

THIRD DIVISION

[G.R. No. 203678, February 17, 2016]

CONCORDE CONDOMINIUM, INC., BY ITSELF AND COMPRISING THE UNIT OWNERS OF CONCORDE CONDOMINIUM BUILDING, PETITIONER, VS. AUGUSTO H. BACULIO; NEW PPI CORPORATION; ASIAN SECURITY AND INVESTIGATION AGENCY AND ITS SECURITY GUARDS; ENGR. NELSON B. MORALES, IN HIS CAPACITY AS BUILDING OFFICIAL OF THE MAKATI CITY ENGINEERING DEPARTMENT; SUPT. RICARDO C. PERDIGON, IN HIS CAPACITY AS CITY FIRE MARSHAL OF THE MAKATI CITY FIRE STATION; F/C SUPT. SANTIAGO E. LAGUNA, IN HIS CAPACITY AS REGIONAL DIRECTOR OF THE BUREAU OF FIRE PROTECTION-NCR, AND ANY AND ALL PERSONS ACTING WITH OR UNDER THEM, RESPONDENTS.

D E C I S I O N

PERALTA, J.:

This resolves the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, seeking to reverse and set aside the Order dated June 28, 2012 and Resolution dated September 20, 2012 of the Regional Trial Court (RTC) of Makati City, Branch 149,^[1] which dismissed Civil Case No. 12-309 for Injunction with Damages for lack of jurisdiction.

The antecedent facts are as follows:

On April 16, 2012, petitioner Concorde Condominium, Inc., by itself and comprising the Unit Owners of Concorde Condominium Building, {petitioner} filed with the Regional Trial Court (RTC) of Makati City a Petition for Injunction [with Damages with prayer for the issuance of a Temporary Restraining Order (TRO), Writ of Preliminary (Prohibitory) Injunction, and Writ of Preliminary Mandatory Injunction] against respondents New PPI Corporation and its President Augusto H. Baculio; Asian Security and Investigation Agency and its security guards, Engr. Nelson B. Morales in his capacity as Building Official of the Makati City Engineering Department; Supt. Ricardo C. Perdigon in his capacity as City Fire Marshal of the Makati City Fire Station; F/C Supt. Santiago E. Laguna, in his capacity as Regional Director of the Bureau of Fire Protection - NCR, and any and all persons acting with or under them (*respondents*).

Petitioner seeks (1) to enjoin respondents Baculio and New PPI Corporation from misrepresenting to the public, as well as to private and government offices/agencies, that they are the owners of the disputed lots and Concorde Condominium Building, and from pushing for the demolition of the building which they do not even own; (2) to prevent respondent Asian Security and Investigation Agency from deploying its security guards within the perimeter of the said building;

and (3) to restrain respondents Engr. Morales, Supt. Perdigon and F/C Supt. Laguna from responding to and acting upon the letters being sent by Baculio, who is a mere impostor and has no legal personality with regard to matters concerning the revocation of building and occupancy permits, and the fire safety issues of the same building. It also prays to hold respondents solidarily liable for actual damages, moral damages, exemplary damages, attorney's fees, litigation expenses and costs of suit.

The case was docketed as Civil Case No. No. 12-309 and raffled to the Makati RTC, Branch 149, which was designated as a Special Commercial Court.^[2]

On April 24, 2012, the RTC called the case for hearing to determine the propriety of issuing a TRO, during which one Mary Jane Prieto testified and identified some documents. While she was undergoing cross-examination by a counsel from the Office of the Solicitor General (OSG) relative to the fire deficiencies of petitioner's building, the RTC interrupted her testimony to find a better solution to the problem, and issued an Order which reads:

Wherefore, this court ordered Supt. Ricardo C. Perdigon, Fire Marshal of Makati City, to conduct an inspection of Concorde Condominium Building. He is hereby ordered to submit a report on his investigation not later than 5:00 o'clock in the afternoon tomorrow.

In the same manner, the Building Official of Makati City, being represented by Atty. Fabio is also hereby ordered to conduct an investigation on the status of the said building to ascertain whether it [is] still structurally sound to stand. Such report shall be submitted to this court not later than 5:00 o'clock in the afternoon tomorrow.

If the report of the Building Official is negative, the unit owners of the condominium will be given the opportunity to be heard on whether to condemn the building or not.

In the same manner, the alleged owner of the land, who should have transferred it to the condominium corporation once the latter was created, and it appears that it was not complied with, they are also given the opportunity to get their own structural engineer to ascertain the structural soundness of the building. Afterwhich, the court will issue the necessary order whether to condemn or not the building and the President of the condominium corporation has acceded to such undertaking because that's the only way how to give them fair play and be heard on their right as condominium owner of Concorde Building located at 200 Benavidez corner Salcedo Streets, Legaspi Village, Makati City.

The President of the condominium corporation is hereby given, if there is still a chance to repair, four (4) months from April 30, 2012 or up to August 30, 2012 to remedy all those problems and/or deficiencies of the building.

The other parties are hereby enjoined not to threaten, interfere or molest the condominium unit owners of said building. Any other party, including

the herein parties, who will obstruct the smooth implementation of this Order, is already considered to have committed a direct contempt of the order of the court.

Let the continuation of the testimony of Ms. Mary Jane Prieto be set on September 17, 2012 at 8:30 in the morning.

SO ORDERED.^[3]

Meanwhile, respondents Baculio and New PPI Corporation filed an Urgent Motion to Re-Raffle dated April 25, 2012, claiming that it is a regular court, not a Special Commercial Court, which has jurisdiction over the case.

In an Order dated April 26, 2012, the RTC denied the motion to re-raffle on the ground of failure to comply with Sections 4^[4] and 5^[5] of Rule 15 of the Rules of Court.

In their Motion to Vacate Order and Motion to Dismiss dated May 8, 2012, respondents Baculio and New PP1 Corporation assailed the RTC Order dated April 24, 2012, stating that the case is beyond its jurisdiction as a Special Commercial Court. Respondents claimed that the petition seeks to restrain or compel certain individuals and government officials to stop doing or performing particular acts, and that there is no showing that the case involves a matter embraced in Section 5 of Presidential Decree (P.D.) No. 902-A, which enumerates the cases over which the SEC [*now the RTC acting as Special Commercial Court pursuant to Republic Act (R.A.) No. 8799*] exercises exclusive jurisdiction. They added that petitioner failed to exhaust administrative remedies, which is a condition precedent before filing the said petition.

In an Order dated June 28, 2012, the RTC dismissed the case for lack of jurisdiction. It noted that by petitioner's own allegations and admissions, respondents Baculio and New PPI Corporation are not owners of the two subject lots and the building. Due to the absence of intra-corporate relations between the parties, it ruled that the case does not involve an intra-corporate controversy cognizable by it sitting as a Special Commercial Court. It also held that there is no more necessity to discuss the other issues raised in the motion to dismiss, as well as the motion to vacate order, for lack of jurisdiction over the case.

Petitioner filed a motion for reconsideration of the Order dated June 28, 2012, which the RTC denied for lack of merit.^[6] Hence, this petition for review on *certiorari*.

Petitioner raises a sole question of law in support of its petition:

A.

THE REGIONAL TRIAL COURT COMMITTED A MANIFEST ERROR OF LAW AND ACTED IN A MANNER CONTRARY TO LAW AND ESTABLISHED JURISPRUDENCE IN DISMISSING THE PETITION ON THE GROUND OF LACK OF JURISDICTION.^[7]

Petitioner contends that its petition for injunction with damages is an ordinary civil case correctly filed with the RTC which has jurisdiction over actions where the subject matter is incapable of pecuniary estimation. However, petitioner claims that through no fault on its part, the petition was raffled to Branch 149 of the Makati RTC, a designated Special Commercial Court tasked to hear intra-corporate disputes.

Petitioner notes that R.A. 8799 merely transferred the Securities and Exchange Commission's jurisdiction over cases enumerated under Section 5 of P.D. No. 902-A to the courts of general jurisdiction or the appropriate Regional Trial Court, and that there is nothing in R.A. 8799 or in A.M. No. 00-11 -03-SC which would limit or diminish the jurisdiction of those RTCs designated as Special Commercial Courts. Petitioner stresses that such courts shall continue to participate in the raffle of other cases, pursuant to OCA Circular No. 82-2003 on Consolidation of Intellectual Property Courts with Commercial Court. It insists that for purposes of determining the jurisdiction of the RTC, the different branches thereof (in case of a multiple sala court) should not be taken as a separate or compartmentalized unit. It, thus, concludes that the designation by the Supreme Court of Branch 149 as a Special Commercial Court did not divest it of its power as a court of general jurisdiction.

Petitioner also submits that prior to the issuance of the Order setting the case for hearing on April 24, 2012, the Presiding Judge of Branch 149 had already determined from the averments in the petition that it is an ordinary civil action and not an intra-corporate matter; thus, he should have referred it back to the Executive Judge or the Office of the Clerk of Court for re-raffle to other branches of the RTC, instead of calendaring it for hearing or dismissing it.

For public respondents Superintendent Ricardo C. Pedrigon and Fire Chief Superintendent Santiago E. Laguna, the OSG avers that the petition for review on *certiorari* should be denied for lack of merit. It points out that petitioner failed to exhaust administrative remedies, *i.e.*, appeal the revocation of the building and occupancy permits with the Department of Public Works and Highways (DPWH) Secretary, pursuant to Section 307 of the National Building Code (*Presidential Decree No. 1096*); hence, the filing of a petition for injunction with damages is premature and immediately dismissible for lack of cause of action.

The OSG further argues that even if the case is remanded back to the RTC, the same will not prosper due to procedural and substantive defects, and will only further clog the trial court's dockets, for the following reasons: (1) petitioner failed to implead an indispensable party, namely, the DPWH Secretary to whom the power to reinstate the building permit and the occupancy permit is lodged; (2) with regard to the occupancy permit and the "water sprinkler" clearance, they cannot be issued without a building permit; and (3) the said clearance cannot also be issued due to lack of certification from either the Building Official or Tandem, the structural engineers personally hired by petitioner, that the structural integrity of Concorde Condominium Building can withstand the necessary damage and load that would be caused by the installation of the water sprinkler system.

For their part, respondents Baculio and New PPI Corporation aver that the petition filed before the RTC should be dismissed for lack of proper verification. They likewise assert that Branch 149 has no jurisdiction over the same petition because (1) such

case is not an intra-corporate controversy; (2) petitioner failed to exhaust administrative remedies which is a condition precedent before filing such case; (3) the subject building is a threat to the safety of members of petitioner themselves and of the public in general; (4) the two lots allegedly owned by petitioner are both registered in the name of New PPI Corporation; and (5) the engineering firm hired by petitioner could not even guarantee the building's structural capacity.

Meanwhile, respondent Asian Security & Investigation Agency claims that petitioner's allegations against it are already moot and academic because it had already terminated its security contract with respondents New PPI Corporation and Baculio, and pulled out its guards from petitioner's premises. At any rate, it manifests that it is adopting as part of its Comment the said respondents' Comment/Opposition to the petition for review on *certiorari*.

Respondent Office of the Building Official of Makati City, represented by Engineer Mario V. Badillo, likewise contends that the petition for review on *certiorari* should be dismissed for these reasons: (1) that petitioner failed to exhaust administrative remedies which is a mandatory requirement before filing the case with the RTC of Makati City; (2) that Branch 149, as a Special Commercial Court, has jurisdiction over the said case because it is not an intra-corporate controversy; and (3) petitioner's building is old and dilapidated, and ocular inspections conducted show that several violations of the National Building Code were not corrected, despite several demands and extensions made by the Building Official.

The petition is impressed with merit.

In resolving the issue of whether Branch 149 of the Makati RTC, a designated Special Commercial Court, erred in dismissing the petition for injunction with damages for lack of jurisdiction over the subject matter, the Court is guided by the rule "that jurisdiction over the subject matter of a case is conferred by law and determined by the allegations in the complaint which comprise a concise statement of the ultimate facts constituting the plaintiffs cause of action. The nature of an action, as well as which court or body has jurisdiction over it, is determined based on the allegations contained in the complaint of the plaintiff, irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein. The averments in the complaint and the character of the relief sought are the ones to be consulted. Once vested by the allegations in the complaint, jurisdiction also remains vested irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein."^[8]

As a rule, actions for injunction and damages lie within the jurisdiction of the RTC, pursuant to Section 19 of Batas Pambansa Blg. 129, otherwise known as the judiciary Reorganization Act of 1980, as amended by R.A. 7691:^[9]

Sec. 19. *Jurisdiction in civil cases.* Regional Trial Courts shall exercise exclusive original jurisdiction:

(1) In all civil actions in which the subject of the litigations is incapable of pecuniary estimation;

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