

NILO LIZARES, NICOLAS LEDESMA, JAIME CLAPAROLS, CARMITA C. BALCELLS, EDUARDO CLAPAROLS, EULALIA C. ROSELLO, ENRIQUE YUSAY, DOMINGO RODRIGUEZ, INC., FIRST FARMERS' MILLING CO., I...

G.R. Nos. L-33868-76. October 18, 1990

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This is a petition for certiorari with preliminary injunction questioning the orders of respondent Court of First Instance of Negros Occidental dated June 30, 1970, July 20, 1970, December 10, 1970 and April 21, 1971 as having been issued with grave abuse of discretion.

The pertinent facts, as culled from the pleadings, are as follows:

Private respondent Talisay-Silay Milling Co., Inc. (Central) is the owner and operator of a sugar mill located in the Municipality of Talisay, Negros Occidental, manufacturing centrifugal sugar from sugarcanes delivered to the mill by petitioners Nilo Lizares, Nicolas Ledesma, Jaime Claparols, Carmita C. Balcells, Eduardo Claparols, Eulalia C. Rosello, Enrique Yusay, Domingo Rodriguez, Inc., and First Farmers' Milling Co., Inc. pursuant to identical milling contracts executed between the former and the latter. Under the provisions of the milling contracts, Central was granted, inter alia, an easement of aqueduct on the parcels of land owned by petitioners for the passage of water from the Imbang River to its sugar mill. For this purpose, Central constructed concrete water canals traversing the parcels of land of petitioners. The easement of aqueduct was for a period of fifty (50) years, which began with 1920-21 crop year up to 1969-70 crop year. Prior to the expiration of this period, Central, by means of separate letters, offered to lease from petitioners the areas occupied by the canals. However, petitioners refused to entertain the offer of Central.

On June 22, 1970, Central filed its complaints against petitioners Nilo Lizares, Nicolas Ledesma, Jaime Claparols, Carmita C. Balcells, Eduardo Claparols, Eulalia C. Rosello and Enrique Yusay, docketed as Civil Cases Nos. 9438, 9439, 9441, 9442, 9443, 9445 and 9446, respectively, before respondent Court of First Instance of Negros Occidental. On July 20, 1970, Central filed its complaints against Domingo Rodriguez, Inc. and First Farmers' Milling Co., Inc., docketed as Civil Cases Nos. 9472 and 9473, respectively, before the same court. In all these cases, Central prayed for the establishment of a legal easement of aqueduct on the parcels of land owned by petitioners (same areas presently occupied by the canals) and for the issuance of writs of preliminary injunction ex parte to restrain the petitioners and/or their agents, representatives, assigns, successors-in-interest from removing and/or destroying the canals or otherwise from obstructing the passage of water from the Imbang River to its mill, through the canals, during the pendency of the litigation.

On June 30, 1970, respondent court ordered the issuance of the writs of preliminary injunction with respect to Civil Cases Nos. 9438, 9439, 9441, 9442, 9443, 9445 and 9446, to wit:

"O R D E R

Verified petition dated June 22, 1970, 'having been filed' in the above-entitled civil cases in which it is prayed among other things, that a writ of preliminary injunctions (sic) ex-parte (sic) be issued to refrain the defendants from proceeding with certain acts which are particularly described therein, and the Court, finding that it is a proper case for injunction, that the continuance of the acts complained of during the litigation would work injustice to the plaintiff, and that great or irreparable injury would result to the plaintiff, before the matter can be heard on notice, hereby orders the immediate issuance of the writ of preliminary injunction prayed for upon the filing of the plaintiff of a bond in the amount of P2,000.00 each case.

SO ORDERED." (p. 137, Rollo)

The writs of preliminary injunction were issued accordingly on said date (pp. 140-146, Rollo). On July 20, 1970, respondent court ordered the issuance of the writs of preliminary injunction as regards Civil Cases Nos. 9472 and 9473, to wit:

"O R D E R

A verified petition dated July 20, 1970, having been filed in the above-entitled civil cases in which it is prayed among other things, that a writ of preliminary injunction be issued to refrain the defendant from proceeding with certain acts which are particularly described therein, and the Court, finding that it is a proper case for injunction, that the continuance of the acts complained of during the litigation would work injustice to the plaintiff, and that great or irreparable injury would result to the plaintiff before the matter can be heard on notice, hereby orders the immediate issuance of the writ of preliminary injunction prayed for upon the filing of the plaintiff of a bond in the amount of P2,000.00.

SO ORDERED." (pp. 138-139, Rollo)

The writs of preliminary injunction were issued accordingly on said date (pp. 147-148, Rollo).

On July 27, 1970, petitioners filed a motion to dissolve the writs of preliminary injunction which was opposed by Central in a motion dated August 21, 1970. On December 10, 1970, respondent court denied the motion to dissolve the writs of preliminary injunction, to wit:

"O R D E R

For the resolution of the Court are the Motion to Dissolve Injunction dated July 27, 1970, filed by the defendants and the Opposition to Motion to Dissolve Injunction dated August 21, 1970, filed by the plaintiff. After carefully considering the lengthy, oral and written arguments of the parties, pro and con, the Court finds no sufficient ground to dissolve the writs of preliminary injunction issued in the above-entitled cases. The position of the defendants is that the injunctions were issued on the premature assumption that, even after the expiration of the plaintiff's contractual easement of aqueduct, it was entitled to a legal or compulsory easement of aqueduct on the same location or route, even without averment of the existence of the statutory requisites for the establishment of such legal easement, citing the cases of Bacolod-Murcia Milling Co., Inc. et al. vs. Capitol Subdivision, Inc., et al, 64 O.G. 1965; and Angela Estate, Inc., et al vs. Court of First Instance of Negros Occidental, et al. G.R. No. L-27084, July 31, 1968; while the plaintiff maintains the following positions: (1) that the contractual easement of aqueduct has not expired as yet when the complaint was filed; (2) that the complaint has sufficiently and with clarity averred that the statutory requisites for easement of aqueduct exist, hence, the propriety and legality of the issuance of the writ of preliminary injunction; and (3) that the decisions of the Supreme Court in the Bacolod-Murcia Co., Inc., cases aforesaid are not applicable to the issue at bar. The Court is inclined to sustain the position taken by the plaintiff.

WHEREFORE, the Motion to Dissolve Injunction filed by the defendants in the above-entitled cases is hereby denied.

SO ORDERED." (pp. 466-467, Rollo)

On December 19, 1970, petitioners filed a motion for reconsideration thereof which was, however, denied on April 21, 1971 for lack of merit (p. 486, Rollo). Hence, the present petition.

On January 27, 1988, considering the length of time that these cases have been pending with this Court, and to determine whether supervening events have rendered these cases moot and academic, We resolved to require the parties to move in the premises. On February 29, 1988 (p. 600, Rollo) and June 23, 1988 (p. 603, Rollo), petitioners manifested that no supervening events have rendered these cases moot and academic.

The issue is whether or not respondent court committed grave abuse of discretion in having issued the orders dated June 30, 1970 and July 20, 1970 directing the issuance of the writs of preliminary injunction, the order dated December 10, 1970, denying the motion to dissolve the writs of preliminary injunction and the order dated April 21, 1971 denying the motion for reconsideration.

The petitioners have failed to show grave abuse of discretion on the part of respondent court in issuing the questioned orders.

Petitioners allege that the cases of Bacolod-Murcia Milling Co., Inc., et al. v. Capitol Subdivision, Inc., et al. (G.R. No. L-25887, July 26, 1966, 17 SCRA 731), Angela Estate, Inc., et al. v. CFI of Negros Occidental, et al. (G.R. No. L-27084, July 31, 1968, 24 SCRA 500) and Locsin, et al. v. Climaco, etc., et al. (G.R. No. L-27319, January 31, 1969, 26 SCRA 816) constitute the leading jurisprudence in the issuance of the writs of preliminary injunction in cases of complaints praying for the declaration of legal easement. In answer thereto, Central asserts that the aforementioned decisions are inapplicable in these cases because they refer to legal easement of right of way.

The cases invoked by petitioners may be applied to this controversy only insofar as the general principles on the issuance of a writ of preliminary injunction reiterated therein are concerned, but not with regard to the other principles enunciated therein because they deal with legal easement of right of way whereas Our concern here is legal easement of aqueduct.

A preliminary injunction may be granted at any time after the commencement of the action and before judgment, when it is established that the plaintiff is entitled to the relief demanded, and the whole or part of such relief consists in restraining the commission or continuance of the acts complained of, or in the performance of an act or acts, either for a limited period or perpetually; that the commission or continuance of some act complained of during the litigation or the non-performance thereof would probably work injustice to the plaintiff; or that the defendant is doing, threatens, or is about to do, or is procuring or suffering to be done, some act probably in violation of the plaintiff's rights respecting the subject of the action, and tending to render the judgment ineffectual.[1]

The purpose of this provisional remedy is to preserve the status quo[2] of the things subject of the action and/or the relation between the parties, in order to protect the right of the plaintiff respecting the subject of the action during the pendency of the suit. Because, otherwise or if no preliminary prohibitory injunction were issued, the defendant may, before final judgment, do or continue the doing of the act which the plaintiff asks the court to restrain, and thus make ineffectual the final judgment rendered afterwards granting the relief sought by the plaintiff.

In praying for the issuance of the writs of preliminary injunction, Central averred the following in its complaints (pp. 57-136, Rollo): that should the defendants (petitioners herein) remove or demolish the concrete water canals or otherwise interfere with the easement of aqueduct which has been availed of by it for the last fifty (50) years

through the use of said canals by obstructing, impeding or preventing the passage of water thereon, irreparable damage would be caused to it, as they all together have a yearly quota to fill including the export quota which constitutes part of the commitment of the Republic of the Philippines to the United States; that during the crop year 1969-70, Central manufactured 871,797.50 piculs of centrifugal sugar of which manufactured sugar sixty (60%) percent thereof or 523,078,500.00 piculs more or less are export or "A" sugar shipped to the United States to fill part of the aforesaid yearly quota, which at the price of P40.00 a picul on the average, amount to P208,231,400.00, or \$34,871,900.00 thereby availing to the Government of the Republic of the Philippines much needed dollars to bolster the depleted foreign exchange reserve of the country which at the present time is dangerously low; that in fact no damage has resulted or will result to the defendants (petitioners herein) from the continued use and exercise of the easement of aqueduct while on the other hand, irreparable damage will be caused to Central, the other planters affected and even to the sugar industry and the national economy as a whole, unless it be allowed the continuous use of the canals and its continued use thereof be legally recognized as a legal easement of aqueduct upon payment to defendants (petitioners herein) of a reasonable compensation to be fixed by the court, the said legal easement to exist for a period coterminous with the existence and operation of the mill; and that unless the defendants (petitioners herein) are restrained from committing the act of either impeding or in any way obstructing the passage of water from the Imbang River through the canals presently existing on their properties by destroying said canals or otherwise, which defendants (petitioners herein) are threatening to do, Central's mill operation will be completely paralyzed resulting in great and irreparable loss and damage to it and its planters.

We agree with respondent court that Central has sufficiently established the necessity of issuing writs of preliminary injunction against petitioners.

Petitioners contend next that assuming crop year 1969-70 ended only on August 31, 1970, by the time respondent court issued its December 10, 1970 and April 21, 1971 orders, Central's contractual right to the easement of aqueduct has already expired. On the other hand, Central avers that since the writs of preliminary injunction were issued before the expiration of the contractual easement of aqueduct, they were issued not only to protect an existing right then, but even after August 31, 1970, to preserve the status quo between the parties, pending judicial determination as to whether or not it (Central) could convert its existing contractual easement of aqueduct into a legal easement under Arts. 642-643 of the New Civil Code.

It frequently happens that, pending suits for injunctive relief, changes take place in the conditions which give rise to the litigation, and the question is thus presented whether the suit should stand or fall upon the facts as they existed at the time it was brought, so as to exclude all consideration of subsequent changes or abandonment of the acts complained of. Generally speaking, it is the condition of things at the time of the hearing of the suit which is material, and which furnishes the basis for relief. The court is not only authorized, but it is its duty to determine not merely whether the plaintiff was entitled to an injunction at the time he began the suit but whether the facts as they appear at the time of the hearing warrant such relief, and it may refuse to grant an injunction where, since the commencement of the suit, conditions have so changed as to render an injunction useless and of no effect if granted. Injunctive relief will generally be refused where, before the final hearing, the plaintiff loses his interest in or title to the subject matter sought to be protected, or where the act sought to be restrained has been made lawful by statute or ordinance. This does not mean, however, that the court should deny injunctive relief in every case of material changes in conditions or abandonment of the acts complained of, for circumstances may still exist which, in the face of such a situation, would justify the issuance of injunction as a matter of sound judicial discretion (28 Am. Jur. 201, cited in *The Revised Rules of Court in the Philippines* by Vicente J. Francisco, 1985 Edition, p. 178).

In these cases, the writs of preliminary injunction were issued (as correctly averred by Central) not only to protect the existing easement of aqueduct in its favor, but even after the end of 1969-70 crop year, to preserve the status quo between the parties, pending judicial determination as to whether or not Central can convert its contractual easement of aqueduct into a legal easement of aqueduct. If the writs of preliminary injunction were to be dissolved, the probability of the canals' destruction or obstruction by petitioners would be great, considering that they refused the offer made by Central to lease the areas covered by the canals. In the event that respondent court grants Central a legal easement of aqueduct, this judgment might be rendered ineffectual by the destruction or obstruction of the canals.

It is unnecessary to discuss the other issues raised by petitioners inasmuch as they dwell on the merits of the case pending before respondent court.

ACCORDINGLY, the petition is hereby DISMISSED and the orders of the Court of First Instance of Negros Occidental dated June 30, 1970, July 20, 1970, December 10, 1970 and April 21, 1971 are AFFIRMED.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Grino-Aquino, JJ., concur.

[1] Section 3, Rule 58 of the Rules of Court

[2] The status quo is the last actual peaceable uncontested status which preceded the pending controversy (Rodulfa v. Alfonso, etc., et al., 76 Phil. 225).

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