

THIRD DIVISION

[G.R. No. 179898, December 23, 2008]

MAUNLAD HOMES, INC., N.C. PULUMBARIT INC., N.C.P. LEASING CORPORATION, AND NEMENCIO C. PULUMBARIT, SR., PETITIONERS, VS. UNION BANK OF THE PHILIPPINES AND JULIE C. GO, RESPONDENTS.

DECISION

REYES, R.T., J.:

WE sustain the Regional Trial Court (RTC) grant of preliminary injunction in this petition for review on *certiorari* of the Decision^[1] of the Court of Appeals (CA) nullifying the RTC order in Civil Case No. 297-M-04.

The Facts

The subject matter of the case are several parcels of land forming the commercial complex known as Maunlad Malls 1 and 2 located in Malolos, Bulacan. The properties were previously owned and mortgaged by petitioners to respondents. They were foreclosed by respondents.^[2]

Before consolidation of ownership, respondents, as seller, and petitioners, as buyer, entered into a contract to sell the said parcels of land on July 5, 2002. The contract was essentially a buy-back agreement where the purchase price was to be paid in installment. By virtue of the contract to sell, petitioners remained in possession and management of the commercial complex. They also continued to collect rental payments from the tenants of the commercial complex.^[3]

Sometime in February 2004, respondents began interfering with the business operation of the commercial complex, alleging that petitioners were not paying the installments under the contract to sell. Respondents also convinced the tenants of the commercial complex to pay the rentals directly to them, rather than to petitioners.^[4]

On March 14, 2004, petitioners (as plaintiffs) filed a complaint for injunction with prayer for temporary restraining order (TRO) and preliminary injunction with the RTC in Malolos, Bulacan. They sought to prevent respondents (as defendants) from collecting rental payments directly from the tenants of the commercial complex.

After summary hearing, the RTC issued a TRO against respondents.^[5] The hearing on the application for preliminary injunction ensued.

On June 23, 2004, the RTC issued an Order^[6] granting the application for preliminary injunction with the following disposition:

WHEREFORE, upon posting and approval of the required bond let a writ of preliminary injunction issue enjoining the defendants from committing further acts of preventing plaintiffs or their authorized representatives from collecting rental payments for the occupancy of Maunlad Shopping Malls 1 and 2 from the tenants thereof; from preventing the tenants from making rental payments directly to the plaintiff or authorized representatives; and also to restrain defendants from collecting the rental payments from the tenants, under pain of contempt of court if the writ of preliminary injunction is not heeded. In short defendants are enjoined from exercising acts of ownership and/or possession over Maunlad Shopping Malls 1 and 2 by virtue of the writ of preliminary injunction.

Meanwhile, let further hearings on the other pending incidents be set after receipt by this Court of the defendants' opposition to the plaintiff's motion to cite defendants in contempt of court, and of plaintiffs' reply thereto, as previously ordered.^[7]

The RTC ratiocinated:

Weighing carefully the arguments of both parties, pro and con, on the basis of the testimonies of plaintiffs' witness, Nemencio C. Pulumbarit, Sr., and defendants' witness, Julie Go, this court, at this stage of the proceedings, must grant the prayer for the issuance of a writ of preliminary injunction. Injunction as an extraordinary remedy is calculated to preserve or maintain the *status quo* and is generally availed of to prevent an actual or threatened acts until the merits of the case can be heard (*Cagayan de Oro, etc. vs. Court of Appeals*, 254 SCRA 220, 228). There are only two requisites to be satisfied if an injunction is to issue, namely: the existence of the right to be protected; and the facts against which injunction is to be directed are violative of said right. (*Del Rosario vs. Court of Appeals*, 255 SCRA 152, 158). The clear showing of an actually existing right to be protected during the pendency of the principal action (*Carillo vs. Capulong*, 222 SCRA 593, 600-601) with the threatened violation of it (*Sabalones vs. Court of Appeals*, 230 SCRA 79, 86) has been duly established by plaintiffs. Clearly, at this stage, plaintiff Maunlad Malls 1 and 2 since the inception, it has the right to remain in continuous possession subject to the final outcome of the ejectment suit pending before the MTC of Makati. On the other hand, defendant Union Bank cannot validly claim, even admitting the circumstances offered by it in evidence to be true and correct, because in this jurisdiction no one has the right to obtain possession of a piece of property without resorting to judicial remedies available under the circumstances. To sanction defendant Union Bank's claimed ownership and possession of the premises in question, at this time, vis-à-vis its exercise of the rights appurtenant thereto would be to permit it to contradict itself for, as already pointed out, it has already instituted an action for ejectment against Maunlad Homes, Inc. Good faith demands that defendant Union Bank must wait for the final determination of the ejectment suit, it cannot take the law into its own hands by interfering with or preventing plaintiff Maunlad Homes, Inc, from exercising rights of possession over Malls 1 and 2 and cannot continue to prevent it from collecting the

rentals owing from the present occupants of the stalls/units therein.

As to the "sampling" of evidence at the hearing on the motion for preliminary injunction will suffice although not complete or conclusive (*Syndicated Media vs. Court of Appeals*, 219 SCRA 794, 798), and as required by the Rules, plaintiff Maunlad Homes, Inc. is required to post a bond of P150,000.00 to answer for the damages which defendant Union Bank may incur if later, it should be declared finally that the injunctive writ had been wrongly issued (*San Miguel vs. Elbinias*, 127 SCRA 312, 318).^[8]

On July 8, 2008, respondents filed an urgent motion to dissolve injunction and to post counter bond.^[9] The RTC denied the motion, reasoning as follows:

Petitioner Union Bank of the Philippines (UBP) asserts its rights and entitlement to an injunction considering its status as the registered and actual owner of the subject properties, arguing that private respondents' claims are anchored on a mere "contract to Sell" which does not vest ownership over said properties on the private respondents unless a deed of absolute sale is executed upon full payment of the purchase price by Maunlad Homes. Further, as We have stated in Our April 28, 2003 Resolution, petitioners stand to suffer grave and irreparable injury during the pendency of the instant case before this Court in terms of the collection of monthly rentals from the subject properties should it be found that the assailed Orders of the RTC were erroneously issued.

The writ shall issue upon posting by the petitioners in this Court of a bond in the amount of Two Million Pesos (Php 2,000,000.00) to answer for any damages that may be incurred by the respondents should it be resolved that petitioners are not entitled to the injunctive relief.^[10]

Undaunted, respondents (CA petitioners) filed a petition for *certiorari* with the CA under Rule 65 of the 1997 Rules of Civil Procedure.

CA Disposition

On October 3, 2007, the CA issued a decision granting the petition for *certiorari* and reversing the RTC decision with a *fallo* reading:

WHEREFORE, the instant petition is **GRANTED**. The assailed orders dated July 20, 2004 and September 6, 2004 as well as the order dated June 22, 2004 and the writ of preliminary injunction issued by the RTC of Malolos, Bulacan, Branch 16, in Civil Case No. 297-M-2004, are **REVERSED** and **SET ASIDE** for lack of factual and legal basis.

SO ORDERED.^[11]

The CA ratiocinated:

Private respondents' invocation of the contract to sell which Maunlad previously entered into with Union Bank and upon which they justify their right to possess and collect rentals, is insufficient basis for issuance of a preliminary injunction in their favor. As the Supreme Court held:

x x x the contract to sell does not by itself give respondent the right to possess the property. Unlike in a contract of sale, here in a contract to sell, there is yet no actual sale nor any transfer of title, until and unless, full payment is made. The payment of the purchase price is a positive suspensive condition, the failure of which is not a breach, casual or serious, but a situation that prevents the obligation of the vendor to convey title from acquiring an obligatory force. Respondent must have fully paid the price of acquire title over the property and the right to retain possession thereof. In cases of non-payment, the unpaid seller can avail of the remedy of ejectment since he retains ownership of the property.

In view of the absence of a **clear and unmistakable right** on the part of private respondents, we cannot sustain their claim that they would suffer irreparable injury if injunctive relief is not granted in their favor. **Where the complainants' right or title is doubtful or disputed, injunction is not proper. Thus, the possibility of irreparable damage without proof of existing right is no ground for an injunction.**

Stated differently, one who prays for issuance of injunction must show the existence of a "**clear positive right**" especially calling for judicial protection. Injunction is not designed to protect contingent or future right; nor is it a remedy to enforce an abstract right. The duty of the court taking cognizance of a prayer for a writ of preliminary injunction is to determine whether the requisites necessary for the grant of an injunction are present in the case before it. **The granting by the trial court despite the absence of any legal right to be protected constitutes grave abuse of discretion.**

On the other hand, in line with the petition before the Court, we find that petitioner Union Bank has sufficiently shown its right to the issuance of not only preliminary injunction but also permanent injunction against the respondents.^[12]

Aggrieved, petitioners (CA respondents) resorted to this petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure.

Issue

Essentially, petitioners raise the sole issue of whether the CA correctly reversed the RTC order granting preliminary injunction.

Our Ruling

The answer is in the negative, calling for a grant of the petition.

Injunctive reliefs may be the main prayer in a complaint or an incident to the main action. In both instances, the object of injunctive reliefs is the same. It is to protect