

**RAVA DEVELOPMENT CORPORATION AND FRABAL FISHING AND ICE PLANT CORPORATION, PETITIONERS-APPELLANTS, VS. HONORABLE COURT OF APPEALS, HONORABLE JUDGE LUCAS P. BERSAMIN OF REGIONAL ...**

*G.R. No. 96825. July 03, 1992*

Ponente: PARAS, J.

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**PARAS, J.:**

This is a petition for review on certiorari, seeking to reverse and set aside the Resolution[1] dated January 8, 1991 of the respondent appellate court in CA-G.R. SP No. 18007 entitled: "Rava Development Corporation and Frabal Fishing and Ice Plant Corporation vs. Hon. Court of Appeals, Hon. Judge Lucas P. Bersamin of RTC of Quezon City, Branch 96 and Wheels Distributors, Inc." which reversed in toto its previous Decision[2] dated March 28, 1990, holding, among others, that courts cannot go beyond the allegations of the complaint in resolving a motion to dismiss grounded on lack of cause of action.

On February 16, 1983, Rava Development Corporation (RAVA, for brevity) and Wheels Distributors, Inc. (WHEELS, for brevity), executed a contract of lease over a parcel of land with existing buildings and improvements thereon, situated at No. 3, Aurora Boulevard, Quezon City, that provides the following stipulations, among others, thus:

"2. This lease shall begin on the 16th day of February, 1983 and shall expire at midnight of the 15th day of February, 1988. This lease shall not be deemed extended beyond that period of time for any cause or reason whatsoever. This lease, however, may be extended for another five (5) years under new and mutually acceptable conditions unless the LESSOR intends to rebuild or sell the property.

Should LESSOR desire to sell the property during the period of this contract, the LESSEE shall have preference to purchase the property subject to terms and conditions as may be mutually agreed upon by them but within a reasonable period. Should the LESSOR sell the property to another, the LESSEE's right to the remaining period under the contract of lease shall be respected." (Rollo, pp. 78-79)

During the existence of said lease, or on August 1, 1985, RAVA and Frabal Fishing & Ice Plant Corporation (FRABAL, for brevity) effected a merger for the purpose of strengthening their economic stability and efficiency (Rollo, pp. 16, 85). As a result of said merger RAVA was absorbed by FRABAL. Consequently, RAVA transferred the leased premises to FRABAL (Ibid., p. 16).

In a letter dated January 4, 1988, FRABAL advised WHEELS that upon the expiration of the lease contract, the monthly rentals shall be pegged at P75,000.00 for the first year, with a 5% yearly escalation that shall take effect for the next four years (Ibid., p. 100). In reply, WHEELS signified its desire to renew the lease contract for another five years, but asserted that a 200% increase in rental is unreasonable and unconscionable. Thus, WHEELS requested for a reconsideration of the proposed increase in rental (Ibid., p. 102).

Three days later, or on February 11, 1988, WHEELS sent a letter addressed to both RAVA and FRABAL, saying that it is exercising its "right of first refusal" under paragraph 2 (2) of the lease contract in view of the transfer of the leased premises from RAVA to FRABAL (Ibid., p. 104).

On February 15, 1988, FRABAL, through a letter, refused the counter proposal of WHEELS to exercise its right of first refusal, alleging that no sale was ever forged between FRABAL and RAVA, and that there was only a mere transfer of assets by virtue of the merger agreement between them. FRABAL likewise made known its stand that since there was no mutual agreement on the increase in rental, it was considering the lease contract to have expired and terminated as of February 16, 1988 (Ibid., p. 107).

On even date, FRABAL likewise sent a letter to WHEELS, saying that the proposed increase in rental is the fair rental value of the property in question based on the assessment of two prestigious real estate appraisers, and that should WHEELS find the initial proposal of P75,000.00 unacceptable, WHEELS could vacate the leased premises (Ibid., 109). For its part, WHEELS, through its counsel, Atty. Victor P. Villanueva, sent a reply, saying that it would seek avenues for the amicable settlement of their misunderstanding (Ibid., p. 346).

On the very last day of the period of lease which fell on February 15, 1988, however, WHEELS filed a complaint against RAVA and FRABAL for specific performance and damages with the Regional Trial Court, Branch 96, Quezon City, docketed as Civil Case No. Q-52907 (Ibid., p. 347).

On February 19, 1988, WHEELS formally notified FRABAL that because of its refusal to accept the monthly rental, it (WHEELS) will be constrained to consign the same in court (Ibid.).

On February 29, 1988, FRABAL, through Atty. Danilo G. Macalino, wrote WHEELS that it was amenable to reduce the monthly rental to P50,000.00 for the first year to be renegotiated after six months and that the said proposal was final and non-negotiable (Ibid.).

In its amended complaint, WHEELS, for its first cause of action, alleged that RAVA has violated the provisions of the lease contract when it (RAVA) transferred ownership over the leased premises to FRABAL without giving it (WHEELS) the opportunity to exercise its right of first refusal; that, for its second cause of action, WHEELS alleged that the rental adjustments proposed by FRABAL are grossly unreasonable, exorbitant and unjust; that, for its third, fourth, fifth and sixth causes of action, WHEELS was claiming for damages, and that, for its seventh cause of action, WHEELS was praying to have the trial court compel RAVA and FRABAL to accept the rentals consigned in court without prejudice to adjustments (Ibid., pp. 127-129).

WHEELS capped its amended complaint by praying for the issuance of a temporary restraining order and writ of preliminary injunction to restrain FRABAL from ejecting it (Ibid., p. 131).

On March 1, 1988, respondent Judge Lucas P. Bersamin issued a temporary restraining order enjoining RAVA and FRABAL from ejecting WHEELS from the leased premises and from filing and pursuing an ejectment case against it. Said order likewise directed RAVA and FRABAL to appear before the court on March 7, 1988 and to show cause why the preliminary injunction sought by WHEELS should not be granted (Ibid., p. 135). On even date, Judge Bersamin likewise issued an order, giving RAVA and FRABAL until March 9, 1989 (should be 1988) within which to file their opposition, together with affidavits, if any, furnishing copies thereof personally upon Atty. Victor Villanueva, counsel for WHEELS, who should then have until March 11, 1988 within which to submit a rejoinder in reply thereto. In the same order, respondent Judge Bersamin set the hearing on the matter to March 14, 1988 (Ibid., p. 349).

During the scheduled hearing of March 14, 1988, respondent Judge Bersamin approved the application of WHEELS for preliminary injunction, the decretal portion of which reads as follows:

"WHEREFORE, let a writ of preliminary injunction issue against the defendants Rava Development Corporation and Frabal Fishing and Ice Plant Corporation, enjoining them from ejecting the plaintiff from the leased premises and commanding them to maintain the status quo during the pendency of the case.

The plaintiff shall file a bond in the amount of P100,000.00 to be subject to the condition that the same shall answer for whatsoever damages the defendants shall sustain by reason of the injunction should the court ultimately find that the plaintiff was not entitled thereto.

The writ of preliminary injunction shall be served by the Deputy Sheriff, Jose G. Martinez, of this Branch.

SO ORDERED." (Ibid., p. 140).

On March 17, 1988, the writ of preliminary injunction was issued, the pertinent part of which reads as follows:

"NOW, THEREFORE, you, the defendants RAVA DEVELOPMENT CORPORATION and FRABAL FISHING AND ICE PLANT CORPORATION, are hereby enjoined from ejecting the plaintiff from the leased premises and commanding you to maintain the status quo during the pendency of this case until further orders from this Court." (Ibid., p. 137).

FRABAL, on the other hand, alleged in its answer with counterclaim that its merger with RAVA did not entitle WHEELS to exercise its right of first refusal as the said merger which was merely an integration of two family corporations, was undertaken several years earlier for legitimate business purposes and not for the purpose of circumventing WHEELS' right of first refusal. It further stressed that the amended complaint states no cause of action; that the lower court had no jurisdiction over the nature of the action and the persons of RAVA and FRABAL; that the lower court had no authority to create a new contract between the parties; and that the action was barred by statute of frauds (Ibid., pp. 144, 146-147).

On April 11, 1988, RAVA and FRABAL moved for the dismissal of the complaint, as well as the lifting of the writ of preliminary injunction on the ground that the respondent judge has no jurisdiction over the nature of, or subject matter of, the action. An opposition was interposed by WHEELS on the ground that jurisdiction over the subject matter is determined by the allegations in the complaint and the same has alleged several causes of action, and that to maintain the status quo during the pendency of the case, the writ of preliminary injunction previously issued should not be lifted (Ibid., p. 352).

On November 25, 1988, respondent Judge Bersamin granted the motion to dismiss filed by RAVA and FRABAL for lack of cause of action in the complaint, and at the same time lifted the writ of preliminary injunction. This prompted WHEELS to move for its reconsideration as well as the reinstatement of the injunctive writ, to which an opposition was filed by RAVA and FRABAL (Ibid.).

On December 20, 1988, the respondent Judge granted WHEELS ex parte motion for the reinstatement of the writ of the preliminary injunction, prompting RAVA and FRABAL to move for its reconsideration (Ibid.).

On May 5, 1989, the respondent judge granted WHEELS' motion for the reconsideration of its order of dismissal dated November 25, 1988, as well as the reinstatement of the writ of preliminary injunction, the dispositive portion of which reads as follows:

"After a due and careful assessment of the respective positions of the parties, and in light of the foregoing fact, the Court hereby, therefore,

1. Grants the Motion for Reconsideration filed last December 14, 1988 and hereby sets aside the Order of November 25, 1988 dismissing the case for lack of cause of action and vacating the writ of preliminary prohibitory injunction issued last March 17, 1988; and

2. Reiterates the Order dated December 20, 1988 reinstating the writ of preliminary injunction issued on March 17, 1988.

SO ORDERED." (Ibid., p. 288).

On July 3, 1989, RAVA and FRABAL filed a petition for certiorari and prohibition with preliminary injunction with the respondent appellate court seeking the annulment of the respondent Judge's orders dated December 20, 1988 and May 5, 1989 for having been issued in grave abuse of discretion amounting to lack of jurisdiction (Ibid., p. 290).

On March 28, 1990, the respondent appellate court rendered a decision granting the petition for certiorari and prohibition, the dispositive portion of which reads as follows:

"WHEREFORE, AND IN VIEW OF THE ABOVE, the instant petition is hereby GRANTED and the impugned Orders dated December 20, 1988 and May 5, 1989 of the respondent Regional Trial Court of Quezon City, Branch 96 are HEREBY ANNULLED and ordered SET ASIDE. No pronouncement as to costs." (Ibid., p. 361).

Upon motion for reconsideration of the foregoing decision filed by WHEELS, the respondent appellate court, in a Resolution promulgated on January 8, 1991, reversed in toto its previous decision dated March 28, 1990, holding, among others, that courts cannot go beyond the allegations of the complaint in resolving the motion to dismiss grounded on lack of cause of action (Ibid., p. 400).

RAVA and FRABAL appealed to this Court by way of certiorari from the above resolution, raising the following assignments of error:

## I

THE HONORABLE COURT OF APPEALS ERRED IN:

- A) UTTERLY DISREGARDING ESTABLISHED JURISPRUDENCE THAT COURTS CAN CONSIDER ALL THE PLEADINGS FILED, INCLUDING ANNEXES, MOTIONS AND EVIDENCE THEN ON RECORD FOR PURPOSES OF RESOLVING A MOTION TO DISMISS BASED ON LACK OF CAUSE OF ACTION; AND
- B) FAILING TO CONSIDER THAT SINCE PETITIONER HAD ALREADY FILED AN ANSWER, THE MOTION TO DISMISS WAS IN ESSENCE A MOTION FOR JUDGMENT BASED ON THE PLEADINGS OR A MOTION FOR PRELIMINARY HEARING ON AFFIRMATIVE DEFENSES.

## II

THE HONORABLE COURT OF APPEALS ERRED IN FAILING TO CONSIDER THAT THE ORDERS OF RESPONDENT JUDGE DATED 20 DECEMBER 1988 AND 5 MAY 1989, WHICH REINSTATED THAT WRIT OF PRELIMINARY INJUNCTION EX PARTE HAD NO FACTUAL NOR LEGAL BASIS IN THAT:

- 1) THE REINSTATEMENT OF THE WRIT OF PRELIMINARY INJUNCTION WITHOUT A HEARING DEPRIVED PETITIONERS OF DUE PROCESS IN DIRECT CONTRAVENTION OF THE CLEAR AND EXPRESS PROVISIONS OF THE RULES OF COURT; AND
- 2) THE REINSTATEMENT OF THE WRIT OF PRELIMINARY INJUNCTION DID NOT MAINTAIN STATUS QUO BUT RATHER IMPOSED A NEW JURIDICAL RELATIONSHIP BETWEEN PETITIONERS AND PRIVATE RESPONDENT.

(Ibid., pp. 32-33).

Anent the first assignment of error, it is the contention of RAVA and FRABAL that it is a well-settled rule that courts must consider all the pleadings filed, including annexes, motions and evidence then on record for purposes of resolving a motion to dismiss based on lack of cause of action. Thus, inasmuch as RAVA and FRABAL had already filed their answer with counterclaim at the time the motion to dismiss was filed with the lower court, then the ruling on the said motion should be likened to a ruling on a motion for judgment based on the pleadings or preliminary hearing on affirmative defenses. In such a case, all pleadings and papers should have been considered. (Ibid., pp. 37-38).

The contention of RAVA and FRABAL is untenable.

The rule is that a defendant moving to dismiss a complaint on the ground of lack of cause of action is regarded as having hypothetically admitted all the averments thereof. The test of the sufficiency of the facts found in a petition as constituting a cause of action is whether or not, admitting the facts alleged, the court can render a valid judgment upon the same in accordance with the prayer thereof (*Consolidated Bank and Trust Corp. v. Court of Appeals*, 197 SCRA 663 [1991]).

In determining the existence of a cause of action, only the statements in the complaint may properly be considered. It is error for the court to take cognizance of external facts or hold preliminary hearings to determine their existence. If the allegations in a complaint furnish sufficient basis by which the complaint can be maintained, the same should not be dismissed regardless of the defenses that may be assessed by the defendants (*supra*).

A careful review of the records of this case reveals that the allegations set forth in the complaint sufficiently establish a cause of action. The following are the requisites for the existence of a cause of action: (1) a right in favor of the plaintiff by whatever means and under whatever law it arises or is created; (2) an obligation on the part of the named defendant to respect, or not to violate such right; and (3) an act or omission on the part of the said defendants constituting a violation of the plaintiff's right or a breach of the obligation of the defendant to the plaintiff (*Heirs of Ildefonso Coscolluela, Sr., Inc. v. Rico General Insurance Corporation*, 179 SCRA 511 [1989]).

Of course, while this Court is very much cognizant of the principle that a motion to dismiss on the ground of failure to state a cause of action stated in the complaint hypothetically admits the truth of the facts therein, the court notes the following limitations: "The hypothetical admission is however limited to the relevant and material facts well pleaded in the complaint and inferences fairly deductible therefrom. The admission does not extend to conclusions or interpretations of law; nor does it cover allegations of fact the falsity of which is subject to judicial notice (*Supra*, citing *v. Banez Electric Light Co. v. Abra Electric Cooperative, Inc.*, 119 SCRA 90 [1982]).

Applying the above principle, it is indubitable that the motion to dismiss filed by RAVA and FRABAL hypothetically admits the facts alleged in the complaint. There is nothing in the complaint which does not deserve admission by the motion since there are no "conclusions or interpretations of law" nor allegations of fact the falsity of which is subject to judicial notice." It is clear that the complaint does no more and no less than state simply that the act of RAVA in transferring and conveying ownership over the leased premises to FRABAL without giving WHEELS the chance to exercise its right of first refusal over the leased premises is a clear violation of the provision (No. 2, 2nd par.) of the lease contract, and that the unilateral adjustment of rentals of FRABAL for the renewed term of the lease as contained in its letter marked "Annex C" is grossly unreasonable, exorbitant and unjust (Rollo, pp. 127-128). The complaint does not explicitly state, much less admit, that a merger between RAVA and FRABAL ever took place during the existence of the lease contract. Thus, the motion to dismiss cannot go beyond the admission of the facts stated and inferences reasonably deductible from the allegations in the complaint. Meanwhile, the sufficiency of WHEELS' cause of action has been shown since,

admitting the facts alleged, a valid judgment can be rendered.

Under the circumstances at bar, the ends of justice will be better served if WHEELS is allowed to prove its allegations in a hearing on the merits. This will be more in consonance with the intent and spirit of the rules (Genizu, et al. v. Henry Sy and Asia Mercantile Corp., 115 Phils. 732 [1962]).

Coming now to the question on the propriety of the issuance of a writ of preliminary injunction, it is a well-settled rule that the sole object of a preliminary injunction, whether prohibitory or mandatory, is to preserve the status quo until the merits of the case can be heard (Avila va. Tapucan, 200 SCRA 148 [1991]). It is usually granted when it is made to appear that there is a substantial controversy between the parties and one of them is committing an act or threatening the immediate commission of an act that will cause irreparable injury or destroy the status quo of the controversy before a full hearing can be had on the merits of the case (Aquino v. Lundok, 184 SCRA 177 [1990]).

Contrary to the position of RAVA and FRABAL, this Court is disposed to sustain the validity of the writ of preliminary injunction in question. As correctly observed by the respondent appellate court, RAVA and FRABAL were never deprived of due process. A careful review of the records reveals that on March 14, 1988, a hearing was conducted by the respondent Judge before ordering the issuance of a writ of preliminary injunction. Despite due notice and their previous manifestation and commitment that they will submit their opposition and supporting affidavits, however, RAVA and FRABAL failed to appear during the hearing. They likewise never submitted any opposition to the application for preliminary injunction (Rollo, pp. 574-575). While it is true that the lower court no longer conducted a hearing when it reinstated the writ which it previously revoked, yet, the undisputable fact remains that RAVA and FRABAL have been afforded the opportunity to oppose the issuance of the writ. What the law abhors is not the absence of previous notice but rather the absolute lack of opportunity to ventilate a party's side (Odin Security Agency v. De la Serna, 102 SCRA 472 [1990]).

Moreover, respondent appellate court, correctly found thus:

"In fine, it is Our considered view that the injunctive writ in question was properly and appropriately issued by respondent Judge to preserve the status quo. The records show that the lease contract provides among others that the lease shall begin on the 16th of February, 1983, and shall expire at midnight of the 15th of February, 1988. The complaint was filed in the morning of February 15, 1988. It is thus clear that the filing of the complaint was still within the original term of the lease contract which was still in force and subsisting under its original terms. In other words, at the time the complaint was filed, the last peaceable and uncontroverted relationship between the parties was that of lessor-lessee." (Rollo, p. 406).

PREMISES CONSIDERED, the instant petition is DENIED for lack of merit.

### **SO ORDERED.**

Narvasa, C.J., (Chairman), Padilla, Regalado, and Nocon, JJ., concur.

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[1] Penned by Associate Justice Fidel P. Purisima and concurred in by Associate Justices Josue N. Bellosillo and Regina G. Ordóñez-Benitez.

[2] Penned by Associate Justice Hector C. Fule and concurred in by Associate Justices Fidel P. Purisima and Regina G. Ordóñez-Benitez.

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