

SECOND DIVISION

[G.R. No. 108451, April 11, 1997]

**SOLID HOMES, INC., PETITIONER, VS. HON. COURT OF APPEALS,
AND EVELYN VERGEL DE DIOS, RESPONDENTS.
D E C I S I O N**

ROMERO, J.:

This is a petition for review on *certiorari* which seeks to annul and set aside the decision of the Court of Appeals dated September 30, 1992 in C.A.-G.R. SP No. 28383^[1] affirming the Order of the Regional Trial Court-Bulacan in Civil Case No. 382-M-92, where the trial court denied the application for a writ of preliminary injunction filed by herein petitioner against private respondent.

This case arose from a property located at Barangay Banaban, Angat, Bulacan (Lot No. 3863) covered by Transfer Certificate of Title No. T-130829 and registered in the name of Santiago V. Papa. Herein petitioner, Solid Homes Inc., acquired the said property by virtue of a Deed of Exchange dated February 28, 1980 executed by and between Santiago Papa and petitioner corporation, Solid Homes, Inc.^[2] By virtue of the said transaction, Solid Homes acquired the proprietary rights of Santiago Papa, as well as other interests, and claims over the subject property, including an application for quarry Permit on the property pending before the Bureau of Mines.

On March 20, 1980, the Bureau of Mines and Geo-Sciences granted Quarry Permit No. 103 to Santiago Papa over the subject property.^[3] The permit was for a period of five (5) years, renewable for one or more terms, but in no case to exceed the total of twenty five (25) years. However, after the lapse of five years, Santiago Papa failed to renew the said quarry Permit.

On June 16, 1989, private respondent Evelyn Vergel De Dios filed an application with the Regional Office of the Department of Environment and Natural Resources (DENR), Mines and Geo-Sciences Sector, for a Small Scale Mining Permit on the subject property now owned by petitioner corporation. The said application was approved on July 19, 1989 by the Regional Office (DENR) with the issuance of Small Mining Permit No. 111-43^[4] wherein the private respondent was granted mining rights for a period of two (2) years, and renewable for another two years. Santiago Papa then complained to the Governor of Bulacan, Roberto Pagdanganan, about the granting of the permit to private respondent Evelyn Vergel De Dios.^[5] The Office of the Governor of Bulacan, in turn, referred the matter to the Regional Director of the DENR. On November 16, 1989, Ruben Dulay, Vice-President for Administrative and External Affairs of Solid Homes Inc., submitted to the Director of the Bureau of Mines and Geo-Sciences documents to prove that herein petitioner has priority rights over and above any other proprietary rights and claims over the subject property, the latter being a private land.^[6]

On April 15, 1991, private respondent filed a renewal of her Small Scale Mining Permit No. III-43. While its protest before the DENR was still pending, Solid Homes, Inc. likewise applied for a Small Scale Mining Permit over the subject property. However, it was not accepted due to the pending protest filed by it regarding the granting of a quarry permit to the private respondent.

On December 16, 1991, the Regional Executive Director of DENR resolved the case by dismissing the protest of Solid Homes Inc.^[7]

Thereafter petitioner filed a motion for reconsideration from the said dismissal. On March 11, 1992, the Regional Director issued a resolution denying the motion for reconsideration. Not contented, petitioner appealed the Order dated December 16, 1991 to the Secretary of the Department of Environment and Natural Resources, the case docketed as DENR Case No. 7252.^[8]

On April 28, 1992, the Regional Director issued an Order granting the renewal of the quarrying permit to private respondent over the subject property. ^[9]

While its appeal was pending with the DENR, petitioner filed a complaint for quieting of title with the Regional Trial Court of Bulacan, Branch 20, with the case docketed as Civil Case No. 382-M-92.^[10] Petitioner alleged in the complaint that private respondent's entry and use of the property, identified as Lot No. 3863 and covered by TCT No. 130829, by virtue of the mining permit granted by the Regional Director of DENR, have cast a cloud on the title. Among its prayers, petitioner sought the immediate issuance of a temporary restraining order, and after due hearing, for a writ of preliminary injunction, to restrain private respondent from entering and undertaking mining operations on Lot No. 3863. Petitioner further prayed that the portion of Lot 3863 in the mining permit of private respondent be declared unlawful.^[11]

The trial court issued a temporary restraining order but subsequently denied petitioner's application for a writ of preliminary injunction for lack of jurisdiction, citing therein as basis Section 1 of P.D. 605, which provides:

"No court of the Philippines shall have jurisdiction to issue any restraining order, preliminary injunction or preliminary mandatory injunction in any case involving or growing out of the issuance, approval, or disapproval, revocation or suspension of, or any action whatsoever by the proper administrative official or body on concessions, licenses, permits, patents, or public grants of any kind in connection with the disposition, exploitation, utilization, exploration, and/or development of the natural resources of the Philippines."^[12]

Petitioner then filed a petition for *certiorari* and *mandamus* with application for writ of preliminary injunction and temporary restraining order before the Court of Appeals, alleging that the trial court acted with grave abuse of discretion in denying its application for a writ of preliminary injunction.

The Court of Appeals in its Decision dated September 30, 1992 affirmed the Order of the trial court in denying the application for a writ of preliminary injunction filed by herein petitioner. Moreover, respondent Court of Appeals ruled that petitioner was forum-shopping. Petitioner then filed a Motion for Reconsideration, which was again subsequently denied by the Court of Appeals in its Resolution dated 24 December 1992.

Hence this petition.

The issue raised by petitioner before this Court is whether or not the respondent Court of Appeals acted with grave abuse of discretion in affirming the Order of the trial court denying the application for a writ of preliminary injunction. Furthermore, it alleged that respondent court abused its discretion when it held that herein petitioner was guilty of forum-shopping.

Private respondent, in her Reply, avers that petitioner was clearly forum-shopping since the issues raised in the complaint for quieting of title before the Regional Trial Court of Bulacan are the same as that of the case pending before the Office of the Secretary, Department of Environment and Natural Resources.

On the other hand, petitioner stated that there is no forum-shopping since the issue brought before the Regional Trial Court, Bulacan was for quieting of title under article 476 of the New Civil Code of the Philippines, while the issue pending before the Secretary of DENR, is the determination of who is entitled to the mining rights over the property (Lot No. 3863) covered by TCT No. T-130829.

This Court affirms the ruling of the respondent Court of Appeals in dismissing the petition on the ground of forum-shopping.

To prevent the vexations of multiple petitions and the unethical practice of subverting justice, the Supreme Court promulgated Circular 28-91 requiring that a party "shall certify under oath that a) he has not theretofore commenced any other action or proceedings involving the same issues in the Supreme Court, the Court of Appeals, or any other tribunal or agency x x x."^[13]As such, any violation of the Circular would result in the dismissal of the cases and entail other sanctions. This Court, time and again, has utilized this rule to dismiss petitions which do not comply with the mandatory requirements of the aforesaid Circular.

In the case of Chemphil Export & Import Corporation v. Court of Appeals,^[14] this Court had the occasion to define forum-shopping when it held:

"Forum-shopping x x x, or the institution of two (2) cases or more actions or proceedings grounded on the same cause on the supposition that one or the other court would make a favorable disposition, has been characterized as an act of malpractice that is prohibited and condemned as trifling with Courts and abusing their processes. It constitutes improper conduct which tends to degrade the administration of justice. It has also been aptly described as deplorable because it adds to the congestion of the heavily burdened dockets of the courts." (Underscoring supplied)

In the case at bar, when petitioner filed a complaint for quieting of title with the Regional Trial Court of Bulacan, it still had a pending appeal with the Office of the Secretary — DENR regarding the denial of its protest over the grant of a mining permit to private respondent over the subject property.

A perusal of the complaint for quieting of title shows that the reliefs sought by petitioner are the same as that of its protest pending appeal before the Office of the Secretary of DENR.

In the Complaint for quieting of title, petitioner essentially alleges that private respondent's entry and use of the subject property has cast a cloud upon the title. As such, petitioner sought the following reliefs with the trial court:

1. That forthwith and *ex-parte* this Honorable Court issue an Order temporarily restraining defendant from entering upon and undertaking mining operations within the property of plaintiff identified as Lot 3863 (TCT 130829) shown in Annex M and N, and after due hearing, issuing a writ of preliminary injunction to same effect as posting the requisite bond.

2. That after due hearing, judgment be rendered as follows:

a) Declaring that portion of said Lot 3863 which is owned by plaintiff, was unlawfully and improperly included in the Small Scale Mining Permit issued in favor of defendant Evelyn Vergel de Dios.

b) Finding the entry upon and conduction of mining operation within the said Lot 3863 owned by plaintiff constituted deliberate and unlawful invasion upon the property rights of plaintiff by defendant.

c) Declaring plaintiff's title, TCT No. 130829 (Bulacan) as freed from the cloud thereon caused by permit issued to defendant by Bureau of Mines."^[15]

In sum, the complaint alleges that the grant of a mining permit to the private respondent was erroneous, and that it is petitioner which should have been granted the permit. As such, petitioner prays for the cancellation of the mining permit granted to the private respondent over the subject property and to exclude her from exploiting the same.

In its protest pending appeal before the Secretary of the DENR, petitioner seeks the cancellation of the Small Scale Mining Permit granted to private respondent on the ground that the area covered by said permit belonged to it as owner of the subject property. Petitioner alleges that it has a priority right for the exploitation of the subject property. In effect, petitioner seeks that private respondent be excluded from exploiting minerals on the land allegedly owned by it. Petitioner, in its appeal before the Secretary of DENR, also sought a temporary restraining order and/or a writ of preliminary injunction against private respondent to prevent her from