

[G.R. No. 122089, August 23, 2000]

**MELITON ZABAT AND MARYLOU ZABAT, PETITIONERS, VS. THE
HONORABLE COURT OF APPEALS, HONORABLE PRESIDING
JUDGE, BRANCH 114, PASAY CITY, THE NATIONAL HOUSING
AUTHORITY AND ALEJANDRA & GUILLERMO MAURI, JR.,
RESPONDENTS.**

D E C I S I O N

QUISUMBING, J.:

Before us is an appeal by certiorari under Rule 45 of the Rules of Court assailing the decision^[1] of the Court of Appeals promulgated February 24, 1995, in CA-G.R. No. 43886, and its resolution^[2] promulgated September 22, 1995, denying the motion for reconsideration. In said decision, the appellate court affirmed the judgment dated August 23, 1993, of the Regional Trial Court of Pasay City, Branch 114.^[3]

The antecedent facts, summarized by the Court of Appeals from the records below, are as follows:

"This controversy traces its beginning to the contest between plaintiffs-appellants, spouses Meliton and Marylou Zabat (plaintiffs-appellants, for brevity) and defendants-appellees Alejandra and Guillermo Mauris (Mauris, for brevity) over a piece of land particularly designated as Lot 8, Block 7, Phase I-a in the Tramo/F Victor upgrading project of the National Housing Authority (NHA, for brevity), with an area of sixty (60) square meters.

In 1977, the NHA conducted a census of residents and discovered that two (2) structures, one owned by plaintiff-appellant Marylou Zabat and the other by the Mauris, were constructed on the controverted lot. Nonetheless, Marylou Zabat was included in the census as owner of a structure and given a tag number for the purpose. (Records, p. 154, Annex "O".)

Subsequently, in 1981 a census verification was conducted again by the NHA which found that the structure owned by the plaintiffs-appellants was being rented out to a certain Conrado Briones and on the basis thereof, plaintiffs-appellants were declared as absentee structure owners and under Section 1 (a) of Memo Circular No. 13 issued by the NHA, an absentee structure owner is disqualified from a lot award. (Rollo, pp. 61-65, Annex "1-A".)

The lot was subsequently awarded to the Mauris. (Annex "O". supra.)

Marylou Zabat raised the matter on appeal to the Awards and Arbitration Committee (AAC, for brevity) of the NHA on March 15, 1983.

On March 5, 1985, the AAC decided to reconsider the status of Mrs. Zabat and declared her as a project beneficiary, but of another lot in view of the fact that the

controverted lot has already been allocated to the Mauris per resolution No. 85-14 dated March 5, 1985.

A motion to reconsider that Order was filed by Zabat but was denied by the AAC on August 16, 1985.

Eight (8) days later or on August 24, 1985, the lot was awarded to the Mauris and a conditional contract to sell was executed by the NHA in the former's favor.

Thereafter NHA sent several notices of demolition to the plaintiffs-appellants.

On July 23, 1991, the plaintiffs-appellants filed Civil Case No. 8294 before the Regional Trial Court of Pasay City to enjoin the defendants-appellees from proceeding with their eviction. (Records, p. 37.)

In the course of the proceedings before the trial court, the City Hall of Pasay City was gutted by fire destroying the Court records therein including those of Civil Case No. 8294.

On October 21, 1992, the plaintiffs-appellants filed a motion for reconstitution of the records of the case and for the resumption of proceedings which was denied by the trial court in its Order dated October 22, 1992 for being filed beyond the reglementary period. (Records, pp. 42-43; Records, p. 44.)

On October 22, 1992, plaintiffs-appellants again filed Civil Case No. 9365, likewise for Injunction with Prayer for the issuance of a writ of preliminary injunction to enjoin the defendants-appellees and the persons working under them to refrain from demolishing the structure of the plaintiffs-appellants. (Records, p. 2.)

The Mauris and the NHA filed separate motions to dismiss on the ground that the case is barred by prior judgment, laches and that the plaintiffs-appellants have neither existing nor inchoate right over the property. (Records, pp. 27-36.)

The Court denied the motions to dismiss on November 17, 1992. (Records, p. 57.) The Mauris and the NHA thereafter filed their respective Answers. (Records, pp. 58-63.)

Meanwhile, the prayer for the issuance of a writ of preliminary injunction by the plaintiffs-appellants was denied in view of their failure to establish a clear and positive right over the lot in dispute in an Order dated March 1, 1993 of the trial court. (Records, p. 104.)"^[4]

On August 23, 1993, the trial court rendered its judgment finding that the award of the lot to the Mauris was valid and lawful, thus:

"WHEREFORE, premises considered, this Court finds the award of Lot 8, Block 7, Phase 1-a to defendants Alejandria and Guillermo Mauri valid and lawful. Consequently, the instant complaint for injunction is therefore DISMISSED. For plaintiff to pay the sum of P5,000.00 as and for attorney's fees and to pay the costs of suit.

SO ORDERED."^[5]

Petitioners seasonably appealed to the Court of Appeals. On February 24, 1995, it rendered its decision upholding the trial court, decreeing that:

"WHEREFORE, premises considered, the decision of the trial court in Civil Case No. 9365 is AFFIRMED with the modification that the award of attorney's fees is deleted.

No special pronouncement as to costs.

SO ORDERED."^[6]

Hence, the present appeal, with petitioners assigning the following errors:

"I

BASIC ERROR WAS COMMITTED BY THE RESPONDENT COURT WHEN IT RELIED ON THE REQUISITES FOR A "WRIT OF INJUNCTION", AN ANCILLARY AND PRELIMINARY REMEDY DIFFERENT FROM THE ACTION FOR INJUNCTION WHICH WAS FILED IN THE INSTANT CASE.

II

THE CONCLUSION THAT PETITIONERS SLEPT ON THEIR RIGHTS IS CONTRARY TO THE UNDISPUTED FACTS OF THE CASE; AND THE RESPONDENT COURT, MOREOVER, DISREGARDED THE SETTLED PRINCIPLE THAT LACHES CANNOT BE WORKED TO DEFEAT JUSTICE OR TO PERPETUATE FRAUD OR INJUSTICE.

III

THE RESPONDENT COURT GRAVELY ERRED AND COMMITTED A PALPABLE MISTAKE WHEN IT DECIDED PETITIONERS' APPEAL ON THE ISSUE OF "ABSENTEE STRUCTURE OWNER", AN ISSUE THAT WAS ALREADY DECIDED BY THE NHA IN FAVOR OF PETITIONERS, THE DECISION OF THE NHA TO TRANSFER PETITIONERS TO ANOTHER LOT BEING BASED NOT ON THEIR LACK OF QUALIFICATION TO BE AWARDEES BUT ON THE SUPPOSED SMALLNESS OF THE LOT IN QUESTION.

IV

THE NHA'S BASIS FOR ITS DECISION TO TRANSFER PETITIONERS IS AN OBVIOUS FALSEHOOD AND SUCH FRAUD RESULTING IN INJUSTICE CANNOT BE PERPETUATED BY A RESORT TO THE PRINCIPLE OF DELAY OR LACHES SUCH AS THAT DONE BY THE RESPONDENT COURT."^[7]

In this petition, we must also determine (1) whether the filing of a complaint for injunction below was the proper remedy available to petitioners; (2) whether petitioners should have availed of the administrative processes of the National Housing Authority (NHA) before resorting to judicial relief; and (3) whether petitioners' complaint before the trial court has become stale or moot.

At the outset, we find that on record, the NHA automatically disqualified herein petitioner Marylou Pelayo Zabat from maintaining a structure on the subject lot when it found her to be an "absentee structure owner" during a census of households in 1981. It found that said petitioner rented the lot to a certain Conrado Briones. The NHA also concluded that the Mauris have maintained occupancy of their house on the lot in question, justifying the award of the lot to them.