

## SECOND DIVISION

[ G.R. No. 181970, August 03, 2010 ]

**BERNARDO DE LEON, PETITIONER, VS. PUBLIC ESTATES AUTHORITY SUBSTITUTED BY THE CITY OF PARAÑAQUE, RAMON ARELLANO, JR., RICARDO PENA AND REYMUNDO ORPILLA, RESPONDENTS.**

[G.R. No. 182678]

**PUBLIC ESTATES AUTHORITY (NOW PHILIPPINE RECLAMATION AUTHORITY), SUBSTITUTED BY THE CITY OF PARAÑAQUE, PETITIONER, VS. HON. SELMA PALACIO ALARAS, IN HER CAPACITY AS THE ACTING PRESIDING JUDGE OF BRANCH 135, REGIONAL TRIAL COURT OF MAKATI CITY, AND BERNARDO DE LEON. RESPONDENTS.**

### D E C I S I O N

**PERALTA, J.:**

Before the Court are two consolidated petitions.

G.R. No. 181970 is a petition for review on *certiorari* under Rule 45 of the Rules of Court filed by Bernardo de Leon seeking the reversal and setting aside of the Decision<sup>[1]</sup> of the Court of Appeals (CA), dated November 21, 2007, in CA-G.R. SP No. 90328 which dismissed his petition for *certiorari*. De Leon also assails the CA Resolution<sup>[2]</sup> dated March 4, 2008 denying his Motion for Reconsideration.

On the other hand, G.R. No. 182678 is a petition for *certiorari* under Rule 65 of the Rules of Court filed by the Public Estates Authority (PEA)<sup>[3]</sup> seeking the nullification of the Orders dated December 28, 2007 and March 4, 2008 of the Regional Trial Court (RTC) of Makati City, Branch 135 in Civil Case No. 93-143.

The pertinent factual and procedural antecedents of the case, as summarized by the CA, are as follows:

On [January 15, 1993], petitioner Bernardo De Leon ("De Leon") filed a *Complaint for Damages with Prayer for Preliminary Injunction* before the Regional Trial Court [RTC] of Makati City, raffled to Branch 135, against respondent Public Estates Authority ("PEA"), a government-owned corporation, as well as its officers, herein private respondents Ramon Arellano, Jr., Ricardo Pena and Reymundo Orpilla. The suit for damages hinged on the alleged unlawful destruction of De Leon's fence and houses constructed on Lot 5155 containing an area of 11,997 square meters, situated in San Dionisio, Parañaque, which De Leon claimed has been in

the possession of his family for more than 50 years. Essentially, De Leon prayed that - *one*, lawful possession of the land in question be awarded to him; *two*, PEA be ordered to pay damages for demolishing the improvements constructed on Lot 5155; and, *three*, an injunctive relief be issued to enjoin PEA from committing acts which would violate his lawful and peaceful possession of the subject premises.

The court *a quo* found merit in De Leon's application for writ of preliminary injunction and thus issued the *Order* dated 8 February 1993, pertinent portions of which read:

After a careful consideration of the evidence presented and **without going into the actual merits of the case**, this Court finds that plaintiff (De Leon) has duly established by preponderance of evidence that he has a legal right over the subject matter of the instant case and is entitled to the injunctive relief demanded for and may suffer irreparable damage or injury if such right is not protected by Law [Rules (sic) 58, Section 3 of the Revised (Rules of Court)].

Premises considered upon plaintiff's (De Leon's) filing of a bond in the amount of P500,000.00, let a writ of preliminary injunction be issued against the defendants, their agents, representatives and other persons (PEA and its officers) acting for and in their behalf are hereby enjoined from disturbing the peaceful possession of **plaintiff (De Leon) and his co-owners** over Lot 5155 and further, from destroying and/or removing whatever other improvements thereon constructed, until further orders of this Court.

**SO ORDERED.** (Emphasis supplied)

PEA sought recourse before the Supreme Court through a *Petition for Certiorari with Prayer for a Restraining Order*, ascribing grave abuse of discretion against the court *a quo* for issuing injunctive relief. The *Petition* was later referred to this Court for proper determination and disposition, and was docketed as CA-G.R. SP No. 30630.

On 30 September 1993, the Ninth Division of this Court rendered a *Decision* discerning that the court *a quo* did not act in a capricious, arbitrary and whimsical exercise of power in issuing the writ of preliminary injunction against PEA. The Ninth Division ruled that the court *a quo* was precisely careful to state in its *Order* that it was "*without going into the actual merits of the case*" and that the words "plaintiff (De Leon) and his co-owners" were used by the court *a quo* rather "*loosely and did not intend it to be an adjudication of ownership.*"

Unfazed, PEA appealed to the Supreme Court via a *Petition for Certiorari* insisting that Lot 5155 was a salvage zone until it was reclaimed through government efforts in 1982. The land was previously under water on the

coastline which reached nine to twenty meters deep. In 1989, PEA started constructing R-1 Toll Expressway Road for the Manila-Cavite Coastal Road, which project directly traversed Lot 5155. PEA argued that the documentary evidence presented by De Leon to bolster his fallacious claim of possession and ownership were procured only in 1992, thus negating his very own allegation that he and his predecessors-in-interest have been in occupation since time immemorial.

Ruling squarely on the issue adduced before it, the Supreme Court declared that Lot 5155 was a public land so that De Leon's occupation thereof, no matter how long ago, could not confer ownership or possessory rights. Prescinding therefrom, no writ of injunction may lie to protect De Leon's nebulous right of possession. Accordingly, in its Decision dated 20 November 2000, the Supreme Court disposed of the controversy in this wise:

**WHEREFORE**, the Court **REVERSES** the decision of the Court of Appeals in CA-G.R. SP No. 30630, and **DISMISSES** the complaint in Civil Case No. 93-143 of the Regional Trial Court, Makati.

No costs.

**SO ORDERED.**

The aforesaid *Decision* became final and executory as no motion for reconsideration was filed. In due course, PEA moved for the issuance of a writ of execution praying that De Leon and persons claiming rights under him be ordered to vacate and peaceably surrender possession of Lot 5155.

Acting on PEA's motion, the court *a quo* issued the first assailed *Order* dated 15 September 2004, *viz*:

Acting on the "Motion For Issuance Of Writ of Execution" filed by defendant Public Estate[s] Authority, and finding the same to be impressed with merit, the same is GRANTED.

Let a Writ of Execution issue directing plaintiff, his agents, principals, successors-in-interest and all persons claiming rights under him to vacate and peaceably turn over possession of Lot 5155 to defendant Public Estate[s] Authority.

**SO ORDERED.**

As could well be expected, De Leon moved for reconsideration thereof and quashed the writ of execution. He adamantly insisted that the court *a quo's* Order for the issuance of the writ of execution completely deviated from the dispositive portion of the Supreme Court's *Decision*

dated 20 November 2000 as it did not categorically direct him to surrender possession of Lot 5155 in favor of PEA.

However, both motions met the same fate as these were denied by the court *a quo* in the second disputed *Order* dated 29 April 2005.<sup>[4]</sup>

Dissatisfied, De Leon filed another Motion for Reconsideration dated July 1, 2005, but the same was denied by the RTC in an Order dated July 27, 2005.

De Leon then filed a special civil action for *certiorari* with the CA assailing the September 15, 2004 and April 29, 2005 Orders of the RTC of Makati City. This was docketed as CA-G.R. SP No. 90328. In the same proceeding, De Leon filed an Urgent-Emergency Motion for Temporary Restraining Order (TRO) and Issuance of Writ of Preliminary Injunction but the same was denied by the CA in a Resolution dated April 24, 2006.

Subsequently, De Leon filed a second special civil action for *certiorari* with the CA seeking to annul and set aside the same RTC Orders dated September 15, 2004 and April 29, 2005, as well as the RTC Order of July 27, 2005. The case was docketed as CA-G.R. SP No. 90984.

On July 26, 2006, PEA filed a Very Urgent Motion for Issuance of Writ of Demolition<sup>[5]</sup> praying that the RTC issue a Special Order directing De Leon and persons claiming under him to remove all improvements erected inside the premises of the subject property and, in case of failure to remove the said structures, that a Special Order and Writ of Demolition be issued directing the sheriff to remove and demolish the said improvements.

On October 11, 2006, the RTC issued an Order<sup>[6]</sup> holding in abeyance the Resolution of PEA's Motion. PEA filed a Motion for Reconsideration,<sup>[7]</sup> but it was denied by the RTC in an Order<sup>[8]</sup> dated January 12, 2007.

On February 27, 2007, PEA filed an Omnibus Motion<sup>[9]</sup> to dismiss or, in the alternative, resolve the petitions in CA-G.R. SP No. 90328 and CA-G.R. SP No. 90984.

In its Decision<sup>[10]</sup> dated March 21, 2007, the CA dismissed De Leon's petition in CA-G.R. SP No. 90984 on the ground of forum shopping.

Subsequently, on November 21, 2007, the CA also dismissed De Leon's petition in CA-G.R. SP No. 90328 holding that an earlier decision promulgated by the Supreme Court, finding the subject property to be public and that De Leon has no title and no clear legal right over the disputed lot, has already attained finality.<sup>[11]</sup> De Leon filed a Motion for Reconsideration, but the CA denied it via its Resolution<sup>[12]</sup> dated March 4, 2008.

Thereafter, PEA filed an Urgent Motion to Resolve (Re: Very Urgent Motion for Issuance of Writ of Demolition).<sup>[13]</sup>

On December 28, 2007, the RTC issued an Order<sup>[14]</sup> holding in abeyance the resolution of PEA's Motion pending receipt by the trial court of the entry of judgment pertaining to CA-G.R. SP No. 90328. PEA filed a Motion for Reconsideration.<sup>[15]</sup>

In its Order dated March 4, 2008, the RTC issued an Order denying PEA's Motion for Reconsideration.

On April 23, 2008, De Leon filed the present petition for review on *certiorari*, docketed as G.R. No. 181970, assailing the November 21, 2007 Decision of the CA.

Subsequently, on May 15, 2008, PEA, on the other hand, filed the instant special civil action for *certiorari*, docketed as G.R. No. 182678, questioning the Orders of the RTC of Makati City, dated December 28, 2007 and March 4, 2008.

In G.R. No. 181970, De Leon questions the Decision of the CA on the following grounds: (a) he can only be removed from the subject land through ejectment proceedings; (b) the Decision of this Court in G.R. No. 112172 merely ordered the dismissal of De Leon's complaint for damages in Civil Case No. 93-143; and (c) even though petitioner is not the owner and has no title to the subject land, mere prior possession is only required for the establishment of his right.

In G.R. No. 182678, the sole issue raised is whether respondent judge committed grave abuse of discretion in issuing the assailed Orders which held in abeyance the resolution of PEA's Motion for the Issuance of a Writ of Demolition.

On February 25, 2009, PEA and the City of Parañaque filed a Joint Motion for Substitution stating that PEA had transferred its ownership and ceded its interests over the subject property to the City of Parañaque as full payment for all of the former's real property tax liabilities. As a consequence, the movants prayed that PEA be substituted by the City of Parañaque as petitioner in G.R. No. 182678 and respondent in G.R. No. 181970.<sup>[16]</sup>

In a Resolution<sup>[17]</sup> dated on October 14, 2009, this Court granted the Motion for Substitution filed by PEA and the City of Parañaque.

The issues raised in the present petitions boil down to the question of whether PEA is really entitled to possess the subject property and, if answered in the affirmative, whether the RTC should proceed to hear PEA's Motion for the Issuance of a Writ of Demolition.

The Court rules for PEA.

The question of ownership and rightful possession of the subject property had already been settled and laid to rest in this Court's Decision dated November 20, 2000 in G.R. No. 112172 entitled, *Public Estates Authority v. Court of Appeals (PEA v. CA)*.<sup>[18]</sup> In the said case, the Court ruled thus:

The issue raised is whether respondent and his brothers and sisters were lawful owners and possessors of Lot 5155 by mere claim of ownership by possession for a period of at least fifty (50) years.