

SECOND DIVISION

[G.R. No. 170446, March 23, 2011]

**EDGEWATER REALTY DEVELOPMENT, INC., PETITIONER, VS.
METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM AND
MANILA WATER COMPANY, INC., RESPONDENTS.**

DECISION

ABAD, J.:

This case is about the demand of a landowner, on whose land a large number of informal settlers have lived, to compel the water utility company to discontinue providing water to such settlers.

The Facts and the Case

Edgewater Realty Development, Inc., (ERDI) a realty company, owned several parcels of land in Tumana, Concepcion, Marikina City.^[1] ERDI filed a complaint for ejectment against about 200 informal settlers that then occupied portions of its land but, despite a final court decision evicting them, the settlers refused to leave.

To resolve the problem, on April 14, 1994 ERDI and the Municipality of Marikina executed a Memorandum of Agreement (MOA), identifying one of ERDI's own properties^[2] as an emergency relocation site.^[3] The agreement resulted in the taking of additional settlers (estimated around 3,500) at the site and the placing of improvements in it. In turn, the settlers were to buy the land from ERDI. But because of the inability of the Municipality to control the influx of settlers and its breach of several other provisions of the MOA, ERDI rescinded the same and filed an action before the Marikina Regional Trial Court (RTC) for confirmation of the rescission of the MOA and for injunction against the Municipality, its Mayor Bayani M. Fernando, the Marikina Settlement Office, and Harry Singh.^[4]

On August 5, 1997 the RTC rendered a decision, confirming the rescission of the MOA and ordering the Municipality to remove all structures, constructions, and projects that it introduced on ERDI's property and to pay damages. Subsequently, the RTC decision was affirmed by the Court of Appeals (CA)^[5] and later by the Supreme Court.^[6]

On May 7, 1998 the MTC which tried the ejectment case^[7] issued a break-open and demolition order in the case and appointed a Special Sheriff to implement the order. The ERDI also applied for a writ of execution of the August 5, 1997 RTC decision.

Meantime, ERDI noticed that the settlers had maintained several facilities on its property, including a water system, without its consent. On September 13, 1995 it wrote the Metropolitan Waterworks and Sewerage System (MWSS) a letter to

formalize a water distribution system in the area but asked that it hold actual implementation of such system until an agreement was signed. To ERDI's dismay, however, it received information that some of the settlers already have water connections while the others had pending application for theirs.

Consequently, ERDI filed a complaint for injunction with prayer for temporary restraining order (TRO) and preliminary injunction against MWSS before the RTC of Quezon City,^[8] praying that it order MWSS to disconnect all water connections in ERDI's properties and to refrain from putting in place any further connections without its prior consent. The RTC issued a TRO against MWSS and, after due hearing, issued a writ of preliminary injunction restraining it from installing water connections on ERDI's properties.

In its Answer with counterclaims, MWSS averred that ERDI had no cause of action against it since it provided connections to some of the occupants only after the Municipality issued clearances to them through the Marikina Settlement Office. But, from the time it received ERDI's letter in September 1995, MWSS stopped processing applications for service connection in the area.

On January 15, 1998 the Quezon City RTC issued a Pre-Trial Order, detailing the issues it needed to resolve as follows: (1) whether or not the existing water connections within the properties of ERDI were illegal, and if so, whether MWSS has an obligation to remove or disconnect them; (2) whether or not MWSS may be enjoined from supplying water into the properties without ERDI's consent; (3) whether or not ERDI is entitled to the reliefs it asked in its complaint; and (4) whether or not MWSS is entitled to the reliefs it asked in its counterclaim.

Subsequently, ERDI amended its complaint to join Manila Water Company, Inc. (MWCI) as additional party defendant based on the concession agreement between the latter company and MWSS, which gave MWCI the sole right to manage and operate the MWSS water facilities in Marikina, including those in ERDI properties. The RTC allowed the amendment and the inclusion of MWCI in the coverage of the preliminary injunction.

Answering the amended complaint, MWCI denied that it installed a water system in the area. After it assumed operations, the settlers got clearances from the Marikina City Government and so MWCI allowed them to apply for the registration of their illegal connections. But, on receipt of ERDI's letter of July 9, 1998, MWCI stopped accepting applications for such registration and placed on hold those that it had already accepted.

On January 15, 2001 the Quezon City RTC rendered judgment, declaring the water connections on ERDI's land illegal and permanently enjoined MWSS and MWCI from installing water connections on it. The RTC did not, however, order the removal of existing water connections, pointing out that ERDI's remedy was to await the eviction of the settlers pursuant to the decision in the ejectment case. While the RTC dismissed MWSS's counterclaim, it allowed MWCI to collect payment of water bills by settlers who had existing water connections prior to the court's issuance of the writ of preliminary injunction in the case.

Dissatisfied with the decision, ERDI appealed from it to the CA.^[9] ERDI additionally