

SOLID HOMES, INC., PETITIONER, VS. HON. COURT OF APPEALS, AND EVELYN VERGEL DE DIOS, RESPONDENTS.*G.R. No. 108451. April 11, 1997*

Ponente: ROMERO, J.

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This is a petition for review on certiorari which seeks to annul and set aside the decision of the Court of Appeals dated September 30, 1992 in C.A.-G.R. SP No. 28383[1] affirming the Order of the Regional Trial Court-Bulacan in Civil Case No. 382-M-92, where the trial court denied the application for a writ of preliminary injunction filed by herein petitioner against private respondent.

This case arose from a property located at Barangay Banaban, Angat, Bulacan (Lot No. 3863) covered by Transfer Certificate of Title No. T-130829 and registered in the name of Santiago V. Papa. Herein petitioner, Solid Homes Inc., acquired the said property by virtue of a Deed of Exchange dated February 28, 1980 executed by and between Santiago Papa and petitioner corporation, Solid Homes, Inc.[2] By virtue of the said transaction, Solid Homes acquired the proprietary rights of Santiago Papa, as well as other interests, and claims over the subject property, including an application for quarry Permit on the property pending before the Bureau of Mines.

On March 20, 1980, the Bureau of Mines and Geo-Sciences granted Quarry Permit No. 103 to Santiago Papa over the subject property.[3] The permit was for a period of five (5) years, renewable for one or more terms, but in no case to exceed the total of twenty five (25) years. However, after the lapse of five years, Santiago Papa failed to renew the said quarry Permit.

On June 16, 1989, private respondent Evelyn Vergel De Dios filed an application with the Regional Office of the Department of Environment and Natural Resources (DENR), Mines and Geo-Sciences Sector, for a Small Scale Mining Permit on the subject property now owned by petitioner corporation. The said application was approved on July 19, 1989 by the Regional Office (DENR) with the issuance of Small Mining Permit No. 111-43[4] wherein the private respondent was granted mining rights for a period of two (2) years, and renewable for another two years. Santiago Papa then complained to the Governor of Bulacan, Roberto Pagdanganan, about the granting of the permit to private respondent Evelyn Vergel De Dios.[5] The Office of the Governor of Bulacan, in turn, referred the matter to the Regional Director of the DENR. On November 16, 1989, Ruben Dulay, Vice-President for Administrative and External Affairs of Solid Homes Inc., submitted to the Director of the Bureau of Mines and Geo-Sciences documents to prove that herein petitioner has priority rights over and above any other proprietary rights and claims over the subject property, the latter being a private land.[6]

On April 15, 1991, private respondent filed a renewal of her Small Scale Mining Permit No. III-43. While its protest before the DENR was still pending, Solid Homes, Inc. likewise applied for a Small Scale Mining Permit over the subject property. However, it was not accepted due to the pending protest filed by it regarding the granting of a quarry permit to the private respondent.

On December 16, 1991, the Regional Executive Director of DENR resolved the case by dismissing the protest of

Solid Homes Inc.[7]

Thereafter petitioner filed a motion for reconsideration from the said dismissal. On March 11, 1992, the Regional Director issued a resolution denying the motion for reconsideration. Not contented, petitioner appealed the Order dated December 16, 1991 to the Secretary of the Department of Environment and Natural Resources, the case docketed as DENR Case No. 7252.[8]

On April 28, 1992, the Regional Director issued an Order granting the renewal of the quarrying permit to private respondent over the subject property. [9]

While its appeal was pending with the DENR, petitioner filed a complaint for quieting of title with the Regional Trial Court of Bulacan, Branch 20, with the case docketed as Civil Case No. 382-M-92.[10] Petitioner alleged in the complaint that private respondent's entry and use of the property, identified as Lot No. 3863 and covered by TCT No. 130829, by virtue of the mining permit granted by the Regional Director of DENR, have cast a cloud on the title. Among its prayers, petitioner sought the immediate issuance of a temporary restraining order, and after due hearing, for a writ of preliminary injunction, to restrain private respondent from entering and undertaking mining operations on Lot No. 3863. Petitioner further prayed that the portion of Lot 3863 in the mining permit of private respondent be declared unlawful.[11]

The trial court issued a temporary restraining order but subsequently denied petitioner's application for a writ of preliminary injunction for lack of jurisdiction, citing therein as basis Section 1 of P.D. 605, which provides:

"No court of the Philippines shall have jurisdiction to issue any restraining order, preliminary injunction or preliminary mandatory injunction in any case involving or growing out of the issuance, approval, or disapproval, revocation or suspension of, or any action whatsoever by the proper administrative official or body on concessions, licenses, permits, patents, or public grants of any kind in connection with the disposition, exploitation, utilization, exploration, and/or development of the natural resources of the Philippines." [12]

Petitioner then filed a petition for certiorari and mandamus with application for writ of preliminary injunction and temporary restraining order before the Court of Appeals, alleging that the trial court acted with grave abuse of discretion in denying its application for a writ of preliminary injunction.

The Court of Appeals in its Decision dated September 30, 1992 affirmed the Order of the trial court in denying the application for a writ of preliminary injunction filed by herein petitioner. Moreover, respondent Court of Appeals ruled that petitioner was forum-shopping. Petitioner then filed a Motion for Reconsideration, which was again subsequently denied by the Court of Appeals in its Resolution dated 24 December 1992.

Hence this petition.

The issue raised by petitioner before this Court is whether or not the respondent Court of Appeals acted with grave abuse of discretion in affirming the Order of the trial court denying the application for a writ of preliminary injunction. Furthermore, it alleged that respondent court abused its discretion when it held that herein petitioner was guilty of forum-shopping.

Private respondent, in her Reply, avers that petitioner was clearly forum-shopping since the issues raised in the complaint for quieting of title before the Regional Trial Court of Bulacan are the same as that of the case pending before the Office of the Secretary, Department of Environment and Natural Resources.

On the other hand, petitioner stated that there is no forum-shopping since the issue brought before the Regional Trial Court, Bulacan was for quieting of title under article 476 of the New Civil Code of the Philippines, while the issue pending before the Secretary of DENR, is the determination of who is entitled to the mining rights over the

property (Lot No. 3863) covered by TCT No. T-130829.

This Court affirms the ruling of the respondent Court of Appeals in dismissing the petition on the ground of forum-shopping.

To prevent the vexations of multiple petitions and the unethical practice of subverting justice, the Supreme Court promulgated Circular 28-91 requiring that a party "shall certify under oath that a) he has not theretofore commenced any other action or proceedings involving the same issues in the Supreme Court, the Court of Appeals, or any other tribunal or agency x x x." [13] As such, any violation of the Circular would result in the dismissal of the cases and entail other sanctions. This Court, time and again, has utilized this rule to dismiss petitions which do not comply with the mandatory requirements of the aforesaid Circular.

In the case of *Chemphil Export & Import Corporation v. Court of Appeals*, [14] this Court had the occasion to define forum-shopping when it held:

"Forum-shopping x x x, or the institution of two (2) cases or more actions or proceedings grounded on the same cause on the supposition that one or the other court would make a favorable disposition, has been characterized as an act of malpractice that is prohibited and condemned as trifling with Courts and abusing their processes. It constitutes improper conduct which tends to degrade the administration of justice. It has also been aptly described as deplorable because it adds to the congestion of the heavily burdened dockets of the courts." (Underscoring supplied)

In the case at bar, when petitioner filed a complaint for quieting of title with the Regional Trial Court of Bulacan, it still had a pending appeal with the Office of the Secretary — DENR regarding the denial of its protest over the grant of a mining permit to private respondent over the subject property.

A perusal of the complaint for quieting of title shows that the reliefs sought by petitioner are the same as that of its protest pending appeal before the Office of the Secretary of DENR.

In the Complaint for quieting of title, petitioner essentially alleges that private respondent's entry and use of the subject property has cast a cloud upon the title. As such, petitioner sought the following reliefs with the trial court:

1. That forthwith and ex-parte this Honorable Court issue an Order temporarily restraining defendant from entering upon and undertaking mining operations within the property of plaintiff identified as Lot 3863 (TCT 130829) shown in Annex M and N, and after due hearing, issuing a writ of preliminary injunction to same effect as posting the requisite bond.

2. That after due hearing, judgment be rendered as follows:

- a) Declaring that portion of said Lot 3863 which is owned by plaintiff, was unlawfully and improperly included in the Small Scale Mining Permit issued in favor of defendant Evelyn Vergel de Dios.

- b) Finding the entry upon and conduction of mining operation within the said Lot 3863 owned by plaintiff constituted deliberate and unlawful invasion upon the property rights of plaintiff by defendant.

- c) Declaring plaintiff's title, TCT No. 130829 (Bulacan) as freed from the cloud thereon caused by permit issued to defendant by Bureau of Mines." [15]

In sum, the complaint alleges that the grant of a mining permit to the private respondent was erroneous, and that it is petitioner which should have been granted the permit. As such, petitioner prays for the cancellation of the mining permit granted to the private respondent over the subject property and to exclude her from exploiting the same.

In its protest pending appeal before the Secretary of the DENR, petitioner seeks the cancellation of the Small Scale Mining Permit granted to private respondent on the ground that the area covered by said permit belonged to it as owner of the subject property. Petitioner alleges that it has a priority right for the exploitation of the subject property. In effect, petitioner seeks that private respondent be excluded from exploiting minerals on the land allegedly owned by it. Petitioner, in its appeal before the Secretary of DENR, also sought a temporary restraining order and/or a writ of preliminary injunction against private respondent to prevent her from entering the property in question and from conducting any mining/quarrying operations thereon.

Well-settled is the rule that it is not the caption of the pleading but the allegations therein that determine the nature of the action and the Court shall grant relief warranted by the allegations and the proof even if no such relief is prayed for.[16]

In *Danville Maritime Corporation Inc. v. Commission on Audit*,^[17] this Court ruled that when a party files two different actions, but with same reliefs or objectives sought, this constitutes forum-shopping:

"In an attempt to make the two actions appear different, petitioner impleaded different respondents therein-PNOC in the case before the lower court and COA in the case before this Court and sought what seems to be different reliefs. Petitioner asks this Court to set aside the questioned letter-directive of the COA dated October 10, 1988 and to direct said body to approve the Memorandum of Agreement entered into by and between the PNOC and petitioner, while in the complaint before the lower court petitioner seeks to enjoin the PNOC from conducting a rebidding and from selling to other parties the vessel "T/T Andres Bonifacio," and for an extension of time for it to comply with paragraph 1 of the memorandum of agreement and damages. One can see that although the relief prayed for in the two (2) actions are ostensibly different, the ultimate objective in both actions is the same, that is, the approval of the sale of vessel in favor of petitioner, and to overturn the letter-directive of the COA of October 10, 1988 disapproving the sale."

The act of petitioner in filing an action for the "quieting of title" defined under article 476 of the New Civil Code does not operate to differentiate the complaint, or the reliefs sought therein, from petitioner's protest pending appeal before the Office of the Secretary of the DENR.

Based on the records of this case petitioner corporation filed two actions, the civil case for quieting of title with the Regional Trial Court of Bulacan, and the appeal pending before the Secretary of DENR from the denial of the Order dated March 11, 1992 of the Regional Executive Director-DENR dismissing the protest filed by petitioner.

The complaint for quieting of title was filed by petitioner to exclude private respondent from conducting mining operations on the portion of the property belonging to it. On the other hand, in the appeal pending before the DENR, petitioner seeks a resolution of the question on who has the better right to be granted a mining permit on the subject property. Although worded differently, the resolution of the protest pending before the Office of the Secretary of the DENR would necessarily cover the issues raised in the action for quieting of title — who has the better right to the grant of a mining permit over the subject property. A resolution of the Secretary of the DENR of this particular issue would necessarily resolve the other ancillary issues raised by the petitioner in his complaint for quieting of title filed before the Regional Trial Court of Bulacan. Thus, the principal relief sought by the petitioner in the two cases is the same.

The act of petitioner in filing an action for quieting of title with the Regional Trial Court of Bulacan while the same cause of action is pending with Office of the Secretary of DENR is clearly forum-shopping.

The respondent Court of Appeals correctly ruled on the issue of forum-shopping citing *Villanueva v. Adre* when it held:

"x x x. We believe that petitioner cannot be allowed to circumvent the provisions of P.D. 1281 by allowing it,

after it had already sought redress before the Mines and Geo-Sciences Bureau, and was thereafter rebuffed, to seek again the same redress before the respondent court under Article 476 of the New Civil Code. This would amount to forum-shopping."

As held in *Villanueva v. Adre*, 172 SCRA 876:

"There is forum-shopping whenever, as a result of an adverse opinion in one forum, a party seeks a favorable opinion (other than by appeal or certiorari) in another. The principle applies not only with respect to suits filed in courts but also in connection with litigations commenced in the courts while an administrative processes and in anticipation of an unfavorable administrative ruling and a favorable court ruling. This is specially so, as in this case, where the court in which the second suit was brought, has no jurisdiction." [18]

Moreover, in the case of *First Philippine International Bank v. Court of Appeals*, [19] this Court reiterated the test to determine whether a party violated the rule against forum-shopping,

"The test for determining whether a party violated the rule against forum-shopping has been laid down in the 1986 case of *Buan vs. Lopez*, also by Chief Justice Narvasa, and that is, forum-shopping exists where the elements of *litis pendentia* are present or where a final judgment in one case will amount to *res judicata* in the other.

Consequently, where a litigant (or one representing the same interest or person) sues the same party against whom another action or actions for the alleged violation of the same right and the enforcement of the same relief is/are still pending, the defense of *litis pendentia* in one case is a bar to the others; and, a final judgment in one would constitute *res judicata* and thus would cause the dismissal of the rest.

In either case, forum-shopping could be cited by the other party as a ground to ask for summary dismissal of the two (or more) complaints or petitions, and for the imposition of the other sanctions, which are direct contempt of court, criminal prosecution, and disciplinary action against the erring lawyer." (Underscoring supplied)

The above-cited cases find application in the instant petition since the relief sought by petitioner in the action for quieting of title is the same as that of the protest filed by it and pending appeal before the Secretary of DENR.

Based on the foregoing, the Court of Appeals correctly dismissed the petition on ground of forum-shopping.

Ultimately, what is truly important to consider in determining whether forum-shopping exists or not is the vexation caused the courts and parties-litigant by a party who asks different courts and/or administrative agencies to rule on the same or related causes and/or to grant the same or substantially the same reliefs, in the process creating the possibility of conflicting decisions being rendered by the different fora upon the same issue x x x. [20]

WHEREFORE, premises considered, this Court AFFIRMS the Decision of the respondent Court of Appeals in C.A.-G.R. SP. No. 28383 in denying the petition for certiorari and mandamus on ground of forum shopping.
SO ORDERED.

Regalado, (Chairman), Puno, Mendoza, and Torres, Jr., JJ., concur.

[1] Penned by Associate Justice Ricardo P. Galvez and concurred in by Associate Justices Arturo B. Buena and Asaali S. Isnani of the Twelfth Division.

[2] Records, p. 32.

[3] Records, p. 28.

[4] Rollo, p. 55.

[5] Rollo, p. 8.

[6] Records, p. 44.

[7] Rollo, p. 10.

[8] Rollo, p. 10.

[9] Rollo, p. 10.

[10] Records, p. 15.

[11] Records, p. 21.

[12] Order, Records, p. 63.

[13] Circular 28-91.

[14] 151 SCRA 257.

[15] Records, p. 21.

[16] *Ras v. Sua*, L-23302, September 25, 1968, cited in Regalado, *Remedial Law Compendium*, Vol. 1, 1988 (5th ed.), p. 98.

[17] 125 SCRA 70.

[18] Decision, Rollo, pp. 25-26.

[19] 252 SCRA 259.

[20] *First Philippine International Bank v. Court of Appeals*, 252 SCRA 259.

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