

MATILDE JOSON-PAPA, PETITIONER, VS. HON. RENATO C. FRANCISCO, PRESIDING JUDGE, BR. 19, REGIONAL TRIAL COURT, MALolos CITY, BULACAN, ATTY. MIGUELA GONZALES YAP, PEREGRINO ALTO, A...

CA-G.R. SP No. 107817, January 10, 2010

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Court of Appeals

This petition for certiorari[1] challenges the October 13, 2008 Order[2] of the Regional Trial Court(RTC), Third Judicial Region, Branch 19, Malolos City, Bulacan, directing the issuance of a writ of preliminary injunction and denying the motion to dismiss the complaint in Civil Case No. 451-M-2008. Also assailed is the said respondent's January 8, 2009 Order[3] denying reconsideration thereof.

The Undisputed Facts:[4]

The spouses Perfecto and Teodora Alto(Alto Spouses) were the owners of the three(3) parcels of land located at Pulilan, Bulacan, covered by Tax Declarations No. 8322, No. 8336, and No. 8338. When the Alto Spouses died, the said parcels were inherited by the spouses' six(6) children, namely, Amparo C. Alto, Segundo C. Alto, Rosario Alto, Jose Alto, Felicidad C. Alto, and Benita Alto(Alto children).

On May 8, 1962, Benita Alto, for herself and representing her siblings, executed a Deed of Sale with Pacto de Retro[5] involving the three(3) parcels in favor of the spouses Reynaldo Papa and Matilde Joson-Papa(Papa Spouses). Thereunder, the Alto children were given four(4) years from the execution of the deed to exercise their right to repurchase. At that time, the lands were being tenanted by several farmers and which tenancy, despite the deed, was respected by the Papa Spouses.

Years thereafter, the Papa Spouses learned that some of the successors-in-interest of the tenants of the subject parcels cultivated portions of the same. Thus, they sought assistance from the Municipal Agrarian Reform Officer of Pulilan, Bulacan. After a series of negotiations, it was agreed that from 2000 and until the parties' respective rights shall have been determined, the entrants are to deposit the owner's shares in the harvest(rentals) to Pedro Valenzuela[6](Valenzuela). Meanwhile, the Papa Spouses brought the matter before the Provincial Adjudication Board of Malolos, Bulacan(PARAD). On July 23, 2003, the PARAD issued a Report/Recommendation[7] recognizing the ownership of the Papa Spouses over the subject parcels and directing the MARO to prepare the parties' leasehold contract. However, the tenants refused to abide with the report.

Hence, the Papa Spouses filed a complaint for Ejectment, docketed as DARAB Case No. R-03-02-1361'04, against the tenants, among them Valenzuela, before the Department of Agrarian Reform Board-Region III(RARAD).[8] In the course thereof, Atty. Alfredo Alto, for himself and on behalf of Atty. Miguela Gonzales Yap, Peregrina Alto, and Iluminada A. Paz (Private Respondents) moved to intervene by claiming that they are the real and true owners of the subject parcels. Their motion was denied. Thus, they filed an appeal to the Department of Agrarian Reform Board-Central(DARAB).[9]

At which time, the subject parcels were already consolidated into two(2), that is, Lot No. 4118 consisting of twenty-eight thousand four hundred ninety-seven(28,497) sq. m. and Lot No. 2705 consisting of thirty-one thousand four hundred fifty-eight (31,458) sq. m. and tax declarations[10] had already been issued in the names of the Papa Spouses.

On August 4, 2005, RARAD rendered judgment in favor of the Papa Spouses thereby recognizing their ownership over the lands and directing, among others, that Valenzuela release the amount of rentals deposited on him to the Papa Spouses.[11] Their motion for reconsideration subsequently filed having been denied, the entrants elevated the controversy to the DARAB. Pending the same, however, they and the Papa Spouses reached an amicable settlement. Hence, they filed a Joint Motion for Judgment Based on Compromise Agreement[12], dated May 19, 2008.

The Instant Controversy:

On August 1, 2008, the Private Respondents filed the instant suit for Declaratory Relief/Quieting of Title and Annulment of Deed of Sale with Pacto de Retro against Matilde Papa(Petitioner), by then a widow, and Valenzuela.[13]

Reiterating their claim of ownership over the lands, the Private Respondents allege that their predecessors-in-interest, who are co-heirs of Benita, neither read nor secured a copy of the Deed of Sale with Pacto de Retro executed by the latter because they thought that the conveyance and/or encumbrance pertains only to Benita's one-sixth(1/6) share; and, that it was only when the Papa Spouses brought the matter before the Department of Agrarian Reform that they became aware of the contents of the said deed, of the consolidation of the subject lands into two(2) lots, and of the issuance of tax declarations in the names of the Papa Spouses. Asserting that Benita had no authority to encumber or convey the subject parcels in their entirety and her failure to redeem the same did not automatically make the Papa Spouses the absolute owners thereof, they pray that judgment be rendered upholding their ownership over the lands. Moreover, they aver that there is a strong likelihood that Valenzuela will heed the Papa Spouses' demand for the release to them(Papa Spouses) of the rentals amounting to Two Hundred Thirty-Five Thousand Four Hundred Ninety-Three Pesos(PhP235,493.00), an amount which rightfully belongs to them. Hence, they pray that injunctive relief be issued during the pendency of the case.[14]

On August 20, 2008, the Petitioner filed an Opposition with Motion to Dismiss[15] contending that the Petitioners failed to establish the need for an injunctive relief; and, that the suit should be dismissed as the Petitioners' cause of action has prescribed and the latter are guilty of forum shopping.

On October 13, 2008, the Respondent RTC issued the first assailed Order[16], directing the issuance of a writ of preliminary injunction(WPI) and denying the motion to dismiss. The decretal portion of the issuance reads:

WHEREFORE, let a writ of preliminary injunction be issued in favor of the plaintiffs and against defendant Pedro Valenzuela, upon the posting of a bond in the amount of P250,000.00 which upon approval thereof, the writ of preliminary injunction shall issue. In addition, the motion to dismiss of the defendants is hereby ordered denied for lack of merit.

SO ORDERED.

The Petitioner's motion for reconsideration was subsequently denied.[17] Thus, she filed the instant petition.

The Issues:

In support of her prayer for a writ of certiorari, the Petitioner asseverates that:

I.

THE RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO EXCESS OR LACK OF JURISDICTION WHEN HE ISSUED THE WRIT OF PRELIMINARY INJUNCTION DESPITE CLEAR ABSENCE OF ANY LEGAL OR VALID GROUND FOR THE ISSUANCE THEREOF.

II.

THE RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO EXCESS OR LACK OF JURISDICTION WHEN HE DID NOT DISMISS THE COMPLAINT NOTWITHSTANDING THE FACT THAT PRIVATE RESPONDENTS' ALLEGED CAUSE OF ACTION HAS UNDOUBTEDLY PRESCRIBED.

III.

THE RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO EXCESS OR LACK OF JURISDICTION IN NOT FINDING THE PRIVATE RESPONDENTS ARE GUILTY OF DELIBERATE AND WILLFUL FORUM SHOPPING.[18]

This Court's Ruling:

Apparently, the issues may be summed up in this wise-whether or not the Respondent RTC gravely abused its discretion in directing the issuance of a writ of preliminary injunction(WPI) and in not dismissing Civil Case No. 451-M-2008.

We rule in the negative.

The Petitioner's allegation of grave abuse of discretion in the issuance of a WPI is grounded only on the argument that there is no factual or legal basis for the issuance thereof.

We do not agree. It cannot be underscored that a writ of certiorari is not intended to correct every controversial interlocutory ruling since its function is limited to keeping an inferior court within the bounds of its jurisdiction.[19] Needless to stress, there is grave abuse of discretion only when there is a capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, such as where the power is exercised in an arbitrary and despotic manner by reason of passion and personal hostility, and it must be so patent or gross as to constitute an evasion of a positive duty or a virtual refusal to perform the duty or to act at all in contemplation of law.[20]

A scrutiny of the assailed Order shows that the Respondent RTC issued the WPI upon a finding that the Petitioner and her late husband "never claimed ownership over the subject properties, neither did they claim any lease rentals from the tenants thereof since 1962, the date of the pacto de retro sale"[21]; and, that they "could not even obtain titles to the subject properties in their names because they could not produce any special power of attorney supposedly executed in favor of Benita Alto"[22]. Accordingly, an injunctive relief is necessary to enjoin Valenzuela from releasing, in compliance with the DARAB issuance, the rental payments over the subject lands to the Petitioner since "a right in esse appears to be existence in favor of the [Private Respondents]"[23].

Anchored, therefore, on the doctrine that a writ of certiorari is a remedy not designed to correct erroneous findings and conclusions made by a court or judge, the Court finds no grave abuse on the Respondent RTC's part. It cannot be gainsaid that the wisdom or error of judgment on the part of the Respondent RTC in arriving at his conclusion that a WPI is called-for cannot legitimately be the subject of a petition for certiorari. To reiterate, not every error in the proceedings, or every erroneous conclusion of law or fact, is grave abuse of discretion. This is

especially true since it is recognized in this jurisdiction that, when it comes to injunctive matters, courts have judicial discretion-the exercise of which is interfered with only where there is manifest abuse. Verily, there is no reason to disturb such exercise here.

On the issue of prescription: One fundamental rule is that an order denying a motion to dismiss, being interlocutory in character, cannot be the proper subject of a petition for certiorari, as such remedy is designed to correct errors of jurisdiction and not errors of judgment.[24] Thus, when a motion to dismiss is denied, the proper procedure is to proceed with the trial and, should the decision be adverse to the movant, the remedy is to take an appeal therefrom, assigning as an error the denial of the motion to dismiss. True, exceptions to the rule exist; nonetheless, the same are stringent in character. As laid out by the Supreme Court in *Balo, et al. v. CA, et al.*[25]:

x x x x x x

. . . [A]n order denying a motion to dismiss is an interlocutory order which neither terminates nor finally disposes of a case as it leaves something to be done by the court before the case is finally decided on the merits. As such, the general rule is that the denial of a motion to dismiss cannot be questioned in a special civil action for certiorari which is a remedy designed to correct errors of jurisdiction and not errors of judgment.

To justify the grant of the extraordinary remedy of certiorari, therefore, the denial of the motion to dismiss must have been tainted with grave abuse of discretion. By “grave abuse of discretion” is meant, such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be grave as where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility and must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act all in contemplation of law.

Specific instances whereby the rule admits certain exceptions are provided as follows:

. . . Under certain situations, recourse to certiorari or mandamus is considered appropriate, i.e., (a) when the trial court issued the order without or in excess of jurisdiction; (b) where there is patent grave abuse of discretion by the trial court; or (c) appeal would not prove to be a speedy and adequate remedy as when an appeal would not promptly relieve a defendant from the injurious effects of the patently mistaken order maintaining the plaintiff’s baseless action and compelling the defendant needlessly to go through a protracted trial and clogging the court dockets by another futile case. (Emphasis Ours)

At bench, the Petitioner anchors her stance of grave abuse of discretion on the theory that the Private Respondents’ action has prescribed because Article 1141 of the New Civil Code expressly states that [r]eal actions over immovables prescribe in thirty years[26].

We do not agree. The complaint clearly alleges that after the execution by Benita of the deed, the Private Respondents’ predecessors-in-interest and, thereafter, the Private Respondents have been in actual possession and ownership of [the] subject lands,(sic) and[,] in fact, they continuously received from their tenants the rentals of the lands[27]. This allegation, standing alone, glaringly shows that factual issue of whether or not the Petitioner is in possession of the subject lands in the concept of an owner is yet to be determined. Hence, prescription has not and cannot be deemed as having been ipso facto established. On this score, it bears emphasizing that a motion to dismiss grounded on prescription may successfully be used only when the complaint on its face shows that indeed the action has already prescribed.[28] This doctrine is enunciated by the High Tribunal in *Lumayag, et al. v. Heirs of Nemeño*[29]:

x x x should there be any doubt as to the prescription of private respondent’s Complaint, the more prudent action is for the RTC to continue hearing the same and deny the Motion to Dismiss. Where it cannot be determined with certainty whether the action has already prescribed or not, the defense of prescription cannot

be sustained on a mere motion to dismiss based on what appears to be on the face of the complaint. And where the ground on which prescription is based does not appear to be indubitable, the court may do well to defer action on the motion to dismiss until after trial on the merits. (Emphasis and underscoring added)

Worth mentioning, the Supreme Court once again stressed the foregoing doctrine by declaring in *Heirs of Dolleton, et al. v. Fil- Estate Management, Inc.*[30] that:

x x x the affirmative defense of prescription does not automatically warrant the dismissal of a complaint under Rule 16 of the Rules of Civil Procedure. An allegation of prescription can effectively be used in a motion to dismiss only when the Complaint on its face shows that indeed the action has already prescribed. If the issue of prescription is one involving evidentiary matters requiring a full-blown trial on the merits, it cannot be determined in a motion to dismiss. x x x (Emphasis and underscoring added)

On the Petitioner's assertion that the Private Respondents are guilty of forum shopping, the same is likewise not obtaining. Lest it be forgotten, in order for forum shopping to exist, there must be between the two cases (a)identity of parties; (b)identity of rights asserted and reliefs prayed for; and, (c)that the identity of the two preceding particulars is such that any judgment rendered in the other action will, regardless of which party is successful, amount to res judicata in the action under consideration.[31]

At bench, the Private Respondents' motion to intervene in DARAB Case No. R-03-02-1361'04 was denied and their appeal on the said denial is still pending. Perforce, until and unless they are ordered impleaded as parties to the case, forum shopping will not arise since the parties are not identical. To reiterate:

There is forum shopping when a party seeks to obtain remedies in an action in one court, which had already been solicited, and in other courts and other proceedings in other tribunals. Forum shopping is the act of one party against another, when an adverse judgment has been rendered in one forum, of seeking another and possibly favorable opinion in another forum other than by appeal or by special civil action of certiorari; or the institution of two or more acts or proceedings grounded on the same cause on the supposition that one or the other court would make a favorable disposition.[32]

Also, the issue in DARAB Case No. R-03-02-1361'04 is whether or not a tenancy relationship exists between the parties, and not the ownership of the subject lands. The issues and the reliefs sought in Civil Case No. 451-M-2008 and in DARAB Case No. R-03-02-1361'04 not being identical, the second and third elements for the existence of forum shopping is, thus, wanting. Ergo, the Respondent RTC correctly found that the Private Respondents are not guilty thereof.

Given the foregoing circumstances, there is, therefore, no doubt that the Respondent RTC did not act with grave abuse of discretion in issuing the WPI, as well as in not dismissing the case, as it is more in keeping with the standards of fairness to have, in this case, a full-blown trial where the evidentiary matters are to be threshed out.

WHEREFORE, the petition is DISMISSED. The assailed Orders STAND. Costs against the Petitioner.

SO ORDERED.

Abdulwahid, Pizarro, and, Macalino, JJ., concur.

[1] Filed on March 17, 2009; See petition; Rollo, pp. 2-32.

[2] Annex "A", petition; Id., pp. 33-35.

[3] Annex "B", petition; Rollo, p. 36.

- [4] As culled from the records.
- [5] Annex “B”, Complaint; Rollo, pp. 49-50.
- [6] His personal circumstances and/or relationship to the parties hereto are not indicated in the records.
- [7] Annex “F” of Joint Motion x x x; Rollo, pp. 123-127.
- [8] See Complaint; Annex “F” of Complaint; Rollo, pp. 61-64.
- [9] No judgment has yet been rendered on their appeal.
- [10] Tax Decl. No. 2003-014-00126 and Tax Decl. No. 2003-014-00079; Annexes “E” and “E-2”, Joint Motion for Judgment x x x; Rollo, pp. 77 and 78, respectively.
- [11] See Decision, dated Aug. 4, 2005; Annex “E” of Joint Motion for Judgment x x x; Id., pp. 131-134.
- [12] Annex “L”, petition; Id., pp. 96-103.
- [13] See Complaint; Annex “C”, petition; Rollo, pp. 37-50.
- [14] See Complaint; Annex “C”, petition; Note at 11.
- [15] Rollo, pp. 104-122.
- [16] Note at 2.
- [17] Note at 3.
- [18] Rollo, pp. 14-15.
- [19] See *Madrigal Transport, Inc. v. Lapanday Holdings Corp. et al.*, G.R. No. 156067, Aug. 11, 2004.
- [20] See *Madrigal Transport, Inc. v. Lapanday Holdings Corp. et al.*, *supra*.
- [21] See Order, p. 3; Rollo, p. 35.
- [22] *Ibid*.
- [23] *Ibid*. Bracketed insertion Ours.
- [24] See *Lu Ym v. Nabua, et al.*, G.R. No. 161309, Feb. 23, 2005.
- [25] G.R. No. 129704, Sept. 30, 2005.
- [26] Bracketed insertion Ours.
- [27] Complaint at 10; Rollo, p. 38. Bracketed insertions Ours.
- [28] *Balo, et al. v. CA, et al.*, *supra*. Emphasis Ours.
- [29] G.R. No. 162112, July 3, 2007.
- [30] G.R. No. 170750, April 7, 2009.
- [31] See *Velasquez, et al. v. Hernandez*, G.R. No. 150732, Aug. 31, 2004.
- [32] *Sps. Jose v. Sps. Suarez*, G.R. No. 176795, June 30, 2008. Emphasis Ours.

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