SPS. ABELARDO & CONCHITA LOPEZ, AND SPS. ANTONIO & CONCHITA MANANSALA, PETITIONERS, VS. COURT OF APPEALS AND ROBERTO VALLARTA, RESPONDENTS.

G.R. No. 110929. January 20, 2000

Ponente: BUENA, J.

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BUENA, J.:

This petition for review on certiorari assails the decision,[1] dated March 29, 1993, of the Court of Appeals which denied due course and dismissed CA-G.R. SP. No. 30072, in effect affirming the Orders dated December 29, 1992[2] and January 14, 1993,[3] of the Regional Trial Court of Macabebe, Pampanga, Branch 54, (1) granting the issuance of a mandatory injunction requiring the petitioners to surrender the fishpond, subject of the complaint, to private respondent; and (2) allowing private respondent to harvest the contents thereof, respectively.

The present controversy traces its roots to the complaint for recovery of possession, damages and injunction, filed by private respondent against petitioners. The complaint alleges, inter alia: that respondent had been in actual, peaceful and lawful possession of Lots 3305, 3329, 3331 and 3324 with a combined area of 57 hectares, situated at sitio Teracan, Consuelo, Macabebe, Pampanga, except for the short interruption in 1981 until October 17, 1981; that on June 2, 1981, respondent filed a fishpond application for lease agreement covering Lots No. 3324, 3329 and 3331 covering 40,1449 hectares; that on July 22, 1981, the Minister of Natural Resources declared a portion of Masantol, Pampanga, containing an area of 4,574.8 hectares, including the area applied for by private respondent as alienable and disposable for fishpond development; that on July 13, 1988, the Department of Agriculture, Regional Office No. III, San Fernando, Pampanga, issued a report of inspection declaring respondent and one Guil Rivera in actual possession of their respective fishpond areas and have fully developed the same since 1976; that on October 17, 1990, petitioners unlawfully entered and occupied 34 hectares of the respondent's fishpond ejecting him from the same. Respondent prays that he be restored possession of the lots in question and that a preliminary injunction be issued to maintain the status quo.[4]

Traversing respondent's allegations, petitioners contend that they have been in actual physical and peaceful possession of the land since time immemorial; that in 1976 petitioners and private respondent entered into an agreement whereby the latter will provide capital for the development of the fishpond while petitioners labor and management, the income to be divided between them; that the relationship went on smoothly until 1981 when they were ejected from the premises by one Marcelino Marcos; that they filed an ejectment complaint before the courts; that the Supreme Court in a decision promulgated on June 30, 1987 in G.R. No. 74957 upheld their possession; that sometime in April 1990, petitioners were physically ejected from the land by respondent but returned to the land on August 17, 1990; that since October 17, 1990 up to the filing of the complaint, respondent has been harassing them with threats and arson.[5]

A hearing on the application for preliminary injunction was held on December 29, 1992 with private respondent presenting his evidence. The petitioners did not present any testimonial evidence and adopted respondent's

exhibit as their own evidence.

Based on the evidence presented, the trial court on December 29, 1992 granted respondent's prayer for injunction as contained in its Order the decretal portion of which reads:

> "WHEREFORE, upon all the foregoing consideration and circumstances, a preliminary mandatory injunction is hereby issued against the defendants Abelardo Lopez, Conchita Lopez, Antonio Manansala and Conchita Manansala and/or other persons acting for and in their behalf directing them to surrender possession, control, occupancy and administration of the fishpond in question and to refrain in any manner from molesting the plaintiff, his agent or representatives in the peaceful possession of the fishpond in question.
>
> This order shall not be effective unless the plaintiff files with the Clerk of this Court a bond executed to the defendants to the effect that plaintiff will pay to such parties such damages which may be sustained by reason of this injunction if the Court should finally decide that the plaintiff is not entitled thereto in the amount of P100,000.00.
>
> SO ORDERED."

Petitioners moved for the inhibition of the presiding judge which was granted by the court on January 7, 1993.[6]

On January 8, 1993, pursuant to the trial court's order, a writ of preliminary mandatory injunction was issued.[7]

Thereafter, private respondent filed a motion to allow him to harvest the contents of the fishpond and to deposit the proceeds of the sale after the harvest, which was granted on January 14, 1993. The trial court's order disposed as follows:

> "After going over the two motions referred to above, the court hereby orders: 1. Allowing the harvest of the contents of the fishpond by the personnel of this court with a representative of the plaintiffs and defendants observing; 2. To deposit to the court the proceeds of the sale after the harvest; x x x"[8]

Petitioners assailed the aforesaid orders before the Court of Appeals which dismissed the same. The motion for reconsideration was likewise denied on July 5, 1993.

Petitioners now come to this Court arguing that the issuance of the writ of preliminary mandatory injunction ordering them to surrender the possession and control of the fishpond effectively transferred the possession thereof from petitioner to private respondent in violation of the settled jurisprudence that injunction cannot be used or resorted to, to take possession of the property from one person to another. Petitioners likewise assert that the issuance of the writ of preliminary mandatory injunction and placing the private respondent in possession of the disputed lot virtually resolved the issue of possession and disposed of the main case without hearing on the merits, leaving no issue for the trial court to decide save that of damages.

The petition should be denied.

Generally, injunction is a preservative remedy for the protection of one's substantive right or interest. It is not a cause of action in itself but merely a provisional remedy, an adjunct to a main suit. It is resorted to only when there is a pressing necessity to avoid injurious consequences which cannot be remedied under any standard compensation. The application of the injunctive writ rests upon the existence of an emergency or of a special reason before the main case can be regularly heard. The essential conditions for granting such temporary injunctive relief are that the complaint alleges facts which appear to be sufficient to constitute a proper basis for injunction and that on the entire showing from the contending parties, the injunction is reasonably necessary to protect the legal rights of the plaintiff pending the litigation.[9] Two requisites are necessary if a preliminary injunction is to issue, namely, the existence of a right to be protected and the facts against which the injunction is

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to be directed are violative of said right.[10] In particular, for a writ of preliminary injunction to issue, the existence of the right and the violation must appear in the allegation of the complaint and a preliminary injunction is proper only when the plaintiff (private respondent herein) appears to be entitled to the relief demanded in his complaint.[11]

In the case at bar, private respondent has sufficiently established his right over the subject fishpond. The evidence presented by the private respondent during the hearing for the issuance of the preliminary injunction, consisting of the following:

- Exhibits A, B, C, D, E, F and its submarkings to show that petitioners Abelardo Lopez and Antonio Manansala are fishpond guards of private respondent;

- Exhibit G- a document from then Ministry of Natural Resources, Bureau of Forest Development showing that the land in dispute is an alienable and disposable land of the public domain suitable for fishpond development;

- Exhibit H- application for Lease Agreement with the Bureau of Fisheries and Aquatic Resources (BFAR) in favor of private respondent;

- Exhibit I-official receipts proving that respondent paid the corresponding lease rentals to the BFAR for the lots in question

- Exhibit J-Order dated February 7, 1991 of the BFAR recognizing the possession of respondent and Gil Rivera over the lots in question and the payment of the lease rentals. It further states that the possession of the lots and the development thereof into a fishpond by respondent is recognized by the said bureau and that all persons/group other than the applicants are deemed illegal;

- Exhibit K- shows the possession of the four lots

- Exhibit L- statement of Antonio Manansala, Armando Garcia and Abelardo Lopez establishing that Manansala and Abelardo are fishpond guards;

- Exhibit M- complaint filed by respondent and Antonio Manansala and Abelardo Lopez, for ejectment which recognizes the fact that Manansala and Lopez are fishpond guards;

- Exhibit N-respondent has obtained a writ of preliminary injunction by virtue of which he was placed back in possession over the property in question;

- Exhibit O- shows that a preliminary, prohibitory and mandatory injunction was issued in Civil Case No. 73-0383-M before then Court of First Instance of Pampanga enjoining the harvesting of the milkfish, introducing and planting bangus fry and ordering that respondent be restored into the possession of the properties in question;

- Exhibit P-is a decision of the Supreme Court dated June 30, 1987 recognizing the rights of possession of the respondent and petitioners and that respondent was the one who developed the lots in question which was originally a swamp land to make it suitable for fishpond purposes;

- Exhibits Q, R-to establish the fact that petitioners received certain amounts from the respondent as salary for their services as fishpond guards;

- Exhibits S, T, and U- complaints against respondent showing that several cases against him were filed by petitioners;

- Exhibit V- to show that petitioners were in possession of a portion of the properties in question claiming that they are the rightful possessors of the said area.[12]

undoubtedly show private respondent's legal right to possess the subject fishpond. The evidence reveals that the land in dispute is covered by an Application for Lease Agreement with the Bureau of Fisheries and Aquatic Resources in favor of herein private respondent; that private respondent paid the lease rentals thereof; that the Bureau of Fisheries recognized his possession over the lot in question and that all other persons and/or group of persons other than the applicants are deemed illegal. It also discloses that petitioners are only fishpond guards of the private respondent. No evidence was introduced by the petitioners to refute such claim and merely adopted the evidence introduced by the private respondent.

Based on the evidences thus presented, we find the issuance of the writ of preliminary injunction to be proper.

It is worth stressing too that the assessment and evaluation of evidence in the issuance of the writ of preliminary injunction involves findings of facts ordinarily left to the trial court for its conclusive determination.

We have time and again ruled that conclusions and findings of fact by the trial court are entitled to great weight and should not be disturbed on appeal, unless strong and cogent reasons dictate otherwise. This is because the trial court is in a better position to examine the real evidence, as well as to observe the demeanor of the witnesses while testifying in the case.[13]

In this case, we find no justifiable reason or exception sufficient to deviate from this settled rule.

WHEREFORE, the petition is hereby DENIED for lack of merit.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and De Leon, Jr., JJ., concur.

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[1] Penned by Justice Santiago M. Kapunan (now Associate Justice of the Supreme Court) and concurred in by Justices Alfredo M. Marigomen and Cancio C. Garcia.

[2] Annex "A", pp. 12-15, CA-Rollo.

[3] Annex "C", p. 18, Ibid.

[4] Complaint, Annex "D", pp. 19-25, CA-Rollo.

[5] Annex "E", pp. 29-36, CA-Rollo.

[6] Annex "B," pp. 16-17, CA-Decision.

"Against the above backdrop and be that as it may in order to remove all clouds of doubt being entertained by the defendants, the undersigned presiding judge hereby voluntarily inhibits and disqualifies himself from trying the case.

"This case is therefore referred to Branch 55 of this Court for further proceedings provided that the presiding judge of the said branch will have no objection."

[7] Annex "F", p. 37, Ibid.

[8] Annex "C", p. 18, CA Rollo.

[9] Philippine Airlines vs. NLRC, 287 SCRA 672 [1998].

[10] Araneta vs. Gatmaitan, 101 Phil 328 (1957); del Rosario vs. Court of Appeals, 255 SCRA 152 (1996); Philip Morris Inc. vs. Court of Appeals, 224 SCRA 576 (1993) Searth Commodities Corp. vs. Court of Appeals, 207

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SCRA 622 [1992] cited in Republic vs. Silerio, 272 SCRA 280 [1997].

[11] Ortigas & Company, Limited Partnership vs. Ruiz, 148 SCRA 326 [1987].

[12] See CA Decision pp. 4-6.

[13] Donato vs. Court of Appeals, 217 SCRA 196[1993].

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