January 19, 2011 Resolution of the Court of Appeals in CA-G.R. SP No. 108809 are hereby **REVERSED** and **SET ASIDE**. The May 13, 2008 Order of the Regional Trial Court, Branch 53, Lucena City, in Civil Case No. 89-79 and Civil Case No. 90-124 ordering the issuance of a Writ of Preliminary Injunction, is hereby ordered **REINSTATED**.

SO ORDERED.


JOSE CATRAL MENDOZA
Associate Justice

⁴² *San Miguel v. Ilbinias*, L-48210, 212 Phil. 291, 297 (1984).


⁴³ *Manila Electric Company v. Navarro-Domingo*, 526 Phil. 325, 334 (2006).

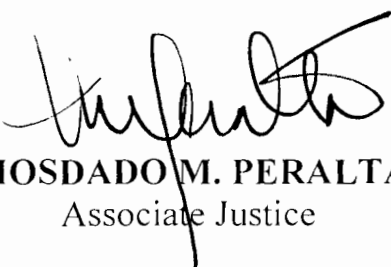
⁴⁴ *Active Wood Products, Inc. v. Intermediate Appellate Court*, 262 Phil. 732, 739 (1990).


⁴⁵ 137 Phil. 260, 267 (1969).

⁴⁶ *Id.*

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

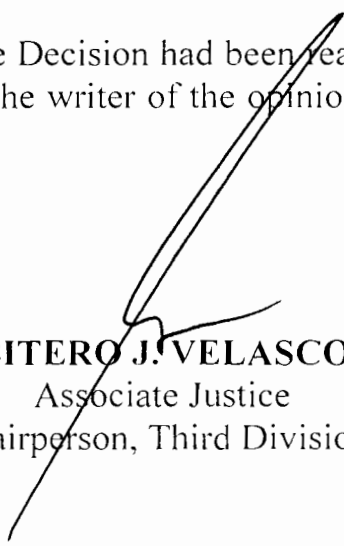

DIOSDADO M. PERALTA
Associate Justice


ROBERTO A. ABAD
Associate Justice


MARVIC MARIO VICTOR F. LEONEN
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.


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third 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 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