FOOD TERMINAL, INC., BENITO SALAZAR, SAMUEL NAMANAMA AND BRENDA RIVERA, PETITIONERS, VS. SHOPPERS PARADISE FTI CORPORATION, RESPONDENT.

G.R. NO. 153925. August 10, 2006

Ponente: CORONA, J.

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CORONA, J.:

The subject of this appeal by certiorari under Rule 45 of the Rules of Court is the decision[1] of the Court of Appeals (CA) dismissing the petition for certiorari filed by petitioners herein.

Petitioner Food Terminal, Inc. (FTI) is the owner of a 10-hectare land known as the Agro-Industrial Commercial Estate in Taguig, Metro Manila. Petitioners Benito C. Salazar, Brenda Rivera and Samuel Namanama are the former President, Vice-President for Finance and Senior Manager of the Legal Department, respectively, of FTI.

On February 10, 1995, FTI entered into a 25-year lease contract with respondent Shoppers Paradise FTI Corporation (Shoppers Paradise) for the establishment of a commercial mall complex and other allied businesses acceptable to FTI. The parties agreed that the area would be turned over to respondent in five tranches free from any occupants or structures. The pertinent provisions of their contract were the following:

> - Area Leased
>
> 1.1 xxx xxx xxx
>
> Given the purpose of leasing said premises, this lease is understood to be a single indivisible lease over the whole area and not a divisible lease for each lot.
>
> 1.2 The leased premises shall be turned over to the LESSEE free and clear of any occupants and structures. Since the whole area is not ready for delivery and since it is not possible to undertake project construction over the whole area all at the same time, the turn over of the leased premises shall be done in tranches according to a mutually-agreed [schedule.]
>
> The ten (10) hectare area divided into several tranches are the following:

FTI's description Shopper's Description

a) Tranche 1: Lot 32 (16,204 sq.m.)

Lot 1

b) Tranche 2: Lot 34 (33,840 sq.m.)

Lots 7 and 8

Portion of FTI Ave. (5,400 sq.m.)

Lot 6

Portion of Lot 36 (3,593 sq.m.)

Lot 9

c) Tranche 3: Lot 31 (8,400 sq.m.)

Lot 2

Portion of Palayan Road (7,414 sq.m.)

Lot 4

d) Tranche 4 Lot 33 (10,685 sq.m.)

Lot 3

Portion of Palayan Road (8,014 sq.m.)

Lot 5

e) Tranche 5: Portion of Lot 35 &
Lot 36(15,133 sq.m.)

Lot 9[2]

In June 1995, FTI turned over Tranche 1 and some portions of Tranche 2 to Shoppers Paradise. Lot 36 of Tranche 2, which was about 3,593.10 sq.m., was then being occupied by Metro Manila Transit Corporation (MMTC). Tranches 3, 4 and 5 were not delivered. Later, respondent proposed a novation of the lease contract to limit the leased area to Tranche 1. FTI refused since respondent had already taken over the former MMTC-occupied area of Tranche 2 by then.

In the meantime, while the turn over of Tranche 3 was being negotiated, FTI sent to respondent statements of account covering the lease rentals of Tranche 2. Instead of paying the rentals, however, respondent requested a meeting with FTI for the reconciliation of its accounts since it had allegedly made previous payments on the area previously occupied by MMTC. The meeting, however, did not push through.

In 1999, FTI, through petitioner Samuel Namanama, demanded payment of unpaid rentals from respondent, threatening to terminate the lease agreement and padlock or repossess the leased area if payment was not made. Respondent informed FTI that it had already fully paid and updated its rental payments until year 2000 although it debited therefrom its previous payments on Tranche 2.

Respondent filed a complaint against petitioners for "Breach of Contract, Specific Performance, Injunction with Damages with Prayer for Temporary Restraining Order [TRO] and Writ of Preliminary Injunction"[3] in the Regional Trial Court of Pasig City, Branch 261.[4] This was docketed as Civil Case No. 67740.

In the complaint, respondent contended that petitioners violated their agreement as they did not disclose that MMTC was occupying a portion of Tranche 2. It claimed that petitioners were demanding payment which was not due on account of the incomplete and defective turn over of Tranche 2. FTI's threat to terminate the lease contract and to padlock or repossess the leased premises allegedly constituted a serious disturbance of its rights under their contract.

In their answer, petitioners denied respondent's allegations. According to them, respondent was aware that MMTC was still occupying a portion of Tranche 2 when it entered into the lease contract. They argued that, in any event,

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respondent was able to take possession of the area immediately after MMTC vacated it.

On January 17, 2000, Judge Agnes Reyes-Carpio, presiding judge of Branch 261 of the Regional Trial Court of Pasig City, issued the TRO prayed for by respondent. The order read:

> WHEREFORE, a temporary restraining order is hereby issued enjoining defendants FTI, Benito Salazar, Samuel Namanama and Brenda Rivera from padlocking and repossessing the subject leased premises at the FTI Complex in the Municipality of Taguig, Metro Manila.
>
> Meantime, set the case for hearing on the application for the issuance of a writ of preliminary injunction on January 26, 2000 at 8:30 a.m.
>
> SO ORDERED.[5]

While the parties' respective statements of account were undergoing reconciliation, Judge Reyes-Carpio issued the writ of preliminary injunction on February 14, 2000. She ruled:

> xxx xxx xxx
>
> After a thorough and close examination of the aggregate oral and documentary evidence respectively presented and adduced by the parties which appear to be in direct conflict with each other and to prevent serious damage that they may be sustained...and so as not to render the judgment in this case moot and ineffectual, it is but fair that for the time being, defendants' threat of terminating the lease contract and padlocking and repossessing the leased premises be enjoined until the case is finally settled on the merits.
>
> WHEREFORE, upon filing a bond of P2,400,000.00, let a writ of preliminary injunction issue ordering the defendants, FTI, Benito Salazar, Samuel Namanama, Brenda Rivera and other persons acting for and on their behalf, to desist and refrain from terminating the lease contract and padlocking and repossessing the subject leased premises until the case is finally decided on the merits.[6]

Thereafter, trial on the merits ensued.

Petitioners filed a petition for certiorari with prayer for TRO and/or injunction and inhibition to set aside the above order of Judge Reyes-Carpio. They imputed grave abuse of discretion on her part for granting the injunction in favor of respondent despite the latter's failure to establish a clear, existing and unmistakable right to it. Petitioners also contended that Judge Reyes-Carpio was biased and partial against them, thus, she should have inhibited herself from trying the case. Lastly, they prayed that a TRO or a writ of preliminary injunction be issued to enjoin the proceedings in the court a quo.

On February 11, 2002, the CA dismissed the petition for lack of merit.[7] It found no grave abuse of discretion on the part of Judge Reyes-Carpio in issuing the writ. According to the CA, petitioners failed to prove her partiality and bias against them, hence, she could not be ordered to inhibit herself from hearing the case. It held:

> WHEREFORE, in view of the foregoing, the instant petition is hereby DISMISSED for lack of merit.[8]

Petitioners filed their motion for reconsideration but it was denied, thus, this petition.[9]

Petitioners attack the decision of the CA finding no grave abuse of discretion amounting to lack or excess of jurisdiction on the part of Judge Reyes-Carpio in granting injunctive relief to respondent.[10]

Petitioners argue that, for a writ of preliminary injunction to validly issue, the existence of a clear and positive right calling for judicial protection must first be established. They insist that there was nothing in the orders of the judge which sustained respondent's accusation that petitioners violated the provisions of the lease contract. She did not even make any categorical pronouncement on what specific rights (of respondent) were violated so as to

warrant the issuance of the writ of injunction. Therefore, she should have recused herself from the case for being prejudiced against them.

We affirm the decision of the CA.

To sustain imputations of grave abuse of discretion amounting to lack or excess of jurisdiction against Judge Reyes-Carpio, petitioners should have presented evidence that the latter's issuance of the assailed writ of preliminary injunction was capricious, whimsical, despotic or arbitrary.[11] Both the trial court and the appellate court found no trace of any of these on the part of the trial judge. The CA even held that the issuance of the writ of preliminary injunction was not "bereft of findings by the trial court of the right of Shoppers Paradise to the injunctive relief."[12] It likewise held that, under the lease contract, respondent had a clear and unmistakable legal right to the disputed premises threatened to be padlocked or repossessed by petitioners.

The foregoing conclusions are binding on us pursuant to the long-settled doctrine that this Court will not review issues of fact if the trial court's and the appellate court's findings jibe.[13]

At any rate, Judge Reyes-Carpio could not be expected to make a categorical pronouncement as to whether or not there was an actual breach or violation of the lease contract by petitioners inasmuch as that was still the issue to be decided in the main case and a full-blown trial was necessary to resolve it.

The writ of preliminary injunction is issued by the trial court to prevent threatened or continuous irremediable injury to parties before their claims can be thoroughly studied and adjudicated.[14] Its sole objective is to preserve the status quo until the merits of the case can be heard fully.[15] To warrant the issuance of an injunctive writ, all that is necessary is for the party seeking it to show that injurious consequences will result if the writ is not issued.[16] In this case, pending the final determination of their conflicting claims, the trial court deemed it best to issue the assailed writ to avert any deleterious effect (of padlocking or repossessing) on both parties' interests under the lease contract.

On Judge Reyes-Carpio's alleged bias and partiality, we find no proof to sustain this accusation. Therefore, there is no cogent basis for us to order her to desist from further presiding over the case. To disqualify a judge on the ground of bias or prejudice, the movant must prove the same by clear and convincing evidence.[17] Mere suspicion that a judge is unfair to a party is not enough as there should be adequate evidence to prove that charge.[18]

WHEREFORE, the petition is hereby DENIED.

Costs against petitioners.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Azcuna and Garcia, JJ., concur.

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[*]Judge Agnes Reyes-Carpio, in her official capacity as presiding judge of the Regional Trial Court of Pasig City, Branch 261, was impleaded as a respondent. However, the Court excluded her pursuant to Rule 45, Section 4 of the Rules of Court.

[1] Penned by Justice Perlita J. Tria Tirona (retired) and concurred in by Associate Justices Eubulo G. Verzola (retired) and Bernardo P. Abesamis (retired), Fourth Division of the Court of Appeals; rollo, pp. 40-47.

[2] Id., pp. 41-42.

[3] Annex "U," id., p. 96.

[4] Presided by Judge Agnes Reyes-Carpio.

[5] Annex "V," id., pp. 115-116.

[6] Annex "X," id., pp. 137-140.

[7] Supra note 1.

[8] Rollo, p. 47.

[9] CA Resolution, id., p. 57.

[10] Petition, id., p. 27.

[11] Villareal v. Court of Appeals, G.R. No. 107314, 17 September 1998, 295 SCRA 511; Nepomuceno v. Court of Appeals, G.R. No. 126405, 25 February 1999, 303 SCRA 679.

[12] Rollo, p. 46.

[13] Alvarez v. Court of Appeals, 412 Phil. 137 (2001).

[14] Heirs of Joaquin Asuncion v. Gervacio, Jr., G.R. No. 115741, 9 March 1999, 304 SCRA 322.

[15] Defensor-Santiago, Rules of Court Annotated, Second Revised Edition 2002 quoting Heirs of Joaquin Asuncion v. Gervacio, id.

[16] Unionbank of the Philippines v. Court of Appeals, 370 Phil. 837 (1999).

[17] Webb v. People, 342 Phil. 206 (1997).

[18] Zamudio v. Peña, 350 Phil. 1 (1998).

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