

## THIRD DIVISION

[ G.R. No. 203492, April 24, 2017 ]

**PABLO AND PABLINA MARCELO-MENDOZA, PETITIONERS, VS. PEROXIDE PHILS., INC., HEREIN REPRESENTED BY ROBERT R. NAVERA, RESPONDENT.**

### DECISION

**REYES, J.:**

Assailed in this petition for review on *certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court are the Decision<sup>[2]</sup> dated May 21, 2012 and Resolution<sup>[3]</sup> dated September 12, 2012 of the Court of Appeals (CA) in CA-G.R. SP No. 122366, which revoked and vacated the Omnibus Order<sup>[4]</sup> dated June 22, 2011 of the Regional Trial Court (RTC) of Quezon City, Branch 220, in Civil Case No. Q-95-24760.

#### The Facts

This case stemmed from an ejectment case filed by Pablo Marcelo (Pablo) and Pablina Marcelo-Mendoza (collectively, the petitioners) against respondent Peroxide Phils., Inc. (PPI), docketed as Civil Case No. 3916 and was raffled to Metropolitan Trial Court (MeTC) of Valenzuela City, Branch 82.<sup>[5]</sup>

As records show, on June 25, 1971, Gregorio Marcelo, the father and predecessor-in-interest of the petitioners, executed a Contract of Lease<sup>[6]</sup> with PPI over a parcel of land covered by Transfer Certificate of Title No. T-71843 (subject property) located in the barrio of Paso de Blas, Municipality of Valenzuela, Province of Bulacan.<sup>[7]</sup>

On July 18, 1988, the MeTC issued its Decision ordering PPI to vacate the subject property and pay the amount of P1,864,685.38. Accordingly, upon motion, the MeTC issued an Order dated June 2, 1995 granting the issuance of a writ of execution.<sup>[8]</sup>

On June 16, 1995, Affidavits of Third-Party Claims of United Energy Corporation and Springfield International, Inc. (third-party claimants) were filed with the sheriff.<sup>[9]</sup>

Ultimately, on August 3, 1995, the sheriff conducted a public auction and sold for P2 Million to Pablo, as the highest bidder, the levied properties of PPI that were found inside the subject property.<sup>[10]</sup>

Aggrieved, the third-party claimants filed a complaint with the RTC of Quezon City, docketed as Civil Case No. Q-93-24760, to declare void the sheriff's sale and Certificate of Sale with prayer for a temporary restraining order (TRO) and a writ of preliminary injunction (WPI).<sup>[11]</sup>

In an Amended Complaint<sup>[12]</sup> dated October 15, 2001, the third-party claimants added PPI as a party-plaintiff and prayed further for the declaration of PPI's ownership over the improvements erected and/or introduced on the subject property.

On September 8, 1995, a WPI was issued by then Presiding Judge Pedro T. Santiago (Presiding Judge Santiago).<sup>[13]</sup>

Pablo then challenged the issuance of the WPI by petition for *certiorari* before the CA and later before this Court in G.R. No. 127271, where the Court upheld the validity of the WPI.<sup>[14]</sup>

Meanwhile, the deputy sheriff of the RTC of Quezon City padlocked the gate of the subject property. Pablo, however, forcibly opened the gate and brought out dismantled machineries of PPI.<sup>[15]</sup>

On October 4, 2000, the court *a quo*, now thru Judge Teodoro A. Bay, issued an Order to re-padlock the subject property. A motion for reconsideration was filed by Pablo but the same was denied.<sup>[16]</sup>

Again, upon seeing the gate re-padlocked, Pablo ordered his men to tear down the gate. Thereafter, Pablo occupied and took possession of the entire subject property and opened the same as a resort with swimming pools to the public for a fee with portions of the building rented to several businesses.<sup>[17]</sup>

On May 31, 2005, PPI filed an Omnibus Motion alleging specific acts that were characterized as violative of the court's injunction.<sup>[18]</sup>

On February 20, 2006, the court *a quo*, this time through herein Judge Jose G. Paneda (Judge Paneda), issued an Order granting the reliefs prayed for in the Omnibus Motion,<sup>[19]</sup> to wit:

WHEREFORE, in view of the foregoing, the Omnibus Motion is GRANTED. The deputy Sheriff is hereby ordered to conduct an inventory and the defendant to re-padlock the premises and allow the appraiser to enter the same and conduct an inventory of properties and improvements.<sup>[20]</sup>

Considering that the order was not complied with, PPI was again constrained to file a motion to direct the sheriff to re-padlock the subject property which was granted by the RTC in its Order<sup>[21]</sup> dated June 19, 2009. Hence, a Notice to Vacate was served by the deputy sheriff of the RTC to Pablo asking him to voluntarily turn over the subject property within five days from receipt thereof.<sup>[22]</sup>

For several days, Pablo refused to obey the court's order. Finally, on August 3, 2009, Pablo was forced out of the subject property. Immediately thereafter, or on August 4, 2009, Pablo filed a Motion for Reconsideration/Quash the Order dated June 19,

2009. Also, Pablo filed on July 27, 2010 another motion denominated as Motion to Remove Padlock on the Gate of the Land Owned<sup>[23]</sup> by the petitioners.<sup>[24]</sup>

On April 4, 2011, PPI filed a Motion for Ocular Inspection,<sup>[25]</sup> which was eventually granted by the court *a quo* in an Order dated May 9, 2011 and was set on May 20, 2011.<sup>[26]</sup>

On May 25, 2011, the PPI filed a Motion for Clarification/Motion to Hold in Abeyance Ocular Inspection considering that no particular time was stated for the inspection. On the same day, the court personally served to PPI an Order re-setting the ocular inspection to May 31, 2011. Thereafter, the ocular inspection was again re-set to June 8, 2011. Aggrieved, on June 8, 2011, PPI filed a Motion for Reconsideration and Inhibition.<sup>[27]</sup>

On June 22, 2011, the RTC issued an Omnibus Order<sup>[28]</sup> denying PPI's Motion for Reconsideration and Inhibition, and granting the petitioners' motion to remove padlock on the gate of the subject property. The dispositive portion reads:

**WHEREFORE**, premises considered, the Motion for Inhibition is **DENIED**. The Motion for Reconsideration is likewise **DENIED** for being moot and academic and the Motion to Remove Padlock of the gates of the land owned by the defendant is **GRANTED**. The Order dated June 19, 2009 is hereby recalled and [Pablo] is hereby allowed to enter the premises and enjoy possession thereof. The parties are hereby restored to their original position as they were, before the issuance of the Order dated June 19, 2009 without prejudice to the case pending before this Court.

The Deputy Sheriff of this Court is hereby ordered to place a cordon around the [PPI] building to ensure inaccessibility thereto.

Furnish the parties, counsels and the Deputy Sheriff of this Court of the copy of this Order for strict implementation under pain of contempt for failure to comply.

**SO ORDERED.**<sup>[29]</sup>

Aggrieved, on June 30, 2011, PPI filed a motion for reconsideration.<sup>[30]</sup> Considering, however that no resolution has yet been promulgated by the presiding judge after the lapse of a considerable period of five months, PPI elevated the case before the CA attributing grave abuse of discretion and abuse of authority on the part of Judge Paneda.<sup>[31]</sup>

On May 21, 2012, the CA, in its Decision,<sup>[32]</sup> granted the petition and rendered the adverse decision under review, to wit:

**WHEREFORE**, in view of the foregoing, the petition for certiorari is hereby **GRANTED**. The Omnibus Order dated June 22, 2011 is hereby

**REVOKED** and **VACATED**. The Deputy Sheriff of the [RTC] of Quezon City, Branch 204 is hereby directed to turn over possession of the subject premises located at Maysan Road, Barangay Paso de Blas, Valenzuela City, to [PPI], for the latter to continue with the retrieval of its properties. Immediately after said process, [PPI] is ordered to turn over possession of the premises to the court's custody and the same shall be re-padlocked and remain PADLOCKED pending the trial of the main case and until the trial court shall have determined the rights and obligations of the parties in its Decision.

Furthermore, [Judge Paneda] is hereby ordered to inhibit himself from sitting as presiding judge in Civil Case No. Q-95-24760. Let this case be raffled to another branch of the [RTC] of Quezon City for continuation of the proceedings and considering the period of time within which this case has remained pending, the Judge to whom this case will be raffled off is exhorted to conclude this case with dispatch.

**SO ORDERED.**<sup>[33]</sup>

The CA held that Judge Paneda acted with grave abuse of discretion and authority when he promulgated the assailed Omnibus Order dated June 22, 2011, as the said order in effect intends to legitimize the unacceptable defiance and disrespect of Pablo to the court's authority and its lawful orders. According to the CA:

In fine, We find for [PPI] and uphold its position that the motions filed by [Pablo] to question the ruling of the court a quo on the possession over the subject premises are mere motions for reconsideration of a final order directing that the subject premises be padlocked pending litigation.

The assailed Omnibus Order dated June 22, 2011 gave due course to a motion for reconsideration of an Order which had attained finality several years ago. Giving due course to similar motions had unduly delayed the trial in the main case. To continue entertaining similar motions will further unduly delay the proceedings of this case which was initially filed 17 years ago.<sup>[34]</sup>

Upset by the foregoing disquisition, the petitioners moved for reconsideration<sup>[35]</sup> but it was denied in the CA Resolution<sup>[36]</sup> dated September 12, 2012. Hence, the present petition for review on *certiorari*.

### **The Issue**

WHETHER OR NOT THE CA ERRED IN FINDING THAT THE RTC COMMITTED GRAVE ABUSE OF DISCRETION IN GRANTING THE

PETITIONERS' MOTION TO REMOVE THE PADLOCK OF THE SUBJECT PROPERTY.

**Ruling of the Court**

The petition is bereft of merit.

The resolution of the issue of whether the CA erred in finding that the RTC committed grave abuse of discretion in granting the petitioners' motion to remove the padlock of the subject property boils down to the propriety of the issuance of the WPI.

At the outset, the Court noted that Pablo had already challenged the WPI before the CA and later before this Court in G.R. No. 127271, where the Court sustained the validity of the WPI then issued by Presiding Judge Santiago.

What is also uncontroverted is the absolute audacity of Pablo to the legitimate orders of the lower court in numerous occasions that is too long to be ignored, which appallingly has gone unpunished and uncorrected.

The petitioners' sole argument is premised on the fact that since they are the registered owners of the subject property, then the lower courts do not have legal basis in ordering that the subject property be turned over to PPI and the same be padlocked pending trial of the main case.

On the other hand, PPI anchors its claim on the following provisions in the Contract of Lease which induced it to introduce and put up various improvements<sup>[37]</sup> in the subject property, to wit:

- c) That after the termination of this agreement, the LESSEE shall remain the owner of all the improvements thereon erected and/or introduced by it, but that should the LESSEE decide to sell the improvements thereon erected and/or introduced and existing at the termination of this agreement, priority shall be given to the LESSOR;

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- 3) The LESSOR on the other hand covenants with the LESSEE as follows:

- a) To authorize and enable the LESSEE to erect buildings, factories and/or machineries as the latter may deem fit and necessary in the pursuit of its business, but that the LESSEE shall be liable and answerable for any defects that may be found therein;