

## THIRD DIVISION

[ G.R. NO. 164529, June 19, 2007 ]

**FELIX DE GUZMAN OCAMPO, REPRESENTED BY GEORGE BUTLER, JR., PETITIONER, VS. ALICIA SISON VDA. DE FERNANDEZ AND LETICIA S. FERNANDEZ, RESPONDENTS.**

### DECISION

**CHICO-NAZARIO, J.:**

Before this Court is a Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court seeking the reversal and setting aside of the Decision, dated 23 April 2004,<sup>[1]</sup> of the Court of Appeals in CA-G.R. SP No. 77857, and the affirmation, instead, of the Orders, dated 11 November 2002<sup>[2]</sup> and 25 March 2003,<sup>[3]</sup> of the Quezon City Regional Trial Court (RTC), Branch 101, in Civil Case No. Q-01-44582. In its said Orders, the RTC granted the application for the issuance of a writ of preliminary injunction of herein petitioner Felix de Guzman Ocampo (Felix), filed through his representative, George Butler, Jr. (George, Jr.), enjoining the Quezon City Metropolitan Trial Court (MeTC), Branch 43; its Sheriff; the Office of the Sheriff; and the Register of Deeds from implementing the Second Notice to Vacate the Premises and/or Writ of Execution issued by the MeTC in Civil Case No. 22375.

Central to the Petition at bar is a piece of property, consisting of a residential lot and improvement, located along 13<sup>th</sup> Avenue, Murphy, Cubao, Quezon City (subject property). It was previously registered under Transfer Certificate of Title (TCT) No. 49804 in the name of Iluminada G. Piano (Iluminada), married to Ramon Piano (Ramon).<sup>[4]</sup>

According to petitioner Felix, the spouses Piano took custody of George, Jr. as soon as the latter was born in 1947. George, Jr. is purportedly an illegitimate son of Corporal George Butler of the United States Army with Ms. Ermina Fornolles. Although there is no allegation or evidence presented that they complied with the legal adoption process, the spouses Piano, during their lifetime, maintained custody of and raised George, Jr. as their own son.<sup>[5]</sup> Apparently, Ramon passed away before his wife. On 1 February 1990, Iluminada, already a widow, executed a document supposedly bequeathing to George, Jr. the ownership and administration of all her properties, including the subject property, which served as her residence, and other properties which she leased out. The said document,<sup>[6]</sup> fully typewritten except for Iluminada's alleged signature, reads in Filipino, is fully reproduced below

—

PEBRERO 1, 1990

AKO SI ILUMINADA DE GUZMAN PIANO, BIYUDA AT NAKATIRA SA 119  
13<sup>th</sup> AVENUE, CUBAO, QUEZON CITY AY NAGSASAAD SA KANINUMAN NA

AKING IBINIBIGAY AT INPINAGKAKATIWALA ANG BUONG PAMAMAHALA AT PAG-MAMAYARI NG AMING KABUHAYAN PATI NA ANG MGA LUPANG KINATITIRIKAN NG AMING BAHAY SA KASALUKUYAN AT MGA BAHAY PAUPAHAN, SA AMING ANAK NA SI GEORGE BUTLER, JR. NA SIYA NAMING NAGING KASAMA AT KAPILING MULA SA KANYANG KAMUSMUSAN AT SIYA RIN NAMING GABAY HANGGANG SA NGAYON. IBINIBIGAY KO SA KANYA ANG LAHAT NG KARAPATAN BILANG AMING ANAK UPANG PAGYAMANIN ANUMANG KABUHAYAN ANG AMING MAIIWAN PARA SA KANYANG KINABUKASAN AT SA KABUTIHAN NG LAHAT.

(Signed)

ILUMINADA DE GUZMAN PIANO

About a year later, George, Jr. met Emy Ramos (Emy), who hailed from Pangasinan. George, Jr. and Emy developed an intimate relationship and, shortly after, Emy came to live with Iluminada and George, Jr. on the subject property. Even though Iluminada did not trust Emy at the beginning, the latter was able to deceive and win the old lady's confidence subsequently. It would then seem that Emy was later entrusted with the administration of Iluminada properties. In 1992, when Iluminada fell extremely ill and suffered mental lapses, Emy entirely took over the old woman's affairs, running the latter's household, as well as her businesses.

In 1995, Iluminada mysteriously disappeared for almost a week. Petitioner Felix found it strange that Emy knew that Iluminada was wandering around the town of Paombong, Bulacan, and was brought by a tricycle driver to the office of the Bulacan Social Welfare Department. It was also Emy who requested George, Jr. to fetch Iluminada at the said office.

Iluminada died sometime in 1997. It appears that by said time, George, Jr. and Emy had already parted ways. George, Jr. continued to live on the subject property with his family until their possession was disturbed by herein respondent Leticia S. Fernandez (Leticia), who instituted with the MeTC a suit for unlawful detainer against George, Jr., docketed as Civil Case No. 22375.

It was only then that George, Jr. found out that the subject property was supposedly transferred by Iluminada to herein respondent Alicia Sison *vda.* de Fernandez (Alicia) by virtue of a Deed of Sale, dated 21 December 1993, for a consideration of P580,000.00.<sup>[7]</sup> On 6 September 1996, Alicia then conveyed the subject property via a Deed of Absolute Sale<sup>[8]</sup> to her daughter and co-respondent Leticia for P500,000.00. Shortly thereafter, or on 26 September 1996, the subject property was registered in respondent Leticia's name under TCT No. N-165230.<sup>[9]</sup>

Respondent Leticia prevailed in MeTC Civil Case No. 22375,<sup>[10]</sup> and since George, Jr. did not interpose any appeal within the reglementary period, the judgment therein became final and executory, and a writ of execution was issued to enforce the same.<sup>[11]</sup> George, Jr. was thus served by the Sheriff of Quezon City with a Notice to Vacate the subject property.

This prompted George, Jr. to file with the RTC Civil Case No. Q-01-44582, against respondents Alicia and Leticia, as well as Emy,<sup>[12]</sup> the MeTC, and the Office of the

Sheriff and the Register of Deeds of Quezon City, for Recovery of Ownership/Reconveyance, Temporary Restraining Order/Preliminary Injunction and Damages. The original Complaint<sup>[13]</sup> filed with the RTC was in the name of George, Jr. as "the administrator, acknowledged son and for or in behalf of the other heirs" of Iluminada.

George, Jr. sought to recover the subject property since respondents Alicia and Leticia acquired the same by fraud, deceit, and manipulation, in conspiracy with Emy, their *kababayan* from Pangasinan. Some of the instances pointed out by George, Jr. which cast doubt on the validity and authenticity of the sale of the subject property by Iluminada to respondent Alicia are the following –

- (a) Iluminada's signature on the Deed of Sale, dated 21 December 1993, had been forged, as determined by George, Jr., who became very familiar with Iluminada's genuine signature through the years when he lived with her;
- (b) Around the date of execution of the Deed of Sale in 1993, Iluminada was already physically ill and mentally impaired;
- (c) Iluminada never intimated to George, Jr. that she had any intention to sell the subject property;
- (d) George, Jr. attested that there had been no negotiations between Iluminada and Alicia prior to the sale of the subject property; and
- (e) Despite the fact that Iluminada was already physically and mentally frail, she supposedly executed the Deed of Sale, dated 21 December 1993, in Pangasinan, far from her home in Quezon City.

George, Jr. also questioned the transfer of the subject property by respondent Alicia to her daughter and co-respondent Leticia shortly after acquiring the same and absent any consideration, implying that it was yet another ploy to take the subject property farther from the reach of its true owner.

In his complaint, George, Jr. further prayed for the issuance of a temporary restraining order and/or writ of preliminary injunction against the Office of the Sheriff of Quezon City, so as to enjoin the latter from implementing the writ of execution issued by the MeTC in Civil Case No. 22375. The complaint contended that unless the execution of the judgment of the MeTC in Civil Case No. 22375 is enjoined, the rights of George, Jr. and those he represents, shall definitely suffer irreparable injury and prejudice, especially since the subject property serves as George, Jr.'s family abode.

In their Answer with Counterclaim,<sup>[14]</sup> respondents Alicia and Leticia raised the following defenses against George, Jr.'s claims in his Complaint –

- (a) The document, dated 1 February 1990, by which Iluminada purportedly bequeathed to George, Jr. the ownership and administration of all her properties, including the subject property, was a forgery and, thus, null and void;

(b) Respondent Leticia acquired the subject property from her mother and co-respondent Alicia in good faith and for value, three years after the latter bought the subject property from Iluminada;

(c) Respondent Leticia instituted before the MeTC Civil Case No. 22375 for unlawful detainer against George, Jr., and a decision in her favor was already promulgated, and which had become final and executory;

(d) George, Jr. had no cause of action against respondents Alicia and Leticia, and Civil Case No. Q-01-44582 instituted by George, Jr. before the RTC was only meant to delay the implementation of the Decision of the MeTC in Civil Case No. 22375 directing him to vacate the subject property; and

(e) Respondent Leticia has valid title to the subject property to which she had secured TCT No. N-165230 in her name in 1996. Her certificate of title should be accorded the character of indefeasibility, and any question as to its validity had already prescribed.

As to George, Jr.'s application for the issuance of a temporary restraining order and/or writ of preliminary injunction, respondents Alicia and Leticia opposed the same arguing that the MeTC, in Civil Case No. 22375, already settled the issue of possession of the subject property, and to enjoin the implementation of the writ of execution therein would cause more harm and damage to respondents Alicia and Leticia and render the MeTC judgment useless. Therefore, respondents Alicia and Leticia prayed for the RTC to dismiss George, Jr.'s Complaint in Civil Case No. Q-01-44582, plus payment of damages for his filing of a baseless and unfounded suit.

After respondents Alicia and Leticia had filed their Answer with Counterclaim, the Complaint was amended<sup>[15]</sup> so as to name petitioner Felix as the complainant, represented by his attorney-in-fact George, Jr. The appended Motion for Leave to Amend Complaint identified petitioner Felix as one of the legal collateral heirs of Iluminada.<sup>[16]</sup> Except for the named complainant, the original and amended Complaints principally contained the same allegations and prayers.

Meanwhile, the MeTC, in Civil Case No. 22375, denied George, Jr.'s Ex-parte Urgent Motion to Defer/Stay Execution of its judgment in an Order, dated 15 August 2002.<sup>[17]</sup> Hence, the Sheriff of Quezon City issued a Second Notice to Vacate, dated 15 October 2002, addressed to George, Jr. and all persons claiming rights under him. With the foregoing development, petitioner Felix filed with the RTC, in Civil Case No. Q-01-44582, a Motion to set the case for hearing on his application for a temporary restraining order and/or writ of preliminary injunction. The said Motion was granted by the RTC which set the hearing date on 23 October 2002 at 8:30 a.m.<sup>[18]</sup>

Despite being given due notice, the counsel for respondents Alicia and Leticia did not appear before the RTC during the hearing set on 23 October 2002. In an Order issued on even date,<sup>[19]</sup> the RTC granted petitioner Felix's prayer for the issuance of a temporary restraining order based on the following reasoning –

During that setting, the records will confirm that all of the said [herein respondents Alicia and Leticia, *et al.*] and counsel Viray were notified. To

afford them one last chance, the repeat service of notices for today's hearing was ordered/effectuated and done, the details of which specifically as to the proof of service is now attached to the records.

The [herein petitioner Felix/representative George, Jr.'s] counsel was allowed to present briefly his case in Court and, to the appreciation of the Court, the main concern of the [petitioner Felix/representative George, Jr.] now is the "Sheriff's Second Notice to Vacate" of Branch 43, [MeTC], Quezon City. In effect, they are being asked to leave the premises in question by virtue of a Writ of Execution dated June 7, 2001 issued by the Acting Executive Judge of the said station, Judge Henri JP B. Inting.

From the records and as deciphered by the Court, the case before the lower court is one of unlawful detainer where herein [petitioner Felix/representative George, Jr.] lost and where incidentally the issue of ownership had been passed upon.

The case before this Court now will focus on the issue of ownership and/or reconveyance, the factual background being tied up to matters of inheritance and/or fraudulent acquisition and/or transfer of the subject property.

There being no direct, speedy and immediate recourse by [petitioner Felix/representative George, Jr.] in this case, there being initial merit to the prayer for a **Temporary Restraining Order**, this Court **GRANTS** the same.

Accordingly, the [respondents Alicia and Leticia], as well as [MeTC], Branch 43, its Sheriff and the Office of the Sheriff of Quezon City, Office of the Clerk of Court of Quezon City and the Register of Deeds are hereby **DIRECTED** to stop and/or desist from implementing the "Second Notice to Vacate the Premises" and/or Writ of Execution until and after this Court has heard the main case on the preliminary injunction.

The RTC, in the same Order, gave the parties the option of either presenting evidence at a hearing or filing supporting pleadings on the issuance of a writ of preliminary injunction; thereafter, the issue shall be considered submitted for resolution. In compliance with this Order, petitioner Felix and respondents Alicia and Leticia filed their Position Paper and Memorandum, respectively, and on 11 November 2002, the RTC issued another Order,<sup>[20]</sup> this time, granting petitioner Felix's prayer for the issuance of a writ of preliminary injunction, thus –

For consideration of this Court in resolving the matter of the issuance of the writ of preliminary injunction is the question on whether or not [petitioner Felix/representative George, Jr.] have the clear and unmistakable rights that will be violated in the event the enforcement of the Writ of Execution issued by the Metropolitan Trial Court of Quezon City, Branch 41 [*sic*] is pushed through.

Inasmuch as the issue before this Court is the alleged spurious and irregular transaction involving the alleged sale of the subject property, and considering that the ejectment case before the Metropolitan Trial