

LOS BAÑOS RURAL BANK, INC., PETITIONER, VS. PACITA O. AFRICA, GLORIA AFRICA, ANTONIO AFRICA, ARISTEO AFRICA, SOCORRO AFRICA, CONSUELO AFRICA, AND LOURDES AFRICA, RESPONDENTS.

G.R. No. 143994. July 11, 2002

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

A writ of preliminary injunction is issued to preserve the status quo ante, upon an applicant's showing of two important requisite conditions; namely, (1) the right to be protected exists prima facie, and (2) the acts sought to be enjoined are violative of that right. It must be proven that the violation sought to be prevented would cause an irreparable injustice.

Statement of the Case

Before us is a Petition for Review under Rule 45 of the Rules of Court, assailing the June 30, 2000 Decision[1] of the Court of Appeals[2] (CA) in CA-GR SP No. 53355. The decretal portion of the Decision reads as follows:

“WHEREFORE, the petition is GRANTED. The Order dated April 19, 1999 insofar as it denied the petitioners' application for the issuance of a writ of preliminary injunction, is hereby RECALLED and SET ASIDE.

“Let a writ of preliminary injunction issue in this case to restrain the respondent bank from proceeding with the foreclosure and consolidation of the title over the subject property upon posting by petitioners of a bond in the amount of Php20,000.00.”[3]

The Order of the Regional Trial Court (RTC) of Quezon City (Branch 220), which was reversed by the CA, reads as follows:

“WHEREFORE, premises considered, the Order of the Court dated July 22, 1997 is hereby recalled and set aside. The application for issuance of writ of preliminary injunction is hereby DENIED.

“Issues in this case having been joined, let this case be set for pre-trial on May 28, 1999 at 8:30 o' clock in the morning. Send notice of pre-trial to the parties and counsels.”[4]

The Facts

The factual antecedents of the case are summarized by the Court of Appeals in this wise:

“Petitioner Pacita Africa (Pacita for brevity) is the widow of Alberto Africa and the rest of her co-petitioners are their children.

“Records disclose that sometime in June 1989, the Quezon City Hall building where the Register of Deeds was then holding office was razed by fire, destroying some of its records/documents among which was the original Transfer Certificate of Title (TCT) No. 203492 covering a parcel of land situated in Diliman, Quezon City, and registered in the name of petitioner Pacita. The aforesaid property was part of the conjugal property of

petitioner Pacita and her late husband Alberto Africa.

“On request of Pacita, private respondent Macy Africa, the common-law wife of petitioner Antonio Africa, worked for the reconstitution of the aforesaid TCT No. 203492. The same was done and a new Transfer Certificate of Title (TCT) No. RT-76140 (203492) PR-36463 was issued in the name of Pacita Africa. While the reconstituted title was in her possession, Macy allegedly forged, or caused the forgery of, Pacita’s signature on a Deed of Absolute Sale dated December 29, 1992, purporting to transfer ownership of the subject property to Macy. On the strength of the forged Deed of Absolute Sale, Macy was able to cause the issuance of TCT No. 81519 in her name, without the knowledge of any of herein petitioners.

“Still as part of the scheme to defraud petitioners, Macy caused the preparation of a fake TCT No. 81519 in the name of Pacita, which the former showed to the latter to make Pacita believe that the said title was issued in her (Pacita’s) name.

“Sometime in March 1994, petitioners discovered private respondent’s fraudulent act. They (petitioners) likewise came to know that the subject property was mortgaged by Macy to the respondent bank. To protect their interests over the subject property, petitioners lodged an action in court against Macy and the respondent bank for Annulment of Title, Deed of Absolute Sale and Deed of Mortgage. The case was originally assigned to Branch 99 of the RTC of Quezon City and docketed as Civil Case No. Q-94-20898.

“After the filing of the aforesaid case, the respondent bank in utter bad faith, foreclosed the subject property on June 11, 1996 without due notice to the petitioners, prompting the petitioners to amend [their] complaint, this time incorporating therein a prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction, to stop the respondent bank from, among others, consolidating title to the subject property.

“On July 2, 1997, RTC Branch 99 issued an Order granting petitioners’ application for a temporary restraining order. Meanwhile, the respondent bank filed its Manifestation, Opposition and Motion to Postpone dated July 11, 1997, praying, inter alia, for the denial of petitioner’s application for a writ of preliminary injunction, or in the alternative, for the cancellation of the hearing thereon. On July 18, 1997, the aforesaid court denied the respondent bank’s motion to postpone and proceeded with the hearing of petitioners’ application. Thereafter, petitioners’ application was considered submitted for resolution.

“On July 22, 1997, the Court issued an Order granting petitioners’ application for a writ of preliminary injunction to which respondent bank filed a Motion for Reconsideration dated July 11, 1997 followed by a Motion for Inhibition on January 1, 1998 praying that Hon. Felix M. de Guzman, presiding judge of RTC, Branch 99, inhibit himself from further trying the case. This latter motion was granted, and the case was re-raffled and assigned to Branch 220.

“On April 19, 1999, RTC Branch 220, public respondent herein, issued the questioned Order.”[5]

Ruling of the Court of Appeals

The CA overturned the RTC Order dated April 19, 1999, and granted the issuance of a preliminary injunction to restrain petitioner from proceeding with the foreclosure and the consolidation of title over the subject property. The CA ruled that respondents had title to and possession of the property and were deprived thereof by petitioner. Thus, respondents had a clear and unmistakable right to protect their title and possession.[6]

Hence, this Petition.[7]

Issues

In its Memorandum, petitioner raises the following issues for the Court’s consideration:

I

“Whether the Court of Appeals acted with patent grave abuse of discretion in applying the ruling in *Verzosa vs. Court of Appeals*, (299 SCRA 100), to the instant case to justify its reversal of the 19 April 1999 Order of Branch 220 of the Regional Trial Court of Quezon City in Civil Case No. Q-94-20898[;]

II

“Whether the Court of Appeals acted with patent grave abuse of discretion when it rationalized its decision by citing factual premises therein that are not borne out by the records nor based on evidence and in fact contrary to reality[;]

III

“Whether the Court of Appeals acted with patent grave abuse of discretion when it ignored, disregarded and/or deviated from established jurisprudence governing the issuance of preliminary injunction demanded by private respondents against the petitioner bank[;]

IV

“Whether the Court [of] Appeals acted with patent grave abuse of discretion when it disregarded the pertinent provisions of Section 3, Rule 58, of the Revised Rules of Court providing for the grounds for issuance of preliminary injunction.”[8]

In sum, the issues boil down to whether the appellate court erred in issuing a writ of preliminary injunction to stop petitioner’s consolidation of its title to the subject property.

This Court’s Ruling

The Petition is not meritorious; it has not shown any reversible error in the CA’s Decision.

Main Issue:

Propriety of Preliminary Injunction

Petitioner argues that respondents do not have a right to the relief demanded, because they merely have possession of the property, as the legal title is in the name of Macy Africa.[9] Furthermore, it claims that the consolidation of title in its name does not constitute an “invasion of a right that is material and substantial.”[10]

On the other hand, respondents maintain that they would suffer great irreparable damage if the writ of preliminary injunction is not granted.[11] They likewise contend that if petitioner is allowed to consolidate its title to the subject property, they would lose their ancestral home, a loss that would result in unnecessary and protracted proceedings involving third parties.[12]

We agree with respondents.

The grounds for the issuance of a writ of preliminary injunction are enumerated in Rule 58, Section 3 of the Revised Rules of Court, which reads as follows:

“Sec. 3. Grounds for issuance of preliminary injunction. – A preliminary injunction may be granted when it is established;

(a) That the applicant is entitled to the relief demanded, and the whole or part of such relief consists in restraining the commission or continuance of the act or acts complained of, or in requiring the performance of

an act or acts, either for a limited period or perpetually;

(b) That the commission, continuance or non-performance of the act or acts complained of during the litigation would probably work injustice to the applicant; or

(c) That a party, court, agency or a person is doing, threatening, or is attempting to do, or is procuring or suffering to be done, some act or acts probably in violation of the rights of the applicant respecting the subject of the action or proceeding, and tending to render the judgment ineffectual.”

Injunction is a preservative remedy aimed at no other purpose than to protect the complainant’s substantive rights and interests^[13] during the pendency of the principal action.^[14] A preliminary injunction, as the term itself suggests, is merely temporary.^[15] It is to be resorted to only when there is a pressing necessity to avoid injurious consequences that cannot be remedied under any standard of compensation.^[16]

Moreover, injunction, like other equitable remedies, should be issued only at the instance of a suitor who has sufficient interest in or title to the right or the property sought to be protected.^[17] It is proper only when the plaintiff appears to be entitled to the relief demanded in the complaint.^[18] In particular, the existence of the right and the violation thereof must appear in the allegations of the complaint^[19] and must constitute at least a prima facie showing of a right to the final relief.^[20] Thus, there are two requisite conditions for the issuance of a preliminary injunction, namely, (1) the right to be protected exists prima facie, and (2) the acts sought to be enjoined are violative of that right.^[21] It must be proven that the violation sought to be prevented would cause an irreparable injustice.

Further, while a clear showing of the right is necessary, its existence need not be conclusively established.^[22] In fact, the evidence required to justify the issuance of a writ of preliminary injunction in the hearing thereon need not be conclusive or complete. The evidence need only be a “sampling” intended merely to give the court an idea of the justification for the preliminary injunction, pending the decision of the case on the merits.^[23] Thus, to be entitled to the writ, respondents are only required to show that they have the ostensible right to the final relief prayed for in their Complaint.^[24]

First Requisite:

Existence of the Right

In the case at bar, we find ample justification for the issuance of a writ of preliminary injunction.^[25] Evidently, the question on whether or not respondents possess the requisite right hinges on the prima facie existence of their legal title to the subject property.^[26] They have shown that they have that right, and that it is directly threatened by the act sought to be enjoined.^[27]

First, as alleged in the Complaint,^[28] Respondent Pacita Africa is the registered owner of the subject property. Her ownership is evidenced by the reconstituted Transfer Certificate of Title (TCT) No. RT-76140 (203492) PR-36463,^[29] issued by the Registry of Deeds of Quezon City. Second, the validity of the Deed of Sale^[30] dated December 29, 1992, is still in dispute because Respondent Pacita Africa claims that her signature was forged by the vendee, Macy Africa.^[31] Third, there is doubt as to the validity of the mortgage in favor of petitioner, because there exists on record two TCTs covering the mortgaged property: (1) TCT No. 81519^[32] registered in the name of Pacita Africa and (2) TCT No. 81519^[33] registered in the name of Macy Africa.

If indeed the Deed of Sale is a forgery, no parcel of land was ever transferred to the purported buyer^[34] who, not being the owner, could not have validly mortgaged the property.^[35] Consequently, neither has petitioner -- the buyer and mortgagee of the same lot -- ever acquired any title thereto.^[36] Significantly, no evidence was presented by petitioner to controvert these allegations put forward by respondents. Clearly then, on the basis of

the evidence presented, respondents possess the right to prevent petitioner from consolidating the title in its name. The first requisite -- the existence of a right to be protected -- is thus present.[37]

Second Requisite:

Violation of Applicant's Right

As to the second requisite, what is sought to be enjoined by respondents is the consolidation of the title to the subject property in petitioner's name. After having discovered that the property had been mortgaged to petitioner, respondents filed on June 12, 1994 an action for Annulment of Title, Deed of Sale, and Mortgage to protect their rights over the property.[38] This notwithstanding, petitioner foreclosed it on June 11, 1996.[39] To enjoin petitioner from consolidating the title in its name, respondents then filed an Amended Complaint,[40] praying for a writ of preliminary injunction.

Unless legally stopped, petitioner may consolidate title to the property in its name and enjoy the unbridled freedom to dispose of it to third persons, to the damage and prejudice of respondents.[41] What respondents stand to lose is material and substantial.[42] They would lose their ancestral home even without the benefit of a trial.[43] Clearly, the act sought to be enjoined is violative of their proprietary right over the property.[44]

A writ of preliminary injunction is issued precisely to preserve threatened or continuous irremediable injury to some of the parties before their claims can be thoroughly studied and adjudicated.[45] Denial of the application for the writ may make the Complaint of respondents moot and academic. Furthermore, it would render ineffectual a final judgment in their favor or, at the very least, compel them to litigate needlessly with third persons who may have acquired an interest in the property.[46] Such a situation cannot be countenanced.[47]

Lis Pendens

Petitioner further contends that respondents are not entitled to the relief prayed for, because they caused a notice of lis pendens to be annotated at the back of TCT No. 81519, registered in the name of Macy P. Africa; thus, that notice provided ample protection of their rights and interests.[48]

We are not persuaded. A notice of lis pendens serves as an announcement to the whole world that a particular real property is in litigation and as a warning that those who acquire an interest in the property do so at their own risk -- they gamble on the result of the litigation over it.[49] However, the cancellation of such notice may be ordered by the court that has jurisdiction over it at any given time.[50] Its continuance or removal -- like the continuance or the removal of a preliminary attachment or injunction -- is not contingent on the existence of a final judgment on the action and ordinarily has no effect on the merits thereof.[51] Thus, the notice of lis pendens does not suffice to protect herein respondents' rights over the property.[52] It does not provide complete and ample protection.

Status Quo Ante

Petitioner further claims that the RTC erred in enjoining the foreclosure sale of the subject property.[53] It argues that the foreclosure may no longer be enjoined, because it has long been effected since 1996.[54] We agree with petitioner.

It is a well-entrenched rule that consummated acts can no longer be restrained by injunction[55] whose sole objective is to preserve the status quo until the merits of the case are fully heard.[56] Status quo is defined as the last actual peaceful uncontested situation that precedes a controversy, and its preservation is the office of an injunctive writ.[57]

In the instant case, the status quo was the situation of the parties at the time of the filing of the Amended

Complaint[58] with a prayer for a writ of preliminary injunction. It was that point at which petitioner had already foreclosed the subject property and, hence, could no longer be enjoined from going on with the foreclosure. However, the last actual uncontested status that preceded the controversy was when the property in dispute was still registered in the name of Macy Africa, petitioner not having consolidated in its name the title thereto.[59] Thus, the issuance of the writ would no doubt preserve the status quo.[60]

We cannot rule on the allegation of petitioner that this case is a “scam perpetrated by private respondents” to defraud it.[61] The truth or the falsity of that assertion cannot be ascertained by this Court at this time. Verily, we refrain from expressing any opinion on the merits of the case, pending a full consideration of the evidence that would be presented by the parties.[62]

WHEREFORE, the Petition is DENIED and the assailed Decision of the Court of Appeals AFFIRMED. Costs against petitioner.

SO ORDERED.

Puno, (Chairman), Sandoval-Gutierrez, and Carpio, JJ., concur.

[1] Rollo, pp. 80-87.

[2] Thirteenth Division. Written by Justice Delilah Vidallon-Magtolis (Division chairman); concurred in by Justices Eloy R. Belo Jr. and Elvi John S. Asuncion (members).

[3] CA Decision, pp. 7-8; rollo, pp. 86-87.

[4] RTC Order, p. 4; rollo, 141; penned by Judge Prudencio Altre Castillo Jr.

[5] CA Decision, pp. 2-4; rollo, pp. 81-83.

[6] CA Decision, p. 7; id, p. 86.

[7] The case was deemed submitted for decision on June 20, 2001, upon the Court’s receipt of respondents’ Memorandum, signed by Attys. Menardo I. Guevarra, Lorna Imelda M. Suarez and Maria Cristina T. Suralvo. Petitioner’s Memorandum, filed on May 18, 2001, was signed by Attys. Eulalio A. Ventura and Pablo Antonio A. Ventura.

[8] Petitioners’ Memorandum, pp. 12-13; rollo, pp. 256-257.

[9] Ibid., p. 23; rollo, p. 267.

[10] Id., p. 22; rollo, p. 266.

[11] Respondents’ Memorandum, p. 12; rollo, p. 312.

[12] Ibid., p. 13; rollo, p. 313.

[13] *Idolor v. Court of Appeals*, 351 SCRA 399, February 7, 2001.

[14] *Cagayan de Oro City Landless Residents Assoc., Inc. v. Court of Appeals*, 254 SCRA 220, March 4, 1996.

[15] *Olalia v. Hizon*, 196 SCRA 665, May 6, 1991.

[16] *Del Rosario v. Court of Appeals*, 255 SCRA 152, March 15, 1996.

[17] *Saulog v. Court of Appeals*, 262 SCRA 51, September 18, 1996.

- [18] Toyota Motor Philippines Corporation v. Court of Appeals, 216 SCRA 236, December 7, 1992.
- [19] Lopez v. Court of Appeals, 322 SCRA 686, January 20, 2000.
- [20] Buayan Cattle Co., Inc. v. Quintillan, 128 SCRA 276, March 19, 1984; citing 43 CJS 433.
- [21] Lopez v. Court of Appeals, *supra*.
- [22] Developers Group of Companies, Inc. v. Court of Appeals, 219 SCRA 715, March 8, 1993.
- [23] Saulog v. Court of Appeals, *supra*.
- [24] *Ibid*.
- [25] *Id*.
- [26] *Id*.
- [27] Angela Estate, Inc. v. Court of First Instance of Negros Occidental, 24 SCRA 500, July 31, 1968.
- [28] Annex “D”; rollo, p. 106.
- [29] Annex “B”; CA rollo, p. 23.
- [30] Annex “A”; rollo, p. 114.
- [31] See Complaint, Annex “D”; *ibid.*, p. 108..
- 31 CA Decision, p. 3; *id.*, p. 82
- [32] Annex “C”; *id.*, p. 116.
- [33] Annex “B”; *id.*, p. 115.
- [34] Alarcon v. Court of Appeals, 323 SCRA 716, January 28, 2000.
- [35] Cruz v. Bancom Finance Corporation, GR No. 147788, March 19, 2002.
- [36] *Ibid*.
- [37] Development Bank of the Philippines v. Court of Appeals, 344 SCRA 492, October 30, 2000.
- [38] See Complaint, Annex “D” ; rollo, p. 106
- [39] See Sheriff’s Certificate of Sale, Annex “I”; *ibid.*, p. 128.
- [40] See Amended Complaint, Annex “G”; *id.*, p. 129.
- [41] Saulog v. Court of Appeals, *supra*.
- [42] Development Bank of the Philippines v. Court of Appeals, *supra*.
- [43] *Ibid*.
- [44] *Id*.
- [45] Republic v. Silerio, 272 SCRA 280, May 6, 1997.
- [46] Lizares v. Kintanar, 190 SCRA 585, October 18, 1990.
- [47] Development Bank of the Philippines v. Court of Appeals, *supra*.

[48] Petitioner's Memorandum, p. 21; rollo, p. 265.

[49] Villanueva v. Court of Appeals, 281 SCRA 298, November 5, 1997.

[50] Heirs of Maria Marasigan v. Intermediate Appellate Court, 152 SCRA 253, July 23, 1987; Tanchoco v. Aquino, 154 SCRA 1, September 15, 1987.

[51] Magdalena Homeowners Association, Inc. v. Court of Appeals, 184 SCRA 325, April 17, 1990.

[52] Development Bank of the Philippines v. Court of Appeals, *supra*.

[53] Petitioner's Memorandum, p. 39; rollo, p. 283

[54] *Ibid*.

[55] Verzosa v. Court of Appeals, 299 SCRA 100, November 24, 1998.

[56] Lim v. Pacquing, 240 SCRA 649, January 27, 1995; Knecht v. Court of Appeals, 228 SCRA 1, November 18, 1993; Unciano Paramedical College Inc. v. CA, 221 SCRA 285, April 7, 1993; Rava Development Corporation v. Court of Appeals, 211 SCRA 144, July 3, 1992.

[57] Unciano Paramedical College v. Court of Appeals, *supra*; Searth Commodities Corp. v. Court of Appeals, 207 SCRA 622, March 31, 1992; Rivas v. Securities and Exchange Commission, 190 SCRA 295, October 4, 1990.

[58] Annex "G"; rollo, p. 129.

[59] Searth Commodities Corp. v. Court of Appeals, *supra*.

[60] *Ibid*.

[61] Petitioner's Memorandum, p. 32; rollo, p. 276.

[62] Feliciano v. Court of Appeals, 287 SCRA 61, March 5, 1998.

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