

SPOUSES HENRY G. LIM AND ROSARIO T. LIM, PETITIONERS, VS. PEPITO M. VERA CRUZ, RESPONDENT.

G.R. No. 143646. April 04, 2001

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Lis pendens is a Latin term which literally means a pending suit. Notice of lis pendens is filed for the purpose of warning all persons that the title to certain property is in litigation and that if they purchase the same, they are in danger of being bound by an adverse judgment.[1] The notice is, therefore, intended to be a warning to the whole world that one who buys the property does so at his own risk. This is necessary in order to save innocent third persons from any involvement in any future litigation concerning the property.[2] Petitioners filed the instant petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, assailing the Decision dated January 25, 2000 and Resolution dated June 9, 2000 of the Court of Appeals[3] which set aside the order of the trial court cancelling the notice of lis pendens.

The antecedent facts of this case as found by the Court of Appeals are:

"A complaint for quieting of title, annulment and damages was filed by petitioner[4] against private respondents[5] before the Regional Trial Court, Branch 84, Malolos, Bulacan, docketed as Civil Case No. 195-M-94, alleging that he has been in possession since 1960 of a 200 square meter portion of Lot 4204 situated in Barrio Tikay, Malolos, Bulacan covered by TCT No. 191498 of the Registry of Deeds of Bulacan in the names of Turandut, Traviata, Marcelita, Pacita, Marlene, Mathews, Victoria and Rosary, all surnamed Aldaba; that on January 11, 1983, Rosary Aldaba sold to him said 200 square meter portion, which is included in the former's one-eight share in Lot 4204, consisting of 1,732 square meters; that a complaint for ejectment was filed against him in 1993 by private respondent Henry Lim, who claims to be the owner of the property occupied by him, being a portion of the parcel of land covered by TCT No. T-16375 registered in his name; that judgment was rendered against him in the ejectment case, which he elevated to the appellate court, and that upon investigation, he discovered that TCT No. T-16375 in the name of private respondents was obtained in bad faith, by fraud and/or clever machination. On the other hand, private respondents maintained that their title is valid and legal.

Petitioner caused the annotation of a notice of lis pendens at the back of TCT T-16375.

A motion to cancel notice of lis pendens was filed by private respondents on the grounds that said notice was designed solely to molest them/or it is not necessary to protect petitioner's rights. The same was opposed by petitioner insisting that the notice of lis pendens was recorded in order to protect his right over the property covered by TCT No. T-16375 and to avoid sale of property pending the execution of the judgment in the case.

On July 22, 1998, respondent judge issued an order cancelling the notice of lis pendens annotated at the back of TCT No. T-16375 upon the posting by private respondents of an indemnity bond in the amount of P2,000,000.00. Petitioner's motion for reconsideration was denied in an order dated October 7, 1998. "

The issue before this Court is whether or not the Court of Appeals erred in holding that the trial court committed

grave abuse of discretion in cancelling the notice of lis pendens.

Petitioners contend that the cancellation of the notice of lis pendens by the trial court is justified because respondent had it registered for the sole purpose of molesting them and that it is not necessary to protect his rights. According to petitioners, the trial court correctly ratiocinated as follows:

"A very thin line exists and separates the protection afforded by the notice to the plaintiff and the restriction it imposes on the right of the defendants' dominion over the property. Indubitably, the 200 square meter portion claimed by the plaintiff is grossly disproportional to the entire 5,432 square meter property which the notice virtually hold hostage. More so, the annotation proceeds from a still to be proven claim. Thus, based on the allegations in the pleadings, as between a bare assertion of ownership over the claimed portion anchored on an unregistered deed of sale as against the indefeasible title possessed by the defendants over the entire subject property, the presumption under our rules favor the latter, unless rebutted by evidence on the contrary. As it stands, plaintiff's unregistered deed of sale, cannot, therefore, be accorded more weight than the certificate of title in defendant's name which is proof of ownership over the entire 5,432 square meter property.

While afflictive consequences will be suffered by plaintiff if the notice is cancelled in case he is adjudged the lawful owner of the claim 200 square meter property, defendants will likewise suffer a grave injustice if denied the remedy of cancelling the notice, resort to which is allowed by law and discretionary on the courts upon proper showing. The injustice will take the form of an unlawful dispossession though what is claimed only is 200 square meters, yet the entire 5,432 square meter property is affected. Instead of serving its real purpose as laid by law pursuant to public policy, the continued retention of the notice fosters inequity as clearly established based on the claimed portion vis a vis the unclaimed of free portion of the 5,432 square meter property. To the mind of the Court, this inequity translates to an unwanted and unjustified burden that utterly molest the tranquil possession and enjoyment by the defendants of the subject part.

Nevertheless, in the interest of substantial justice and equity, the Court deems it wise under the prevailing circumstances to direct the defendants to post an indemnity bond in an amount commensurate and reasonable proportionate to the per square value of the claimed area of 200 square meter property. To the mind of the Court, thru the posting of a bond, the claim of the plaintiff (respondent herein) would still remain protected and safeguarded even though the notice is eventually cancelled. Equity and fair play dictate the same be resorted to by the Court relative to the peculiar circumstances of the case."

Petitioners' contention lacks merit.

Sec. 14, Rule 13 of the 1997 Rules of Civil Procedure, as amended, provides:

"Sec. 14 Notice of lis pendens - In an action affecting the title or the right of possession of real property, the plaintiff and the defendant, when affirmative relief is claimed in his answer, may record in the office of the registry of deeds of the province in which the property is situated a notice of the pendency of the action. Said notice shall contain the names of the parties and the object of the action or defense, and a description of the property in that province affected thereby. Only from the time of filing of such notice for record shall a purchaser, or encumbrancer of the property affected thereby, be deemed to have constructive notice of the pendency of the action, and only of its pendency against the parties designated by their real names.

The notice of lis pendens hereinabove mentioned may be cancelled only upon order of the court, after proper showing that the notice is for the purpose of molesting the adverse party, or that it is not necessary to protect the rights of the party who caused it to be recorded. (Emphasis ours)

Sec. 77 of Presidential Decree No. 1529 states:

"Sec. 77. Cancellation of lis pendens - Before final judgment, a notice of lis pendens may be cancelled upon order of the court, after proper showing that the notice is for the purpose of molesting the adverse party, or that

it is not necessary to protect the rights of the party who caused it to be registered. It may also be cancelled by the Register of Deeds upon verified petition of the party who caused registration thereof."

Petitioners claim that the notice of lis pendens practically covers his entire land covered by TCT No. T-16375 and thus molests his right as an owner.

Lis pendens has been conceived to protect the real rights of the party causing the registration thereof. With the lis pendens duly recorded, he could rest secure that he would not lose the property or any part of it. For such notice serves as a warning to a prospective purchaser or incumbrancer that the particular property is in litigation; and that he should keep his hands off the same unless of course, he intends to gamble on the results of the litigation.[6] Based on this principle as well as the express provisions of Sec. 14, Rule 13 of the 1997 Rules of Civil Procedure, as amended, only the particular property subject of litigation is covered by the notice of lis pendens. In this case, only the 200 square meter portion of the entire area is embraced by the notice of lis pendens. In causing the annotation of such notice, respondent's aim is to protect his right as an owner of this specific area. Thus, the ruling of the trial court that the notice of lis pendens is tantamount to an unlawful dispossession and restriction of petitioners' right of dominion over the entire 5,432 square meter lot covered by TCT 16375 in their names is, therefore, an erroneous conclusion.

Pursuant to Section 14, Rule 13 of the 1997 Rules of Civil Procedure, as amended, earlier quoted, courts can cancel a notice of lis pendens only on two grounds: a) after a proper showing that the notice is for the purpose of molesting the adverse party; or b) it is not necessary to protect the interest of the party who caused it to be recorded

In justifying the cancellation of the notice of lis pendens, the trial court held that respondent's unregistered deed of sale can not be accorded more weight than petitioners' certificate of title.

For purposes of annotating a notice of lis pendens, there is nothing in the rules which requires the party seeking annotation to show that the land belongs to him. In fact, there is no requirement that the party applying for the annotation of the notice must prove his right or interest over the property sought to be annotated.[7] Hence, even on the basis of an unregistered deed of sale, a notice of lis pendens may be annotated on the title. And such annotation can not be considered as a collateral attack against the certificate of title. This is based on the principle that the registration of a notice of lis pendens does not produce a legal effect similar to a lien. It does not create a right or lien. It only means that a person purchases or contracts on the property in dispute subject to the result of the pending litigation.[8] We observe that the trial judge was convinced that the cancellation of the lis pendens is not in order. Otherwise, he should not have required petitioners to post a bond of P2,000,000.00

The doctrine of lis pendens is founded upon reasons of public policy and necessity, the purpose of which is to keep the properties in litigation within the power of the court until the litigation is terminated, and to prevent the defeat of the judgment or decree by subsequent alienation. This purpose would be rendered meaningless if petitioners are allowed to file a bond, regardless of the amount, in substitution of said notice. In *Tan vs. Lantin*[9], this Court held that the law does not authorize a judge to cancel a notice of lis pendens pending litigation upon the mere filing of sufficient bond by the party on whose title said notice is annotated.

Petitioners likewise insist that since respondent lost in the ejectment suit they filed against him, it follows that he also lost whatever right he has in the 200 square meter portion and that, therefore, he has no more right to be protected by the notice of lis pendens. It bears emphasis that respondent caused the registration of the notice of lis pendens in Civil Case No. 195-M-94 for quieting of title to his, 200 square meter lot, not in the ejectment case. Consequently, the notice of lis pendens annotated on TCT No. T-16375 must stay.

Indeed, there is nothing in the records indicating that the notice of lis pendens is for the purpose of molesting

herein petitioners or that it is not necessary to protect the rights of respondent.

WHEREFORE, the petition is DENIED. The assailed Decision of the Court of Appeals is AFFIRMED. Costs against petitioners.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Gonzaga-Reyes, JJ., concur.

[1] Black, Law Dictionary 1081 (1957).

[2] Rehabilitation Finance Corporation vs Morales, 101 Phil. 171 (1957).

[3] Penned by Justice Marina L. Buzon with the concurrence of Justices Godardo A. Jacinto and Edgar P. Cruz, Twelfth Division.

[4] Respondent pepito Vera Cruz

[5] Referring to Spouses Henry and Rosario Lim, petitioners herein.

[6] Baranda vs. Gustilo, 165 SCRA 757, 1988.

[7] Villanueva vs. Court of Appeals, 281 SCRA 298 (1997).

[8] Somes vs. Government of the Philippine Islands, 62 Phil. 432 (1935-1936).

[9] 142 SCRA 423 (1986).

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