

ALBERTO T. LOOYUKO, JR., ABRAHAM LOOYUKO, AND STEPHANIE LOOYUKO, IN SUBSTITUTION OF DECEASED, ALBERTO T. LOOYUKO, PETITIONERS, VS. JIMMY T. GO, AND HON. ROLANDO G. MISLANG, IN H...

Ponente: CARANDANG, J.

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CARANDANG, J.:

Alleging that public respondent Judge Rolando G. Mislang committed grave abuse of discretion amounting to lack or excess of jurisdiction, petitioners Alberto, Abraham, and Stephanie, all surnamed Looyuko in substitution of their late father Alberto T. Looyuko, filed before this Court a Petition for Certiorari assailing the Orders dated May 22, 2012 and June 6, 2013 issued by the said public respondent. The May 22, 2012 Order granted the Ex-Parte Motion (For Annotation of Lis Pendens) of private respondent Jimmy T. Go, the decretal portion of which reads:

“WHEREFORE, the Registry of Deeds of the Cities of Muntinlupa, Quezon City, San Juan, Manila, Cavite, Mandaluyong, are hereby directed to cause the annotation of the titles of the properties listed in Annex “A” of the subject motion.

On the other hand, the Order dated June 6, 2013 denied the Motion of petitioners for the reconsideration of the May 22, 2012 Order of public respondent.

The late Alberto T. Looyuko (Alberto) and private respondent Jimmy Go (Jimmy) were former business partners. Sometime in the early seventies, they both established Noah's Ark Merchandising. Their business flourished and they ventured into other businesses. It was, however, their agreement that for record purposes the business ventures will be registered in the name of Alberto but they are both entitled to 1/2 or 50% of the business, goodwill, profits, real and personal properties owned by the companies they had established.[1]

Alberto and Jimmy's business partnership remained strong for several years. However, in 1997, they had a falling out resulting in their filing of civil as well as criminal cases against each other. One of these cases is Civil Case No. 67921 which Jimmy filed against Alberto on May 23, 2000, for Specific Performance, Accounting, Inventory of Assets and Damages with Prayer for Temporary Restraining Order and/or Preliminary Injunction.[2] During the course of the proceeding, Alberto died and was substituted by his children Alberto, Jr., Abraham, and Stephanie. The partnership assets consist of personal and real properties.

On February 16, 2012, Jimmy Go filed an Urgent Ex-parte Motion (For Annotation of Lis Pendens) alleging that the personal and real properties of the partnership they had established are in grave danger of being illegally conveyed. Thus, he asked the trial court that a Notice of lis pendens be annotated in all the titles of the real properties of the partnership to keep them within the power of the court until final judgment to prevent the defeat of the final judgment by successive alienation and to warn any prospective buyers and bind any purchaser of the subject properties to the judgment or decree that the trial court may render.

On May 22, 2012, the trial court issued an Order^[3] granting the Motion of Jimmy and ordered the Registers of Deeds of several cities to cause the annotation on the titles of the partnership's real properties of the pending litigation. Their Motion for Reconsideration^[4] having been denied by the trial court, the heirs of Alberto Looyuko are now before this Court via a Petition for Certiorari under Rule 65 on the ground that –

- The respondent Honorable Judge committed grave abuse of discretion amounting to lack or excess of jurisdiction in not considering the fact that the complaint filed by private respondent is an action in personam.
- The respondent Honorable Judge committed grave abuse of discretion amounting to lack or excess of jurisdiction in ordering that the Registr^[ies] of Deeds of the Cities of Muntinlupa, Quezon City, San Juan, Manila, Cavite, and Mandaluyong to cause the annotation on the titles of the properties listed in Annex “A” of the subject order.

In gist, petitioners' argument is that the trial court committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the assailed Orders since the causes of actions of private respondent are actions in personam which do not involve title to or right of possession of real property. Petitioners assert that annotation of lis pendens in the title of a property is not proper when the proceeding instituted is an action in personam.

We find the argument of petitioners bereft of merit.

Lis pendens, which literally means pending suit, refers to the jurisdiction, power or control which a court acquires over property involved in a suit, pending the continuance of the action, and until final judgment. Founded upon public policy and necessity, lis pendens is intended (1) to keep the properties in litigation within the power of the court until the litigation is terminated and to prevent the defeat of the judgment or decree by subsequent alienation; and (2) to announce to the whole world that a particular property is in litigation and serves as a warning that one who acquires an interest over said property does so at his own risk, or that he gambles on the result of the litigation over said property.^[5]

The registration of a notice of lis pendens is governed by Section 14, Rule 13 of the Rules of Court:

“Sec. 14. Notice of lis pendens. - In an action affecting the title or the right of possession of real property, the plaintiff and the defendant, when affirmative relief is claimed in his answer, may record in the office of the registry of deeds of the province in which the property is situated a notice of the pendency of the action. Said notice shall contain the names of the parties and the object of the action or defense, and a description of the property in that province affected thereby. Only from the time of filing such notice for record shall a purchaser, or encumbrance of the property affected thereby, be deemed to have constructive notice of the pendency of the action, and only of its pendency against the parties designated by their real names.

The notice of lis pendens hereinabove mentioned may be cancelled only upon order of the court, after proper showing that the notice is for the purpose of molesting the adverse party, or that it is not necessary to protect the rights of the party who caused it to be recorded.”

While the afore-stated rule provides that a notice of lis pendens maybe made in actions affecting the title or the right of possession of real property, the Supreme Court clarified in *Viewmaster Construction Corporation vs. Maulit and Castro*,^[6] that the availability of notice of lis pendens is not confined only to cases involving the title to or possession of real property. In the said case, the High Court ruled that:

“We agree with the petitioner. A notice of lis pendens, which literally means "pending suit," may involve actions that deal not only with the title or possession of a property x x x . . .

In *Magdalena Homeowners Association, Inc. v. Court of Appeals*,^[7] the Court did not confine the availability of lis pendens to cases involving the title to or possession of real property. Thus, it held:

"According to Section 24, Rule 14 of the Rules of Court and Section 76 of Presidential Decree No.1529, a notice of lis pendens is proper in the following cases, viz.:

- a) An action to recover possession of real estate;
- b) An action to quiet title thereto;
- c) An action to remove clouds thereon;
- d) An action for partition; and
- e) Any other proceedings of any kind in Court directly affecting the title to the land or the use or occupation hereof or the buildings thereon." (Emphasis Ours)

The Supreme Court further elucidated in the Viewmaster case that even if the action is not, actually, one directly affecting title to or possession of real property, still, its perception is that the rule of lis pendens likewise pertained to the following:

"x x x all suits or actions which directly affect real property and not only those which involve the question of title, but also those which are brought to establish an equitable estate, interest, or right, in specific real property or to enforce any lien, charge, or encumbrance against it, there being in some cases a lis pendens, although at the commencement of the suit there is no present vested interest, claim, or lien in or on the property which it seeks to charge. It has also been held to apply in the case of a proceeding to declare an absolute deed of mortgage, or to redeem from a foreclosure sale, or to establish a trust, or to suits for the settlement and adjustment of partnership interests." (Underscoring supplied)

In this case, a perusal of the Complaint, especially those pertaining to the First Cause of Action, and the Ex-parte Motion (for Annotation of Lis Pendens) of private respondent reveals that he is claiming one-half (1/2%) interest or right over all properties, personal and real, of the partnership. Furthermore, one of the causes of actions of private respondent is the accounting of all the assets and properties of the partnership, which naturally include real property. The same situation obtaining in *Magdalena Homeowners Association, Inc. vs. Court of Appeals*,^[8] where the Supreme Court ruled:

"We have carefully examined said complaint as quoted in appellant's brief, and we find that the plaintiffs therein seek not only the accounting of all the transactions and funds of herein appellant, but also of all its properties, which naturally include the land covered by the transfer certificates of title already mentioned. The complaint, therefore, involves a real action and not a personal one. x x x. . . Therefore, under Sec 24 of Rule 7 of the Rules of Court, plaintiffs in civil case No. 25111 have the right to record in the office of the register of deeds of the place in which the property is situated, a notice of the pendency of the action." (Italics supplied)

Verily, then the allegations in private respondent's Complaint as well as in his Ex-parte Motion to cause the annotation of list pendens in the titles of the real properties owned by the partnership are more than enough to justify the registration of a notice of lis pendens. There is no cogent reason for Us then to reverse the Orders of the trial court.

WHEREFORE, in views of the foregoing considerations, We DISMISS the petition for lack of merit.

SO ORDERED.

Barza, and Reyes-Carpio, JJ., concur.

[1] Agreement between Alberto T. Looyuko and Jimmy T. Go dated February 9, 1982, Rollo, p. 83-86.

[2] Complaint, Rollo, pp. 28-49.

[3] Rollo, pp. 18-19.

[4] Rollo, pp. 23-26.

[5] St. Mary of the Woods School, Inc. vs. Office of the Registry of Deeds of Makati City, G.R. Nos. 174290 & 176116, January 20, 2009, citing Romero vs. Court of Appeals, G.R. No. 142406, May 16, 2005.

[6] G.R. No. 136283, February 29, 2000.

[7] 184 SCRA 325.

[8] 184 SCRA 325.

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