

WILFREDO P. VERZOSA AND PILAR MARTINEZ, PETITIONERS VS. COURT OF APPEALS, HON. NICODEMO FERRER, AND FE GIRON USON, RESPONDENTS

G.R. Nos. 119511-13. November 24, 1998

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

What constitutes the status quo ante in the application of an injunctive writ, in the event a complaint is subsequently amended?

The Case

This is the main question raised in the present Petition for Review seeking to set aside the consolidated January 31, 1994 Decision[1] of the Court of Appeals[2] in CA-GR SP No. 26626 and CA-GR SP No. 27300, which dismissed the petitions in this wise:

"Succinctly put, petitioners have failed to show any grave abuse of discretion, or any act without or in excess of jurisdiction, on the part of respondent judge in issuing the assailed orders.

"WHEREFORE, the instant petitions are hereby dismissed for lack of merit."

Also assailed is the public respondent's February 28, 1995 Resolution[3] denying the Motion for Reconsideration.

Facts of the Case

The undisputed facts, as narrated by the Court of Appeals (CA) and reiterated by petitioners, are as follows:[4]

"Records reveal that Fe Giron Uson is the owner of a parcel of land consisting of 19,955 square meters located at Baquioen, Sual, Pangasinan, covered by O.C.T. No. 12783. She mortgaged the land to Wilfredo Verzosa.

"Fe Uson failed to pay her entire obligation to Verzosa, prompting the latter to have the mortgage foreclosed. On July 21, 1988, the Provincial Sheriff of Pangasinan set the foreclosure sale on August 17, 1988 at 10:00 A.M.

"To prevent the Office of the Provincial Sheriff from proceeding with the foreclosure sale, Fe Uson, on August 12, 1988, filed with the Regional Trial Court, Branch 37, Lingayen, Pangasinan, a complaint against Wilfredo Verzosa and the Provincial Sheriff, docketed as Civil Case No. 16590, for annulment of mortgage with prayer for the issuance of a writ of preliminary injunction.

"On August 22, 1988, defendant Verzosa filed a motion to dismiss the complaint.

"On June 8, 1989, the complaint was dismissed on the ground that it was not personally verified by plaintiff Fe Uson.

"On June 27, 1989, Fe Uson filed a motion for reconsideration which was granted by the court.

"On June 29, 1989, she filed her amended complaint which bears the proper verification.

"Meantime, Verzosa wrote the Provincial Sheriff to proceed with the foreclosure of mortgage.

"Whereupon, Fe Uson, through counsel, wrote the Provincial Sheriff requesting him to discontinue the foreclosure sale in deference to 'the said pending case and to the action to be taken by the Honorable Presiding Judge of the Court.'

"On July 4, 1989, the foreclosure sale was conducted by the sheriff. The property was sold to Verzosa being the highest bidder. Thereafter, the Sheriff's Certificate of Sale was approved by Executive Judge Antonio Belen and issued to Verzosa.

"On September 5, 1989, the trial court issued an order admitting the amended complaint of Fe Uson.

"At this point, Verzosa filed with the Court of Appeals CA-G.R. SP No. 18898 for certiorari. He alleged that the said order, admitting the amended complaint was issued with grave abuse of discretion.

"On June 20, 1990, the Sheriff's Certificate of Sale was registered in the Registry of Deeds of Alaminos, Pangasinan.

"On July 5, 1990, or after the expiration of the redemption period of one year, the defendant Sheriff issued the Sheriff's Final Deed of Sale. Thus, O.C.T. No. 12783 in Fe Uson's name was cancelled and in lieu thereof, T.C.T. No. 11087 was issued in the name of Wilfredo Verzosa.

"On July 12, 1990, Verzosa sold the land to Pilar Martinez. As a result, Verzosa's T.C.T. No. 11087 was cancelled and T.C.T. No. 11107 was issued to Martinez.

"Meantime, on October 16, 1990, or after one year from the filing of Verzosa's petition for certiorari with the Court of Appeals, the said court dismissed the petition, thus sustaining the validity of respondent court's order dated September 5, 1989 admitting Fe Uson's amended complaint.

"On May 20, 1991, Fe Uson filed her second amended complaint impleading as additional defendants the Register of Deeds of Alaminos, Pangasinan and Pilar Martinez and praying, among others, the annulment of the latter's title -- T.C.T. No. 11107.

"On August 20, 1991, upon Uson's application for preliminary injunction embodied in her Second Amended Complaint (which was opposed by Verzosa and Martinez), respondent court issued an order directing the latter to cease and desist from entering, making constructions and performing any act of possession or ownership over the land in question covered by O.C.T. No. 12783, upon posting by plaintiff Uson of a bond of P10,000.00.

"Defendant Martinez filed a motion for consideration which was denied on September 18, 1991.

"On October 30, 1991, after hearing and upon posting of a bond in the amount of P10,000.00 by Uson, respondent Judge issued an order directing defendants Verzosa and Martinez and/or any and other persons acting under their command to desist and cease from entering, intruding and making constructions on the land covered by O.C.T. No. 12783.

"On November 22, 1991, respondent judge, acting on Verzosa's motion for clarification of the order dated September 18, 1991, issued an order to the effect that the status quo being maintained is the possession of plaintiff Fe Uson of the land and that such status quo does not refer to defendant Pilar Martinez being the registered owner of T.C.T. No. 11107."

It should be noted that the Complaint alleged that Private Respondent Uson mortgaged the property to Verzosa for P25,000, and that the remaining unpaid balance was P915.75, an amount she was willing to consign to the trial

court.[5]

Petitioners challenged by certiorari the two orders of the trial court. Because the CA dismissed their petition, petitioners availed themselves of the present recourse.[6]

Public Respondent's Ruling

In dismissing the petition for certiorari, the Court of Appeals held that "the last peaceable uncontested status that preceded the controversy [was] that point x x x when private respondent Fe Uson was the registered owner of the land in dispute mortgaged to petitioner Verzosa. As owner of this property, Fe Uson has every right to protect her rights as such. Clearly, the issuance of the writ would certainly preserve that status quo." [7]

In debunking petitioners' theory that the status quo referred to the period when Martinez had already purchased the property from Verzosa, the Court of Appeals held that "the property was registered in her name two years after the start of the controversy, or when private respondent filed her complaint against Verzosa." [8] Thus, the CA sustained the following findings of the trial court: [9]

"For as long as the instant case (Civil Case No. 16590) remains pending, no act of the defendants subsequent to the filing of this case can make TCT No. 11107 in the name of defendant Pilar Martinez, and the alleged possession of the latter of the property in question, valid and be considered the status quo."

Issues

Petitioners raise the following issues for the consideration of the Court: [10]

"I The Court of Appeals erred in not taking into account or dealing squarely with the nature, effects and proper interpretation and/or application of the doctrine on amendment of pleadings/complaints to the instant case.

II The Court of Appeals erred when it concurred with the Respondent judge that the status quo should be reckoned at the time of the filing of the original complaint.

III The Court of Appeals erred when it completely disregarded the legal implications and effects of foreclosure, foreclosure sale, expiration of the redemption period, the consolidation of ownership to your petitioner and the sale to Pilar Martinez.

IV The Court of Appeals erred when it concurred with the respondent judge in granting an injunction to restrain consummated acts, and in forcing a transfer of possession from Pilar Martinez to private respondent Fe Uson who has not shown her right thereto."

The present controversy hinges on two questions. First, is private respondent entitled to an injunctive writ? Second, what is the status quo ante that the said writ seeks to preserve?

The Court's Ruling

The petition is devoid of merit.

First Issue: Issuance of the Injunctive Writ

Petitioners primarily allege that the injunctive writ was wrongfully issued in favor of private respondent, as the latter had a doubtful, unclear and unadjudicated right for recovery of the property which had been mortgaged, foreclosed and sold to a third party. We disagree.

An injunctive writ may be issued when the following requisites are established:

1. The invasion of the right is material and substantial;
2. The right of complainant is clear and unmistakable;

3. There is an urgent and permanent necessity for the writ to prevent serious damage.[11]

The foregoing requisites are present in this case. The undisputed owner of the property which was mortgaged to Petitioner Verzosa was private respondent who, upon learning of the scheduled foreclosure, immediately filed a Complaint to annul the mortgage, praying that a restraining order be issued to restrain such foreclosure. Private respondent insisted that she had paid her P25,000 debt, except for the remaining unpaid balance of P915.75 which she was willing to consign to the court. In other words, she had title to and possession of the property and she claimed to have paid her obligation, except for the nominal unpaid balance which she was willing to consign judicially. Hence, she had a clear and unmistakable right to protect her title to and possession of the mortgaged property by enjoining the foreclosure sale.

Given the above factual allegations, it is clear that private respondent was entitled to the injunctive writ.

Second Issue: Status Quo Ante

The "status quo" is the last actual peaceful uncontested situation which precedes a controversy, and its preservation is the office of an injunctive writ.[12] Petitioners insist that the status quo refers to the point when Pilar Martinez was already the owner of the property, having purchased it from Verzosa.

We cannot sustain the petitioners, for Martinez' claim to the property is precisely the bone of contention. Private respondent, the original owner of the property, filed a Complaint against Wilfredo Verzosa and the provincial sheriff for the annulment of mortgage and the issuance of an injunctive writ to prevent the foreclosure of the property and the subsequent transfer of ownership. Although the Complaint was subsequently amended, the controversy began when the first Complaint was filed.

Nevertheless, Petitioner Verzosa and the sheriff proceeded with the foreclosure before the filing of the Amended Complaint. Worse, Verzosa sold the property to Martinez one week later. Now, Verzosa and Martinez claim that the status quo to be preserved refers to the time before the filing of the second Complaint and after Martinez had acquired the property from Verzosa.

Petitioners contend that the controversy started only when the Amended Complaint was filed, because the previous Complaints were expunged from the records. Petitioners invoke *Ruymann v. Director of Lands*,[13] in which the Court ruled that the filing of an amended pleading does not retroact to the date of the filing of the original. Citing other jurisprudence, such as *Waje v. Court of Appeals*[14] and *Paradise v. Ng*,[15] petitioners contend that the original pleading is deemed abandoned when it is amended.

The cited cases offer scant support to the thesis of petitioners. In *Ruymann*, the Court held that "an amendment to a complaint which introduces a new or different cause of action, making a new or different demand, is equivalent to a fresh suit upon a new cause of action, and the statute of limitations continues to run until the amendment is filed." [16] In the said case, a complaint for injunction was amended to include a larger tract of land which had not been included in the original suit. The Court held that "the suit will be deemed to have been commenced upon the date of amendment, in determining whether the defendant had acquired title by adverse possession to the portion of the tract of land not included in the original complaint (*Montgomery v. Shaver*, 40 Oregon 244)." [17] It is clear therein that the Complaint was amended to include a new or different cause of action or demand; hence, it was as if a new complaint was filed.

It follows that when the amended complaint does not introduce new issues, causes of action, or demands, the suit is deemed to have commenced on the date the original complaint was filed, not on the date of the filing of the amended complaint. In other words, for demands already included in the original complaint, the suit is deemed to have commenced upon the filing of such original complaint. In short, for purposes of determining the

commencement of a suit, the original complaint is deemed abandoned and superseded by the amended complaint only if the amended complaint introduces a new or different cause of action or demand.

Hence, it has been held that "an amendment which merely supplements and amplifies the facts originally alleged relates back to the date of the commencement of the action and is not barred by the statute of limitations, the period of which expires after service of the original complaint but before service of amendment." [18] It is the actual filing in court that controls and not the date of the formal admission of the amended pleading. [19] The Court in *Republic v. Marsman* [20] elucidated:

"While in the procedural sense, especially in relation to the possible necessity of and time for the filing of responsive and other corresponding pleadings, an amended complaint is deemed filed only as of the date of its admission, xxx, the self-evident proposition [is] that for practical reasons and to avoid the complications that may arise from undue delays in the admission thereof, such an amended complaint must be considered as filed, for the purpose of such a substantive matter as prescription, on the date it is actually filed with the court, regardless of when it is ultimately formally admitted by the court. After all, the only purpose of requiring leave of and formal admission by the court of an amended pleading after issues have already been joined as to the original ones is to prevent the injection of other issues which ought either to be considered as barred already or made the subject of another proceeding, if they are not anyway indispensable for the resolution of the original ones and no unnecessary multiplicity of suits would result; so, when the court ultimately admits the amendment, the legal effect, for substantive purposes, of such admission retroacts as a rule to the date of its actual filing."

In the instant case, the Amended Complaint did not introduce a new or different cause of action or demand. The original Complaint was amended only to rectify the lack of verification and thereafter to implead Martinez, who had purchased the contested property from Verzosa.

In the same vein, Waje and Paradise do not apply because the Amended Complaints therein alleged new causes of action.

Similarly unavailing is petitioners' contention that the injunctive writ was applied retroactively and, hence, violative of *Ruymann* and other subsequent cases. To repeat, *Ruymann* was wrongly applied by petitioners. There being no new issues introduced in the Amended Complaint herein, the present suit is deemed to have commenced on the date of the filing of the original Complaint. Hence, the CA was correct in upholding the trial court that the status quo was the situation of the parties at the time of the filing of the original Complaint.

Finally, petitioners assert that Respondent Court violated the well-entrenched doctrine that consummated acts can no longer be restrained by injunction. As earlier noted, despite the fact that Pilar Martinez already had title to and possession of the disputed property, the CA affirmed the order of the trial court enjoining her from "entering, intruding and making construction and/or performing any act of ownership or possession and any activity over the land xxx." Petitioners cite the following ruling in *Reyes v. Harty*: [21]

"It is a universal principle of the law that an injunction will not issue to restrain the performance of an act already done. It is undisputed proof in this case, presented by the plaintiffs themselves, that, at the time this [case] was tried, the plaintiffs had been completely dispossessed, the defendant being in full and complete possession of the lands in question xxx."

Again, the case cited by petitioner is incongruous with the factual milieu of the present controversy. In that case, the party praying for an injunctive writ had been completely dispossessed of the land in question prior to the commencement of the action. In the case at bar, private respondent was still the owner and was in possession of the property at the time the original Complaint was filed. The rule is that a court should not by means of preliminary injunction transfer the property in litigation from the possession of one party to another where the

legal title is in dispute and the party having possession asserts ownership thereto.[22] When private respondent filed the original Complaint, she had title to and possession of the property and was asserting ownership thereto.

Where the acts have been performed prior to the filing of the injunction suit, the general rule is that consummated acts can no longer be restrained by injunction. However, "where the acts are performed after the injunction suit is brought, a defendant may not as [a matter] of right proceed to perform the acts sought to be restrained and then be heard to assert in the suit that the injunction will not lie because he has performed these acts before final hearing has been had, but after the beginning of the action. A defendant thus acts at his peril." [23] It has been held that "[t]he general rule of law is that, where a defendant completes, after the beginning of an action, the act thereby sought to be restrained, and before the issue of any final order or decree, the court has the power to, and may, compel, by a mandatory injunction, the restoration of the former condition of things and thereby prevent the giving of an advantage by reason of the wrongful act. And where a defendant does an act thus sought to be restrained, he proceeds at his peril, and the court in which the action is pending may compel a restoration of the former status or grant to the plaintiff such relief as may be proper." [24]

In this case, an action was brought to enjoin Petitioner Verzosa from proceeding with the mortgage sale, yet he proceeded to do so while the action was still pending. Such conduct is reprehensible. "If one in the face of a pending suit for injunction, does the thing sought to be enjoined, he cannot thus outwit equity and the court, but must restore the status quo. xxx Even where an injunction has not been issued, if the suit is one for injunction, the defendant, if he does the thing sought to be enjoined does so at his peril." [25] Hence, in proceeding with the mortgage sale and subsequently selling the property to Pilar Martinez, Petitioner Verzosa was acting at his peril.

Clearly, the Respondent Court did not err in sustaining the Decision of the lower court that the status quo to be maintained was the situation when title to and possession of the property were still with Private Respondent Uson. The precise ruling of the appellate court is aptly reproduced hereunder:

"When the present Civil Case No. 16590 was commenced on August 12, 1988, the property in dispute was still covered by Original Certificate of Title No. 12783, in the name of plaintiff Fe Giron Uson, and there is no dispute that the possession of the said property was still with the plaintiff. That is the status quo sought to be maintained in the questioned preliminary injunction. It is, therefore, incorrect for defendant Wilfredo P. Verzosa to claim that the status quo refers to Transfer Certificate of Title No. 11107 in the name of Pilar Martinez, which is precisely what is sought to be annul[1]ed in the present case, and that the possessor of the property is defendant Pilar Martinez who may possibly have entered into the property while the present case has long been pending, and by virtue of the purported sale of the same to her by defendant Verzosa, whose claim of ownership thereof is, in turn, based on the sheriff's sale which is also the very subject matter of the present case for annulment." [26]

WHEREFORE, the petition is DENIED for lack of merit and the assailed Decision of the Court of Appeals is AFFIRMED.

SO ORDERED.

Davide, Jr. (Chairman), Bellosillo, Vitug, and Quisumbing JJ., concur

[1] Rollo, pp. 39-47.

[2] Fourteenth Division. The Decision was penned by J. Angelina S. Gutierrez with the concurrence of J. Jaime M. Lantin, chairman; and J. Bernardo P. Pardo, member (now an associate justice of the Supreme Court).

[3] Rollo, pp. 54-55.

- [4] CA Decision, pp. 1-4; rollo, pp. 39-42. Petition for Review, pp. 3-6; rollo, pp. 4-7.
- [5] CA Decision, p. 8; rollo, p. 46.
- [6] The case was deemed submitted for resolution on September 26, 1997, upon receipt by this Court of the petitioners' Memorandum.
- [7] CA Decision, pp. 6-7; rollo, pp. 44-45.
- [8] Ibid., p. 7; rollo, p. 45.
- [9] Ibid., p. 8; rollo, p. 46.
- [10] Petition for Review, p. 9; rollo, p. 10.
- [11] Phil. Virginia Tobacco Administration v. De los Angeles, 164 SCRA 543, August 19, 1988; Rivera v. Florendo, 144 SCRA 643, October 8, 1986; Pelejo v. Court of Appeals, 117 SCRA 668, October 18, 1982; Namarco v. Cloribel, 22 SCRA 1033, March 13, 1968; Vera v. Arca, 28 SCRA 532, June 20, 1969; Commissioner of Customs v. Cloribel, 19 SCRA 234, January 31, 1967.
- [12] Unciano Paramedical College v. Court of Appeals, 221 SCRA 285, April 7, 1993; Rivera v. Florendo, 144 SCRA 643, October 8, 1986; Searth Commodities Corp. v. Court of Appeals, 207 SCRA 622, March 31, 1992; Rivas v. Securities and Exchange Commission, 190 SCRA 295, October 4, 1990; Bengzon v. Court of Appeals, 161 SCRA 745, May 31, 1988; Rodulfa v. Alonso, 76 Phil. 225, February 28, 1946.
- [13] 34 Phil. 428, March 28, 1916.
- [14] 176 SCRA 564, August 17, 1989.
- [15] 181 SCRA 719, February 5, 1990.
- [16] Ruymann v. Director of Lands, *supra*, p. 434; per Johnson, J.
- [17] Ibid., pp. 434-435. Emphasis found in the original.
- [18] Presidential Commission on Good Government v. Sandiganbayan, Imelda Cojuangco, et al., G.R. No. 119292, July 31, 1998, per Panganiban, J.; citing Panay Electric Co., Inc. v. Court of Appeals, 119 SCRA 456, December 27, 1982; Barbosa v. Mallari, 99 Phil. 799, citing Moran, Rules of Court, Vol. I, 1952 ed, p. 384.
- [19] Regalado, Remedial Law Compendium, Vol. I, 5th Revised ed., p. 112.
- [20] 44 SCRA 418, April 27, 1972, per Barredo, J.
- [21] 21 Phil. 422, February 6, 1912; per Moreland, J.
- [22] Government Service Insurance System v. Florendo, 178 SCRA 76, September 29, 1989; Chemplex (Philippines) Inc. v. Pamatian, 57 SCRA 408, June 25, 1974; Detective and Protective Bureau v. Cloribel, 46 SCRA 255; Gordillo and Martinez v. Del Rosario, 39 Phil. 829; Rivera v. Florendo, *supra*; Rodulfa v. Alonso, *supra*.
- [23] Werner v. Norden, 287 P. 644, 87 Colo. 339, April 28, 1930, per Campbell, J.
- [24] Ibid. See also Texas & New Orleans Railroad Co. v. Northside Belt Ry. Co., 48 S. Ct. 361, 276 U.S. 475, April 9, 1928; Tucker v. Howard, 128 Mass. 361; Platteville v. Galena & S.W.R. Co., 43 Wis. 493.
- [25] Ibid., citing Thornton v. Schobe, 79 Colo. 25, 243 P. 617; and Grattan v. Wilson, 82 Colo. 239, 259 P. 6.

[26] CA Decision, pp. 5-6; rollo, pp. 43-44.

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