

## THIRD DIVISION

[ G.R. No. 126371, April 17, 2002 ]

**JAIME BUSTAMANTE AND SALVACION ABABAN BUSTAMANTE  
PETITIONERS, VS. HON. COURT OF APPEALS, HON. RENATO A.  
FUENTES, IN HIS CAPACITY AS PRESIDING JUDGE OF THE  
REGIONAL TRIAL COURT OF DAVAO CITY, BRANCH 17,  
VICTORIA P. VDA. DE ABABAN, TERESITA P. ABABAN, EVELYN P.  
ABABAN-ADLAWAN, NARCISA P. ABABAN, ANITA ABABAN AND  
NORBERTO PARALISAN, IN HIS CAPACITY AS DEPUTY SHERIFF  
OF THE REGIONAL TRIAL COURT OF DAVAO CITY, BRANCH 17,  
RESPONDENTS.**

### DECISION

**CARPIO, J.:**

#### The Case

Before this Court is a petition assailing the Decision<sup>[1]</sup> of the Court of Appeals, dated April 30, 1996 in C.A.-G.R. SP No. 37983. The Decision affirmed the issuance of a writ of preliminary injunction by the Regional Trial Court of Davao City, Branch 17, in its Orders<sup>[2]</sup> dated April 24, 1995, June 15, 1995 and May 10, 1995 in Civil Case No. 23078-94.

#### Antecedent Facts

On August 8, 1994, private respondents filed with the trial court a Complaint for Recovery of Possession, Damages and Attorney's Fees with Preliminary Mandatory Injunction<sup>[3]</sup> involving a parcel of land designated as Lot 105, Block 20 ("Lot" for brevity), and the buildings thereon ("Buildings" for brevity), located at San Antonio Village, Matina, Davao City.

In their complaint, private respondents averred the following: (1) title to the Lot<sup>[4]</sup> is registered in the name of Mindanao Realty Corporation ("MRC" for brevity); (2) respondent Victoria Ababan and her late husband, Martin Ababan ("Ababan Spouses" for brevity), acquired possessory rights over the Lot in 1950; (2) the Ababan Spouses are the rightful claimants or occupants of the Lot; (3) the Ababan Spouses built the original Buildings thereon; (4) the Ababan Spouses merely allowed and tolerated petitioners to use and take physical possession of the Lot in November 1991 upon petitioners' request because they had no place of residence; and (5) petitioner Jaime Bustamante, the son-in-law of the Ababan Spouses, subsequently began to claim the Lot and Buildings by making it appear in the records of MRC that he was the claimant or occupant of the Lot.

Private respondents prayed that a writ of preliminary mandatory injunction be issued enjoining petitioners from claiming the Lot and Buildings, that judgment be

rendered after trial in their favor, and that the mandatory injunction be made permanent. Alternatively, private respondents prayed that petitioners be made to surrender to private respondents the peaceful possession of the Lot and Buildings and to pay a monthly rental of P5,000.00 from November 1991 until the case is terminated.

In their Answer with Compulsory Counterclaim<sup>[5]</sup> dated September 12, 1994, petitioners denied that private respondents were the rightful possessors of the Lot and Buildings. Petitioners countered that the lawful possession of the Lot and ownership of the Buildings belonged to them since they had introduced the improvements on the Lot consisting of two houses and a surrounding eight-foot wall made of hollow blocks. Petitioners alleged that private respondents, who reside at the latter's ancestral home in Aurora Quezon Boulevard, Davao City, had never occupied the Lot and Buildings and that private respondents maliciously filed the present suit due to a family feud. Petitioners prayed that the present action be dismissed and that, if they are evicted, private respondents be ordered to reimburse them P500,000.00 as cost of improvements, and for damages.

Subsequently, private respondents filed a Motion for Preliminary Prohibitory Injunction and a Temporary Restraining Order<sup>[6]</sup> on November 14, 1994 alleging that petitioners, as part of their scheme to oust private respondents to the great damage of the latter, have been trying to introduce additional improvements on the Buildings. Private respondents also claimed that petitioners are leasing portions of the Buildings to third parties and that petitioners are attempting to lease more areas of the Buildings. Further, private respondents claim that petitioners have been disposing various equipment located on the Lot without private respondents' consent. Private respondents therefore prayed that the trial court issue a temporary restraining order and, thereafter, a writ of preliminary prohibitory injunction enjoining petitioners from committing the said acts.

On December 12, 1994, the trial court held a hearing for the issuance of a writ of preliminary injunction at which petitioners and private respondents presented their evidence. The trial court, in its Order dated April 24, 1995, denied private respondents' prayer for preliminary mandatory injunction to eject petitioners but granted the prayer for preliminary injunction upon the posting of a P100,000.00 bond by private respondents.

The trial court's Order<sup>[7]</sup> states in part:

"Finally, the court, cannot allow disposition of defendants in the premises in question, at this stage of the proceedings, without affording defendants opportunity, to remain thereat subject to the condition, **defendants are no longer allowed to collect rentals of the lessees in the premises but will themselves pay a reasonable rent** of their occupation in the building, they are presently occupying, upon agreement with plaintiffs particularly Victoria Ababan or if said agreement cannot be reached, shall be determined by this court, on a reasonable rentals as that decided in the case of Merville Park Homeowners Assn. Inc. vs. Velez 196 SCRA 189, it was held:

'Injunction may issue pendente lite only in cases of extreme emergency, where the right to the possession, during the

pendency of the main case, of the property involved is very clear; where considerations of relative inconvenience bear strongly in favor of the complainant seeking the possession pendente lite; where there was willful and unlawful invasion of plaintiffs rights over his protest and remonstrance, the injury being a continuing one; where the effect of the preliminary mandatory injunction is to re-establish and maintain a pre-existing and continuing relationship between the parties, recently and arbitrarily interrupted by the defendants, rather than to establish a new relationship during the pendency of the principal case.'

Accordingly, **defendants, Jaime and Salvacion Bustamante are ordered to desist, refrain and prohibit from collecting rentals from the lessees in the buildings in question, said right is vested with plaintiff, Victoria Ababan, or her duly authorized representative, during the pendency of this case.**

Moreover, defendants, are likewise prohibited from making any further improvements in the premises, as well as refrain in entering into any contract for the disposition of said property in favor of any third party, during the pendency of this case.

However, for lack of justifiable ground and basis, plaintiff's prayer, for issuance of writ of preliminary mandatory injunction, is denied.

Defendants will continue to occupy in the building they are presently residing, upon payment of a reasonable rentals that maybe agreed with plaintiff, Victoria Ababan.

WHEREFORE, finding plaintiffs through counsel, prayer for issuance of writ of preliminary prohibitory injunction, proper and supported with preponderance of evidence, is granted.

However, before the actual issuance of the writ of preliminary prohibitory injunction, plaintiffs pursuant to Rule 58, Sec. 4 of the new rules of court, is required to post a bond in the amount of ONE HUNDRED THOUSAND PESOS (P100,000.00) either in cash or undertaken by a qualified and duly accredited bonding surety company, with sufficient qualification and amount, as maybe approved by this court, to answer to any such damages, defendants will suffer, by reason of the issuance of the writ of preliminary prohibitory injunction prayed for, if plaintiffs is found not entitled to its issuance.

SO ORDERED." (Emphasis supplied)

On May 4, 1995, private respondents filed a bond duly approved by the trial court, in accordance with the foregoing Order. On May 10, 1995, the trial court issued a writ of preliminary injunction enjoining petitioners, as follows:

"NOW, THEREFORE, EFFECTIVE IMMEDIATELY, and until further orders from this court, defendants Spouses Jaime Bustamante and Salvacion Ababan Bustamante, their agents, privies, representatives, assignees, or

persons acting upon or in their place and stand, are ENJOINED AND RESTRAINED, from collecting rentals from the lessees in the building in question, likewise defendants are prohibited from making any improvements in the premises as well as refrain in entering into any contract for the disposition of said property in favor of any third party, or to do any act or acts prejudicial to the rights and interests of plaintiffs over the property in question.

SO ORDERED.” [8]

Petitioners subsequently filed a Motion for Reconsideration dated May 19, 1995, assailing the portion of the writ of preliminary injunction that required them to desist from collecting rentals from existing lessees and directed them to pay reasonable rent to private respondents. Petitioners asked the trial court to set aside or modify its Order dated April 24, 1995 as well as the writ of preliminary injunction. Private respondents filed on June 9, 1995 an Opposition to the motion, to which petitioners filed their Reply on June 13, 1995. On June 15, 1995, the trial court denied petitioner’s Motion for Reconsideration for being devoid of merit. On July 31, 1995, petitioners filed a special civil action for certiorari and prohibition before the Court of Appeals seeking to annul the trial court’s Orders dated April 24, 1995 and June 15, 1995, and the writ of preliminary injunction dated May 10, 1995.

### **The Ruling of the Court of Appeals**

The appellate court affirmed the Orders of the trial court and dismissed the petition for certiorari and prohibition on the ground that the issuance of a writ of preliminary injunction is addressed to the sound discretion of the court, and that such discretion should not be interfered with absent any showing of manifest abuse of discretion. The dispositive portion of the Court of Appeals decision dated April 30, 1996 states:

“WHEREFORE, the instant petition for certiorari and prohibition is DISMISSED, and the Orders of April 24, 1995, June 15, 1995, and May 10, 1995 of the RTC-Davao City, Branch 17, in Civil Case No, 23078-94, are hereby AFFIRMED. Our Resolution of August 10, 1995, restraining the enforcement of the Order of April 24, 1995, insofar as it restrains the respondents from collecting rentals, is LIFTED and SET ASIDE.”[9]

### **The Issues**

The petitioners raise the following issues:

1. WHETHER OR NOT THE TRIAL COURT ACTED WITHOUT OR IN EXCESS OF JURISDICTION, OR WITH GRAVE ABUSE OF DISCRETION, IN ISSUING THE ORDERS DATED APRIL 24, 1995 AND JUNE 15, 1995, AND THE WRIT OF PRELIMINARY INJUNCTION DATED MAY 10, 1995; AND
2. WHETHER OR NOT THE COURT OF APPEALS, IN AFFIRMING THE TRIAL COURT’S ORDERS AND WRIT OF PRELIMINARY INJUNCTION, ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION.

The Court will deal only with the questioned writ of preliminary injunction and not with the merits of the civil case still pending with the trial court.

### **The Ruling of the Court**

The petition is partly meritorious.

Generally, the grant or denial of a writ of preliminary injunction in a pending case rests in the sound discretion of the court taking cognizance of the case.<sup>[10]</sup> The assessment and evaluation of evidence in the issuance of the writ of preliminary injunction involve findings of facts ordinarily left to the trial court for its conclusive determination.<sup>[11]</sup>

A perusal of the Order dated April 24, 1995 shows that the trial court carefully enumerated and reviewed the evidence presented by both parties during the hearing for the issuance of the preliminary injunction. The Order cites and explains some of the evidence adduced before the trial court in this wise:

“During the hearing for issuance of preliminary prohibitory injunction on December 12, 1994, plaintiffs witness Atty. Camilo Naraval, was presented and testified; on the basis of an affidavit executed by him, showing Spouses Martin Ababan (deceased) and Victoria Ababan, acquired among others, a property situated at Tadao Nambu Estate fronting the GSIS at 111 MacArthur Highway, Davao City familiar to him as former counsel of Spouses Martin Ababan.

The Spouses, built a small house in 1950 and later introduced various improvements therein.

The subject property was used as a storage and repair station of plaintiffs’ carnival equipments, converted later into an auto care shop and later was leased to Dra. Bacacao by plaintiffs parents.

Upon questions of the court, Atty. Naraval declared, the premises, is about 400 to 500 sq. m. The small house earlier built was dismantled and a semi-garage, was constructed by plaintiff. He saw Spouses Ababan, personally constructed the house in question because he used to frequent the premises, even before he became a lawyer, sometime in 1950, until later when he was already a lawyer, he saw the building constructed by Spouses Ababan.”

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Apart from the testimony of defendants, supporting their claim as owners of the subject properties, the record is bereft of any evidence to prove defendants, were the ones who constructed the buildings on the subject lot.

It is highly improbable, a competent and reliable carpenter, will assume the responsibility, to construct a not simple building but rather expensive infrastructure, without any plan and specification, situated in a metropolitan place, like Davao City, only relying on his mere estimate, to