

LIBERTAD SANTOS, LOURDES SANTOS, LEOVEGILDA SANTOS, AURELIO SANTOS JR., ROSALINDA SANTOS, JAIME SANTOS, AND GERARDO SANTOS, PETITIONERS, VS. THE HON. COURT OF APPEALS, THE HON. ...*G.R. No. 61218. September 23, 1992*

Ponente: BIDIN, J.

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This is a petition for review on certiorari seeking the reversal of: (1) the March 31, 1981 decision of the Court of Appeals* in CA-G.R. No. 10192-SP entitled "Libertad Santos, et al. v. Hon. Jesus M. Elbinias, etc., et al.", affirming the validity of the orders of the Court of First Instance of Bulacan:** (a) dated August 11, 1978 granting the issuance of a writ of preliminary mandatory injunction and (b) dated December 17, 1979 enforcing said writ pending trial and final decision in Civil Case No. SM-922 entitled "Republic of the Philippines v. Libertad Santos, et al.", an action for "Annulment of Title and Reversion, Damages with Prayer for the Issuance of Writ of Preliminary Injunction"; and (2) the resolutions dated July 28, 1981 and May 31, 1982 both denying petitioners' first and second motions for reconsideration.

The antecedent facts, as found by respondent Court of Appeals, are as follows:

"This petition for Certiorari, Prohibition and Mandamus with Preliminary Injunction was spawned by a complaint lodged by respondent Republic of the Philippines in the Court of First Instance of Bulacan, Branch V (Civil Case No. SM-922) against Aurelio Santos, et al., for 'ANNULMENT OF TITLE AND REVERSION, DAMAGES AND WITH PRAYER FOR THE ISSUANCE OF WRIT OF PRELIMINARY INJUNCTION.'"

"The complaint alleged, inter alia, that on September 15, 1911, an agreement to sell Lot 4492 of the Santa Maria Pandi Friar Land Estate in Angat, Bulacan, with an area of 16,088 square meters was executed by the Government of the Philippines, represented by the Director of Lands, in favor of Venancio de la Fuente, as evidenced by Sale Certificate No. 2892. On December 9, 1929, De la Fuente assigned all his rights and interests in said Lot 4492 to Felix Tiongson by Assignment of Sales Certificate No. 2892. Subsequently, a portion of the lot consisting of 12,570 square meters was reacquired by the Government which constructed thereon the Marungko Water Reservoir. Of the remaining portion of said lot consisting of 3,518 square meters, the Bureau of Lands issued on March 17, 1930 to Felix Tiongson Sales Certificate No. 2892-1. On December 16, 1942, Tiongson assigned all his rights and interests over this 3,518 square meter portion to Marcelino Bongco, who, in turn, assigned the same to Aurelio Santos on September 20, 1946. On April 26, 1948, the Secretary of Agriculture and Natural Resources executed a Deed of Sale over the area of 35 ares, 18 centares, or 3,518 square meters of Lot 4492 in favor of Aurelio Santos. On June 15, 1948, the Bureau of Lands transmitted to the Register of Deeds of Bulacan the Deed of Sale for the issuance of the corresponding certificate of title in favor of Aurelio Santos over the area of 3,518 square meters and, accordingly, T.C.T. No. T-2743 was issued on June 28, 1948 by the Register of Deeds to Santos over the area in question. On January 11, 1961, through the Project of Partition in Special Proceedings No. 1170 of the CFI of Bulacan, T.C.T. No.

T-2743 of Aurelio Santos was cancelled and, in lieu thereof, T.C.T. No. T-30791 was issued to him and to his children (now petitioners). On November 7, 1972, Aurelio Santos and his children filed with the CFI of Bulacan a petition entitled 'In the Matter of the Issuance of Another Transfer Certificate of Title covering Lot No. 4492, S.M. de Pandi Estate, Bulacan, with Technical Descriptions in Lieu of TCT No. T-30791 and Correcting Its Area and Civil Status Therefor' wherein they sought the cancellation of their TCT No. T-30791 and to order the Register of Deeds of Bulacan to issue another title 'containing the corresponding technical description and areas as certified by the Bureau of Lands.'

"Plaintiff Republic claimed that Aurelio Santos and his children acted fraudulently and in bad faith in filing their petition of November 7, 1972 because they represented to the Court that they were the owners of the whole of Lot No. 4492 when they knew for a fact that they owned only 3,518 square meters thereof which was the only portion sold by the Government to Aurelio Santos; that defendant Aurelio Santos, acting for himself and in behalf of the other defendants, presented to the Court misleading facts in their aforesaid petition by submitting a technical description of Lot No. 4492 issued by the Bureau of Lands including a report prepared by one Godofredo R. Villasenor of the Land Registration Commission which stated, among others, that 'the correct area (of Lot 4492) is 16,088 square meters as against the erroneous area of 3,518 square meters appearing in Transfer Certificate of Title No. T-30791, Bulacan Registry'; that these documents were procured without defendant Aurelio Santos first informing the Government offices of the fact that what was assigned or ceded to him was the property described in Sales Certificate No. 2892-1 covering an area of 3,518 square meters only and that an area of 12,570 square meters of said Lot 4492 was segregated and reverted to the Government for the construction of the Marungko Water Reservoir; that on February 5, 1974, defendant Register of Deeds, acting upon the order dated January 10, 1974 of the CFI of Bulacan, issued to defendant Aurelio Santos and his children, TCT No. T-193403 already showing that what was owned by the registered owners was the whole of Lot No. 4492 with an area of 16,088 square meters instead of 3,518 square meters only, thereby including in the title the portion covered by the Marungko Water Reservoir; that TCT No. T-193403 was illegally and erroneously issued and, being null and void, should be cancelled and the area of 12,570 square meters should be segregated as it belongs to the Government; and that unless said defendants were restrained from further occupying and asserting rights of ownership over the area in question, social unrest would ensue and undermine the Government's effort to maintain peace and order in the locality.

"On August 11, 1978, the Court a quo issued the following:

'O R D E R

WRIT OF PRELIMINARY MANDATORY INJUNCTION

"The proceedings today is on the petition for writ of preliminary mandatory injunction. The plaintiff was represented by Atty. Adolfo Garcia.

"The solicitor, to sustain the plaintiff's motion, presented exhibits from Exhibit 'AG'" to Exhibit 'Q-3,' inclusive. The defendants, thru counsel, introduced Exhibits '1', '2' and '3', inclusive.

"Counsel for the defendants manifested that he was agreeable to the issuance of a writ of preliminary mandatory injunction ordering the defendants to allow plaintiff to open the two gates of the subject water dam to allow the water free flow and to further allow the plaintiff to utilize and/or repair the existing canals constructed by the Government relative to the subject water dam provided that no additional canal or work be made on the property of the defendants. The Solicitor joined in the said motion.

"WHEREFORE, a writ of preliminary mandatory injunction is hereby issued ordering all the defendants herein as to jointly and severally allow the plaintiff to open the two gates adverted to by their counsel, and to further allow the plaintiff to utilize and/or repair the existing canals for a free water flow from the subject reservoir; and that all

these defendants are hereby enjoined from doing any act or thing by any third party to disturb the status quo as of today and/or to defeat the objective sought to be achieved by the herein writ.

"The Solicitor is hereby urged to caution the representatives of plaintiff and/or any private persons acting in behalf of plaintiff to proceed peaceably with their act or work under the terms and conditions of this writ in view of the apprehensions expressed by counsel for defendants over the possibility of violence that may be inflicted on the persons of the defendants.

"Upon this motion, counsel for the defendants is hereby given additional 10 days from today within which to file his answer to the petition, there being no objection from the Solicitor.

"The pre-trial of this case is hereby set to October 11, 1978." (Annex "B", Rollo, p. 25). (Emphasis supplied)

"On July 24, 1979, the defendants (now petitioners) moved to dissolve the writ of preliminary mandatory injunction contending that its purpose was to regulate the use and appropriation of water accumulated in Lot 4492 and ultimately to settle the water dispute between the parties over said property; that upon the promulgation of Presidential Decree No. 1067 (Water Code) on December 31, 1976, which pertinently provide that:

'ART. 88. The Council shall have original jurisdiction over all disputes relating to appropriation, utilization, exploration, development, control, conservation and protection of waters within the meaning and context of the provisions of this Code.'

jurisdiction to settle water rights became vested in the National Water Resources Council; and that therefore, the Court a quo, having no jurisdiction to settle water rights, could not issue a preliminary mandatory injunction on the use and appropriation over water rights.

"On August 22, 1979, the Solicitor General filed his opposition to the defendants' motion alleging that a cursory reading of the complaint revealed that the action was one for cancellation of title over a portion comprising 12,570 square meters of Lot 4492 which portion is known as the Marungko Water Reservoir, and the reversion thereof to the Government; that the purpose of the writ was to allow the Government to open the two gates and to utilize or repair the existing canals for a free water flow from the Government-built reservoir which purpose was neither to regulate the use and appropriation of the waters allegedly accumulated in Lot 4492 nor to ultimately settle the water dispute between the parties but only to enable the Government to open the two gates and to utilize or repair the existing canals from the reservoir; that the case of Abe-Abe, et al. vs. Judge Mante, et al., cited by defendants finds no application in the instant case which does not involve the settlement of water rights under the Water Code and Presidential Decree No. 424; and that defendants' motion was a calculated strategy to delay the early termination and adjudication of the case.

"On December 6, 1979, plaintiff Republic filed a Manifestation and/or Motion alleging that it had repaired the existing canal's portion outside Lot No. 4492 going towards the Marungko Reservoir itself, and that it would undertake the repair of the existing canal's portion inside Lot No. 4492 held by the defendants; that to repair such portions of the existing canals inside the lot, it sought security from the police addressing a letter-request to the Station Commander (Integrated National Police) of Angat, Bulacan, and that instead of providing security, the Station Commander referred the matter to defendants' counsel; and that the Station Commander should be ordered to obey the writ of preliminary injunction and to provide the requested security.

"On December 17, 1979, the Court a quo issued the following:

'O R D E R

"Plaintiff's motion to admit opposition is granted and therefore the motion to dismiss is deemed submitted for resolution.

"Plaintiff's manifestation and motion regarding enforcement of the writ of preliminary mandatory injunction is also granted. Therefore, the Station Commander of Angat is hereby ordered to provide police security when plaintiff or its agents repair the existing canal inside Lot 4492, and defendants and/or persons acting in their behalf are hereby ordered to obey the subject writ by allowing plaintiff to utilize and/or repair the existing canals for a free water flow from the subject reservoir. All concerned are hereby warned to comply under pain of contempt.'" (Annex "F", p. 39, Rollo). (Rollo, pp. 100-105).

Petitioners assailed the foregoing order of the court a quo in a petition for certiorari, prohibition and mandamus with preliminary injunction before the Court of Appeals which found no manifest grave abuse of discretion on the part of respondent Judge Jesus M. Elbinias, in issuing the questioned orders and dismissed the petition for lack of merit. Petitioners filed motions for reconsideration of the said decision but were denied on July 28, 1981 and May 31, 1982, respectively.

Hence, this petition.

The Court gave due course to the petition and required the parties to submit simultaneous memoranda in the resolution dated January 10, 1983.

Considering the length of time that this case has been pending with this Court and to determine whether supervening events may have rendered this case moot and academic, the Court required both parties to move in the premises in the resolution dated June 15, 1988. Petitioners manifested that the subject petition has not been rendered moot and academic and the original suit in the Court a quo is still pending proceedings.

Petitioners submit the following legal questions for resolution of the Court:

1. PENDING TRIAL ON THE MERITS AND FINAL DECISION IN AN ACTION FOR ANNULMENT OF TITLE AND REVERSION, CAN THE RESPONDENT TRIAL COURT PROPERLY ISSUE A WRIT OF PRELIMINARY MANDATORY INJUNCTION WHICH IN EFFECT WOULD PREMATURELY DEPRIVE THE PRESENT REGISTERED OWNER/S THEREOF OF THE USE AND ENJOYMENT OF THE DISPUTED PORTION OF THE PROPERTY?
2. CAN THE RESPONDENT TRIAL COURT PROPERLY ISSUE AN ORDER GRANTING THE ENFORCEMENT OF A WRIT OF PRELIMINARY MANDATORY INJUNCTION PRIOR TO THE RESOLUTION OF A PENDING MOTION TO DISMISS AND MOTION TO DISSOLVE WRIT OF PRELIMINARY MANDATORY INJUNCTION?
3. WHERE THERE IS STILL A QUESTION ON WHO HAS THE BETTER RIGHT TO THE USE AND ENJOYMENT OF THE WATER FOUND IN THE DISPUTED PORTION OF THE PROPERTY, CAN THE RESPONDENT TRIAL COURT PROPERLY ISSUE A WRIT OF PRELIMINARY MANDATORY INJUNCTION IN SPITE OF THE CLEAR PROVISIONS OF ARTICLE 88 OF PRESIDENTIAL DECREE NO. 1067 VESTING EXCLUSIVE JURISDICTION THEREOF TO THE WATER COUNCIL CREATED UNDER SAID LAW?

The petition is devoid of merit.

It is undisputed that the main cause of action in the court a quo is one for annulment of title and reversion to the Government of a 12,570 square meters lot covering the Marungko Water Reservoir alleged to have been illegally and erroneously titled in the name of petitioners. A writ of preliminary mandatory injunction was sought to

restrain the latter from further occupying and asserting rights of ownership over the area in question to prevent social unrest in the community caused by the deprivation of the public use and enjoyment of the waters from the Marungko Reservoir, and to aid the Government in maintaining peace and order in the locality.

The assignments of error raised by petitioners in this petition are anchored on two basic arguments, namely: (1) that the court a quo lacks jurisdiction on the ground that the suit involves water rights properly within the jurisdiction of the Water Council created under Presidential Decree No. 1067, and (2) the issuance by the court a quo of the writ of preliminary mandatory injunction is premature and improper.

I.

The Court of First Instance (now Regional Trial Court) has jurisdiction actions for annulment of title, reversion and damages (*Heirs of Tanak Pangawaran Patiwayan v. Martinez*, 142 SCRA 252 [1986]). The nature of an action in court is determined by facts alleged in the complaint (*Malayan Industries Corporation v. Judge Mendoza*, 154 SCRA 548 [1987]; *Alger Electric Inc. v. Court of Appeals*, 135 SCRA 37 [1985]; *Cultura v. Tapucar*, 140 SCRA 311 [1985], *Municipality of La Trinidad v. CFI Baguio-Benguet, Br. I*, 123 SCRA 81 [1983]) and not by the facts averred in the answer or opposition of the adverse parties (*Salao v. Crisostomo*, 138 SCRA 17 [1985]).

In the case at bar, the complaint of the Republic is for cancellation of title over a portion of 12,570 square meters of Lot No. 4492 of the Sta. Maria de Pandi Estate, known as the Marungko Water Reservoir, and the reversion thereof to said respondent. The complaint contains factual allegations sufficient to support its prayer for the annulment of petitioners' title to Lot 4492, and for the reversion of the portion of said lot covered by the Marungko Water Reservoir to the Government. The suit clearly involves title to, and possession of real property, exclusive original jurisdiction over which is conferred upon the Regional Trial Courts under Section 19(2) of *Batas Pambansa Blg. 129*, Formerly Sec. 44(b), Rep. Act 296. As such, the court a quo has jurisdiction over the action for annulment of title and reversion filed by the Government.

Article 88 of Presidential Decree No. 1067 (Water Code) speaks of limited jurisdiction conferred upon the National Water Resource Council over all disputes relating to appropriation, utilization, exploitation, development, control, conservation and protection of waters and said jurisdiction of the council does not extend to, much less cover, conflicting rights over real properties, jurisdiction over which is vested by law with the regular courts. Where the issue involved is not on a settlement of water rights dispute, but the enjoyment of a right to water use for which a permit was already granted, the regular court has jurisdiction over the dispute, not the National Water Resources Council (*Amistoso v. Ong*, 130 SCRA 228, 237 [1984]).

II.

Petitioners' contention that a preliminary injunction may not issue prior to resolutions of pending motions to dismiss and dissolve aforesaid writ, trial on the merits and final decision in an action for annulment of title and reversion, is not tenable.

Preliminary injunction is an ancillary remedy which the parties litigant may avail of in order to preserve or protect their rights or interests, during the pendency of the principal action (*Calo and San Jose v. Roldan*, 76 Phil. 447 [1946]; *Rosario v. Cuneta*, 150 SCRA 575 [1987]).

The Solicitor General took the position which was correctly sustained by the Court of Appeals that the allegations in the complaint regarding the appropriation or use of water in the Marungko Water Reservoir located inside Lot 4492 for which injunctive writ was issued are incidental matters that have no bearing with the main cause of action which is the assertion of ownership over the land in question and its reversion to the public domain.

As expressly authorized by Section 1, Rule 58 of the Rules of Court, it is indubitable that a writ of preliminary injunction may be issued at any time after the commencement of an action and before judgment, when it is established that the plaintiff is entitled to the relief demanded and only when his complaint shows facts entitling him to such relief (*Angela Estate, Inc. v. CFI of Negros Occidental*, 24 SCRA 509 [1968]; *Rosauro v. Cuneta*, supra).

The general rule that injunctions are not available to take property out of the possession or control of one party and place it into that of another is not without any exceptions, as where: (1) the applicant has clearly established its rights to the property in question, and (2) the defendant is clearly a mere intruder, or (3) where the action seeks to prevent a purchaser at an auction sale from molesting the debtor's co-owners whose rights have not been affected by the sale (*Emilia v. Bado*, supra; *Angela Estate, Inc. v. CFI of Negros Occidental*, supra; *Pio v. Marcos*, 56 SCRA 753 [1974]; *Buayan Cattle Co., Inc. v. Quintillan*, 128 SCRA 276 [1984]; *Rivera v. Florendo*, 144 SCRA 643 [1986]; *Rosauro, et al. v. Cuneta*, 151 SCRA 575 [1987]; *Ortigas & Company, Limited Partnership v. Judge Ruiz*, 148 SCRA 336 [1987]).

In the case at bar, it can be gleaned from the questioned order dated August 11, 1978, that the trial court gave both parties the opportunity to be heard as they introduced evidence on the propriety of the issuance of the injunctive writ. It is well-settled that no grave abuse of discretion could be attributed to a judge or body in the issuance of a writ of preliminary injunction where a party was not deprived of its day in court as it was heard and had exhaustively presented all its arguments and defenses (*National Mines and Allied Workers Union (NAMAWEMIF) v. Valero*, 132 SCRA 578 [1984]).

Similarly, the records show that all the requisites for the proper issuance of a mandatory injunction such as: (a) that the invasion of the right is material and substantial; (b) the right of a complainant is clear and unmistakable; and (c) there is an urgent and permanent necessity for the writ to prevent serious damage (*Rivera v. Florendo*, 144 SCRA 643 [1986]), have been fully satisfied in this case.

The government's title to the property in question has been shown to be clear, well-defined and certain and that there is an urgent need for its issuance in order to prevent social unrest in the community for having been deprived of the use and enjoyment of waters found in the reservoir located in the subject premises.

In fact, counsel for the petitioners agreed to the grant of the questioned writ of injunction but later made a complete turnabout impugning the same and claiming that the court had no jurisdiction over the subject matter. Unquestionably, petitioners are now estopped to question said issuance after submitting to the jurisdiction of the court by their expressed conformity given through their counsel. Indeed, a party can not adopt inconsistent positions (*Republic v. Court of Appeals*, 133 SCRA 505 [1984]). The doctrine of estoppel bars a party from trifling with the courts (*Depositario v. Hervias*, 121 SCRA 756 [1983]).

WHEREFORE, premises considered, the instant petition is hereby DENIED for lack of merit, the assailed order of the court a quo dated August 11, 1978 is AFFIRMED, and the instant case is hereby remanded to the lower court for further proceedings. Costs against petitioner.

SO ORDERED.

Davide, Jr., Romero, and Melo, JJ., concur.
Gutierrez, Jr., J., (Chairman), on official leave.

* Penned by Justice Porfirio V. Sison, concurred in by Justices Elias B. Asuncion and Juan A. Sison

** Penned by Hon. Jesus M. Elbinias, then Presiding Judge, CFI of Bulacan, Branch V.

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