

THIRD DIVISION

[G.R. No. 196894, March 03, 2014]

**JESUS G. CRISOLOGO AND NANETTE B. CRISOLOGO,
PETITIONERS, VS. JEW M AGRO-INDUSTRIAL CORPORATION,
RESPONDENT.**

DECISION

MENDOZA, J.:

This is a petition for *certiorari* under Rule 45 of the Rules of Court challenging the May 6, 2011 Decision^[1] of the Court of Appeals (CA), in CA-G.R. SP No. 03896-MIN, which affirmed the September 27, 2010,^[2] October 7, 2010^[3] and November 9, 2010^[4] Orders of the Regional Trial Court, Davao City, Branch 14 (RTC-Br. 14), in Civil Case No. 33,551-2010, an action for Cancellation of Lien. It is entitled "*JEW M Agro-Industrial Corporation v. The Registry of Deeds for the City of Davao, Sheriff Robert Medialdea, John & Jane Does, and all persons acting under their directions.*"

This controversy stemmed from various cases of collection for sum of money filed against So Keng Kok, the owner of various properties including two (2) parcels of land covered by TCT Nos. 292597 and 292600 (*subject properties*), which were attached by various creditors including the petitioners in this case. As a result, the levies were annotated on the back of the said titles.

Petitioners Jesus G. Crisologo and Nannette B. Crisologo (*Spouses Crisologo*) were the plaintiffs in two (2) collection cases before RTC, Branch 15, Davao City (*RTC-Br. 15*), docketed as Civil Case Nos. 26,810-98 and 26,811-98, against Robert Limso, So Keng Koc, et al. Respondent JEW M Agro-Industrial Corporation (*JEW M*) was the successor-in-interest of one Sy Sen Ben, the plaintiff in another collection case before RTC, Branch 8, Davao City (*RTC-Br. 8*), docketed as Civil Case No. 26,513-98, against the same defendants.

On October 19, 1998, RTC-Br. 8 rendered its decision based on a compromise agreement, dated October 15, 1998, between the parties wherein the defendants in said case were directed to transfer the subject properties in favor of Sy Sen Ben. The latter subsequently sold the subject properties to one Nilda Lam who, in turn, sold the same to JEW M on June 1, 2000. Thereafter, TCT Nos. 325675 and 325676 were eventually issued in the name of JEW M, both of which still bearing the same annotations as well as the notice of *lis pendens* in connection with the other pending cases filed against So Keng Kok.

A year thereafter, Spouses Crisologo prevailed in the separate collection case filed before RTC-Br. 15 against Robert Lim So and So Keng Koc (*defendants*). Thus, on July 1, 1999, the said defendants were ordered to solidarily pay the Spouses Crisologo. When this decision attained finality, they moved for execution. On June 15, 2010, a writ was eventually issued. Acting on the same, the Branch Sheriff

issued a notice of sale scheduling an auction on August 26, 2010. The notice of sale included, among others, the subject properties covered by TCT Nos. 325675 and 325676, now, in the name of JEWM.

In the same proceedings, JEWM immediately filed its Affidavit of Third Party Claim and the Urgent Motion *Ad Cautelam*. It prayed for the exclusion of the subject properties from the notice of sale. In an order, dated August 26, 2010, however, the motion was denied. In turn, the Spouses Crisologo posted a bond in order to proceed with the execution.

To protect its interest, JEWM filed a separate action for cancellation of lien with prayer for the issuance of a preliminary injunction before RTC-Br. 14, docketed as Civil Case No. 33,551-2010. It prayed for the issuance of a writ of preliminary injunction to prevent the public sale of the subject properties covered in the writ of execution issued pursuant to the ruling of RTC-Br. 15; the cancellation of all the annotations on the back of the pertinent TCTs; and the issuance of a permanent injunction order after trial on the merits. "*The Register of Deeds of Davao City, Sheriff Robert Medialdea, John and Jane Does and all persons acting under their direction*" were impleaded as defendants.

At the scheduled hearing before RTC-Br. 14 on September 22, 2010, Spouses Crisologo's counsel appeared and filed in open court their Very Urgent Manifestation questioning the authority of the said court to restrain the execution proceedings in RTC-Br. 15. JEWM opposed it on the ground that Spouses Crisologo were not parties in the case.

On September 24, 2010, Spouses Crisologo filed an Omnibus Motion praying for the denial of the application for writ or preliminary injunction filed by JEWM and asking for their recognition as parties. No motion to intervene was, however, filed as the Spouses Crisologo believed that it was unnecessary since they were already the John and Jane Does named in the complaint.

In the Order, dated September 27, 2010, RTC-Br. 14 denied Spouses Crisologo's Omnibus Motion and granted JEWM's application for a writ of preliminary injunction.

On October 1, 2010, Spouses Crisologo filed a Very Urgent Omnibus Motion before RTC-Br. 14 praying for reconsideration and the setting aside of its September 27, 2010 Order. This was denied in the RTC Br.-14's October 7, 2010 Order for lack of legal standing in court considering that their counsel failed to make the written formal notice of appearance. The copy of this order was received by Spouses Crisologo on October 22, 2010. It must be noted, however, that on October 27, 2010, they received another order, likewise dated October 7, 2010, giving JEWM time to comment on their Very Urgent Omnibus Motion filed on October 1, 2010. In its Order, dated November 9, 2010, however, RTC-Br. 14 again denied the Very Urgent Motion previously filed by Spouses Crisologo.

On November 12, 2010, JEWM moved to declare the "defendants" in default which was granted in an order given in open court on November 19, 2010.

Spouses Crisologo then filed their Very Urgent Manifestation, dated November 30, 2010, arguing that they could not be deemed as defaulting parties because they were not referred to in the pertinent motion and order of default.

On November 19, 2010, Spouses Crisologo filed with the CA a petition for *certiorari*^[5] under Rule 65 of the Rules of Court assailing the RTC-Br. 14 orders, dated September 27, 2010, October 7, 2010 and November 9, 2010, all of which denied their motion to be recognized as parties. They also prayed for the issuance of a Temporary Restraining Order (TRO) and/or a Writ of Preliminary Injunction.

In its Resolution, dated January 6, 2011, the CA denied the application for a TRO, but directed Spouses Crisologo to amend their petition. On January 19, 2011, the Spouses Crisologo filed their Amended Petition^[6] with prayers for the issuance of a TRO and/or writ of preliminary injunction, the annulment of the aforementioned orders of RTC Br. 14, and the issuance of an order dissolving the writ of preliminary injunction issued in favor of JEWM.

Pending disposition of the Amended Petition by the CA, JEWM filed a motion on December 6, 2010 before RTC-Br. 14 asking for the resolution of the case on the merits.

On January 10, 2011, RTC-Br. 14 ruled in favor of JEWM, with the dispositive portion of its Decision^[7] stating as follows:

WHEREFORE, in view of all the foregoing, judgment is hereby rendered in favor of the plaintiff as follows:

1. the preliminary writ of injunction issued on October 5, 2010 is hereby made permanent;
2. directing herein defendant Registry of Deeds of Davao City where the subject lands are located, to cancel all existing liens and encumbrances on TCT No. T-325675 and T-325676 registered in the name of the plaintiff, and pay the
3. cost of suit.

SO ORDERED.^[8]

Spouses Crisologo then filed their Omnibus Motion *Ex Abudanti ad Cautelam*, asking RTC- Br. 14 to reconsider the above decision. Because no motion for intervention was filed prior to the rendition of the judgment, a certificate, dated March 17, 2011, was issued declaring the January 10, 2011 decision final and executory.

On May 6, 2011, the CA eventually denied the Amended Petition filed by Spouses Crisologo for lack of merit. It ruled that the writ of preliminary injunction subject of the petition was already *fait accompli* and, as such, the issue of grave abuse of discretion attributed to RTC-Br. 14 in granting the relief had become moot and academic. It further held that the failure of Spouses Crisologo to file their motion to intervene under Rule 19 rendered Rule 65 inapplicable as a vehicle to ventilate their supposed right in the case.^[9]

Hence, this petition.

ISSUES

- I. **The Court of Appeals erred in holding that the action for Cancellation of Annotations may proceed even without notice to and impleading the party/ies who caused the annotations, in clear contravention of the rule on joinder of parties and basic due process.**
- II. **The Court of Appeals erred in applying a very constrictive interpretation of the rules in holding that a motion to intervene is the only way an otherwise real party in interest could participate.**
- III. **The Court of Appeals erred in denying our application for the issuance of a temporary restraining order and/or a writ of preliminary injunction.**
- IV. **The Court of Appeals erred in holding that the issues raised by petitioners before it [had] been mooted by the January 10, 2011 decision of RTC Branch 14.^[10]**

Spouses Crisologo submit as error the CA affirmation of the RTC- Br. 14 ruling that the action for cancellation may proceed without them being impleaded. They allege deprivation of their right to due process when they were not impleaded in the case before RTC-Br. 14 despite the claim that they stand, as indispensable parties, to be benefited or injured by the judgment in the action for the cancellation of annotations covering the subject properties. They cite *Gonzales v. Judge Bersamin*,^[11] among others, as authority. In that case, the Court ruled that pursuant to Section 108 of Presidential Decree (P.D.) No. 1529, notice must be given to all parties in interest before the court may hear and determine the petition for the cancellation of annotations on the certificates of title.

The Spouses Crisologo also question the statement of the CA that their failure to file the motion to intervene under Rule 19 before RTC-Br. 14 barred their participation in the cancellation proceedings. They put emphasis on the court's duty to, at the very least, suspend the proceedings before it and have such indispensable parties impleaded.

As to the ruling on the denial of their application for the issuance of a TRO or writ of preliminary injunction, Spouses Crisologo claim that their adverse interest, evinced by the annotations at the back of the certificates of title, warranted the issuance of a TRO or writ of preliminary injunction against JEW's attempt to cancel the said annotations in violation of their fundamental right to due process.

Lastly, Spouses Crisologo cast doubt on the CA ruling that the issues presented in their petition were mooted by the RTC-Br. 14 Decision, dated January 10, 2011. Having been rendered without impleading indispensable parties, the said decision was void and could not have mooted their petition.

In their Comment,^[12] JEW asserts that Spouses Crisologo's failure to file a motion to intervene, pleadings-in-intervention, appeal or annulment of judgment, which were plain, speedy and adequate remedies then available to them, rendered recourse to Rule 65 as improper; that Spouses Crisologo lacked the legal standing to

file a Rule 65 petition since they were not impleaded in the proceedings before RTC-Br. 14; and that Spouses Crisologo were not indispensable parties since their rights over the properties had been rendered ineffective by the final and executory October 19, 1998 Decision of RTC-Br. 8 which disposed unconditionally and absolutely the subject properties in favor of its predecessor-in-interest. JEWG further argues that, on the assumption that Section 108 of P.D. No. 1529 applies, no notice to Spouses Crisologo was required because they were not real parties-in-interest in the case before RTC-Br. 14, or even if they were, their non-participation in the proceedings was because of their failure to properly intervene pursuant to Rule 19; and, lastly, that the case before RTC-Br. 14 became final and executory because Spouses Crisologos did not perfect an appeal therefrom, thus, rendering the issues in the CA petition moot and academic.

In their Reply,^[13] Spouses Crisologo restate the applicability of Section 108 of P.D. No. 1529 to the effect that any cancellation of annotation of certificates of title must be carried out by giving notice to all parties-in-interest. This they forward despite their recognition of the mootness of their assertion over the subject properties, to wit:

Again, we respect JAIC's position that "the claims of subsequent attaching creditors (including petitioners') have been rendered moot and academic, and hence the entries in favor of said creditors have no more legal basis and therefore must be cancelled." But we likewise at least ask a modicum of respect by at least being notified and heard.^[14]

The Ruling of the Court

The crux of this controversy is whether the CA correctly ruled that RTC-Br. 14 acted without grave abuse of discretion in failing to recognize Spouses Crisologo as indispensable parties in the case for cancellation of lien.

In this respect, the Court agrees with Spouses Crisologo.

In an action for the cancellation of memorandum annotated at the back of a certificate of title, the persons considered as indispensable include those whose liens appear as annotations pursuant to Section 108 of P.D. No. 1529,^[15] to wit:

Section 108. *Amendment and alteration of certificates.* -No erasure, alteration or amendment shall be made upon the registration book after the *entry of a certificate of title or of a memorandum thereon* and the attestation of the same by the Register of Deeds, except by order of the proper Court of First Instance. A registered owner or other person having an interest in registered property, or, in proper cases, the Register of Deeds with the approval of the Commissioner of Land Registration, may apply by petition to the court upon the ground that the registered interests of any description, whether vested, contingent, expectant inchoate appearing on the certificate, have terminated and ceased; or that new interest not appearing upon the certificates have arisen or been created; or that an omission or error was made in entering a certificate or memorandum thereon, or on any duplicate certificate; x x x or upon any other reasonable ground; *and the court may hear and determine the petition after notice to all parties in interest, and may order the entry or*