

**JOSE I. HERNANDEZ AND MARTA T. HERNANDEZ, PETITIONERS, VS.
HON. ROMEO D. MAGAT, AS PRESIDING JUDGE OF BRANCH VII,
COURT OF FIRST INSTANCE OF ALAMINOS, PANGASINAN, AND
SPOUSES FE...**

G.R. Nos. 61915-16. July 29, 1985

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

The petitioners ask for the setting aside of the order of the respondent judge of the Court of First Instance of Pangasinan, Third Judicial District, which, in dismissing the petitioners' complaint for injunction and damages and granting a preliminary mandatory injunction in favor of the private respondents resulted in their ouster from the disputed property and its repossession by the respondents.

On May 16, 1972, the private respondents leased in favor of petitioner Jose Hernandez for P40,000.00, a fishpond located in Bani, Pangasinan, with an area of 21.5574 hectares for a period of five (5) years ending in May 16, 1977.

On February 27, 1973, the parties executed a Supplemental Contract of Lease wherein, for another consideration of P50,000.00, the duration of the lease which was to end in 1977 was extended for five (5) years more or up to May 16, 1982.

On May 9, 1973, a further extension of the lease was made by the parties in consideration of P30,000.00 and for another period of five (5) years. The total period under the original contract and its addendums was for fifteen (15) years or up to May 16, 1987.

Sometime in April, 1982, however, the respondents threatened the petitioners with forcible ejectment from the leased premises notwithstanding the latter's faithful compliance in the payment of rents. As a result, the petitioners filed a complaint on April 27, 1982 for injunction and damages and for the issuance of a preliminary injunction against the respondents. The case was docketed as Civil Case No. A-1378.

The respondents filed their answer, alleging that subsequent to the supplemental contract executed on May 9, 1973, petitioner Marta Hernandez who is the real party to the contract of lease, entered into an Agreement with respondents on September 5, 1974 whereby she agreed that if the respondents could pay the amount of P100,000.00 on or before 1982, she would turn over the leased premises to said respondents but if the latter fail to pay such amount, then the lease would continue for ten years more or until 1992; that respondents tendered the amount of P100,000.00 within the prescribed period but Marta Hernandez refused to accept the same and that the respondents have instituted Civil Case No. A-1379 against the petitioners to recover the possession of the disputed property and to compel the petitioners to accept the amount of P100,000.00.

On June 9, 1982, in answer to the above complaint filed by the respondents, petitioner Marta Hernandez specifically denied under oath the genuineness and due execution of the agreement allegedly executed by her and

respondents. Petitioners further contended that the only party to the lease contract was Jose Hernandez and that his wife had neither the power nor authority to alter the terms of the contract entered into by and between her husband and the respondents.

On the same day, the respondent court proceeded to hear the petitioners' motion for the issuance of a writ of preliminary injunction in Civil Case No. A-1378 and received oral arguments on the private respondents' motion for leave to deposit the P100,000.00 consideration in the alleged 1974 agreement with the wife and for the issuance of a writ of preliminary injunction in Civil Case No. A-1379.

On September 8, 1982, the respondent court issued the questioned order, granting the private respondents' motion for consignment of P100,000.00 as well as their motion for the issuance of a writ of preliminary mandatory injunction in Civil Case No. A-1379 and denying the petitioners' motion for the issuance of a writ of preliminary prohibitory injunction in Civil Case No. A-1378.

On September 15, 1982, the petitioners filed a notice and motion for leave to deposit a counterbond of P100,000.00 in cash. Without resolving the same, the respondent court issued on the same day an order approving the injunction bond by the respondents in the amount of P10,000.00 as well as the writ of preliminary mandatory injunction directing and ordering "Marta Hernandez and Jose Hernandez, your agents and representatives x x x to allow the plaintiffs, Federico de Guzman and Candida Legaspi de Guzman, to take over the possession of the fishpond, subject to the case."

The next day, the petitioners filed an opposition to the sufficiency of the surety bond. When the opposition was denied, they filed this petition.

The main issues raised in this petition are:

1) Whether or not a writ of preliminary mandatory injunction may lawfully be issued in a case where the movants' or plaintiffs' right is not clear; where there is no wilfull and unlawful invasion of their right; and where the case is not free from doubt and dispute; and

2)

Whether or not the wife, without the authority, knowledge or consent of the husband, may prematurely terminate the subsisting contract of lease entered into solely between the husband as lessee and the lessors.

On January 24, 1983, this Court issued a resolution granting the petitioners' motions for the issuance of preliminary mandatory and prohibitory injunction, "requiring the respondents to restore to petitioners the possession of the fishpond in question and from molesting, interfering with or disturbing the petitioners in the possession of the said fishpond."

On January 28, 1983, the petitioners were placed in the possession of the fishpond. Nevertheless, they filed a motion for contempt on January 31, 1983, alleging that the respondents attempted to catch all the fishes in the premises by opening the water gates and thus, drying up the fishpond.

On October 19, 1983, we issued another resolution ordering the respondent Regional Trial Court at Alaminos, Pangasinan to suspend all proceedings in Civil Cases Nos. A-1378 and A-1379 pending further orders from this Court.

Resolving first the motion for contempt filed by the petitioners, we find the evidence in our records inadequate to find the respondents guilty. As alleged by the petitioners themselves and as reflected in the Sheriff's return, the

petitioners were restored to the possession of the leased premises in due time. Whatever delay and inconveniences may have been caused by the respondents to the petitioners does not appear to be contemptuous. In the case of *Clapano v. Gapultos* (132 SCRA 433) citing *Fuentes, et al. v. Leviste, et al.* (117 SCRA 958) we held that the mere refusal of the defeated party to surrender the property to the winning party upon the order of the sheriff does not constitute contempt. The herein respondents have turned over the possession of the premises to the petitioners after the service by the sheriff of the writ issued by this Court.

With regard to the first issue raised in this petition, the petitioners maintain that the respondent court erred in granting the preliminary mandatory injunction in favor of the respondents since the latter had no clear right which would justify its issuance. They contend that the only basis of the respondents' complaint was the alleged "Agreement" entered into by petitioner Marta Hernandez with the respondents which she, however, denied under oath as having executed and signed. Consequently, the right upon which the injunction was anchored had not been clearly established to warrant the issuance of the preliminary mandatory injunction which had the effect of ousting the petitioners from the premises, in spite of a valid and existing contract of lease, and the repossession by the respondents of the property prior to the termination of the lease.

We find merit in the above contentions.

It should be noted that the respondents never denied the contract of lease they executed with petitioner Jose Hernandez. They do not deny the two supplemental contracts they later executed which extended the term of the lease until May 16, 1987. There is, therefore, no doubt that the petitioners have the right to remain in the premises until the expiration of the period fixed in the contract. Having been threatened with ouster therefrom the petitioners should have a writ of preliminary injunction issued in their favor. However, the respondent court denied the injunction on the basis of the "Agreement", which as stated earlier, was vehemently denied under oath by the alleged executor, petitioner Marta Hernandez.

In the questioned order, the respondent court stated:

"Certainly, an action principally for injunction is limited. It could not extend beyond restraining threatened acts. It may be that, in the process, evidence of possession and ownership may be presented. But this is only to determine the extent of the remedy to be granted. But where there is doubt on possession and title, as here obtains, then, injunction would not issue. A principal action is needed for the purpose. Additionally, it would be needless to reiterate that a cause of action is determined by the allegations of the complaint, not, by the allegations of an answer.

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"More than anything, the defendants' main defense in Civil Case No. A-1379 is forgery. This matter, certainly, could not be ventilated in Civil Case No. A-1378."

Erroneously applying stringent rules on injunction, the respondent court denied its issuance on the ground that the right of the petitioners to it was not clear. The facts of the intertwined cases should have been considered together. In granting the respondents' motion for the same relief, the lower court brushed aside all possibilities of doubt about the respondents' right to the same. This was done notwithstanding the fact that the petitioners had successfully established the basis for doubt as to the genuineness and validity of the agreement which was the sole basis for the injunction sought by the respondents.

Again, in the questioned order, the respondent court stated:

"Finally, with the complaint in Civil Case No. A-1379 free from any infirmity, there are no substantial setbacks to grant the plaintiffs' motion in Civil Case No. A-1379 to consign the amount of One Hundred Thousand Pesos (P100,000.00). After all, this matter is sufficiently alleged in the complaint. More than that, it

finds basis on the annexes thereto. Certainly, on the face of the complaint, Federico de Guzman and Candida Legaspi are given up to 1982 within which to pay the amount of One Hundred Thousand Pesos (P100,000.00) to Marta T. Hernandez. So that, when Marta T. Hernandez refused to accept payment, it was well within the de Guzmans' rights to tender the amount judicially. This is precisely what they did in Civil Case No. A-1379."

In the case of *De la Cruz v. Febreo* (82 SCRA 383-384), we emphasized the attending circumstances necessary for the issuance of an injunction. We ruled:

"x x x To go back to the leading case of *Manila Electric Railroad and Light Company v. Del Rosario*, it may not be amiss to cite in full the formulation appearing in the opinion of Justice Torres: '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. (22 Phil. 433, 437)'"

As stated earlier, the writ of preliminary mandatory injunction was issued in favor of the respondents even though their right to the same was both unclear and disputed. Furthermore, the injunction had the effect of not only breaking up the status quo and continuing lessor-lessee relationship between them and the petitioners but also ejecting the petitioners who were the present occupants of the leased premises from the possession and control of the premises. Clearly, the injunction in this case was issued improperly and with grave abuse of discretion.

In the case of *Buayan Cattle Co., Inc., v. Quintillan* (128 SCRA 287), we ruled:

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"x x x The protective mantle of preliminary injunction should not have been afforded to the usurpation by private respondent. 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 v. Bado*, 23 SCRA 183; *Pio v. Marcos*, 56 SCRA 726). The office of the writ of injunction is to restrain the wrongdoer (*Calo v. Roldan*, 76 Phil. 445, 451-452), not to protect him."

Anent the second issue, even assuming *arguendo* that the disputed "agreement" was entered into and signed by petitioner Marta Hernandez which she strongly denies, such agreement cannot bind her husband Jose Hernandez and thus terminate the contract of lease between Jose Hernandez and the respondents. Jose Hernandez, who appears as the only "lessee" in the main contract of lease, was not a party to the agreement which allegedly terminated it. If the respondents really wanted to terminate the existing contract of lease, they should have contracted with or included Jose Hernandez who is the only party to the said contract and who is the only person who could validly consent to its early termination. Significantly, in the main contract of lease dated May 16, 1972, the lessee, Jose Hernandez is described as married to Marta T. Hernandez. However, in the supplemental contract extending the lease period, Jose I. Hernandez appears alone as lessee and signed it as the sole lessee. The name of his wife is not even mentioned by way of description. The respondents' argument that they entered into the "agreement" with Mrs. Marta T. Hernandez because the husband was always busy at their shop in Malabon and that Mrs. Hernandez "was in a hurry" does not justify in the least bit their ignoring, in the termination of the contract of lease the person with whom they actually contracted. Consequently, the "agreement", whether or not the signature thereto of Marta Hernandez was genuinely executed or forged, could not possibly be a ground for the early termination of the contract of lease and neither could it extend the lease beyond 1987 or up to 1992.

WHEREFORE, the petition is GRANTED; the orders of the respondent court dated September 8, 15, and 16, 1982 are hereby ANNULLED and SET ASIDE and the order to restore the petitioners to the possession of the leased premises and to refrain from molesting or disturbing the petitioners' possession issued by this Court on January 24, 1983 is made PERMANENT. Civil Cases Nos. A-1378 and A-1379 are ordered DISMISSED. Costs against the private respondents.

SO ORDERED.

Melencio-Herrera, Plana, Relova, De La Fuente, and Alampay, JJ., concur.

Teehankee, (Chairman), J., no part.

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