

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY CAPT.
BERNARDO E. PATIÑO, IN LIEU OF CAPT. RUFO R. VILLANUEVA, IN
HIS CAPACITY AS COMMANDING OFFICER OF THE BONIFACIO
NAVAL STATION, ...**

G.R. No. 130008. October 25, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Before us is a petition for review on certiorari of the Decision[1] of the Court of Appeals in CA-G.R. SP No. 42203, dismissing the petition for certiorari to annul the Order[2] of the Regional Trial Court (RTC) of Makati, Metro Manila, Branch 141, dated September 4, 1996, granting the motion of respondents Commodore Eduardo Domingo and Commodore Rodolfo Simon for a writ of preliminary mandatory injunction in Civil Case No. 93-3549.

The Antecedents

Officers of the Philippine Navy who were in the active service were allowed by the Armed Forces of the Philippines (AFP) to lease and occupy a housing unit at the Navy Village in Fort Bonifacio.

Respondents Commodore Eduardo T. Domingo and Commodore Rodolfo Simon occupied the housing units at No. 16-B Ilang-Ilang Street, Navy Village and at No. 8-A Sampaguita Street, respectively. In the meantime, navy officers residing in the Navy Village, both actual and retired, formed themselves into an incorporated association, the respondent Navy Officers' Village Homeowners' Association, Inc. Even after their retirement, respondents Domingo and Simon continued to occupy the housing units. However, they received a "Final Notice to Vacate Government Quarters" from the Post Commander giving them until October 2, 1993 to vacate their respective quarters. On October 7, 1993, the respondent association and some of the members, including respondents Domingo and Simon, filed a petition for declaratory relief with a prayer for a temporary restraining order and/or writ of preliminary injunction in the RTC of Makati, Branch 141, docketed as Civil Case No. 93-3543. The court issued a temporary restraining order. On October 15, 1993, the respondents amended their petition and converted the same into a petition for a writ of injunction.

The respondents alleged that the property on which the Navy Village stood was declared as disposable under Presidential Proclamation No. 461 dated September 28, 1965, and that based on a deed of sale executed by Land Management Bureau Director Abelardo Palad, Jr., the respondent association had acquired the property. This was further evidenced by Transfer Certificate of Title No. (TCT) 15387 issued under the name of the association. On October 26, 1993, the trial court issued an Order[3] denying the respondents' plea for a writ of preliminary injunction, on its finding that although the land belonged to the association, the AFP owned the housing units occupied by the respondents-officers. The respondents forthwith filed a petition[4] for certiorari with the Court of Appeals (CA) docketed as CA-G.R. SP No. 32502 for the nullification of the October 26, 1993 Order of the trial court. In the meantime, respondents Domingo and Simon were evicted from their housing units on December 7,

1993. On January 27, 1994, the CA rendered judgment granting the petition and nullifying the assailed order of the RTC. The fallo of the decision reads:

WHEREFORE, the petition for certiorari is GRANTED, and the Order of October 26, 1993 ANNULLED and SET ASIDE. The respondents are hereby enjoined from evicting the petitioners, upon the filing of a bond of P10,000.00 with respondent court and until the case before the said court is terminated.[5]

The respondents received a copy of the decision on February 7, 1994. On February 24, 1994, they filed a Motion for Clarification praying that -

WHEREFORE, in view of the foregoing, it is most respectfully prayed of the Honorable Court that the order of injunction be modified to likewise include an order to respondents to restore/reconnect to the subject premises the electric, water and telephone connections and likewise to restore possession to the petitioners two of the housing quarters in the subject premises from where two of the petitioners had earlier been evicted and personally to enjoin respondents from doing any act to disturb petitioners' peaceful occupation/possession over the subject premises.[6]

However, on March 6, 1995, the CA issued a Resolution denying the said motion on the ground that it had already ruled on the matter raised by the respondents.

The respondents later filed a motion in the RTC in Civil Case No. 93-3549 for the issuance of a writ of mandatory injunction to restore respondents Domingo and Simon to their occupancy of the housing units from which they were evicted. The petitioners opposed the motion, contending that the CA had already denied the respondents' motion for clarification in CA-G.R. SP No. 32502. Nevertheless, the trial court granted the motion in an Order dated September 4, 1996. The dispositive portion of the order reads:

WHEREFORE, the motion for preliminary mandatory injunction is granted. Accordingly, let a writ of preliminary mandatory injunction be issued ordering the defendant, his deputy or successor to restore plaintiffs Commodore Eduardo Domingo and Commodore Rodolfo Simon to their respective housing quarters located at 16-B Ilang-Ilang Street and 8-A Sampaguita Street, Navy Village, Fort Bonifacio, Makati City, upon the filing by each of them of a bond in the amount of P10,000.00.[7]

The petitioner filed a petition for certiorari with the CA for the nullification of the trial court's Order dated September 4, 1996, docketed as CA-G.R. SP No. 42203. On July 11, 1997, the CA rendered judgment dismissing the petition and affirming the assailed order of the trial court.

The petitioner forthwith filed their petition for review on certiorari with this Court raising that:

THE SOLE ISSUE POSED FOR RESOLUTION IS WHETHER OR NOT THE COURT OF APPEALS DECIDED A QUESTION OF SUBSTANCE NOT IN ACCORD WITH THE LAW AND EVIDENCE IN AFFIRMING THE TRIAL COURT'S ORDER DATED SEPTEMBER 4, 1996 DIRECTING THE ISSUANCE OF A WRIT OF PRELIMINARY MANDATORY INJUNCTION IN FAVOR OF PRIVATE RESPONDENTS.[8]

The petitioner contends that (a) as gleaned from the contract of occupancy appended to their petition at bar, respondents Domingo and Simon had no more right to continue occupying the housing units leased to them while on active duty as they had already retired from the military service; (b) the acquisition by the respondent association of the title over the land on which the housing units were located did not amount to a divestment of the ownership of the Republic of the Philippines of the said housing units; (c) as found by the National Bureau of Investigation, the signature on the deed of sale over the land in favor of the association, on the basis of which TCT No. 15387 was issued, purporting to be that of Land Management Director Abelardo Palad, Jr. was a forgery; (d) the Republic of the Philippines had filed a complaint against the respondent association for the

cancellation of the said title in the RTC of Pasig City, docketed as Civil Case No. 63983; (e) respondents Domingo and Simon cannot rely on the said title of the respondent association because the latter had a separate and distinct personality from those of its officers; and (f) the respondents failed to prove the existence of the requisites for the issuance of a writ of preliminary mandatory injunction. The petitioner prayed, not only for the nullification of the assailed order of the RTC and the decision of the CA, but also for the dismissal of Civil Case No. 93-3549.

In their Comment on the petition, the respondents assert that the RTC did not commit grave abuse of its discretion amounting to excess or lack of jurisdiction in granting their plea for a writ of preliminary mandatory injunction. According to the respondents, the CA did not err in affirming the said order because the tribunal merely implemented and complied with its decision in CA-G.R. SP No. 32502, that is, to enjoin the petitioner from evicting the respondents from their housing quarters. The respondents assert that until nullified by final judgment, TCT No. 15387 under the name of the association, remains valid. The association, not the petitioner, had the right to cause the eviction of respondents Domingo and Simon from the housing units, considering that the latter never signed any contract of occupancy thereon.

The threshold issue is whether or not the RTC committed grave abuse of its discretion amounting to excess or lack of jurisdiction when it issued its September 4, 1996 Order granting the motion of the respondents for a writ of preliminary mandatory injunction.

The petition has no merit.

In *People v. Court of Appeals*,^[9] we held that for a petition for certiorari to be granted, it must set out and demonstrate, plainly and distinctly, all the facts essential to establish a right to a writ.^[10] The petitioner must allege in his petition and establish facts to show that any other existing remedy is not speedy or adequate^[11] and that (a) the writ is directed against a tribunal, board or officer exercising judicial or quasi-judicial functions; (b) such tribunal, board or officer has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to excess or lack of jurisdiction; and, (c) there is no appeal or any plain, speedy and adequate remedy in the ordinary course of law.^[12]

The public respondent acts without jurisdiction if it does not have the legal power to determine the case; there is excess of jurisdiction where the respondent, being clothed with the power to determine the case, oversteps its authority as determined by law. There is grave abuse of discretion where the public respondent acts in a capricious, whimsical, arbitrary or despotic manner in the exercise of its judgment as to be said to be equivalent to lack of jurisdiction.^[13] Mere abuse of discretion is not enough.

In this case, the trial court merely implemented the decision of the CA in CA-G.R. SP No. 32502 when it issued its assailed order granting the motion of respondents Domingo and Simon, the petitioners therein, for a writ of preliminary mandatory injunction. This can be gleaned from the said order of the trial court, thus:

There is no legal impediment for this Court to rule on the motion for writ of preliminary mandatory injunction because such remedy may be availed of by any party at any stage of the proceeding before final judgment. Considering that the Court of Appeals had restrained the defendant from evicting the other plaintiffs from their respective housing quarters and that plaintiffs Domingo and Simon were similarly situated with the other plaintiffs, there is no reason to deny them of such right granted by the Court of Appeals. It, therefore, behooves this Court to restore them to their respective housing quarters if only to bring back the status quo ante litem.^[14]

It bears stressing that the appellate court nullified the order of the RTC denying the plea of respondents Domingo and Simon for a writ of prohibitory injunction to enjoin the petitioners from evicting them pending the final

disposition of Civil Case No. 93-3549, on the following ratiocination:

The registered owner, which is the petitioner corporation, is duly incorporated under the laws of the Republic (Exh. A-Injunction). That such a title is in existence is not disputed by the respondents, although doubts as to its validity have been expressed by the respondents. In the Supplement to the Petition, the petitioners cite a letter dated October 17, 1993 by the Chief of Staff Lisandro Abadia to the Department of National Defense Secretary, Secretary Renato de Villa, which recognizes merit in the petitioners' title to the land in question, recommending status quo in the case and referral to the AFP-DND Fact Finding Committee for appropriate action (Exh. E-Injunction). The respondents, therefore, do not deny that such a title exists – in the name of the petitioner corporation – over the property that is the bone of contention among the petitioners and the private respondent.

Being booted out of the quarters they presently occupy is the immediate result of the respondent court's order of October 26, 1993. Yet, the petitioners would be booted out of property which no longer pertains to the Philippine Navy, represented by the private respondent, but titled under the name of the petitioner corporation. That property may no longer be disposed of by the private respondent, for it has been taken out of the public domain, and titled in the name of the petitioner corporation. If any right to eject the individual petitioners exists, it exists in favor of the petitioner corporation; this judicial being, however, has not taken any such move against the individual petitioners.

At the very least, the petitioners should be heard on their complaint for injunction; and while that is being done, the private respondent should not be allowed to dispossess the petitioners, for the private respondent holds no title over the property, while the petitioner corporation holds title thereto. It is true that the issuance of a writ of preliminary injunction must be exercised under extreme care and caution, as the Supreme Court declared in "*Bataclan, et al. vs. Court of Appeals, et al.*," 175 SCRA 764 to wit:

"A writ of preliminary injunction, as an ancillary or preventive remedy, may only be resorted to by a litigant to protect or preserve his rights or interests and for no other purpose during the pendency of the principal action. In the issuance thereof, the courts are given sufficient discretion to determine the necessity for the grant of the relief prayed for as it affects the respective rights of the parties, with the caveat that extreme caution be observed in the exercise of such discretion. Quintessentially, it is with an equal degree of care and caution that courts ought to proceed in the denial of the writ. It should not just summarily issue an order of denial without an adequate hearing and judicious evaluation of the merits of the application. A perfunctory and improvident action in this regard would be a denial of procedural due process and could result in irreparable prejudice to a party."

The respondent court's questioned order, however, totally ignored the existence of the petitioner corporation's title and, as the petitioners aver, adjudicated their case in advance and – more significantly – tossed to the petitioners the burden of proving the validity and authenticity of Transfer Certificate of Title No. 15387. This is not allowed in law. The petitioner corporation's title to the property, issued January 9, 1992, has apparently attained indefeasibility. Reopening and review of the title, on the ground of actual fraud, must be done within one (1) year from and after the date of entry of such registration (Secs. 31 and 32, P.D. No. 1529). The petitioner corporation's title was issued January 9, 1992. Apparently, no suit to reopen and review the title had been filed within the statutory period. In "*Republic of the Philippines vs. Court of Appeals, et al.*," 204 SCRA 160 – among many other cases – the highest court, among other things, said:

"Likewise, TCT No. 23377 having been found true and authentic also possessed all the attributes of a torrens certificate of title. By express provision of Section 47 of P.D. 1529, no title of registered land in derogation to that of the registered owner shall be acquired by prescription or adverse possession. To declare that the decree and its derivative titles is valid but only with respect to the extent of the area described in the decree not possessed by occupants with indefeasible registered titles or to possessors with such lengths of possession which had ripened to ownership as to undermine the people's faith in the torrens title being conclusive as to all

matters contained therein. The certificate serves as evidence of an indefeasible title to the property in favor of the person whose names appear therein. After the expiration of the one year period from the issuance of the decree of registration upon which it is based, it becomes incontrovertible (see case of Pamintuan v. San Agustin, 43 Phil. 558; Reyes and Nadres v. Borbon and Director of Lands, 50 Phil. 791, Sy Juco v. Francisco, O.G. (sic) p. 2186, April 15, 1947, Brizuela v. de Vargas, 53 O.G. 2822, May 15, 1957), unless subsequent to the issuance of the decree a third party may be able to show that he acquired title thereto by any of the means recognized by law.”

To permit validity of the respondent court’s order is to allow a collateral, indirect attack upon the petitioner corporation’s admitted title. The law pointedly states this to be anathema to our system:

“SEC. 48. Certificate not subject to collateral attack. – A certificate of title shall not be subject to collateral attack. It cannot be altered, modified, or cancelled except in a direct proceeding in accordance with law. (Sec. 48, P.D. No. 1529)

Certainly, the petitioners cannot be summarily driven off their property, even by Government, and especially by Government. The law is designed to keep bounds which all must respect. In this case, the very least the respondent court could do – without violating specific provisions of law and jurisprudence – is to hear the parties on the merits of the petitioners’ complaint for injunction, without the petitioners being evicted from property not owned by the Government.

Government may claim the petitioner corporation’s title as invalid, but only a competent court may declare so. Government must attack that title directly and within the period set by law. These, therefore, say that the respondent court’s order of October 26, 1993 was issued without jurisdiction and with grave abuse of discretion. The petitioners are, correspondingly, entitled to the issuance of the writ of preliminary injunction effective up to the termination of the case below.[15]

Patently, by its decision, the CA ordained that respondents Domingo and Simon should be allowed to continue living in their housing units and accorded their right to be heard on their complaint for injunction. However, barely a month before the appellate court rendered its decision, the Post Commander, despite the pendency of the case, caused the eviction of respondents Domingo and Simon. This was an obvious attempt to frustrate any decision of the CA in favor of the said respondents. When the respondents sought a clarification from the decision, as well as the restoration of their housing units, the appellate court held that its decision had become final and executory. However, it also held that its decision was clear and unambiguous and that respondents Domingo and Simon were entitled to continue residing in the housing units they were occupying. Thus, the appellate court, in its decision in CA-G.R. SP No. 42203, declared as follows:

There is no dispute that private respondents are entitled to the issuance of a writ of preliminary injunction. Thus, said this Court in CA-G.R. SP No. 32502:

“At the very least, the petitioners should be heard on their complaint for injunction; and while that is being done, the private respondent should not be allowed to dispossess the petitioners, for the private respondent holds no title over the property, while the petitioner corporation holds title thereto. ...

...

Certainly, the petitioners cannot be summarily driven off their property even by [the] Government, and especially by [the] Government. The law is designed to keep bounds which all must respect. In this case, the very least the respondent court could do – without violating specific provisions of law and jurisprudence – is to hear the parties on the merits of the petitioners’ complaint for injunction, without the petitioners being evicted from property not owned by the Government.

The above pronouncement of this Court is not hard to rationalize. It intended to forestall eviction of the private respondents from the premises in question until the termination of CIVIL CASE No. 93-3549 before the

respondent court.

Owing to the rationale of the aforesaid decision in CA-G.R. SP No. 32502, logic dictates that it is a necessary consequence that two (2) of the private respondents who were similarly situated with the other private respondents but were dispossessed, be restored to the status quo ante litem. For if not, this Court would be rendering for naught its own decision. It is beyond cavil that a judgment is not so confined to what appears on the face of the decision but also those necessarily included therein or necessary thereto.

Moreover, the Resolution of this Court in CA-G.R. SP No. 32502, denying the private respondents' Motion for Clarification to include the restoration of the two (2) private respondents should not be construed to foreclose the right of private respondents to seek the same relief from the respondent Court.

First, the denial of said motion for clarification was due to the fact that the decision sought to be clarified had become final and executory as to private respondents. Second, preliminary mandatory injunction may be resorted to by any party for the preservation or protection of his rights or interest during the pendency of the principal action.

Finally, the legal and factual basis to justify the issuance of a writ of preliminary mandatory injunction had been succinctly elucidated in the Decision of this Court in CA-G.R. SP No. 32502. Hence, we find no justification to set aside the Order of the respondent Judge granting the writ of preliminary mandatory injunction.[16]

The petitioner relies on the Contract of Occupancy and the Questioned Document Report No. 815-1093 of the NBI to support his contention that, upon their retirement from the Navy, respondents Domingo and Simon bound and obliged themselves to vacate their housing units. He, likewise, relies on the said documents to support their contention that the deed of sale executed by Land Management Bureau Director Abelardo G. Palad, Jr. is a nullity on account of the forgery of his signature therein. This reliance of the petitioner on the said documents is misplaced. It must be stressed that the contract appended to the petition and relied upon by the petitioner is merely an unsigned and blank printed form. On the other hand, the issue of whether or not the signature of Palad on the said deed of sale is a forgery is a factual issue, one to be resolved by the RTC in Civil Case No. 63983 filed by the petitioner against the respondents.

IN LIGHT OF ALL THE FOREGOING, the petition is DENIED. The assailed decision and resolution of the Court of Appeals are AFFIRMED. No costs.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Tinga, and Chico-Nazario, JJ., concur.

[1] Penned by Associate Justice Quirino D. Abad Santos, Jr. (retired), with Associate Justices Conchita Carpio Morales (now Associate Justice of the Supreme Court) and Bennie Adefuin de la Cruz (retired), concurring.

[2] Penned by Judge Manuel D. Victorio.

[3] Rollo, pp. 44-45.

[4] Id. at 46-56.

[5] Id. at 137.

[6] Id. at 76.

[7] Id. at 99.

[8] Id. at 22.

[9] G.R. No. 144332, June 10, 2004.

[10] Heung v. Frista, 559 So. 2d 434.

[11] Alabama Power Co. v. City of Fort Wayne, 187 S.W. 2d 632 (1939).

[12] Sanchez v. Court of Appeals, 279 SCRA 647 (1997).

[13] Condo Suite Club Travel, Inc. v. NLRC, 323 SCRA 679 (2000).

[14] CA Rollo, p. 25.

[15] CA Rollo, pp. 43-46.

[16] Rollo, pp. 41-42.

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