

FIRST DIVISION

[G.R. No. 181353, June 06, 2016]

HGL DEVELOPMENT CORPORATION REPRESENTED BY ITS PRESIDENT, HENRY G. LIM, PETITIONER, VS. HON. RAFAEL O. PENUELA, IN HIS CAPACITY AS ACTING PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, 6TH JUDICIAL REGION, BRANCH 13, CULASI, ANTIQUE AND SEMIRARA COAL CORPORATION (NOW SEMIRARA MINING CORPORATION), RESPONDENTS.

DECISION

LEONARDO-DE CASTRO, J.:

Before the Court is a Petition filed by petitioner HGL Development Corporation (HGL) against private respondent Semirara Mining Corporation (Semirara Mining) and public respondent Judge Rafael O. Penuela (Penuela), presiding judge of the Regional Trial Court, Branch 13, of Culasi, Antique (RTC-Culasi), to be treated either as a (1) Petition for Indirect Contempt based on Rule 71, Section 4 of the Rules of Court; or (2) Petition for *Certiorari* under Rule 65 of the Rules of Court. HGL is essentially assailing in its Petition Judge Penuela's issuance, upon motion of Semirara Mining, of the Order dated July 18, 2007 which dismissed with prejudice Civil Case No. C-146 on the ground of forum shopping, in sheer and blatant defiance of the Decision^[1] and Resolution^[2] of the Court in G.R. No. 166854, bearing the title *Semirara Coal Corporation (now Semirara Mining Corporation) v. HGL Development Corporation (Semirara Coal Corporation case)*.

ANTECEDENT FACTS

The institution of Civil Case No. C-146 before RTC-Culasi

Through a Coal Operating Contract dated July 11, 1977, the Department of Energy (DOE) tasked Semirara Mining with the exploration, conservation, and development of all coal resources that could be found in the entire Island of Semirara, Antique, with a total area of approximately 5,500 hectares.

HGL was granted Forest Land Grazing Lease Agreement (FLGLA) No. 184 by the Department of Environment and Natural Resources (DENR) covering 367 hectares of land located in the *barrios* of Bobog and Pontod, Island of Semirara, Municipality of Caluya, Province of Antique (subject land), for a term of 25 years effective from August 28, 1984 to December 31, 2009. HGL had been grazing cattle on the subject land since the effectivity of FLGLA No. 184.

Sometime in 1999, Semirara Mining sought from HGL permission so the trucks and other equipment of Semirara Mining could pass through a portion of the subject land. HGL granted such permission believing that Semirara Mining would only use

the portion of the subject land as an alternate route to its mining site. HGL later discovered that Semirara Mining had already undertaken the following activities on the subject land: erected several buildings for its administrative offices and employees' residences; constructed an access road to the mining site; conducted blasting and excavation activities; and maintained a stockyard for its extracted coals. The objections of HGL against the continuing activities of Semirara Mining on the subject land went unheeded. Said activities of Semirara Mining had severe adverse effects on the cattle grazing on the subject land, eventually leading to the decimation of the cattle of HGL.

HGL complained against Semirara Mining before the DENR through a letter dated October 29, 1999. HGL asked the DENR to conduct an investigation of Semirara Mining and to order the latter to pay damages to HGL. There was no showing that the DENR took any action on said letter-complaint of HGL. On December 6, 2000, however, the DENR issued an Order unilaterally cancelling FLGLA No. 184 for failure of HGL to pay annual rental dues and surcharges and submit grazing reports from 1986 to 1999; and ordering HGL to vacate the subject land. HGL filed a letter of consideration dated January 12, 2001 which was denied by the DENR in its Order dated December 9, 2002. The DENR stated in said Order that it had to cancel the lease agreement with HGL after the DENR was informed by the DOE of the existence of coal deposits on the subject land and the DENR had to give way to the jurisdiction of the DOE over coal-bearing lands. HGL wrote the DENR another letter of reconsideration dated March 6, 2003, which was unacted upon until HGL withdrew said letter on August 4, 2003.

On November 17, 2003, HGL simultaneously instituted two actions before different courts. *First*, HGL instituted before the RTC, Branch 21, of Caloocan City (RTC-Caloocan), an action against the DENR for specific performance and damages, with prayer for a temporary restraining order (TRO) and/or writ of preliminary injunction, docketed as Civil Case No. C-20675. HGL primarily prayed in **Civil Case No. C-20675** that the DENR be compelled to perform its contractual obligations under FLGLA No. 184, specifically, to respect and recognize HGL as a valid and lawful occupant of the subject land until December 31, 2009. Semirara Mining later intervened as defendant in said case. *Second*, HGL instituted before RTC-Culasi an action against Semirara Mining for recovery of possession of the subject land and damages with prayer for TRO and/or writ of preliminary mandatory injunction, docketed as **Civil Case No. C-146**, proceedings in which are the subject of the instant Petition.

In its Complaint^[3] in Civil Case No. C-146, HGL alleged that it had been in lawful possession of the subject land based on FLGLA No. 184 when it was ousted therefrom by Semirara Mining through deceit and force. HGL, thus, prayed for recovery of possession of the subject land and award of actual, moral, and exemplary damages, as well as attorney's fees and litigation expenses. HGL likewise prayed for preliminary mandatory injunction and/or TRO to enjoin Semirara Mining from continuing to encroach and take over the subject land and to restore HGL to rightful possession of said land while the case was being heard.

Semirara Mining contended in its Answer^[4] that its right to possess the subject land was based on the Coal Operating Contract executed in its favor by the DOE on July 11, 1977 covering the entire Island of Semirara. The entire Island of Semirara

(including the subject land) was declared a Coal Mining Reservation Area as early as the 1940s; and said Coal Operating Contract was executed in favor of Semirara Mining by the DOE pursuant to its exclusive jurisdiction over the exploration, utilization, and conservation of all coal resources in the said Island under Presidential Proclamation No. 649, and subsequent amendments and/or enactments related thereto.

Semirara Mining also averred that the DENR, through its Orders dated December 6, 2000 and December 9, 2002, unilaterally cancelled FLGLA No. 184 by virtue of paragraph 2 of said Agreement, which stated that the same was subject to cancellation, among other grounds, should there be a "prior and existing valid claim or interest" over the land it covered. In addition, HGL already lost its right to appeal or assail the validity of said DENR Orders since these were not elevated for review before the Office of the President and, thus, already attained finality.^[5]

Trial and Appellate Court Proceedings
Re: Writ of Preliminary Mandatory
Injunction

RTC-Culasi, then presided by Judge Antonio B. Bantolo (Bantolo), initially heard the motion of HGL for issuance of a TRO or a writ of preliminary injunction.^[6] HGL presented the testimony of Oscar Lim (Lim), administrator of HGL for the subject land, after which, it offered its documentary exhibits in open court.^[7] RTC-Culasi later admitted the evidence offered by HGL over the objections of Semirara Mining.^[8]

When it was the turn of Semirara Mining to present evidence, its counsel failed to appear on the scheduled hearings. Victor Consunji (Consunji), President of Semirara Mining, sent a letter dated March 19, 2004 to Judge Bantolo, and received by RTC-Culasi on March 22, 2004, asking for the postponement and resetting of the hearings set on March 23 and 24, 2004 because of the resignation of the counsel of Semirara Mining. During the hearing on March 24, 2004, HGL opposed the postponement of the hearing because (1) Consunji's letter was not in the form of a motion for postponement; (2) HGL was not furnished a copy of Consunji's letter; and (3) there was no showing that Consunji was duly authorized to represent Semirara Mining in the case.

RTC-Culasi issued an Order^[9] on March 24, 2004 declaring that counsel for Semirara Mining failed to appear without justification at the hearing scheduled that day despite due notice. In addition to the grounds for opposition to the postponement propounded by HGL, RTC-Culasi also noted that there was nothing in the records to show that counsel for Semirara Mining had already withdrawn from the case and that Semirara had accepted its counsel's resignation. Hence, upon motion of HGL, RTC-Culasi already submitted for resolution the issue of whether or not a writ of preliminary mandatory injunction should be issued *pendente lite*. RTC-Culasi, in the same Order scheduled a Pre-Trial Conference in the case.

Semirara Mining filed on April 15, 2004 before RTC-Culasi an Omnibus Motion,^[10] claiming accident and/or excusable negligence and existence of a meritorious defense, and praying for the following: (1) reversal of the Order dated March 24, 2004; (2) admission of its attached documentary evidence against the motion of

HGL for a TRO or preliminary mandatory injunction; and (3) setting of the case for preliminary hearing of its special and affirmative defenses. In the alternative, Semirara Mining prayed for the dismissal of the case on the ground of forum shopping, questioning the propriety of the simultaneous filing by HGL of Civil Case No. C-146 before RTC-Culasi and Civil Case No. C-20675 before RTC-Caloocan.

In a Resolution^[11] dated June 21, 2004, RTC-Culasi denied for lack of merit the Omnibus Motion of Semirara Mining. RTC-Culasi found no reason to reverse its Order dated March 24, 2004 because there was no satisfactory proof that Semirara Mining accepted its counsel's resignation; the counsel of Semirara Mining did not file her withdrawal as such and did not furnish the opposing party with a copy of said withdrawal; and Consunji's letter dated March 19, 2004 was not a motion for postponement and was a mere scrap of paper. RTC-Culasi further refused to admit the documentary evidence attached to the Omnibus Motion of Semirara Mining for they did not undergo the proper procedure for presentation of evidence laid down in the Rules of Court, but Semirara Mining was not precluded from presenting the same evidence during trial proper. RTC-Culasi lastly denied the prayer of Semirara Mining for preliminary hearing on its affirmative defenses, taking into account the allegation of HGL in its Complaint on the urgency for the issuance of the injunctive relief because it was continuing to suffer damages from the acts of Semirara Mining. RTC-Culasi held:

In short, the grounds relied upon in the Omnibus Motion is either not supported by convincing document/evidence and/or are evidentiary in nature that could be well threshed out and/or could be well presented during the trial on the merits. [Semirara Mining] had shut off the opening door of March 23 and March 24, 2004 the opportune time granted him.

WHEREFORE, premises considered, [Semirara Mining's] Omnibus Motion dated April 13, 2004 is hereby denied for lack of merit.

Let the Order of March 24, 2004 stands.

Semirara Mining filed a Motion for Reconsideration of the foregoing Resolution (to which HGL subsequently filed an Opposition) as well as a Request for Admission of documents proving the cancellation of FLGLA No. 184.^[12] RTC-Culasi did not act on both Motions of Semirara Mining.

On September 16, 2004, RTC-Culasi issued a Resolution^[13] resolving the motion of HGL for the issuance of a writ of preliminary mandatory injunction. RTC-Culasi found that:

[HGL's] Exhibit "A" with its sub-markings - Forest Land Grazing Agreement No. [184]-FLGA - establishes the rights of [HGL] over the subject land. It also established the physical actual possession and the right to the actual physical possession of [HGL] over the subject land. Consequently, with its Exhibit "A" as well as its sub-markings [HGL] falls within the ambit of Article 539 of the Civil Code which is hereunder reproduced for quick reference as follows:

"Article 539. Every possessor has a right to be respected in his possession; and should he be disturbed therein he shall be protected in or restored to his possession by the means established by the law and the Rules of Court."

"A possessor deprived of his possession through forcible entry may within ten days from filing of the complaint present a motion to secure from the competent court, in the action for forcible entry, a writ of preliminary mandatory injunction to restore him in his possession. The court shall decide the motion within thirty (30) days from the filing thereof." (see Art. 539, Civil Code)

RTC-Culasi also adjudged that the other documentary evidence submitted by HGL were supportive of the allegations in its Complaint of prior rightful possession of the subject land, eventual unlawful ouster from the same, and damages suffered. In contrast, RTC-Culasi stated that Semirara Mining failed to controvert the evidence of HGL despite due notice and/or opportunity to be heard. RTC-Culasi decreed in the end:

WHEREFORE, premises considered, without prejudice to [Semirara Mining's] presentation of the evidence on the merits, in the meantime [HGL's] application for the Writ of Preliminary Mandatory Injunction over the subject land is granted upon a bond fixed in the amount of P1,000,000.00 conditioned to pay [Semirara Mining] whatever damages it may suffer by reason of injunction if it is found later that [HGL] is not entitled thereto.^[14]

Semirara Mining did not seek reconsideration of the foregoing Resolution.

After HGL posted the required bond on October 5, 2004, RTC-Culasi issued the Writ of Preliminary Mandatory Injunction^[15] on October 6, 2004, ordering the Provincial Sheriff of Antique as follows:

NOW, THEREFORE, you the Provincial Sheriff of Antique or your deputy, Culasi, Antique, is hereby commanded to restrain [Semirara Mining] or any of its agent, employee or representatives to cease and desist from encroaching the subject land or conducting any activities therein, and to restore the possession of the subject land to [HGL] or to any of its authorized agent, representative and/or administrator.

Giovanni R. Relator, Sheriff IV of RTC-Culasi, submitted a Sheriffs Report^[16] dated October 11, 2004 on the service and attempted enforcement of the Writ of Preliminary Injunction, pertinent portions of which are reproduced below:

That on October 8, 2004, the undersigned together with [HGL's] representatives, Atty. Don Carlo Ybañez, Atty. Marc Antonio, and Oscar