

SECOND DIVISION

[G.R. No. 170038, July 11, 2012]

CHINA BANKING CORPORATION, PETITIONER, VS. SPS. HARRY CIRIACO AND ESTHER CIRIACO, RESPONDENTS.

DECISION

BRION, J.:

We resolve the petition for review on *certiorari*^[1] filed by China Banking Corporation (*petitioner*) to challenge the April 15, 2005 decision^[2] and the October 10, 2005 resolution^[3] of the Court of Appeals (CA) in CA G.R. SP No. 64349. The CA decision denied the petitioner's petition for *certiorari* for lack of merit. The CA resolution denied the petitioner's subsequent motion for reconsideration.

FACTUAL BACKGROUND

On March 11, 1996, Spouses Harry and Esther Ciriaco (*respondents*) obtained a P1,500,000.00 loan^[4] from the petitioner, secured by a real estate mortgage^[5] over their 526-square meter land in La Trinidad, Benguet, covered by Transfer Certificate of Title (TCT) No. T-21710.^[6]

When the respondents defaulted in the payment of their loan, the petitioner extrajudicially foreclosed^[7] the mortgaged property and sold it at public auction where the petitioner emerged as the highest bidder. The Sheriff executed a Certificate of Sale^[8] in the petitioner's favor on March 11, 1998. The Register of Deeds annotated the Certificate of Sale on TCT No. T-21710 on March 24, 1998.^[9]

On March 23, 1999, a day before the expiration of the redemption period, the respondents filed a complaint with the Regional Trial Court (RTC) of La Trinidad, Benguet, Branch 8, for Injunction to enjoin the consolidation of title in the petitioner's favor, assailing the redemption price of the foreclosed property.^[10]

On July 26, 1999, the RTC dismissed the complaint for being moot due to the consolidation of title in the petitioner's favor on March 31, 1999, "without prejudice to the filing of an appropriate action."^[11]

On August 17, 1999, the respondents filed a complaint with the RTC of La Trinidad, Benguet, Branch 63, for Cancellation of Consolidation of Ownership over a Real Property, Specific Performance, and Damages.^[12] They again questioned the redemption price of the foreclosed property.

On September 23, 1999, the petitioner filed its Answer with Compulsory Counterclaim, denying the allegations of the respondents' complaint.^[13]

On March 16, 2000, the respondents filed an Omnibus Motion for Leave to Amend Complaint and to Admit Attached Amended Complaint as well as Motion for Hearing on the Issuance of a Writ of Preliminary Injunction and/or Temporary Restraining Order (*TRO*), with a notice of hearing on the omnibus motion scheduled on March 22, 2000.^[14] The respondents sought to amend the complaint to allege further that fraud attended the consolidation of title in the petitioner's favor and to include a prayer for the issuance of a writ of preliminary injunction and/or *TRO* to enjoin the petitioner from disposing of the foreclosed property or taking possession thereof.

At the March 22, 2000 hearing, the RTC gave the petitioner ten (10) days within which to file its comment to the respondents' omnibus motion, and set the hearing on the omnibus motion on April 24, 2000.^[15]

The petitioner subsequently filed its Opposition to the omnibus motion,^[16] arguing that the respondents' further allegation of fraud changes the theory of the case which is not allowed, and that the respondents failed to show that they have a clear right in esse that should be protected by an injunctive relief.

At the April 24, 2000 hearing on the omnibus motion, the RTC gave the respondents ten (10) days to file their comment to the petitioner's opposition, and gave the petitioner ten (10) days to file its reply to the respondents' comment.^[17] The respondents did not file a reply to the petitioner's opposition.

THE RTC's RULING

In its August 1, 2000 order, the RTC admitted the amended complaint and directed the petitioner to file an answer. It noted that the 1997 Rules of Civil Procedure relaxed the rule on amendments to pleadings, subject only to the limitation that they are not dilatory. It also granted the respondents' application for the issuance of a writ of preliminary injunction and/or *TRO*, since the respondents were entitled to prove their claim of fraud, and their claim that the interests and penalty charges imposed by the bank had no factual basis.^[18]

The RTC denied^[19] the petitioner's subsequent motion for reconsideration.^[20] On August 24, 2000, the RTC issued a writ of preliminary injunction, restraining the petitioner from disposing of the foreclosed property or taking possession thereof.^[21]

The petitioner then filed a Rule 65 petition for *certiorari* with the CA, arguing that the RTC gravely abused its discretion in precipitately granting the respondents' application for the issuance of a writ of preliminary injunction without any hearing.^[22]

THE CA's RULING

In its April 15, 2005 decision, the CA denied the petition. It found that the RTC did not commit any grave abuse of discretion since it gave the parties ample opportunity to present their respective positions on the propriety of an injunctive writ during the hearings on March 22, 2000 and April 24, 2000, and that the petitioner was also heard on its motion for reconsideration of the August 1, 2000

order.^[23]

When the CA denied^[24] the petitioner's motion for reconsideration,^[25] the latter filed the present petition.^[26]

THE PETITION

The petitioner argues that the RTC granted the respondents' application for the issuance of a writ of preliminary injunction and/or TRO, despite the lack of a hearing thereon; the RTC conducted hearings on the respondents' omnibus motion only, not on the respondents' application for the issuance of a writ of preliminary injunction and/or TRO, which has not yet been set for hearing.

THE CASE FOR THE RESPONDENTS

The respondents submit that the RTC gave the petitioner ample opportunity to be heard on his opposition to the respondents' application for the issuance of a writ of preliminary injunction and/or TRO at the March 22, 2000 and April 24, 2000 hearings, and on the petitioner's motion for reconsideration of the August 1, 2000 order.

THE ISSUE

The core issue boils down to whether the CA erred in finding that the RTC did not commit any grave abuse of discretion in granting the respondents' application for the issuance of a writ of preliminary injunction and/or TRO.

OUR RULING

We find merit in the petition.

A preliminary injunction is an order granted at any stage of an action prior to the judgment or final order requiring a party or a court, agency or a person to refrain from a particular act or acts.^[27] It is the "strong arm of equity,"^[28] an extraordinary peremptory remedy that must be used with extreme caution,^[29] affecting as it does the respective rights of the parties.^[30]

Sections 3 and 5, Rule 58 of the 1997 Rules of Civil Procedure on preliminary injunction, pertinent to this case, provide the requirements for the issuance of a writ of preliminary injunction or a TRO:

SEC. 3. *Grounds for issuance of preliminary injunction.* - A preliminary injunction may be granted when it is established:

(a) That the applicant is entitled to the relief demanded, and the whole or part of such relief consists in restraining the commission or continuance of the act or acts complained of, or in requiring the performance of an act or acts, either for a limited period or perpetually;

(b) That the commission, continuance or non-performance of the act or

acts complained of during the litigation would probably work injustice to the applicant; or

(c) That a party, court, agency or a person is doing, threatening, or is attempting to do, or is procuring or suffering to be done, some act or acts probably in violation of the rights of the applicant respecting the subject of the action or proceeding, and tending to render the judgment ineffectual.

SEC. 5. *Preliminary injunction not granted without notice; exception.* - No preliminary injunction shall be granted without hearing and prior notice to the party or persons sought to be enjoined. If it shall appear from facts shown by affidavits or by the verified application that great or irreparable injury would result to the applicant before the matter can be heard on notice, the court to which the application for preliminary injunction was made, may issue *ex parte* a temporary restraining order to be effective only for a period of twenty (20) days from service on the party or person sought to be enjoined, except as herein provided. Within the twenty-day period, the court must order said party or person to show cause at a specified time and place, why the injunction should not be granted. The court shall also determine, within the same period, whether or not the preliminary injunction shall be granted, and accordingly issue the corresponding order.

However, subject to the provisions of the preceding sections, if the matter is of extreme urgency and the applicant will suffer grave injustice and irreparable injury, the executive judge of a multiple-sala court or the presiding judge of a single-sala court may issue *ex parte* a temporary restraining order effective for only seventy-two (72) hours from issuance but shall immediately comply with the provisions of the next preceding section as to service of summons and the documents to be served therewith. Thereafter, within the aforesaid seventy-two (72) hours, the judge before whom the case is pending shall conduct a summary hearing to determine whether the temporary restraining order shall be extended until the application for preliminary injunction can be heard. In no case shall the total period of effectivity of the temporary restraining order exceed twenty (20) days, including the original seventy-two hours provided herein.^[31]

From the provisions, it appears clearly that before a writ of preliminary injunction may be issued, a clear showing must be made that there exists a right to be protected and that the acts against which the writ is to be directed are violative of an established right.^[32] The holding of a hearing, where both parties can introduce evidence and present their side, is also required before the courts may issue a TRO or an injunctive writ.^[33]

Generally, an RTC's decision to grant or to deny injunctive relief will not be set aside on appeal, unless the trial court abused its discretion. In granting or denying injunctive relief, a court abuses its discretion when it lacks jurisdiction; fails to consider and make a record of the factors relevant to its determination; relies on