

CITY OF MANILA, PLAINTIFF-APPELLANT, VS. METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM, DEFENDANT-APPELLEE.

Ponente: SADANG, J.

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SADANG, J.:

This is an appeal from the Order[1] dated December 3, 2008 of the Regional Trial Court (RTC) of Antipolo City, Branch 74, dismissing the complaint in Civil Case No. 00-5616, and the Order[2] dated July 21, 2010 denying the motion for reconsideration.

Antecedents of the Appeal

Plaintiff-appellant City of Manila (hereafter, appellant), filed a Complaint for declaration of nullity of Letter of Instruction (LOI) No. 619, impleading the Metropolitan Waterworks and Sewerage System (MWSS) as defendant.

Appellant averred that it is a public corporation organized and existing by virtue of Republic Act No. 409, as amended. For decades, appellant has been the registered owner in fee simple and possessor of a parcel of land with an area of 15,071,451 sqm., more or less, situated in Marikina, Rizal, known as "Boso Boso," covered by Original Certificate of Title (OCT) No. 539 which was issued by the Register of Deeds of the Province of Rizal in December 1910. In 1977, during the administration of Mayor Ramon Bagatsing, appellant sought reconstitution of the lost owner's duplicate copy of OCT No. 539. The action resulted in a judicial controversy with MWSS which also asserted ownership of the land. Final judgment was rendered confirming appellant's ownership of the property. During the martial law years, MWSS worked on former President Marcos to issue, as he did, LOI 619 which peremptorily declared OCT No. 539 as "cancelled" and "ordered" the issuance of a new title. Thus, Transfer Certificate of Title (TCT) No. N-22606 was issued in the name of MWSS.

Appellant alleged that LOI No. 619 and, corollarily, the cancellation of OCT No. 539 and issuance of TCT No. N-22606 are void ab initio because they resulted in the taking of private property without due process and just compensation. Appellant maintained that OCT No. 539 is unaffected by LOI No. 619 which is an "act executed against the provisions of mandatory or prohibitory laws." Appellant also averred that mass housing projects were done by MWSS on the land, in violation of LOI No. 619, which resulted in the denudation of the trees lining the watershed.[3]

MWSS filed an Answer, with compulsory counterclaim, alleging that that the subject land was formerly owned by a certain Lily Cortes. When the watershed reservation was surveyed the subject land was found to be on the slopes that drained into the watershed, hence, the need to take it from private ownership to protect the watershed. Because appellant was then the entity running the Manila Water Supply, the land was acquired and titled in appellant's name although the funds came from the Insular Government. Upon the creation of the Manila Water District (MWD) in 1919 by virtue of Act 2832, the assets and liabilities of the Manila Water and Sewer Systems were transferred to the MWD. OCT No. 539 was among the documents turned over to the MWD.

MWSS alleged that appellant falsely alleged that the owner's copy of the title was lost or destroyed during the

war, thus, the complaint states no sufficient cause of action. MWSS also averred that the validity of LOI No. 619 was settled in Section 3, paragraph 1, of the Article on Transitory Provisions of the 1973 Constitution. Pursuant to Proclamation No. 2480, MWSS is presently one of the government agencies administering the subject land which has, in fact, been reserved for resettlement purposes.[4]

At the hearing on June 25, 2003, the parties offered their documentary evidence and agreed to submit the case for summary judgment without presenting testimonial evidence.[5] However, in an Order dated January 20, 2005, the RTC denied the parties' joint oral motion for summary judgment on the ground that the pleadings raised a genuine issue as to who owns the subject property, which requires trial.[6]

Subsequently, the case was set for presentation of appellant's evidence on September 13, 2007 and November 14, 2007. Appellant's counsel failed to appear at said hearings.

At the November 14, 2007 hearing, on oral motion of MWSS, the RTC issued an Order[7] dismissing the complaint without prejudice for lack of interest to prosecute.

On December 11, 2007, appellant filed a Motion for Reconsideration of the November 14, 2007 Order averring that its non-presentation of evidence on September 13, 2007 and November 14, 2007 did not merit dismissal of the case. Appellant's counsel alleged that at the September 13, 2007 hearing, he sent a representative and filed a Manifestation and Motion, dated September 12, 2007 praying for the cancellation of said hearing and the RTC issued an Order granting the motion and resetting the hearing to November 14, 2007. Then, at the hearing on November 14, 2007, instead of presenting evidence, appellant filed a Second Motion for Summary Judgment[8] insisting that the only issue to be resolved is the legality of LOI No. 619.

In an Order,[9] dated March 18, 2008, the RTC granted appellant's Motion for Reconsideration and the November 14, 2007 Order was set aside and the case reinstated; however, appellant's counsel was directed to be more circumspect in his official dealings and not to expect the court to reset the hearing just because he filed a motion on the day of the hearing itself.[10]

On September 10, 2008, the RTC issued an Order[11] denying appellant's Second Motion for Summary Judgment and setting the initial trial on December 3, 2008. A day before said hearing, or on December 2, appellant filed a Motion for Reconsideration[12] of the September 10, 2008 Order.

At the hearing scheduled on December 3, 2008, only MWSS's counsel appeared. Appellant's counsel did not appear in spite of notice. Thus, the RTC issued an Order[13] dismissing the case.

On July 21, 2010, the RTC issued an Order[14] denying the motions for reconsideration of both the September 10, 2008 Order and the December 3, 2008 Order.

Appellant now appeals from the December 3, 2008 and July 21, 2010 Orders and raises these assignment of errors:[15]

- THE LOWER COURT ERRED WHEN IT DISMISSED THE CASE NOTWITHSTANDING THE PENDENCY AND WITHOUT FIRST RESOLVING PLAINTIFF'S MOTION FOR RECONSIDERATION OF THE ORDER DENYING ITS SECOND MOTION FOR SUMMARY JUDGMENT;
- THE LOWER COURT ERRED WHEN IT DISMISSED THE CASE INSTEAD OF REFERRING THE SAME TO MEDIATION AS MANDATED BY THE SUPREME COURT IN A.M. NO. 08-8-12 SC PHILJA DATED AUGUST 12, 2008 DECLARING NOVEMBER 3 TO DECEMBER 15, 2008 AS SETTLEMENT PERIOD OF ALL CASE.
- THE LOWER COURT ERRED WHEN IT FOUND THAT THERE IS GENUINE ISSUE IN THIS CASE,

HENCE, SUMMARY JUDGMENT IS NOT PROPER; AND,

- THE LOWER COURT ERRED WHEN IT FOUND THAT THERE IS A NEED TO DETERMINE THE ISSUE OF OWNERSHIP OF THE SUBJECT PROPERTY BEFORE THE RELIEF PRAYED FOR MAY BE GRANTED.

RULING

The appeal is not impressed with merit.

Appellant maintains that the RTC erred in finding that there is a genuine factual issue. Appellant contends that "(a)lthough it may appear that there are factual issues as to the ownership of the subject property, the resolution of the same may be dispensed with as they are not necessary in resolving the main issue relating to the validity and constitutionality of the LOI (619)."[16] The contention is untenable.

Summary judgment is a procedural device resorted to in order to avoid long drawn out litigations and useless delays. When the pleadings on file show that there are no genuine issues of fact to be tried, the Rules allow a party to obtain immediate relief by way of summary judgment, that is, when the facts are not in dispute, the court is allowed to decide the case summarily by applying the law to the material facts. Conversely, where the pleadings tender a genuine issue, summary judgment is not proper.[17] Well-settled is the rule that a party who moves for summary judgment has the burden of demonstrating clearly the absence of any genuine issue of fact.[18] Upon that party's shoulders rests the burden to prove the cause of action, and to show that the defense is interposed solely for the purpose of delay. After the burden has been discharged, the defendant has the burden to show facts sufficient to entitle him to defend.[19]

Trial courts have limited authority to render summary judgments and may do so only when there is clearly no genuine issue as to any material fact. When the facts as pleaded by the parties are disputed or contested, proceedings for summary judgment cannot take the place of trial.[20] It cannot be gainsaid that any doubt as to the propriety of a summary judgment shall be resolved against the moving party.[21]

In the case at bench, records show that during the pretrial, MWSS admitted the issuance of LOI 619 and that by virtue thereof the title of appellant was cancelled and a new title was issued to MWSS. There were no other stipulations made. Further, the allegations in the Complaint and the Answer shows that other than the constitutionality of LOI, there were other issues joined by the pleadings. Thus, appellant claimed that its owner's duplicate of OCT No. 539 was lost during the war. However, MWSS alleged that OCT No. 539 was not lost but was among the documents turned over to the MWD upon its creation in 1919 and this was the reason why the CFI of Rizal directed appellant to surrender said title for cancellation. MWSS further alleged that the only reason why OCT No.539 was issued to appellant is that appellant was then the agency that was running Manila's water supply; however, the funds came from the Insular government.

Clearly, MWSS's claim of ownership is not merely based on the issuance of LOI 619. Its alleged claim predates LOI 619. We agree with the RTC that the allegations of MWSS raised genuine factual issues that cannot be resolved in a summary judgment, viz.: 1) whether or not the owner's duplicate of OCT No. 539 was actually lost or turned over to MWSS; and 2) whether or not the land was actually owned by MWSS although it was titled in the name of appellant. Contrary to the argument of appellant, these issues cannot be resolved by simply deciding the issue of constitutionality of LOI 619. Indeed, even if the RTC rules that LOI 619 is unconstitutional, that does not necessarily mean that appellant owns the land because MWSS's claim of ownership is based not only on said issuance but also on its allegation that it actually owns the land although the title was issued in the name of appellant and that OCT No. 539 was turned over to MWD, MWSS's predecessor-in-interest, upon its creation in 1919.

There is no merit in appellant's contention that the RTC erred in dismissing the case without first resolving its Second Motion for Summary Judgment. The record shows that at the hearing on June 25, 2003, after the parties offered their documentary exhibits but without presenting testimonial evidence, they orally moved for summary judgment. However, in its Order,[22] dated January 20, 2005, the RTC denied the oral motion on the ground that there are genuine issues on material facts. After several postponements, the new judge who took over the case set the hearing of appellant's evidence on September 13, 2007 and November 14, 2007. At the September 13, 2007 hearing, appellant's counsel did not appear but merely sent his representative with a motion to reset the hearing. Even if the motion did not observe the rule on motions, the RTC reset the hearing to November 14, 2007. Again appellant's counsel did not appear at the scheduled hearing. Instead, he filed on the same day, at 9:30 AM, a Second Motion for Summary Judgment. Apparently, the RTC was not yet aware of said motion because it issued its November 14, 2007 Order dismissing the case without prejudice for lack of interest to prosecute. Almost a month later, or on December 11, 2007, appellant filed a Motion for Reconsideration praying for the setting aside of the November 14, 2007 Order, the reinstatement of the case and the resolution of the Second Motion for Summary Judgment. At the hearing of appellant's Motion for Reconsideration on December 14, 2007, the RTC issued an order directing MWSS to file its comment. On March 18, 2008, the RTC set aside its November 14, 2007 Order but warned appellant's counsel to be more circumspect in his official dealings and not presume that the hearing would be reset just because he filed a motion. The RTC did not resolve the Second Motion for Summary Judgment but gave MWSS ten days to comment. On September 10, 2008, the RTC issued an Order denying the Second Motion for Summary Judgment and setting the case for reception of appellant's evidence on December 3, 2008. Again, appellant's counsel did not appear at the scheduled hearing. Instead, a day before said hearing, or on December 2, 2008, he filed a Motion for Reconsideration of the September 10, 2008 order denying the Second Motion for Summary Judgment. In view of the failure of appellant's counsel to present evidence on December 3, 2008, the RTC dismissed the case for failure to prosecute.

Consideration of the foregoing incidents show that appellant's counsel had consistently employed every procedural stratagem to avoid the orders of the court for him to present evidence. However, the court showed patience and liberality in applying procedural rules if only to afford appellant the chance to prove its case. Unfortunately, appellant insisted on its own position and refused to abide by the ruling of the court that there is a genuine issue that requires trial. The filing of the Motion for Reconsideration of the September 10, 2008 Order, denying the Second Motion for Summary Judgment, was but another strategy to avoid compliance with the Court's order. The failure of appellant to present its evidence is a justifiable reason to dismiss the case. Section 3, Rule 17 of the Rules of Court provides that if, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his evidence in chief, or to prosecute his action for an unreasonable length of time, or to comply with the rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion.

We cannot sustain the contention of appellant that the RTC should have referred the case for mediation, as mandated by A.M. No. 08-8-12-SC-PHILJA. Suffice to state, that the record does not show that either party filed a motion to refer the case for mediation as required by the aforesaid issuance. Also, under the issuance, a case may be referred to mediation only if there is a possibility of a compromise.[23] Such a possibility cannot legally arise in this case. As argued by appellant, the main issue concerns the constitutionality of LOI 619. Obviously, that issue is beyond the competence of the mediator. Neither may the parties resolve it via a compromise.

WHEREFORE, the appeal is DENIED. The Orders dated December 3, 2008 and July 21, 2010 of the Regional Trial Court, Branch 74, Antipolo City, in Civil Case No. 00-5616 are AFFIRMED.

SO ORDERED.

Librea-Leagogo, (Chairperson), and Diamante, JJ., concur.

[1] Record, p. 233.

[2] Id. at 250.

[3] Id. at 1-4.

[4] Id. at 23-28.

[5] Order, dated June 25, 2003, Id. at 148.

[6] Id. at 149-151.

[7] Id. at 189.

[8] Id. at 195-200.

[9] Id. at 217-218.

[10] Id. at 217.

[11] Id. at 226-227.

[12] Id. at 228

[13] Id. at 233

[14] Id. at 250

[15] Rollo, p. 21-22.

[16] Appellant's Brief, Rollo, p. 37.

[17] *Nocom v. Camerino*, G.R. No. 182984, 10 February 2009, 578 SCRA 390, 409-410.

[18] *Republic of the Philippines v. Sandiganbayan (First Division), et al.*, G.R. No. 166859, April 12, 2011, citing *Cotabato Timberland Co., Inc. v. C. Alcantara and Sons, Inc.*, G.R. No. 145469, May 28, 2004, 430 SCRA 227.

[19] Id., citing *Estrada v. Consolacion*, G.R. No. L-40948, June 29, 1976, 71 SCRA 523, 529.

[20] *Nocom v. Camerino*, supra, citing *Tan v. De la Vega*, G.R. No. 168809, March 10, 2006, 484 SCRA 538.

[21] *Republic v. Sandiganbayan, et al.*, supra.

[22] Record, pp. 149-151.

[23] Office of the Court Administrator (OCA) Circular No. 90-2008

RE: SETTLEMENT PERIOD FROM NOVEMBER 3 TO DECEMBER 15, 2008

Pursuant to A.M. No. 08-8-12-SC-PHILJA, re Declaration of Settlement Period from November 3 to December 15, 2008, dated August 12, 2008, all concerned judges are hereby directed to undertake the following activities:

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2.) Further select from the inventory of cases in their respective dockets at least twenty (20) mediatable cases,

which: (a) have been referred to the PMC units but have been returned to the court without having undergone mediation and are still at the pre-trial stage, and (b) have undergone mediation, not settled, and returned to the court, but are still in the trial stage.

The possibility of amicable settlement should be present in the above two (2) categories of cases, considering among other factors, the age of the case, relationship of the parties, and other similar circumstances, provided that, upon written joint motion of the parties, cases already submitted for decision may still be mediated.

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