PHILIPPINE VETERANS AFFAIRS OFFICE THRU ITS ADMINISTRATOR, COL. FELIPE B. PILAPIL, LT. COL. CRISANTO NAFARETTE, LT. COL. IGMIDIO BUENA, LT. COL. SIBAYAN, CAPT. HENRY FERNANDEZ, ...

G.R. NO. 161405. July 21, 2006

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

For review on certiorari is the Decision[1] dated December 15, 2003 of the Court of Appeals in CA-GR SP. No. 71548, which set aside the Orders[2] of the Regional Trial Court of Pasig City, Branch 69, in SCA No. 2188. The Court of Appeals also permanently enjoined petitioners from undertaking eviction and demolition operations against respondents.

The facts are as follows.

Petitioner Philippine Veterans Affairs Office (PVAO) is a government agency under the Department of National Defense. It is tasked to administer the Libingan ng mga Bayani, a parcel of land reserved for national shrine purposes by virtue of Proclamation No. 208.[3] Petitioners Col. Felipe Pilapil, Lt. Col. Crisanto Nafarette, Lt. Col. Igmidio Buena, Lt. Col. Sibayan, Capt. Henry Fernandez, and First Lt. Victor Calles are members of the Task Force for securing the Libingan ng mga Bayani.

Respondents Yolanda Arquero, Anabelle Romarate, Benigno Villena, Wenifreda de Guzman, and the members of the Nagkakaisang Maralita ng Sitio Masigasig, composing about 400 families are residents of Sitio Masigasig, a parcel of land in Western Bicutan, Taguig, Metro Manila. They started occupying the said lot in 1986 believing it to be abandoned land.

Sometime in 2001, petitioners conducted demolition operations in Sitio Masigasig, prompting respondents to petition the Commission on the Settlement of Land Problem (COSLAP) to declare the disputed land as alienable and to subdivide it for disposition to its occupants in accordance with Proclamation No. 2476.[4]

Meanwhile, members of the Task Force continued with the demolition. In a meeting with the Presidential Commission on the Urban Poor and the PVAO, respondents were offered a temporary relocation site in Sitio Maliwanag. They refused the offer and instead filed with the Regional Trial Court of Pasig City, Branch 69, a petition[5] to enjoin petitioners from conducting the demolition.

The RTC denied the petition, thus:

> WHEREFORE, premises considered, it is hereby resolved that the petition for prohibition with prayer for preliminary mandatory injunction is DENIED.
>
> SO ORDERED.[6]

The RTC likewise denied for lack of merit the motion for reconsideration, thus:

> Acting on the Motion for Reconsideration filed by petitioner on March 1, 2002 without any comment from the respondents and it appearing that the matters raised therein had already been considered by the court in the assailed order dated January 31, 2002, the motion is denied for lack of sufficient merit.
>
> SO ORDERED.[7]

On appeal, however, the Court of Appeals set aside the aforequoted RTC rulings and permanently enjoined petitioners from carrying out the demolition, to wit:

> WHEREFORE, premises considered, the instant petition is GRANTED. The Order dated January 31, 2002 and the Order dated April 22, 2002 of the Regional Trial Court of Pasig City, Branch 69, in Special Civil Action Case No. 2188 are hereby SET ASIDE and a new one is entered permanently enjoining the members of the Task Force Bantay from undertaking eviction and demolition operations against the residents of Sitio Masigasig in violation of Republic Act No. 7279 or the Urban Development Housing Act. No pronouncement as to costs.
>
> SO ORDERED.[8]

Hence, the instant petition anchored on the following issues:

I

> THE COURT OF APPEALS GRAVELY ERRED IN ALLOWING RESPONDENTS' PETITION FOR CERTIORARI IN CA-G.R. SP NO. 71548 SINCE A PETITION FOR CERTIORARI IS NOT A SUBSTITUTE FOR LOST APPEAL.
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> II
>
> JUDGE PAHIMNA DID NOT ERR IN RULING THAT RESPONDENTS HAVE NO CAUSE OF ACTION AGAINST PETITIONERS SINCE THEY ARE NOT PERFORMING JUDICIAL, QUASI-JUDICIAL OR MINISTERIAL FUNCTIONS. HENCE, A WRIT OF PROHIBITION DOES NOT LIE AGAINST PETITIONERS.
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> III
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> ASSUMING BUT WITHOUT ADMITTING THAT THE REMEDY OF PROHIBITION IS AVAILABLE, JUDGE PAHIMNA DID NOT ERR IN DISMISSING RESPONDENTS' AMENDED PETITION FOR PROHIBITION SINCE RESPONDENTS' BASIS IN FILING THE SAME, I.E., THEY OWN THE PROPERTY IN QUESTION, IS BELIED NOT ONLY BY THE EVIDENCE PRESENTED BY HEREIN PETITIONERS, BUT ALSO, AND IRONICALLY, BY RESPONDENTS' OWN EVIDENCE. INDEED, THE SUBJECT PROPERTY IS WITHIN THE LIBINGAN NG MGA BAYANI OR THE FORT BONIFACIO MILITARY RESERVATION AREA.
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> IV
>
> THE COURT OF APPEALS SERIOUSLY ERRED IN APPLYING R.A. NO. 7279 IN FAVOR OF RESPONDENTS SINCE SECTION 5 THEREOF CLEARLY EXEMPTS FROM THE COVERAGE THEREOF A CEMETERY OR MEMORIAL PARK SUCH AS THE LNMB.
>
> V
>
> THE COURT OF APPEALS SERIOUSLY ERRED WHEN IT HELD THAT THE LNMB AREA IS NOT BEING USED FOR THE PURPOSE IT WAS RESERVED.[9]

During the pendency of the instant petition, petitioner PVAO authorized the Philippine Army to use the disputed

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lot as relocation site for its 525th Engineer Battalion, allowing the latter to build structures thereon.[10]

Unfortunately, on May 7, 2005, a fire occurred in Sitio Masigasig destroying 300 houses and leaving 900 families homeless. When respondents attempted to repair their dwellings, members of the Task Force prevented them from doing so and set up barbed wires around the affected area.

With this turn of events, the lone issue for the resolution of this case is whether the injunctive writ still stands considering the supervening event that has thoroughly altered the nature of this controversy.

Petitioners contend that the permanent injunction issued by the Court of Appeals was already mooted by the fire, which destroyed respondents' houses. They argue that respondents voluntarily vacated the disputed area because of the said fire. Petitioners claim that their action cannot be considered demolition, which presupposes the existence of structures in the concerned premises. Thus, petitioners maintain, they could not have possibly violated the injunctive writ. Further, petitioners assert that the construction of barbed wires around the subject area is an act of ownership. They claim that the disputed area is covered by a title in the name of the government and is reserved by law for the Libingan ng mga Bayani.

Respondents, however, counter that a writ of preliminary injunction is primarily intended to maintain the status quo existing prior to the filing of the case. Before the controversy started, respondents claim, they lived in houses conducive to dwelling, made of concrete and with proper roofing. Respondents insist that they should be allowed to restore their houses to the said condition. They posit that the fire did not destroy the effectivity of the injunctive writ and that the repair of their houses is still within the coverage of permanent injunction. Respondents assert that the barbed wires set up by the Task Force have the same effect as demolition in the sense that they are left without houses conducive to dwelling. Thus, they pray that petitioners be enjoined from interfering in the repair of their houses and be cited for indirect contempt for allegedly disobeying the permanent injunction issued by the Court of Appeals.

We rule for petitioners.

As adverted to earlier, the resolution of the instant controversy has been radically simplified by the occurrence of a supervening event during the pendency of the petition.

Respondents' homes have already been destroyed on account of the massive fire that occurred on May 7, 2005. Thus, nothing is left for any possible eviction or demolition operations by the members of the Task Force. The injunctive writ issued by the Court of Appeals enjoining the members of the Task Force from demolishing respondents' houses has been mooted by the said supervening event. Respondents can no longer rely on the strength of the said injunctive writ for any relief they may believe they are entitled to.

A preliminary injunction is an order granted at any stage of an action prior to the judgment requiring a party to refrain from particular acts.[11] Injunction is a remedy used cautiously as it affects the respective rights of the parties. It is designed to preserve the status quo until the merits of the case can be heard.[12]

Nonetheless, we are unable to sustain respondents' argument that they should be allowed to repair their houses because the injunctive writ was intended to maintain the status quo existing prior to the filing of the case. This proposition conveniently leaves out the significant fact that the subject houses have already been destroyed; and not by the members of the Task Force, but by force majeure.

Clearly, the injunctive writ was issued for the sole and specific purpose of preventing the members of the Task Force from undertaking eviction and demolition operations against the residents of Sitio Masigasig. The writ does not authorize respondents to conduct repairs on their houses. Neither does it prohibit the members of the Task

Force from installing barbed wires to secure the area. We are not prepared to read into the said writ any other meaning than its plain and obvious import. Needless to stress, the memorial park for our national heroes, the Libingan ng mga Bayani, ought no longer be subject to emotional controversy and should be respected as the fitting resting place of our fallen soldiers and martyrs.

WHEREFORE, the petition is GRANTED. The assailed Decision of the Court of Appeals in CA-GR SP. No. 71548, which set aside the Orders of the Regional Trial Court of Pasig City, Branch 69, in SCA No. 2188, and permanently enjoined the members of Task Force Bantay from undertaking demolition operations against the residents of Sitio Masigasig, is SET ASIDE for being moot.

No pronouncement as to costs.
SO ORDERED.

Carpio-Morales, and Velasco, Jr. JJ., concur.
Carpio, J., on official leave.
Tinga, J., no part.

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[1]Rollo, pp. 49-70. Penned by Associate Justice Mercedes Gozo-Dadole with Associate Justices Eugenio S. Labitoria, and Rosmari D. Carandang concurring.

[2] Dated January 31, 2002 and April 22, 2002, respectively. Records, pp. 337-345; 359.

[3] EXCLUDING FROM THE OPERATION OF PROCLAMATION NO. 423, DATED JULY 12, 1957, WHICH ESTABLISHED THE FORT BONIFACIO MILITARY RESERVATION A CERTAIN PORTION OF THE LAND EMBRACED THEREIN SITUATED IN THE MUNICIPALITY OF TAGUIG, PROVINCE OF RIZAL, AND RESERVING THE SAME FOR NATIONAL SHRINE PURPOSES. Issued on May 28, 1967.

[4] EXCLUDING FROM THE OPERATION OF PROCLAMATION NO. 423 DATED JULY 12, 1957, WHICH ESTABLISHED THE MILITARY RESERVATION KNOWN AS FORT WILLIAM MCKINLEY (NOW FORT ANDRES BONIFACIO, SITUATED IN THE MUNICIPALITIES OF PASIG-TAGUIG AND PARAÑAQUE, PROVINCE OF RIZAL, AND PASAY CITY (NOW OF METROPOLITAN MANILA), A CERTAIN PORTION OF LAND EMBRACED THEREIN KNOWN AS BARANGAYS LOWER BICUTAN, UPPER BICUTAN AND SIGNAL VILLAGE SITUATED IN THE MUNICIPALITY OF TAGUIG, METROPOLITAN MANILA, AND DECLARING THE SAME OPEN FOR DISPOSITION UNDER THE PROVISIONS OF ACTS NOS. 274 AND 730. Issued on January 7, 1986.

[5] Records, pp. 2-14.

[6] Id. at 345.

[7]Id. at 359.

[8] Rollo, p. 69.

[9] Id. at 27-28.

[10]Id. at 350-352.

[11]Rules of Court, Rule 58, Sec. 1.

[12Levi Strauss & Co. v. Clinton Apparelle, Inc., G.R. No. 138900, September 20, 2005, 470 SCRA 236, 251.

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