

NINTH DIVISION

[CA-G.R. CV NO. 96024, April 30, 2014]

**EMMA C. LIM, PETITIONER-APPELLANT, VS. MARIA T. LACSON
AND GOVERNMENT SERVICE INSURANCE SYSTEM,
RESPONDENTS-APPELLEES.**

D E C I S I O N

GARCIA-FERNANDEZ, J.:

This is an appeal filed by petitioner-appellant Emma C. Lim from the decision dated September 18, 2009^[1] issued by the Regional Trial Court of Pasay City Br. 112 (RTC) in Civil Case No. 09-0424-CFM, which dismissed the petition for injunction filed by petitioner-appellant Emma C. Lim against respondents-appellees Government Service Insurance System (GSIS) and Maria T. Lacson.

The antecedent facts based on the record are as follows:

On April 7, 2009 petitioner-appellant filed with the RTC a petition for injunction with prayer for preliminary injunction and/or temporary restraining order^[2]. Petitioner-appellant alleged that the house and lot subject of the case, located at Block 4, Lot 13, Kalayaan Village, Pasay City, is part of the National Housing Authority's Metro Manila Policemen & Teachers Housing Project, which was underwritten by respondent-appellee GSIS through housing loans to qualified buyers. Petitioner-appellant claims that sometime in 1988, she was granted a loan by GSIS under said project, as shown by a conditional deed of sale that was executed between the National Housing Authority and petitioner-appellant; that she initially paid monthly amortizations to GSIS, but later failed to pay her subsequent amortizations on time due to financial constraints; that in February 2008, petitioner-appellant, who was then abroad, instructed her spouse to arrange with GSIS to restructure the loan; and that GSIS refused to negotiate since petitioner-appellant did not give her spouse any written authority to do so. Petitioner-appellant also contends that in February 2009, she received a letter from respondent-appellee Maria T. Lacson, who claimed to be the new owner of the subject property and demanded that petitioner-appellant vacate the premises. Petitioner-appellant prayed for a TRO to prevent respondents-appellees from selling the property or transferring the same to third persons.

The RTC conducted a hearing on the prayer for injunction. Pending action on the prayer for issuance of a temporary restraining order, the respondents-appellees submitted their respective pleadings. In her answer with compulsory counterclaim^[3], respondent-appellee Lacson claims that she acquired the subject property from GSIS when it was advertised for sale to the public, as evidenced by a deed of conditional sale^[4]. She alleges that the petition must be dismissed since petitioner-appellant failed to show any proof of her right over the property.

Meanwhile, GSIS, on April 29, 2009, moved to dismiss^[5] the petition for injunction, alleging that petitioner-appellee is unable to present the deed of conditional sale, which is the basis of her action; and that the petitioner-appellant failed to allege any facts that would show threat of dispossession from GSIS. On June 19, 2009, petitioner-appellant filed with the RTC a comment/opposition, with prayer to declare respondent GSIS in default^[6], stating that a motion to dismiss must be denied pursuant to A.M. No. 03-1-09-SC in relation to IBP-OCA Memorandum of Policy Guidelines and that the motion must be expunged from the records for violating the 3-day notice rule on motions. Petitioner-appellant also prayed that the RTC declare GSIS in default. On July 2, 2009, GSIS filed a reply to petitioner-appellant's comment/opposition^[7] and reiterated its prayer for dismissal of the petition.

On September 18, 2009, the RTC rendered a decision^[8] dismissing the petition for injunction on the ground that petitioner-appellant failed to establish her claim to the subject property by preponderance of evidence. The RTC ruled that since the petitioner-appellant's right or title over the subject property is doubtful or disputed, the issuance of a preliminary injunction is not proper.

Petitioner-appellant filed a motion for reconsideration^[9] from the decision. However, the RTC, in the order dated February 20, 2010^[10], denied the motion for lack of merit. Hence, this appeal.

Petitioner-appellant assigns the following errors to the trial court:

1. THE TRIAL COURT COMMITTED REVERSIBLE ERROR IN HASTILY DISMISSING THE CASE A QUO ON THE GROUND THAT APPELLANT HAS SUPPOSEDLY FAILED TO ESTABLISH EVEN BY PREPONDERANCE OF EVIDENCE ANY RIGHTS OR TITLE OVER THE SUBJECT PROPERTY.
2. THE TRIAL COURT COMMITTED REVERSIBLE ERROR IN NOT FINDING THAT THE TRANSACTION BETWEEN LACSON AND THE GSIS WAS A CLEAR DOUBLE SALE IN VIEW OF THE LATTER'S FAILURE TO OBSERVE THE MANDATE OF REPUBLIC ACT NO. 6552.

Anent the first issue, petitioner-appellant alleges that respondent-appellee Lacson sent the former a demand letter to vacate, which is a clear evidence of her right or title over the property; that although petitioner-appellant failed to present in court her copy of the deed of conditional sale, records showed that the subject property was purchased by the petitioner-appellant who made monthly amortizations to GSIS by way of salary deduction; and that petitioner-appellant submitted copies of her payslips, certification, and housing loan information in the motion for reconsideration.

Anent the second assigned error, petitioner-appellant alleges that GSIS should not unilaterally cancel or rescind the petitioner-appellant's deed of conditional sale and sell the property to another, pursuant to Republic Act No. 6552; and that mere failure to update or settle the appellant's account is not sufficient ground or justification for GSIS to alienate the subject property on its own, much less can it be considered as a ground for cancellation of the petitioner-appellant's deed of conditional sale.