

MARIA LEONORA DAVID-FUJI, PETITIONER, VS. HON. MA. ANGELICA T. PARAS-QUIAMBAO, IN HER CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, BRANCH 59, ANGELES CITY, PAMPANGA ...

Ponente: DICDICAN, J.

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DICDICAN, J.:

The sole objective of a writ of preliminary injunction is to preserve the status quo until the merits of the case could be heard fully. A writ of preliminary injunction is generally based solely on initial and incomplete evidence[1]. The issuance of a preliminary injunction rests entirely on the discretion of the court and is generally not interfered with except in cases of manifest abuse[2].

Before us is a Petition for Certiorari[3] filed by the petitioner Maria Leonora David-Fuji (“petitioner”) pursuant to Rule 65 of the 1997 Revised Rules of Court seeking to annul and set aside the Order[4] that was issued by Judge Bernardita Gabitan-Erum of Branch 61 of the Regional Trial Court of the Third Judicial Region in Angeles City, Pampanga (“trial court”) on March 24, 2014 in Civil Case No. 14875 which granted the prayer for issuance of a writ of a preliminary mandatory injunction against the petitioner. Likewise assailed in the instant petition is the Resolution[5] of the public respondent Judge Ma. Angelica Paras-Quiambao dated August 26, 2014 which denied the petitioner's motion for reconsideration of the assailed March 24, 2014 order.

The material and relevant facts of the case, as culled from the record, are as follows:

The instant case arose from a Petition for reduction of donation with prayer for preliminary mandatory injunction pendente lite and damages[6] that was filed by Ramon Q. Buan, (hereinafter referred to as the private respondent) which was docketed as Civil Case No. 14875 in the lower court. The private respondent alleged, among others, that he was previously married to the petitioner Maria Leonora David-Fuji and that they have two (2) children, namely, Nikkolai D. Buan (“Nikkolai”) and Jasmin D. Buan (“Jasmin”). Their marriage was however declared as null and void later on the ground of psychological incapacity on the part of the respondent by Branch 67 of the RTC of the Third Judicial Region in its Decision[7] rendered on January 16, 2009 in Civil Case No. 297-08. The court that declared their marriage as void ab initio awarded the custody of their children to the petitioner and declared that there were no properties to be liquidated and distributed between them. The private respondent, however, stated in his petition in Civil Case No. 14875 that they actually have properties acquired during the marriage but he no longer raised any protest on the said pronouncement of the court in Civil Case No. 297-08.

The private respondent further averred in his petition that, sometime in the year 2010, the petitioner convinced him to transfer their conjugal properties to their children. Consequently, on December 27, 2010, the private respondent and the petitioner executed a deed of donation of their properties in favor of their two children. In the said deed of donation, Nikkolai received the parcels of land covered by TCT Nos. 139648 and 139649, where their family home was situated. The land also included other improvements, such as a small apartment unit, a boarding house and Generation 2000 Gym (“Gym”). On the other hand, their daughter Jasmin was given a parcel

of land covered by TCT No. 197907.

The private respondent claimed that he had been managing the Gym since the year 2006 and that, it was agreed upon that he would continue to manage the same even after the property had been transferred to their son, Nikkolai. The private respondent stated that his primary source of income came from the proceeds of the Gym operation. The said proceeds were also used to sustain the needs of his minor children.

On August 22, 2011, the management by the private respondent of the Gym was disrupted by the petitioner when she padlocked the Gym and barred the private respondent from entering the premises thereof. The siblings of the petitioner had also removed some equipment and other facilities in the Gym. The private respondent consequently decried that such action of the petitioner deprived him of his source of income and incapacitated him to sustain his and his children's needs. Thus, in his petition for reduction of donation, the private respondent prayed for the issuance of a writ of preliminary mandatory injunction in order to compel the petitioner to reopen the Gym and allow him to continue operating the same.

On March 15, 2012, the petitioner filed her Answer with Counter-Claim[8] in Civil Case No. 14875 wherein she contended that the private respondent had no cause of action against her. The petitioner asseverated that the private respondent was already estopped from claiming his share in their conjugal property, as he had already waived the same in favor of their children[9]. It was also the petitioner's contention that, since the family court awarded the custody of their minor children to her, she had the right to exercise parental authority over them and this includes the right to administer their properties. Lastly, the petitioner accused the private respondent of mismanaging the Gym which purportedly caused the closure of the same.

A hearing was conducted by the lower court on the private respondent's prayer for issuance of a writ of preliminary mandatory injunction. On March 24, 2014, the trial court issued the writ of preliminary mandatory injunction prayed for, pending the final resolution of Civil Case No. 14875. The decretal portion of the said Order reads:

“THEREFORE, as the closure of the gym deprives the children of their daily school expenses and allowances, the prayer for the issuance of preliminary mandatory injunction is granted.

“The respondents are ordered to reopen the Generation 200 Gym and allow the petitioner, Ramon Q. Buan, to operate the same without any intervention from the respondents and in the operation of the same, Ramon Q. Buan shall collect and receive the income derived from such operation and the appurtenant medicines and other goods sold therein to its customers.

“Considering that the parties have not reached a Compromise Agreement in his petition during the judicial dispute resolution proceedings, let the records of this case be forwarded to the Office of the RTC Clerk of Court for transfer to the other Family Court, RTC Branch 59, Angeles City for pre-trial and trial proper.

“SO ORDERED[10].”

Aggrieved by the foregoing disposition of the trial court, the petitioner moved for the reconsideration of the Order of the trial court. However, said motion was denied by the trial court for lack of merit as per its Resolution dated August 26, 2014. The dispositive portion of the said assailed resolution states:

“WHEREFORE, premises considered, the prayer in the Motion for Reconsideration dated May 17, 2014 filed by Maria Leonora Fuji-David is hereby DENIED. The assailed Order dated March 24, 2014 is hereby AFFIRMED.

“Furnish the parties' counsels with copies hereof.

“SO ORDERED[11].”

Undaunted by the foregoing disquisition of the public respondent judge, the petitioner filed the instant petition with this Court. She contends that the public respondent judge had acted without or in excess of her jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the disputed Order dated March 24, 2014 and Resolution dated August 26, 2014 and that there is no appeal or any plain, speedy and adequate remedy in the ordinary course of law relative thereto.

Apparently, the core issue to be resolved by us in this case is whether or not the public respondent judge committed grave abuse of discretion amounting to lack or excess of jurisdiction when she issued the writ of preliminary mandatory injunction enjoining the petitioner herein to reopen the Gym and allowing the private respondent to operate the same.

After a careful and judicious scrutiny of the whole matter, together with the applicable laws and jurisprudence in the premises, we find the instant petition to be bereft of merit.

Prefatorily, it bears stressing that a petition for certiorari will prosper only if grave abuse of discretion is alleged and proved to exist[12]. By grave abuse of discretion is meant such capricious and whimsical exercise of judgment which is equivalent to an excess or lack of jurisdiction[13].

The public respondent acts without jurisdiction if she does not have the legal power to determine the case. There is excess of jurisdiction where she, being clothed with the power to determine the case, oversteps her authority as determined by law[14].

In the instant petition, the petitioner contended that the public respondent judge acted with grave abuse of discretion in issuing the writ, despite the fact that the private respondent had already waived his right over the donated properties and that he has other means to sustain himself other than the income of the Gym.

Verily, Section 3 of Rule 58 of the Revised Rules of Court enumerates the grounds for the issuance of a writ of preliminary injunction, to wit:

“SEC. 3. Grounds for issuance of preliminary injunction. – A preliminary injunction may be granted when it is 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.”

It is a well-settled rule that the sole object of a preliminary injunction, whether prohibitory or mandatory, is to preserve the status quo of the parties until the merits of the case could be heard. It is usually granted when it is made to appear that there is a substantial controversy between the parties and that one of them is committing an act or threatening the immediate commission of an act that would cause irreparable injury or destroy the status quo of the controversy before a full hearing could be had on the merits of the case[15].

To justify the issuance of a writ of preliminary mandatory injunction, it must be shown that: (1) the complainant has a clear legal right; (2) such right has been violated and the invasion by the other party is material and

substantial; and (3) there is an urgent and permanent necessity for the writ to prevent serious damage. An injunction will not issue to protect a right not in esse, or a right which is merely contingent and may never arise since, to be protected by injunction, the alleged right must be clearly founded on or granted by law or is enforceable as a matter of law[16].

As applied in the instant case and, without getting into the details on the merits of the case below, this Court is of the opinion that there, indeed, exists a right in favor of the private respondent which needs to be protected. As correctly put by the trial court, the private respondent, as a donor, had the right to ask for the reduction of the donation, considering that he failed to make any reservation as to full ownership and usufruct of his property that would be sufficient to support himself. In the assailed resolution, the trial court ratiocinated, to wit:

“As alleged in paragraph 9 of the Petition and admitted in paragraph 5 of the Answer with Counterclaim, the petitioner and respondent Maria Leonora David-Fuji donated properties covered by TCT nos. 139648 and 139649 to their son, respondent Nikkolai D. Buan. The petitioner, being one of the donors of the property, who made no reservation as to full ownership and usufruct can ask for the reduction of donation under Article 750 of the New Civil Code for the means to support himself.

“Likewise alleged in paragraph 11 of the Petition and admitted in paragraph 6 of the Answer with Counterclaim is the fact that Generation 2000 Gym is among the properties donated to respondent Nikkolai. As testified by the petitioner and respondent Nikkolai D. Buan during the hearing on the merits on the prayer for the issuance of a preliminary mandatory injunction, the petitioner derives income for his sustenance and means to support his children from Generation 2000 Gym. Respondent Maria Leonora David-Fuji's act of closing the gym, which she admitted during the hearing on the preliminary mandatory injunction, constitutes substantial invasion of the petitioner's right as such will indubitably disturb the status quo pending trial in the instant case.

“Without question, there is an urgent need to issue a writ of preliminary injunction as found by the court in its Order dated March 24, 2014. It must emphasized that the primary objective of a preliminary injunction, whether prohibitory or mandatory, is to preserve the status quo until the merits of the case can be heard[17].”

The right of the private respondent to an income from the Gym operation is a right in actual existence which is threatened to be violated by the unsanctioned closure of the same. Undoubtedly, the private respondent depended primarily on the income being generated by the Gym to support himself and his children. To deny to the private respondent his right to secure his necessities in life would cause him serious damage and downright injustice.

At any rate, it bears stressing that a petition for certiorari against a court which has jurisdiction over a case would prosper only if grave abuse of discretion is manifested. Grave abuse of discretion implies such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction or, in other words, where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and it must be so patent and gross as to amount to an evasion of positive duty or to virtual refusal to perform the duty enjoined or to act at all in contemplation of law[18]. The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion or hostility[19].

Here, there is a paucity of circumstance which would persuade us to grant the instant petition. There was no hint of whimsicality nor gross and patent abuse of discretion as would amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law when the trial court issued the assailed order and resolution. Verily, this Court could not interfere with the aforesaid exercise of discretion by the trial court as there is no evident showing that the circumstances warrant the setting aside of the assailed order and resolution that were issued by the aforesaid respondent judge.

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us DENYING the petition

filed in this case for lack of merit.

SO ORDERED.

Ybañez, and Paredes, JJ., concur.

[1] Unilever Philippines v. Court of Appeals, et al., G.R. No. 119280, August 10, 2006.

[2] Ibid.

[3] Rollo, pages 3 – 19.

[4] Rollo, Annex “A”, pages 20 – 28.

[5] Rollo, Annex “B”, pages 29 – 32.

[6] Rollo, page 20.

[7] Rollo, Annex “C”, pages 33 – 39.

[8] Rollo, Annex “D”, pages 41 – 50.

[9] Ibid, page 45.

[10] Rollo, page 28.

[11] Rollo, page 32.

[12] Beluso v. Commission on Elections, G.R. No. 180711, June 22, 2010.

[13] First Women’s Credit Corporation v. Perez, G.R. No. 169026, June 15, 2006.

[14] People of the Philippines v. Court of Appeals, G.R. No. 144332, June 10, 2004.

[15] Ocampo v. Sison, G.R. No. 164529, June 19, 2007.

[16] Heirs of Yu and Matualaga v. Court of Appeals, et al., G.R. 182371, September 4, 2013.

[17] Rollo, pages 30 - 31.

[18] Cuison vs. CA, G.R. No. 128540, April 15, 1998.

[19] Estrada v. Desierto, G.R. No. 156160, December 9, 2004.

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