JOSE A. BERNAS, PETITIONER, VS. SOVEREIGN VENTURES, INC., RESPONDENT.

G.R. NO. 142424. July 21, 2006

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Petition for Review on Certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the September 14, 1999 Decision[1] and the March 7, 2000 Resolution of the Court of Appeals in CA-G.R. SP No. 49466, entitled "Jose A. Bernas, petitioner versus Sovereign Ventures, Inc., respondent."

Jose A. Bernas, petitioner, is the registered owner of a parcel of land in Quezon City covered by Transfer Certificate of Title (TCT) No. 336663 of the Registry of Deeds, same City.

Sovereign Ventures, Inc., respondent, claims that the same property is also registered in its name as shown by TCT Nos. N-138316, N-138317, N-138318, N-14190, N-145202, N-1452208, and N-1452209, also issued by the Registry of Deeds of Quezon City.

Since the same property is covered by conflicting titles, respondent filed with the Regional Trial Court (RTC), Branch 78, Quezon City a verified Petition for Quieting of Title with application for a temporary restraining order and a writ of preliminary injunction to enjoin the Register of Deeds of Quezon City from annotating notices of lis pendens on his titles. Respondent alleged that such notices will prejudice its plan to sell the property.

Acting on respondent's petition, the RTC, on February 26, 1996, issued an Order directing the parties to maintain the status quo before the filing of the petition; and temporarily restraining them from causing any annotation of lis pendens on the property.

On March 5, 1996, petitioner filed an Omnibus Motion assailing the said Order on the ground that he was not notified of the raffle of the case, in violation of the Supreme Court Circular No. 20-95, now contained in Rule 58 of the 1997 Rules of Civil Procedure, as amended.

During the hearing of petitioner's Omnibus Motion on March 7, 1996, petitioner orally moved for the re-raffle of the case and pleaded for a re-hearing of the "propriety of the issuance of a restraining order." The trial court denied his motion, holding that the absence of a notice of raffle was "cured" by the present hearing wherein all the parties are present. Then the trial court ordered the parties to submit their respective memoranda on respondent's application for a writ of preliminary injunction.

Petitioner submitted his memorandum "without prejudice" to his earlier Omnibus Motion.

Subsequently, petitioner reviewed the records of the case and failed to see any notice of raffle. But when he again examined the records after two weeks, he found among the records the notice of raffle sent to him at the Castillo Laman Tan Pantaleon and San Jose Law Offices, where he previously worked as an associate attorney.

On March 27, 1996, the trial court, on the basis of the parties' respective memoranda, issued an Order granting

respondent's application for a writ or preliminary injunction, enjoining the Register of Deeds of Quezon City from annotating any notice of lis pendens on the titles of the property in controversy.

On June 13, 1996, petitioner filed with this Court a Petition for Certiorari, docketed as G.R. No. 125058. He alleged that the trial court, in issuing the Order restraining the parties from causing the annotation of lis pendens on the land titles, committed grave abuse of discretion.

On July 1, 1996, this Court dismissed the petition for petitioner's failure to attach to his petition an affidavit of service of copies thereof to respondent.

On August 2, 1996, petitioner again filed with this Court a similar petition, docketed as G.R. No. 125632. This Court, on November 20, 1996, dismissed the petition for being late; and that a similar petition (G.R. No. 125058) was dismissed in a Resolution dated July 1, 1996 which had become final and executory.

Meanwhile, going back to Civil Case No. Q-96-26433, on April 8, 1997, petitioner filed a motion to dismiss the case on the ground that the trial court did not acquire jurisdiction due to lack of notice of raffle to him.

On January 20, 1998, the trial court issued an Order denying the motion to dismiss and directing petitioner to file his answer to the complaint. Petitioner filed a motion for reconsideration but it was denied on July 27, 1998.

Petitioner then filed with the Court of Appeals a petition for certiorari.

On September 14, 1999, the appellate court rendered its Decision dismissing the petition, holding that the trial court did not gravely abuse its discretion since petitioner was notified of the raffle as shown by the records of the case. Moreover, petitioner having voluntarily submitted himself to the jurisdiction of the trial court, the latter has acquired jurisdiction over his person.

On March 7, 2000, petitioner's motion for reconsideration was denied.

Hence, the instant petition.

The sole issue for our resolution is whether the Court of Appeals erred in ruling that the trial court did not commit grave abuse of discretion, tantamount to lack of jurisdiction, in issuing the Order directing the parties to maintain the status quo prior to the filing of the complaint and restraining them from causing the annotation of lis pendens on the titles of the subject property.

Petitioner contends that the trial court did not acquire jurisdiction over the case because he was not notified of the raffle.

Petitioner's contention lacks merit.

Administrative Circular No. 20-95,[2] on raffle of a complaint with an application for a temporary restraining order or writ of preliminary injunction, has been incorporated in Section 4 (c), Rule 58 of the 1997 Rules of Civil Procedure, as amended. The provision now reads as follows:

> (c) When an application for a writ of preliminary injunction or a temporary restraining order is included in a complaint or any initiatory pleading, the case, if filed in a multiple-sala court, shall be raffled only after notice to and in the presence of the adverse party or the person to be enjoined. In any event, such notice shall be preceded, or contemporaneously accompanied, by service of summons, together with a copy of the complaint or initiatory pleading and the applicant's affidavit and bond, upon the adverse party in the Philippines.
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> However, where the summons could not be served personally or by substituted service despite diligent efforts, or the adverse party is a resident of the Philippines temporarily absent therefrom or is non-resident thereof, the requirement of prior or contemporaneous service of summons shall not apply.

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From the foregoing, it is clear that the prerequisites for conducting a raffle when there is a prayer for temporary restraining order or a writ of preliminary injunction are: there must be a notice of the raffle to the adverse party or the person to be enjoined; and the raffle must be conducted in the latter's presence. The Rule also provides that the notice shall be preceded or accompanied by a service of summons to the adverse party or the person to be enjoined.

The Court of Appeals found that respondent complied with the Rule above-quoted, thus:

> Contrary to the contention of herein petitioner, the procedure as so provided by Circular No. 20-95 dated September 20, 1995 has been complied with by the public respondent judge considering that as clearly shown by the records of Civil Case No. 96-26433, Volume I, particularly pages 158-159 thereof, a notice of raffle dated February 5, 1996 was issued by the clerk of court addressed to the different defendants in that case and one of these defendants is herein petitioner. And per Officer's Return dated February 6, 1996, it is shown that petitioner's copy of the notice of raffle dated February 5, 1996 was served and acknowledged by a certain Glenda Jamora of the petitioner's address as so stated in the petition dated February 2, 1996 filed by the private respondent corporation. In fact, as ruled by herein public respondent in his Order dated January 20, 1998, particularly No. 5 thereof which states:
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> The notice of raffle and the notice of hearing as required by SC Administrative Circular No. 20-95 are complied with. Records show that respondent Bernas was furnished a copy of the Notice of Raffle through Glenda Jamora as shown by the Officer's Return of the Process Server Romulo C. Sanchez from the Office of the Clerk of Court (pp. 158 and 160, Records). The Notice of Hearing on the issuance of the preliminary injunction was likewise duly served on the said respondent, as shown in the Sheriff's Return dated February 28, 1996 and March 4, 1996 (pp. 166; 170-171; 173; 175-177).

Indeed, petitioner has no reason to complain. The trial court sent the notice of raffle to petitioner at his previous business address, the Castillo Laman Tan Pantaleon and San Jose Law Offices, and it was received by Glenda Jamora, a receptionist there. The trial court cannot be blamed for sending the notice to the said law firm because it was the address stated in respondent's petition for quieting of title.

Moreover, as held by the trial court, petitioner voluntarily submitted himself to the jurisdiction of the said court. Records show that on March 27, 1996, he filed a Motion for a Bill of Particulars; on May 13, 1996, he filed a Motion to Cite Respondent and Counsel in Contempt of Court, praying for "other reliefs, just and equitable." Also, on March 5, 1996, he filed an Omnibus Motion assailing the trial court's order restraining the annotation of lis pendens on the titles of the property in litigation. He participated in the hearing of this motion. And lastly, he filed a motion to dismiss the petition in Civil Case No. 96-26433.

A court generally acquires jurisdiction over a person through either a valid service of summons or the person's voluntary appearance in court.[3]

Let it be stressed at this point the basic rule that when a motion to dismiss is denied by the trial court, the remedy is not to file a petition for certiorari, but to appeal after a decision has been rendered. In East Asia Traders, Inc. v. Republic,[4] this Court held:

> Petitioner basically contends before the Court of Appeals that the RTC acted without or in excess of jurisdiction or with grave abuse of discretion when it denied the motion to dismiss the complaint in Civil Case No. CT-98-001.
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> The petition for certiorari and prohibition filed by petitioner with the Court of Appeals is not the proper remedy to assail the denial by the RTC of the motion to dismiss. The Order of the RTC denying the motion to dismiss is merely interlocutory. An interlocutory order does not terminate nor finally dispose of the case, but leaves something to be done by the court before the case is finally decided on the merits. It is always under the

> control of the court and may be modified or rescinded upon sufficient grounds shown at any time before final judgment. This proceeds from the court's inherent power to control its process and orders so as to make them conformable to law and justice. The only limitation is that the judge cannot act with grave abuse of discretion, or that no injustice results thereby (Bangko Silangan Development Bank v. Court of Appeals, 360 SCRA 322 (2001).
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> In Indiana Aerospace University v. Commission on Higher Education (356 SCRA 367 (2001), we held:
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> An order denying a motion to dismiss is interlocutory, and so the proper remedy in such a case is to appeal after a decision has been rendered. A writ of certiorari is not intended to correct every controversial interlocutory ruling; it is resorted only to correct a grave abuse of discretion or a whimsical exercise of judgment equivalent to lack of jurisdiction. Its function is limited to keeping an inferior court within its jurisdiction and to relieve persons from arbitrary acts - acts which courts or judges have no power or authority in law to perform. It is not designed to correct erroneous findings and conclusions made by the courts.

As shown by the records, petitioner has brought the same issue before this Court three times. He is, therefore, warned that, henceforth, no similar petition shall be entertained.

In sum, we rule that the Court of Appeals did not err in dismissing the petition for certiorari in CA-G.R. SP No. 49466.

WHEREFORE, this Court DENIES the petition and AFFIRMS the assailed Decision and Resolution of the Court of Appeals in CA-G.R. SP No. 49466.

SO ORDERED.

Corona, Azcuna, and Garcia, JJ., concur.
Puno, (Chairperson), J., no part.

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[1] Penned by Associate Justice Mercedes Gozo-Dadole and concurred in by Associate Justices Ramon A. Barcelona and Demetrio G. Demetria (all retired).

[2] Paragraph 1 of Administrative Circular No. 20-95 reads: "1. Where an application for temporary restraining order (TRO) or writ of preliminary injunction is included in a complaint or any initiatory pleading filed with the trial court, such complaint or initiatory pleading filed with the trial court shall be raffled only after notice to the adverse party and in the presence of such party or counsel."

[3] Rule 14, 1997 Rules of Civil Procedure, as amended, cited in Hongkong and Shanghai Banking Corporation Limited v. Catalan, G.R. No. 159590, October 18, 2004, 440 SCRA 498.

[4] G.R. No. 152947, July 7, 2004, 433 SCRA 716.

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