

NIÑO PHILIP JOHN JUNSAY, PETITIONER, VS. REGIONAL TRIAL COURT OF MANILA, BRANCH 30, AND THE OFFICE OF THE SHERIFF, CITY OF MANILA AND PHILIPPINE SAVINGS BANK (PSB), RESPONDENTS.

Ponente: DIMAAMPAO, J.

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DIMAAMPAO, J.:

At the maelstrom of this Petition for Certiorari[2] is the Order[3] dated 27 May 2013 of the Regional Trial Court of Manila, Branch 30, in Civil Case No. 13-129985. The court a quo adjudged as follows:

“WHEREFORE, petitioner's application for the issuance of a temporary restraining order is DENIED. Also, finding no reason or cause to proceed with and sustain the instant suit, the remedy being unavailing and the petition failing to state a cause of action, the same is hereby DISMISSED.

SO ORDERED.”[4]

The salient operative facts unfurl as follows:

Josephine Co (Josephine) is the registered owner of a commercial building located at 2181 Fermin St. corner Singalong, Malate, Manila. Josephine mortgaged the subject building to private respondent Philippine Savings Bank (PSB). The mortgage was foreclosed and the property was sold at a public auction with PSB emerging as the highest bidder. Inevitably, PSB lodged a Petition for Issuance of a Writ of Possession before the Regional Trial Court of Manila, Branch 4 (RTC-Branch 4), docketed as LRC CAD CASE NO. 82. In due course, the RTC-Branch 4 issued a Writ of Possession[5] and a Notice to Vacate.[6] Aggrieved, petitioner Nino Philip John Junsay filed before the court a quo, a Petition for Issuance of a Temporary Restraining Order, Injunction and Writ of Prohibition, to enjoin the Ex Officio Sheriff of RTC Branch 4 from implementing the Writ of Possession.

In the repugned Order, the court a quo denied petitioner's plea for injunctive relief.

Unfazed, petitioner comes to Us raising this solitary ground—

THE HONORABLE COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK AND/OR EXCESS OF JURISDICTION IN DISMISSING THE CASE MOTU PROPRION (SIC) AND NOT CONSIDERING THE APPLICABLE LAWS AND JURISPRUDENCE RAISED BY THE PETITIONER IN VERIFIED PETITION WITH PRAYER FOR THE ISSUANCE OF A TEMPORARY RESTRAINING ORDER, INJUNCTION AND WRIT OF PROHIBITION.

The Petition bears no merit.

Petitioner impugns the propriety of the dismissal of his Petition postulating that he is in actual possession of the realty subject of the Writ as lessee since 2008 and has a renewed contract of lease with the owner, Josephine, for another two years from 15 January 2013 to 15 January 2015. He bewails that he cannot be evicted therefrom on the following grounds: One, as a lessee, he is entitled to due process and two, there is a pending separate case,

Civil Case No. 13-129524, filed by Josephine for the annulment of the foreclosure proceedings.[7]

Petitioner's postulation is unpersuasive.

Grave abuse of discretion implies such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction or, in other words, where the power is exercised in an arbitrary manner by reason of passion, prejudice, or personal hostility, and it must be so patent or gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law. Mere abuse of discretion is not enough.[8]

We find no grave abuse of discretion on the part of the court a quo in denying petitioner's plea for injunction as it sits well with settled doctrinal teachings.

First. Persuasive authority has it that no court has the power to interfere by injunction, with the judgment, decrees or orders of a court of concurrent or coordinate jurisdiction, having equal power to grant the relief sought by injunction. Pursuant to the policy of judicial stability, the judgment or order of a court of competent jurisdiction may not be interfered with by any court of concurrent jurisdiction, for the simple reason that the power to open, modify or validate a judgment or order is not only powered by, but is restricted to the court in which the judgment or order is rendered. A contrary rule would lead to confusion, and seriously hamper the administration of justice.[9]

In the case at bench, the court a quo has no jurisdictional competence to nullify or enjoin the implementation of the Writ of Possession issued by RTC-Branch 4, a co-equal court. The determination of whether or not the eviction of petitioner pursuant to the Writ of Possession and Notice to Vacate appropriately falls within the jurisdiction of RTC-Branch 4 and not with the court a quo.

Second. The court a quo erred not in denying petitioner's motion to enjoin the implementation of the Writ of Possession as the issuance thereof was ministerial on the part of RTC-Branch 4.

Well-encrypted in Our jurisprudence is the rule that the issuance of a writ of possession to a purchaser in a public auction is a ministerial act. After the consolidation of title in the buyer's name for failure of the mortgagor to redeem the property, the writ of possession becomes a matter of right. Its issuance to a purchaser in an extrajudicial foreclosure sale is merely a ministerial function. The trial court has no discretion on this matter.[10] The issuance of the writ of possession being ministerial in character, the implementation of such writ by the sheriff is likewise ministerial.[11] Prohibition does not lie to enjoin the implementation of a writ of possession.[12] Once the writ of possession has been issued, the trial court has no alternative but to enforce the writ without delay.[13] Any question regarding the validity of the mortgage or its foreclosure cannot be a legal ground for the refusal to issue a writ of possession. Regardless of whether or not there is a pending suit for annulment of the mortgage or the foreclosure itself, the purchaser is entitled to a writ of possession, without prejudice, however, to the eventual outcome of the pending annulment case.[14] Given this decisional yardstick, the implementation of the Writ of Possession and Notice to Vacate may not be stayed by such pending or subsequent action for annulment of mortgage or the foreclosure proceedings.

Third. Anent the alleged violation of petitioner's right to due process, We adumbrated earlier that the issuance of a writ of possession is a ministerial function of the court, and should be issued as a matter of course upon the filing of the proper ex parte motion. No discretion is left to the court.[15] In fact, no hearing is required for the issuance of a writ of possession.[16] The proceeding in a petition for writ of possession is ex parte and summary in nature. It is a judicial proceeding brought for the benefit of one party only and without notice by the court to any person adverse of interest. It is a proceeding wherein relief is granted without an opportunity for the person against the

relief is sought to be heard. The law does not require that a petition for a writ of possession may be granted only after documentary and testimonial evidence shall have been offered to and admitted by the court. As long as the verified petition states the facts sufficient to entitle the petitioner to the relief requested, the court shall issue the writ prayed for. The petitioners need not offer any documentary and testimonial evidence for the court to grant the petition.[17]

One final point. We give imprimatur to the incisive disquisition of the court a quo that the Petition for Injunctive Relief failed to state a cause of action—

"Considering that the remedy being invoked by petitioner can never be granted under the circumstances at hand, reason dictates that the proceedings at bar be truncated as the whole case rests on the said cure under Rule 58. The allegations and points raised in the petition preclude a favorable answer to the prayers mentioned. Clearly(,) there is a failure to state a cause of action that would justify a further consideration of the case. xxx. With injunction being unavailable to petitioner, the purpose of the present suit becomes nugatory as the same will never bear the fruit that the petitioner expected to produce. The court therefore exercises its prerogative to dismiss the present action motu proprio on the ground mentioned above."

The foregoing explication is in accord with doctrinal precedents that in failure to state a cause of action, the focus is on the sufficiency, not the veracity, of the material allegations. The test of sufficiency of facts alleged in the complaint constituting a cause of action lies on whether or not the court, admitting the facts alleged, could render a valid verdict in accordance with the prayer of the complaint.[18] Failure to state a cause of action and lack of cause of action are really different from each other. On the one hand, failure to state a cause of action refers to the insufficiency of the pleading, and is a ground for dismissal under Rule 16 of the Rules of Court. On the other hand, lack of cause [of] action refers to a situation where the evidence does not prove the cause of action alleged in the pleading.[19]

In epitome, We discern no plausible basis to nullify the assailed Order.

WHEREFORE, the Petition is hereby DISMISSED. The Order dated 27 May 2013 of the Regional Trial Court of Manila, Branch 30, in Civil Case No. 13-129985, is AFFIRMED.

SO ORDERED.

Diamante, and Salandanan-Manahan, JJ., concur.

[1] Rollo, p. 73.

[2] Id., pp. 3-14.

[3] Id., pp. 15-17.

[4] Id., p. 17.

[5] Rollo, pp. 20-21.

[6] Id., p. 19.

[7] Id., p. 38.

[8] San Fernando Rural Bank, Inc. v. Pampanga Omnibus Development Corporation, 520 SCRA 564, 592 (4 April 2007).

[9] See Javier v. Court of Appeals, 423 SCRA 11, 32-33 (16 February 2004).

- [10] See *Mallari v. Banco Filipino Savings and Mortgage Bank*, 563 SRCA 664, 670-671 (29 August 2008) citing *Espiridion v. Court of Appeals*, 490 SCRA 273 (8 June 2006).
- [11] See *Ong v. Court of Appeals*, 333 SCRA 189, 197 (8 June 2000). (Emphasis Ours)
- [12] *Id.*, p. 199. (Emphasis supplied)
- [13] See *Maliwat v. Metropolitan Bank & Trust Company*, 532 SCRA 124, 129 (3 September 2007).
- [14] *Fernandez v Espinosa*, 551 SCRA 136, 149-150 (14 April 2008).
- [15] *Camacho v. Philippine National Bank*, 363 SCRA 352, 357 (16 August 2001).
- [16] *City of Iloilo v. Legaspi*, 444 SCRA 269, 283 (25 November 2004).
- [17] *Santiago v. Merchants Rural Bank of Talavera, Inc.*, 453 SCRA 756, 765 (18 March 2005); *Parents-Teachers Association (PTA) of St. Mathew Christian Academy v. Metropolitan Bank and Trust Co.*, 614 SCRA 41, 57 (2 March 2010).
- [18] See *Clidoro v. Jalmanzar*, 729 SCRA 350, 355-356 (9 July 2014), citing *Vitangcol v. New Vista Properties, Inc.*, 600 SCRA 83 (17 September 2009)
- [19] *Lourdes Suites (Crown Hotel Management Corporation) v. Noemi Binarao*, G.R. No. 204729, 6 August 2014, citing *Macaslang v. Zamora*, 649 SCRA 92, (30 May 2011).

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