

**ROMAN CATHOLIC ARCHBISHOP OF SAN FERNANDO, PAMPANGA
REPRESENTED HEREIN BY THE INCUMBENT ARCHBISHOP,
PETITIONER, VS. EDUARDO SORIANO, JR., EDNA YALUN,
EVANGELINA ABLAZA, FELICIDA...**

G.R. No. 153829. August 17, 2011

Ponente: VILLARAMA, JR., J.

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VILLARAMA, JR., J.:

Before this Court are two petitions for resolution: the first, a Petition for Review on Certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, filed by the Roman Catholic Archbishop (RCA) of San Fernando, Pampanga, assailing the March 18, 2002 Decision[2] and the May 30, 2002 Resolution[3] of the Court of Appeals (CA) in CA-G.R. SP No. 66974; and the second, a Petition for Injunction under Rule 58, filed by Benjamin Guinto, Jr. (Guinto), seeking to enjoin the implementation of the Writ of Execution[4] dated October 14, 2003, issued by the Municipal Circuit Trial Court (MCTC) of Macabebe-Masantol, Pampanga in Civil Case No. 2000(23).

The facts follow:

The RCA of San Fernando, Pampanga, represented by Most Rev. Paciano B. Aniceto, D.D., claimed that it is the owner of a vast tract of land located near the Catholic Church at Poblacion, Macabebe, Pampanga and covered by Original Certificate of Title (OCT) No. 17629 issued by the Registry of Deeds of San Fernando on February 21, 1929.[5] The RCA alleged that several individuals unlawfully occupied the subject land and refused to vacate despite repeated demands. Having no other recourse, the RCA filed an ejectment case, docketed as Civil Case No. 2000(23), before the MCTC of Macabebe-Masantol, Pampanga against the alleged intruders, namely, Leocadio and Rufina Reyes, Jose Balagtas, Marcial and Victoria Balagtas, Levita Naluz, Dionisio Barcoma, Felicidad Urbina, Justiniano Reyes, Lawrence Muniz, Eduardo Soriano, Cosmer Vergara, Perlita Bustos, Brigida Navarro, Leonoda Cruz, Leonida Manansala, Angelito Juliano, Eduardo Ibay, Edna Yalung, Reynaldo Mallari, Lily Masangcay, Evangelina Ablaza, Crisanto Manansala, Feliza Esguerra, Gloria Manansala, Bienvenido and Felicisima Panganiban, Ofroneo Caparas, Tino Enriquez, Elizabeth and Benjamin Guinto, Felix Salenga, Eleno and Rosala Salenga, Luisa and Domingo Sison, Francia Flores, Eduardo and Rosita Gutierrez, Zosima and Ener Basilio, Andy and Loreto Bonifacio, Peter and Felicisima Villajuan.[6]

On the other hand, defendants countered that the RCA has no cause of action against them because its title is spurious. They contended that the subject land belonged to the State, but they have already acquired the same by acquisitive prescription as they and their predecessors-in-interest have been in continuous possession of the land for more than thirty (30) years.

After considering the pleadings submitted by the parties, the MCTC rendered decision on September 28, 2001 in favor of the RCA. The trial court held that OCT No. 17629 in the name of the RCA remains valid and binding against the whole world until it is declared void by a court of competent jurisdiction. Thus, defendants were

ordered to vacate the premises and to pay reasonable monthly rentals from August 15, 2000 until they shall have finally vacated the premises.[7]

Defendants appealed to the Regional Trial Court (RTC). However, the appeal was dismissed because of their failure to file the appeal memorandum. When defendants elevated the case to the CA, their petition for certiorari was not given due course for failure to file the same within the extended period. Hence, the decision ejecting the defendants from the premises became final.

Pursuant to Section 21,[8] Rule 70 of the 1997 Rules of Civil Procedure, as amended, the RCA filed an Urgent Motion for Immediate Issuance of a Writ of Execution, which the MCTC granted in an Order[9] dated February 10, 2003, as follows:

WHEREFORE, on the basis of the rules and jurisprudence aforecited, the Motion for Execution filed by plaintiff is hereby granted. Let a writ of execution be issued in connection with this case which is a ministerial duty of the Court.

Defendants' Motion for Inhibition is denied for lack of merit.

SO ORDERED.[10]

Thereafter, the MCTC issued another Order dated October 6, 2003, the pertinent portion of which states:

Let a writ of execution be issued to implement the Decision dated September 28, 2001.

No further defendants' motion to stay execution shall be entertained.

SO ORDERED.[11]

Accordingly, a writ of execution[12] was issued commanding the sheriff or his deputies to implement the MCTC Decision. Thus, Sheriff Edgar Joseph C. David sent the defendants a Notice to Vacate[13] dated December 8, 2003.

Seeking to enjoin the implementation of the writ of execution and the notice to vacate, Guinto filed the instant Petition for Injunction with Prayer for Issuance of a Temporary Restraining Order (TRO),[14] docketed as G.R. No. 160909.

Meanwhile, during the pendency of the ejectment case at the MCTC, some of the defendants therein, namely, Eduardo Soriano, Jr., Edna Yalun, Evangelina Ablaza, Felicidad Y. Urbina, Felix Salenga, Reynaldo I. Mallari, Marciana B. Barcoma, Bienvenido Panganiban, Brigida Navarro, Eufrancia T. Flores, Victoria B. Sodsod, Eufronio Caparas, Crisanto Manansala, Lily Masangcay, Benjamin Guinto, Jr., Martha G. Castro and Lino Tolentino filed Civil Case No. 01-1046(M) against the RCA for Quieting of Title and Declaration of Nullity of Title before the RTC of Macabebe, Pampanga.[15] They claimed that they are in actual possession of the land in the concept of owners and alleged that OCT No. 17629 in the name of RCA is spurious and fake.

Before filing its Answer, the RCA moved to dismiss the case on grounds of noncompliance with a condition precedent, laches, and for being a collateral attack on its title. The RCA likewise later filed a supplement to its motion to dismiss.

In an Order[16] dated June 4, 2001, the RTC denied the motion to dismiss reasoning that when the rules speak of noncompliance with a condition precedent, it could refer only to the failure of a party to secure the appropriate certificate to file action under the Local Government Code, or the failure to exert earnest efforts towards an amicable settlement when the suit involves members of the same family. The RTC also found that plaintiffs have a cause of action. Furthermore, the trial court held that RCA's argument - that the property cannot be acquired by

prescription because it has title over it - is a matter of evidence which may be established during the trial on the merits.

Aggrieved, the RCA filed a motion for reconsideration, which the trial court denied in an Order[17] dated July 24, 2001. Thereafter, the RCA filed with the CA a petition for certiorari with prayer for preliminary injunction.[18]

On March 18, 2002, the CA promulgated the assailed Decision,[19] the dispositive portion of which reads:

WHEREFORE, for lack of merit, the petition is hereby DISMISSED.

SO ORDERED.[20]

A motion for reconsideration[21] of the Decision was filed by the RCA. However, in the Resolution[22] dated May 30, 2002, the CA denied the motion for lack of merit. Hence, the RCA filed the present petition for review on certiorari,[23] docketed as G.R. No. 153829, assailing the Decision of the CA, as well as its Resolution denying the motion for reconsideration.

On January 14, 2004, we resolved to consolidate G.R. Nos. 160909 and 153829.[24] Subsequently, the Court resolved to treat the petition for injunction with prayer for the issuance of a TRO in G.R. No. 160909 as a motion for the issuance of a TRO and/or writ of preliminary injunction in G.R. No. 153829.[25]

The RCA raises the following issues:

(A) WHETHER OR NOT CIVIL CASE NO. 01-1046(M) FOR QUIETING OF TITLE AND DECLARATION OF NULLITY OF TITLE IS LEGALLY DISMISSIBLE FOR VIOLATION OF THE VARIOUS PROVISIONS OF THE RULES OF COURT;

and

(B) WHETHER OR NOT THE CIVIL ACTION (THE ABOVE MENTIONED CIVIL CASE NO. 01-1046[M]) FILED BY PRIVATE RESPONDENTS CONSTITUTES A COLLATERAL ATTACK ON PETITIONER'S TITLE.[26]

Essentially, the issue before us is whether the CA erred in not holding that the RTC committed grave abuse of discretion in denying the motion to dismiss filed by the RCA.

We affirm the ruling of the CA.

Well-entrenched in our jurisdiction is the rule that the trial court's denial of a motion to dismiss cannot be questioned in a certiorari proceeding under Rule 65 of the 1997 Rules of Civil Procedure, as amended. This is because a certiorari writ is a remedy designed to correct errors of jurisdiction and not errors of judgment. The appropriate course of action of the movant in such event is to file an answer and interpose as affirmative defenses the objections raised in the motion to dismiss. If, later, the decision of the trial judge is adverse, the movant may then elevate on appeal the same issues raised in the motion.[27]

The only exception to this rule is when the trial court gravely abused its discretion in denying the motion.[28] This exception is, nevertheless, applied sparingly, and only in instances when there is a clear showing that the trial court exercised its judicial power in an arbitrary or despotic manner by reason of passion or personal hostility.[29] Further, the abuse of the court's discretion must be so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform the duty enjoined by, or to act at all in contemplation of, law.[30]

Here, in dismissing the petition for certiorari, the CA did not find grave abuse of discretion on the part of the RTC. The appellate court was not convinced with the RCA's argument that plaintiffs failed to comply with the condition precedent provided in Article 477[31] of the Civil Code because they allegedly did not have legal or

equitable title to, or interest in the real property. The CA explained that the requirement stated in Article 477 is not a condition precedent before one can file an action for quieting of title. Rather, it is a requisite for an action to quiet title to prosper and the existence or nonexistence of the requisite should be determined only after trial on the merits. The CA also agreed with the trial court in ruling that the RCA cannot raise in a motion to dismiss the ground that the complaint is already barred by laches for it still remains to be established during trial how long the plaintiffs have slept on their rights, if such be the case. Evidently, the CA is correct in finding that the denial by the RTC of the RCA's motion to dismiss is not tainted with grave abuse of discretion.

Next, the RCA submits that an action for quieting of title is a special civil action covered by Rule 63, while an action for declaration of nullity of title is governed by ordinary rules. Thus, it contends that these cases should have been dismissed for violation of the rule on joinder of actions under Section 5, Rule 2 of the 1997 Rules of Civil Procedure, as amended, which requires that the joinder shall not include special civil actions governed by special rules. Such contention, however, is utterly bereft of merit and insufficient to show that the CA erred in upholding the trial court's decision. Section 6 of Rule 2 explicitly provides that misjoinder of causes of action is not a ground for dismissal of an action.

The RCA likewise asserts that the case for quieting of title is a collateral attack on its title which is prohibited by law. However, we agree with the CA in holding that the complaint against the RCA does not amount to a collateral attack because the action for the declaration of nullity of OCT No. 17629 is a clear and direct attack on its title.

An action is deemed an attack on a title when its objective is to nullify the title, thereby challenging the judgment pursuant to which the title was decreed. The attack is direct when the objective is to annul or set aside such judgment, or enjoin its enforcement. On the other hand, the attack is indirect or collateral when, in an action to obtain a different relief, an attack on the judgment is nevertheless made as an incident thereof.[32]

The complaint filed with the RTC pertinently alleged that the claim of ownership by the RCA is spurious as its title, denominated as OCT No. 17629, is fake for the following reasons: (1) that the erasures are very apparent and the title itself is fake; (2) it was made to appear under Memorandum of Encumbrance Entry No. 1007 that the title is a reconstituted title when in truth, it is not; and (3) the verification reveals that there was no petition filed before any court where an order was issued for the reconstitution and re-issuance of an owner's duplicate copy.[33] It is thus clear from the foregoing that the case filed questioning the genuineness of OCT No. 17629 is a direct attack on the title of the RCA.

As regards the petition docketed as G.R. No. 160909 which this Court treated as motion for the issuance of a TRO and/or writ of preliminary injunction, Guinto insists that there is a need to enjoin the sheriff from enforcing the writ of execution as it would cause grave and irreparable damage to Guinto, while the RCA would not suffer any damage if it would later be proved that indeed its title is genuine.

We disagree.

Section 3, Rule 58 of the 1997 Rules of Civil Procedure, as amended, enumerates the grounds for the issuance of preliminary injunction, viz:

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 nonperformance 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.

And as clearly explained in *Ocampo v. Sison Vda. de Fernandez*:^[34]

To be entitled to the injunctive writ, the applicant must show that there exists a right to be protected which is directly threatened by an act sought to be enjoined. Furthermore, there must be a showing that the invasion of the right is material and substantial and that there is an urgent and paramount necessity for the writ to prevent serious damage. The applicant's right must be clear and unmistakable. In the absence of a clear legal right, the issuance of the writ constitutes grave abuse of discretion. Where the applicant's right or title is doubtful or disputed, injunction is not proper. The possibility of irreparable damage without proof of an actual existing right is not a ground for injunction.

A clear and positive right especially calling for judicial protection must be shown. Injunction is not a remedy to protect or enforce contingent, abstract, or future rights; it will not issue to protect a right not in esse and which may never arise, or to restrain an act which does not give rise to a cause of action. There must exist an actual right. There must be a patent showing by the applicant that there exists a right to be protected and that the acts against which the writ is to be directed are violative of said right.

In this case, the defendants in the ejectment case possess no such legal rights that merit the protection of the courts through the writ of preliminary injunction. The MCTC has already rendered a decision in favor of the RCA and ordered the defendants therein to vacate the premises. Their appeal to the RTC was dismissed and the decision has become final. Evidently, their right to possess the property in question has already been declared inferior or inexistent in relation to the right of the RCA in the MCTC decision which has already become final and executory.^[35]

WHEREFORE, the petition in G.R. No. 153829 is DENIED. The Decision dated March 18, 2002 and the Resolution dated May 30, 2002 of the Court of Appeals in CA-G.R. SP No. 66974 are AFFIRMED. The motion for the issuance of a TRO and/or writ of preliminary injunction to enjoin the sheriff from enforcing the writ of execution in Civil Case No. 2000(23) is likewise DENIED for lack of merit.

No costs.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Del Castillo, JJ., concur.

[1] Rollo (G.R. No. 160909), p. 10.

[2] Rollo (G.R. No. 153829), pp. 21-26. Penned by Associate Justice Perlita J. Tria Tirona with Associate Justices Eubulo G. Verzola and Bernardo P. Abesamis concurring.

[3] Id. at 28.

[4] Rollo (G.R. No. 160909), pp. 18-20.

[5] Records, p. 11.

[6] Id. at 1-9.

- [7] Rollo (G.R. No. 160909), pp. 21-37. Penned by Judge Valentino B. Nogoy.
- [8] Sec. 21. Immediate execution on appeal to Court of Appeals or Supreme Court.--The judgment of the Regional Trial Court against the defendant shall be immediately executory, without prejudice to a further appeal that may be taken therefrom.
- [9] Rollo (G.R. No. 160909), pp. 13-16.
- [10] Id. at 16.
- [11] Id. at 17.
- [12] Supra note 4.
- [13] Id. at 21.
- [14] Id. at 3-12.
- [15] Rollo, (G.R. No. 153829), pp. 36-43.
- [16] Id. at 44-45. Issued by Judge Herminio Z. Canlas.
- [17] Id. at 46-47.
- [18] CA rollo, pp. 2-17.
- [19] Supra note 2.
- [20] Id. at 25.
- [21] Id. at 29-35.
- [22] Id. at 28.
- [23] Id. at 3-19.
- [24] Rollo (G.R. No. 160909), p. 38.
- [25] Id. at 39.
- [26] Rollo (G.R. No. 153829), p. 9.
- [27] Urethane Trading Specialist, Inc. v. Ong, G.R. No. 164632, October 29, 2008, 570 SCRA 188, 191-192.
- [28] See Nicolas v. Sandiganbayan, G.R. Nos. 175930-31 & 176010-11, February 11, 2008, 544 SCRA 324, 336 and Choa v. Choa, 441 Phil. 175, 182-183 (2002).
- [29] Balo v. Court of Appeals, G.R. No. 129704, September 30, 2005, 471 SCRA 227, 234.
- [30] Id.
- [31] Art. 477. The plaintiff must have legal or equitable title to, or interest in the real property which is the subject matter of the action. He need not be in possession of said property.
- [32] Sarmiento v. Court of Appeals, G.R. No. 152627, September 16, 2005, 470 SCRA 99, 107-108.
- [33] Rollo (G.R. No. 153829), p. 37.
- [34] G.R. No. 164529, June 19, 2007, 525 SCRA 79, 94-95.

[35] See *Medina v. City Sheriff, Manila*, 342 Phil. 90, 97 (1997).

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