

## THIRD DIVISION

[ G.R. No. 195374, March 10, 2014 ]

**PEDRO LUKANG, PETITIONER, VS. PAGBILAO DEVELOPMENT CORPORATION AND EDUARDO T. RODRIGUEZ, RESPONDENTS.**

### DECISION

**MENDOZA, J.:**

This petition for review under Rule 45 of the Rules of Court assails the October 21, 2010 Decision<sup>[1]</sup> and the January 19, 2011 Resolution<sup>[2]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 108809, which nullified and set aside the May 13, 2008 Order<sup>[3]</sup> of the Regional Trial Court (RTC), Branch 53, Lucena City, granting the petitioner's application for a writ of preliminary injunction.

**The Facts:**

The patriarch of the family, Arsenio Lukang (*Arsenio*), and Mercedes Dee (*Mercedes*) lived as husband and wife in Calamba, Laguna, from 1922 to 1934 and begot three (3) children, namely, Domingo, Rosalina and Olympia.

In 1935, he started cohabiting with Leoncia Martinez (*Leoncia*), with whom he had ten (10) children, namely, Elpidio, Socorro, Manuel, Pedro, Teresita, Simeon, Eugenio, Hilaria, Concepcion, and Carlos.

During their cohabitation in Lucena, Quezon, they acquired several real properties located in Pagbilao, Quezon, to wit:

- (a) Transfer Certificate of Title (TCT) Nos. T-44547<sup>[4]</sup> with an area of 257,967 square meters;
- (b) TCT No. T-44548<sup>[5]</sup> with an area of 40,000 square meters;
- (c) TCT No. T-44549<sup>[6]</sup> with an area of 5.0078 hectares; and
- (d) TCT No. T-44550<sup>[7]</sup> consisting of 5.0803 hectares.

The said properties were then registered in the name of "ARSENIO LUKANG, married to Mercedes Dee, ½ share and Leoncia Martinez, single, ½ share."

Arsenio and Leoncia later acquired four (4) more parcels of land covered by TCT No. T-103094, TCT No. T- 101425, TCT No. T-125349, and TCT No. T-125348. It was allegedly agreed that the said properties should be registered in the name of Simeon, one of their children, in trust for the other heirs and should be owned in

common by their family.

When Arsenio died in 1976, his 13 children and Mercedes, executed the Extrajudicial Settlement of Estate,<sup>[8]</sup> in which they agreed to adjudicate and transfer among themselves the rights, interest and ownership of the four (4) parcels of land covered by TCT Nos. T-44547, T-44548, T-44549, and T-44550. There was, however, no agreement to partition the properties as they remained common to all the heirs.

Years later, after the execution of the Extrajudicial Settlement of Estate, Mercedes, together with her three (3) children, Rosalina, Domingo, and Olympia, executed another document, denominated as *Pagbabahaging Labas sa Hukuman Na May Pagtalikod sa Karapatan*,<sup>[9]</sup> dated December 19, 1987, wherein the parties declared that they were the only heirs of Arsenio and partitioned the half portion of the four (4) parcels of land covered by TCT Nos. T-44547, T-44548, T-44549, and T-44550 among themselves, with Mercedes waiving her supposed share in favor of her three (3) children.

In 1988, Simeon, alleging that the certificates of title of the properties covered by TCT Nos. T-103094, T-101425, T-125349, and T-125348 were lost, filed a petition for the issuance of the owner's duplicate copy before the RTC, Branch 57, Lucena City. As a result, new owner's duplicate copies of the allegedly lost titles were issued in his favor. Thereafter, Simeon, in a deed of donation, transferred the said properties in favor of his children, Benedict, Heile and Madeleine. Consequently, TCT Nos. T-103094, T-125348 and T-125349 were cancelled, and TCT No. T-241034 was issued in the name of Benedict; TCT No. 241035 in the name of Heile; and TCT No. 241036 in the name of Madeleine.<sup>[10]</sup> Furthermore, Simeon purportedly executed the *Bilihang Lampasan and Pagbibilihang Lubusan*, where he sold the land covered by TCT No. 101425 in favor of Mercedes, Rosalina, Leoncia, and Elpidio.

In the meantime, on February 15, 1989, Mercedes, through Rosalinda, filed the Petition for the Issuance of the Owner's Duplicate of TCT Nos. T-44547, T-44548, T-44549 and T-44550<sup>[11]</sup> before the RTC, Branch 58, Lucena City. The RTC, in its Order,<sup>[12]</sup> dated March 27, 1989, granted the petition and new titles were issued in favor of Mercedes. Unknown to Leoncia, Rosalina caused the segregation of the one-half portion of the said properties in her (Leoncia's) favor and the division of the remaining half among her and her siblings, Domingo and Olympia. Hence, TCT Nos. T-44547, T-44548, T-44549, and T-44550 were cancelled and new titles were issued: TCT Nos. T-247219,<sup>[13]</sup> T-247221,<sup>[14]</sup> T-247223,<sup>[15]</sup> and T-247225<sup>[16]</sup> in the names of Rosalina, Domingo and Olympia, while TCT Nos. T-247220,<sup>[17]</sup> T-247222,<sup>[18]</sup> T-247224,<sup>[19]</sup> and T-247226<sup>[20]</sup> were registered in the name of Leoncia.

On September 26, 1990, Leoncia and her children, claiming that the titles of TCT Nos. T-44547, T-44548, T-44549, and T-44550 were not lost but in her (Leoncia's) possession, filed a complaint<sup>[21]</sup> for annulment of extrajudicial partition, affidavit of segregation and annulment of the new certificates of title, which was docketed as Civil Case No. 90-124. The said case was consolidated with Civil Case No. 89-79, a case for recovery of four (4) owner's duplicate copy of TCTs filed by Simeon against his brother Pedro. The cases were raffled to RTC, Branch 53, Lucena City.

Subsequently, Leoncia, through Pedro, registered her adverse claim on February 3, 1989 on TCT Nos. T-241034, T-242429, TCT No. T-241036, T-241035, and T-242427 as Entry No. 530545. He further caused the annotation of a notice of lis pendens on TCT No. T-247221 as Entry No. 556192 on October 1, 1990, and on TCT Nos. T-241034, T-242429, TCT No. T-241036, T-241035, and T-242427 as Entry No. 538916 on November 6, 1989.

In 1993, while Civil Case No. 89-79 and Civil Case No. 90-124 were still pending, respondent Pagbilao Development Corporation (PDC) purchased from Simeon, Mercedes and Rosalina the six (6) properties which were the subject of the two cases. Thus, TCT Nos. T-241034, T-242429, T-241036, T-241035, T-247221, and T-242427 were cancelled and new titles, TCT Nos. T-282100,<sup>[22]</sup> T-282101,<sup>[23]</sup> T-282102,<sup>[24]</sup> T-282103,<sup>[25]</sup> T-282104,<sup>[26]</sup> and T-282105<sup>[27]</sup> were issued in favor of PDC. Accordingly, the annotations were carried over to PDC's titles.

When Pedro and the other heirs learned of the sale of the subject properties to PDC, they filed a motion to require Simeon and Rosalina to explain why they sold the properties without permission from the RTC.<sup>[28]</sup> On April 23, 2008, they also filed an application for a writ of preliminary injunction with *ex-parte* prayer for temporary restraining order (TRO).<sup>[29]</sup> They alleged that they were in actual and physical possession of the subject properties; and that PDC entered into the said premises, destroyed some structures therein and started to construct improvements on the properties without their consent.

In its Order, dated April 23, 2008, the RTC<sup>[30]</sup> granted the issuance of the TRO effective for a period of twenty (20) days.

On May 13, 2008, after due hearing, the RTC issued the Order<sup>[31]</sup> granting the application for writ of preliminary injunction by which it restrained PDC from wresting possession of the subject properties and ordering the movant, Pedro, to file a bond.

PDC filed a motion for reconsideration but it was denied in the RTC Order,<sup>[32]</sup> dated March 18, 2009.

On May 29, 2009, Pedro posted a bond in the amount of One Million Pesos (*P1,000,000.000*).<sup>[33]</sup>

PDC filed a petition for *certiorari* before the CA assailing the issuance of the writ of preliminary injunction. The CA, in its Decision, dated October 21, 2010, granted the petition and set aside the May 13, 2008 and March 18, 2009 Orders of the RTC. The CA explained that Pedro's right over the said properties was not clear as it was contingent on the outcome or result of the cases pending before the RTC; that it was not a present right but a contingent or future right which was not covered by injunction; and that there was no paramount necessity because there would be no great and irreparable injury. Moreover, PDC, as the registered owner of the said properties, had the right to enjoy the same as provided under Articles 428 and 429 of the Civil Code.

Pedro filed a motion for reconsideration but it was denied in the CA Resolution,

dated January 19, 2011. Hence, this petition, anchored on the following

## **ISSUES**

### **I**

**THE COURT OF APPEALS ERRED IN CONSISTENTLY TURNING AWAY FROM THE ISSUE OF RESPONDENT PAGBILAO'S STATUS AS A TRANSFEREE PENDENTE LITE WHEN THAT IS THE MAIN ISSUE IN THE FIRST PLACE**

### **II**

**THE COURT OF APPEALS ERRED IN RULING THAT PAGBILAO AS REGISTERED OWNER OF THE SUBJECT PROPERTIES HAVE THE RIGHT TO ENJOY AND EXCLUDE OTHER PERSONS FROM THE ENJOYMENT THEREOF**

### **III**

**THE COURT OF APPEALS ERRED IN RULING THAT THE TRIAL COURT PRE-JUDGED THE MAIN CASE AND SHIFTED THE BURDEN OF PROOF ON THE HEIRS OF SIMEON LUKANG**

### **IV**

**THE COURT OF APPEALS ERRED IN RULING THAT NON-ISSUANCE OF THE INJUNCTIVE RELIEF IS NOT OF PARAMOUNT NECESSITY NOR WILL IT CAUSE GREAT AND IRREPARABLE INJURY TO PEDRO LUKANG**

### **V**

**THE COURT OF APPEALS ERRED IN HOLDING THAT THE TRIAL COURT COMMITTED GRAVE ABUSE OF DISCRETION IN NOT FIXING THE BOND.**

Synthesized, the issues boil down to the question of whether or not the RTC committed grave abuse of discretion when it issued the May 13, 2008 Order granting the writ of preliminary injunction.

A writ of preliminary injunction is a provisional remedy which is adjunct to a main suit, as well as a preservative remedy issued to maintain the *status quo* of the things subject of the action or the relations between the parties during the pendency of the suit.<sup>[34]</sup> The purpose of injunction is to prevent threatened or continuous irremediable injury to the parties before their claims can be thoroughly studied and educated. Its sole aim is to preserve the *status quo* until the merits of the case are fully heard.<sup>[35]</sup> Under Section 3, Rule 58 of the Rules of Court, an application for a writ of preliminary injunction may be granted if the following grounds are

established:

- (a) That the applicant is entitled to the relief demanded, and the whole or part of such relief consists in restraining the commission or continuance of the act or acts complained of, or in requiring the performance of an act or acts, either for a limited period or perpetually;
- (b) That the commission, continuance or non-performance of the act or acts complained of during the litigation would probably work injustice to the applicant; or
- (c) That a party, court, agency or a person is doing, threatening, or is attempting to do, or is procuring or suffering to be done, some act or acts probably in violation of the rights of the applicant respecting the subject of the action or proceeding, and tending to render the judgment ineffectual.

Thus, a writ of preliminary injunction may be issued upon the concurrence of the following essential requisites, to wit: (a) the invasion of right sought to be protected is material and substantial; (b) the right of the complainant is clear and unmistakable; and (c) there is an urgent and paramount necessity for the writ to prevent serious damage.<sup>[36]</sup> While a clear showing of the right is necessary, its existence need not be conclusively established. Hence, to be entitled to the writ, it is sufficient that the complainant shows that he has an ostensible right to the final relief prayed for in his complaint.<sup>[37]</sup>

The well-entrenched rule is that the grant or denial of the writ of preliminary injunction rests upon the sound discretion of the court. The trial court is given a wide latitude in this regard. Thus, in the absence of a manifest abuse, such discretion must not be interfered with. <sup>[38]</sup> "Grave abuse of discretion in the issuance of writs of preliminary injunction implies a capricious and whimsical exercise of judgment that is equivalent to lack of jurisdiction, or where the power is exercised in an arbitrary or despotic manner by reason of passion, prejudice or personal aversion amounting to an evasion of positive duty or to a virtual refusal to perform the duty enjoined, or to act at all in contemplation of law."<sup>[39]</sup>

In the present case, the Court finds the RTC grant of injunction to be in order. The pertinent parts of its order read:

It is to be emphasized that the deeds of sale between the vendors of the six parcels of land and the Pagbilao Development Corporation were executed on June 1, 1993. The **Affidavit of Adverse Claim** of Leoncia Martinez Vda. De Lukang and the **Notice of Lis Pendens** of Pedro Lukang over the six properties were **all inscribed on February 3, 1989.**

There is no question, therefore, that when the **Pagbilao Development Corporation** bought the properties from the vendors, it **had full knowledge that there were questions involving ownership of the parcels of land it bought.**