



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

ROSARIO E. CAHAMBING,
Petitioner,

G.R. No. 215807

Present:

- versus -

CARPIO, J., Chairperson,
PERALTA,
MENDOZA,
LEONEN, and
JARDELEZA,* JJ.

VICTOR ESPINOSA and JUANA
ANG,
Respondents.

Promulgated:

25 JAN 2017

X-----X

DECISION

PERALTA, J.:

Before this Court is the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court dated November 28, 2014 of petitioner Rosario E. Cahambing that seeks to reverse and set aside the Decision¹ dated November 29, 2013 and Resolution dated October 28, 2014 of the Court of Appeals (CA), affirming the Order² dated September 22, 2009 and Resolution dated February 25, 2010 of the Regional Trial Court (RTC), Branch 25, Maasin City, Southern Leyte regarding the issuance of a writ of preliminary injunction in Civil Case No. R-2912 for Annulment of Deed of Extra-Judicial Partition.

The facts follow.

Petitioner and respondent Victor Espinosa are siblings and the children of deceased spouses Librado and Brigida Espinosa, the latter bequeathing

* Designated Additional Member per Special Order No. 2416, dated January 4, 2017.

¹ Penned by Associate Justice Carmelita Salandanan-Manahan, with Associate Justices Ramon Paul L. Hernando and Ma. Luisa C. Quijano-Padilla, concurring.

² Penned by Presiding Judge Ma. Daisy Paler Gonzalez.

their properties, among which is Lot B or Lot 354 with an area of 1,341 square meters, more or less, situated in Maasin City, Southern Leyte, to the said siblings in the same deceased spouses' respective Last Wills and Testaments which were duly probated.

Deceased Librado and Brigida bequeathed their respective shares over Lot 354 to respondent Victor Espinosa, however, Brigida subsequently revoked and cancelled her will, giving her one-half (1/2) share over Lot 354 to petitioner.

Brigida Espinosa and respondent Victor Espinosa, after the death of Librado Espinosa, entered into an Extrajudicial Partition of Real Estate subdividing Lot 354 into Lot 354-A, with an area of 503.5 square meters adjudicated to Brigida Espinosa, and Lot 354-B, with an area of 837.5 square meters, adjudicated to respondent Victor Espinosa, who eventually obtained a certificate of title in his name.

Not being included in the partition of Lot 354, petitioner filed a complaint against respondent Victor Espinosa and his representative, respondent Juana Ang, for, among others, the annulment of the Extrajudicial Partition of Real Property which was docketed as Civil Case No. R-2912.

Incidentally, a commercial building named as Espinosa Building stands on Lot No. 354. At the time of the filing of the complaint, the same building had twelve (12) lessees, four (4) of whom pay rentals to petitioner, namely: Pacifica Agrivet Supplies, Family Circle, Ariane's Gift Items, and Julie's Bakeshop. Petitioner alleged that respondent Juana Ang prevailed upon Pacifica Agrivet Supplies not to renew its lease contract with petitioner but to enter into a contract of lease with respondent Victor Espinosa instead. According to petitioner, respondent Juana Ang also threatened to do the same thing with Julie's Bakeshop.

In one of the pre-trial conferences, the Clerk of Court, acting as Commissioner, issued an Order dated April 16, 1998 directing the parties to maintain the *status quo*.

Thereafter, respondent Victor Espinosa filed an Application for the Issuance of a Writ of Preliminary Injunction with Prayer for the Issuance of a Temporary Restraining Order dated March 3, 2009 against petitioner alleging that the latter violated the *status quo ante* order by allowing her sons to occupy the space rented by Jhanel's Pharmacy which is one of respondent Victor Espinosa's tenants. Respondent Victor Espinosa, through his attorney-in-fact, private respondent Juana Ang, alleged that petitioner's sons constructed a connecting door through the partition separating their cellular phone shop from Jhanel's Pharmacy and that the contract of lease between the latter and



respondent Victor Espinosa is still subsisting, hence, the entry by petitioner's sons into the pharmacy's commercial space disturbed the *status quo ante*.

The RTC, finding merit to the application for temporary restraining order filed by respondent Victor Espinosa, granted the same on March 6, 2009. Thereafter, the RTC, on September 22, 2009, issued an Order for the issuance of a writ of preliminary injunction, the dispositive portion of which reads as follows:

IN VIEW OF THE FOREGOING, the defendant's prayer for the issuance of a writ of preliminary injunction is GRANTED. Accordingly, upon defendant's filing, within ten (10) days from receipt hereof, of the injunction bond in the sum of fifty thousand pesos (PhP50,000.00) conditioned on defendant's paying all damages, the plaintiff may sustain by reason of this injunction in case the Court should finally decide that the defendant is not entitled thereto, let a writ of preliminary injunction issue enjoining or restraining the plaintiff and all those claiming rights under her from disturbing the possession of the defendant to the leased premises or the "*status quo ante*" until after this case shall have been decided on the merits and/or until further orders from this Court.

SO ORDERED.

After the denial of petitioner's motion for reconsideration in a Resolution dated February 25, 2010, petitioner filed a petition on *certiorari* under Rule 65 of the Rules of Court, with the CA imputing grave abuse of discretion on the part of the RTC when it granted the application for the issuance of a writ of preliminary injunction filed by respondent Victor Espinosa. According to petitioner, respondents themselves violated the *status quo ante* order when they wrested the space rented by Pacifica Agrivet Supplies from petitioner's control and that there was no compliance with the requisites for the issuance of the writ of preliminary injunction.

The CA, on November 29, 2013, dismissed petitioner's petition on *certiorari*, thus:

WHEREFORE, the petition is DENIED. The Order and the Resolution, dated September 22, 2009 and February 25, 2010, respectively, both issued by respondent court in Civil Case No. R-2912 STAND.

SO ORDERED.

In a Resolution dated October 28, 2014, the CA denied petitioner's motion for reconsideration. Hence, the present petition.



Petitioner comes before this Court with the following issues for resolution:

I.
ISSUES FOR RESOLUTION

A.

HE WHO SEEKS EQUITY MUST DO EQUITY. PRIVATE RESPONDENTS TOOK THE LAW INTO THEIR OWN HANDS BY WRESTING CONTROL OF THE SPACE BEING RENTED OUT TO PACIFICA AGRIVET SUPPLIES AND UNDER THE CONTROL OF MRS. ROSARIO CAHAMBING. THE HONORABLE COURT OF APPEALS COMMITTED LEGAL ERROR IN VALIDATING THE WRIT OF PRELIMINARY INJUNCTION GRANTED BY THE HONORABLE RTC IN FAVOR OF PRIVATE RESPONDENTS DESPITE THE LATTER'S CONDUCT WHICH DIRTIED AND SULLIED THEIR HANDS.

B.

THE WRIT OF PRELIMINARY INJUNCTION IS GRANTED ONLY IN EXTRAORDINARY CASES WHERE THE REQUISITES ARE COMPLIED WITH. THE HONORABLE COURT OF APPEALS COMMITTED LEGAL ERRORS IN VALIDATING THE WRIT OF PRELIMINARY INJUNCTION GRANTED BY THE HONORABLE RTC OF MAASIN CITY DESPITE THE LACK OF URGENCY AND DESPITE THE FACT THAT RESPONDENTS' CLAIM FOR DAMAGES ARE QUANTIFIABLE.

According to petitioner, the CA turned a blind eye and failed to consider respondents' violation of the *status quo* when it wrested possession and control of the space leased to Pacifica Agrivet Supplies and tried to do the same with Lhuillier Pawnshop; thus, committing a grave error and amounts to discrimination since the CA recognized the *status quo* as the situation where petitioner was the lessor of Pacifica Agrivet Supplies.

Petitioner further claims that respondents failed to prove the elements before an injunction could be issued and that the CA committed an error in validating the writ of preliminary injunction without those requisites. In particular, petitioner avers the following contentions: (1) the damage claimed by respondents is quantifiable at ₱12,000.00 per month, hence, not irreparable; (2) respondent, Victor Espinosa is at best a co-owner of the subject property, while respondent Juana Ang is a stranger, and a co-owner cannot exclude another co-owner, hence, respondent Victor Espinosa's right is not clear and unmistakable; (3) there is no urgency involved because the application for injunction was filed more than one year after the incident in question; (4) contrary to the conclusion of the CA, the space occupied by Jhanel's Pharmacy was voluntarily surrendered to petitioner by the lessee; and (5) the CA committed grave legal errors when it failed to correct the RTC's issuance of the writ of preliminary injunction.



In their Comment³ dated June 4, 2015, respondents argue that they did not have sullied hands when they applied for the writ of preliminary injunction. They also point out that the issuance of the writ of preliminary injunction was strictly in accordance with the Revised Rules on Civil Procedure.

Petitioner, in her Reply⁴ dated August 14, 2015, reiterated her arguments contained in the petition for review.

The present petition is void of any merit.

A close reading of the arguments raised by petitioner would show that they are factual in nature. A petition for review filed under Rule 45 may raise only questions of law.⁵ The factual findings of the Court of Appeals, when supported by substantial evidence, are generally conclusive and binding on the parties and are no longer reviewable unless the case falls under the recognized exceptions.⁶ This court is not a trier of facts and we are not duty-bound to re-examine evidence.⁷

Nevertheless, the CA did not err in ruling that the RTC did not commit any grave abuse of discretion in issuing the questioned writ of preliminary injunction.

In *Philippine National Bank v. RJ Ventures Realty and Development Corporation, et al.*,⁸ this Court exhaustively discussed the nature of a writ of preliminary injunction, thus:

Foremost, we reiterate that the sole object of a preliminary injunction is to maintain the *status quo* until the merits can be heard.⁹ A preliminary injunction¹⁰ is an order granted at any stage of an action prior to judgment or final order, requiring a party, court, agency, or person to refrain from a particular act or acts. It is a preservative remedy to ensure the protection of a party's substantive rights or interests pending the final judgment in the principal action. A plea for an injunctive writ lies upon the

³ *Rollo*, pp. 179-185.

⁴ *Id.* at 189-217.

⁵ *Pedro Mendoza, et al. v. Reynosa Valte*, G.R. No. 172961, September 7, 2015.

⁶ *Id.*, citing *Medina v. Court of Appeals*, G.R. No. 137582, August 29, 2012, 679 SCRA 191.

⁷ *Id.*

⁸ 534 Phil. 769 (2006).

⁹ "Status quo" to be preserved by a preliminary injunction is the last actual, peaceable, uncontested status which preceded the pending controversy. (See Black's Law Dictionary, 6th Ed., p. 1410, citing *Edgewater Constr. Co., Inc. v. Percy Wilson Mortg. & Finance Corp.*, 2 111 Dec. 864, 357 N.E.2d 1307, 1314; *Knecht v. Court of Appeals*, G.R. No. 56122, November 18, 1993, 228 SCRA 1, 6, citing *Rodulfa v. Alfonso*, 76 Phil. 225 [1946]; *Philippine Economic Zone Authority v. Vianzon*, 391 Phil. 186, 193 [2000].)

¹⁰ There are generally two kinds of preliminary injunction: (1) a prohibitory injunction which commands a party to refrain from doing a particular act; and (2) a mandatory injunction which commands the performance of some positive act to correct a wrong in the past. (See *Levi Strauss & Co. v. Clinton Apparelle, Inc.*, G.R. No. 138900, September 20, 2005, 470 SCRA 236, 252.)

existence of a claimed emergency or extraordinary situation which should be avoided for otherwise, the outcome of a litigation would be useless as far as the party applying for the writ is concerned.¹¹

The grounds for the issuance of a Writ of Preliminary Injunction are prescribed in Section 3 of Rule 58 of the Rules of Court. Thus:

SEC. 3. *Grounds for issuance of preliminary injunction.* – A preliminary injunction may be granted when it is established:

(a) That the applicant is entitled to the relief demanded, and the whole or part of such relief consists in restraining the commission or continuance of the act or acts complained of, or in requiring the performance of an act or acts, either for a limited period or perpetually;

(b) That the commission, continuance or non-performance of the act or acts complained of during the litigation would probably work injustice to the applicant; or

(c) That a party, court, agency or a person is doing, threatening, or is attempting to do, or is procuring or suffering to be done, some act or acts probably in violation of the rights of the applicant respecting the subject of the action or proceeding, and tending to render the judgment ineffectual.

Otherwise stated, for a Writ of Preliminary Injunction to issue, the following requisites must be present, to wit: (1) the existence of a clear and unmistakable right that must be protected, and (2) an urgent and paramount necessity for the writ to prevent serious damage.¹² Indubitably, this Court has likewise stressed that the very foundation of the jurisdiction to issue a writ of injunction rests in the existence of a cause of action and in the probability of irreparable injury, inadequacy of pecuniary compensation, and the prevention of multiplicity of suits.¹³ *Sine dubio*, 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 since the assessment and evaluation of evidence towards that end involve findings of facts left to the said court for its conclusive determination.¹⁴ Hence, the exercise of judicial discretion by a court in injunctive matters must not be interfered with except when there is grave abuse of discretion.¹⁵ Grave abuse of discretion in the issuance of writs of preliminary injunction implies a capricious and whimsical exercise of judgment that is equivalent to lack of jurisdiction, or where the power is exercised in an arbitrary or despotic manner by reason of passion, prejudice

¹¹ *Philippine Ports Authority v. Cipres Stevedoring & Arrastre, Inc.*, G.R. No. 145742, July 14, 2005, 463 SCRA 358, 373, citing Section 1, Rule 58, 1997 Rules of Civil Procedure.

¹² *Manila International Airport Authority v. Court of Appeals*, 445 Phil. 369, 382 (2003), citing *Ong Ching Kian Chuan v. Court of Appeals*, 415 Phil. 365, 374 (2001); See also *Republic of the Philippines v. Hon. Victorino Evangelista*, G.R. No. 156015, August 11, 2005, 466 SCRA 544, 553.

¹³ *Federated Realty Corporation v. Court of Appeals*, G.R. No. 127967, December 14, 2005, 477 SCRA 707, 715.

¹⁴ *Cortez-Estrada v. Heirs of Domingo Samut/Antonia Samut*, G.R. No. 154407, February 14, 2005, 451 SCRA 275, 290.

¹⁵ *Id.*

or personal aversion amounting to an evasion of positive duty or to a virtual refusal to perform the duty enjoined, or to act at all in contemplation of law.¹⁶

This Court agrees with the CA and the RTC that the elements for the issuance of a writ of preliminary injunction are present in this case. As aptly ruled by the CA:

In this case, respondent court correctly found that private respondent Victor Espinosa had established a clear and unmistakable right to a commercial space heretofore occupied by Jhanel's Pharmacy. He had an existing Contract of Lease with the pharmacy up to December 2009. Without prejudging the main case, it was established that, at the time of the issuance of the *status quo* order dated April 16, 1998, Jhanel's Pharmacy was recognized as one of private respondent Victor Espinosa's tenants. In fact, petitioner identified only Pacifica Agrivet Supplies, Family Circle, Ariane's Gift Items and Julie's Bakeshop. As such, pursuant to the *status quo* order, it is private respondent Victor Espinosa who must continue to deal with Jhanel's Pharmacy. Correspondingly, the commercial space occupied by Jhanel's Pharmacy must be deemed to be under the possession and control of private respondent Victor Espinosa as of the time of the issuance of the *status quo* order. The right of possession and control is a clear right already established by the circumstances obtaining at that time. Hence, petitioner's act of entering the premises of Jhanel's Pharmacy, through her sons, is a material and substantial violation of private respondent Victor Espinosa's right, which act must be enjoined.

The RTC was also able to make the following factual findings that shows the urgency and the necessity of the issuance of the writ of preliminary injunction in order to prevent serious damage:

By allowing the plaintiff to disturb the *status quo ante* which, for purposes of this instant application, is limited to the admission by the plaintiff regarding the lease by twelve lessees, including Jhanel's Pharmacy, of the subject commercial building, the rentals of which only four pertains to her, excluding Jhanel's Pharmacy, great and irreparable injury would result to defendant not just because he would be deprived of his right to collect rent from Jhanel's Pharmacy but more importantly, because it would make doing business with him risky, unstable and unsound, especially with respect to his other tenants having existing contracts with the defendant.

All of the above findings and considerations expounded in the CA's assailed decision and resolution contain no reversible error, thus, they should not be disturbed. It must always be remembered that the issuance of a writ of preliminary injunction rests entirely on the discretion of the court and is generally not interfered with except in cases of manifest abuse.¹⁷ In this case, no manifest abuse can be attributed to the RTC that issued the questioned writ.

¹⁶ *Id.* at 290-291.

¹⁷ *Unilever Philippines (PRC), Inc. v. CA, et al.*, 530 Phil. 91, 98 (2006), citing *Reyes v. Court of Appeals*, 378 Phil. 984 (1999).

This Court has also held that no grave abuse of discretion can be attributed to a judge or body issuing a writ of preliminary injunction where a party has not been deprived of its day in court as it was heard and it exhaustively presented all its arguments and defenses.¹⁸ Verily, petitioner was given her day in court to present her side but as in all litigations, only one party prevails.

WHEREFORE, the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court dated November 28, 2014 of petitioner Rosario E. Cahambing is **DENIED**. Consequently, the Decision dated November 29, 2013 and Resolution dated October 28, 2014 of the Court of Appeals, affirming the Order dated September 22, 2009 and Resolution dated February 25, 2010 of the Regional Trial Court, Branch 25, Maasin City, Southern Leyte, are **AFFIRMED**.

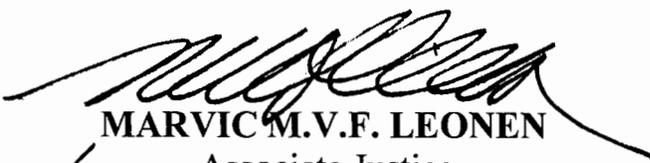
SO ORDERED.


DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson


JOSE CATRAL MENDOZA
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice

¹⁸ *Santos v. Court of Appeals*, G.R. No. 61218, September 23, 1992, 214 SCRA 162.

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice

