MA. DIVINA ORTAÑEZ-ENDERES, FOR HERSELF AND AS THE JUDICIALLY APPOINTED SPECIAL ADMINISTRATRIX OF THE PHILINTERLIFE SHARES OF STOCKS OF DR. JUVENCIO P. ORTAÑEZ, JOSE N. ORTAÑEZ,...

G.R. No. 128525. December 17, 1999

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This is a petition for review on certiorari with prayer for temporary restraining order and writ of preliminary injunction of the decision of the Court of Appeals dated May 31, 1996 which affirmed the rulings of the Securities and Exchange Commission (SEC for brevity) En Banc and the SEC Hearing Officer. The assailed decision of the Court of Appeals as well as that of the SEC En Banc and SEC Hearing Officer denied the prayer of petitioner for the issuance of a writ of preliminary injunction to restrain private respondents from exercising their rights as stockholders on record of Philippines International Life Insurance Co., Inc. (Philinterlife, for brevity).

This case stems from a complaint filed on November 7, 1994 by petitioners before the Securities and Exchange Commission, docketed as SEC Case No. 11-94-4909,[1] for the annulment of transfer of shares of stocks to private respondents, annulment of sale of corporate properties authorized by private respondents who compose the management of the corporation, annulment of subscriptions on increased capital stocks, accounting and inspection of corporate books and records, and damages. Petitioners also prayed for the issuance of a writ of preliminary injunction and temporary restraining order against private respondents to enjoin them from exercising their rights as stockholders of Philinterlife on the ground that their shares of stock were acquired through illegal and fraudulent schemes.

Petitioners alleged that Philinterlife is a registered corporation founded in 1954 by the late Dr. Juvencio Ortañez; that at the time of his death in 1980, Dr. Ortañez owned at least fifty-one percent (51%) of the capital stock of the company; that special proceedings were pending with the Regional Trial Court of Quezon City, Branch 85, for the settlement of the intestate estate of the deceased Dr. Ortañez, where Rafael S. Ortañez and Jose S. Ortañez were jointly appointed as special administrators. Petitioners further stated that after the death of Dr. Ortañez and without the prior authorization of the intestate court, one-half (1/2) of the shares of stock of Dr. Ortañez were transferred in the names of private respondents through the manipulations, devices and machinations of the latter; that the shares of stocks of private respondents lawfully belonged to the estate of Dr. Ortañez and hence, they are not entitled to enjoy and exercise their rights and privileges as stockholders of the company. Petitioners also contended that respondent Jose C. Lee misrepresented himself as president of Philinterlife and sold the parcel of land owned by the corporation located in Manila to Citiriser Development Corporation without the indispensable requisites prescribed by the Corporation Code; that private respondents obtained additional subscriptions without consideration by way of unlawful corporate machinations; and that private respondents had been conveying and disbursing corporate properties and funds as well as preventing petitioners from inspecting the corporate books and records.

In their answer,[2] private respondents stated that the subject matter of the complaint is not within the jurisdiction of the SEC but with the Regional Trial Court; that petitioners Ligaya Novicio and children represented themselves to be the common law wife and illegitimate children of the late Dr. Ortañez; that on March 4, 1982, the surviving spouse Juliana Ortañez, on her behalf and for her minor son Antonio, executed a Memorandum of Agreement with her other sons Rafael and Jose, both surnamed Ortañez, dividing the estate of the deceased composed of his one-half (1/2) share in the conjugal properties; that in the said Memorandum of Agreement, Jose S. Ortañez acquired as his share of the estate the 1,329 shares of stock in Philinterlife; that on March 4, 1982, Juliana and Rafael assigned their respective shares of stock in Philinterlife to Jose; that contrary to the contentions of petitioners, private respondents Jose Lee, Carlos Lee, Benjamin Lee and Alma Aggabao became stockholders of Philinterlife on March 23, 1983 when Jose S. Ortañez, the principal stockholder at that time, executed a deed of sale of his shares of stock to the private respondents; and that the right of petitioners to question the Memorandum of Agreement and the acquisition of shares of stock of private respondents is barred by prescription. Private respondents also alleged that they did not violate the provisions of the Corporation Code in the sale and disposition to Citiriser Development Corporation of the parcel of land and improvements owned by Philinterlife in Soler Street, Sta. Cruz, Manila; that this is evidenced by the Board Resolution dated June 15, 1987 which approved the authority of the corporation's president, Jose C. Lee, to sign in behalf of the company all documents pertaining to the sale; that private respondents did not commit any violation of law when Philinterlife increased its capital stock from Five Million to Ten Million Pesos in 1984 as this increase was based on a resolution passed by the stockholders owning more than two-thirds of the outstanding capital stock during the stockholders' meeting held on March 21, 1984 and thru said resolution, the unsubscribed capital stock of the corporation in the amount of P1.250 Million was offered for subscription; that said increase was likewise approved by the majority of the board of directors of the corporation; that records of all the business operations of Philinterlife have always been open and available for examination and inspection not only by petitioners but by all other stockholders as well.

On December 7, 1994, SEC Hearing Officer Alberto Atas issued a temporary restraining order.[3] Hearings were thereafter held to determine the propriety of issuing the writ of preliminary injunction, wherein both parties presented their respective documentary and testimonial evidence.

On February 10, 1995, SEC Hearing Officer Atas issued an Order[4] denying petitioners' application for the issuance of a writ of preliminary injunction on the ground that petitioners failed to make a valid cause to entitle them to the relief applied for, and the pretended rights of the petitioners are still contentious, unsettled and of doubtful character.

Not satisfied with the Order, petitioners elevated the same to the Securities and Exchange Commission En Banc.

On March 24, 1995, the SEC En Banc issued a resolution[5] dismissing the petition and stating in part:

> After a careful perusal of the arguments raised in the petition and answer as well as the evidence submitted during the hearing, we find that the Hearing Officer did not commit grave abuse of discretion in denying petitioner's application for a writ of preliminary injunction.
>
> One of the pieces of evidence submitted is the stock and transfer book of Philinterlife which showed that private respondents are owners of Philinterlife shares. Hence, as stockholders of Philinterlife, they are entitled to exercise all the rights and privileges pertaining thereto.
>
> With respect to the alleged extrajudicial partition of the shares of stocks owned by the late Dr. Juvencio Ortañez, we rule that the matter properly belongs to the jurisdiction of the regular court where the intestate proceedings are currently pending.
>
> x x x. The complainant's right or title moreover must be clear and unquestioned for equity, as a rule, will not

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> take cognizance of suits to establish title and will not lend its preventive aid by injunction where the complainant's title or right is doubtful or disputed. The possibility of irreparable damage, without proof of violation of an actual existing right, is no ground for an injunction, being mere damnum absque injuria.[6]

Aggrieved by the resolution of the SEC En Banc, petitioners filed a special civil action for certiorari with the Court of Appeals, docketed as CA-GR SP No. 36923, seeking to annul the aforesaid resolution and the issuance of a temporary restraining order and/or writ of preliminary injunction against private respondents. Petitioners alleged that the SEC gravely abused its discretion in issuing the resolution because (1) the stock and transfer book of the company was not adduced throughout the proceedings and, (2) there is no valid and lawful basis for private respondents' claim that they are the stockholders of Philinterlife.

On May 31, 1996, the Court of Appeals rendered a decision[7] dismissing the petition on the ground that the denial by the SEC of petitioners' application for a writ of preliminary injunction was proper and valid. Petitioners' Motion for Reconsideration was denied in a Resolution dated March 11, 1997.[8]

Hence, this petition was filed stating that the Court of Appeals erred in (1) not holding that the ownership of the shares of stocks of Philinterlife is still an issue to be resolved by the SEC, hence, private respondents have not yet been declared as stockholders thereof, and (2) not finding that the private respondents' claim as stockholders of Philinterlife has no legal and/or factual support.

The sole issue to be resolved in the case at bar is whether the Court of Appeals erred in upholding the SEC when it ruled that petitioners had not established clear existing legal rights to entitle them to a writ of injunction to enjoin private respondents from exercising their rights as stockholders on record of Philinterlife.

With regard to the assigned errors which are interrelated, petitioners contend that private respondents cannot rely on the deeds of assignment of shares of stock in their favor because the same are void, no evidence being adduced to show that the transfer taxes were paid. Petitioners further allege that private respondents cannot exercise the rights and privileges of stockholders of Philinterlife because there was no valid disposition or transfer to the latter of the shares of stock belonging to the estate of the late Dr. Juvencio Ortañez. Petitioners also claim to possess legal personality to bring this suit on the ground that they are stockholders of the corporation and that co-petitioner Ma. Divina Ortañez-Enderes is the Special Administratrix of the estate of the late Dr. Juvencio Ortañez with regard to Philinterlife shares.

We cannot sustain petitioners' stand.

Injunction may issue pendente lite only in cases of extreme urgency, where the right to the possession, during the pendency of the main case, of the property involved is very clear; where considerations of relative inconvenience bear strongly in favor of the complainant seeking the possession of the property pendente lite; where there was willful and unlawful invasion on plaintiff's right, over his protest and remonstrance, the injury being a continuing one.[9]

Before an injunction can be issued, it is essential that the following requisites be present: (1) there must be a right in esse or the existence of a right to be protected; and (2) the act against which injunction is to be directed is a violation of such right.[10]

We agree with the findings of the SEC as affirmed by the Court of Appeals that petitioners failed not only to establish a threatened violation of a right but they also failed to discharge the burden of clearly showing the right to be protected.[11] On the mere contention that the shareholdings of private respondents belong to the estate of the late Dr. Ortañez which is still the subject of settlement before the Regional Trial Court of Quezon City, petitioners had not established their clear legal rights to obtain injunctive relief against private respondents.

Injunction, whether preliminary or final, is not designed to protect contingent or future rights.[12]

Ma. Divina Ortañez-Enderes, who represents herself to be the Special Administratrix of the Estate of Dr. Ortañez, is one of the petitioners in this case. Records show that neither the estate of Dr. Ortañez nor the Special Administratrix Ma. Divina Enderes was a party in the main case docketed as SEC Case No. 11-94-49099 before the Securities and Exchange Commission. In an Omnibus Order dated March 6, 1996,[13] the SEC denied the Motion to Intervene filed by the estate of Dr. Ortañez represented by the Special Administratrix on the ground that the estate is not a stockholder of Philinterlife. When the case was elevated to the SEC En Banc and later to respondent Court of Appeals, the estate of Dr. Ortañez was not included as petitioners. Not being a party in the proceedings below, the Special Administratrix does not have any legal personality to seek a review by this court of the decisions of the SEC and the Court of Appeals.[14]

In support of their position, petitioners cited in their reply the issuance of an Order by the intestate court declaring that the shares of stock of Philinterlife belong to the estate. It is admitted that the special proceedings are still pending before the court and the estate had not been partitioned and distributed. Notwithstanding the proceedings being conducted by the intestate court, the petitioners' rights or interests over the estate or over the assailed shareholdings in the name of private respondents are still future and unsettled rights which cannot be protected by the writ of injunction. The rule is well settled that the jurisdiction of the regional trial court as a probate or intestate court relates only to matters having to do with the settlement of the estate and probate of will of deceased persons but does not extend to the determination of questions of ownership that arise during the proceedings.[15] The intestate court may pass upon the title to a certain property for the purpose of determining whether the same should or should not be included in the inventory but such determination is not conclusive and is subject to final decision in a separate action regarding ownership which may be constituted by the parties.[16] The court in charge of the intestate proceedings cannot adjudicate or determine title to properties claimed to be a part of the estate and which are equally claimed to belong to outside parties.[17] Therefore, the possibility of irreparable damage without proof of violation of an actually existing right of petitioners over the shareholdings presently in the possession of private respondents is no ground for an injunction being a mere damnum absque injuria.[18]

Moreover, the grant or denial of an injunction rests in the sound discretion of the lower court. The following findings of the Court of Appeals affirming those of the SEC are binding and conclusive on this Court:

> Applying the above jurisprudence in the instant case, this Court rules that the respondent SEC En Banc did not abuse its discretion in denying petitioners' application for a writ of preliminary injunction. Petitioners failed to show a clear and positive right to the questioned shares of the late Dr. Juvencio Ortañez in Philinterlife from which respondents allegedly acquired their possible respective shareholdings. Petitioners' alleged right over the shares of stock in question as well as other properties spring from their yet to be established position as heirs of the late Dr. Juvencio Ortañez. Said issue of heirship has to be established in the probate court particularly in the settlement of estate of the late Dr. Juvencio Ortañez. As it is now, petitioner have mere expectance on the properties of the late Dr. Juvencio Ortañez. The judicial protection of a writ of preliminary injunction does not cover contingent or future right. An actual, clear, and positive right should exist before the mantle of the powerful writ of injunction can protect its movant who prays for the preservation of the status quo pending the hearing of the main case on the merits. Petitioners, having only contingent and future right as alleged heirs of the late Dr. Juvencio Ortañez, are not entitled to a writ of preliminary injunction. If respondents are dissipating the said shares of stocks and properties of Philinterlife which allegedly form part of the estate of the late Dr. Juvencio Ortañez, this issue could be properly brought to the attention of the probate court, the Regional Trial Court of Quezon City, branch 85, in the estate proceedings in Sp. Proc No. Q-30884.[19]

Contrary to the contentions of petitioners, the SEC found that private respondents are bona fide owners of shares of stock in Philinterlife constituting the majority thereof or 94% of the outstanding capital stock of the company.

Records show that they have been stockholders of Philinterlife since 1983 up to the present. It was only in 1994 that petitioners sought the annulment of the shareholdings of private respondents before the SEC. The grant of the writ of injunction against private respondents by restraining them from exercising their rights as stockholders would in effect dispose of the main case without a trial. The SEC acted correctly in denying the issuance of the writ until the merits of the case can be heard. Further, it is a basic procedural postulate that a preliminary injunction is not proper where its purpose is to take the property out of control or possession of one party and transfer the same to the hands of another who did not have such control at the inception of the case[20] and whose title has not been clearly established by law.[21]

WHEREFORE, the petition is DENIED. The decision of the Court of Appeals dated May 31, 1996 is AFFIRMED.

SO ORDERED.

Davide, Jr., C.J., Puno, Kapunan, and Pardo, JJ., concur.

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[1] Rollo, pp. 171-186.

[2] CA Rollo, pp. 163-176.

[3] CA Rollo, pp. 59-60.

[4] Rollo, pp. 262-265.

[5] CA Rollo, pp. 33-36.

[6] CA Rollo, pp. 35-36.

[7] Rollo, pp. 58-69.

[8] Rollo, p. 71.

[9] Merville Park Homeowners Association, Inc. v. Velez, 196 SCRA 189 (1991).

[10] Cagayan de Oro City Landless v. Court of Appeals, 254 SCRA 220 (1996).

[11] Sales v. SEC, 169 SCRA 109 (1989).

[12] Ulang v. Court of Appeals, 225 SCRA 637 (1993).

[13] Annex "H" of Comment.

[14] Arcilla v. Court of Appeals, 215 SCRA 120 (1992).

[15] Ramos v. Court of Appeals, 180 SCRA 635 (1989).

[16] Reyes v. Mosqueda, 187 SCRA 661 (1990).

[17] Ibid.

[18] Heirs of Eugenia Roxas v. IAC, 173 SCRA 581 (1989).

[19] Rollo, pp. 66-67.

[20] Central Bank v. dela Cruz, 191 SCRA 346 (1990); Gaisano v. Hidalgo, 192 SCRA 224 (1990).

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[21] Navarro v. Court of Appeals, 205 SCRA 429 (1992).

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