

FIRST DIVISION

[G. R. No. 118249, February 14, 2003]

**MANILA INTERNATIONAL AIRPORT AUTHORITY, PETITIONER,
VS. COURT OF APPEALS, HON. EDITA M. MULINGTAPANG,
PRESIDING JUDGE, REGIONAL TRIAL COURT OF PASAY CITY,
METRO MANILA, BRANCH 115, AND K SERVICES COMPANY,
RESPONDENTS.**

D E C I S I O N

CARPIO, J.:

The Case

Before this Court is a petition for review^[1] assailing the Amended Decision^[2] of the Court of Appeals dated December 2, 1994 in CA-G.R. SP No. 32419 that upheld the writ of preliminary injunction granted by the Regional Trial Court of Pasay City, Branch 115, in its Orders^[3] dated January 20, 1993 and August 5, 1993 in Civil Case No. 9500. The questioned orders of the trial court enjoined the Manila International Airport Authority ("MIAA" for brevity) from terminating the portage concession of K Services Company ("K Services" for brevity).

Antecedent Facts

K Services began providing porters for the domestic passenger terminal of the Manila International Airport (now the Ninoy Aquino International Airport) under a provisional permit for the period from January 1, 1976 to April 30, 1976. MIAA and K Services subsequently executed a contract effective from May 1976 to April 30, 1977 that was renewed yearly until December 1984.

Although the parties did not renew their contract for the succeeding year, K Services continued as portage contractor from January 1985 until February 1987. Sometime in February 1987, however, MIAA gave notice that the services of K Services would be terminated on February 20, 1987. In response, K Services filed a petition for injunction on February 26, 1987 with the Regional Trial Court of Pasay City docketed as Civil Case No. 4692-P.

On December 26, 1989, the Regional Trial Court of Pasay City, Branch 113, rendered a decision in Civil Case No. 4692-P ruling that MIAA could terminate its contract with K Services at any time. On April 12, 1991, K Services appealed the decision of the trial court to the Court of Appeals which dismissed the appeal in CA-G.R. SP No. 23053. The Court of Appeals also denied K Services' subsequent motion for reconsideration. As K Services did not appeal, the decision of the Court of Appeals became final and executory. Thus, the issue as to whether MIAA could terminate the contract with K Services became *res judicata*.^[4]

Shortly after, K Services received a letter dated May 31, 1991 from then MIAA General Manager Eduardo Carrascoso, the relevant portion of which stated:

"Due to certain administrative problems that are preventing us from taking over, please continue operating said service ***until further notice from us.***

In connection thereto, please be advised also that PAL Authorities and the MIA Authority have come to an agreement whereby the latter shall operate and manage the Domestic Terminal II which necessarily includes the operation of the portage and other concessions therein. In this regard, you may take over the operation of the portage service therein since the flights being operated in this Terminal II used to be a part of your contract. Please coordinate this with the Manager of the Domestic Passenger Terminal and the PAL Authorities concerned.

Please understand however that in continuing the operation of the portage service, you will be charged the monthly Concession Privilege Fee in the amount of P45,000.00 for each Terminal or a total of P90,000.00 per month; further, ***you will also abide by the terms and conditions of your expired contract.***"^[5] (Emphasis supplied)

K Services alleged that it was initially hesitant to accept MIAA's offer. However, it continued to provide porters for Domestic Terminal I and expanded its operations to cover Domestic Terminal II upon the alleged verbal assurance of MIAA's officers that MIAA's policy was to relinquish portage operations to the private sector. K Services likewise claimed that MIAA officers also gave verbal assurance that K Services would not be replaced with another portage contractor without a public bidding in which K Services could participate.^[6] In support of its contention, K Services cited the memorandum dated August 28, 1992 from General Manager Guillermo G. Cunanan to the MIAA Board of Directors. The memorandum stated that "Management has decided to relinquish the management of these concessions and award them to the private sector at fair and reasonable fees x x x."^[7] The memorandum recommended to the MIAA Board of Directors the approval of a schedule of concession fees chargeable to concessionaires of portage and other services.

However, on December 1, 1992, General Manager Cunanan gave written notice to K Services to "wind up" its operations as "Management has decided to take over the aforesaid services at the Domestic Passenger Terminals I and II."^[8]

K Services opposed the takeover. It filed on December 18, 1992 a Petition for Prohibition with Preliminary Injunction and Prayer for a Temporary Restraining Order^[9] with the Regional Trial Court of Pasay City, Branch 115, docketed as Civil Case No. 9500. Finding the petition to be sufficient in form and substance, the trial court issued on December 28, 1992 a temporary restraining order against MIAA. On January 20, 1993, the trial court granted the writ of preliminary injunction prayed for by K Services, as follows:

"WHEREFORE, the Court, after careful evaluation and consideration of the evidence adduced by the parties, so finds that this is a proper case where a Writ of Preliminary Injunction should issue and let a Writ of Preliminary Injunction be issued to restrain and prevent the respondent Manila

International Airport Authority or anyone acting for in (sic) its own behalf, from terminating the portorage services of the petitioner K Services Company until further order from this Court provided, however, that the petitioner files before this Court a bond with sufficient sureties in the amount of FIVE HUNDRED THOUSANDS (sic) PESOS (P500,000.00), Philippine Currency, executed to the respondent to answer and pay for whatever damages the respondent may sustain pending the hearing on the merits of the main case by reason of the injunction if the Court should finally decided (sic) that the petitioner was not entitled thereto.”

[10]

MIAA’s legal department duly received a copy of the trial court’s order. However, the Office of the Solicitor General (“OSG” for brevity) did not receive a copy of the injunctive writ, despite having already entered its appearance as counsel for MIAA during previous hearings before the trial court.

On February 11, 1993, the OSG filed a motion to dismiss the complaint filed by K Services on the grounds that: (1) the complaint failed to state a cause of action; or (2) assuming the existence of a cause of action, a prior judgment barred the same. At the time MIAA filed the instant petition before the Court, this motion to dismiss, opposed by K Services, was pending consideration by the trial court.

On July 7, 1993, K Services filed a motion to cite MIAA’s General Manager Cunanan for contempt as the latter ostensibly attempted to oust and replace K Services with another portorage contractor. It was only upon receipt of a copy of the contempt motion that the OSG supposedly learned of the writ of preliminary injunction issued by the trial court. On July 23, 1993, the OSG filed an Omnibus Motion^[11] which mainly alleged that: (1) the injunctive writ lacked legal and factual basis; and (2) K Services was using the injunction as a shield to violate the terms of the portorage agreement by charging fees in excess of the amount authorized by the contract. The Omnibus Motion prayed for reconsideration of the order of January 20, 1993 and for the lifting of the injunction.

On August 5, 1993, the trial court denied MIAA’s Omnibus Motion, ruling that:

“2. The allegations that the complaint states no cause of action, and that the issuance of the Writ of Preliminary Injunction has no factual and legal basis to the mind of this Court, are not tenable. A hearing on the question of whether or not a Writ of Preliminary Injunction should be issued was held wherein the parties and their counsels were allowed to go on oral arguments and this Court after a careful evaluation of the evidence adduced thereat found that there is a case where a writ of preliminary injunction should issue. Evidence adduced shows that the petitioner is servicing the respondent as a portorage contractor and that a notice of termination was sent to the petitioner. The allegation of the petitioner and presented before this Court is one for which a Court can make a valid judgment. Certainly, this Court has to issue a writ of preliminary injunction to avoid any irreparable loss that might be caused to the plaintiff. Nonetheless, to legally equate the respondent, this Court directed the petitioner to file a P500,000.00 bond to answer for whatever damage the respondent might sustain pending hearing of the case on the merits.”^[12]

The OSG, on MIAA's behalf, filed a petition for *certiorari* under Rule 65 to the Court of Appeals assailing the trial court's orders of January 20, 1993 and August 5, 1993. The OSG argued that the trial court committed grave abuse of discretion amounting to lack or excess of jurisdiction when it issued the writ of preliminary injunction and denied the Omnibus Motion without sufficient factual and legal basis.

The Ruling of the Court of Appeals

In its Decision of December 22, 1993,^[13] the Court of Appeals set aside the questioned orders of the trial court for lack of sufficient basis, to wit:

"In the case at bar, while the right of petitioner to terminate the lease contract is clear, and in fact ruled upon with finality or is *res judicata*, private respondent's mere claim of an extended/expanded contract is unclear and disputed, to the effect that the granting of the writ of preliminary injunction at this stage of the proceeding, being based on the doubtful genuineness and validity of the alleged extended agreement, has not been successfully established."

x x x

"Thus, the court *a quo* acted with grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the questioned orders.

WHEREFORE, the petition is GIVEN DUE COURSE and the questioned orders hereby RECONSIDERED and SET ASIDE."

While the motion for reconsideration filed by K Services before the Court of Appeals was pending, MIAA attempted to oust K Services based on the appellate court's decision. Upon motion of K Services, the trial court issued an order to preserve the *status quo ante* by reinstating K Services as the portorage contractor of Domestic Passenger Terminals I and II.

MIAA filed with the Court of Appeals a motion for the issuance of a temporary restraining order or writ of preliminary injunction to enjoin the trial court from implementing the *status quo ante* order. The Court of Appeals denied MIAA's motion in its Resolution of March 10, 1994.

On December 2, 1994, the Court of Appeals promulgated an Amended Decision reversing its earlier decision of December 22, 1993 and dismissing MIAA's petition for *certiorari*. Citing "misapprehensions of fact," the Court of Appeals ruled:

"In the case at bar, the evidence submitted by both parties, as well as the issues raised in the oral arguments, also by both parties, were the very bases upon which the writ of preliminary injunction was issued "to avoid any irreparable loss that might be caused to the plaintiff." Thus, it has been ruled that it is well-established that no grave abuse of discretion could be attributed to a judge or body in the issuance of a writ of preliminary injunction where a party was not deprived of its day in court as it was heard and had exhaustively presented all its arguments and defenses (Santos vs. CA, 214 SCRA 162).

WHEREFORE, the Decision dated December 22, 1993, object of respondent's motion for reconsideration, is hereby RECONSIDERED and SET ASIDE, and a new one rendered DISMISSING the instant petition."

[14]

On January 26, 1995, the OSG filed with the Court a petition for review and prayed for: (1) the reversal of the Amended Decision of the Court of Appeals; (2) the annulment of the assailed orders issued by the trial court; and (3) the issuance of a restraining order or writ of preliminary injunction enjoining the trial court from implementing its assailed orders.

The Issue

The MIAA raises this sole issue:

WHETHER THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN SUSTAINING THE ISSUANCE OF A WRIT OF PRELIMINARY INJUNCTION BY THE TRIAL COURT.

The central question for resolution is whether K Services was entitled to the writ of preliminary injunction granted by the trial court. The Court shall deal only with the questioned writ and not with the merits of the case pending before the trial court.

The Ruling of the Court

The petition is meritorious.

Whether MIAA's petition for certiorari should be considered barred by laches.

K Services contends that MIAA's right to question the trial court's order of January 20, 1993 is barred by laches. K Services points out that eight months had elapsed between the receipt by MIAA of the order of January 20, 1993 and the filing of the petition for *certiorari* questioning the order before the Court of Appeals.

K Services' argument is incorrect.

MIAA's petition for *certiorari* before the Court of Appeals sought to set aside two orders of the trial court. These are the injunctive order of January 20, 1993, and the later order of August 5, 1993 denying MIAA's Omnibus Motion before the trial court.

Laches is the failure, or neglect, for an unreasonable and unexplained time to do that which, by exercising due diligence, could or should have been done earlier. It is the negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned or declined to assert it.^[15] We have held that, in establishing laches, what should be considered is the interval after the rendition of the last order sought to be set aside.^[16]

Thus, what matters is the intervening period after the trial court's order of August 5, 1993 – the last order MIAA assailed in its petition for *certiorari* – to the time the petition was filed with the Court of Appeals. The records show that some seventy-seven days elapsed from MIAA's receipt on August 6, 1993 of the order of August 5,