

HUGO RAMOS, PETITIONER, VS. THE HONORABLE COURT OF APPEALS, HONORABLE ZOTICO A. TOLETE, PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF BULACAN, BRANCH 18, RUFINO, RUFINA, LIGAYA...*G.R. No. 81354. July 26, 1988*

Ponente: SARMIENTO, J.

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The Court dismisses this petition for the review of the decision of the Court of Appeals sustaining certain orders of the Regional Trial Court of Bulacan (Branch 18), four in number, in Civil Case No. 7201-M of said trial court, an action to recover possession of a 111,978-square meter fishpond located in Malolos, Bulacan. The facts are not controverted.

Rufino Clemente, Rufina Clemente, Ligaya Clemente, Francisco Clemente, Erlinda Clemente, Ofelia Quinto, and Medolina Quinto were the co-owners of said fishpond under Transfer Certificate of Title No. T45080. Sometime in January, 1971, they executed a contract of lease over the same in favor of the petitioner, together with Mamerto Borlongan and Honesto Bernal, for a period of ten years, or until January, 1981. Subsequently, it was extended to three more years, or until January, 1984.

On March 15, 1975, the Quintos executed a KASUNDUAN NG SANLAAN NA MAYROONG PAGBIBILE (Real Estate Mortgage With Sale) over their 7/14 share therein in favor of the petitioner. On May 1, 1979, Medolina alone conveyed her 1/4 participation in favor of the petitioner pursuant to a KASUNDUAN NG PAGPAPATIBAY NG BILIHANG PATULUYAN.

The petitioner alleges that sometime in 1981, Lourdes Bernal, niece of Honesto Bernal, "illegally took material and physical possession of the entire leased fishpond." [1] Thereafter, he instituted Civil Case No. 7201-M.

Pending proceedings, the trial court issued a writ of preliminary injunction directed against said Lourdes Bernal. Bernal elevated the incident to the Court of Appeals on certiorari. The Appellate Court set aside the writ. Upon remand, the lower court issued the challenged orders restoring Bernal in possession.

The petitioner invokes in this Court the twin KASUNDUANs to defeat Bernal's claim. He submits that said agreements are "supervening" [2] causes that render restoration (of Bernal) inequitable.

As the Court stated at the outset, the petition faces a dismissal.

The restoration assailed, as the lower court has declared, is the simple consequence of the dissolution of the writ of injunction decreed by the Court of Appeals. In other words, Bernal is being replaced in possession not because the lower court has finally ruled that she is entitled thereto, but in order simply to maintain the status quo.

The dissolution of the writ of injunction, it must be noted, was fundamentally upon the well-settled principle that injunction does not lie to take property away from one and give it to another. The function of injunction,

generally, is to preserve the status quo ante. The exception is provided in Section 3 of Rule 70, of the Rules of Court,[3] governing forcible entries, in which the court may issue preliminary mandatory injunction, and by Section 9 thereof,[4] involving leases, in which the court may, on appeal, grant similar mandatory injunctive relief. The exception, it should be noted, applies to ejectment cases alone, cases exclusively cognizable by the Municipal Court. It does not apply to the proceeding below, an accion publiciana, jurisdiction over which is vested in the Regional Trial Court.

The fact moreover that the petitioner is in possession of alleged conveyance instruments is not, by itself, an argument to justify Bernal's outright dispossession. Said deeds are matters of evidence that should be presented at the trial. The petitioner commenced Civil Case No. 7201-M to determine precisely the validity of Bernal's claim. The burden therefore rests on his shoulders to prove his allegations. That Bernal had entered into the fishpond "illegally" is, obviously, a conclusion of fact that is yet to be established at the trial.

The KASUNDUANs in question, apart from being evidentiary in character are not necessarily fatal to Bernal's claim. The distinction between the right of possession (jus possessionis) and that of ownership is well-established in this jurisdiction. The owner cannot eject one who holds the property by an independent right of possession, pursuant, say, to a contract of lease. In this case, the petitioner must demonstrate that Bernal is in fact a mere usurper. But he cannot rely on the bare provisions of the KASUNDUANs to oust Bernal from possession. As we have said, the determination of the parties' rights must be threshed out in a trial, the jurisdiction over which is vested in the lower court. We cannot preempt the court's judgment.

The decisions invoked by the petitioner are not applicable. Said decisions concerned execution of judgments, which, although final, may be stayed upon a showing of events transpiring after judgment, making, as a result, execution unjust and equitable. No writ of execution is, however, involved herein. The court has rendered no judgment for either party. When the Court of Appeals ruled that the petitioner was not entitled to injunction, and accordingly dissolved it, it did not rule that Lourdes Bernal had, consequently, the right to the fishpond. In returning said fishpond to Bernal, the trial court, in turn, was merely complying with the decree of the higher court. Neither court, as we said, conveyed the same to Bernal. Both merely restored the parties where they were prior to injunction.

It should likewise be noted that the KASUNDUANs themselves are disputed by Bernal. According to her, the Quintos had merely mortgaged their shares to the petitioner, and pending foreclosure, it cannot be said that he had acquired ownership. In short, the petitioner cannot say that he has a clear right to the fishpond, when that right itself is controverted, to warrant the ejectment of Bernal.

What is plain, finally, is that, assuming that the KASUNDUANs did vest ownership of the fishpond to the petitioner, they vested in him only one-half thereof (consisting of the Quintos' combined shares). He cannot therefore lay claim to all of it.

WHEREFORE, the petition is DISMISSED. The case is REMANDED to the Regional Trial Court of Bulacan, Branch 18 (Civil Case No. 7201-M), for further proceedings.

No cost.

SO ORDERED.

Melencio-Herrera, Paras, and Padilla, JJ., concur.

[1] Rollo, 12.

[2] Id., 16.

[3] The rule states as follows: "The court may grant preliminary injunction, in accordance with the provisions of Rule 58 hereof, to prevent the defendant from committing further acts of dispossession against the plaintiff.

"A possessor deprived of his possession through forcible entry may within ten (10) days from the filing of the complaint present a motion to secure from the competent court, in the action for forcible entry, a writ of preliminary mandatory injunction to restore him in his possession. The court shall decide the motion within thirty (30) days from the filing thereof."

[4] The rule states as follows: "Upon motion of the lessor, within ten (10) days from the perfection of the appeal to the Court of First Instance, the latter may issue a writ of preliminary mandatory injunction to restore the lessor in possession if the court is satisfied that the lessee's appeal is frivolous or dilatory, or that the appeal of the lessor is prima facie meritorious."

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