

SECOND DIVISION

[G.R. No. 145284, February 11, 2004]

ROSITA DAVID, PETITIONER, VS. SPOUSES ROD AND CYNTHIA NAVARRO, AND THE COURT OF APPEALS, RESPONDENTS.

DECISION

CALLEJO, SR., J.:

This is a petition for certiorari, prohibition, mandamus and injunction, under Rule 65 of the 1997 Rules of Civil Procedure, assailing the March 15, 2000 Resolution of the Court of Appeals^[1] and the writ of preliminary injunction issued pursuant thereto; and the Resolution dated August 25, 2000 denying the motion for reconsideration filed thereon. In annulling the said resolutions, the petitioner seeks to (a) prohibit the Court of Appeals from deciding the said case on its merits; (b) compel the Court of Appeals to dismiss the said case; and (c) order the private respondents to vacate the property located at No. 1164 E. Rodriquez, Sr. Avenue, Quezon City.

The Antecedents

During his lifetime, Andrew David was in the business of buying and selling used cars. He had ten vehicles which were offered for sale, three of which were unserviceable. He owned parcels of land, including one covered by Transfer Certificate of Title (TCT) No. 14793 located in Quezon City. He had a savings deposit account with the Philippine Savings Bank (PS Bank) under Savings Account No. 017-0386548-7 in the amount of P500,000.00. He also had a life insurance of P1,500,000.00 from the SunLife of Canada Insurance Company.^[2]

On May 5, 1994, Andrew David was shot by two unidentified men as he was about to reach his house. He was survived by his wife, Teodora David, and his mother, petitioner Rosita David.^[3] Teodora was a suspect in the killing of her husband.^[4]

The petitioner filed with the Regional Trial Court a petition for the settlement of the estate of her son, Andrew David, docketed as Sp. Proc. No. 10436 and prayed that she be appointed as special administratrix of the estate. Teodora opposed the petition. She also sold Andrew's personal properties, including the seven serviceable vehicles. The unserviceable ones were given to the petitioner.^[5]

In the meantime, Teodora and the petitioner filed a motion in Sp. Proc. No. 10436 for joint authority to withdraw P500,000.00 from PS Bank Savings Account No. 017-0386548-7, to sell the property covered by TCT No. 14793, and to receive the proceeds of the decedent's life insurance.^[6] On October 20, 1994, the court issued an Order granting the said motion. It directed Teodora and the petitioner to divide among the heirs of the decedent the remaining balance of the savings deposit account, the proceeds of the sale of the property, and the life insurance proceeds

from the Sunlife of Canada Insurance Company.^[7]

Thereafter, Teodora David, as vendor, and the respondent Spouses Rod and Cynthia Navarro, as vendees, executed a deed of conditional sale over the property covered by TCT No. 14793 for the price of P4,500,000.00 payable as follows:

1) That the amount of ONE MILLION PESOS (P1,000,000.00) shall be paid by VENDEE to the VENDOR as down payment whereupon the VENDOR shall:

A. Deliver to VENDEE the vacant possession of the premises, free of any occupants and/or tenants.

B. Undertake the payment of the existing Real Estate Mortgage with the Philippine Savings Bank, clear the title from the aforesaid Bank and secure the Release of Mortgage.

C. Cause the legal proceedings as legal heir of the late Andrew David (the VENDOR'S husband), to transfer the said title in the name of the VENDOR.

2) That the balance of THREE MILLION FIVE HUNDRED THOUSAND PESOS (P3,500,000.00) shall be paid by VENDEE to VENDOR upon the presentation of a valid, transferable and registerable title in the VENDOR'S name.^[8]

Rosita did not affix her conformity to the sale as she herself had a prospective buyer of the property for the price of P4,500,000.00.^[9]

The Navarro Spouses remitted the amount of P1,000,000.00 to Teodora as down payment. However, Teodora did not share the amount with the petitioner. The Navarro Spouses took possession of the property, and used a portion thereof for their car sale business. They employed Nilo Nase and Federico Vibar as car painters, and the latter's wife as caretaker of the property. The Spouses Vibar and their four-year-old daughter resided in a portion of the property.^[10]

On May 24, 1995, the petitioner executed an Affidavit of adverse claim over the property covered by TCT No. 14793, alleging that she had an interest over the same as one of Andrew's heirs, and that the latter's estate was pending settlement in Sp. Proc. No. 10436 in the RTC of Pasig, Branch 151. The affidavit was annotated at the dorsal portion of TCT No. 14793 on January 25, 1995.^[11]

The petitioner, thereafter, filed a complaint against Teodora and the Navarro Spouses for the annulment of the deed of conditional sale with the RTC of Quezon City, docketed as Civil Case No. Q-95-23351. However, Teodora and the Navarro Spouses failed to appear at the pre-trial conference. The court issued an order, on motion of the petitioner, declaring the Navarro Spouses and Teodora as in default. The petitioner adduced evidence *ex-parte*. On August 26, 1997, the RTC rendered judgment in favor of petitioner, the decretal portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. Declaring the Deed of Conditional Sale executed by and between defendants Teodora R. David and Spouses Rod and Cynthia Navarro as null and void;
2. Ordering defendant Teodora R. David to pay the plaintiff the amount of P75,000.00 as attorney's fees;
3. Defendant Teodora R. David to pay the costs of suit.

SO ORDERED.^[12]

The trial court ruled that the deed of conditional sale was null and void because (a) the petition did not conform to it; and (b) it was not approved by the probate court.

^[13] Teodora and the Navarro Spouses appealed the decision to the Court of Appeals, docketed as CA-G.R. CV No. 59872.^[14]

While the appeal was pending, the petitioner filed on May 7, 1998, a Complaint for Unlawful Detainer against the Navarro Spouses with the Metropolitan Trial Court of Quezon City, Branch 36, docketed as Civil Case No. 20064. The petitioner alleged, *inter alia*, that the Navarro Spouses were in possession of the property and refused to pay any rentals despite demands therefor. She prayed that the Navarro Spouses be evicted from the property, and be ordered to pay rentals in the amount of P50,000.00.^[15]

In the meantime, the RTC rendered a Decision on July 6, 1998 in Sp. Proc. No. 10436, appointing the petitioner as administratrix of her son's estate. The decretal portion of the said decision reads:

WHEREFORE, finding the petition to be well-taken and meritorious, this Court hereby appoints Rosita S. David administratrix of the estate of the deceased Andrew S. David and upon her filing a bond in the amount of P100,000.00 and upon taking her oath of office, let letters of administration be issued in her favor.

SO ORDERED.^[16]

Applying the Rules on Summary Procedure, the MTC rendered judgment on November 16, 1998, in Civil Case No. 20064 in favor of the petitioner, ordering the Navarro Spouses to vacate the property. The decretal portion of the decision reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendants, as follows:

1. Ordering the defendants and all persons claiming right under them to vacate the premises subject matter of this case located at E. Rodriguez, Sr. Avenue, Quezon City, and surrender possession thereof to the plaintiff;
2. Ordering the defendants to pay the sum of P50,000.00 a month, representing the reasonable compensation for the use and occupancy of the premises in question starting from the date the defendant took possession and occupied the property subject

matter of this case and every month thereafter until the defendants and all persons claiming right under them shall have actually vacated the premises in question and surrendered possession thereof to the plaintiff;

3. Ordering the defendants to pay the sum of P50,000.00 as and for, attorney's fees; and

4. Ordering the defendants to pay the costs of suit.

SO ORDERED.^[17]

The Navarro Spouses received a copy of the decision of the lower court on December 4, 1998 and filed a Notice of Appeal on December 9, 1998. The petitioner filed a motion to dismiss, which the court denied. On December 9, 1998, the petitioner filed with the MTC in Civil Case No. 20064, a Motion for the Issuance of a Writ of Execution pending appeal, on her claim that the Navarro Spouses had failed to post a *supersedeas* bond in the amount of P2,250,000.00. The lower court issued an order giving the Navarro Spouses five days to file a *supersedeas* bond in the amount of P2,250,000.00 to stay the execution of the judgment. Upon the Navarro Spouses' failure to post the bond, the lower court granted the petitioners' motion and issued the writ of execution prayed for and ordered the eviction of the Navarro Spouses.^[18]

On February 8, 1999, the Navarro Spouses filed a Petition for *Certiorari* with the RTC, docketed as Civil Case No. 36725 with a prayer for a temporary restraining order or writ of preliminary injunction, for the nullification of the writ of execution pending appeal issued by the MTC. They claimed that despite the perfection of their appeal with the RTC from the decision of the MTC, the latter nonetheless issued a writ of execution pending appeal. The Navarro Spouses prayed as follows:

WHEREFORE, premises considered, petitioners respectfully pray that, upon filing, a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction be issued enjoining the respondent Deputy Sheriff of the MTC, Branch 36 from implementing the Writ of Execution dated January 20, 1999, and all persons acting under said public respondent and said Writ of Execution be QUASHED, the same having been based on a void judgment.

Petitioners further pray that public respondent judge, pursuant to his Order granting the perfected appeal, be directed to forward the records of Civil Case No. 20064 to this Honorable Court with dispatch to enable this Honorable Court to resolve the issues raised herein involving the grave abuse of discretion and/or in excess or without jurisdiction since the respondent judge has lost his jurisdiction to act on any matter therewith.

Petitioners further pray that upon elevation of the records of Civil Case No. 20064 to this Honorable Court that the same be consolidated with the perfected appeal for purposes of consolidating the same.^[19]

The RTC did not issue a temporary restraining order or a writ of preliminary injunction.

On February 9, 1999, the petitioner filed a Motion to Dismiss the Appeal in CA-G.R. CV No. 59872 on the ground that the respondents' Brief, as appellants, was defective, in that –

4. The "Statement of Facts" contained in pages 2 to 6 of the herein defendants-appellants-spouses' appellants' brief violate this provision. It does not state what are "the facts admitted by both parties and of those in controversy." It also does not state or cite the proof or evidence to support these alleged "facts." It does not make any page references to the record. It does not cite a single transcript of stenographic notes, pleading (to prove admissions, if any) or documentary evidence.^[20]

In the meantime, at 11:30 a.m. on February 11, 1999, Atty. Ricardo J.M. Rivera, the petitioner's counsel, proceeded to the property to implement the writ of execution issued by the MTC in Civil Case No. 20064. He was with Deputy Sheriff Canon L. Amoranto and some policemen. At first, the Navarro Spouses were adamant and refused to give up the possession of the property. They later relented but appealed to Atty. Rivera to allow their three unserviceable cars to remain in the garage. The lawyer agreed. The sheriff turned over the possession of the property to the petitioner, through counsel, who issued a receipt of possession for and in behalf of the petitioner.^[21] The Spouses Vibar and Nilo Nase, the care-takers, pleaded that they be given a few days to vacate the property. Atty. Rivera saw the seven-year-old daughter of the Vibar couple, Maricris, crying, and pitied them. He agreed to let them stay in the property for a few more days.^[22] Atty. Rivera engaged the services of security guards Larry Ordines, Arsenio Rufano and Dante Vargas of the GBF Security and Investigation Agency, with specific orders not to allow any repair works in the property by any employee of the Navarro Spouses.^[23] The petitioner, through counsel, had the entrance to the property locked.

Unknown to the petitioner, the Navarro Spouses filed with the Court of Appeals in CA-G.R. CV No. 59872 an Urgent Motion for the Issuance of a Temporary Restraining Order praying that the court enjoin the MTC from implementing the writ of execution it issued in Civil Case No. 20064. The petitory portion of the motion reads:

WHEREFORE, PREMISES CONSIDERED, appellants ROD and CYNTHIA NAVARRO, respectfully pray:

1. That, upon filing, a Temporary Restraining Order (TRO) be issued against the appellee, restraining her and all persons acting for her behalf such as the Deputy Sheriff of the Metropolitan Trial Court of Quezon City, Branch 36, from implementing the Writ of Execution issued by the Metropolitan Trial Court of Quezon City, Branch 36, covering the same property subject matter of the instant appeal;
2. That said Temporary Restraining Order ripen into a Writ of Preliminary Injunction upon proper hearing and/or submission of memoranda.