

SECOND DIVISION

[G.R. No. 133090, January 19, 2001]

REXIE EFREN A. BUGARING AND ROYAL BECHTEL BUILDERS, INC., PETITIONERS, VS. HON. DOLORES S. ESPAÑOL, IN HER CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT BRANCH 90, IMUS, CAVITE, RESPONDENT.

D E C I S I O N

DE LEON, JR., J.:

Before us is a petition for review on certiorari of the Decision dated March 6, 1998 of the Court of Appeals^[1] affirming the decision of the Regional Trial Court of Cavite, Branch 90, Imus, Cavite, declaring petitioner Rexie Efren A. Bugaring guilty in direct contempt of court.

The incident subject of the petition occurred during a hearing held on December 5, 1996 of Civil Case No. 1266-96 entitled "Royal Bechtel^[2] Builders, Inc. vs. Spouses Luis Alvaran and Beatriz Alvaran, et al.", for Annulment of Sale and Certificates of Title, Specific Performance and Damages with Prayer for Preliminary Injunction and/or Temporary Restraining Order in the sala of respondent judge Dolores S. Español of the Regional Trial Court of Cavite, Branch 90, Imus, Cavite.

Pursuant to a motion filed by the previous counsel of Royal Bechtel Builders, Inc., the trial court issued an order on February 27, 1996 directing the Register of Deeds of the Province of Cavite to annotate at the back of certain certificates of title a notice of *lis pendens*. Before the Register of Deeds of the Province of Cavite could comply with said order, the defendant Spouses Alvaran on April 15, 1996, filed a motion to cancel *lis pendens*. On July 19, 1996, petitioner, the newly appointed counsel of Royal Bechtel Builders, Inc., filed an opposition to the motion to cancel *lis pendens*. On August 16, 1996, the motion to cancel *lis pendens* was granted by the court. Petitioner filed a motion for reconsideration, which was opposed by the defendants. On November 5, 1996, petitioner filed an Urgent Motion to Resolve, and on November 6, 1996, filed a Rejoinder to Opposition and a Motion for Contempt of Court.^[3]

During the hearing of the motion for contempt of court held on December 5, 1996, the following incident transpired:

ATTY. BUGARING: For the plaintiff, your Honor, we are ready.

ATTY CORDERO: Same appearance for the defendant, your Honor.

ATTY. BUGARING: Your Honor please, we are ready with respect to the prosecution of our motion for

contempt, your Honor. May we know from the record if the Register of Deeds is properly notified for today's hearing.

COURT: Will you call on the Register of Deeds.

INTERPRETER: Atty. Diosdado Concepcion, He is here, your Honor.

ATTY. BUGARING: We are ready, your Honor.

COURT: There is a motion for contempt in connection with the order of this Court which directed your office to register lis pendens of the complaint in connection with this case of Royal Becthel Builder, Inc. versus spouses Luis Alvaran and Beatriz Alvaran, et al.

ATTY. CONCEPCION: Your Honor, I just received this morning at ten o' clock [in the morning] the subpoena.

ATTY. BUGARING: May we put it on record that as early as November 6, 1996, the Office of the Register of Deeds was furnished with a copy of our motion, your Honor please, and the record will bear it out. Until now they did not file any answer, opposition or pleadings with respect to this motion.

ATTY. CONCEPCION: Well I was not informed because I am not the Register of Deeds. I am only the Deputy Register of Deeds and I was not informed by the receiving clerk of our office regarding this case. As a matter of fact I was surprised when I received this morning the subpoena, your Honor.

ATTY. BUGARING: Your Honor please, may we put that on record that the manifestation of the respondent that he was not informed.

COURT: That is recorded. This is a Court of record and everything that you say here is recorded.

ATTY. BUGARING: Yes your Honor please, we know that but we want to be specific because we will be [filing] a case against this receiving clerk who did not [inform] him your Honor please, with this manifestation of the Deputy of the Register of Deeds that is irregularity in the performance of the official duty of the clerk not to inform the parties concerned.

COURT: Counsel, the Court would like to find out who this fellow who is taking the video recording

at this proceedings. There is no permission from this Court that such proceedings should be taken.

ATTY. BUGARING: Your Honor, my Assistant. I did not advise him to take a video he just accompanied me this morning.

COURT: Right, but the video recording is prepared process and you should secure the permission of this Court.

ATTY. BUGARING: Actually, I did not instruct him to take some video tape.

COURT: Why would he be bringing camera if you did not give him the go signal that shots should be done.

ATTY. BUGARING: This Court should not presume that, your Honor please, we just came from an occasion last night and I am not yet come home, your Honor please. I could prove your Honor please, that the contents of that tape is other matters your Honor please. I was just surprised why he took video tape your Honor please, that we ask the apology of this Court if that offend this Court your Honor please.

COURT: It is not offending because this is a public proceedings but the necessary authority or permission should be secured.

ATTY. BUGARING: In fact I instructed him to go out, your Honor.

COURT: After the court have noticed that he is taking a video tape.

ATTY. BUGARING: Yes, your Honor, in fact that is not my personal problem your Honor please, that is personal to that guy your Honor please if this representation is being

COURT: That is very shallow, don't give that alibi.

ATTY. BUGARING: At any rate, your Honor please, we are going to mark our documentary evidence as part of our motion for contempt, your Honor please.

COURT: What has the Register of Deeds got to say with this matter?

ATTY. CONCEPCION: Well as I have said before, I have not received any motion regarding this contempt you are talking. I am willing now to testify.

ATTY. BUGARING: Your Honor I am still of the prosecution stage, it is not yet the defense. This is a criminal proceedings, contempt proceedings is a criminal.

ATTY. CONCEPCION: Your Honor please, may I ask for the assistance from the Fiscal.

COURT: If this is going to proceed, we need the presence of a Fiscal or a counsel for the Register of Deeds.

ATTY. CONCEPCION: Can I appoint an outside lawyer not a Fiscal but a private counsel, your Honor.

COURT: That is at your pleasure. The Court will consider that you should be amply represented.

ATTY. CONCEPCION: As a matter of fact I have a lawyer here, Atty. Barzaga if he is willing

ATTY. BARZAGA^[4]: Yes, your Honor, I will just review the records.

ATTY. BUGARING: Anyway your Honor please, I will not yet present my witness but I will just mark our documentary exhibits which are part of the record of the case and thereafter your Honor please....

COURT: You wait for a minute counsel because there is a preparation being done by newly appointed counsel of the respondent, Atty. Barzaga is considered as the privately hired counsel of the register of deeds and the respondent of this contempt proceedings. How much time do you need to go over the record of this case so that we can call the other case in the meanwhile.

ATTY. BARZAGA: Second call, your Honor.

COURT: Are you ready Atty. Barzaga?

ATTY. BARZAGA: Yes, your Honor. Well actually your Honor, after reviewing the record of the case your Honor, I noticed that the motion for contempt of Court was filed on November 6, 1966 and in paragraph 6 thereof, your Honor it is stated that, 'the record of the case shows up to the filing of this motion, the Register as well as the Deputy Register Diosdado Concepcion of

the Office of the Register of Deeds of the Province of Cavite, did not comply with the Court Orders dated February 27, 1996, March 29, 1996, respectively.' However, your Honor, Atty. Diosdado Concepcion has shown to me a letter coming from Atty. Efren A. Bugaring dated September 18, 1996 addressed to the Register regarding this notice of Lis Pendens pertaining to TCT Nos. T-519248, 519249 and 519250 and this letter request, your Honor for the annotation of the lis pendens clearly shows that it has been already entered in the book of primary entry. We would like also to invite the attention of the Hon. Court that the Motion for Contempt of Court was filed on November 6, 1996. The letter for the annotation of the lis pendens was made by the counsel for the plaintiff only on September 18, 1996, your Honor. However, your Honor, as early as August 16, 1996 an Order has already been issued by the Hon. Court reading as follows, 'Wherefore in view of the above, the motion of the defendant is GRANTED and the Register of Deeds of the Province of Cavite, is hereby directed to CANCEL the notice of lis pendens annotated at the back of Certificate of Title Nos. 519248, 51949 (sic) and 51950 (sic).'

ATTY. BUGARING: Your Honor please, may we proceed your Honor, will first mark our documentary evidence.

COURT: You wait until the Court allows you to do what you want to do, okay. The counsel has just made manifestation, he has not prayed for anything. So let us wait until he is finished and then wait for the direction of this Court what to do to have an orderly proceedings in this case.

ATTY. BARZAGA: Considering your Honor, that the issues appear to be a little bit complicated your Honor, considering that the order regarding the annotation of the lis pendens has already been revoked by the Hon. Court your Honor, we just request that we be given a period of ten days from today your Honor, within which to submit our formal written opposition your Honor.

COURT: Counsel, will you direct your attention to the manifestation filed earlier by Atty. Tutaan in connection with the refusal of the Register of Deeds to annotate the lis pendens because of