

LAKERIDGE DEVELOPMENT CORPORATION AND ERLINDA K. ILUSORIO, PETITIONERS-APPELLANTS, VS. PACIFIC PLAZA CONDOMINIUM CORPORATION AND MONTANO DIMAPILIS, RESPONDENTS-APPELLEES, LAKERI...

Ponente: YBAÑEZ, J.

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YBAÑEZ, J.:

This is an Appeal[1] by petitioners-appellants Lakeridge Development Corporation (Lakeridge) and Erlinda K. Ilusorio from the Decision[2] dated 22 June 2009 by the Regional Trial Court of Makati City, Branch 150 which dismissed the petitioners-appellants' petition for the issuance of a writ of mandamus to compel respondents-appellees Pacific Plaza Condominium Corporation (Pacific Plaza) and Montano Dimapilis (Dimapilis) to issue a renovation permit for Penthouse Unit 43-C of Pacific Plaza owned by Lakeridge.

ANTECEDENTS

Lakeridge, controlled by the family of the late Atty. Potenciano Ilusorio, is the registered owner of Penthouse Unit 43-C of Pacific Plaza.

The members of the Ilusorio family are divided into two (2) feuding factions: the group led by Atty. Potenciano Ilusorio, which includes Sylvia K. Ilusorio, Maximo K. Ilusorio, Cristina Ilusorio and intervenor-appellee Erlinda I. Bildner, and the group of Ramon K. Ilusorio, Marietta K. Ilusorio, Shereen K. Ilusorio, and petitioner-appellant Erlinda K. Ilusorio.

Erlinda K. Ilusorio demanded that respondents-appellees Pacific Plaza and its resident manager Dimapilis approve her application for the renovation of the subject unit.

The application for renovation was denied by respondent-appellee Dimapilis on the ground that petitioner-appellant Erlinda K. Ilusorio failed to adduce evidence that she has the indubitable right and authority to apply for the renovation of the subject unit on behalf of Lakeridge.

Subsequently, petitioners-appellants filed before the Regional Trial Court of Makati a Petition for Mandamus and Damages, seeking to compel respondents-appellees to issue the work permit for the renovation of the subject unit, with prayer for payment of actual and moral damages and attorney's fees.

The intervenor-appellee moved for leave to file intervention. After several motions filed by the parties, the court a quo allowed the intervenor-appellee to intervene in the case.

On 22 June 2009, the court a quo promulgated the assailed Decision.

Hence, the instant Petition where petitioners-appellants raised the following issues[3]:

I

WHETHER OR NOT PETITIONER-APPELLANT ERLINDA ILUSORIO HAS A LEGAL CAPACITY TO SUE FOR AND ON BEHALF OF PETITIONER-APPELLANT LAKERIDGE DEVELOPMENT CORPORATION.

II

WHETHER OR NOT PETITIONERS-APPELLANTS HAVE A WELL-DEFINED, CLEAR, AND CERTAIN LEGAL RIGHT TO DEMAND THE ISSUANCE OF WRIT OF MANDAMUS.

OUR RULING

The petitioners-appellants averred that Erlinda K. Ilusorio had been duly authorized by the Board of Directors of Lakeridge to institute the instant action.[4] They further asseverated that Erlinda K. Ilusorio owned 237,840 shares of stock out of the 400,000 outstanding shares of stock of Lakeridge.[5] They posited that Erlinda K. Ilusorio's right is clear and unmistakable.[6]

On the other hand, the respondents-appellees argued that petitioners-appellants failed to prove that they have a well-defined, clear and certain legal right to the issuance of the renovation permit.[7] They further stated that they are merely caught in the middle of the continuing legal battle between the feuding family members.[8] The respondents-appellees pointed out that there are other cases pending in different branches of the trial court involving the issues on the ownership and possession of the subject unit, and the legitimate representation in the board of directors of Lakeridge.[9]

Intervenor-appellee Lakeridge, as represented by Erlinda I. Bildner, contended that the pendency of cases involving the legitimacy of the board of Lakeridge renders the basis of the petitioners-appellants' alleged legal right questionable, unclear, and uncertain. Hence, the prerogative writ of mandamus is unavailing.[10]

The peremptory writ of mandamus is an extraordinary remedy that is issued only in extreme necessity, and the ordinary course of procedure is powerless to afford an adequate and speedy relief to one who has a clear legal right to the performance of the act to be compelled.[11] The writ of mandamus has an important feature that sets it apart from the other remedial writs, i.e., that it is used merely to compel action and to coerce the performance of a pre-existing duty. Mandamus will issue only when the petitioner has a clear legal right to the performance of the act sought to be compelled and the respondent has an imperative duty to perform the same. The petitioner bears the burden to show that there is such a clear legal right to the performance of the act, and a corresponding compelling duty on the part of the respondent to perform the act.[12]

There are two groups claiming to be the legitimate board of directors representing Lakeridge. Whether or not Erlinda K. Ilusorio, for and behalf of Lakeridge, may compel the issuance of a renovation permit hinges on issues pertaining to her authority to act for and on behalf of Lakeridge. Unless and until these issues are resolved with finality, Erlinda K. Ilusorio cannot assert that she has a clear right to the issuance of a renovation permit for the subject unit registered under the name of Lakeridge.

When the assailed Decision was promulgated, a case docketed as Civil Case No. 01-99706 entitled Lakeridge Development Corporation, et. al. v. Erlinda K. Ilusorio was pending before Branch 46 of the Regional Trial Court

of Manila where the primary issue to be resolved is the legitimacy of the two groups claiming to be the rightful board of directors of Lakeridge.[13]

Furthermore, the Supreme Court in *Marietta K. Ilusorio v. Sylvia K. Ilusorio, et. al.*, G.R. No. 171659, 13 December 2007,[14] ruled that Marietta K. Ilusorio failed to prove that Penthouse Unit 43-C was the dwelling place of Erlinda K. Ilusorio.[15] While the issue in the said case is the propriety of the dismissal of the criminal charges filed by Marietta K. Ilusorio, who claimed to have been authorized by petitioner-appellant Erlinda K. Ilusorio to occupy the subject unit, against Sylvia K. Ilusorio and Cristina A. Ilusorio, the Supreme Court, in resolving the issue therein considered certain facts, such as, that there is no sufficient evidence to prove that Erlinda K. Ilusorio was the lawful occupant of the subject unit and the letter issued by Erlinda K. Ilusorio “for Lakeridge” was without the appropriate resolution of Lakeridge’s board of directors to support it.[16] This bolsters the court a quo’s finding that the authority of Erlinda K. Ilusorio to represent the corporation is questionable, therefore, she cannot compel the respondents-appellees to issue a renovation permit in her favor.[17]

In view of the foregoing, the court a quo did not err in dismissing the petition for mandamus and damages filed by the petitioners-appellants.

WHEREFORE, the instant appeal is DENIED for lack of merit. The Decision dated 22 June 2009 of the Regional Trial Court of Makati City, Branch 150 is AFFIRMED.

SO ORDERED.

[*]Abdulwahid, (Acting Chairperson), and Sadang, JJ., concur.

[*] Acting Chairperson per raffle dated 10 Feb. 2014.

[1] Rollo, pp. 104-129.

[2] Ibid., pp. 6-11.

[3] Ibid., p. 117.

[4] Ibid., p. 118.

[5] Ibid., p. 121.

[6] Ibid., p. 123.

[7] Ibid., p. 383.

[8] Ibid., p. 385.

[9] Ibid., p. 388.

[10] Ibid., p. 34.

[11] *Special People, Inc. Foundation v. Nestor Canda, et. al.*, G.R. No. 160932, January 14, 2013.

[12] Ibid.

[13] Rollo, p. 10.

[14] Ibid., pp. 80-90.

[15] Ibid., p. 89.

[16] Ibid., pp. 86-87.

[17] Ibid., pp. 10-11.

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