

THIRD DIVISION

[G.R. NO. 165570, February 23, 2006]

EDWIN SALUSIANO MATUTINA, PETITIONER, VS. PHILIPPINE NATIONAL BANK, RESPONDENT.

DECISION

CARPIO MORALES, J.:

Edna Linda Matutina-Cortes (Edna) was the registered owner of a parcel of land located in Lower Bicutan, Taguig, Metro Manila, covered by Transfer Certificate of Title (TCT) No. 28714.

She obtained from the Philippine National Bank (PNB) a loan in the amount of One Million (P1,000,000) Pesos to secure the payment of which she mortgaged her above-said property.

Edna defaulted in the payment of her obligation, prompting the PNB to petition for the extra-judicial foreclosure of the mortgage. The sale by public auction of the property subject of the mortgage was scheduled on December 19, 2003 at 10:00 in the morning.

Three days before the scheduled public auction sale or on December 16, 2003, Edna's brother, herein petitioner Edwin Salusiano Matutina, filed a complaint against Edna, Ariel Cortes, the PNB, the Pasig Regional Trial Court (RTC) Clerk of Court and RTC sheriff for annulment of mortgage with prayer for the issuance of temporary restraining order (TRO) and preliminary injunction. Petitioner alleged in his complaint that, among other things, the mortgaged property was owned by his now deceased father but that Edna, to his and their other siblings' exclusion, had it titled in her name.

Petitioner's complaint was raffled to Branch 68 of the RTC Pasig on December 18, 2003, and on even date,^[1] it conducted a "summary hearing." Holding as "established" the allegations of petitioner, the trial court "believe[d] that there is really a need to at least temporarily restrain the defendants from proceeding with the . . . auction sale . . . ," hence, it issued a TRO by Order of December 19, 2003, directing Edna et al. to desist from proceeding with the auction sale of the property.

The trial court later conducted on January 5, 2004 a hearing on the application for the issuance of a writ of preliminary injunction, after which, by order issued on even date, it granted the same in this wise:

. . . Considering the findings of the Court in its resolution which directs the issuance of the Temporary Restraining order last December 18, 2003 and in order to preserve the status quo pending the final determination of the merits of the case, **the Court believes**

that sufficient basis exists to warrant the issuance of a writ of preliminary injunction.

x x x x

SO ORDERED^[2] (Emphasis and underscoring supplied)

A writ of preliminary injunction dated January 9, 2004 was issued by the trial court after it approved the bond filed by petitioner.

The PNB assailed via petition for certiorari before the Court of Appeals the January 5, 2004 Order and January 9, 2004 Writ of Preliminary Injunction issued by the trial court upon the following grounds:

- I. THE TRIAL COURT GRAVELY ABUSED ITS DISCRETION IN GRANTING THE ISSUANCE OF A WRIT OF PRELIMINARY INJUNCTION BY **SIMPLY ADOPTING AS FACTS THE UNSUBSTANTIATED ALLEGATIONS IN THE COMPLAINT AND AFFIDAVIT IN SUPPORT THEREOF** WHICH AMOUNTS TO A PRE-JUDGMENT OF THE MAIN CASE.
- II. THE TRIAL COURT GRAVELY ABUSED ITS DISCRETION IN ISSUING THE WRIT OF PRELIMINARY INJUNCTION DESPITE THE **FAILURE OF PRIVATE RESPONDENT TO SATISFY THE MANDATORY REQUIREMENTS UNDER SECTION 3, RULE 58 OF THE 1997 REVISED RULES OF CIVIL PROCEDURE AS WELL AS PERTINENT JURISPRUDENCE THEREON.**
- III. THE TRIAL COURT GRAVELY ABUSED ITS DISCRETION IN ALLOWING PRIVATE RESPONDENT TO INDIRECTLY ATTACK THE VALIDITY OF TCT NO. 28714 IN AN ORDINARY CIVIL ACTION FOR THE ANNULMENT OF MORTGAGE DESPITE PNB'S OBJECTION THERETO.
- IV. THE TRIAL COURT GRAVELY ABUSED ITS DISCRETION IN DISREGARDING PNB'S RIGHT TO FORECLOSE THE MORTGAGE OVER TCT NO. 28714 FOUNDED UPON ITS STATUS AS AN UNPAID MORTGAGEE FOR VALUE AND IN GOOD FAITH.^[3] (Emphasis and underscoring supplied)

The PNB argued that:

x x x x

The . . . "findings of fact" by the trial court (**except** those pertaining to the granting and non-payment of the loan in the principal amount of P1,000,000 in April 1997 to the Sps. Cortes secured by a real estate mortgage over TCT No. 28714 and the subsequent application by PNB for extrajudicial foreclosure proceedings which were all admitted by PNB in open court) are NOT founded upon any single iota of evidence submitted in court either by way of **testimony of witnesses or documentary exhibits.** ^[4]

In a clear and patent abdication of its duty to require the applicant to establish a clear and unmistakable right as pre-condition for the issuance of an injunctive writ, the trial court simply adopted the unsubstantiated allegations in the Complaint which constitute plaintiff's causes of action as absolute facts.^[5]

x x x x

. . . [P]rivate respondent, who executed the affidavit in support thereof, was not presented or examined in court to substantiate the allegations therein or identify documents for evidentiary purposes. No certificate of birth or other document was presented to prove private respondent's relations with the mortgagor, Edna Linda Matutina-Cortes, and the alleged father, Eduardo Matutina. Likewise, no certificate of death was presented to prove that the latter was already deceased.

x x x x

There is no iota of proof other than the self-serving allegations in the Complaint that Edna Linda Matutina-Cortes defrauded private respondent in the registration of TCT Nos. 24274 and 28714 in her name nor in the encumbrance of TCT No. 28714 to secure the loan obtained by the Sps. Cortes from PNB.

x x x x

Hence, **the foregoing "findings of fact" by the trial court to justify its issuance of the Writ of Preliminary Injunction are mere conclusions** bereft of factual and legal basis and must, therefore, be reversed by a writ of certiorari for being an oppressive exercise of judicial authority – indeed a grave abuse of discretion amounting to lack or excess of jurisdiction.^[6]

(Emphasis and underscoring supplied; italics in the original)

Finding that the requisites for a writ of preliminary injunction to issue, to wit: (1) that the complainant has a clear legal right; (2) that his right has been violated and the invasion is material and substantial; and (3) there is an urgent and permanent necessity for the writ to prevent serious damage,^[7] were not present as "the trial court simply adopted the general allegations of the [herein petitioner] in his Complaint which were not supported by proof," the Court of Appeals granted the PNB's petition and accordingly nullified the trial court's Order of January 5, 2004 and Writ of Preliminary Injunction issued on January 9, 2004.

Petitioner's motion for reconsideration of the appellate court's decision having been denied, he filed the present petition for review on certiorari contending that:

THE HONORABLE COURT OF APPEALS, WITH ALL DUE RESPECT,
RENDERED THE RESOLUTION DATED 06 OCTOBER 2004 AND THE