

THIRD DIVISION

[G.R. NO. 136325, August 29, 2005]

**MANUEL M. SERRANO, PETITIONER, VS. EUGENIO C. DELICA,
RESPONDENT.**

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

At bar is a petition for review on certiorari^[1] assailing the Decision^[2] dated September 30, 1998 and Resolution dated November 13, 1998 of the Court of Appeals in CA-G.R. SP No. 46632, entitled "*Manuel M. Serrano, petitioner, vs. Hon. Alberto L. Lerma, Presiding Judge, Regional Trial Court, Branch 256, Muntinlupa City, and Eugenio C. Delica, respondents.*"

The petition stemmed from the following facts:

On June 30, 1997, Eugenio C. Delica, respondent, filed with the Regional Trial Court, Branch 256, Muntinlupa City, presided by Judge Alberto L. Lerma, a complaint for cancellation of Deeds of Sale, Transfer Certificates of Title, Joint Venture Agreement, and damages, with prayer for the issuance of a writ of preliminary injunction and temporary restraining order, docketed as Civil Case No. 97-120. Impleaded as defendants were Manuel M. Serrano, now petitioner, Manuel P. Blanco, MBJ Land, Inc., and MARILAQUE Land, Inc.

The complaint alleges *inter alia* that respondent is the registered owner of ten parcels of land situated in Bagbagan, Muntinlupa City, with a total area of 2,062,475 square meters, more or less, covered by ten Transfer Certificates of Title (TCT) Nos. S-12619 to S-12628 of the Registry of Deeds, same city. On August 10, 1995, after having been "promised with financial bonanza" by petitioner and Manuel Blanco, respondent executed in favor of the latter a special power of attorney. Blanco then sold to MBJ Land, Inc. respondent's three parcels of land covered by TCT Nos. S-12625, S-12626 and S-12628. Thus, these titles were cancelled and in lieu thereof, TCT Nos. 207282, 207283 and 207284 were issued in the name of MBJ Land, Inc.

On December 4, 1996, MBJ Land, Inc. entered into a Joint Venture Agreement with MARILAQUE Land, Inc. involving the three parcels of land.

On December 23, 1996, petitioner Serrano again "unduly influenced, coerced and intimidated" respondent into executing an affidavit wherein he confirmed that he sold his remaining seven parcels of land, covered by TCT Nos. S-12619 to S-126124 and S-12627, to petitioners. Later, respondent found that these seven titles were cancelled and new titles (TCT Nos. 209636 to 209642) were issued in petitioner's name based on a spurious Deed of Absolute Sale.

Respondent thus prayed in his complaint that the special power of attorney,

affidavit, the new titles issued in the names of petitioner and MBJ Land, Inc., and contracts of sale be cancelled; and that petitioner and his co-defendants be ordered to pay respondent, jointly and severally, actual, moral and exemplary damages in the amount of P200,000.00, as well as attorney's fee of P200,000.00 and costs of litigation. Respondent likewise prayed that, pending trial on the merits, a temporary restraining order and a writ of preliminary injunction be issued ordering the defendants to immediately restore him to his possession of the parcels of land in question; and that after trial, the writ of injunction be made permanent.

Petitioner then filed his answer with compulsory counterclaim, denying the material allegations of the complaint.

Respondent later amended his complaint.

On August 5, 1997, the trial court issued a temporary restraining order and on **September 8, 1997**, a preliminary injunction directing petitioner and his co-defendants to immediately restore respondent to his possession.

Petitioner then filed consolidated motions for reconsideration praying that the complaint be dismissed for respondent's failure to pay the required docket fee; and that Judge Lerma be directed to inhibit himself from hearing the case.

The trial court, in its Order dated **January 7, 1998**, denied petitioner's consolidated motions.

Petitioner seasonably filed with the Court of Appeals a petition for *certiorari* and prohibition with application for a preliminary injunction and temporary restraining order assailing the trial court's twin Orders dated September 8, 1997 ordering the issuance of a writ of preliminary injunction; and denying his consolidated motions dated January 7, 1998. Petitioner raised three issues: (a) whether respondent paid the correct docket fee; (b) whether the trial court's issuance of the writ of preliminary injunction is in order; and (c) whether Judge Lerma should inhibit himself from hearing the case.

On September 30, 1998, the Court of Appeals rendered a Decision **partially granting** the petition by: (1) **affirming** the trial court's ruling that the docket fee was correctly paid; (2) **setting aside** the trial court's Order directing the issuance of a writ of preliminary injunction; and (3) **leaving the matter of inhibition to the discretion of Judge Lerma.**

Petitioner then filed a motion for **partial reconsideration** of the Court of Appeals' ruling that respondent correctly paid the docket fee and that the motion for inhibition should be addressed to Judge Lerma's sound discretion.

In a Resolution dated November 13, 1998, the Appellate Court denied the motion.

Hence the instant petition for review on *certiorari*.

The core issues for our resolution are:

1. Whether respondent paid the correct docket fee when he filed his complaint in Civil Case No. 97-120; and