

FIRST DIVISION

[G.R. NO. 165403, February 27, 2006]

INTERNATIONAL EXCHANGE BANK, PETITIONER, VS. HON. COURT OF APPEALS, THE HON. ANTONIO M. ESTEVES, IN HIS CAPACITY AS THE PRESIDING JUDGE OF RTC BRANCH V, BAGUIO CITY, AND AYALA LAND INCORPORATED, RESPONDENTS.

D E C I S I O N

CHICO-NAZARIO, J.:

Before Us is a Petition for *Certiorari*, *Prohibition* and *Mandamus* under Rule 65 of the Rules of Civil Procedure seeking to annul the Court of Appeals' Decision^[1] for having been issued in excess of its jurisdiction and/or with grave abuse of discretion amounting to lack or excess of jurisdiction, which affirmed the assailed Orders^[2] of the Regional Trial Court (RTC) of Baguio City, Branch V, dated 30 April 2003 and 18 June 2003, respectively, denying petitioner's Motion to Dismiss and granting private respondent Ayala Land Inc.'s application for Writ of Preliminary Injunction.

Ostensibly appearing from the records is a Deed of Absolute Sale executed on 15 June 2000 between Ayala Land Inc. (ALI) and Corporate Investment Philippines, Inc. (CIPI) involving two parcels of land located in Baguio City covered by Transfer Certificates of Title (TCTs) No. T-63905 and No. T-63906 registered in the name of CIPI. However, said conveyance was not immediately registered with the Registry of Deeds of Baguio City.

On 21 July 2000, CIPI filed with the Securities & Exchange Commission (SEC) a Petition for the Declaration of Suspension of Payments to recover its liquidity. However, upon the passage of Republic Act No. 8799 (Securities Regulation Code), CIPI's petition was effectively transferred to the Pasig RTC. CIPI's petition was ordered dismissed by the Pasig RTC on 16 April 2001. With the said dismissal, CIPI thereafter filed a Petition for Rehabilitation with the Pasig RTC, which was subsequently dismissed. Finally, on 26 February 2002, CIPI filed with the Pasig RTC a Petition for Voluntary Insolvency.

Meanwhile, sometime in March 2001, International Exchange Bank (iBank) filed before the RTC of Makati City, Branch 64, an action for sum of money against CIPI with an application for the issuance of a writ of preliminary attachment. Upon hearing, the Makati RTC issued the Writ of Preliminary Attachment directing its Sheriff to levy on attachment properties registered in the name of CIPI. Since the TCTs of the two parcels of land supposedly bought by ALI from CIPI in June 2000 were still registered under the latter's name, the Sheriff of the Makati RTC levied the said property on 18 May 2001.

On 08 March 2002, CIPI was declared insolvent. Six months thereafter, on 06

September 2002, ALI registered the 15 June 2000 Deed of Absolute Sale with the Registry of Deeds of Baguio City which issued new TCTs in the name of ALI and cancelled TCTs No. T-63905 and No. T-63906. The new titles carried over the annotations of the levy on attachment contained in the cancelled titles. Thus, on 11 February 2003, ALI filed an action for Quieting of Title and/or Removal of Annotations with Prayer for the Issuance of Writ of Preliminary Injunction against iBank, the Registry of Deeds of Baguio City, and the Sheriff of the Makati RTC who implemented the writ of attachment. On 12 February 2003, it appears that ALI caused the annotation of *lis pendens* over the disputed titles.

Herein petitioner filed a Motion to Dismiss ALI's action as well as an opposition to the latter's application for the issuance of a writ of preliminary injunction. It is iBank's contention, among other things, that the issuance of the writ of preliminary injunction is improper because the levy on attachment is superior to the deed of sale as said levy was registered ahead of ALI's deed of sale. Furthermore, iBank maintains that the annotation of *lis pendens* availed of by ALI is already adequate remedy to protect its interest over the disputed properties.

After both parties presented their respective evidence, the court *a quo* issued the Order dated 30 April 2003, pertinent portions of which reads:

The Court finds petitioner ALI's application for injunction to be primarily based on its apprehension that execution sale may proceed if not restrained as there might be potential buyers or third parties who may bid and purchase at the auction the subject properties. The Court is not oblivious of the fact that ALI itself caused the annotation of *lis pendens*. To the mind of the Court, *lis pendens* sufficiently protects petitioner's interests. With *lis pendens*, any potential buyer or third party is adequately informed that the disputed properties are subject of an on-going litigation. In other words, a third party who buys the properties can not invoke the right of a purchaser in good faith and he takes them at peril since whatever judgment will be rendered in this instant case will affect and bind the properties. Nevertheless, notice of *lis pendens* will not prevent a disposition of the properties to third persons who will now be free to develop and transform its present character and the use thereof which might be entirely different from what might be intended by ALI and which might give rise to other graver consequences, *e.g.* multiplicity of suits. Thusly, to prevent the occurrence of such other consequences, the parties are hereby enjoined to maintain the *status quo* over the subject properties until after the proper determination of the case in chief.

x x x x

As for the other grounds for the dismissal of this case, the Court deems it proper to deny the same as it raises material issues, both legal and factual, which is evidentiary in nature and to be presented during the hearing of the merits of the case itself. It would be prudent for the Court to accord more time and opportunity for both parties to litigate, or present further evidence in support of their respective positions. That way, the Court will be more apprised of the veracity and tenability of their respective claims.

WHEREFORE, the motion to dismiss is hereby DENIED; and the respondents are hereby directed to file their answer in the above-entitled case within ten (10) days from receipt hereof.

Further, the parties, their assigns, representatives, agents and successors-in-interests are hereby enjoined to maintain the *status quo* over the subject properties until after the determination of the merits of the petition.^[3]

After receipt of the foregoing Order, iBank immediately filed a Motion for Reconsideration which was subsequently denied by the lower court in the Order dated 18 June 2003. According to the court a *quo*:

x x x However, the Court notes in Ayala's Opposition and Rejoinder, that aside from defending the *status quo* Order, it asks that the Court issue the writ of preliminary injunction it had originally sought. Pursuant to this Court's power to control and amend its processes so as to make them conformable to law and practice (Rule 135, Sec. 5 (g)), it has decided to squarely rule on the application.

With respect to the plaintiff's application for a writ of preliminary injunction, the requisites are: 1) a right *in esse* (or the existence of a right to be protected); 2) the act against which the injunction is to be directed is violative of such right (Buayan Cattle Co. vs. Quintillan, 128 SCRA 276; Sales vs. SEC, G.R. No. 54330, 13 January 1989); and 3) irreparable damage. A trial is allowed to determine the foregoing from a "sampling" of the evidence (Olalia vs. Hizon, 196 SCRA 665). This Court is convinced, from the evidence so far presented, of the *prima facie* presence of the requisites.^[4]

x x x x

PREMISES CONSIDERED, the Motion for Reconsideration of defendant International Exchange Bank is DENIED for lack of merit.

The petitioner's application for a writ of preliminary injunction is GRANTED. Upon posting by petitioner and approval by the Court of a bond in the amount of P2,000,000.00 in favor of International Exchange Bank, let a writ of preliminary injunction issue enjoining:

- a) Private respondent International Exchange Bank and public respondent Sheriff of RTC-Makati, and all those acting on their behalf, or under their instructions, from doing any act committed or intended to be committed within the territorial jurisdiction of this Honorable Court, pursuant to, or which would otherwise implement the sale of the lands under Ayala's TCT Nos. T-78276 and T-78277, such as but not limited to i) annotating or causing the annotation of the judgment or the writ of execution in Civil Case No. 01-537 on said TCT Nos. T-78276 and T-78277; ii) posting of notices within Baguio City; iii) advertising the sale in a newspaper of general circulation; iv) issuing and presenting for registration, any certificate