

## THIRD DIVISION

[ G.R. No. 143646, April 04, 2001 ]

**SPOUSES HENRY G. LIM AND ROSARIO T. LIM, PETITIONERS,  
VS. PEPITO M. VERA CRUZ, RESPONDENT.**

### DECISION

**SANDOVAL-GUTIERREZ, J.:**

Lis pendens is a Latin term which literally means a pending suit. Notice of lis pendens is filed for the purpose of warning all persons that the title to certain property is in litigation and that if they purchase the same, they are in danger of being bound by an adverse judgment.<sup>[1]</sup> The notice is, therefore, intended to be a warning to the whole world that one who buys the property does so at his own risk. This is necessary in order to save innocent third persons from any involvement in any future litigation concerning the property.<sup>[2]</sup> Petitioners filed the instant petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, assailing the Decision dated January 25, 2000 and Resolution dated June 9, 2000 of the Court of Appeals<sup>[3]</sup> which set aside the order of the trial court cancelling the notice of lis pendens.

The antecedent facts of this case as found by the Court of Appeals are:

"A complaint for quieting of title, annulment and damages was filed by petitioner<sup>[4]</sup> against private respondents<sup>[5]</sup> before the Regional Trial Court, Branch 84, Malolos, Bulacan, docketed as Civil Case No. 195-M-94, alleging that he has been in possession since 1960 of a 200 square meter portion of Lot 4204 situated in Barrio Tikay, Malolos, Bulacan covered by TCT No. 191498 of the Registry of Deeds of Bulacan in the names of Turandut, Traviata, Marcelita, Pacita, Marlene, Mathews, Victoria and Rosary, all surnamed Aldaba; that on January 11, 1983, Rosary Aldaba sold to him said 200 square meter portion, which is included in the former's one-eighth share in Lot 4204, consisting of 1,732 square meters; that a complaint for ejectment was filed against him in 1993 by private respondent Henry Lim, who claims to be the owner of the property occupied by him, being a portion of the parcel of land covered by TCT No. T-16375 registered in his name; that judgment was rendered against him in the ejectment case, which he elevated to the appellate court, and that upon investigation, he discovered that TCT No. T-16375 in the name of private respondents was obtained in bad faith, by fraud and/or clever machination. On the other hand, private respondents maintained that their title is valid and legal.

Petitioner caused the annotation of a notice of lis pendens at the back of TCT T-16375.

A motion to cancel notice of lis pendens was filed by private respondents on the grounds that said notice was designed solely to molest them/or it is not necessary to protect petitioner's rights. The same was opposed by petitioner insisting that the notice of lis pendens was recorded in order to protect his right over the property covered by TCT No. T-16375 and to avoid sale of property pending the execution of the judgment in the case.

On July 22, 1998, respondent judge issued an order cancelling the notice of lis pendens annotated at the back of TCT No. T-16375 upon the posting by private respondents of an indemnity bond in the amount of P2,000,000.00. Petitioner's motion for reconsideration was denied in an order dated October 7, 1998. "

The issue before this Court is whether or not the Court of Appeals erred in holding that the trial court committed grave abuse of discretion in cancelling the notice of lis pendens.

Petitioners contend that the cancellation of the notice of lis pendens by the trial court is justified because respondent had it registered for the sole purpose of molesting them and that it is not necessary to protect his rights. According to petitioners, the trial court correctly ratiocinated as follows:

"A very thin line exists and separates the protection afforded by the notice to the plaintiff and the restriction it imposes on the right of the defendants' dominion over the property. Indubitably, the 200 square meter portion claimed by the plaintiff is grossly disproportional to the entire 5,432 square meter property which the notice virtually hold hostage. More so, the annotation proceeds from a still to be proven claim. Thus, based on the allegations in the pleadings, as between a bare assertion of ownership over the claimed portion anchored on an unregistered deed of sale as against the indefeasible title possessed by the defendants over the entire subject property, the presumption under our rules favor the latter, unless rebutted by evidence on the contrary. As it stands, plaintiff's unregistered deed of sale, cannot, therefore, be accorded more weight than the certificate of title in defendant's name which is proof of ownership over the entire 5,432 square meter property.

While afflictive consequences will be suffered by plaintiff if the notice is cancelled in case he is adjudged the lawful owner of the claim 200 square meter property, defendants will likewise suffer a grave injustice if denied the remedy of cancelling the notice, resort to which is allowed by law and discretionary on the courts upon proper showing. The injustice will take the form of an unlawful dispossession though what is claimed only is 200 square meters, yet the entire 5,432 square meter property is affected. Instead of serving its real purpose as laid by law pursuant to public policy, the continued retention of the notice fosters inequity as clearly established based on the claimed portion vis a vis the unclaimed of free portion of the 5,432 square meter property. To the mind of the Court, this inequity translates to an unwanted and unjustified burden that