

BF HOMES, INC., PETITIONER, VS. THE HONORABLE COURT OF APPEALS, HONORABLE PASTOR REYES, PRESIDING JUDGE, COURT OF AGRARIAN RELATIONS, PASIG, RIZAL, ROMAN CABRERA, JOSE EVANGELIS...

G.R. No. L-30690. November 19, 1982

Ponente: RELOVA, J.

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RELOVA, J.:

In CAR CASE No. 405 of the Court of Agrarian Relations of the province of Rizal, Judge Pastor Reyes issued an order, dated June 13, 1968, the dispositive portion of which reads:

"WHEREFORE, in the interest of justice, pending the hearing of the aforesaid motion for the issuance of an interlocutory order, defendants BF Homes, Inc., Barangay Builders, Inc. and Francisco Rodino, through its directors, managers, agents or representatives, as well as its hired contractors, presently bulldozing or causing the bull-dozing of plaintiffs' landholdings, is/are hereby temporarily enjoined to cease, desist and refrain from bulldozing or causing the bulldozing or performing any kind and all kinds of work over the landholdings of plaintiffs Roman Cabrera, Jose Evangelista, Lazaro Saqui, Epifanio Bautista, Ernesto Basillaje and Matias Alcantara, embraced within an area of 21 hectares, situated at San Dionisio, Parañaque, Rizal, and to keep said plaintiffs in peaceful possession and cultivation of their respective landholdings until further orders from the Court."

Likewise, in CAR Case No. 414 of the Court of Agrarian Relations of the province of Rizal, Judge Pastor Reyes issued an order, dated June 13, 1968, the dispositive portion of which reads:

"WHEREFORE, in the interest of justice, pending the hearing of the aforesaid motion for the issuance of an interlocutory order, defendants BF Homes, Inc., Barangay Builders, Inc. and Francisco Rodino, through its managers, directors, agents, or representatives, as well as its hired contractors, presently bulldozing or causing the bulldozing of plaintiffs' landholdings, is/are hereby temporarily enjoined from bulldozing, or causing the bulldozing or performing any and all kinds of work over the landholdings of plaintiffs Maximo Dayota, Antonio Martinez, Bienvenido Bariso, Marianito Ignacio, Bienvenido Dayota, and Eliseo Dayota, embraced within an area of 20 hectares, situated at San Dionisio, Parañaque, Rizal, and to keep said plaintiffs in the peaceful possession and cultivation of their respective landholdings until further orders from the Court."

Herein petitioner brought the matter to the Court of Appeals on certiorari and prohibition. Dismissing the petition for lack of merit, the Court of Appeals, among others, said:

"x x x The orders complained of merely seek to maintain the status quo in the light of the provisions of Section 36 of RA 3844 that a judgment of dispossession must attain its finality before it may be executed. Here, there is no such judgment of dispossession obtained either by the former owner or by their successor, the herein petitioner B.F. Homes, Inc. The environmental facts render it reasonably probable that the herein respondent-tenants possessed the right claimed and that the said right is being violated without due process of law and therefore an irreparable injury is impending and will occur before the said CAR cases can be

terminated on the merits. Thus, in the Answer filed by counsel for the Court of Agrarian Relations on behalf of herein respondent Judge (record 105-118), it is contended that herein petitioner B.F. Homes, Inc. 'cannot deny that the sole purpose of the restraining orders was to preserve the status of the parties before the controversy arose, and that is, as alleged in the verified complaints, that herein private respondents were in possession as tenants on the landholdings in question which were sold to herein petitioner B.F. Homes, Inc. for the purpose of conversion into a subdivision. True, it is that the conversion of the land from agricultural to residential or other non-agricultural purposes operates to extinguish the tenancy relationship, but this is not automatic. The landholder has to bring an action for the tenants' dispossession and after hearing, when the circumstances so warrant, authority therefor would be granted by the Court but with corresponding payment of disturbance compensation. This is not all. The judgment of dispossession must attain its finality before it may be executed (Section 36, RA 3844). Under the Orders in question, what the Court a quo did was to place the parties to their former state. Hence, there can be no pre-judgment of the case. Neither did respondent Judge abuse his discretion as to amount to lack of jurisdiction' (record 110). This argument is convincing and meritorious. In this connection, we likewise find valid and meritorious the contention of counsel for respondent Judge 'that the prayer for a restraining order is only an ancillary remedy to the principal action to prevent the out-right dispossession in order that there would be no threat to the tenants' security of tenure which the law protects so zealously x x . It is not always an abuse of discretion to issue a restraining order, or an injunction for that matter, to protect the rights of the complainants even if such rights are denied by the adverse party' (Harden vs. Peña, 87 Phil. 620). In the case at bar, there is no showing that either the former owners or B.F. Homes, Inc., the transferee, has been authorized by the Court of Agrarian Relations to convert the landholdings in question into a subdivision, much less to dispossess the tenants therein."

Hence, the filing of this petition for certiorari by way of review of the decision of the Court of Appeals, which raised two questions, namely: (1) May restraining orders be issued by a court without requiring the applicant thereto to post bonds pursuant to the mandatory provisions of Section 4, Rule 58 of the Rules of Court specially when facts and circumstances are brought to the attention of the court militating against such issuance? and, (2) May the Court of Appeals make findings of fact not borne out both by the evidence and pleadings of the parties and, thereafter, sustain the actuations of a respondent judge on the basis thereof?

This Court, on August 13, 1969, granted "a writ of preliminary injunction, upon petitioner's' filing of a bond in the sum of P10,000, enjoining Judge Pastor Reyes of the CAR, Pasig, Rizal, from enforcing the Orders of June 13, 1968 in CAR Cases Nos. 405 and 414, and from taking further proceedings in said cases until further orders of this Court."

As found by the Court of Appeals, private respondent Ramon Cabrera and five others filed CAR Case No. 405 alleging, under oath and upon their personal knowledge, that they are bonafide tenants in a landholding originally devoted to agricultural production, situated at Barrio San Dionisio, Parañaque, Rizal; and that the land is now owned by B.F. Homes, Inc. and without prior authority or decision from the Court of Agrarian Relations, said corporation started bulldozing and grading some portions thereof preparatory to the making of subdivision roads and other constructions. In CAR Case No. 414, Maximo Dayota and five others, under oath and based on their personal knowledge, made identical allegations against B.F. Homes, Inc. and the subdivision contractor.

Answering the complaint in both cases, B.F. Homes, Inc. interposed the following defenses:

- (1) Prior to, and at the time, it acquired title to the aforesaid properties, the same have not been for a long time devoted to agriculture, nor have they ever been cultivated or occupied by any agricultural tenant;
- (2) Plaintiffs were never the tenants of B.F. Homes, Inc., nor the tenants of its predecessor-in-interest; and
- (3) B.F. Homes, Inc. was informed that plaintiffs are members of a syndicate asserting fictitious claims of tenancy relationship against subdivision owners for the purpose of exacting sums of money.

Acting upon the verified complaint in said CAR Cases Nos. 405 and 414, respondent Judge Reyes issued the two orders which herein petitioner now disputes because private respondents were not required to post bonds pursuant to the provision of Section 4, Rule 58 of the Rules of Court, as follows:

"SEC. 4. Verified complaint and bond for preliminary injunction. - A preliminary injunction may be granted only when:

"(a) The complaint in the action is verified; and shows facts entitling the plaintiff to the relief demanded; and

"(b) The plaintiff files with the clerk or judge of the court in which the action is pending a bond executed to the party enjoined, in an amount to be fixed by the court, to the effect that the plaintiff will pay to such party all damages which he may sustain by reason of the injunction if the court should finally decide that the plaintiff was not entitled thereto."

There is no express provision in the Rules of Court regarding the issuance of restraining orders.[*] It is generally regarded as an order to maintain the subject of controversy in status quo until the hearing of an application for a temporary injunction. It should not in effect determine the issues involved before the parties can have their day in court, or give an advantage to either party by proceedings in the acquisition or alter-ation of the property the right to which is disputed while the hands of the other party are tied (43 C.J.S., 760). Thus, pending resolution of the motion for the issuance of the preliminary injunction the court in its discretion may issue restraining order without requiring movant to put up a bond. Besides, as aptly stated by the respondent Court of Appeals "the bond requirement of Rule 58 does not apply to interlocutory orders of the other nature issued by the respondent Judge."

Further, respondent Judge issued the restraining orders on the basis of the allegations of the complaint of private respondents, as follows:

"x x x x x x x x

"3. That on or about March 28, 1968, the defendants, other workers, agents and representatives, without justifiable cause nor prior authority, order or decision from the Court of Agrarian Relations started bulldozing and grading some portions of the landholding in question preparatory to the making of subdivision roads and other constructions, thereby destroying the original agricultural topography of the landholding, and as a result of which the upper layer of the soil was scrapped, changed and destroyed causing serious and irreparable damages to the landholding of plaintiffs, all of which are being done by defendants to illegally dis-possess plaintiffs.

"4. That defendants in spite of the objections of plaintiffs, signified their intention to continue with the bulldozing, grading and construction of roads, gutters and canals and the like, for the subdivision purposes, all intended to dis-possess the plaintiffs of the agricultural landholding, and this cause tremendous and irreparable damages; to all of them, unless this Honorable Court immediately issue the corresponding interlocutory order to prohibit and stop the de-fendants, their agents, representatives and workers from continuing with the acts complained of, and to stop defendants likewise from dispossessing plaintiffs of the landholding in question, pending trial of this case."

x x x x x x x x

WHEREFORE , for lack of merit, the petition is DISMISSED and the preliminary injunction of August 13, 1969 is hereby SET ASIDE. With costs against petitioner.

SO ORDERED.

Melencio-Herrera, Plana, Vasquez, and Gutierrez, Jr., JJ., concur.

Teehankee, (Chairman), in the result.

[*] NOTE: On April 16, 1982, Batas Pambansa Blg. 224 was passed stating among others that the judge may issue a restraining order to be effective only within twenty (20) days from date of its issuance.

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