

## SECOND DIVISION

[ G.R. No. 130008, October 25, 2004 ]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY CAPT. BERNARDO E. PATIÑO, IN LIEU OF CAPT. RUFO R. VILLANUEVA, IN HIS CAPACITY AS COMMANDING OFFICER OF THE BONIFACIO NAVAL STATION, PHILIPPINE NAVY, PETITIONER, VS. NAVY OFFICERS' VILLAGE HOMEOWNERS' ASSOCIATION, INC., AND COMMODORE EDUARDO T. DOMINGO AFP (RET.), B/GENERAL BRIGIDO PAREDES AFP (RET.), COMMODORE HERNANITO GABALES AFP (RET.), COMMODORE EDGARDO GALLOS AFP (RET.), COMMODORE MARINO PANES AFP (RET.), COMMODORE RUBEN DELA CRUZ AFP (RET.), COMMODORE RODOLFO SIMON AFP (RET.), B/GENERAL BRAULIO BALBAS AFP (RET.), CAPT. JULIAN L. ADVINCULA PN (RET.), CAPT. JESUS DURIAN PN (RET.), CAPT. NARCISO M. LISTON PN (RET.), CAPT. SOLOMON DABOR PN (RET.), COL. ROGELIO S. SUBIDA JAGS (RET.), COL. RMELINO GOJO PN (M) (RET.), CAPT. PROCESO MALIGALIG PN (RET.), MRS. MYRNA C. APOLINARIO, IN BEHALF OF CAPT. TOMAS APOLINARIO PN (DECEASED) AND MRS. TRINIDAD DE VERA IN BEHALF OF COMMANDER CELINO DE VERA (DECEASED), RESPONDENTS.**

### DECISION

**CALLEJO, SR., J.:**

Before us is a petition for review on certiorari of the Decision<sup>[1]</sup> of the Court of Appeals in CA-G.R. SP No. 42203, dismissing the petition for certiorari to annul the Order<sup>[2]</sup> of the Regional Trial Court (RTC) of Makati, Metro Manila, Branch 141, dated September 4, 1996, granting the motion of respondents Commodore Eduardo Domingo and Commodore Rodolfo Simon for a writ of preliminary mandatory injunction in Civil Case No. 93-3549.

### The Antecedents

Officers of the Philippine Navy who were in the active service were allowed by the Armed Forces of the Philippines (AFP) to lease and occupy a housing unit at the Navy Village in Fort Bonifacio.

Respondents Commodore Eduardo T. Domingo and Commodore Rodolfo Simon occupied the housing units at No. 16-B Ilang-Ilang Street, Navy Village and at No. 8-A Sampaguita Street, respectively. In the meantime, navy officers residing in the Navy Village, both actual and retired, formed themselves into an incorporated association, the respondent Navy Officers' Village Homeowners' Association, Inc. Even after their retirement, respondents Domingo and Simon continued to occupy the housing units. However, they received a "Final Notice to Vacate Government

Quarters" from the Post Commander giving them until October 2, 1993 to vacate their respective quarters. On October 7, 1993, the respondent association and some of the members, including respondents Domingo and Simon, filed a petition for declaratory relief with a prayer for a temporary restraining order and/or writ of preliminary injunction in the RTC of Makati, Branch 141, docketed as Civil Case No. 93-3543. The court issued a temporary restraining order. On October 15, 1993, the respondents amended their petition and converted the same into a petition for a writ of injunction.

The respondents alleged that the property on which the Navy Village stood was declared as disposable under Presidential Proclamation No. 461 dated September 28, 1965, and that based on a deed of sale executed by Land Management Bureau Director Abelardo Palad, Jr., the respondent association had acquired the property. This was further evidenced by Transfer Certificate of Title No. (TCT) 15387 issued under the name of the association. On October 26, 1993, the trial court issued an Order<sup>[3]</sup> denying the respondents' plea for a writ of preliminary injunction, on its finding that although the land belonged to the association, the AFP owned the housing units occupied by the respondents-officers. The respondents forthwith filed a petition<sup>[4]</sup> for certiorari with the Court of Appeals (CA) docketed as CA-G.R. SP No. 32502 for the nullification of the October 26, 1993 Order of the trial court. In the meantime, respondents Domingo and Simon were evicted from their housing units on December 7, 1993. On January 27, 1994, the CA rendered judgment granting the petition and nullifying the assailed order of the RTC. The *fallo* of the decision reads:

WHEREFORE, the petition for certiorari is GRANTED, and the Order of October 26, 1993 ANNULLED and SET ASIDE. The respondents are hereby enjoined from evicting the petitioners, upon the filing of a bond of P10,000.00 with respondent court and until the case before the said court is terminated.<sup>[5]</sup>

The respondents received a copy of the decision on February 7, 1994. On February 24, 1994, they filed a Motion for Clarification praying that -

WHEREFORE, in view of the foregoing, it is most respectfully prayed of the Honorable Court that the order of injunction be modified to likewise include an order to respondents to restore/reconnect to the subject premises the electric, water and telephone connections and likewise to restore possession to the petitioners two of the housing quarters in the subject premises from where two of the petitioners had earlier been evicted and personally to enjoin respondents from doing any act to disturb petitioners' peaceful occupation/possession over the subject premises.<sup>[6]</sup>

However, on March 6, 1995, the CA issued a Resolution denying the said motion on the ground that it had already ruled on the matter raised by the respondents.

The respondents later filed a motion in the RTC in Civil Case No. 93-3549 for the issuance of a writ of mandatory injunction to restore respondents Domingo and Simon to their occupancy of the housing units from which they were evicted. The petitioners opposed the motion, contending that the CA had already denied the respondents' motion for clarification in CA-G.R. SP No. 32502. Nevertheless, the trial

court granted the motion in an Order dated September 4, 1996. The dispositive portion of the order reads:

WHEREFORE, the motion for preliminary mandatory injunction is granted. Accordingly, let a writ of preliminary mandatory injunction be issued ordering the defendant, his deputy or successor to restore plaintiffs Commodore Eduardo Domingo and Commodore Rodolfo Simon to their respective housing quarters located at 16-B Ilang-Ilang Street and 8-A Sampaguita Street, Navy Village, Fort Bonifacio, Makati City, upon the filing by each of them of a bond in the amount of P10,000.00.<sup>[7]</sup>

The petitioner filed a petition for certiorari with the CA for the nullification of the trial court's Order dated September 4, 1996, docketed as CA-G.R. SP No. 42203. On July 11, 1997, the CA rendered judgment dismissing the petition and affirming the assailed order of the trial court.

The petitioner forthwith filed their petition for review on certiorari with this Court raising that:

THE SOLE ISSUE POSED FOR RESOLUTION IS WHETHER OR NOT THE COURT OF APPEALS DECIDED A QUESTION OF SUBSTANCE NOT IN ACCORD WITH THE LAW AND EVIDENCE IN AFFIRMING THE TRIAL COURT'S ORDER DATED SEPTEMBER 4, 1996 DIRECTING THE ISSUANCE OF A WRIT OF PRELIMINARY MANDATORY INJUNCTION IN FAVOR OF PRIVATE RESPONDENTS.<sup>[8]</sup>

The petitioner contends that (a) as gleaned from the contract of occupancy appended to their petition at bar, respondents Domingo and Simon had no more right to continue occupying the housing units leased to them while on active duty as they had already retired from the military service; (b) the acquisition by the respondent association of the title over the land on which the housing units were located did not amount to a divestment of the ownership of the Republic of the Philippines of the said housing units; (c) as found by the National Bureau of Investigation, the signature on the deed of sale over the land in favor of the association, on the basis of which TCT No. 15387 was issued, purporting to be that of Land Management Director Abelardo Palad, Jr. was a forgery; (d) the Republic of the Philippines had filed a complaint against the respondent association for the cancellation of the said title in the RTC of Pasig City, docketed as Civil Case No. 63983; (e) respondents Domingo and Simon cannot rely on the said title of the respondent association because the latter had a separate and distinct personality from those of its officers; and (f) the respondents failed to prove the existence of the requisites for the issuance of a writ of preliminary mandatory injunction. The petitioner prayed, not only for the nullification of the assailed order of the RTC and the decision of the CA, but also for the dismissal of Civil Case No. 93-3549.

In their Comment on the petition, the respondents assert that the RTC did not commit grave abuse of its discretion amounting to excess or lack of jurisdiction in granting their plea for a writ of preliminary mandatory injunction. According to the respondents, the CA did not err in affirming the said order because the tribunal merely implemented and complied with its decision in CA-G.R. SP No. 32502, that is, to enjoin the petitioner from evicting the respondents from their housing quarters. The respondents assert that until nullified by final judgment, TCT No. 15387 under the name of the association, remains valid. The association, not the

petitioner, had the right to cause the eviction of respondents Domingo and Simon from the housing units, considering that the latter never signed any contract of occupancy thereon.

The threshold issue is whether or not the RTC committed grave abuse of its discretion amounting to excess or lack of jurisdiction when it issued its September 4, 1996 Order granting the motion of the respondents for a writ of preliminary mandatory injunction.

The petition has no merit.

In *People v. Court of Appeals*,<sup>[9]</sup> we held that for a petition for certiorari to be granted, it must set out and demonstrate, plainly and distinctly, all the facts essential to establish a right to a writ.<sup>[10]</sup> The petitioner must allege in his petition and establish facts to show that any other existing remedy is not speedy or adequate<sup>[11]</sup> and that (a) the writ is directed against a tribunal, board or officer exercising judicial or *quasi*-judicial functions; (b) such tribunal, board or officer has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to excess or lack of jurisdiction; and, (c) there is no appeal or any plain, speedy and adequate remedy in the ordinary course of law.<sup>[12]</sup>

The public respondent acts without jurisdiction if it does not have the legal power to determine the case; there is excess of jurisdiction where the respondent, being clothed with the power to determine the case, oversteps its authority as determined by law. There is grave abuse of discretion where the public respondent acts in a capricious, whimsical, arbitrary or despotic manner in the exercise of its judgment as to be said to be equivalent to lack of jurisdiction.<sup>[13]</sup> Mere abuse of discretion is not enough.

In this case, the trial court merely implemented the decision of the CA in CA-G.R. SP No. 32502 when it issued its assailed order granting the motion of respondents Domingo and Simon, the petitioners therein, for a writ of preliminary mandatory injunction. This can be gleaned from the said order of the trial court, thus:

There is no legal impediment for this Court to rule on the motion for writ of preliminary mandatory injunction because such remedy may be availed of by any party at any stage of the proceeding before final judgment. Considering that the Court of Appeals had restrained the defendant from evicting the other plaintiffs from their respective housing quarters and that plaintiffs Domingo and Simon were similarly situated with the other plaintiffs, there is no reason to deny them of such right granted by the Court of Appeals. It, therefore, behooves this Court to restore them to their respective housing quarters if only to bring back the *status quo ante litem*.<sup>[14]</sup>

It bears stressing that the appellate court nullified the order of the RTC denying the plea of respondents Domingo and Simon for a writ of prohibitory injunction to enjoin the petitioners from evicting them pending the final disposition of Civil Case No. 93-3549, on the following ratiocination: