

SECOND DIVISION

[G.R. NO. 142255, January 26, 2007]

**SAMAHAN NG MASANG PILIPINO SA MAKATI, INC. (SMPMI),
REPRESENTED BY CHAIRMAN ROBERT L. MORA, SR.,
PETITIONER, VS. BASES CONVERSION DEVELOPMENT
AUTHORITY (BCDA), REPRESENTED BY BCDA CHAIRMAN
ROGELIO SINGSON, AND MUNICIPALITY OF TAGUIG,
REPRESENTED BY MAYOR RICARDO D. PAPA, RESPONDENTS.**

DECISION

VELASCO, JR., J.:

Before the Court is a novel Petition for the Issuance of a Temporary Restraining Order (TRO) and Injunction,^[1] filed by petitioner *Samahan ng Masang Pilipino sa Makati, Inc.* (SMPMI), to prohibit respondent Bases Conversion Development Authority (BCDA) from evicting its members from their houses in Fort Bonifacio pursuant to Section 21^[2] of Republic Act No. (RA) 7227,^[3] which grants sole jurisdiction to this Court for the issuance of Injunction or Restraining Order against BCDA.

The facts are undisputed. The members of SMPMI, allegedly comprising over 20,000 families, are residents of Fort Bonifacio occupying a portion of it specifically Lot 4, Lot 3, and Lot 1 with an aggregate area of 97.58 hectares allegedly covered by SWO-00-001265 in the name of BCDA. Petitioner maintains that its members have been occupying peacefully and continuously these lots in Fort Bonifacio. It alleges that Fort Bonifacio is covered by Transfer Certificate of Title (TCT) No. 2288 in the name of the United States of America (USA) which has not been duly cancelled. It further alleges that BCDA, pursuant to RA 7227, otherwise known as "The Bases Conversion and Development Act of 1992," and the Municipality of Taguig, through its Mayor, sent 30-day notices of eviction to its members. It asserts the illegality of the imminent eviction, for which the present action was filed, as the land which petitioner's members are occupying is still owned by the USA and not by the Philippine Government.

It further asserts that Section 8^[4] of RA 7227, which stipulates the area of Fort Bonifacio specifically covering 2,276 hectares, did not provide any technical description on what is indeed covered. Besides, it strongly argues that because of the lack of "tie line" locating the exact position claimed by BCDA, the latter cannot illegally stake its claim on the whole of Fort Bonifacio to the prejudice not only of its members but also of all persons or entities occupying said area. Petitioner also contends that what complicates the controversy is the approval of the BCDA plan by the Bureau of Land without due certification from the Land Registration Authority (LRA).

As a background, on March 13, 1992, RA 7227 created the BCDA to "accelerate the

sound and balanced conversion into alternative productive uses of the Clark and Subic military reservations and their extensions (John Hay Station, Wallace Air Station, O'Donnell Transmitter Station, San Miguel Naval Communications Station, and Capas Relay Station),”^[5] and “to raise funds by the sale of portions of Metro Manila military camps.”^[6] Pursuant to this Act, then President Ramos issued Executive Order (EO) No. 40,^[7] series of 1992, specifying, among others, the portions of Metro Manila military camps to be utilized to generate capital for the BCDA. Among these Metro Manila military camps is Fort Bonifacio, located in the City of Makati and the Municipality of Taguig. Under EO No. 40, series of 1992, 214 hectares in Fort Bonifacio were earmarked for development and disposition to raise funds for BCDA projects and to use such funds to accelerate the sound and balanced conversion into alternative productive uses of the Clark and Subic military reservations and their extensions.

In its Comment,^[8] BCDA asserts ownership of Fort Bonifacio through RA 7227. It posits that TCT No. 2288 in the name of the USA covering a little over 2,544 hectares of the then Hacienda Maricaban (30 hectares of the property was segregated, used, and occupied by the then Manila Railroad Company) is government property. It cites *Acting Registrars of Land Titles and Deeds of Pasay City, Pasig and Makati v. RTC, Branch 57, Makati*, where we conclusively held that the subject lot is government property, thus:

The Court takes judicial notice of the fact that the hectarage embraced by TCT No. 192 (OCT No. 291) consists of Government property. Three things persuade the Court: (1) the decrees of Proclamations Nos. 192 and 435; (2) the incontrovertible fact that OCT No. 291 has been duly cancelled; and (3) the decision of the Court of Appeals in AC-G.R. CV No. 00293, affirming the decision of Hon. Gregorio Pineda, Judge of the then Court of First Instance of Rizal, Branch XXI, in LRC (GLRO) Rec. No. 2484, Case No. R-1467 thereof, entitled “In Re: Issuance of Owner’s Duplicate of Certificate of Title No. 291,” as well as our own Resolution, in G.R. No. 69834, entitled “Domingo Palomares, et al. v. Intermediate Appellate Court”.^[9]

BCDA maintains that pursuant to Sec. 7^[10] in relation to Sec. 8^[11] of RA 7227, the ownership of the Metro Manila military camp lots in question is transferred to BCDA by the President and specifically earmarked for vital and important government infrastructure projects. In sum, it asserts that its takeover of Fort Bonifacio is in accordance with law since the lots comprising it were originally part of a military reservation, particularly Lot 1, Philippine Light Armour Regiment (PALAR) area; Lot 3, Vetronix area; and Lot 4, Logistics Command (LOGCOM) area. These subject lots are covered by special patents in favor of BCDA. In fact, it asserts that pursuant to RA 7227 and EO No. 40, series of 1992, then President Estrada issued on June 11, 1999 Special Patent No. 3610 covering Lots 3 (Vetronix) and 4 (LOGCOM) in Fort Bonifacio; while Lot No. 1 (PALAR) was issued Special Patent No. 3596 by then President Ramos and the corresponding OCT No. SP-001 issued in favor of Fort Bonifacio Development Corporation (FBDC), a wholly owned subsidiary of BCDA.

BCDA further counters that SMPMI has no cause of action as it is not the real party in interest; on the contrary, it should either be the USA or the individual persons affected by the eviction. Besides, it argues that SMPMI or its members have not

shown ownership over the lots they are occupying that are to be accorded protection pursuant to Rule 58 of the 1997 Revised Rules of Civil Procedure on preliminary injunction. Also, BCDA contends that in as much as the ownership of Fort Bonifacio was determined with finality by this Court in *Acting Registrars of Land Titles and Deeds of Pasay City, Pasig and Makati*^[12] and corresponding titles were issued to Fort Bonifacio, petitioner clearly has no cause of action against BCDA.

BCDA then traced history which revealed the conveyance of then Fort William McKinley property to the Philippine Government, specifically citing the July 4, 1946 Treaty of General Relations, the Preamble of the Military Bases Agreement, and US Diplomatic Note No. 0634 where the USA acknowledged that said Fort was owned by the Philippine Government.

Finally, BCDA raises the issue that petitioner cannot assail the title of the subject lots in Fort Bonifacio collaterally, that is, in this proceeding for prohibition, and alleges petitioner's violation of the forum-shopping rule. It contends that there was a pending case filed earlier by SMPMI involving the same parties when on September 20, 1999, SMPMI filed a case against BCDA with the Commission on Settlement of Land Problems (COSLAP), docketed as COSLAP Case No. 99-453, praying for the issuance of an order against BCDA to cease the demolition operation. In said case, SMPMI similarly alleged that the owner of the lands in question was the USA; thus, BCDA or the Philippine Government had no authority to evict or harass complainants. More so, when COSLAP required the parties to file their position papers, which BCDA complied with, SMPMI instead filed the instant petition.

The Issues

In its September 24, 2000 Memorandum, respondent BCDA raises the following issues for our consideration:

A

WHETHER OR NOT PETITIONERS HAVE A CAUSE OF ACTION AGAINST RESPONDENTS

B

WHETHER OR NOT BCDA HAS A LAWFUL RIGHT OVER THE PROPERTY

C

WHETHER OR NOT PETITIONER IS GUILTY OF FORUM-SHOPPING

D

WHETHER OR NOT THE CASE IS A COLLATERAL ATTACK ON THE TITLES OVER THE PROPERTIES IN QUESTION^[13]

On the other hand, petitioner raises in its November 27, 2000 Memorandum the following issues for our consideration:

I

WHETHER OR NOT BCDA (RA 7227) CAN JUST LEGALLY STAKE ITS CLAIM IN ANY PART OF FORT BONIFACIO WITHOUT ANY CLEAR TIE-LINES TO BASE ITS CLAIM? [SIC]

II

WHETHER OR NOT THE BCDA AND MUNICIPALITY OF TAGUIG CAN EXTRAJUDICIALY EJECT THE MEMBERS OF PETITIONERS AND USE VIOLENCE TO ATTAIN ITS OBJECTIVE OF CLEARING THE COMMUNITY OF OCCUPANTS? [SIC]

III

WHETHER OR NOT THE BCDA CAN EJECT THE MEMBERS OF THE PETITIONERS WITHOUT OFFERING THEM A SUITABLE ALTERNATIVE OF HOMESITE AS PROVIDED UNDER PD 1576 (LINA LAW)? [SIC]

IV

WHETHER OR NOT THE HONORABLE JUSTICES OF THE SUPREME COURT MAY ISSUE A RESTRAINING ORDER TO BCDA/MUNICIPALITY OF TAGUIG PENDING THE RESOLUTION OF THE CONTROVERSY TO AVERT FUTURE VIOLENCE?^[14] [SIC]

The Court's Ruling

Relative to the issuance of a TRO or injunction, the core issue to be resolved is who between petitioner SMPMI and BCDA has the right of possession over the particular parcels of land which are subject of this petition. In this regard, SMPMI insists that if the ruling is in favor of respondent BCDA, then BCDA and respondent Municipality of Taguig cannot extrajudicially eject its members; at the very least, respondents must comply with RA 7279, commonly known as the "Lina Law," which provides a suitable alternative homesite before eviction is enforced.

We rule in favor of BCDA.

The instant action is essentially for prohibition, which is the issuance of a restraining order or writ of injunction against BCDA and the Municipality of Taguig. It is basic that in order for a restraining order or the writ of injunction to issue, the petitioner is tasked to establish and convincingly show the following: "(1) a right in esse or a clear and unmistakable right to be protected; (2) a violation of that right; (3) that there is an urgent and permanent act and urgent necessity for the writ to prevent serious damage."^[15]

In the absence of a clear legal right, the writ must not issue. Indeed, a restraining order or an injunction is a preservative remedy aimed at protecting substantial rights and interests, and it is not designed to protect contingent or future rights. The possibility of irreparable damage without proof of adequate existing rights is not a ground for injunction.^[16]

A close scrutiny of the records at hand shows that petitioner's members have not shown a clear right or a right in esse to retain possession of the parcels of land they are occupying inside Fort Bonifacio, thus:

First, it is unequivocal that the Philippine Government, and now the BCDA, has title and ownership over Fort Bonifacio. The case of *Acting Registrars of Land Titles and Deeds of Pasay City, Pasig and Makati*^[17] is final and conclusive on the ownership of the then Hacienda de Maricaban estate by the Republic of the Philippines. Clearly, the issue on the ownership of the subject lands in Fort Bonifacio is laid to rest. Other than their view that the USA is still the owner of the subject lots, petitioner has not put forward any claim of ownership or interest in them.

Second, respondent BCDA has convincingly shown that TCT No. 2288 in the name of the USA covering Fort Bonifacio was cancelled by TCT No. 61524^[18] issued on September 11, 1958 in the name of the Republic of the Philippines. Thereafter, on January 3, 1995, TCT No. 61524 was cancelled by TCT Nos. 23888,^[19] 23887,^[20] 23886,^[21] 22460,^[22] 23889,^[23] 23890,^[24] and 23891,^[25] all in the name of BCDA. Thus, BCDA has valid titles over Fort Bonifacio which have become indefeasible and beyond question. On the other hand, SMPMI has not presented any title or deed to demonstrate ownership or any interest in the subject lots.

Third, it is clear from the records that BCDA has been granted a clear mandate by RA 7227, specifically by its Sections 7 and 8, and re-enforced by EO No. 40, series of 1992, to take over and administer Fort Bonifacio for its development and disposition to raise funds for BCDA projects, among others, the conversion of Clark and Subic military reservations and their extensions to alternative productive uses. The fact that TCT No. 61524, in the name of the Republic of the Philippines, was cancelled and several Torrens Titles were issued in the name of BCDA, coupled with the explicit authority from RA 7227, evidently points to the legal basis for BCDA's takeover and management of the subject lots.

Fourth, it is basic that ownership or dominion includes the right of possession. In traditional Roman law, *jus possidendi* or the right to possess is fundamentally not only an attribute of ownership but also a direct consequence of ownership. Thus, from BCDA's ownership of the subject lots originates the rights of possession, use, and disposition.

Fifth, prescription does not apply if the subject land is covered by a Torrens Title, as in the case at bar. Moreover, the equitable remedy of laches has not been proven to have accrued in favor of the members of petitioner for them to be accorded better right of possession of the subject lots. Laches is evidentiary in nature and cannot be established by mere allegations in the pleadings.^[26] As it is, in the instant case, laches has not even been alleged, much less proved.

Sixth, of greater import is the basic tenet that neither prescription nor laches runs against the State. Thus, even granting *arguendo* that the subject lands had been erroneously issued titles in favor of third parties, which is definitely not the case; neither prescription nor estoppel by laches applies against the State. In a catena of cases, we have consistently reiterated this hornbook doctrine. Thus, in *East Asia*