

SECOND DIVISION

[G.R. No. 167174, September 23, 2013]

**SPOUSES CARMELITO AND ANTONIA ALDOVER, PETITIONERS,
VS. THE COURT OF APPEALS, SUSANA AHORRO, ARLINE
SINGSON, BIBIANA CAHIBAYBAYAN, LUMINADA ERQUIZA,^[1]
ANGELITA ALBERT, JOSELITO ACULA, SORAYDA ACULA, JOMAR
ACULA, CECILIA FAMORCA, CELESTE VASQUEZ, ALFONSO
CABUWAGAN, CARMELITA RIVERA, JESSIE CAHIBAYBAYAN, MA.
ANA V. TAKEGUCHI, ROSEMARIE BONIFACIO, ANGELINA
FLORES, ALMACERES D. MISHIMA, AURELIA CAHIBAYBAYAN,
SONIA S. MALAQUE, NORA ANTONIO, REYNALDO ANTONIO,
REGINALD ANTONIO, RONALDO ANTONIO, JR., JUANITA CHING,
^[2] MARIETA PACIS, TITO PACIS, JOSE IBAYAN, ELSIE SISON,
LEONARDO SISON, MERCEDES ANTONIO, RICARDO SARMIENTO,
^[3] SERGIO TEGIO, CRISENCIA FAVILLAR, NELLY FERNANDEZ,
MARILYN DE VEGA, CELIA TUAZON, CELINE RAMOS, EUTEMIO
RAMOS, LUZVIMINDA VERUEN, NICANOR ORTEZA, ADELAIDA
CALUGAN,^[4] GLORIA AGBUSAC,^[5] VIRGINIA GAON, REMIGIO
MAYBITUIN, LAURA GARCIA, CHARLES GARCIA, MA. CRISTINA
GARCIA,^[6] RICARDO SARMIENTO, SR., ROBERTO TUAZON,
GEMMA TUAZON, ANALYN TUAZON, JOHN ROBERT TUAZON,
ELJEROME TUAZON, JEMMALYN TUAZON, MILAGROS TUBIGO,^[7]
MARICAR TUBIGO,^[8] MARISSA BITUIN,^[9] ROGER GOBRIN,
MARCELINA RAMOS, ESTRELLA RAMOS, ALFREDO RAMOS,
ADORACION RAMOS, ERICSON RAMOS, CAMILLE RAMOS, RAMIL
MARQUISA,^[10] ROMEO PORCARE, NIDA PORCARE, JEROME
PORCARE, JONATHAN PORCARE, PILARCITA ABSIN, JHON-JHON
ABSIN, JASON ABSIN,^[11] JAYSON ABSIN, EDUARDO ABSIN,
MAMRIA EDEN,^[12] ARNEL REUCAZA, ZENAIDA REUCAZA,
MICHELE REUCAZA, NALYN REUCAZA,^[13] MARICRIS REUCAZA,
ABELLE REUCAZA,^[14] JHON VILLAVECENCIO, CILLE
VILLAVECENCIO, ARIEL CAHIBAYBAYAN, JOHN EDWARD
VILLAVECENCIO, ARCELITO VILLAVECENCIO, FERMINA RIVERA,
ANITA RIVERA,^[15] EDWIN HOSMILLO, ESTER HOSMILLO,
REGINE HOSMILLO, MARFIKIS VENZON, CURT SMITH VENZON,
ALBERTO VILLAVECENCIO, MARILYN DE VEGA, JEFFREY DE
VEGA, LIANA DE VEGA, RAMIL DE VEGA,^[16] SHANE VENZON,
RUFO SINGSON, ROSALIE BALINGIT, RAUL SINGSON, HAZEL
GARCIA, CRISTINE GARCIA, JASON GARCIA, ECY B. TAN,^[17]
GREGORIO AURE, ICTORIA SARMIENTO,^[18] OSCAR TUBIGO,^[19]
JOVY SARMIENTO, BABYLYN SARMIENTO, JEAN CAHIBAYBAYAN,
^[20] RONALD CAHIBAYBAYAN,^[21] ALLAN CAHIBAYBAYAN,**

AMELIA DEQUINA, DENNIS DEQUINA, IRMA DEQUINA, FREDERICK DEQUINA, CRISTINE JOY DEQUINA, ENRIQUE LOPEZ,^[22] NERY LOPEZ, NERISSA LOPEZ, ERICA LOPEZ, VANESSA LOPEZ, LEO JIMENEZ, MICHELLE JIMENEZ, MAYLEEN JIMENEZ, LEONARDO JIMENEZ,^[23] FELICIANO MIRALLES, VIRGINIA ECIJA, LEONARDO AHORRO, MA. GINA SORIO, ARNEL SORIO, JOENNY PAVILLAR, SALVACION PAVILLAR, JOHNNY BALDERAMA, MARY JANE BALDERAMA, FERDINAND MALAQUE, MARK ADELCHI MALAQUE, CLIO JOY MALAQUE, IRISH MADLANGBAYAN, EFFERSON MADLANGBAYAN, ROBERTO MALAQUE, HELARIA MALAQUE,^[24] ARBIE MAY MALAQUEROY,^[25] GILBERT MALAQUE,^[26] SARRY LEGASPI, TERESITA LEGASPI, ROSEANN CRUZ, SHE ANN CRUZ, EXELEN LEGASPI, GREGORIO RAMOS, NENITA RAMOS, FELINO TEGIO, JOYZAIRRA ACULA, JUANITO CALUGAY,^[27] GEMMA CALUGAY, CARLITO ANTONIO, CELIA ANTONIO,^[28] PRINCES MARGARET,^[29] JOSE CECILIO,^[30] JEROME CZAR,^[31] RAMON SISON, DANILO SISON, MARILOU SISON, ALEX RIVERA, NARCISO DEL ROSARIO, BRIAN DEL ROSARIO,^[32] CHARLINE DEL ROSARIO, CARMELA DEL ROSARIO, KEVIN DEL ROSARIO, BEHNSIN JOHN DEL PACIS,^[33] MELRON ANTONIO, ANGIO ANTONIO,^[34] DAISY ANN ANTONIO, IVAN ANTONIO, RAYMART ANTONIO, PRESCILLA PAGKALIWANGAN, MARK KENNETH PAGKALIWANGAN, MARK JULIUS PAGKALIWANGAN, VINCENT PAGKALIWANGAN, DOLORES ORTEZA, JONECA ORTEZA,^[35] YUMI ORTEZA, NICANOR ORTEZA, RAUL BALINGIT, KATRINA CASSANDRA BAES, CHRISTOPHER BAES, MARK GIL BAES, BIENVENIDO BAES, ARTEMIO SANTOS, CATHERINE UMINGA, ROLANDO UMINGA, SR., ERLINDA TUAZON, CHRISTIAN TUAZON, ARGEL ANGELO SANTOS, MONTANO PAGKALIWANGAN, IN THEIR OWN BEHALF AND AS MEMBERS OF SAMAHANG MAGKAKAPITBAHAY NG VILLA REYES COMPOUND ASSOCIATION, RESPONDENTS.

D E C I S I O N

DEL CASTILLO, J.:

This Petition for *Certiorari*^[36] filed under Rule 65 of the Rules of Court seeks to annul: (i) the January 3, 2005 Resolution^[37] of the Court of Appeals (CA) in CA-G.R. SP No. 86363, which granted herein respondents' ancillary prayer for injunctive relief; and, (ii) the February 10, 2005 Writ of Preliminary Injunction^[38] issued pursuant thereto. Said writ enjoined the Regional Trial Court (RTC), Branch 71, Pasig City from implementing its August 9, 2004 Order^[39] directing the issuance of a Writ of Demolition against the respondents.

Factual Antecedents

Siblings Tomas M. Reyes and Sidra M. Reyes and their father Alfredo Reyes (the Reyeses) were the registered owners of a 4,044-square meter lot located in

Barangay Bambang, Pasig City covered by Transfer Certificate of Title (TCT) No. PT-107508.^[40] On August 12, 1999, they obtained a loan from Antonia B. Aldover (Aldover) secured by a Real Estate Mortgage (REM)^[41] over the said property.

When the Reyeses failed to pay, Aldover caused the extrajudicial foreclosure of mortgage. At the foreclosure sale conducted, Aldover emerged as the winning bidder. A Certificate of Sale was issued in her favor which was annotated at the back of TCT No. PT-107508 on September 2, 2002.^[42]

Thereafter, Aldover filed with the RTC of Pasig City a verified Petition for the Issuance of a Writ of Possession docketed as LRC Case No. R-6203.^[43] On August 26, 2003, Branch 71 of the RTC of Pasig City issued a Decision^[44] granting Aldover's Petition for Issuance of a Writ of Possession subject to the posting of a bond.

On December 12, 2003, the Reyeses filed a Motion to Recall and Lift Issuance of Writ of Possession^[45] claiming, among others, that the mortgage and the auction sale of property are both null and void as the mortgagee (Aldover) was not armed with a special power of attorney to foreclose the mortgaged property extrajudicially. This drew Aldover's Opposition^[46] where she also prayed for the issuance of the writ sans the requisite bond as the property was not redeemed within the one-year redemption period.

In the meantime, Aldover also caused the consolidation of title over the foreclosed property in her name. On December 17, 2003, TCT No. PT-107508 was cancelled and, in lieu thereof, TCT No. PT-122311^[47] was issued in Aldover's name.

On March 17, 2004, Branch 71 issued an Order^[48] denying the Reyeses' Motion to Recall and granting Aldover's motion to dispense with the posting of a bond. On the same date, a Writ of Possession^[49] was issued directing the Branch Sheriff to place Aldover in possession of subject lot.

In compliance with the writ, the Branch Sheriff issued a Notice to Vacate^[50] dated April 1, 2004. Then on April 23, 2004, he issued a Sheriff's Partial Report^[51] informing the court that he cannot fully implement the writ because there are several other persons who occupy portions of subject lot claiming to be the owners thereof.

On May 17, 2004, respondents filed before the RTC of Pasig City a Complaint for Declaration of Nullity of Documents and Title, Reconveyance and Damages with Prayer for Temporary Restraining Order and/or Preliminary Injunction^[52] against Aldover and her husband Carmelito (petitioners), the Reyeses, the Branch Sheriff, and the Registrar of Deeds of Pasig City. In said Complaint docketed as Civil Case No. 69979 and raffled to Branch 268 of said court, respondents alleged that they have been residing in the same lot subject of LRC Case No. R-6203 since the 1960's by virtue of lease contracts wherein they were allowed by the Reyeses to build their houses. Subsequently, their occupation became in the concept of owners after the Reyeses sold to them portions of the lot they respectively occupy. Respondents insisted that petitioners were aware of the lease and subsequent sale. Respondents also claimed that the REM is a fictitious transaction because at the time of its

execution the Reyeses were no longer the owners of the entire property subject thereof. Hence, the mortgage as well as the subsequent foreclosure sale is null and void.

Respondents sought the issuance of a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction to immediately restrain petitioners from further committing acts of dispossession and prayed for the cancellation of TCT No. PT-122311. On July 5, 2004, however, they filed a Motion to Admit Attached Amended Complaint as a matter of right (with prayer for withdrawal of TRO and injunction).^[53]

On July 26, 2004, Branch 268 issued an Order^[54] denying respondents' prayer for TRO on the ground that it cannot interfere with the order of a coordinate court. This was followed by an Order^[55] dated August 27, 2004 granting respondents' Motion to Admit and admitting respondents' Amended Complaint where they withdrew their ancillary prayer for injunctive relief.

Meanwhile, in LRC Case No. R-6203, in view of the Sheriff's Partial Report, Aldover filed a Motion for Special Order of Demolition.^[56] Branch 71 granted the Motion in an Order^[57] dated August 9, 2004, thus:

WHEREFORE, in view of the foregoing, the Motion for Special Order of Demolition is hereby GRANTED. Let a writ issue.

The respondents and all other persons deriving rights from them are given sixty (60) days from receipt of this Order to vacate the premises.

SO ORDERED.^[58]

On September 14, 2004, respondents filed before the CA a Petition for *Certiorari*, Prohibition, Injunction with prayer for the issuance of a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction^[59] against the petitioners and the Reyeses, which they later on amended.^[60] Respondents alleged that on August 23, 2004 they were surprised to receive the August 9, 2004 Order of demolition directing them to vacate the premises within 60 days from notice since they were neither impleaded nor notified of the proceedings conducted in LRC Case No. R-6203, as well as in the foreclosure sale. Respondents postulated that they are not, therefore, bound by the August 9, 2004 Order of Branch 71 for want of jurisdiction over their persons. Respondents reiterated their claim in Civil Case No. 69979 that they own the portions of subject lot which they respectively occupy. Thus, the implementation of said Order would deprive them of their property without due process of law and would render Civil Case No. 69979 pending before Branch 268 moot.

Respondents also asserted that the right they sought to be protected in their Petition is clear and unmistakable and that the invasion of such right is material and substantial. They thus prayed for the issuance of a TRO and/or Writ of Preliminary Injunction to enjoin the implementation of Branch 71's Order of demolition.^[61]

On September 23, 2004, the CA issued a Resolution^[62] outrightly dismissing the Petition on procedural grounds.

Invoking substantial justice and great and irreparable damage that may be caused by the impending demolition of their homes, respondents filed an Omnibus Motion for Reconsideration and Motion to Admit Attached Amended Petition.^[63] This was followed by an Extremely Urgent Omnibus Motion for Re-Raffle and for Early Resolution^[64] since the Justice to whom the case was assigned was then on official leave.

In a Resolution^[65] dated October 22, 2004, the CA reconsidered its resolution of dismissal and granted respondents' prayer for the issuance of a TRO. It restrained the implementation of the Order of demolition as well as of the Notice to Vacate. In the same Resolution, the CA required petitioners to file their comment to the Petition.

After the parties' filing of pleadings^[66] and upon respondents' motion,^[67] the CA set for hearing on January 4, 2005 the propriety of issuing a Writ of Preliminary Injunction. This hearing, however, did not push through since the CA already issued the challenged January 3, 2005 Resolution^[68] granting respondents' ancillary prayer for injunctive relief. It disposed thus:

WHEREFORE, we resolve to:

1. GRANT [respondents'] prayer for the issuance of a writ of preliminary injunction enjoining [petitioners] from enforcing the Notice to Vacate and Order of Demolition.
2. ORDER the [respondents] to file a bond in the amount of Three Hundred Thousand (P300,000.00) Pesos within five (5) days from notice hereof, which shall answer for whatever damages [petitioners] may sustain by reason of the injunction in the event that we finally decide that [respondents] were not entitled thereto.
3. CANCEL the hearing set on January 4, 2005.
4. CONSIDER the main petition submitted for decision.

SO ORDERED.^[69]

On January 12, 2005, petitioners filed a Motion for Reconsideration^[70] which was denied by the CA in its January 24, 2005 Resolution.^[71] Then on February 8, 2005, respondents posted the required injunction bond^[72] and the CA accordingly issued the Writ of Preliminary Injunction^[73] on February 10, 2005.

Petitioners subsequently filed a Motion for Inhibition of the CA Sixth (6th) Division^[74] which the CA granted in a Resolution^[75] dated March 28, 2005. Thereafter, petitioners sought recourse before us *via* this Petition for *Certiorari* ascribing grave abuse of discretion on the part of the CA for the following reasons:

Issues