539 Phil. 532

THIRD DIVISION

[G.R. NO. 166854, December 06, 2006]

SEMIRARA COAL CORPORATION (NOW SEMIRARA MINING CORPORATION), PETITIONER, VS. HGL DEVELOPMENT CORPORATION AND HON. ANTONIO BANTOLO, PRESIDING JUDGE, BRANCH 13, REGIONAL TRIAL COURT, 6TH JUDICIAL REGION, CULASI, ANTIQUE, RESPONDENTS.

DECISION

QUISUMBING, J.:

Before us is a petition for review on certiorari assailing the Decision[1] dated January 31, 2005, of the Court of Appeals in CA G.R. CEB SP No. 00035 which affirmed the Resolution[2] dated September 16, 2004 of the Regional Trial Court of Culasi, Antique, Branch 13.

The facts are as follows:

Petitioner Semirara Mining Corporation is a grantee by the Department of Energy (DOE) of a Coal Operating Contract under Presidential Decree No. 972[3] over the entire Island of Semirara, Antique, which contains an area of 5,500 hectares more or less. [4]

Private respondent HGL Development Corporation is a grantee of Forest Land Grazing Lease Agreement (FLGLA) No. 184 by the then Ministry of Environment and Natural Resources,[5] over 367 hectares of land located at the barrios of Bobog and Pontod, Semirara, Caluya, Antique. The FLGLA No. 184 was issued on September 28, 1984[6] for a term of 25 years, to end on December 31, 2009. Since its grant, HGL has been grazing cattle on the subject property.

Sometime in 1999, petitioner's representatives approached HGL and requested for permission to allow petitioner's trucks and other equipment to pass through the property covered by the FLGLA. HGL granted the request on condition that petitioner's use would not violate the FLGLA in any way. Subsequently, however, petitioner erected several buildings for petitioner's administrative offices and employees' residences without HGL's permission. Petitioner also conducted blasting and excavation; constructed an access road to petitioner's minesite in the Panaan Coal Reserve, Semirara; and maintained a stockyard for the coal it extracted from its mines. Thus, the land which had been used for cattle grazing was greatly damaged, causing the decimation of HGL's cattle.

On September 22, 1999, HGL wrote petitioner demanding full disclosure of petitioner's activities on the subject land as well as prohibiting petitioner from constructing any improvements without HGL's permission. Petitioner ignored the

demand and continued with its activities.

On December 6, 2000, the Department of Environment and Natural Resources (DENR) unilaterally cancelled FLGLA No. 184 and ordered HGL to vacate the premises. The DENR found that HGL failed to pay the annual rental and surcharges from 1986 to 1999 and to submit the required Grazing Reports from 1985 to 1999 or pay the corresponding penalty for non-submission thereof.[7]

HGL contested the findings and filed a letter of reconsideration on January 12, 2001, which was denied by DENR Secretary Heherson Alvarez in a letter-order dated December 9, 2002. The DENR stated that it had coordinated with the DOE, which had jurisdiction over coal or coal deposits and coal-bearing lands, and was informed that coal deposits were very likely to exist in Sitios Bobog and Pontod. Hence, unless it could be proved that coal deposits were not present, HGL's request had to be denied.[8]

HGL sent a letter dated March 6, 2003 to DENR Secretary Alvarez seeking reconsideration. The DENR did not act on the letter and HGL later withdrew this second letter of reconsideration in its letter of August 4, 2003.

On November 17, 2003, HGL filed a complaint against the DENR for specific performance and damages with prayer for a temporary restraining order and/or writ of preliminary injunction, docketed as Civil Case No. 20675 (2003) with the Regional Trial Court of Caloocan City. A writ of preliminary injunction was issued by the Caloocan City RTC on December 22, 2003, enjoining the DENR from enforcing its December 6, 2000 Order of Cancellation.

Meanwhile, HGL had also filed on November 17, 2003, a complaint against petitioner for Recovery of Possession and Damages with Prayer for TRO and/or Writ of Preliminary Mandatory Injunction, docketed as Civil Case No. C-146 with the Regional Trial Court of Culasi, Antique, Branch 13.[9]

On December 1, 2003, the Antique trial court heard the application for Writ of Preliminary Mandatory Injunction in Civil Case No. C-146. Only HGL presented its evidence. Reception for petitioner's evidence was set to March 23-24, 2004. Petitioner was notified. But, on March 19, 2004, petitioner's President wrote the court asking for postponement since its counsel had suddenly resigned. The trial court refused to take cognizance of the letter and treated it as a mere scrap of paper since it failed to comply with the requisites for the filing of motions and since it was not shown that petitioner's President was authorized to represent petitioner. Because of petitioner's failure to attend the two scheduled hearings, the trial court, in an Order dated March 24, 2004, deemed the application for issuance of a Writ of Preliminary Mandatory Injunction submitted for decision. Meanwhile, petitioner had filed its Answer dated February 26, 2004, raising among others the affirmative defense that HGL no longer had any right to possess the subject property since its FLGLA has already been cancelled and said cancellation had already become final.

On April 14, 2004, petitioner filed a verified Omnibus Motion praying that the trial court reconsider its Order of March 24, 2004, since petitioner's failure to attend the hearing was due to an accident. Petitioner also prayed that the trial court admit as part of petitioner's evidence in opposition to the application for injunction, certified

copies of the DENR Order of Cancellation dated December 6, 2000; HGL's letter of reconsideration dated January 12, 2001; letter of DENR Secretary Alvarez dated December 9, 2002 denying reconsideration of the order; and registry return receipt showing HGL's receipt of the denial of reconsideration. In the alternative, petitioner prayed that the case be set for preliminary hearing on its affirmative defense of lack of cause of action and forum-shopping.[10] Public respondent denied the Omnibus Motion in a Resolution dated June 21, 2004.

Petitioner filed a motion for reconsideration of the said resolution. Upon HGL's opposition, the motion was declared submitted for resolution in accordance with the trial court's Order of August 5, 2004.[11]

On September 16, 2004, the trial court granted the prayer for issuance of a Writ of Preliminary Mandatory Injunction.[12] Petitioner did not move for reconsideration of the order. The Writ of Preliminary Mandatory Injunction was accordingly issued by the trial court on October 6, 2004.[13] The writ restrained petitioner or its agents from encroaching on the subject land or conducting any activities in it, and commanded petitioner to restore possession of the subject land to HGL or its agents.

Petitioner questioned the Resolution dated September 16, 2004, and the Writ of Preliminary Mandatory Injunction dated October 6, 2004 before the Court of Appeals in a petition for certiorari, raising eight issues. On January 31, 2005, however, the appellate court dismissed the petition. The Court of Appeals in its decision by Justice Magpale ruled on the issues posed before the appellate court:

1. PRIVATE RESPONDENT HAS NO LEGAL RIGHT OR CAUSE OF ACTION UNDER THE PRINCIPAL ACTION OR COMPLAINT, MUCH LESS, TO THE ANCILLARY REMEDY OF INJUNCTION;

2. PRIVATE RESPONDENT DID NOT COME TO COURT WITH ''CLEAN HANDS";

3. RESPONDENT JUDGE UNJUSTIFIABLY AND ARBITRARILY DEPRIVED PETITIONER OF ITS FUNDAMENTAL RIGHT TO DUE PROCESS BY NOT GIVING IT AN OPPORTUNITY TO PRESENT EVIDENCE IN OPPOSITION TO THE MANDATORY INJUNCTION;

4. RESPONDENT JUDGE IMMEDIATELY GRANTED THE APPLICATION FOR THE ISSUANCE OF A WRIT OF MANDATORY INJUNCTION WITHOUT FIRST RESOLVING THE PENDING MOTION FOR RECONSIDERATION DATED JULY 12, 2004 OF PETITIONER;

5. RESPONDENT JUDGE DID NOT CONSIDER OR ADMIT THE CERTIFIED TRUE COPIES OF THE OFFICIAL RECORDS OF THE DENR CANCELLING PRIVATE RESPONDENT'S FLGLA AS EVIDENCE AGAINST THE MANDATORY INJUNCTION PRAYED FOR;

6. RESPONDENT JUDGE SHOULD HAVE GRANTED PETITIONER'S MOTION FOR PRELIMINARY HEARING ON ITS AFFIRMATIVE

DEFENSE THAT PRIVATE RESPONDENT UNDER ITS COMPLAINT HAS NO CAUSE OF ACTION AGAINST PETITIONER;

7. RESPONDENT JUDGE SHOULD HAVE DISMISSED THE COMPLAINT OUTRIGHT FOR VIOLATION OF THE RULES ON FORUM SHOPPING BY PRIVATE RESPONDENT;

8. THE MANDATORY INJUNCTION ISSUED IN THE INSTANT CASE IS VIOLATIVE OF THE PROVISIONS OF PRESIDENTIAL DECREE 605. [14]

The Court of Appeals in the assailed Decision dated January 31, 2005, opined and ruled as follows (which we quote verbatim):

> Anent the first issue, WE rule against the petitioner.
>
> Perusal of the allegations in the Complaint filed by the private respondent with the court a quo show that its cause of action is mainly anchored on the Forest Land Grazing Lease Agreement ("FLGLA") executed by and between said private respondent and the Department of Environment and Natural Resources (DENR) which became effective on August 28, 1984 and to expire on December 31, 2009.
>
> Under the said lease agreement, the private respondent was granted permission to use and possess the subject land comprising of 367-hectares located at the barrios of Bobog and Pontod, Semirara Island, Antique for cattle-grazing purposes.
>
> However, petitioner avers that the "FLGLA" on which private respondent's cause of action is based was already cancelled by the DENR by virtue of its Orders dated December 6, 2000 and December 9, 2002.
>
> While it is true that the DENR issued the said Orders cancelling the "FLGLA", the same is not yet FINAL since it is presently the subject of Civil Case No. 20675 pending in the Regional Trial Court (RTC) of Caloocan City. Thus, for all intents and purposes, the "FLGLA" is still subsisting.
>
> The construction of numerous buildings and the blasting activities thereon by the petitioner undertaken without the consent of the private respondent blatantly violates the rights of the latter because it reduced the area being used for cattle-grazing pursuant to the "FLGLA".
>
> From the foregoing it is clear that the three (3) indispensable requisites of a cause of action, to wit: (a) the right in favor of the plaintiff by whatever means and under whatever law it arises or is created; (b) an obligation on the part of the named defendant to respect or not to violate such right; (c) an act or omission on the part of such defendant is violative of the right of plaintiff or constituting a breach of the obligation of defendant to the plaintiff for which the latter may maintain an action for recovery of damages, are PRESENT.
>
> Hence, having established that private respondent herein has a cause of

action under the principal action in Civil Case No. C-146, necessarily it also has a cause of action under the ancillary remedy of injunction.

Anent the third issue, WE rule against the petitioner.

This Court finds that the petitioner was not deprived of due process.

It appears from the records of the instant case that the petitioner was given two (2) settings for the reception of its evidence in support of its opposition to the prayer of herein private respondent for the issuance of a writ of preliminary mandatory injunction. Unfortunately, on both occasions, petitioner did not present its evidence.

Petitioner claims that its failure to attend the hearings for the reception of its evidence was excusable due to the sudden resignation of its lawyer and as such, nobody can attend the hearings of the case.

WE are not persuaded.

Scrutiny of the pleadings submitted by both parties shows that petitioner's lawyer, Atty. Mary Catherine P. Hilario, affiliates herself with the law firm of BERNAS SAN JUAN & ASSOCIATE LAW OFFICES with address at 2nd Floor, DMCI Plaza 2281 Pasong Tamo Extension, Makati City, by signing on and in behalf of the said law office. This Court takes judicial notice of the fact that law offices employ more than one (1) associate attorney aside from the name partners. As such, it can easily assign the instant case to its other lawyers who are more than capable to prepare the necessary "motion for postponement" or personally appear to the court *a quo* to explain the situation.

Even assuming *arguendo* that Atty. Hilario is the only one who is knowledgeable of the facts of the case, still, petitioners cannot claim that there was violation of due process because the "ESSENCE of due process is reasonable opportunity to be heard x x x. What the law proscribed is lack of opportunity to be heard." In the case at bar, petitioner was given two (2) settings to present its evidence but it opted not to.

Lastly, a prayer for the issuance of a writ of preliminary mandatory injunction demands urgent attention from the court and as such, delay/s is/are frowned upon due to the irreparable damage/s that can be sustained by the movant.

Anent the fourth issue, WE rule against the petitioner.

Petitioner claims that the court a quo gravely erred when it issued the writ of preliminary injunction without first resolving its Motion for Reconsideration dated July 12, 2004.

WE rule that the public respondent cannot be faulted for not resolving the Motion for Reconsideration dated July 12, 2004 because the same partakes of the nature of a second motion for reconsideration of the Order dated March 24, 2004.