FELIX DE GUZMAN OCAMPO, REPRESENTED BY GEORGE BUTLER, JR., PETITIONER, VS. ALICIA SISON VDA. DE FERNANDEZ AND LETICIA S. FERNANDEZ, RESPONDENTS.

G.R. NO. 164529. June 19, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Before this Court is a Petition for Review on Certiorari under Rule 45 of the Revised Rules of Court seeking the reversal and setting aside of the Decision, dated 23 April 2004,[1] of the Court of Appeals in CA-G.R. SP No. 77857, and the affirmation, instead, of the Orders, dated 11 November 2002[2] and 25 March 2003,[3] of the Quezon City Regional Trial Court (RTC), Branch 101, in Civil Case No. Q-01-44582. In its said Orders, the RTC granted the application for the issuance of a writ of preliminary injunction of herein petitioner Felix de Guzman Ocampo (Felix), filed through his representative, George Butler, Jr. (George, Jr.), enjoining the Quezon City Metropolitan Trial Court (MeTC), Branch 43; its Sheriff; the Office of the Sheriff; and the Register of Deeds from implementing the Second Notice to Vacate the Premises and/or Writ of Execution issued by the MeTC in Civil Case No. 22375.

Central to the Petition at bar is a piece of property, consisting of a residential lot and improvement, located along 13[th] Avenue, Murphy, Cubao, Quezon City (subject property). It was previously registered under Transfer Certificate of Title (TCT) No. 49804 in the name of Iluminada G. Piano (Iluminada), married to Ramon Piano (Ramon).[4]

According to petitioner Felix, the spouses Piano took custody of George, Jr. as soon as the latter was born in 1947. George, Jr. is purportedly an illegitimate son of Corporal George Butler of the United States Army with Ms. Ermina Fornolles. Although there is no allegation or evidence presented that they complied with the legal adoption process, the spouses Piano, during their lifetime, maintained custody of and raised George, Jr. as their own son.[5] Apparently, Ramon passed away before his wife. On 1 February 1990, Iluminada, already a widow, executed a document supposedly bequeathing to George, Jr. the ownership and administration of all her properties, including the subject property, which served as her residence, and other properties which she leased out. The said document,[6] fully typewritten except for Iluminada's alleged signature, reads in Filipino, is fully reproduced below –

> PEBRERO 1, 1990
>
> AKO SI ILUMINADA DE GUZMAN PIANO, BIYUDA AT NAKATIRA SA 119 13[th] AVENUE, CUBAO, QUEZON CITY AY NAGSASAAD SA KANINUMAN NA AKING IBINIBIGAY AT INPINAGKAKATIWALA ANG BUONG PAMAMAHALA AT PAG-MAMAYARI NG AMING KABUHAYAN PATI NA ANG MGA LUPANG KINATITIRIKAN NG AMING BAHAY SA KASALUKUYAN AT MGA BAHAY PAUPAHAN, SA AMING ANAK NA SI GEORGE BUTLER, JR. NA SIYA NAMING NAGING KASAMA AT KAPILING MULA SA KANYANG KAMUSMUSAN AT SIYA RIN NAMING GABAY HANGGANG SA NGAYON. IBINIBIGAY KO SA KANYA ANG LAHAT

> NG KARAPATAN BILANG AMING ANAK UPANG PAGYAMANIN ANUMANG KABUHAYAN ANG AMING MAIIWAN PARA SA KANYANG KINABUKASAN AT SA KABUTIHAN NG LAHAT.
>
> (Signed)
>
> ILUMINADA DE GUZMAN PIANO

About a year later, George, Jr. met Emy Ramos (Emy), who hailed from Pangasinan. George, Jr. and Emy developed an intimate relationship and, shortly after, Emy came to live with Iluminada and George, Jr. on the subject property. Even though Iluminada did not trust Emy at the beginning, the latter was able to deceive and win the old lady's confidence subsequently. It would then seem that Emy was later entrusted with the administration of Iluminada properties. In 1992, when Iluminada fell extremely ill and suffered mental lapses, Emy entirely took over the old woman's affairs, running the latter's household, as well as her businesses.

In 1995, Iluminada mysteriously disappeared for almost a week. Petitioner Felix found it strange that Emy knew that Iluminada was wandering around the town of Paombong, Bulacan, and was brought by a tricycle driver to the office of the Bulacan Social Welfare Department. It was also Emy who requested George, Jr. to fetch Iluminada at the said office.

Iluminada died sometime in 1997. It appears that by said time, George, Jr. and Emy had already parted ways. George, Jr. continued to live on the subject property with his family until their possession was disturbed by herein respondent Leticia S. Fernandez (Leticia), who instituted with the MeTC a suit for unlawful detainer against George, Jr., docketed as Civil Case No. 22375.

It was only then that George, Jr. found out that the subject property was supposedly transferred by Iluminada to herein respondent Alicia Sison vda. de Fernandez (Alicia) by virtue of a Deed of Sale, dated 21 December 1993, for a consideration of P580,000.00.[7] On 6 September 1996, Alicia then conveyed the subject property via a Deed of Absolute Sale[8] to her daughter and co-respondent Leticia for P500,000.00. Shortly thereafter, or on 26 September 1996, the subject property was registered in respondent Leticia's name under TCT No. N-165230.[9]

Respondent Leticia prevailed in MeTC Civil Case No. 22375,[10] and since George, Jr. did not interpose any appeal within the reglementary period, the judgment therein became final and executory, and a writ of execution was issued to enforce the same.[11] George, Jr. was thus served by the Sheriff of Quezon City with a Notice to Vacate the subject property.

This prompted George, Jr. to file with the RTC Civil Case No. Q-01-44582, against respondents Alicia and Leticia, as well as Emy,[12] the MeTC, and the Office of the Sheriff and the Register of Deeds of Quezon City, for Recovery of Ownership/Reconveyance, Temporary Restraining Order/Preliminary Injunction and Damages. The original Complaint[13] filed with the RTC was in the name of George, Jr. as "the administrator, acknowledged son and for or in behalf of the other heirs" of Iluminada.

George, Jr. sought to recover the subject property since respondents Alicia and Leticia acquired the same by fraud, deceit, and manipulation, in conspiracy with Emy, their kababayan from Pangasinan. Some of the instances pointed out by George, Jr. which cast doubt on the validity and authenticity of the sale of the subject property by Iluminada to respondent Alicia are the following –

> (a) Iluminada's signature on the Deed of Sale, dated 21 December 1993, had been forged, as determined by George, Jr., who became very familiar with Iluminada's genuine signature through the years when he lived with her;
>
> (b) Around the date of execution of the Deed of Sale in 1993, Iluminada was already physically ill and mentally impaired;

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(c) Iluminada never intimated to George, Jr. that she had any intention to sell the subject property;

(d) George, Jr. attested that there had been no negotiations between Iluminada and Alicia prior to the sale of the subject property; and

(e) Despite the fact that Iluminada was already physically and mentally frail, she supposedly executed the Deed of Sale, dated 21 December 1993, in Pangasinan, far from her home in Quezon City.

George, Jr. also questioned the transfer of the subject property by respondent Alicia to her daughter and co-respondent Leticia shortly after acquiring the same and absent any consideration, implying that it was yet another ploy to take the subject property farther from the reach of its true owner.

In his complaint, George, Jr. further prayed for the issuance of a temporary restraining order and/or writ of preliminary injunction against the Office of the Sheriff of Quezon City, so as to enjoin the latter from implementing the writ of execution issued by the MeTC in Civil Case No. 22375. The complaint contended that unless the execution of the judgment of the MeTC in Civil Case No. 22375 is enjoined, the rights of George, Jr. and those he represents, shall definitely suffer irreparable injury and prejudice, especially since the subject property serves as George, Jr.'s family abode.

In their Answer with Counterclaim,[14] respondents Alicia and Leticia raised the following defenses against George, Jr.'s claims in his Complaint –

(a) The document, dated 1 February 1990, by which Iluminada purportedly bequeathed to George, Jr. the ownership and administration of all her properties, including the subject property, was a forgery and, thus, null and void;

(b) Respondent Leticia acquired the subject property from her mother and co-respondent Alicia in good faith and for value, three years after the latter bought the subject property from Iluminada;

(c) Respondent Leticia instituted before the MeTC Civil Case No. 22375 for unlawful detainer against George, Jr., and a decision in her favor was already promulgated, and which had become final and executory;

(d) George, Jr. had no cause of action against respondents Alicia and Leticia, and Civil Case No. Q-01-44582 instituted by George, Jr. before the RTC was only meant to delay the implementation of the Decision of the MeTC in Civil Case No. 22375 directing him to vacate the subject property; and

(e) Respondent Leticia has valid title to the subject property to which she had secured TCT No. N-165230 in her name in 1996. Her certificate of title should be accorded the character of indefeasibility, and any question as to its validity had already prescribed.

As to George, Jr.'s application for the issuance of a temporary restraining order and/or writ of preliminary injunction, respondents Alicia and Leticia opposed the same arguing that the MeTC, in Civil Case No. 22375, already settled the issue of possession of the subject property, and to enjoin the implementation of the writ of execution therein would cause more harm and damage to respondents Alicia and Leticia and render the MeTC judgment useless. Therefore, respondents Alicia and Leticia prayed for the RTC to dismiss George, Jr.'s Complaint in Civil Case No. Q-01-44582, plus payment of damages for his filing of a baseless and unfounded suit.

After respondents Alicia and Leticia had filed their Answer with Counterclaim, the Complaint was amended[15] so as to name petitioner Felix as the complainant, represented by his attorney-in-fact George, Jr. The appended Motion for Leave to Amend Complaint identified petitioner Felix as one of the legal collateral heirs of Iluminada.[16] Except for the named complainant, the original and amended Complaints principally contained the same allegations and prayers.

Meanwhile, the MeTC, in Civil Case No. 22375, denied George, Jr.'s Ex-parte Urgent Motion to Defer/Stay Execution of its judgment in an Order, dated 15 August 2002.[17] Hence, the Sheriff of Quezon City issued a Second Notice to Vacate, dated 15 October 2002, addressed to George, Jr. and all persons claiming rights under him. With the foregoing development, petitioner Felix filed with the RTC, in Civil Case No. Q-01-44582, a Motion to set the case for hearing on his application for a temporary restraining order and/or writ of preliminary injunction. The said Motion was granted by the RTC which set the hearing date on 23 October 2002 at 8:30 a.m.[18]

Despite being given due notice, the counsel for respondents Alicia and Leticia did not appear before the RTC during the hearing set on 23 October 2002. In an Order issued on even date,[19] the RTC granted petitioner Felix's prayer for the issuance of a temporary restraining order based on the following reasoning –

> During that setting, the records will confirm that all of the said [herein respondents Alicia and Leticia, et al.] and counsel Viray were notified. To afford them one last chance, the repeat service of notices for today's hearing was ordered/effected and done, the details of which specifically as to the proof of service is now attached to the records.
>
> The [herein petitioner Felix/representative George, Jr.'s] counsel was allowed to present briefly his case in Court and, to the appreciation of the Court, the main concern of the [petitioner Felix/representative George, Jr.] now is the "Sheriff's Second Notice to Vacate" of Branch 43, [MeTC], Quezon City. In effect, they are being asked to leave the premises in question by virtue of a Writ of Execution dated June 7, 2001 issued by the Acting Executive Judge of the said station, Judge Henri JP B. Inting.
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> From the records and as deciphered by the Court, the case before the lower court is one of unlawful detainer where herein [petitioner Felix/representative George, Jr.] lost and where incidentally the issue of ownership had been passed upon.
>
> The case before this Court now will focus on the issue of ownership and/or reconveyance, the factual backgrounder being tied up to matters of inheritance and/or fraudulent acquisition and/or transfer of the subject property.
>
> There being no direct, speedy and immediate recourse by [petitioner Felix/representative George, Jr.] in this case, there being initial merit to the prayer for a Temporary Restraining Order, this Court GRANTS the same.
>
> Accordingly, the [respondents Alicia and Leticia], as well as [MeTC], Branch 43, its Sheriff and the Office of the Sheriff of Quezon City, Office of the Clerk of Court of Quezon City and the Register of Deeds are hereby DIRECTED to stop and/or desist from implementing the "Second Notice to Vacate the Premises" and/or Writ of Execution until and after this Court has heard the main case on the preliminary injunction.

The RTC, in the same Order, gave the parties the option of either presenting evidence at a hearing or filing supporting pleadings on the issuance of a writ of preliminary injunction; thereafter, the issue shall be considered submitted for resolution. In compliance with this Order, petitioner Felix and respondents Alicia and Leticia filed their Position Paper and Memorandum, respectively, and on 11 November 2002, the RTC issued another Order,[20] this time, granting petitioner Felix's prayer for the issuance of a writ of preliminary injunction, thus –

> For consideration of this Court in resolving the matter of the issuance of the writ of preliminary injunction is the question on whether or not [petitioner Felix/representative George, Jr.] have the clear and unmistakable rights that will be violated in the event the enforcement of the Writ of Execution issued by the Metropolitan Trial Court of Quezon City, Branch 41 [sic] is pushed through.
>
> Inasmuch as the issue before this Court is the alleged spurious and irregular transaction involving the alleged sale of the subject property, and considering that the ejectment case before the Metropolitan Trial Court of

> Quezon City, Branch 41 [sic] involves only possession and not ownership, logic and prudence call for the maintenance of the status quo between the parties until after the case is decided on the merits.
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> To avoid any miscarriage of justice and injury to [herein petitioner Felix/representative George, Jr.], and considering that the title of the [herein respondents Alicia and Leticia] are [sic] now being assailed in this instant case, this Court is impelled under the premises to GRANT the prayer for a writ of preliminary injunction.
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> WHEREFORE, premises considered, the application for Writ of Preliminary Injunction is hereby GRANTED, directing the [respondents Alicia and Leticia] and all persons claiming rights under them, The Metropolitan Trial Court of Quezon City, Branch 43, its Sheriff and the Office of the Sheriff of Quezon City and the Register of Deeds to stop and/or desist from implementing the "Second Notice to Vacate the Premises" and/or Writ of Execution pending resolution of the main case, upon posting of a bond in the amount of FIVE HUNDERED THOUSAND (P500,000.00) PESOS pursuant to Section 4, Rule 58, 1997 Rules of Civil Procedure.

The RTC, in an Order, dated 25 March 2003,[21] denied respondents Alicia and Leticia's Motion for Reconsideration of its Order dated 11 November 2002.

Aggrieved, respondents Alicia and Leticia filed before the Court of Appeals a Petition for Certiorari under Rule 65 of the revised Rules of Court assailing the Orders, dated 11 November 2002 and 25 March 2003, of the RTC in Civil Case No. Q-01-44582 for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction. In its Decision, dated 23 April 2004,[22] the Court of Appeals found the Petition of respondents Alicia and Leticia to be impressed with merit and ratiocinated that –

> It is a long-settled rule that for a writ of preliminary mandatory injunction to issue, the following requisites must be present: (1) that the complainant has a clear legal right; (2) that his right has been violated and the invasion is material and substantial; and (3) there is an urgent and permanent necessity for the writ to prevent serious damage. Thus, injunction may issue pendente lite only in cases of extreme urgency, where the right to the possession, during the pendency of the main case, of the property involved is very clear; where considerations of relative inconvenience bear strongly in favor of the complainant seeking the possession of the property pendente lite; where there was willful and unlawful invasion on plaintiff's right, over his protest and remonstrance, the injury being a continuing one.
>
> In the case at bar, [herein petitioner Felix's] right to the possession of the subject property is not clear. [Petitioner Felix] merely bases his claim on his being an alleged heir of Mrs. Iluminada Piano, the original property owner. However, as a general rule, a pending civil action involving ownership of the same property does not justify the suspension of ejectment proceedings, more so when the object of the injunctive suit is a final and executory judgment already set for implementation. According to the Supreme Court, the underlying reasons for such ruling were that the actions in the Regional Trial Court did not involve physical or de facto possession, and, on not a few occasions, that the case in the Regional Trial Court was merely a ploy to delay disposition of the ejectment proceeding, or that the issues presented in the former could quite as easily be set up as defenses in the ejectment action and there resolved. Hence, the mere existence of a judicial proceeding putting at issue the right of the plaintiff to recover the premises is not enough reason to justify an exception to such general rule.
>
> Besides, our rules of succession require that before any conclusion as to the legal share due to a compulsory heir may be reached, the following steps must be taken: (1) the net estate of the decedent must be ascertained, by deducting all the payable obligations and charges from the value of the property owned by the deceased at the time of his death; (2) the value of all the donations subject to collation would be added to it. Obviously, the requisites for the issuance of a writ of preliminary injunction were not met.

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> As for George Butler, Jr., who, while only designated as a representative of the [petitioner Felix], also claims rights over the property in question by virtue of his being an "adopted" son of the late Mrs. Piano, We note that he was the defendant in the ejectment case filed by [herein respondent] Leticia, which resulted in a final and executory judgment against him. It is a settled rule that injunction suits instituted in the RTC by defendants in ejectment actions in the municipal trial courts or other courts of the first level do not abate the latter. Equally settled is that, as a rule, injunction will not be granted to take property out of the possession or control of one party and place it into that of another whose title has not clearly been established by law.
>
> Consequently, We are constrained to set aside the assailed orders of the respondent court, for being issued with grave abuse of discretion amounting to lack or excess of jurisdiction.
>
> WHEREFORE, the petition is GRANTED and the questioned orders dated November 11, 2002 and March 25, 2003 are SET ASIDE. The writ of preliminary injunction issued in Civil Case No. Q-01-44582 is hereby DISSOLVED. The respondent court is DIRECTED to pursue proceedings in said civil case without further delay.

In a Resolution dated 8 July 2004,[23] the Court of Appeals denied petitioner Felix's Motion for Reconsideration finding no sufficient reason to deviate from the findings and conclusion reached in its Decision, dated 23 April 2004.

And so, petitioner Felix, still represented by his attorney-in-fact George, Jr., comes before this Court via a Petition for Review on Certiorari under Rule 45 of the Revised Rules of Court, challenging the afore-quoted Decision, dated 23 April 2004, of the Court of Appeals based on the following assignment of errors –

> I.
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> THE HONORABLE SIX [sic] DIVISION OF THE COURT OF APPEALS ERRED WHEN IT REVERSED THE ORDER OF THE REGIONAL TRIAL COURT GRANTING THE INJUNCTION THEREBY TAKING THE PROPERTY OUT OF THE POSSESSION OF ONE PARTY AND PLACED IT IN ANOTHER DESPITE THE FACT THAT PETITIONER HAS CLEAR AND UNMISTAKABLE RIGHT TO POSSESS THE SUBJECT PROPERTY.
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> II.
>
> THE HONORABLE SIX [sic] DIVISION OF THE COURT OF APPEALS ERRED WHEN IT REVERSED THE ORDER OF THE REGIONAL TRIAL COURT GRANTING THE INJUNCTION DESPITE THE FAILURE OF THE PRIVATE RESPONDENTS TO APPEAR IN THE HEARING OF ISSUANCE OF PRELIMINARY INJUNCTION DESPITE NOTICE THEREBY WAIVING THEIR RIGHTS TO QUESTION THE ORDER GRANTING THE INJUNCTION.[24]

We find no merit in the Petition at bar. The Court of Appeals did not commit any error in setting aside the Orders, dated 11 November 2002 and 25 March 2003, of the RTC in Civil Case No. Q-01-44582, and dissolving the writ of preliminary injunction issued by the said trial court.

Section 3, Rule 58 of the Revised Rules of Court, enumerated the grounds for the issuance of a writ of preliminary injunction, to wit –

> 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.

There are generally two kinds of preliminary injunction: (1) a prohibitory injunction which commands a party to refrain from doing a particular act; and (2) a mandatory injunction which commands the performance of some positive act to correct a wrong in the past.[25]

It is a well-settled rule that the sole object of a preliminary injunction, whether prohibitory or mandatory, is to preserve the status quo until the merits of the case can be heard. It is usually granted when it is made to appear that there is a substantial controversy between the parties and one of them is committing an act or threatening the immediate commission of an act that will cause irreparable injury or destroy the status quo of the controversy before a full hearing can be had on the merits of the case.[26]

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.[27]

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.[28]

In the present Petition, petitioner Felix miserably failed to establish such a clear and positive right that would entitle him to the issuance of the injunctive writ prayed for.

It bears to emphasize that the complainant in Civil Case No. Q-01-44582 is petitioner Felix, and not George, Jr.; and that George, Jr. is only supposed to represent petitioner Felix in the said case for reconveyance of the subject property. Petitioner Felix is the identified party-in-interest based on the allegation that he is a legal collateral heir of Iluminada. Therefore, the right to the subject property that must be established is that of petitioner Felix and not that of George, Jr. Based on the pleadings and the evidences submitted, it would seem that even counsel for petitioner Felix is confused as to whose right he is actually representing before the RTC, for although he is supposed to assert the right of petitioner Felix to the subject property, the pleadings and evidences on file dwelled mostly on the right of George, Jr. to the same property. The RTC appears just as befuddled as it would refer to petitioner Felix as the complainant and to George, Jr. as the plaintiff, when the truth of the matter is, that petitioner Felix is the complainant and plaintiff in Civil Case No. Q-01-44582 after amendment of the Complaint.

This said, all evidence[29] in the records to establish the right of George, Jr. to the subject property as an adopted son of Iluminada and her husband Ramon are immaterial. What should have been presented, but are dismally missing herein, are evidences establishing the unequivocal right of petitioner Felix to the subject property. Except for his bare allegation that he is a surviving nephew of Iluminada, entitled to inheritance from the latter's estate as a legal heir, no other effort was made to prove this fact.

Even the Order, dated 11 November 2002, issued by the RTC in Civil Case No. Q-01-44582, granting petitioner Felix's application for the issuance of a writ of preliminary injunction, only recounted the averments of the parties, but is conspicuously silent as to the specific evidences and legal arguments actually considered by the trial court. The RTC abruptly reached the conclusion that "logic and prudence call for the maintenance of the status quo between the parties until after the case is decided on the merits," and that "to avoid any miscarriage of justice and injury to [herein petitioner Felix/representative George, Jr.], and that the title of [herein respondents Alicia and Leticia] are [sic] now being assailed in this instant case, [the RTC] is impelled under the premises to grant the prayer for a writ of preliminary injunction."

In Levi Strauss & Co. v. Clinton Apparelle, Inc.,[30] this Court surveyed prior cases which adjudged the sufficiency of orders issued by trial courts granting injunctive writs, thus –

> The Court also finds that the trial court's order granting the writ did not adequately detail the reasons for the grant, contrary to our ruling in University of the Philippines v. Hon. Catungal Jr., wherein we held that:
> The trial court must state its own findings of fact and cite particular law to justify grant of preliminary injunction. Utmost care in this regard is demanded.

The trial court in granting the injunctive relief tersely ratiocinated that "the plaintiffs appear to be entitled to the relief prayed for and this Court is of the considered belief and humble view that, without necessarily delving on the merits, the paramount interest of justice will be better served if the status quo shall be maintained." Clearly, this statement falls short of the requirement laid down by the above-quoted case. Similarly, in Developers Group of Companies, Inc. v. Court of Appeals, we held that it was "not enough" for the trial court, in its order granting the writ, to simply say that it appeared "after hearing that plaintiff is entitled to the relief prayed for."

Guided by the foregoing precedents, this Court likewise finds that the RTC Order, dated 11 November 2002, granting the issuance of a writ of preliminary injunction, is deficient for failing to state the factual and legal bases therefore.

While the right of petitioner Felix to the subject property, at this point, is but a mere unsupported, uncorroborated, and self-serving claim, in stark contrast, the right of respondent Leticia to the possession of the subject property had been settled in the Decision, dated 28 February 2001, promulgated by the MeTC in Civil Case No. 22375, which already became final and executory for failure of George, Jr. to appeal the same. In the said Decision, the MeTC found as follows –

> After a careful evaluation of the pleadings and evidence, the Court finds that the [herein respondent Leticia] has established by clear and preponderant evidence her cause of action for ejectment against [George, Jr.].
>
> The [respondent Leticia] being the registered owner of the property in question occupied by [George, Jr.], it results that she has the right to enjoy it, including the right to exclude others from its enjoyment through proper action against its possessor or holder in order to recover it (Arts. 428 and 429, New Civil Code). The Certificate of Title (TCT No. N-165230) issued in the name of the [respondent Leticia] vested in her not only ownership over the subject house and lot but also the right of possession as a necessary consequence of the right of ownership. [George, Jr.] failed to adduce any legal ground for his continued stay on the property. Besides, the records do not show that [George, Jr.] has instituted an action to assert ownership over the subject house and lot. He merely claimed that he is a foster son of the late spouses Iluminada and Ramon Piano, the previous owners who have caused the subdivison of the lot into three parcels and that he is not aware of any transaction resulting to the disposition of the portion claimed by [respondent Leticia]. It is the accepted rule that a person who has a torrens title over the subject property is entitled to the possession thereof (Pangilinan vs. Aguilar, 43 SCRA 136). [George, Jr.] has failed to sufficiently establish that he is entitled to the possession of the subject house and lot. After the sale of the subject property, [George, Jr.]'s possession thereof is merely tolerated since no lessor-lessee relationship exist [sic] between them. His occupancy was at the owner's

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> sufferance and his acts was [sic] merely tolerated which could not affect the owner's possession (Arts. 537 and 1119, New Civil Code). It is a settled rule that once possession of [George, Jr.] is by tolerance, it becomes illegal upon demand by the [respondent Leticia] to vacate (Anis v. Aragon, L-4685, April 28, 1951; PNB vs. Animas, 117 SCRA 735; Yu v. De Lara, 6 SCRA 785; Saclolo vs. IAC, 159 SCRA 63; Peran vs. Pres. Judge of CFI of Sorsogon, 125 SCRA 78) for the simple reason that possession by tolerance carries with it an implied promise to vacate the property upon demand, and that the same was withdrawn when demand to vacate was made by the [respondent Leticia] upon [George, Jr.] personally and in the letter of June 20, 1998 (Annex B position paper). Likewise, prior physical possession of the property is not an indispensable requisite since [respondent Leticia] is a vendee for she merely steps into the shoes of the vendor and succeeds to her rights and interests (Aguilar vs. Cabrera, 74 Phil. 658; Dela Cruz vs. Bocar, et. al., 99 Phils. [sic] 491; Sun vs. Brillantes, 93 Phils. [sic] 175). Moreover, as held in Caniza vs. Court of Appeals, an owner's act of allowing another to occupy his house, rent-free does not create a permanent and indefeasible right of possession in the latter's favor. After the expiration of the thirty-day period given to [George, Jr.] to vacate the subject property in the letter of June 20, 1998, made his occupation subsequently illegal. Therefore, there is no legal obstacle for the [respondent Leticia] to eject [George, Jr.] and all persons claiming right under him from the subject premises.
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> x x x x
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> WHEREFORE, premises considered, judgment is hereby rendered in favor of the [respondent Leticia] and against [George, Jr.], to wit:
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> 1) Ordering [George, Jr.] and all persons claiming rights under him to vacate the premises located at 119 13[th] Avenue, Cubao, Quezon City and to surrender the possession thereof to the [respondent Leticia];
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> 2) Ordering [George, Jr.] to pay the [respondent Leticia] the amount of P15,000.00 per month as reasonable rental value for the use and occupancy of the subject premises beginning June 1998 and every month thereafter until [George, Jr.] finally vacates and surrenders possession thereof to [respondent Leticia];
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> 3) Ordering [George, Jr.] to pay the [respondent Leticia] the amount of P20,000.00 as attorney's fees, plus P1,500.00 appearance fee; and
>
> 4) To pay the costs of suit.

The right of respondent Leticia to the execution of the aforequoted MeTC Decision is already beyond cavil for the following reasons:

First, the Decision, dated 28 February 2001, was rendered by the MeTC in a case for unlawful detainer, which, together with forcible entry, are considered under Rule 70 of the Revised Rules of Court as summary proceedings intended to provide an expeditious means of protecting actual possession or right to possession of property, without consideration of the question of title. Such actions involve perturbation of social order which must be resolved as promptly as possible, and, accordingly, technicalities or details of procedure which may cause unnecessary delay should carefully be avoided.[31]

Section 19, Rule 70 of the Revised Rules of Court provides that immediate execution in ejectment cases is proper if the judgment is in favor of the plaintiff. It can be stayed by the defendant only by perfecting an appeal, filing a supersedeas bond, and making a periodic deposit of the rental or the reasonable compensation for the use and occupancy of the property during the pendency of the appeal. Thus, if the defendant fails to comply with all these requisites, the trial court upon motion of the plaintiff, with notice to the defendant and upon proof of such failure, can order the immediate execution of the appealed Decision.[32] In the instant Petition, however, George, Jr., as the defendant in Civil Case No. 22375, failed to timely appeal the MeTC Decision, dated 28 February 2001, which ruled in favor of respondent Leticia, the plaintiff therein. Without an appeal, George, Jr. cannot stay the

execution of the judgment rendered in the said unlawful detainer case.

Second, whether or not the MeTC Decision, dated 28 February 2001, is correct is an issue beyond the jurisdiction of any court, including this Court, because due to George, Jr.'s failure to appeal the same, it had become final and executory. Nothing is more settled in law than that when a final judgment is executory, it thereby becomes immutable and unalterable. The judgment may no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law, and regardless of whether the modification is attempted to be made by the court rendering it or by the highest Court of the land. The doctrine is founded on considerations of public policy and sound practice that, at the risk of occasional errors, judgments must become final at some definite point in time.[33]

Resultantly, the implementation and execution of judgments that had attained finality are already ministerial on the courts. Public policy also dictates that once a judgment becomes final, executory, and unappealable, the prevailing party should not be denied the fruits of his victory by some subterfuge devised by the losing party. Unjustified delay in the enforcement of a judgment sets at naught the role of courts in disposing justiciable controversies with finality.[34] Hence, once a judgment becomes final, the prevailing party is entitled as a matter of right to a writ of execution, the issuance of which is the trial court's ministerial duty.[35]

Third, the judgment of the MeTC in Civil Case No. 22375 for unlawful detainer is conclusive on the issue of possession, adjudged therein in favor of respondent Leticia, but not on issues of title and ownership. Therefore, the RTC should not lose sight of the fact that being entirely distinct and separate actions, the action for reconveyance before it in Civil Case No. Q-01-44582 should neither affect nor be affected by the action for unlawful detainer before the MeTC in Civil Case No. 22375.

The case of De la Cruz v. Court of Appeals [36] provides an elucidating discussion on the difference between these two types of actions –

> An unlawful detainer action has an entirely different subject from that of an action for reconveyance of title. What is involved in unlawful detainer case is merely the issue of material possession or possession de facto; whereas in an action for reconveyance, ownership is the issue. So much so that the pendency of an action for reconveyance of title over the same property does not divest the city or municipal court of its jurisdiction to try the forcible entry or unlawful detainer case, nor will it preclude or bar execution of judgment in the ejectment case where the only issue involved is material possession or possession de facto.
>
> This is so because:
> "The judgment rendered in an action for forcible entry or detainer shall be effective with respect to the possession only and in no case bind the title or affect the ownership of the land or building. Such judgment shall not bar an action between the same parties respecting title to the land or building nor shall it be held conclusive of the facts therein found in case between the same parties upon a different cause of action involving possession."

The rationale is that forcible entry and unlawful detainer cases are summary proceedings designed to provide for an expeditious means of protecting actual possession or the right to possession of the property involved. It does not admit of a delay in the determination thereof. It is a "time procedure" designed to remedy the situation. Procedural technicality is therefore obviated and reliance thereon to stay eviction from the property should not be tolerated and cannot override substantial justice. So much so that judgment must be executed immediately when it is in favor of the plaintiff in order to prevent further damages arising from loss of possession.[37]

This Court declared further in Sy v. Court of Appeals [38] that –

> By any standard, the delay in the resolution of the unlawful detainer case and the enforcement of the decision

> therein is anathema to the summary nature of unlawful detainer proceedings. This is especially true under the Rule on Summary Procedure streamlining the proceedings in forcible entry and detainer cases to achieve a more expeditious and less expensive determination thereof. The pendency of the action for reconveyance does not constitute a compelling reason to delay the termination of an ejectment case, for it gives rise merely to an expectancy that the documents assailed therein may be nullified and the subject properties may be ordered reconveyed to private respondents, as compared to the clear, actual and existing legal right of petitioner to the possession of the subject property as the registered owner.[39]

And in Wilmon Auto Supply Corporation v. Court of Appeals,[40] this Court made the following significant statement –

> It may well be stressed in closing that as the law now stands, even when, in forcible entry and unlawful detainer cases, "the defendant raises the question of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership," the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts nevertheless have the undoubted competence to resolve "the issue of ownership xxx only to determine the issue of possession."[41]

Based on these previous rulings of this Court, the pendency before the RTC of Civil Case No. Q-01-44582 for reconveyance cannot bar the execution of the judgment rendered by the MeTC in Civil Case No. 22375 for unlawful detainer. The summary nature of Civil Case No. 22375 for unlawful detainer, as well as the finality of the Decision, dated 28 February 2001, promulgated by the MeTC in the said case, militate against any effort on the part of petitioner Felix and his representative George, Jr. to delay further the execution of said Decision.

It must be noted that although petitioner Felix, the complainant, in RTC Civil Case No. Q-01-44582 for reconveyance, was not a party in MeTC Civil Case No. 22375 for unlawful detainer, he must still be bound by the judgment in the latter case as far as the right of possession of the subject property is concerned. Petitioner Felix does not even make any pretense that he is in actual possession of the subject property. By his own allegations in his pleadings, it is his representative George, Jr. who presently possesses and occupies the subject property as his residence. The status quo that petitioner Felix is trying to preserve with the writ of preliminary injunction is the possession of the subject property, not by him, but by George, Jr. still. Consequently, the ruling of the MeTC in the unlawful detainer case, Civil Case No. 22375, declaring George, Jr.'s continued possession of the subject property illegal, should also bind petitioner Felix. To rule otherwise would be to allow petitioner Felix and his representative George, Jr. to circumvent the final and executory Decision, dated 28 February 2001, of the MeTC in Civil Case No. 22375.

Now coming to the second assignment of error made by petitioner Felix grounded on his argument that respondents Alicia and Leticia, by their non-appearance during the hearing set for the application for a temporary restraining order and/or writ of preliminary injunction despite due notice, had waived their right to question the Orders of the RTC granting the said application.

This Court disagrees.

As early as the filing of their Answer with Counterclaim before the RTC in Civil Case No. Q-01-44582, the respondents Alicia and Leticia made known their opposition to petitioner Felix's application for the issuance of a temporary restraining order and/or writ of preliminary injunction. When respondents Alicia and Leticia and their counsel failed to attend the hearing set by the RTC on 23 October 2002, at 8:30 a.m., what they waived was their right to present evidence therein to refute petitioner Felix's asserted entitlement to a temporary restraining order and/or writ of preliminary injunction.

The RTC itself, in its Order, dated 21 October 2002, directed Atty. Viray, the counsel for the respondents Alicia

and Leticia, "to field a collaborating counsel in case he is unable to come; failure to do so might mean that [the RTC] will proceed accordingly." This only means that should there be no legal representation on the part of respondents Alicia and Leticia on the set hearing date, the RTC will already consider submitted for resolution the issue on whether the application for the issuance of a temporary restraining order and/or writ of preliminary injunction should be granted or denied.

This Court just cannot find any legal basis to support petitioner Felix's contention that the absence of respondents Alicia and Leticia during the hearing must be deemed a waiver not only of their right to present evidence in support of their stand on the issue in question, but also of their right to challenge the resolution or order of the RTC should it be adverse to them. To affirm the extent of the waiver of respondents Alicia and Leticia, as asserted by petitioner Felix and based solely on the former's absence from the hearing, would be too radical and overbroad, already precluding respondents Alicia and Leticia from availing themselves of any remedy to question the subsequent RTC resolution or order if erroneous or rendered with grave abuse of discretion amounting to lack or excess of jurisdiction. It may open the floodgates to mischief, abuse, and violation of due process.

Moreover, after the hearing on 23 October 2002, the RTC issued an Order in open court granting petitioner Felix's application for the issuance of a temporary restraining order. However, the RTC did not yet make any pronouncement as to the application for the issuance of a writ of preliminary injunction. Instead, in the last paragraph of its Order, the RTC gave the following directive –

> Set the reception of evidence on the preliminary injunction proper on October 28, 2002 at 8:30 a.m. In the alternative, the parties may submit their supporting pleadings thereto. Thereafter, the incident shall be considered submitted for resolution. As usual, in the interest of time, Atty. Chan is directed to effect the service of the ORDER of this Court today by LBC to the [respondents Alicia and Leticia] and their counsel.[42]

In compliance therewith, respondents Alicia and Leticia did file a Memorandum[43] which extensively discussed their argument that the execution of the final and executory judgment in MeTC Civil Case No. 22375, ordering George, Jr. to vacate the subject property, cannot be stayed by a preliminary injunction issued in the pending RTC Civil Case No. Q-01-44582. Hence, respondents Alicia and Leticia were still able to present before the RTC their opposition to petitioner Felix's application for the issuance of a writ of preliminary injunction even after the hearing which they failed to attend. Respondents Alicia and Leticia have consistently and continuously made known to the RTC and to their adversary, petitioner Felix, that they oppose the latter's application for the issuance of an injunctive writ, before and after the hearing for presentation of evidence on the matter, so that to conclude that they had waived their right to question the RTC order granting such a writ just by their absence in the said hearing would be specious and untenable.

The Court of Appeals, therefore, did not commit any error when it reversed and set aside the Orders dated 11 November 2002 and 25 March 2003, of the RTC in Civil Case No. Q-01-44582; and dissolved the writ of preliminary injunction issued in the said Orders. These Orders granting petitioner Felix's application for issuance of a writ of preliminary injunction were rendered by the RTC with grave abuse of discretion, amounting to lack or excess of jurisdiction. It is worthy to reiterate herein the ruling of this Court in Almeida v. Court of Appeals [44] –

> In general, a trial court's decision to grant or to deny injunctive relief will not be set aside on appeal unless the court abused its discretion. In granting or denying injunctive relief, a court abuses its discretion when it lacks jurisdiction, fails to consider and make a record of the factors relevant to its determination, relies on clearly erroneous factual findings, considers clearly irrelevant or improper factors, clearly gives too much weight to one factor, relies on erroneous conclusions of law or equity, or misapplies its factual or legal conclusions. In the absence of a clear legal right, the issuance of the injunctive writ constitutes grave abuse of discretion. As

> the Court had the occasion to state in Olalia v. Hizon:
> It has been consistently held that there is no power the exercise of which is more delicate, which requires greater caution, deliberation and sound discretion, or more dangerous in a doubtful case, than the issuance of an injunction. It is the strong arm of equity that should never be extended unless to cases of great injury, where courts of law cannot afford an adequate or commensurate remedy in damages.
>
> Every court should remember that an injunction is a limitation upon the freedom of action of the defendant and should not be granted lightly or precipitately. It should be granted only when the court is fully satisfied that the law permits it and the emergency demands it.

WHEREFORE, premises considered, the instant Petition for Review is DENIED, and the Decision, dated 23 April 2004, of the Court of Appeals in CA-G.R. SP No. 77857 is AFFIRMED. The case is REMANDED to the Regional Trial Court, Branch 101, which is DIRECTED to hear and resolve Civil Case No. Q-01-44582 with dispatch. Costs against the petitioner.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, and Nachura, JJ., concur.

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[1]Penned by Associate Justice Delilah Vidallon-Magtolis with Associate Justices Eduardo P. Cruz and Noel G. Tijam, concurring; rollo, pp. 160-166.

[2] Penned by Judge Normandie B. Pizzaro, id. at 50-52.

[3] Id. at 68-69.

[4] RTC Records, pp. 61-62. Note, however, that the Deed of Sale purportedly executed by Iluminada G. Piano in favor of herein respondent Alicia Sison vda. de Fernandez on 21 December 1993 (Rollo, p. 39), stated that the subject property was covered by TCT No. 83137, but no copy of the said certificate could be found in the records of the case. Herein petitioner Felix De Guzman Ocampo, as represented by George Butler, Jr., averred that TCT No. 49804 supposedly covered a bigger tract of land, and after it was subdivided, TCT No. 83137 was issued covering only the subject property. However, after comparison, the technical descriptions of the properties covered by both TCT Nos. 49804 and 83137 appear to be exactly the same, so that this Court can only assume that they both cover the subject property, and Iluminada, for some unexplained reason, had TCT No. 49804 cancelled and a new one, TCT No. 83137, issued, still in her name.

[5] Rollo, p. 29.

[6] Id. at 30.

[7] Id. at 39.

[8] Id. at 187.

[9] Records, p. 10.

[10] Decision, dated 28 February 2001, penned by Executive Judge Gregorio D. Dayrit; id. at 96-99.

[11] Order, dated 7 June 2001, penned by Acting Executive Judge Henri JP B. Inting; id. at 100.

[12] Emy Ramos, though, as records show, has not filed any responsive pleading or participated in the said case.

[13] Records, pp. 1-8.

[14] Id. at 35-40.

[15] Id.at 49-56.

[16] Id. at 46-47. In his present Petition, petitioner Felix de Guzman Ocampo explained that he is Iluminada's nephew, being the son of the late Maria de Guzman Ocampo, Iluminada's sister.

[17] Penned by Presiding Judge Evangeline Crisologo Castillo, id. at 129-130.

[18] Penned by Judge Normandie B. Pizarro, id. at 118.

[19] Id. at 124-125.

[20] Rollo, pp. 50-52.

[21] Id. at 68-69.

[22] Id. at 165-166.

[23] Penned by Associate Justice Delilah Vidallon-Magtolis with Associate Justices Edgardo P. Cruz and Noel G. Tijam, concurring, Rollo, p. 173.

[24] Id. at 18.

[25] Levi Strauss & Co. v. Clinton Apparelle, Inc., G.R. No. 138900, 20 September 2005, 470 SCRA 236, 252.

[26] Rava Development Corporation v. Court of Appeals, G.R. No. 96825, 3 July 1992, 211 SCRA 144, 154.

[27] Resolution, Medina v. City Sheriff, Manila, G.R. No. 113235, 24 July 1997.

[28] Levi Strauss & Co. v. Clinton Apparelle, Inc., supra note 25 at 252.

[29] (1) Iluminada's letter, dated 9 August 1963, to the Adjutant General of the United States Army seeking assistance in securing financial support for her adopted son George, Jr. from the latter's biological father [Records, p. 148]; (2) The document, dated 1 February 1990, in which Iluminada bequeathed to her son George, Jr. the administration and ownership of all her properties [Rollo, p. 30]; and (3) Certification, dated 7 September 1999, executed by Bonifacio M. Rillon, Punong Barangay of Barangay Socorro, certifying that George, Jr. is a bona fide resident of the barangay, having lived on the subject property for almost 15 years with his parents [Records, p. 161].

[30] Supra note 25 at 256.

[31] Torno v. Intermediate Appellate Court, G.R. No. L-72622, 28 October 1988, 166 SCRA 742, 749.

[32] Chua v. Court of Appeals, 338 Phil. 262, 270 (1997).

[33] Mayon Estate Corporation v. Altura, G.R. No. 134462, 18 October 2004, 440 SCRA 377, 386.

[34] Huerta Alba Resort, Inc. v. Court of Appeals, 394 Phil. 22, 46 (2000).

[35] Filcon Manufucturing Corp. v. National Labor Relations Commission, G.R. No. 78576, 31 July 1991, 199 SCRA 814, 823 citing Torno v. Intermediate Appellate Court, supra note 31 at 751.

[36] 218 Phil. 492 (1984).

[37] Id. at 498-499.

[38] G.R. No. 95818, 2 August 1991, 200 SCRA 117.

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[39] Id. at 127-128.

[40] G.R. No. 97637 and No. 98700-01, 10 April 1992, 208 SCRA 108.

[41] Id. at 121.

[42] Records, pp. 124-125.

[43] Id. at 162-175.

[44] G.R. No. 159124, 17 January 2005, 448 SCRA 681.

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