

THIRD DIVISION

[G.R. No. 144499, February 19, 2002]

**FIRST GLOBAL REALTY AND DEVELOPMENT CORPORATION,
PETITIONER, VS. CHRISTOPHER SAN AGUSTIN, RESPONDENT.**

DECISION

PANGANIBAN, J.:

A writ of preliminary injunction is issued *pendente lite* to preserve the status quo. To be entitled to one, the applicant must show a prima facie right to the relief demanded in the complaint. In the present case, the applicant has sufficiently demonstrated that, indeed, he has such right and that grave and irreparable injury would befall him and his family, unless the injunctive relief is granted while the main case pends in the trial court.

Statement of the Case

Before us is a Petition for Review on Certiorari^[1] under Rule 45 of the Rules of Court, challenging the April 28, 2000 Decision^[2] of the Court of Appeals^[3] (CA) in CA-GR SP No. 49083 and the August 10, 2000 CA Resolution^[4] denying reconsideration. The dispositive portion of the assailed Decision reads as follows:

"WHEREFORE, the order dated May 21, 1998 and June 26, 1998 of the court a quo are SET ASIDE and the petition is hereby GRANTED. FGRDC is hereby enjoined from taking possession of the subject property until Civil Case No. 97-2678, which is pending before the court a quo has been heard and finally resolved."^[5]

The Facts

The undisputed facts of the case are summarized by the Court of Appeals in this wise:

"The subject matter of the instant controversy is a parcel of land, including the house built thereon, located at No. 3491 Honda St., Bo. Pinagkaisahan, Makati City ('subject property'). The subject property was previously covered by TCT No. 180235, dated January 27, 1967, which was issued in the name of [herein respondent's] mother, Lilian Sales-San Agustin. [Respondent], together with his parents, brothers and sisters have been in possession of the subject property since 1967 up to the present.

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"The conflict leading to the instant petition began when the subject

property was sold to spouses Enrique and Angelina Camacho (spouses Camacho) in 1994 for the amount of P2.5 million pesos, 'net of capital gains tax, documentary stamp tax, transfer taxes and the remaining balance of the petitioner's loan with DBP.

"The records show that spouses Camacho succeeded in convincing petitioner to accept a partial payment of P100,000.00 pesos upon the execution of a deed of absolute sale in their favor over the subject property. The balance of P2.4 million pesos would be paid once the title over the same was transferred in the name of spouses Camacho. The latter agreement came about because spouses Camacho would use the subject property to raise the amount of P2.4 million pesos, that is to say, they would secure a loan from a bank or financial institution with the subject property as collateral.

"On May 24, 1994, DBP released the subject property to petitioner upon full payment of the latter's outstanding loan. Thereafter, [respondent] executed a deed of sale in favor of spouses Camacho, who in turn paid respondent] the amount of P100,000.00 pesos. On May 26, 1994, TCT No. 194868 was issued in the name spouses Camacho.

"It appeared that First Global Realty Development Corporation (FGRDC), [herein petitioner], granted spouses Camacho's loan application with the subject property as collateral, in the amount of P1.190 million. However, despite receipt of the loan and petitioner's demand to pay the balance of the purchase price of the subject property, spouses Camacho did not pay the same.

"Sensing that [respondent's] demand to pay fell on deaf ears, he filed a criminal complaint for estafa against spouses Camacho. Unfortunately, the case did not prosper because the spouses Camacho could not be located for the proper service of the warrant of arrest.

"In the ensuing period, [respondent] discovered that FGRDC filed a special civil action for the foreclosure of the subject property inasmuch as spouses Camacho defaulted in the payment of their loan obligation. The case was assigned to the Regional Trial Court, Branch 143, Makati City (Branch 143), and docketed as Civil Case No. 95-697.

"On June 28, 1996, Branch 143 rendered a decision ordering the foreclosure of the subject property and the subsequent sale thereof at public auction. Spouses Camacho did not file a motion for reconsideration of the said decision. Consequently, FGRDC filed a motion for execution which was granted on February 7, 1997.

"The sale of the subject property at public auction was, nevertheless, thrust aside in view of the *dacion en pago* which spouses Camacho executed in favor of FGRDC. On April 29, 1997, the *dacion en pago* was registered before the Register of Deeds of Makati City, which paved the way for the issuance of TCT No. 209050 in the name of FGRDC.

"Accordingly, on September 8, 1997, FGRDC demanded rentals from

[respondent], specifically [from] his mother, for the latter's use of the subject property. When FGRDC's demand was unheeded by [respondent], it filed a motion for issuance of a writ of possession before *Branch 143*.

"Apparently, on November 20, 1997, [respondent] filed a motion for intervention before *Branch 143*, wherein he asked for the rescission of the deed of absolute sale/mortgage, *dacion en pago* and cancellation of FGRDC's title over the subject property.

"However, finding the motion for intervention to be a futile undertaking, [respondent] filed a separate complaint for 'rescission of the deed of absolute sale, annulment of the *dacion en pago* and cancellation of title and issuance of a new title with prayer for the issuance of a temporary restraining order and/or a writ of injunction' against FGRDC, seeking to enjoin the latter from taking possession of the subject property. The case was raffled to Branch 141 (court a quo), where public respondent is the presiding judge, and docketed as Civil Case No. 97-2673.

"On May 21, 1998, the court a quo issued an order denying [respondent's] prayer for issuance of a writ of preliminary injunction. Petitioner filed a motion for reconsideration but [it] was denied in an order dated June 26, 1998 for lack of merit."^[6]

Order of the Trial Court

In its Order^[7] dated May 21, 1998, the RTC denied the application of respondent for a preliminary injunction to prevent petitioner from evicting him from the subject property. The trial court held that under the facts alleged in the Complaint, respondent had sold the property to the Camacho spouses for P2,500,000. The spouses initially gave him P100,000, with the balance to be paid after they would have secured a loan using the property as collateral. The lower court added that cause of action of respondent was to demand payment of the balance from the Camachos. The former's Motion for Reconsideration of the Order was denied by the RTC in its June 26, 1998 Order.

Ruling of the Court of Appeals

The Court of Appeals reversed the RTC and granted the injunctive relief prayed for by respondent. It held that petitioner should not be given possession of the property *pendente lite*, because it knew of the agreement between respondent and the Camachos. Moreover, the fact that the property remained in the possession of respondent's mother at the time the couple sold it to petitioner should have warned it of a defect in its claims.

Aggrieved by the CA Decision, petitioner lodged the present recourse.^[8]

Issues

In its Memorandum, petitioner raises the following issues for our consideration:

"1. Whether or not the factual findings of the Honorable Court of Appeals upon which it issued the April 28, 2000 Decision and the August 10, 2000

Resolution are devoid of support by the evidence or the same are based on a misapprehension of facts; and

2. Whether or not petitioner is a purchaser in good faith and for value; hence, entitled to the possession of the litigated property.”^[9]

The foregoing points really boil down to the gut issue of whether respondent is entitled to the possession of the property while the main case for rescission is pending in the RTC.

The Court’s Ruling

The Petition has no merit.

Principal Issue: **Possession Pendente Lite**

Petitioner seeks to dispossess respondent of the subject property on the strength of a *dacion en pago* executed in its favor by the Camacho spouses who, in turn, had purportedly bought it from herein respondent.

Respondent, on the other hand, claims that petitioner failed to show a clear right to possess it. To dispossess him *pendente lite* would be clearly unjust. We agree.

Section 3 of Rule 58 of the Rules of Court enumerates various grounds for the issuance of a preliminary injunction, as follows:

“SEC. 3. *Grounds for issuance of preliminary injunction.* - A preliminary injunction may be granted when it is established:

“(a) That the applicant is entitled to the relief demanded, and the whole or part relief consists in restraining the commission or continuance of the act or acts complained of, or in requiring the performance of an act or acts, either for a limited period or perpetually;

“(b) That the commission, continuance or non-performance of the act or acts complained of during the litigation would probably work injustice to the applicant; or

“(c) That a party, court, agency or a person is doing, threatening or is attempting to do, or is procuring or suffering to be done, some act or acts probably in violation of the rights of the applicant respecting the subject of the action or proceeding, and tending to render the judgment ineffectual.”

A preliminary injunction is a provisional remedy that a party may resort to in order to preserve and protect certain rights and interests during the pendency of an action. It is issued to preserve the *status quo ante* -- the last actual, peaceful, and uncontested status that preceded the actual controversy.^[10] In *Saulog v. CA*, the Supreme Court ruled thus:

“A preliminary injunction is an order granted at any stage of an action prior to final judgment, requiring a person to refrain from a particular