

SPOUSES ALFREDO and SHIRLEY YAP, Petitioners, vs. INTERNATIONAL EXCHANGE BANK, SHERIFF RENATO C. FLORA and/or OFFICE OF THE CLERK OF COURT, REGIONAL TRIAL COURT, MAKATI CITY, Re...*G.R. No. 175145. March 28, 2008*

Ponente: CHICO-NAZARIO, J.

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Before Us is a Petition for Review on Certiorari under Rule 45 of the 1997 Rules of Civil Procedure which seeks to set aside the Resolution[2] of the Court of Appeals in CA-G.R. SP No. 95074 dated 11 July 2006 which dismissed petitioner-spouses Alfredo and Shirley Yap's petition for certiorari which questioned the Order[3] of Branch 264 of the Regional Trial Court (RTC) of Pasig City in Civil Case No. 68088 recalling and dissolving the Writ of Preliminary Injunction dated 13 August 2001, and its Resolution[4] dated 9 October 2006 denying petitioners' Motion for Reconsideration.

The factual antecedents are as follows:

Respondent International Exchange Bank (iBank, for brevity) filed a collection suit with application for the issuance of a writ of preliminary attachment against Alberto Looyuko and Jimmy T. Go in the RTC of Makati. The case was raffled to Branch 150 and was docketed as Civil Case No. 98-791. On 7 October 1999, the trial court rendered a Decision in favor of respondent iBank and found Alberto Looyuko and Jimmy T. Go liable, ordering them to pay the amount of ninety-six million pesos (P96,000,000.00), plus penalty.

A Writ of Execution on the judgment against Mr. Looyuko was implemented. Thereafter, a Writ of Execution was issued against Mr. Go for his part of the liability. Thereupon, respondent Renato C. Flora, Sheriff of Branch 150 of the RTC of Makati City, issued a Notice of Sheriff's Sale on 12 May 2000 notifying all the parties concerned, as well as the public in general, that the following real properties, among other properties, covered by Transfer Certificates of Title (TCTs) No. PT-66751, No. PT-66749, No. 55469 and No. 45229 of the Registry of Deeds of Pasig City, TCT No. 36489 of the Registry of Quezon City, and TCTs No. 4621 and No. 52987 of the Registry of Deeds of Mandaluyong City, allegedly owned by Mr. Go will be sold at public auction on 15 June 2000.[5] Said public auction did not push through.

On 13 June 2000, petitioner-spouses Alfredo and Shirley Yap filed a Complaint for Injunction with Prayer for Temporary Restraining Order and/or Preliminary Injunction with the RTC of Pasig City. The case was docketed as Civil Case No. 67945 and was raffled to Branch 158 thereof. Petitioners sought to stop the auction sale alleging that the properties covered by TCTs No. PT-66751, No. PT-66749, No. 55469 and No. 45229 of the Registry of Deeds of Pasig City, TCT No. 36489 of the Registry of Quezon City, and TCTs No. 4621 and No. 52987 of the Registry of Deeds of Mandaluyong City, are already owned by them by virtue of Deeds of Absolute Sale[6] executed by Jimmy Go in their favor. They further alleged that respondent sheriff disregarded their right over the properties despite their execution of an Affidavit of Adverse Claim to prove their claim over the properties and the publication of a Notice to the Public warning that various deeds had already been issued in their favor

evidencing their right over the same.

A second Notice of Sheriff's Sale dated 30 June 2000 was issued by Sheriff Flora scheduling a public auction on 24 July 2000 for the afore-mentioned properties. The public auction did not happen anew. Thereafter, a third Notice of Sheriff's Sale dated 21 July 2000 scheduling a public auction on 22 August 2000 was issued.

On 21 August 2000, the RTC of Pasig City, Branch 158, issued an Order in Civil Case No. 67945 denying petitioners' application for a writ of preliminary injunction.[7]

As scheduled, the public auction took place on 22 August 2000 for which respondent sheriff issued a Certificate of Sale stating that the subject properties had been sold at public auction in favor of respondent iBank, subject to the third-party claims of petitioners.[8]

Petitioners filed with the RTC of Pasig City the instant case for Annulment of Sheriff's Auction Sale Proceedings and Certificate of Sale against iBank, the Clerk of Court and Ex-Officio Sheriff of RTC Makati City, and Sheriff Flora. The case was docketed as Civil Case No. 68088 and was raffled to Branch 264. The Complaint was amended to include a prayer for the issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction.[9]

Engracio M. Escariñas, Jr., Clerk of Court VII and Ex-Officio Sheriff of RTC Makati City, filed his Answer while respondents iBank and Sheriff Flora filed an Omnibus Motion (Motion to Refer the Complaint to the Office of the Clerk of Court for Raffle in the Presence of Adverse Party and Motion to Dismiss) dated 17 October 2000.[10]

In an Order dated 20 February 2001, Hon. Leoncio M. Janolo, Jr. denied the Omnibus Motion for lack of merit.[11] Respondents iBank and Sheriff Flora filed a Motion for Reconsideration dated 26 February 2001.[12]

A hearing was held on the application for preliminary injunction. On 18 July 2001, an Order was issued by Judge Janolo granting petitioners' application for issuance of a writ of preliminary injunction. The Order reads:

WHEREFORE, premises considered, plaintiffs' application for issuance of a Writ of Preliminary Injunction is GRANTED, and defendants and their representatives are enjoined from proceeding further with the execution, including consolidating title and taking possession thereof, against plaintiffs' real properties covered by Transfer Certificates of Title Nos. PT-66751, PT-66749, 55469, 45229, 4621, 52987 and 36489.

The Writ of Preliminary Injunction shall be issued upon plaintiffs' posting of a bond executed to defendant in the amount of Three Million Pesos (P3,000,000.00) to the effect that plaintiffs will pay defendants all damages which the latter may sustain by reason of the injunction if it be ultimately decided that the injunction is unwarranted.[13]

On 13 August 2001, upon posting a bond in the amount of three million pesos (P3,000,000.00), Judge Janolo issued the Writ of Preliminary Injunction.[14]

Respondents iBank and Sheriff Flora filed on 29 August 2001 a Motion for Reconsideration[15] of the order granting the Writ of Preliminary Injunction which the trial court denied in an Order dated 21 November 2001.[16]

With the denial of their Motion for Reconsideration, respondents iBank and Sheriff Flora filed with the Court of Appeals a Petition for Certiorari, Prohibition and Mandamus with prayer for issuance of Temporary Restraining Order and/or Preliminary Injunction[17] praying that it: (a) issue immediately a temporary restraining order enjoining Judge Janolo from taking any action or conducting any further proceeding on the case; (b) annul the Orders dated 18 July 2001 and 21 November 2001; and (c) order the immediate dismissal of Civil Case No. 68088.

In its decision dated 18 July 2003, the Court of Appeals dismissed the Petition.[18] It explained that no grave

abuse of discretion was committed by Judge Janolo in promulgating the two Orders. It emphasized that its ruling only pertains to the propriety or impropriety of the issuance of the preliminary injunction and has no bearing on the main issues of the case which are still to be resolved on the merits. The Very Urgent Motion for Reconsideration filed by respondents iBank and Sheriff Flora was denied for lack of merit.[19]

Respondents iBank and Sheriff Flora thereafter filed with this Court a Petition for Certiorari which we dismissed. The Court's Resolution dated 7 March 2005 reads:

Considering the allegations, issues and arguments adduced in the petition for certiorari, the Court Resolves to DISMISS the petition for being a wrong remedy under the Rules and evidently used as a substitute for the lost remedy of appeal under Rule 45 of the 1997 Rules of Civil Procedure, as amended. Besides, even if treated as a petition under Rule 65 of the said Rules, the same would be dismissed for failure to sufficiently show that the questioned judgment is tainted with grave abuse of discretion.[20]

Accordingly, an Entry of Judgment was issued by the Supreme Court certifying that the resolution dismissing the case had become final and executory on 30 July 2005.[21]

Subsequently, respondents iBank and Sheriff Flora filed with the RTC of Pasig City, Branch 264, an Omnibus Motion (To Resolve Motion to Dismiss Complaint and/or Dissolve Injunction) dated 31 January 2006 praying that their pending Motion for Reconsideration dated 26 February 2001 which seeks for the dismissal of the case be resolved and/or the Writ of Preliminary Injunction previously issued be dissolved.[22]

On 9 February 2006, petitioners filed their Comment thereon with Motion to Cite in Contempt the counsel[23] of respondents. They pray that the pending Motion for Reconsideration be denied for being devoid of merit, and that the Motion to Dissolve Writ of Preliminary Injunction be also denied, it being a clear defiance of the directive of the Supreme Court which ruled with finality that the injunction issued by the trial court was providently issued and was not tainted with grave abuse of discretion. They further ask that respondents' counsel be cited in contempt of court and be meted out the appropriate penalty.[24] Respondents filed a Reply dated 20 February 2006.

In a Manifestation dated 24 March 2006, respondents iBank and Sheriff Flora submitted an Affidavit of Merit to emphasize their resolve and willingness, among other things, to file a counter-bond to cover whatever damages petitioners may suffer should the trial court decide to dissolve the writ of preliminary injunction.[25] Petitioners filed a Counter-Manifestation with Second Motion to Cite Respondents' Counsel in Direct Contempt of Court[26] to which respondents filed an Opposition.[27] Petitioners filed a Reply thereto.[28]

In an Order[29] dated 29 April 2006, the trial court recalled and dissolved the Writ of Preliminary Injunction dated 13 August 2001, and ordered respondents to post a counter-bond amounting to ten million pesos. It directed the Branch Clerk of Court to issue a Writ Dissolving Preliminary Injunction upon the filing and approval of the required counter-bond. The dispositive portion of the Order reads:

WHEREFORE, this Court's writ of preliminary injunction dated August 13, 2001 is recalled and dissolved. Defendants are hereby ordered to post a counter-bond amounting to ten million pesos (P10,000,000.00) to cover the damages plaintiffs would incur should a favorable judgment be rendered them after trial on the merits.

The Branch Clerk of Court is directed to issue a Writ Dissolving Preliminary Injunction upon the filing and approval of defendants' counter-bond.[30]

The trial court explained its ruling in this wise:

In our jurisdiction, the provisions of Rule 58 of the Revised Rules of Court allow the issuance of preliminary injunction. This court granted plaintiffs' prayer preliminary injunction in the Order dated July 18, 2001 and the

corresponding writ issued on August 13, 2001.

Defendants in this case, however, are not without remedy to pray for dissolution of preliminary injunction already granted because it is only interlocutory and not permanent in nature.

The provisions of Section 6, Rule 58 of the Revised Rules of Court allow dissolution of the injunction granted provided there is affidavit of party or persons enjoined; an opportunity to oppose by the other party; hearing on the issue, and filing of a bond to be fixed by the court sufficient to compensate damages applicant may suffer by dissolution thereby.

A preliminary injunction is merely a provisional remedy, an adjunct to the main case subject to the latter's outcome. Its sole objective is to preserve the status quo until the trial court hears fully the merits of the case. The status quo is the last actual, peaceable and uncontested situation which precedes a controversy. The status quo should be that existing at the time of the filing of the case. A preliminary injunction should not establish new relations between the parties, but merely maintain or re-establish the pre-existing relationship between them. x x x.

When the complainant's right or title is doubtful or disputed, he does not have a clear legal right and, therefore, the issuance of injunctive relief is not proper and constitutes grave abuse of discretion. x x x. In the case at bar, plaintiffs' deed of sale was purported to be not duly notarized. As such, the legal right of what the plaintiffs claim is still doubtful and such legal right can only be threshed out in a full blown trial where they can clearly establish the right over the disputed properties.

Moreover, defendants are willing to post a counter bond which could cover up to the damages in favor of plaintiffs in case the judgment turns out to be adverse to them. Under the Rules of Civil Procedure, this is perfectly allowed and the dissolution of the writ of injunction can accordingly be issued. In the case of *Lasala vs. Fernandez*, the highest court has enunciated that "a court has the power to recall or modify a writ of preliminary injunction previously issued by it. The issuance or recall of a preliminary writ of injunction is an interlocutory matter that remains at all times within the control of the court." (G.R. No. L-16628, May 23, 1962). The defendants had shown that dissolution of the writ of injunction is just and proper. It was duly shown that great and irreparable injury would severely cause the defendants if the writ of injunction shall continue to exist.[31]

On 5 May 2006, petitioners filed a Petition for Certiorari before the Court of Appeals asking that the trial court's Order dated 29 April 2006 be set aside.[32]

During the pendency of the Petition for Certiorari, petitioners filed before the trial court a Very Urgent Motion to Suspend Proceedings[33] to which respondents filed a Comment.[34]

On 11 July 2006, the Court of Appeals resolved to dismiss outright the Petition for Certiorari for failure of petitioners to file a motion for reconsideration of the Order dated 29 April 2006.[35] The Motion for Reconsideration[36] filed by petitioners was denied.[37]

After being granted an extension of thirty days within which to file a petition for certiorari, petitioners filed the instant Petition on 14 December 2006. They made the following assignment of errors:

I

THE HONORABLE PUBLIC RESPONDENT JUDGE LEONCIO M. JANOLO, JR. GRAVELY ABUSED HIS DISCRETION TANTAMOUNT TO LACK OR EXCESS OF JURISDICTION IN DISSOLVING THE WRIT OF PRELIMINARY INJUNCTION DATED 13 AUGUST 2001.

1. DESPITE THE FACT THAT THE COURT OF APPEALS RESOLVED WITH FINALITY THAT YOUR PETITIONERS WILL "SUFFER IRREPARABLE INJURY" (C.A.'s emphasis) IF NO INJUNCTION IS

ISSUED.

2. DESPITE THE FACT THAT THE HON. SUPREME COURT RULED WITH FINALITY THAT THE COURT A QUO DID NOT ABUSE ITS JURISDICTION WHEN IT ISSUED THE INJUNCTION DATED 13 AUGUST 2001, THUS, SUSTAINING THE REGULARITY OF THE WRIT OF PRELIMINARY INJUNCTION.

II

THE HONORABLE PUBLIC RESPONDENT JUDGE LEONCIO M. JANOLO, JR. GRAVELY ABUSED HIS DISCRETION TANTAMOUNT TO LACK OR EXCESS OF JURISDICTION BY FIXING THE PHP10,000,000.00 COUNTER-BOND DESPITE THE FACT THAT THE IRREPARABLE DAMAGE TO PETITIONERS AS A RESULT OF DISSOLVING THE WRIT OF PRELIMINARY INJUNCTION IS INCAPABLE OF PECUNIARY ESTIMATION OR COULD NOT BE QUANTIFIED.

III

THE HONORABLE COURT OF APPEALS ERRED AND GRAVELY ABUSED ITS DISCRETION IN OUTRIGHTLY DISMISSING YOUR PETITIONERS PETITION FOR CERTIORARI IN CA-GR SP NO. 95074, AS IT FAILED TO APPLY EXISTING JURISPRUDENCE TO THE EFFECT THAT A MOTION FOR RECONSIDERATION MAY BE DISPENSED WITH WHERE THE CONTROVERTED ACT IS PATENTLY ILLEGAL OR WAS PERFORMED WITHOUT JURISDICTION OR IN EXCESS OF JURISDICTION AS HELD IN HAMILTON VS. LEVY, (344 SCRA 821)

IV

THE HONORABLE COURT OF APPEALS LIKEWISE ERRED AND GRAVELY ABUSED ITS DISCRETION WHEN IT DENIED PETITIONERS' MOTION FOR RECONSIDERATION CLEARLY POINTING OUT TO THE COURT THAT AS AN EXCEPTION TO THE RULE, THE REQUIRED MOTION FOR RECONSIDERATION MAY BE DISPENSED WITH.

At the outset, it must be said that the Writ of Preliminary Injunction dated 13 August 2001 issued by the trial court has not yet been actually dissolved because respondents have not posted the required counter-bond in the amount of P10,000,000.00. The dissolution thereof is primed on the filing of the counter-bond.

Petitioners argue that the trial court abused its discretion when it ordered the dissolution of the Writ of Preliminary Injunction, the propriety of its issuance having been affirmed by both the Court of Appeals and the Supreme Court. There being an Order by this Court that the injunction issued by the trial court was not tainted with grave abuse of discretion, the dissolution of said writ is a clear defiance of this Court's directive.

Respondents, on the other hand, contend that the trial court has the authority and prerogative to set aside the Writ of Preliminary Injunction. They add that since petitioners' Deed of Sale was not duly notarized, the latter's application for preliminary injunction is devoid of factual and legal bases. They assert that, not being public documents, the subject deeds of sale are nothing but spurious, if not falsified, documents. They add that the continuance of the Writ of Preliminary Injunction would cause them irreparable damage because it continues to incur damage not only for the nonpayment of the judgment award (in Civil Case No. 98-791 before the RTC of Makati City, Br. 150), but also for opportunity losses resulting from the continued denial of its right to consolidate title over the levied properties.

There is no dispute that both the Court of Appeals and this Court have ruled that the issuance of the Writ of Preliminary Injunction by the trial court was not tainted with grave abuse of discretion. Respondents tried to undo the issuance of said writ but to no avail. The Resolution on the matter attained finality on 30 July 2005 and an

entry of judgment was made.

This, notwithstanding, respondents filed with the RTC of Pasig City, Branch 264, an Omnibus Motion (To Resolve Motion to Dismiss Complaint and/or Dissolve Injunction) dated 31 January 2006 praying that their Motion for Reconsideration dated 26 February 2001 of the trial court's denial of their Motion to Dismiss which the trial court failed to resolve, be resolved and/or the Writ of Preliminary Injunction previously issued be dissolved. With this Omnibus Motion, the trial court issued the Order dated 13 August 2001 recalling and dissolving the Writ of Preliminary Injunction conditioned on the filing of a P10,000,000.00 counter-bond.

The question is: Under the circumstances obtaining in this case, may the trial court recall and dissolve the preliminary injunction it issued despite the rulings of the Court of Appeals and by this Court that its issuance was not tainted with grave abuse of discretion?

We hold that the trial court may still order the dissolution of the preliminary injunction it previously issued. We do not agree with petitioners' argument that the trial court may no longer dissolve the preliminary injunction because this Court previously ruled that its issuance was not tainted with grave abuse of discretion.

The issuance of a preliminary injunction is different from its dissolution. Its issuance is governed by Section 3,[38] Rule 58 of the 1997 Rules of Civil Procedure while the grounds for its dissolution are contained in Section 6, Rule 58 of the 1997 Rules of Civil Procedure. As long as the party seeking the dissolution of the preliminary injunction can prove the presence of any of the grounds for its dissolution, same may be dissolved notwithstanding that this Court previously ruled that its issuance was not tainted with grave abuse of discretion.

Section 6 of Rule 58 reads:

Section 6. Grounds for objection to, or for motion of dissolution of, injunction or restraining order. - The application for injunction or restraining order may be denied, upon a showing of its insufficiency. The injunction or restraining order may also be denied, or, if granted, may be dissolved, on other grounds upon affidavits of the party or person enjoined, which may be opposed by the applicant also by affidavits. It may further be denied, or, if granted, may be dissolved, if it appears after hearing that although the applicant is entitled to the injunction or restraining order, the issuance or continuance thereof, as the case may be, would cause irreparable damage to the party or person enjoined while the applicant can be fully compensated for such damages as he may suffer, and the former files a bond in an amount fixed by the court conditioned that he will pay all damages which the applicant may suffer by the denial or the dissolution of the injunction or restraining order. If it appears that the extent of the preliminary injunction or restraining order granted is too great, it may be modified.

Under the afore-quoted section, a preliminary injunction may be dissolved if it appears after hearing that although the applicant is entitled to the injunction or restraining order, the issuance or continuance thereof, as the case may be, would cause irreparable damage to the party or person enjoined while the applicant can be fully compensated for such damages as he may suffer, and the former files a bond in an amount fixed by the court on condition that he will pay all damages which the applicant may suffer by the denial or the dissolution of the injunction or restraining order. Two conditions must concur: first, the court in the exercise of its discretion, finds that the continuance of the injunction would cause great damage to the defendant, while the plaintiff can be fully compensated for such damages as he may suffer; second, the defendant files a counter-bond.[39] The Order of the trial court dated 29 April 2006 is based on this ground.

In the case at bar, the trial court, after hearing, found that respondents duly showed that they would suffer great and irreparable injury if the injunction shall continue to exist. As to the second condition, the trial court likewise found that respondents were willing to post a counter-bond which could cover the damages that petitioners may

suffer in case the judgment turns out to be adverse to them. The Order of the trial court to recall and dissolve the preliminary injunction is subject to the filing and approval of the counter-bond that it ordered. Failure to post the required counter-bond will necessarily lead to the non-dissolution of the preliminary injunction. The Order of Dissolution cannot be implemented until and unless the required counter-bond has been posted.

The well-known rule is that the matter of issuance of a writ of preliminary injunction is addressed to the sound judicial discretion of the trial court, and its action shall not be disturbed on appeal unless it is demonstrated that it acted without jurisdiction or in excess of jurisdiction or, otherwise, in grave abuse of discretion. By the same token, the court that issued such a preliminary relief may recall or dissolve the writ as the circumstances may warrant.^[40] In the case on hand, the trial court issued the order of dissolution on a ground provided for by the Rules of Court. The same being in accordance with the rules, we find no reason to disturb the same.

Petitioners contend that the Court of Appeals erred and gravely abused its discretion when it dismissed outright their Petition for Certiorari by failing to apply existing jurisprudence that a motion for reconsideration may be dispensed with where the controverted act is patently illegal or was performed without jurisdiction or in excess of jurisdiction. On the other hand, respondents urge the Court to deny the Petition for Review, arguing that the Court of Appeals properly applied the general rule that the filing of a motion for reconsideration is a condition sine qua non in order that certiorari will lie.

We find petitioners' contention to be untenable.

The rule is well settled that the filing of a motion for reconsideration is an indispensable condition to the filing of a special civil action for certiorari.^[41] It must be stressed that a petition for certiorari is an extraordinary remedy and should be filed only as a last resort. The filing of a motion for reconsideration is intended to afford the trial court an opportunity to correct any actual error attributed to it by way of re-examination of the legal and factual issues.^[42] By their failure to file a motion for reconsideration, they deprived the trial court of the opportunity to rectify any error it committed, if there was any.

Moreover, a perusal of petitioners' petition for certiorari filed with the Court of Appeals shows that they filed the same because there was no appeal, or any plain, speedy and adequate remedy in the course of law except via a petition for certiorari. When same was dismissed by the Court of Appeals for failure to file a motion for reconsideration of the trial court's Order, they argue that while the filing of a motion for reconsideration is a sine qua non before a petition for certiorari is instituted, the same is not entirely without exception like where the controverted act is patently illegal or was performed without jurisdiction or in excess of jurisdiction. It was only when the Court of Appeals dismissed their Petition did they argue that exceptions to the general rule should apply. Their invocation of the application of the exceptions was belatedly made. The application of the exceptions should be raised in their Petition for Certiorari and not when their Petition has already been dismissed. They must give their reasons and explain fully why their case falls under any of the exceptions. This, petitioners failed to do.

Petitioners' argument that they filed the Petition for Certiorari without filing a motion for reconsideration because there is no appeal, or any plain, speedy and adequate remedy in the course of law except via a Petition for Certiorari does not convince. We have held that the "plain" and "adequate remedy" referred to in Section 1, Rule 65 of the Rules of Court is a motion for reconsideration of the assailed Order or Resolution.^[43] The mere allegation that there is "no appeal, or any plain, speedy and adequate remedy" is not one of the exceptions to the rule that a motion for reconsideration is a sine qua non before a petition for certiorari may be filed.

All told, we hold that the act of the trial court of issuing the Order dated 29 April 2006 was not patently illegal or performed without or in excess of jurisdiction. The Court of Appeals was correct in dismissing outright petitioners' Petition for Certiorari for failing to file a motion for reconsideration of the trial court's Order.

Our pronouncements in this case are confined only to the issue of the dissolution of the preliminary injunction and will not apply to the merits of the case.

WHEREFORE, all considered, the Petition is hereby DENIED. The Resolutions of the Court of Appeals in CA-GR SP No. 95074 dated 11 July 2006 and 9 October 2006 are AFFIRMED. The Order dated 29 April 2006 of Branch 264 of the Regional Trial Court (RTC) of Pasig City in Civil Case No. 68088 recalling and dissolving the Writ of Preliminary Injunction dated 13 August 2001 is AFFIRMED. Upon the posting by respondents of the counter-bond required, the trial court is directed to issue the Writ Dissolving Preliminary Injunction. No costs.

SO ORDERED.

Austria-Martinez, (Acting Chairperson), Tinga[*], Nachura, and Reyes , JJ., concur.

[1] Now Union Bank of the Philippines (rollo, pp. 379-380).

[*]Per Special Order No. 497, dated 14 March 2008, signed by Chief Justice Reynato S. Puno designating Associate Justice Dante O. Tinga to replace Associate Justice Consuelo Ynares-Santiago, who is on official leave under the Court's Wellness Program and assigning Associate Justice Alicia Austria-Martinez as Acting Chairperson.

[2] Penned by Associate Justice (now Presiding Justice) Conrado M. Vasquez, Jr. with Associate Justices Mariano C. del Castillo and Enrico A. Lanzas, concurring; rollo, pp.38-39.

[3] Penned by Hon. Leoncio M. Janolo, Jr.; rollo, pp. 42-49.

[4] Rollo, pp. 40-41.

[5] Id. at 71-73.

[6] Deed of Absolute Sale dated 22 September 1999 between Jimmy Go, as vendor, and Shirley Yap, as vendee, over parcels of land covered by TCTs No. 4621 and No. 52987 in consideration of P4.05 million.

Deed of Absolute Sale dated 15 October 1997 between Jimmy Go, as vendor, and Alfredo Yap, as vendee, over parcels of land covered by TCTs No. PT-66749, No. PT-66751, No. 55469, No. 45229 and No. 36489 in consideration of P3.5 million.

[7] Rollo, pp. 86-90.

[8] Id. at 53-54.

[9] Id. at 50-65.

[10] Id. at 74-85.

[11] Id. at 127-218.

[12] Id. at 129-139.

[13] Id. at 143.

[14] Id. at 144.

[15] Id. at 145-158.

[16] Id. at 159.

[17] Id. at 160-214.

[18] Id. at 215-226.

[19] Id. at 244.

[20] Id. at 245.

[21] Id. at 246.

[22] Id. at 248-252

[23] Law Firm of Valerio Ong Saavedra Vicerra & Protasio.

[24] Rollo, pp. 253-260.

[25] Id. at 261-264.

[26] Id. at 265-275.

[27] Id. at 284-288.

[28] Id. at 299-302.

[29] Id. at 42-49.

[30] Id. at 49.

[31] Id. at 47-49.

[32] Id. at 320-342.

[33] Id. at 343-346.

[34] Id. at 347-351.

[35] Id. at 38-39.

[36] Id. at 352-358.

[37] Id. at 40-41.

[38] Section 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.

[39] *Cafino v. Nicolas*, G.R. No. 137655, August 25, 1999.

[40] *Technology Developers, Inc. v. Court of Appeals*, G.R. No. 94759, 21 January 1991, 193 SCRA 147, 150.

[41] *Acance v. Court of Appeals*, G.R. No. 159699, 16 March 2005, 453 SCRA 548, 558.

[42] *Nisce v. Equitable PCIBank, Inc.*, G.R. No. 167434, 19 February 2007, 516 SCRA 231, 251.

[43] *Flores v. Sangguniang Panlalawigan of Pampanga*, G.R. No. 159022, 23 February 2005, 452 SCRA 278, 282.

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