

ALLURE MANUFACTURING, INC., EDGAR KROHN, JR., AND HON. JOSE P. COSCOLLUELA, JR., AS PRESIDING JUDGE OF REGIONAL TRIAL COURT, BRANCH 146, MAKATI, PETITIONERS, VS. HON. COURT OF A...

G.R. No. 94452. July 16, 1991

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

This is an appeal by certiorari under Rule 45 of the Rules of Court to review and set aside the decision[1] of 28 May 1990 of the Court of Appeals in C.A.-G.R. SP Case No. 09971[2] the dispositive portion of which reads:

"WHEREFORE, the writ of certiorari is hereby GRANTED nullifying the orders of May 27 and September 1, 1986 which authorized the writ of preliminary mandatory injunction in question; meanwhile, the action a quo (Civil Case No. 8993) is ordered to proceed until its final termination. Costs against private respondents Allure Manufacturing, Inc. and Edgar Krohn, Jr."

It must at once be stated that Hon. Jose P. Coscolluela is erroneously included as co-petitioner. He was the Presiding Judge of Branch 146 of the Regional Trial Court of Makati who issued the orders challenged in C.A.-G.R. SP Case No. 09971, is only a formal party therein and, as a Judge, can be represented in this case only by the Office of the Solicitor General,[3] subject however to the exception laid down in *Orbos vs. Civil Service Commission, et al.*, G.R. No. 92561, 12 September 1990.

The facts which gave rise to the institution of C.A.-G.R. SP Case No. 09971 are summarized therein as follows:

"Sometime in 1983, Bank of the Philippine Islands filed a collection suit against spouses Jaime and Ana Marie Miguel, and Filmerco Commercial Co., Inc. Docketed as Civil Case No. 2807, the complaint was raffled to the Regional Trial Court, Branch 147, at Makati, Metro Manila. Since the defendants failed to file their answer, the trial court declared them in default and, accordingly, rendered a judgment by default. The decision became final and executory. So a writ of execution was issued and the notice of levy served on the defendants. On December 3, 1984 the levied properties were sold at public auction. BPI, being the highest bidder, bought the properties; and Sheriff Pioquinto Villapaña issued the corresponding certificate of sale.

Shortly before the execution sale, i.e., November 13, 1984, herein private respondents Allure Manufacturing, Inc. and Edgar Krohn, Jr., filed the case a quo. It impleaded BPI, Alfonso Verzosa and Sheriff Villapaña as defendants. It was an action for 'recovery of personal properties, annulment of writ of attachment and damages.' Docketed as Civil Case No. 8993, it was raffled to the Regional Trial Court, Branch 146, also at Makati, presided over by respondent Judge.

On May 21, 1985 Allure Inc. and Krohn filed a supplemental complaint in the same action. It included allegations to support a writ of preliminary mandatory injunction, and prayed that the defendants, and another party in the person of Deputy Sheriff Armando de Guzman, be commanded to return to them the properties sold at public auction, particularly the 12 sewing machines, over which they claim ownership.

Meanwhile, BPI sold some of those levied properties to herein petitioner Servicewide Specialists, Inc. This private sale was executed on July 12, 1985 and consisted of the sewing machines in question.

On March 11, 1986 respondent Judge issued an order denying the prayer of Allure Inc. and Krohn for a writ of preliminary mandatory injunction (Record, pp. 257-260). The pertinent portions of that order read as follows:

'This Court, after a careful and thorough review of the pleadings, arguments and authorities invoked on the complicated issues which had cropped up in this case because of the transfer of ownership and possession of the sewing machines which are the subject matter of the original complaint to Servicewide Specialists, Inc., resolves to:

x x x

5) GRANT the Motion to Dismiss the Application for Writ of Preliminary Mandatory Injunction incorporated in the Supplemental Complaint of May 21, 1985, filed on September 13, 1985 by defendants on the ground that the possession of the sewing machines had already passed to third persons, and that injunction is not the proper remedy to take the property out of the possession of Servicewide Specialists, Inc. and to place the same in the possession of plaintiffs whose right of ownership thereto is still being litigated, but to GRANT the prayer in the Omnibus Motion to allow plaintiffs to file a Supplemental Complaint impleading Servicewide Specialists, Inc. and/or Manuel de Leon as additional defendants in this case and, for this purpose, admits the Supplemental Complaint dated September 23, 1985. To enable this Court to acquire jurisdiction over the new defendants, let summons with a copy of the Supplemental Complaint be served upon said new defendants, who are given fifteen (15) days from service of summons to file their responsive pleading to the Supplemental Complaint.

In the meantime, to preserve the status quo between the parties and so as not to multiply, complicate and aggravate the issues raised in this case before the application for the issuance of a writ of preliminary mandatory injunction against the new defendants, the said Servicewide Specialists, Inc. and/or Manuel de Leon are hereby temporarily restrained from transferring or otherwise encumbering the said sewing machines which they bought from defendant Bank of P.I. for a period of twenty (20) days from the date of this Order, or until further orders from this Court.

Set the hearing of the application for a writ of preliminary mandatory injunction as against additional defendants Servicewide Specialists, Inc. and/or Manuel de Leon on March 18, 1986 at 2:00 o'clock in the afternoon. Deputy Sheriff Cristobal Jabson is hereby ordered to personally serve a copy of the summons and the complaint and a copy of this Order to said additional defendants and to make return thereof as soon as possible. Furnish copies of this Order to plaintiffs and the other defendants in this case, through counsel, by registered mail.'

On April 3, 1986 Servicewide Inc. filed its 'answer to supplemental complaint.' And, on April 22, 1986, having been granted five days for the purpose, Servicewide Inc. filed its opposition to Allure Inc. and Krohn's application for a preliminary mandatory injunction.

On May 27, 1986 respondent Judge issued an order granting the writ of preliminary mandatory injunction prayed for by Allure Inc. and Krohn, the decretal portion thereof reading as follows:

'WHEREFORE, upon the posting by plaintiffs of a bond of P80,000.00, which is double the amount paid for by defendant Servicewide Specialists, Inc. to defendant-bank, to be put up by good and sufficient sureties and to be approved by this Court, conditioned that plaintiffs will pay defendant Servicewide Specialists, Inc. whatever damages it may suffer by the issuance of this Order, should it turn out that plaintiffs were not entitled thereto, defendant Servicewide Specialist, Inc. is hereby ordered to turn over the possession of the twelve (12) sewing machines to plaintiffs, to remain therein until further orders from this Court.'

On June 6, 1986 Servicewide Inc. filed an urgent motion for reconsideration grounding it on two propositions: '1. That the said Order is a direct contradiction of the Honorable Court's Order, dated March 11, 1986; and 2. That the Order, dated May 27, 1986 is without any basis in fact and law.' To this, Allure Inc. and Krohn filed their opposition."^[4]

The aforesaid urgent motion for reconsideration was denied by the trial court in the Order of 1 September 1986.^[5]

Servicewide Incorporated then filed with the Court of Appeals a petition for certiorari which was docketed as C.A.-G.R. SP Case No. 09971.

It appears, however, that Filmerco Commercial Co. Inc. and the Spouses Jaime and Ana Maria Miguel filed, on 25 September 1984 in Civil Case No. 2807, a motion to set aside the decision, writ of execution, notice of levy/attachment and to restrain the holding of the auction sale, which was denied by the court in its Order of 26 November 1984. A motion for the reconsideration thereof was filed on 3 December 1984, but before it could be resolved said defendants filed with the then Intermediate Appellate Court a petition for certiorari and prohibition, injunction and temporary restraining order. The Intermediate Appellate Court dismissed the petition and defendants filed with this Court a petition for certiorari which was docketed as G.R. No. 70661.^[6]

In the decision (Second Division) of 9 April 1987 in G.R. No. 70661,^[7] this Court ruled that there was no valid service of summons on the defendants in the aforesaid Civil Case No. 2807 and accordingly decreed:

"WHEREFORE, the instant petition is hereby GRANTED. The lower court's decision in Civil Case No. 2807 is SET ASIDE. The case is remanded to the trial court for proper service of summons and trial."

On 19 May 1987, the respondents in C.A.-G.R. SP Case No. 09971 filed with the respondent Court of Appeals a Manifestation And Motion informing said court of the decision in G.R. No. 70661, to which was attached a copy of the decision.^[8]

On 28 May 1990, respondent Court of Appeals rendered the challenged decision, the dispositive portion of which is quoted in the introductory portion of this Decision.

In nullifying the questioned orders of the trial court granting the issuance of a writ of preliminary mandatory injunction, the respondent Court of Appeals was of the opinion, and so held, that private respondents are not entitled to the writ because (a) they do not have a clear right to the sewing machines in question, for as a matter of fact the trial court even ruled that herein petitioner "appears to be a buyer in good faith" and that "plaintiff and defendant stand on equal footing"; (b) there was no transaction whatsoever between petitioners and private respondents; hence, the former could not have invaded the rights of others; and (c) the effect of the writ is to re-establish and maintain a pre-existing, continuing relationship between the parties; considering that no such relationship existed between them, there was nothing to be re-established.^[9] Accordingly, the conditions for issuance thereof per Manila Electric Railroad and Light Company vs. Del Rosario,^[10] have not been fully met. In said case, this Court held:

"It may be admitted that since an injunction mandatory in its nature usually tends to do more than to maintain the status quo, it is generally improper to issue such an injunction prior to the final hearing; but on the other hand, in cases of extreme urgency; where the right is very clear; where considerations of relative inconvenience bear strongly in complainant's favor; where there is a willful and unlawful invasion of plaintiff's right against his protest and remonstrance, the injury being a continuing one; and where the effect of the mandatory injunction is rather to reestablish and maintain a preexisting continuing relation between the parties, recently and arbitrarily interrupted by the defendant, than to establish a new relation, we hold that the jurisdiction to grant such injunctions undoubtedly exists; and while caution must be exercised in their issuance,

the writ should not be denied the complainant when he makes out a clear case, free from doubt and dispute.”

Moreover, since title to the property in question is already in petitioner's name, having bought said property from BPI, it follows then, per *Palejo vs. Court of Appeals*,^[11] that he former has a better right to possess the sewing machines than the private respondents.^[12] Finally, the invocation of equity by the trial court is unwarranted as adequate remedies under specific legal provisions and settled jurisprudence exist to protect private respondents' right over the sewing machines.”^[13]

Unable to accept said decision, private respondents, as petitioners herein, filed the instant petition on 6 September 1990 alleging, as reason for a review thereof, that the respondent Court of Appeals "committed a grave error of law in finding that Coscolluela abused his discretion, considering that Coscolluela, in his pertinent orders, made it abundantly clear that he was acting as a court of equity" and stating the following as its assigned error:

"The Appellate Court erred when it failed to comprehend that Coscolluela acting as a court of equity, acted judicially in granting a preliminary mandatory injunction, in favor of Allure and against Servicewide.”^[14]

Petitioners openly admit that Judge Coscolluela did not apply the doctrine laid down in *Manila Electric Railroad and Light Co. vs. Del Rosario* but claim, however, that the equitable grounds enunciated by him in the questioned orders bring this case outside thereof. They end their arguments by adverting to the above decision of this Court in G.R. No. 70661 which nullified the decision in Civil Case No. 2807 and conclude that such being the fact, the auction sale of the sewing machines conducted pursuant to the writ of execution in said case was also null and void since no valid writ could have been issued; accordingly, respondent can no longer claim any right on the sewing machines as purchaser thereof from the highest bidder at the auction sale, the BPI.

We required the respondents to comment on the petition.^[15] Private respondent filed its Comment on 20 November 1990^[16] sustaining, by extensively quoting, the challenged decision of the Court of Appeals. As regards the decision in G.R. No. 70661, and the conclusions petitioners had shown therefrom, private respondent claims that petitioner "evades the finding of the Honorable RTC (sustained by the Honorable Court of Appeals) that Servicewide is a purchaser in good faith.”^[17]

In Our resolution of 16 March 1991,^[18] We gave due course to the petition and required the parties to submit their respective memoranda which petitioners complied with on 30 April 1991 and private respondent on 23 April 1991.

We shall first dispose of the issue which arises out of the decision of this Court of 9 April 1987 in G.R. No. 70661. Petitioners fault the respondent Court of Appeals for its failure to consider the same. They postulate that since the decision in Civil Case No. 2807 was nullified by this Court, everything that proceeded therefrom, such as the writ of execution, the levy on execution of the sewing machines, its sale on public auction and its sale by the highest bidder to private respondent, was null and void; consequently, private respondent has no right over, the sewing machines. This is not entirely correct. The validity of the orders of the trial court on the issuance of the writ of preliminary injunction should be decided on the basis of the facts existing at the time they were issued, and not on the basis of the subsequent vicissitudes of Civil Case No. 2807. There can be no dispute that at the time the orders were issued, private respondent had in its favor a contract of sale over the sewing machines executed by BPI which acquired them as the highest bidder in the auction sale. What petitioners should have done upon receipt of the decision in G.R. No. 70661 was to file an appropriate pleading for adequate relief on the basis thereof with the trial court either in Civil Case No. 8993 or in Civil Case No. 2807.

We shall now address the principal issue.

Guided by relevant facts as gathered from the disquisitions of the trial court in its questioned orders of 27 May

1986 and 1 September 1986, the challenged decision of the Court of Appeals, and from the pleadings of the parties, We find that no reversible error was committed by the trial court in granting the issuance of a writ of preliminary mandatory injunction. There was sufficient basis for its issuance. To Our mind, and solely for the purpose of the application for a writ of preliminary injunction, petitioner Allure Manufacturing Inc. was able to preliminarily establish a clear legal right to the sewing machines in question and to have a better right to its possession than private respondent. As found by the trial court, against which nothing to the contrary was presented, said petitioner purchased three (3) of the sewing machines from Garmer Industrial Sewing Machines, while the rest belong to it per Inventory of its property submitted by the accountant. Per the testimony of Jaime Miguel, it appears that the rest were capital contributions of one of Allure's incorporators, Mrs. Maria Adelaide Gonzales Iguaras, a sister of Ana Marie Miguel.[19] The latter is one of the defendants in Civil Case No. 2807. Its claim that the machines were in its possession and used in connection with its business has not been rebutted. Upon the other hand, private respondent purchased the property from BPI, in a private sale, only on 12 July 1985, curing the pendency of Civil Case No. 8993, thereby prompting petitioner Allure to file a supplemental complaint in said case on 23 September 1985 to implead private respondent as party defendant therein. Private respondent unquestionably acquired a property in litigation. Exercise of due diligence would have easily disclosed that its seller acquired the same in an auction sale conducted by the sheriff. In execution sales, the sheriff does not warrant the title to the property sold by him and it is not incumbent on him to place the purchaser in possession of such property. The rule of caveat emptor applies to execution sales.[20]

It is of course well-settled in this jurisdiction that, as a general rule, the writ of injunction is not proper where its purpose is to take property out of the possession or control of one person and place the same in the hands of another where title has not been clearly established by law.[21]

In *Buayan Cattle Co. Inc. vs. Hon. Quintillan, etc. et al.*,[22] We ruled:

"x x x Injunctions are not available to take property out of the possession or control of one party and place it into that of another whose title has not clearly been established (*Emilia vs. Bado*, L-23685, April 25, 1968, 23 SCRA 183; *Pio vs. Marcos*, L-27849, April 30, 1974, 56 SCRA 726). The office of the writ of injunction is to restrain the wrongdoer (*Calo vs. Roldan*, L-252, March 30, 1946, 76 Phil. 445, 451-452), not to protect him.

'There is no power the exercise of which is more delicate which requires greater caution, deliberation and sound discretion, or (which is) more dangerous in a doubtful case than the issuing of an injunction; it is the strong arm of equity that never ought to be extended unless to cases of great injury, where courts of law cannot afford an adequate or commensurate remedy in damages. The right must be clear, the injury impending or threatened, so as to be averted only by the protecting preventive process of injunction' (28 Am. Jur. 201; *Francisco*, supra., p. 179)."

The reason for this doctrine is that before the issue of ownership is determined in the light of the evidence presented, justice and equity demand that the parties be maintained in their status quo so that no advantage may be given to one to the prejudice of the other.[23]

In the instant case, if status quo is to be maintained, in the interest of justice and equity, it is the status quo before the commencement of Civil Case No. 8993, under which possession of the sewing machines was with petitioner Allure. Accordingly, the trial court committed no error in granting the writ.

The arguments of the Court of Appeals vis-a-vis the requirements for the issuance of the writ as laid down in the *Meralco* case are strained and belabored. Firstly, the trial court did not hold that private respondent (petitioner therein) is a "buyer in good faith"; what it said was that it "appears to be a buyer in good faith", which is of course based on the legal presumption of good faith. But that did not concede to private respondent a better right than

Allure. Secondly, the absence of transaction between Allure and private respondent does not negate "wilfull (sic) and lawful (sic) invasion of the right" of Allure by private respondent because invasion does not always presuppose a transactional or contractual relationship between the parties. The existence of a right in favor of one imposes upon others the duty and responsibility to respect it.

WHEREFORE, judgment is hereby rendered GRANTING the petition, SETTING ASIDE the decision of the Court of Appeals of 28 May 1990 in C.A.-G.R. SP Case No. 09971, REINSTATING the Order of the trial court of 27 May 1986 and 1 September 1986 in Civil Case No. 8993, and DIRECTING that the latter be consolidated with Civil Case No. 2807 of Branch 147 of the Regional Trial Court of Makati, Metro Manila, unless the trial in said case has already been concluded.

Costs against private respondent.

SO ORDERED.

Fernan, C.J., Gutierrez, Jr., Feliciano, and Bidin, JJ., concur.

[1] Per Associate Justice Jesus M. Elbinias, concurred in by Presiding Justice Rodolfo A. Nocon and Associate Justice Pedro A. Ramirez.

[2] Entitled Servicewide Specialists, Incorporated vs. Hon. Jose P. Coscolluela, Jr., et al.

[3] Section 35, Chapter 12, Title III of Book IV of the Administrative Code of 1987 (Executive Order No. 292) expressly provides that the Office of the Solicitor General shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation, or matter requiring the service of a lawyer. More relevantly, it shall represent the Government and its officers in the Supreme Court, the Court of Appeals, and all other courts or tribunals in all civil actions and special proceedings in which the Government or any officer thereof in his official capacity is a party.

[4] Rollo. 101-104.

[5] Annex "L" of Petition; Id., 77-80.

[6] Annex "M-1" of Petition; Rollo, 84-96.

[7] Per Associate Justice Hugo E. Gutierrez, Jr., concurred in by Associate Justices Edgardo L. Paras, Abdulwahid A. Bidin and Irene R. Cortes. Then Associate Justice (now Chief Justice) Marcelo B. Fernan and Associate Justice Teodoro R. Padilla took no part.

[8] Annex "M" of Petition; Id., 81-83.

[9] Rollo, 107.

[10] 22 Phil. 433; reiterated in the following cases, also cited by respondent Court of Appeals: Commissioner of Customs vs. Cloribel, et al., 19 SCRA 234; NAMARCO vs. Cloribel, 22 SCRA 1033; Police Commissioner vs. Bello, 37 SCRA 230; De la Cruz vs. Febreo, 82 SCRA 279; Pelejo vs. Court of Appeals, 117 SCRA 665; and Alvaro vs. Zapata, 118 SCRA 722; Id., 106.

[11] No. 60800, 18 October 1982, 117 SCRA 665.

[12] Rollo, 108.

[13] Id.

[14] Rollo, 20-21.

[15] Id., 110.

[16] Id., 123.

[17] Id., 135-136.

[18] Rollo, 162.

[19] Pages 2 and 3 of Comment of Private Respondent, quoting TSN of July 9, 1985, pp. 41-42, Civil Case No. 8993; Rollo, 124-125.

[20] Pabico vs. Ong Pauco, 43 Phil. 572. Article 1547 of the Civil Code also provides that the implied warranties enumerated therein do not apply to, among others, a sheriff professing to sell, by virtue of authority in fact or law, for the sale of a thing in which a third person has a legal or equitable interest.

[21] MORAN, Comments on the Rules of Court, vol. 3, 1980 ed., p., 81, citing a host of cases.

[22] 128 SCRA 276.

[23] MORAN, loc. cit.

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