

MELITON ZABAT AND MARYLOU ZABAT, PETITIONERS, VS. THE HONORABLE COURT OF APPEALS, HONORABLE PRESIDING JUDGE, BRANCH 114, PASAY CITY, THE NATIONAL HOUSING AUTHORITY AND ALEJANDRA...

G.R. No. 122089. August 23, 2000

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

Before us is an appeal by certiorari under Rule 45 of the Rules of Court assailing the decision[1] of the Court of Appeals promulgated February 24, 1995, in CA-G.R. No. 43886, and its resolution[2] promulgated September 22, 1995, denying the motion for reconsideration. In said decision, the appellate court affirmed the judgment dated August 23, 1993, of the Regional Trial Court of Pasay City, Branch 114.[3]

The antecedent facts, summarized by the Court of Appeals from the records below, are as follows:

“This controversy traces its beginning to the contest between plaintiffs-appellants, spouses Meliton and Marylou Zabat (plaintiffs-appellants, for brevity) and defendants-appellees Alejandra and Guillermo Mauris (Mauris, for brevity) over a piece of land particularly designated as Lot 8, Block 7, Phase I-a in the Tramo/F Victor upgrading project of the National Housing Authority (NHA, for brevity), with an area of sixty (60) square meters.

In 1977, the NHA conducted a census of residents and discovered that two (2) structures, one owned by plaintiff-appellant Marylou Zabat and the other by the Mauris, were constructed on the controverted lot. Nonetheless, Marylou Zabat was included in the census as owner of a structure and given a tag number for the purpose. (Records, p. 154, Annex “O”).

Subsequently, in 1981 a census verification was conducted again by the NHA which found that the structure owned by the plaintiffs-appellants was being rented out to a certain Conrado Briones and on the basis thereof, plaintiffs-appellants were declared as absentee structure owners and under Section 1 (a) of Memo Circular No. 13 issued by the NHA, an absentee structure owner is disqualified from a lot award. (Rollo, pp. 61-65, Annex “1-A”).

The lot was subsequently awarded to the Mauris. (Annex “O”. *supra*.)

Marylou Zabat raised the matter on appeal to the Awards and Arbitration Committee (AAC, for brevity) of the NHA on March 15, 1983.

On March 5, 1985, the AAC decided to reconsider the status of Mrs. Zabat and declared her as a project beneficiary, but of another lot in view of the fact that the controverted lot has already been allocated to the Mauris per resolution No. 85-14 dated March 5, 1985.

A motion to reconsider that Order was filed by Zabat but was denied by the AAC on August 16, 1985.

Eight (8) days later or on August 24, 1985, the lot was awarded to the Mauris and a conditional contract to sell was executed by the NHA in the former's favor.

Thereafter NHA sent several notices of demolition to the plaintiffs-appellants.

On July 23, 1991, the plaintiffs-appellants filed Civil Case No. 8294 before the Regional Trial Court of Pasay City to enjoin the defendants-appellees from proceeding with their eviction. (Records, p. 37.)

In the course of the proceedings before the trial court, the City Hall of Pasay City was gutted by fire destroying the Court records therein including those of Civil Case No. 8294.

On October 21, 1992, the plaintiffs-appellants filed a motion for reconstitution of the records of the case and for the resumption of proceedings which was denied by the trial court in its Order dated October 22, 1992 for being filed beyond the reglementary period. (Records, pp. 42-43; Records, p. 44.)

On October 22, 1992, plaintiffs-appellants again filed Civil Case No. 9365, likewise for Injunction with Prayer for the issuance of a writ of preliminary injunction to enjoin the defendants-appellees and the persons working under them to refrain from demolishing the structure of the plaintiffs-appellants. (Records, p. 2.)

The Mauris and the NHA filed separate motions to dismiss on the ground that the case is barred by prior judgment, laches and that the plaintiffs-appellants have neither existing nor inchoate right over the property. (Records, pp. 27-36.)

The Court denied the motions to dismiss on November 17, 1992. (Records, p. 57.) The Mauris and the NHA thereafter filed their respective Answers. (Records, pp. 58-63.)

Meanwhile, the prayer for the issuance of a writ of preliminary injunction by the plaintiffs-appellants was denied in view of their failure to establish a clear and positive right over the lot in dispute in an Order dated March 1, 1993 of the trial court. (Records, p. 104.)"[4]

On August 23, 1993, the trial court rendered its judgment finding that the award of the lot to the Mauris was valid and lawful, thus:

"WHEREFORE, premises considered, this Court finds the award of Lot 8, Block 7, Phase 1-a to defendants Alejandria and Guillermo Mauri valid and lawful. Consequently, the instant complaint for injunction is therefore DISMISSED. For plaintiff to pay the sum of P5,000.00 as and for attorney's fees and to pay the costs of suit.

SO ORDERED."[5]

Petitioners seasonably appealed to the Court of Appeals. On February 24, 1995, it rendered its decision upholding the trial court, decreeing that:

"WHEREFORE, premises considered, the decision of the trial court in Civil Case No. 9365 is AFFIRMED with the modification that the award of attorney's fees is deleted.

No special pronouncement as to costs.

SO ORDERED."[6]

Hence, the present appeal, with petitioners assigning the following errors:

"I

BASIC ERROR WAS COMMITTED BY THE RESPONDENT COURT WHEN IT RELIED ON THE

REQUISITES FOR A “WRIT OF INJUNCTION”, AN ANCILLARY AND PRELIMINARY REMEDY DIFFERENT FROM THE ACTION FOR INJUNCTION WHICH WAS FILED IN THE INSTANT CASE.

II

THE CONCLUSION THAT PETITIONERS SLEPT ON THEIR RIGHTS IS CONTRARY TO THE UNDISPUTED FACTS OF THE CASE; AND THE RESPONDENT COURT, MOREOVER, DISREGARDED THE SETTLED PRINCIPLE THAT LACHES CANNOT BE WORKED TO DEFEAT JUSTICE OR TO PERPETUATE FRAUD OR INJUSTICE.

III

THE RESPONDENT COURT GRAVELY ERRED AND COMMITTED A PALPABLE MISTAKE WHEN IT DECIDED PETITIONERS’ APPEAL ON THE ISSUE OF “ABSENTEE STRUCTURE OWNER”, AN ISSUE THAT WAS ALREADY DECIDED BY THE NHA IN FAVOR OF PETITIONERS, THE DECISION OF THE NHA TO TRANSFER PETITIONERS TO ANOTHER LOT BEING BASED NOT ON THEIR LACK OF QUALIFICATION TO BE AWARDEES BUT ON THE SUPPOSED SMALLNESS OF THE LOT IN QUESTION.

IV

THE NHA’S BASIS FOR ITS DECISION TO TRANSFER PETITIONERS IS AN OBVIOUS FALSEHOOD AND SUCH FRAUD RESULTING IN INJUSTICE CANNNOT BE PERPETUATED BY A RESORT TO THE PRINCIPLE OF DELAY OR LACHES SUCH AS THAT DONE BY THE RESPONDENT COURT.”[7]

In this petition, we must also determine (1) whether the filing of a complaint for injunction below was the proper remedy available to petitioners; (2) whether petitioners should have availed of the administrative processes of the National Housing Authority (NHA) before resorting to judicial relief; and (3) whether petitioners’ complaint before the trial court has become stale or moot.

At the outset, we find that on record, the NHA automatically disqualified herein petitioner Marylou Pelayo Zabat from maintaining a structure on the subject lot when it found her to be an “absentee structure owner” during a census of households in 1981. It found that said petitioner rented the lot to a certain Conrado Briones. The NHA also concluded that the Mauris have maintained occupancy of their house on the lot in question, justifying the award of the lot to them.

When the NHA Awards and Arbitration Committee (AAC) reviewed Zabat’s disqualification, it declared her a project beneficiary, and awarded her a lot other than where her house stood. Zabat moved for reconsideration but the AAC denied her plea to co-own the lot already awarded to the Mauris.

On August 24, 1985, after the NHA General Manager approved the award to the Mauris, a conditional contract to sell was executed between the NHA and the Mauris, who tendered amortized payments. Thereafter, notices requesting petitioners (Zabats) to transfer to the lot earmarked for them and notices for the demolition of their house were sent.

It was only in 1991, six years after the lot was awarded by the NHA to the Mauris, that petitioners sought to enjoin the NHA from evicting them. They filed Civil Case No. 8294 with the Regional Trial Court of Pasay City. Petitioners failed to seasonably file a motion for reconstitution of the case records, lost when the Pasay City Hall burned down, so the case was dismissed.

In 1992, petitioners subsequently filed Civil Case No. 9365 for injunction with prayer for the issuance of a writ of preliminary injunction to enjoin the NHA from demolishing their house. They asserted that the NHA erroneously

awarded the disputed lot solely to the Mauris. They pointed out that the NHA was wrong in finding that the lot was too small for both parties to co-own, despite reversal of its own decision that earlier disqualified petitioners as project beneficiaries. Other than pointing out the allegedly flawed reasoning behind the award solely to the Mauris, petitioners stated that they should also be the rightful awardees of the lot on which their structure stands.[8] However, they offered no legal basis for their claim. Note that in their complaint, they merely referred to themselves as registered occupants, and not as owners of the subject property.[9]

As a rule, injunction is not granted to take property out of the possession or control of one party to be placed into that of another whose title has not been clearly established by law.[10] For the issuance of the writ of preliminary injunction to be proper, it must be shown that the invasion of the right sought to be protected is material and substantial, that the right of complainant is clear and unmistakable and that there is an urgent and paramount necessity for the writ to prevent serious damage.[11] In our view, petitioners have not clearly and unmistakably shown why they were entitled to co-own the lot with the Mauris. Though they were given a tag number for the structure they reportedly owned, still they were deemed absentee owners who should have been disqualified outright. If at all the NHA awarded them another lot, it was out of its beneficence.

Additionally, it should be stressed that the remedy of injunction could no longer be availed of where the act to be prevented had long been consummated.[12] In their complaint before the trial court and in the present petition, petitioners pray that the NHA be enjoined from evicting them and from demolishing their structure. What they truly and ultimately desire, however, is to overturn the award of the lot solely to the Mauris.[13] This, in our view, is not legally feasible. The award of the lot has already been accomplished. The NHA awarded the subject lot to the Mauris on August 24, 1985, while petitioners' complaint for injunction was filed only on October 22, 1992. A span of seven years has intervened. While petitioners might not have been ejected earlier from the disputed property, this did not mean they had ipso facto acquired legal ownership. The Mauris were awarded the property long before and they have made amortized payments on it. Injunction here would just be an exercise in futility.[14]

Note further that petitioners did not allege that the NHA, through the AAC, committed grave abuse of discretion, or acted without or in excess of its jurisdiction in awarding the lot solely to the Mauris. While it was alleged that the basis for the decision of the AAC was a falsehood and an outright fraud,[15] there was no sufficient proof thereof. Nor was evidence offered to show that the AAC acted fraudulently. Courts cannot enjoin an agency from performing an act within its prerogative, except when in the exercise of its authority it gravely abused or exceeded its jurisdiction.[16] Administrative decisions on matters within the executive jurisdiction can only be set aside on proof of grave abuse of discretion, fraud, or error of law.[17] Absent these badges of executive excesses, no injunction may be granted.

Moreover, the long period which has elapsed, from the time of the award of the lot to the Mauris in 1985 to the time petitioners filed their complaint for injunction in 1992, has made petitioners' claim upon the subject lot a stale demand. Laches already set in. Petitioners failed, for an unreasonable and unexplained length of time, to do that which by exercising due diligence could or should have been done earlier. Their negligence or omission to assert their right within a reasonable time, warrants a presumption that they have either abandoned or declined to assert it.[18] Their delay in asserting an alleged right to the lot is best exemplified by their failure to appeal the decision of the AAC when it awarded the lot to the Mauris. When the AAC reconsidered its earlier decision declaring petitioner Marylou Zabat as absentee structure owner but ordering her to transfer to another lot, she had moved for the reconsideration of the order, praying that she be allowed to remain on the lot. That motion for reconsideration was denied, and she did not appeal. Again, when the lot was formally awarded by the NHA to the Mauris on August 24, 1985, Zabat also did not complain right away. It was only much later, in 1992, that

petitioners filed their complaint for injunction before the trial court, questioning the award to the Mauris and praying that their eviction from the lot be enjoined. It will be noted that during pre-trial, the parties both agreed that no appeal is on record with respect to the award of the lot to the Mauris.[19]

Here we find applicable the doctrine of exhaustion of administrative remedies. Before a party may seek the intervention of the court, it is a pre-condition that he should first avail of all the means afforded by administrative processes.[20] A party aggrieved must not merely initiate the prescribed administrative procedure to obtain relief, but must also pursue it to its appropriate conclusion before seeking judicial intervention in order to give that administrative agency an opportunity to decide the matter by itself correctly and prevent unnecessary and premature resort to court.[21]

In this case, after their motion for reconsideration was denied by the AAC in 1985, petitioners should have elevated their case to the NHA General Manager, pursuant to NHA Circular No. 13.[22] The latter provides that all decisions of the AAC shall be subject to review and approval by the General Manager of the NHA.[23] There being no such review instituted by petitioners, the NHA subsequently awarded the lot to the Mauris on August 24, 1985, as well as the contract to sell said lot.[24] From the award of the lot and the execution of the contract to sell by the NHA, petitioners should have appealed to the Office of the President, pursuant to Executive Order No. 19.[25] Under the provisions thereof, appeals from awards of contracts by government-owned or controlled corporations, such as the NHA, as well as other appeals of similar nature not governed by special laws, shall be taken to the Office of the President by private parties adversely affected.[26] None of these administrative remedies were resorted to by petitioners, thus foreclosing on their right to seek judicial relief.

Administrative disputes must end sometime, just as much as public policy demands that finality be written in judicial controversies.[27] For failure to avail of the administrative processes of the NHA to resolve their complaint, substituting resort to judicial relief – after much delay at that – we are constrained to rule that petitioners may not avail of the injunctive remedy they seek.

WHEREFORE, the decision of the Court of Appeals promulgated on February 24, 1995 and its resolution promulgated on September 22, 1995, are hereby AFFIRMED.

No costs.

SO ORDERED.

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

[1] Rollo, pp. 33-42.

[2] CA Rollo, p. 128.

[3] Supra, note 1 at 44-53.

[4] Id. at 33-35.

[5] Id. at 53.

[6] Id. at 41.

[7] Id. at 18-19.

[8] Records, p. 4.

[9] Id. at 2.

[10] Heirs of Joaquin Asuncion vs. Gervacio, Jr., 304 SCRA 322, 330 (1999).

[11] Arcega vs. Court of Appeals, 275 SCRA 176, 180 (1997).

[12] Africa vs. Sandiganbayan, 287 SCRA 408, 418 (1998).

[13] Rollo, pp. 25-26; Records, pp. 4-5.

[14] Union Bank of the Philippines vs. Court of Appeals, G.R. No. 133366, August 5, 1999, p. 8.

[15] Rollo, p. 25.

[16] Republic vs. Silerio, 272 SCRA 280, 289 (1997).

[17] Itogon-Suyoc Mines, Inc. vs. Office of the President, 270 SCRA 63, 81 (1997).

[18] Republic vs. Court of Appeals, 301 SCRA 366, 378-389 (1999).

[19] Records, p. 121.

[20] Dy vs. Court of Appeals, 304 SCRA 331, 336 (1999).

[21] Jariol vs. Commission on Elections, 270 SCRA 255, 262 (1997).

[22] Code of Policies on Beneficiary Selection and Disposition of Homelots and structures in Urban BLISS Level I Projects (ZIP); issued February 19, 1982.

[23] Id., “V. BENEFICIARY SELECTION AND LOT ALLOCATION

x x x

7. ...All decisions of the AAC shall be subject to review and approval of the General Manager of the Authority...

x x x”

[24] Rollo, p. 34.

[25] Prescribing Rules And Regulations For Appeals To The Office Of The President And For Finality Of Decisions Thereof; issued April 2, 1966.

[26] Id., “8. The foregoing rules shall apply to and be observed in appeals to this Office taken by private parties adversely affected by decisions of the departments, offices and entities specified below, as well as other appeals of similar nature not governed by special laws.

x x x

(5) Government-owned or controlled corporations:

(a) Awards of contracts

x x x”

[27] Camarines Norte Electric Cooperative, Inc. vs. Torres, 286 SCRA 666, 681 (1998).

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