

FIRST DIVISION

[G.R. NO. 157604, October 19, 2005]

GEORGE V. BENEDICTO, PETITIONER, VS. HON. COURT OF APPEALS AND ROMEO G. CHUA, RESPONDENTS.

D E C I S I O N

QUISUMBING, J.:

This special civil action for certiorari and prohibition seeks to annul the **Resolution**, [1] dated March 21, 2003, of the Court of Appeals in CA-G.R. SP No. 73919 for grave abuse of discretion amounting to lack or excess of jurisdiction.

The antecedent facts, as culled from the records, are as follows:

Petitioner George V. Benedicto is the owner of a parcel of land with an area of 736 square meters located in Carlos Hilado Highway, Bacolod City. He entered into a contract of lease with private respondent Romeo G. Chua on October 15, 2000. Under the contract, the lease was to start on November 15, 2000. The contract also stipulated that the rent would be P7,000 monthly.

Chua immediately started constructing a hollow-block fence, conformably with paragraph 6 of their contract, to wit:

6. ... the Lessee may introduce any improvements and additions on the land, and at the termination of the lease, he may remove the same, except the fence surrounding and enclosing the property, the cost of which shall be equally divided into twenty-four (24) months and the amount thereof be deducted from the rent until the same shall have been completely set-off....[2]

On November 13, 2000, Chua paid Benedicto P28,000 representing deposit for one month and advance rent for three months. Thereafter, Chua failed to pay the rent prompting Benedicto to send a demand letter after a fruitless amicable settlement at the Office of Lupong Tagapamayapa.

Chua did not pay. Hence, Benedicto filed a case against Chua for unlawful detainer and damages, docketed as Civil Case No. 26881, with the Municipal Trial Court in Bacolod City, Branch 3. In turn, Chua filed with the same court a petition for consignation docketed as Civil Case No. 26911.

The MTCC dismissed the consignation case for lack of jurisdiction as the said case falls under the jurisdiction of the RTC. The MTCC found merit in the complaint for unlawful detainer and damages. It ordered Romeo G. Chua and all persons acting for and under him or on his behalf, (1) to immediately vacate or surrender possession of the leased premises to therein plaintiff; (2) to pay plaintiff P19,500,

covering the period from March 15, 2001 to August 14, 2001, and thereafter, the additional or further amount of P4,500 only per month until said premises was vacated and until the P2,500 monthly credit in favor of the defendant was exhausted reckoned from February 15, 2001 to January 14, 2003 whichever comes first; and (3) to pay the plaintiff the sum of P10,000 as attorney's fee and P5,000 for costs and other expenses.^[3]

Chua appealed to the Regional Trial Court of Bacolod City, Branch 43. In its Decision, ^[4] dated August 30, 2002, the RTC modified the MTCC judgment. It dismissed the case for consignment, for lack of tender of payment and prior notice; ordered Chua to immediately vacate or peacefully surrender possession to Benedicto; ordered the Clerk of Court of the Municipal Trial Court in the City of Bacolod to turn over to Benedicto P46,500 and P18,000 upon presentation of the original receipts; ordered Benedicto to pay Chua P6,136.39 representing the remaining value of the improvement constructed by the former, which is the perimeter hollow block fence, and deliver to Chua P4,672.64 deposited by the latter with the aforementioned judicial authorities in the excess of the rental of the property as computed by the Court; and ordered Chua to pay Benedicto the P10,000, attorney's fees and P5,000 for cost and other expenses. The RTC also denied all other claims and counterclaims of the parties.^[5]

On November 19, 2002, Chua filed with the Court of Appeals a petition for review with prayer for temporary restraining order or preliminary injunction.

Meanwhile, on November 22, 2002, in Civil Case No. 02-11643, the RTC of Bacolod City, Branch 43 issued a Writ of Execution.^[6]

However, in view of the aforesaid petition for review, the Court of Appeals issued a temporary restraining order on December 23, 2002, enjoining the RTC of Bacolod City, Branch 43, from enforcing its Decision in Civil Case No. 02-11643.

Upon receipt of the said TRO, Presiding Judge Philadelfa B. Pagapong-Agraviador replied in a letter dated January 2, 2003 as follows:

Pertinent to your telegram dated December 23, 2002 received by the undersigned on the same date, please be informed that returns were made by Mr. Leoncio Yongque, Jr., Deputy Sheriff of this branch, on the partial execution of the Court's Decision dated August 30, 2002 in the aforementioned case. Attached for your ready reference are the following annexes:

A - Sheriff's return dated December 5, 2002;

B - Sheriff's return dated December 16, 2002;

C - Sheriff's return dated December 23, 2002.

Also attached is the undersigned's Memorandum to the branch sheriff enjoining him from fully implementing the Writ of Execution dated November 22, 2002.

[Concomitant] to your resolution granting defendant's application for a Temporary Restraining Order, there being no complete execution of the assailed decision, undersigned undertakes that no further execution shall be implemented until further order from your court.^[7]

On April 4, 2003, Benedicto filed with the Court of Appeals an Urgent Manifestation and Motion to Dissolve/Quash Temporary Restraining Order^[8] on the ground that the TRO had already become moot and academic.

In his Comment^[9] to the said Manifestation and Motion, Chua replied that the writ of execution issued by the RTC had not been fully implemented because his properties and the improvements were still within the subject premises.

The Court of Appeals ruled on the said Manifestation and Motion, in its assailed Resolution of March 21, 2003, as follows:

IN VIEW OF ALL THE FOREGOING, let the writ of preliminary injunction be issued in this case upon the posting of a P100,000.00 injunction bond restraining the respondents from prohibiting the petitioner from entering the subject premises and/or from conducting business thereon just like before the controversy between the parties had arisen. For this purpose, respondent is hereby ordered to remove anything that was placed to block the display room of the petitioner and to remove the padlock and to open the gate so that petitioner may resume his usual business in the premises, all pending resolution of the instant petition for review.

. . .

SO ORDERED.^[10]

Clearly, the sole issue in this case is: Did the Court of Appeals commit grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the questioned writ of preliminary injunction, despite the *immediately executory* character of RTC judgments in ejectment cases?

Herein petitioner Benedicto contends that the Court of Appeals committed grave abuse of discretion in issuing a preliminary injunction even if it was not prayed for. Granting *arguendo* that said provisional remedy was prayed for, Benedicto insists preliminary injunction does not lie as judgments of the RTC against the defendant in ejectment suits are immediately executory even pending appeal. Benedicto also argues that the issuance of the writ of preliminary injunction, in effect, disposed of the main case without trial. Benedicto further points out that the act sought to be enjoined by the preliminary injunction was already *fait accompli*.

For his part, Chua counters that the present petition cannot be resorted to without a prior motion for reconsideration to allow public respondent Court of Appeals to correct the error imputed to it. He also maintains that there was only partial delivery of possession to Benedicto; hence, the acts sought to be enjoined had not yet become *fait accompli*. Finally, Chua stresses that despite the executory character of the RTC judgment against the defendant in ejectment cases, injunctive relief may still be granted.