

BENGUET CORPORATION, INC., PETITIONER, VS. COURT OF APPEALS (NINTH DIVISION), VICTOR LA'O, CECILIA LA'O, ELVIRA LA'O, AND PERU REALTY CORPORATION, RESPONDENTS.

G.R. No. 80902. August 31, 1988

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

A special civil action for Certiorari with preliminary injunction and restraining order to annul and set aside the Orders, dated 23 October 1987 and 18 November 1987, of the Ninth Division of respondent Court of Appeals[1] denying petitioner's "Urgent Motion for Transfer of Case."

Briefly, the background facts, for purposes of this case, may be stated as follows:

- On 30 January 1978, Peru Realty Corporation (PERU) sold to petitioner BENGUET for P6,341,000.00 a property registered in its name located at No. 2 Bauhinia Road, Forbes Park, Makati (the Disputed Property), with the right to repurchase up to August, 1981. The sale was further subject to the right of respondents La'o to reside in the property for the duration of the repurchase period. Fernando G. La'O is the President of PERU.
- On 3 November 1981, due to the failure of PERU to repurchase within the redemption period, BENGUET filed a Complaint with the Court of First Instance of Rizal at Pasig, Branch XXIV, against PERU and the La'Os, for consolidation of ownership over the Disputed Property, docketed as Civil Case No. 43502 (the Consolidation Case).

2.1.

On 2 March 1982, the parties submitted a Compromise Agreement in the Consolidation Case, the salient conditions of which were (1) extension of the repurchase period to 2 August 1982; (2) BENGUET's right to automatically consolidate title in case of failure to exercise the repurchase option on or before said date; and (3) obligation of the La'Os to vacate the premises without any need for a Court Order.

2.2.

On 17 March 1982, the Court rendered a Decision approving the Compromise Agreement.

2.3.

Within the stipulated extended period, PERU again failed to redeem the Disputed Property. Accordingly, the titles covering the property in the name of PERU were cancelled and TCT Nos. 117480 and 117481 were issued in the name of BENGUET.

2.4.

With BENGUET as the new owner, the La'Os leased the Disputed Property from BENGUET at a monthly rental of P5,000.00 for the period 1 May 1983 to 31 July 1983. The La'Os promised to vacate on 8 August 1983.

2.5.

Came the self-imposed deadline but the La'Os did not vacate the Disputed Property.

- On 29 November 1983, PERU and the La'Os filed Civil Case No. 5815 before the Regional Trial Court, Makati, against BENGUET for annulment of contract with damages. Among the reliefs prayed for was the reconveyance of the Disputed Property and the issuance of a Writ of Preliminary Injunction enjoining BENGUET from interfering with their occupation of the Disputed Property (the Reconveyance Case).

3.1.

That Writ of Preliminary Injunction was subsequently issued.

3.2.

On 10 December 1984, BENGUET applied for a Writ of Preliminary Mandatory Injunction ordering the La'Os to vacate the Disputed Property and dissolve the Writ of Preliminary Injunction issued in PERU's favor.

3.3.

After some intervening incidents, on 26 February 1987, a Writ of Preliminary Mandatory Injunction was issued in favor of BENGUET, ordering PERU and the La'Os to vacate the Disputed Property and to turn over possession to BENGUET. The Deputy Sheriff of Branch 56, Regional Trial Court at Makati, was directed to implement the Writ and to cause eviction of the La'Os from the premises.

- In the meantime, on 24 October 1986, and while the Reconveyance Case (Civil Case No. 5815) was still pending, PERU and the La'Os filed with the Court of Appeals an original Petition for "Declaration of Nullity of Judgment and/or Annulment thereof" wherein they prayed that the Decision based on the Compromise Agreement in the Consolidation Case (Civil Case No. 43502) be declared null and void ab initio. Said case was docketed as CA-G.R. SP No. 10387 and assigned to the 10th Division (The 10th Division Case).[2] An amended Petition was filed on 7 March 1987 to include the Presiding Judge of Branch 56.

4.1.

On 11 March 1987, the 10th Division, acting on the Urgent Motion filed by PERU, issued a Resolution temporarily restraining implementation of the Preliminary Mandatory Injunction issued by the Trial Court in the Reconveyance Case (Civil Case No. 5815) on 26 February 1987.

4.2.

On 29 May 1987, the 10th Division rendered its Decision dismissing the Amended Petition for Declaration of Nullity of Judgment filed by PERU and the La'Os and set aside all Restraining Orders previously issued by it.

4.3.

On 22 June 1987, PERU moved for reconsideration of the Decision, which Motion is still pending resolution before the 10th Division.

4.4.

On 18 June 1987, pursuant to the 10th Division Decision of 29 May 1987, BENGUET filed in the Reconveyance Case (Civil Case No. 5815) an “Ex-parte Motion to Proceed with the Implementation of the Writ of Preliminary Mandatory Injunction” of 26 February 1987 and for the appointment of a Special Sheriff. On 18 June 1987, Judge Zosimo Angeles, to whose Sala the case was re-assigned granted said ex-parte Motion.

4.5.

The Sheriff sought to implement the Writ of Preliminary Mandatory Injunction but was refused entry inside the Disputed Property.

4.6.

On 22 June 1987, BENGUET filed an ex-parte Motion for a Break-Open Order, which was granted and enforced by the Deputy Sheriff on 3 October 1987. A turn-over of possession was made by said Sheriff on the same day.

- On 5 October 1987, PERU and the La’Os filed before respondent Court of Appeals a Petition for “Certiorari and Prohibition with Preliminary Injunction and/or Restraining Order” against BENGUET, Judge Zosimo Angeles, and the Deputy Sheriff, which Petition was assigned to the 9th Division (CA. G.R. SP No. 12964).

5.1.

On the same date, the 9th Division issued a Resolution which, inter alia, reads thus:

“Meanwhile pending a full consideration of the issues raised herein, the parties are required to maintain, the status quo and to refrain from carrying out the questioned order of the trial court of breaking open the door of petitioners’ residence at No. 2 Bauhinian Road, Forbes Park, Makati, Metro Manila until after the trial court has finally resolved the petitioner’s motion set for hearing on 7 October 1988.” (p. 7, Rollo)

5.2.

On 20 October 1987, BENGUET filed an Urgent Motion for Transfer of the 9th Division Case (CA. G.R. SP No. 12964) to the 10th Division.

5.3.

On 23 October 1987, the 9th Division denied the transfer in a Resolution reading:

“We find, however, as admitted by respondent itself that the tenth (10th) division of this Court on May 29, 1987 had dismissed the petition in that case. That being so, that case is not anymore pending before this court, hence, it would be improper to merge this case with another one already decided.

“The pretensions of private respondent cannot be given due course by us.

“Wherefore, subject motion denied.

“So ordered.” (p. 8, Rollo)

5.4.

On 18 November 1987, the 9th Division denied BENGUET's Urgent Motion for Reconsideration.

Assailing the aforesaid 9th Division Orders of 23 October and 18 November 1987, BENGUET filed, on 15 December 1987, this Petition for Certiorari with Preliminary Injunction and Restraining Order, adducing the following Arguments:

"I

The Honorable Court of Appeals Ninth Division committed grave abuse of discretion amounting to lack of jurisdiction in denying the motion for transfer of case.

"II

Refusal to transfer case despite meritorious grounds to do so is indicative of the undue interest of the Honorable Justices in the case at bar.

"III

The refusal to transfer case to the Tenth Division would work grave injustice to petitioner and there is no appeal, and no other speedy, adequate, and sufficient remedy available to petitioners in the ordinary course of law.” (pp. 8-9, Rollo)

On 6 January 1988, upon BENGUET's Urgent Supplemental Motion, we issued a Temporary Restraining Order enjoining respondent 9th Division of the Court of Appeals from rendering a decision on the merits.

On 11 July 1988, after four (4) Motions for Extension, with a fifth Motion having been denied, private respondents filed their Comment.

We resolved to give due course.

The issue before us is whether or not respondent Court of Appeals, 9th Division, can be faulted with grave abuse of discretion in denying BENGUET's Motion to Transfer Case No. CA-G.R. SP No. 12964 to the 10th Division.

We are constrained to rule in the affirmative.

- Although the 10th Division had already dismissed the case before it in its Decision of 29 May 1987, PERU's Motion for Reconsideration filed on 22 June 1987 was still pending thereat when the Motion to Transfer Case was filed on 20 October 1987 and is still so pending. That factor, although brought to the attention of the 9th Division, was not duly considered by it.
- The matter elevated to the 9th Division, namely, the implementation of the Writ of Preliminary Mandatory Injunction with Break-open Order issued by the Trial Court on 29 September 1987 in favor of BENGUET in the Reconveyance Case (Civil Case No. 5815) was a consequence of the very Decision rendered by the 10th Division. It was, therefore, properly within its competence being intimately related to the very issues raised and resolved by said Division.
- The rationale for consolidation is to have all cases intimately related acted upon by one Court/Division to avoid the possibility of conflicting decisions in cases involving the same facts and common questions of law. The cases before the 10th Division and the 9th Division of the Court of Appeals are two (2) such intimately and substantially related cases. Consolidation being called for it cannot be justifiably argued, as private respondents do, that BENGUET is estopped from pleading for such consolidation. To deny the transfer could lead to further protracted litigations to the detriment of the efficient and effective determination of actions and proceedings.

ACCORDINGLY, Certiorari is granted. The Resolutions, dated 23 October 1987 and 18 November 1987 of the Court of Appeals, 9th Division, are hereby SET ASIDE. Case No. CA-G.R. SP No. 12964 of the 9th Division is hereby ordered transferred to and consolidated with CA-G.R. SP No. 10387 of the 10th Division of the same Court. The Temporary Restraining Order heretofore issued is hereby made permanent.

SO ORDERED.

Padilla, Sarmiento, and Regalado, JJ., concur.
Paras, J., took no part.

[1] Composed of Justices Jose C. Campos, Jr., Chairman, Gloria C. Paras and Conrado T. Limcaoco, Members.

[2] Composed of Justices Serafin S. Camilon, Chairman, Ricardo L. Pronove, Jr. and Bonifacio A. Cacdac, Jr., Members.

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