

BONIFACIO MONTILLA PEÑA, PETITIONER, VS. HONORABLE COURT OF APPEALS AND SOLEDAD OPPEN MONTILLA, RESPONDENTS.

G.R. No. 102930. July 10, 1995

Ponente: VITUG, J.

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VITUG, J.:

This petition for review on certiorari assails the decision of the Court of Appeals which has nullified two (2) orders of the court a quo in a controversy before it relative to the possession, use and enjoyment of a piece of property.

Soledad Oppen Montilla, a widow of about 85 years of age, and Bonifacio Peña, her grandson, are the plaintiff and the defendant, respectively, in Civil Case No. 394 before the Regional Trial Court of Negros Occidental, Branch 62, stationed in Bago City. The defendant is one of the sons of Lina Montilla Peña, who, in turn, is a daughter of the plaintiff. Atty. Magdaleno Peña, counsel for and attorney-in-fact of the plaintiff, is the other son of Lina Montilla Peña and the elder brother of the defendant. The plaintiff's husband, Bonifacio Montilla, has long been deceased. Besides Lina M. Peña, the plaintiff has a son, named Candido Montilla, who is under Soledad's judicial guardianship.

The principal allegations contained in the verified complaint in Civil Case No. 394, filed on 19 September 1990 and held by the appellate court to be a case for injunction, with preliminary prohibitory injunction and restraining order, read thusly:

"COMES NOW plaintiff, through undersigned counsel, to the Honorable Court respectfully alleges that:

"1. She is of legal age, Filipino, a widow and a resident of Parañaque, Metro Manila; while defendant Bonifacio Peña is of legal age, Filipino, married and a resident of Bacolod City, Negros Occidental, where he may be served with summons at the residence of Mr. James Chang near the Chinese Temple at the Capitol Shopping Center.

"2. She is the sole owner of a residential house and compound located in Barrio Ubay, Pulupandan, Negros Occidental, which she had caused to be erected and constructed way back in 1933 with her own paraphernal funds.

"3. On April 3rd, 1990, acting for herself and as the then judicial guardian of the incompetent Candido Oppen Montilla, plaintiff executed and delivered to Atty. Magdaleno M. Peña a Special Power of Attorney, with full power and authority to do and perform the following acts and deeds, among others:

"`1. To take over the management of our agriculture and aquaculture businesses, including but not limited to the exercise of general administration, control and supervision of all the aspects of its farming operations, finance, management, sales, etc.;

"`2. To develop, subdivide, integrate or consolidate the sugar and/or prawn farms located in Negros Occidental, as our said Attorney-in-Fact may deem appropriate for the purpose of promoting and enhancing the productivity thereof;

`xxx xxx xxx

`7. To sue and prosecute before any courts of law, x x x, any person, firm, entity, x x x, whether civil, criminal or administrative, who may have committed acts in derogation of our rights and interests as owners of the said businesses, for the recovery of moneys or properties lost and/or restitution of any damage caused upon us or on the aforesaid businesses;

`xxx xxx xxx.'

"4. On July 7, 1990, plaintiff also issued a `MEMORANDUM FOR SLC MONTILLA FARMS' directing, among others:

"`1. Bonifacio M. Peña is hereby ordered to turn over management, cash, equipment and other properties of Soledad Lina and Candido Montilla Farms to Atty. Magdaleno M. Peña and Candido M. Peña.

`xxx xxx xxx.

`4. Bonifacio Peña is strictly prohibited from interfering in the operation of SLC Montilla Farms and in my residence in Ubay, Pulpandan. Atty. Magdaleno M. Peña and Candido M. Peña are therefore authorized to effect this.

`xxx xxx xxx.

`6. Any and all prior authority issued to Bonifacio M. Peña is hereby revoked.

`xxx xxx xxx.

"5. As thus directed, Atty. Magdaleno M. Peña took over possession of plaintiff's aforesaid residential house on September 4, 1990.

"6. Thereafter, late in the afternoon of September 12, 1990, defendant Bonifacio M. Peña, accompanied by the local Provincial Commander of the Philippine Constabulary and a group of more than thirty (30) military personnel, riding on an Armored Personnel Carrier, a B-150 assault vehicle, and a Hummer jeep, tried to enter and retake possession of said house of the plaintiff, but was fortunately dissuaded by the latter's gatekeeper until the arrival of Atty. Magdaleno M. Peña some twenty (20) minutes later.

"7. On Atty. Magdaleno M. Peña's arrival thereat, he allowed the Provincial Commander and the defendant to go inside the house for a dialogue; but he refused entry into the premises to the rest of defendant's military escort.

"8. Upon being shown by Atty. Magdaleno M. Peña the above-mentioned written authorizations given him by plaintiff, the Provincial Commander advised defendant to peacefully leave the premises as he has no right to insist on occupying the same.

"9. However, soon thereafter and beyond the hearing of said military officer, defendant threatened plaintiff's authorized representative, Atty. Magdaleno M. Peña, that he would be back to retake possession of the premises, through the use of force if need be.

"10. Thus, to avoid trouble and possible bloodshed should defendant persist and make good on his threatened unlawful action, plaintiff has no other recourse but to resort to this Honorable Court for relief.

"11. On the other hand, plaintiff, as the owner of the premises, is entitled to be secure in her peaceful and continued possession; and, through the writ of injunction, both preliminary and then final, she should be protected against such declared intention of defendant to oust her therefrom, through the threatened use of force.

"12. In the meantime, great and irreparable injury, and possible bloodshed would be caused the herein plaintiff

and her personnel in the premises unless a restraining order is issued upon the filing of this Complaint under the provisions of paragraph 8 of the interim rules and guidelines of the Supreme Court.

"In further support of this application for a restraining order, plaintiff is attaching hereto the affidavits of another witness as Annex 'C' and integral part hereof.

"13. Plaintiff is willing and hereby offers to post a bond in such amount as the Honorable Court may fix, conditioned that she will pay the defendant all damages which he may sustain by reason of the injunction if it should be finally decided that she is not entitled thereto.

"14. Earnest efforts have been exerted by plaintiff's authorized representative to reach a compromise, but to no avail.

"15. Finally, because of such unwarranted and illegal acts and threats of the defendant, plaintiff is forced to retain the services of counsel for a fee of P30,000.00, and a per diem of P500.00 each time this case is set for hearing, in this first instance.

"WHEREFORE, it is respectfully prayed that:

"a. Upon the filing of this Complaint and pending hearing of the application for a writ of preliminary injunction, an Order issue restraining, enjoining and prohibiting the defendant Bonifacio M. Peña from entering in, and interfering with the use, occupation and enjoyment of, plaintiff's residential house and compound in Barrio Ubay, Pulupandan, Negros Occidental;

"b. After hearing the foregoing application therefor, and within the 20-day effective period of such order, that the corresponding writ of preliminary injunction issue; and

"c. After trial on the merits, that Judgment be rendered making such preliminary injunction permanent, and finding said defendant liable unto the plaintiff in the amount of P30,000.00 plus P500.00 per hearing conducted in this case, as and for attorney's fees; plus the costs.

"Plaintiff further prays for such other relief as may be deemed just and equitable in the premises.

"Bacolod City for Bago City, September 19, 1990."[1]

The presiding Judge forthwith issued a temporary restraining order and set for hearing the application for an issuance of a preliminary injunction. The pertinent portions of the restraining order provided:

"After a careful perusal of the facts alleged in the complaint, the Court believes that great damage and irreparable injury would result to the plaintiff if the defendant is not prevented from doing the acts complained of before the matter at issue could be heard on notice and considering the urgency of the matter at issue, as prayed for, a temporary restraining order is hereby issued.

"WHEREFORE, in accordance with Section 8 of the Interim Rules and Guidelines of the Rules of Court, defendant Bonifacio Peña and/or any of his representatives, agents or persons acting under his orders are hereby temporarily restrained from entering in, and interfering with the use, occupation and enjoyment of, plaintiff's residential house and compound in Barrio Ubay, Pulupandan, Negros Occidental, UNTIL FURTHER ORDERS FROM THIS COURT.

"Let the hearing for the issuance of a Writ of Preliminary Injunction be set on September 25, 1990, at 2:00 o'clock in the afternoon, on which time and date the defendant is directed to appear and to show cause, if there is any, why the writ of preliminary injunction should not be granted. Let a copy of this order be served immediately upon the defendant, at the expense of the plaintiff, together with the summons and copies of the complaint filed by the plaintiff.

"SO ORDERED."[2]

On 04 October 1990, defendant Bonifacio Peña filed his answer, along with a counterclaim, denying all the material allegations of the complaint, except paragraph 1, which he admitted in toto, and paragraph 5, which he accepted with qualifications. In support of his denial of paragraph 2, he claimed that the residential house and compound in question were owned by SLC Montilla Farms. Relative to paragraph 3, he alleged that the special power of attorney executed by plaintiff was legally infirmed. Regarding paragraph 4, he said that a mere unilateral act of plaintiff, she being only one of the co-owners of SLC Montilla Farms, was not binding upon the co-ownership. He gave no reason to support his denial of paragraphs 6, 7 and 8. In denying paragraphs 9 and 10, he averred that, being a younger brother, he could not have threatened his older brother Atty. Magdaleno. In regard to paragraphs 11, 12 and 13, he contended that the grounds for the prayed issuance of the writ of preliminary injunction were patently not extant. In connection with paragraph 14, he denied that earnest efforts were at all exerted by the plaintiff for an amicable settlement of the case. In respect of paragraph 15, he stated that the subject residential house should, at the very least, be considered the conjugal property of his grandparents, the late Bonifacio Montilla and the plaintiff Soledad O. Montilla. The defendant concluded with this prayer:

"WHEREFORE, in the light of the foregoing, it is most respectfully prayed of this Honorable Court to forthwith order the dismissal of the above-entitled case and on the counter-claim to render judgment directing plaintiff through her alleged representative to pay defendant the amount of P100,000.00 as attorney's fees and the amount of P2,000.00 for every court appearance.

"Defendant further prays for such other relief and remedies which this Honorable Court may consider just and reasonable.

"Bacolod City for Bago City, October 4, 1990."[3]

The plaintiff filed, on 08 October 1990, her answer to the counterclaim.

On 09 October 1990, the hearing on the preliminary injunction was terminated and, in an order of even date, the presiding Judge required the parties to submit their respective memoranda; they both did on 15 October 1990.

In his order of 22 October 1990, the trial Judge held:

"WHEREFORE, the plaintiff's prayer for the issuance of preliminary injunction is hereby denied for lack of merit. Accordingly, defendant Bonifacio Peña is reinstated to his possession of the residential house at Ubay, Pulpandan, Negros Occidental.

"SO ORDERED."[4]

On 15 November 1990, plaintiff's counsel filed a Manifestation stating that on 09 November 1990 he received by mail the order of 22 October 1990; that he intended to file a motion for reconsideration; and that he was filing the manifestation because of the reported move of the defendant to secure enforcement of the order of 22 October 1990.

On 20 November 1990, upon an ex-parte motion filed by the defendant, the judge issued another order, the dispositive portion of which read:

"In view of the foregoing and finding the herein motion of the defendant to be reasonable and fully impressed with merit, the same is hereby granted and as prayed for by the defendant thru his counsel, the Provincial Commander of the Philippine Constabulary or any of his authorized representative is hereby authorized and deputized to assist the Deputy Sheriff of this court in the immediate implementation and execution of the order of this court dated October 22, 1990.

"SO ORDERED."[5]

On 21 November 1990, the plaintiff filed a Motion for Clarification and Reconsideration of the Order of 22 October 1990. The judge promptly set the motion for a hearing; forthwith, the Judge issued a 5-page order, the decretal portion of which stated:

"WHEREFORE, finding no merit on the instant Motion for Clarification and Reconsideration, the same is hereby denied and the order of this court dated November 20, 1990, is hereby ordered immediately enforceable. The Deputy sheriff of this court is hereby ordered to serve the said order of November 20, 1990, to the Sheriff thru her agent or attorney--in-fact Atty. Magdaleno Peña, or her duly authorized representative and to make a return thereof to the court as provided for by law.

"SO ORDERED."[6]

The following day, 22 November 1990, the plaintiff filed with the Court of Appeals a petition for certiorari, with preliminary injunction and temporary restraining order, basically anchored on the following grounds:

"5.1 By issuing the order dated October 22, 1990 (Annex 'E' hereof), respondent judge acted with grave abuse of discretion amounting to lack of jurisdiction, considering that the portion of said order directing the reinstatement of private respondent to the house subject matter of controversy partakes the nature of a preliminary mandatory injunction, the issuance of which is not warranted under the circumstances;

"5.2 By issuing the order of execution or implementation dated November 20, 1990 (Annex 'G' hereof), respondent judge likewise committed grave abuse of discretion amounting to lack of jurisdiction, considering that the order dated October 22, 1990 (Annex 'E' hereof) has not yet attained finality, and that the same is not immediately executory in the light of Section 4, Rule 39 of the New Rules of Court."[7]

On 23 November 1990, the appellate court issued a resolution requiring the defendant to file comment on the petition and restraining in the meantime the implementation of the trial court's orders of 22 October 1990 and 20 November 1990. The appellate court set the plaintiff's application for the issuance of a writ of preliminary injunction for hearing on 21 December 1990, which was later reset to 28 December 1990 in order to secure the personal attendance of the parties and to explore the possibility of an amicable settlement. As so scheduled, the parties appeared but the parties failed to reach an agreement.

On 03 January 1991, the appellate court issued a resolution granting plaintiff's application for a preliminary injunction against the implementation of the orders of 22 October 1990 and 20 November 1990 of the trial court.

On 22 January 1991, the appellate court issued a resolution giving due course to the petition for certiorari and requiring the defendant to file an answer. On 05 February 1991, acting on the "Motion for Reconsideration and To Submit the Case for Decision," dated 16 January 1991, filed by the defendant and the "Manifestation/Motion," dated 23 January 1991, filed by the plaintiff, the appellate court issued a resolution ordering the Branch Clerk of Court of the court a quo to elevate the records of Civil Case No. 394. On even date, the defendant submitted his "Comment to Main and Supplemental Petition."

On 30 May 1991, the appellate court rendered its judgment, the dispositive portion of which read:

"WHEREFORE, the petition is GRANTED. The orders of October 22, 1990, November 20 and 21, 1990 are declared null and void. The preliminary injunction is made permanent, and private respondent Bonifacio M. Peña is hereby restrained and prohibited from entering in, and interfering with the use, occupation and enjoyment of, petitioner's residential house and compound in Barrio Ubay, Pulupandan, Negros Occidental."[8]

In this petition for review, defendant Bonifacio Montilla Peña, now herein petitioner, is raising two questions, viz:

"DID THE RESPONDENT COURT OF APPEALS EXCEED ITS JURISDICTION WHEN, IN A SPECIAL CIVIL ACTION OF CERTIORARI, IT DID NOT CONFINE ITSELF TO THE ISSUE OUTLINED IN THE PETITION BUT INSTEAD PROCEEDED TO DECIDE THE ISSUES OF THE CASE FILED IN THE COURT OF ORIGIN, ON THE MERITS AND WITHOUT BENEFIT OF TRIAL?

"DID THE RESPONDENT COURT OF APPEALS ERR WHEN IT SET ASIDE THE QUESTIONED INTERLOCUTORY ORDERS OF THE TRIAL COURT?"[9]

We agree with the appellate court that the main action, such as may be gleaned from a reading of the allegations found in the complaint, appears to be one for injunction. On the basis of its findings, which are not without substantial support from the records, the appellate court has acted judiciously, initially, in issuing a temporary restraining order and, later, in granting the application made by private respondent for a writ of preliminary injunction against the orders of 22 October 1990 and 20 November 1990 of the trial court.

The pleadings, along with the evidence adduced by the parties at the hearing before the trial court on the prayer for preliminary injunction, would disclose that petitioner was not in possession of the property in question at the time the case was initiated by private respondent on 19 September 1990; that private respondent (through Atty. Magdaleno M. Peña) had previously taken over actual and physical possession thereof; that the property was under co-ownership by and among Soledad Montilla, Candido Montilla and Lina Montilla Peña; that the holding of private respondent, together with Candido Montilla, in the co-ownership constituted well more than a majority interest (5/6 in the residential house and 2/3 in the lot), with Lina Montilla Peña, the mother of petitioner, owning the minority share (1/6 in the house and 1/3 in the lot); and that, most importantly, petitioner himself would appear to have no actual interest in the co-ownership nor any valid proprietary claim on the property itself.

It should have been enough, nonetheless, for the appellate court to merely set aside the questioned orders of the trial court for having been issued by the latter with grave abuse of discretion. In likewise enjoining permanently herein petitioner "from entering in, and interfering with the use or occupation and enjoyment of, petitioner's (now private respondent) residential house and compound," the appellate court, in effect, precipitately resolved with finality the case for injunction that was yet to be heard on the merits by the lower court. Elevated to the appellate court, it might be stressed, were mere incidents of the principal case still then pending with the trial court. In *Municipality of Biñan, Laguna vs. Court of Appeals*, 219 SCRA 69, we ruled that the Court of Appeals would have "no jurisdiction in a certiorari proceeding involving an incident in a case to rule on the merits of the main case itself which was not on appeal before it."

The Court realizes that there could be occasions when a felicitous disposition of the case becomes compelling in the interest of justice. This extraordinary recourse, however, is done sparingly and only when highly exceptional circumstances can justify its exercise. The instant case falls far too short to call for another deviation from the rule that otherwise requires a full ventilation in the standard manner of a justiciable controversy.

WHEREFORE, the decision of the appellate court is MODIFIED by SUSTAINING that part which sets aside the questioned orders of the trial court and by DELETING the portion which enjoins permanently petitioner from interfering with the use, possession and enjoyment of the property in litigation. The case is hereby REMANDED to the court of origin for further proceedings on its merits. No special pronouncement on costs.

SO ORDERED.

Feliciano, (Chairman), Romero, Melo, and Francisco, JJ., concur.

[1] Rollo, pp. 29-32.

[2] Rollo, p. 33.

[3] Rollo, p. 34.

[4] Rollo, pp. 34-35.

[5] Rollo, p. 35.

[6] Rollo, p. 35.

[7] Rollo, p. 36.

[8] Rollo, p. 46.

[9] Rollo, p. 15.

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