

## THIRD DIVISION

[ G.R. No. 130991, March 11, 2004 ]

**DIMO REALTY & DEVELOPMENT, INC. AND LUZ M. DIZON,  
PETITIONERS, VS. LEONARDO P. DIMACULANGAN,  
RESPONDENT.**

### D E C I S I O N

**SANDOVAL-GUTIERREZ, J.:**

Before us is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision<sup>[1]</sup> dated March 20, 1997 and the Resolution<sup>[2]</sup> dated October 10, 1997, both rendered by the Court of Appeals in CA-G.R. SP No. 40963, "*Dimo Realty & Development Inc., and Spouses Gregorio and Luz Mojares Dizon vs. Hon. Pedro T. Santiago, Presiding Judge of the Regional Trial Court (RTC) of Quezon City, Branch 101, and Leonardo P. Dimaculangan*".

The factual antecedents as borne by the records are:

On February 14, 1995, Leonardo P. Dimaculangan, respondent, filed with the Regional Trial Court, Branch 96, Quezon City, a complaint for specific performance against Dimo Realty & Development, Inc. (Dimo Realty) and spouses Gregorio and Luz Mojares Dizon, petitioners, docketed as Civil Case No. Q95-23006.

The complaint alleges that sometime in 1967 to 1968, petitioners engaged the services of respondent as geodetic surveyor to subdivide (into subdivision lots) two (2) parcels of land situated in Barrio Namuco, Rosario, Batangas covered by Transfer Certificate of Titles (TCT) Nos. T-25972 and T-24294 of the Registry of Deeds of that province. As payment for respondent's services, petitioner agreed to give him one (1) subdivision lot (Lot 19, Block 17 covered by TCT No. T-25972) at Villa Luz Subdivision and pay him P9,200.00 in cash. After the completion of respondent's work, petitioners paid him P9,200.00 in installments and delivered to him possession of the lot. However, despite respondent's demands, petitioners failed to deliver the title of the lot, prompting him to file with the RTC a complaint for specific performance and damages.

Instead of filing an answer, petitioners, on March 27, 1995, filed a motion to dismiss the complaint on the following grounds: (1) the cause of action has prescribed or is barred by the statute of limitations; (2) venue was improperly laid considering that the trial court has no jurisdiction over the subject property situated in Batangas; (3) the claim is unenforceable under the provisions of the statute of frauds; and (3) the complaint fails to state a sufficient cause of action.

On June 27, 1995, the trial court issued an Order **dismissing the complaint for improper venue.**

Respondent then filed a motion for reconsideration with motion for inhibition.

In an Order dated July 11, 1995, the trial court granted the motion for inhibition, hence, the case was re-raffled to Branch 101 of the same RTC at Quezon City. On August 21, 1995, this Branch issued an Order **granting respondent's motion for reconsideration** of the Order dismissing the complaint, thus:

"A close scrutiny of the allegations in the complaint indubitably show that the above-captioned case is one for specific performance, and therefore, a personal action. The complaint seeks not the recovery of the lot as plaintiff is already in possession thereof, but the peaceful delivery of the title covering said lot. Even assuming for the sake of argument that plaintiff likewise seeks the recovery of real property, this is, however, merely an incident to the principal personal action which is for the enforcement of the agreement between the parties.

"Hence, the above-captioned case being a personal action, the court in the place where the plaintiff resides, i.e. Quezon City, is the proper venue of the action.

"WHEREFORE, premises considered, the Motion for Reconsideration filed by the plaintiff being impressed with merit is hereby GRANTED.

"SO ORDERED."

From the said Order, petitioners filed a motion for reconsideration.

Meanwhile, petitioner Dimo Realty filed with the Municipal Trial Court (MTC) at Rosario, Batangas two (2) separate complaints for unlawful detainer and forcible entry against Jose Matibag and spouses Benjamin and Zenaida Dela Roca (lot buyers), docketed as Civil Cases Nos. 796 and 797, respectively. This prompted respondent to file with the trial court (Branch 101) a motion for issuance of a temporary restraining order (TRO) and a preliminary injunction against petitioner Dimo Realty and the MTC of Rosario, Batangas. Acting thereon, the trial court, in an Order dated October 2, 1995, **issued a TRO and subsequently, a writ of preliminary injunction enjoining petitioner** and the MTC "from proceeding with Civil Cases Nos. 796 and 797 pending hearing x x x."

Immediately, petitioners filed with the trial court a motion to lift the TRO and the writ of preliminary injunction and an urgent motion for inhibition, but were denied in an Order dated October 20, 1995.

On October 30, 1995, petitioners filed consolidated motions for reconsideration and for resolution but were denied in an Order dated June 5, 1995. In the same Order, the trial court set the case for pre-trial on July 3, 1996.

As a consequence, on June 18, 1996, petitioners filed with the Court of Appeals a petition for certiorari, prohibition and mandamus (with prayer for issuance of a writ of preliminary injunction) seeking (1) to nullify the trial court's Order dated August 21, 1995 granting respondent's motion for reconsideration; Order of October 20, 1995 denying petitioners' motion to lift the TRO and the writ of preliminary injunction and motion for inhibition; and Order dated June 5, 1996 denying

petitioners' consolidated motions for reconsideration and for resolution; (2) to prohibit the trial court from hearing Civil Case No. Q95-23006; and (3) to dismiss the complaint for improper venue.

On March 20, 1997, the Appellate Court rendered a Decision, the dispositive portion of which reads:

"WHEREFORE, the following orders are hereby ordered PARTIALLY NULLIFIED:

1. October 20, 1995 Order – only insofar as it ordered the issuance of the temporary restraining order, and subsequently, the preliminary injunction;
2. June 5, 1996 Order – only insofar as it ordered the setting of the case for pre-trial;

"Consequently, as an incident to item number 2 above, the respondent judge is hereby ordered to DESIST from further proceedings with Civil Case Q 95-23006, except to ISSUE an order directing the petitioners herein to file their answer to the complaint. Until then, or after such time for filing the answer has expired, the respondent judge may not as yet proceed with the case.

"On the other hand, the rest of the petitioners' prayers are hereby ordered DENIED for lack of merit.

"SO ORDERED."

The Court of Appeals ratiocinated as follows:

"After a careful study of the orders assailed in this petition, we conclude that the respondent judge did not commit any grave abuse of discretion insofar as the order dated August 21, 1995 is concerned. Thus, we agree with his findings that the case filed by Dimaculangan is a personal action involving as it does the mere delivery of the title to Lot 19, Block 17, which he, undisputably, already holds possession thereof. It does not, in any way, involve the issue of ownership over the particular property, as this is not disputed by the petitioners, that the same property belongs to Dimaculangan.

"In an attempt to put in issue the ownership over the particular property, the petitioners continuously rely on the doctrine in the case of *Espineli v. Santiago*. In *Espineli*, the issue is, who as between Mrs. Ramirez, on the one hand, and the Espinelis on the other, has a better right to the aforementioned Lot 34. Clearly, the ownership over the property has been put in issue. However, in the case at bar, the petitioners do not deny the fact that Dimaculangan is already in possession of the property. Thus, *Espineli* is somewhat misplaced. The case at bar is one for specific performance for the delivery of the title to the property. As such, it is a personal action. Consequently, venue has been properly laid in the court of Quezon City, it being the residence of Dimaculangan.

"Likewise, we do not find any grave abuse of discretion on the part of the respondent judge when he issued the October 20, 1995 Order, at least insofar as the issue of inhibition is concerned.

"Verily, a judge may, in the exercise of his sound discretion, inhibit himself voluntarily from sitting in a case, but it should be based on good, sound or ethical grounds, or for just and valid reasons. It is not enough that a party throws some tenuous allegations of partiality at the judge. No less than imperative is that it is the judge's sacred duty to administer justice without fear or favor.

"However, we find that insofar as he ordered the issuance of a preliminary injunction in the October 20, 1995 Order, the respondent judge exceeded his jurisdiction. It must be noted that the injunction was directed against DIMO Realty and any other persons acting in their behalf, as well as the MTC, Rosario, Batangas, Fourth Judicial Region, enjoining and restraining them from proceeding with Civil Cases 796 and 797 pending before the MTC, Rosario, Batangas, Fourth Judicial Region, pending hearing and resolution on whether a preliminary injunction should issue. On the other hand, the regional trial court where the judge sits is located in Quezon City, and as such, properly belongs to the National Capital Judicial Region. This being the case, it is clear that the respondent judge has exceeded his jurisdiction because an injunction issued by him may only be enforced in any part of the region. Consequently, the temporary restraining order, and subsequently, the preliminary injunction issued by the respondent judge are hereby ordered nullified, having been issued in excess of his jurisdiction.

"But such error of the respondent judge does not necessarily warrant his inhibition in the case. At most, it is only correctible by *certiorari*, as in this particular petition.

"Similarly, we do not find grave abuse of discretion on the part of the respondent judge insofar as he denied in his Order of June 5, 1996, the Motion for Reconsideration filed by the spouses and DIMO Realty. As we mentioned in the earlier part of this decision, we agree with the findings of the respondent judge insofar as it ruled that the case filed by Dimaculangan is a personal action. Hence, the respondent judge did not commit any grave abuse of discretion when it denied the Motion for Reconsideration. We therefore uphold the validity of this Order.

"With regard to the order of the respondent judge setting the case for pre-trial, we find that the same was issued in grave abuse of his discretion. We agree with the observation made by the petitioner that the issues have not yet been joined as the petitioners herein have not yet filed an answer. On this score, the writs prayed for must be granted. The respondent judge must order the petitioners herein to file their answer. Until then, or after such time for filing the answer has expired, the respondent judge may not as yet proceed with the case."

From the said Decision, both parties filed their motions for reconsideration but were denied.