

DOLMAR REAL ESTATE DEVELOPMENT CORPORATION, MARIANO K. TAN, SR., MARIANO JOHN L. TAN, JR. and PHILIP L. TAN, Petitioners, vs. COURT OF APPEALS, FIFTH DIVISION, REGIONAL TRIAL CO...

G.R. No. 172990. February 27, 2008

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Before us is a petition for certiorari (with an application for a temporary restraining order [TRO] and a writ of preliminary injunction)[1] assailing the Resolution dated January 25, 2006[2] and Resolution dated April 24, 2006[3] of the Court of Appeals (Fifth Division) in CA-G.R. SP No. 91869.

On June 1, 2005, spouses Philip and Nancy Young, respondents, filed with the Regional Trial Court, Branch 211, Mandaluyong City a complaint for specific performance and damages against Dolmar Real Estate Development Corporation, Mariano K. Tan, Sr., Mariano John L. Tan, Jr., and Philip L. Tan, petitioners, docketed as SEC Case No. MC05-093. The complaint also prayed that a TRO and a preliminary injunction be issued ordering petitioners to: (a) cease and desist from further violating the provisions of the Memorandum of Agreement (MOA) dated March 4, 2003 and the Shareholders' Agreement dated May 16, 2003 executed by the parties; (b) comply with their obligations and duties stipulated in the said agreements by restoring to respondents-spouses Young their authority to manage the corporation; (c) abide by the quorum and consensus rules established in the said agreements governing the exercise of corporate acts and powers; and (d) desist from holding the meeting of the Board of Directors of the corporation scheduled on June 3, 2005.

On June 2, 2005, the trial court issued a 72-hour restraining Order preventing the holding of the Board of Directors' meeting on June 3, 2005.[4]

On June 17, 2005, after a summary hearing, the trial court issued the TRO prayed for by respondents-spouses Young and set the hearing on the prayer for a writ of preliminary injunction on June 21, 2005. The trial court likewise approved the bond in the amount of P100,000.00 posted by said respondents.[5]

On October 14, 2005, the trial court issued an Order[6] directing inter alia that: (1) the status quo ante, meaning the situation of the contending parties prior to December 13, 2004, must be maintained; (2) there is a need to observe the four-director quorum and consensus rules; (3) it is necessary to observe the rule on counter-signature by spouses Young on the checks issued by Festive Foods International, Inc. and in banking transactions of the corporation; and (4) the parties shall mutually comply with their respective duties and responsibilities under the MOA and Shareholders' Agreement.[7] The dispositive portion of the Order reads:

FOREGOING CONSIDERED and in the interest of justice and equity, the court hereby declares a status quo ante and the temporary restraining order bond shall remain in full force for the purpose stated therein.

The Sheriff of this Court is hereby designated to enforce compliance thereof.

SO ORDERED.

Petitioners then filed with the Court of Appeals a petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure, as amended, assailing the status quo ante Order for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction.

On November 15, 2005, the appellate court issued a Resolution[8] dismissing the petition for being “fatally defective” as it does not contain the certification of non-forum shopping; its verification merely refers to an answer with counterclaim and not to the petition itself; and the material portions of the record referred to in the petition are not attached to the said petition.

However, upon petitioners’ filing of a Motion for Reconsideration with Motion to Admit Attached Amended Petition (with an application for a TRO and a writ of preliminary injunction) dated November 21, 2005,[9] the appellate court, in its Resolution dated December 7, 2005,[10] granted the motion and reinstated the case.

On January 25, 2006, the Court of Appeals issued a Resolution denying petitioners’ application for a writ of preliminary injunction, thus:

This is a petition x x x to nullify the Order of the RTC x x x which declared a status quo among the parties to mutually observe and comply with their respective duties under their MOA and Shareholders’ Agreement during the pendency of the case before it. The case is one for specific performance filed by the private respondents to compel the petitioners to comply with their obligations under the said agreements. Dolmar has filed an application for preliminary injunction with us to enjoin the respondents from implementing the Order of October 14, 2005. In effect, it would like to disturb what the lower court has found to be the status quo ante. A comment was filed stating in essence that a writ of preliminary injunction may be resorted to only when there is a pressing necessity to avoid injurious consequences which cannot be remedied under any standard compensation.

The lower court’s assailed Order of October 14, 2005 has the effect of allowing the company to be run in accordance with the existing agreements of the parties during the pendency of the case below. We find no compelling reason to interfere with the prevailing state of affairs as ordered by the trial court. None of the grounds mentioned in Section 3 of Rule 58 for the issuance of a preliminary injunction exists. The application is denied.

SO ORDERED. (Underscoring supplied)

Petitioners filed a motion for reconsideration but it was denied for lack of merit in a Resolution dated April 24, 2006.

Hence, the instant petition.

Petitioners contend that the Court of Appeals, in issuing the assailed Resolutions, acted with grave abuse of discretion amounting to lack or excess of jurisdiction. They bewail the appellate court’s simplistic manner of resolving their application for a TRO or a writ of preliminary injunction by “simply stating that the respondent appellate court ‘found no compelling reason to interfere with the prevailing state of affairs as ordered by the trial court. None of the grounds mentioned in Section 3 of Rule 58 for the issuance of a preliminary injunction exists.’ On the other hand, the Resolution denying their motion for reconsideration simply stated that the said motion lacked merit.”[11]

In their comment, respondents countered that the petition be denied for lack of merit.

The petition must fail.

The sole object of a writ of preliminary injunction, whether prohibitory or mandatory, is to preserve the status quo and prevent further injury on the applicant until the merits of the main case can be heard. The status quo is the last

actual peaceable uncontested status which preceded the controversy. The injunctive writ may only be resorted to by a litigant for the preservation and protection of his rights or interests during the pendency of the principal action. The grant or denial of an application for a writ of preliminary injunction rests upon the sound discretion of the issuing court.[12]

For grave abuse of discretion to exist as a valid ground for the nullification of the grant or denial of the injunctive writ, as contemplated by Rule 65 of the 1997 Rules of Civil Procedure, as amended, there must be capricious and whimsical exercise of judgment as is equivalent to lack or excess of jurisdiction, or where the power is exercised in an arbitrary manner by reason of passion, prejudice or personal hostility, and it must be so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law.[13]

Here, the appellate court upheld the trial court's exercise of sound discretion in issuing the status quo ante Order because it found "no compelling reason to interfere with the prevailing state of affairs as ordered by the trial court." It further ruled that petitioners failed to establish the existence of any of the grounds mentioned in Section 3 of Rule 58 to justify the issuance of the injunctive writ, namely, that they have a clear and unmistakable right to be entitled to the relief demanded, and that the acts sought to be enjoined would probably work injustice to them during the pendency of the case.

We find nothing capricious, whimsical or arbitrary in the Court of Appeals' challenged Resolution denying petitioners' application for a writ of preliminary injunction. We are not impressed by petitioners' contention that it is too simplistic or insufficient as it does not contain a full discussion of its findings and the applicable rule or law in support of its conclusion. It bears stressing that there is no definite or stringent rule on how a Resolution denying an application for a TRO or a writ of preliminary injunction is framed. The manner the Resolution was written did not diminish the legal significance of the denial so decreed by the appellate court. What is clear from the challenged Resolution is that the Court of Appeals stated the proper basis for its ruling.

In *United Coconut Planters Bank v. United Alloy Philippines Corporation*,[14] we held:

An order granting a preliminary injunction, whether mandatory or prohibitory, is interlocutory and unappealable. However, it may be challenged by a petition for certiorari under Rule 65 of the Rules of Court. Being preliminary, such an order need not strictly follow Section 5 of Rule 51 requiring that "every decision of final resolution of the Court in appealed cases shall clearly and distinctly state the findings of fact and conclusions of law on which it is based x x x."

x x x

x x x, the Resolution issued below was merely interlocutory, not a final resolution or decision disposing of the case. It was based on a preliminary determination of the status quo and petitioner's entitlement to the Writ.

x x x. After a hearing on an application for a writ of preliminary injunction, the findings of fact and the opinions of a court have an interlocutory nature, and vital facts that may not have been presented during the trial. Thus, the Rules as regards the form of decisions are not applicable to that of resolutions disposing of application for an injunctive writ.

Note that even this Court issues status quo or temporary restraining orders without narrating at length the complete facts and applicable laws required by the Rules on the issuance of decisions and final orders. x x x.
(Underscoring supplied)

Indeed, we cannot disturb the sound discretion exercised by the Court of Appeals sustaining the trial court's status quo ante Order, unless there is a patent abuse of discretion, which is not present here. As this Court stated in *Land Bank of the Philippines v. Continental Watchman Agency, Incorporated*: [15]

Significantly, the rule is well-entrenched that the issuance of the writ of preliminary injunction rests upon the sound discretion of the trial court. It bears reiterating that Section 4 of Rule 58 gives generous latitude to the trial courts in this regard for the reason that conflicting claims in an application for a provisional writ more often than not involve a factual determination which is not the function of the appellate courts. Hence, the exercise of sound judicial discretion by the trial court in injunctive matters must not be interfered with except when there is manifest abuse, which is wanting in the present case.

In fine, the Court of Appeals, in issuing the assailed Resolutions, did not act with grave abuse of discretion.

WHEREFORE, we DISMISS the instant petition for lack of merit. Costs against petitioners.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Azcuna, and Leonardo-De Castro, JJ., concur.

[1] Filed under Rule 65 of the 1997 Rules of Civil Procedure, as amended.

[2] Penned by Associate Justice Mario L. Guariña III, and concurred in by Associate Justice Roberto A. Barrios (deceased) and Associate Justice Santiago Javier Ranada (retired); rollo, pp. 48-49.

[3] Id., p. 50.

[4] Petition, id., p. 22.

[5] Respondents' Memorandum, id., p. 744.

[6] Id., p. 745.

[7] Petition, id., p. 23.

[8] Respondents' Memorandum, id., pp. 735-736.

[9] Id., pp. 812-861.

[10] Id., pp. 862-864.

[11] Petition, id., p. 25.

[12] *United Coconut Planters Bank v. United Alloy Philippines Corporation*, G.R. No. 152238, January 28, 2005, 449 SCRA 473, citing *Capitol Medical Center v. Court of Appeals*, 178 SCRA 493 (1989).

[13] *Land Bank of the Philippines v. Court of Appeals*, G.R. No. 129368, August 25, 2003, 409 SCRA 455, citing *De Baron v. Court of Appeals*, 368 SCRA 407 (2001).

[14] *Supra*, footnote 12.

[15] G.R. No. 136114, January 22, 2004, 420 SCRA 624.

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