

TENTH DIVISION

[CA-G.R. SP NO. 130343, March 20, 2015]

NIÑO PHILIP JOHN JUNSAY, PETITIONER, VS. REGIONAL TRIAL COURT OF MANILA, BRANCH 30, AND THE OFFICE OF THE SHERIFF, CITY OF MANILA AND PHILIPPINE SAVINGS BANK (PSB)^[1], RESPONDENTS.

D E C I S I O N

DIMAAMPAO, J.:

At the maelstrom of this *Petition for Certiorari*^[2] is the *Order*^[3] dated 27 May 2013 of the Regional Trial Court of Manila, Branch 30, in Civil Case No. 13-129985. The court *a quo* adjudged as follows:

“WHEREFORE, petitioner's application for the issuance of a temporary restraining order is DENIED. Also, finding no reason or cause to proceed with and sustain the instant suit, the remedy being unavailing and the petition failing to state a cause of action, the same is hereby DISMISSED.

SO ORDERED.”^[4]

The salient operative facts unfurl as follows:

Josephine Co (Josephine) is the registered owner of a commercial building located at 2181 Fermin St. corner Singalong, Malate, Manila. Josephine mortgaged the subject building to private respondent Philippine Savings Bank (PSB). The mortgage was foreclosed and the property was sold at a public auction with PSB emerging as the highest bidder. Inevitably, PSB lodged a *Petition for Issuance of a Writ of Possession* before the Regional Trial Court of Manila, Branch 4 (RTC-Branch 4), docketed as LRC CAD CASE NO. 82. In due course, the RTC-Branch 4 issued a *Writ of Possession*^[5] and a *Notice to Vacate*.^[6] Aggrieved, petitioner Nino Philip John Junsay filed before the court *a quo*, a *Petition for Issuance of a Temporary Restraining Order, Injunction and Writ of Prohibition*, to enjoin the *Ex Officio* Sheriff of RTC Branch 4 from implementing the *Writ of Possession*.

In the repugned *Order*, the court *a quo* denied petitioner's plea for injunctive relief.

Unfazed, petitioner comes to Us raising this solitary ground—

THE HONORABLE COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK AND/OR EXCESS OF JURISDICTION IN DISMISSING THE CASE MOTU PROPRION (SIC) AND NOT CONSIDERING THE APPLICABLE LAWS AND JURISPRUDENCE RAISED BY THE PETITIONER IN VERIFIED

**PETITION WITH PRAYER FOR THE ISSUANCE OF A TEMPORARY
RESTRAINING ORDER, INJUNCTION AND WRIT OF PROHIBITION.**

The Petition bears no merit.

Petitioner impugns the propriety of the dismissal of his Petition postulating that he is in actual possession of the realty subject of the Writ as lessee since 2008 and has a renewed contract of lease with the owner, Josephine, for another two years from 15 January 2013 to 15 January 2015. He bewails that he cannot be evicted therefrom on the following grounds: *One*, as a lessee, he is entitled to due process and *two*, there is a pending separate case, Civil Case No. 13-129524, filed by Josephine for the annulment of the foreclosure proceedings.^[7]

Petitioner's postulation is unpersuasive.

Grave abuse of discretion implies such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction or, in other words, where the power is exercised in an arbitrary manner by reason of passion, prejudice, or personal hostility, and it must be so patent or gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law. Mere abuse of discretion is not enough.^[8]

We find no grave abuse of discretion on the part of the court *a quo* in denying petitioner's plea for injunction as it sits well with settled doctrinal teachings.

First. Persuasive authority has it that no court has the power to interfere by injunction, with the judgment, decrees or orders of a court of concurrent or coordinate jurisdiction, having equal power to grant the relief sought by injunction. Pursuant to the policy of judicial stability, the judgment or order of a court of competent jurisdiction may not be interfered with by any court of concurrent jurisdiction, for the simple reason that the power to open, modify or validate a judgment or order is not only powered by, but is restricted to the court in which the judgment or order is rendered. A contrary rule would lead to confusion, and seriously hamper the administration of justice.^[9]

In the case at bench, the court *a quo* has no jurisdictional competence to nullify or enjoin the imple-mentation of the *Writ of Possession* issued by RTC-Branch 4, a co-equal court. The determination of whether or not the eviction of petitioner pursuant to the *Writ of Possession* and *Notice to Vacate* appropriately falls within the jurisdiction of RTC-Branch 4 and not with the court *a quo*.

Second. The court *a quo* erred not in denying petitioner's motion to enjoin the implementation of the *Writ of Possession* as the issuance thereof was ministerial on the part of RTC-Branch 4.

Well-encrypted in Our jurisprudence is the rule that the issuance of a writ of possession to a purchaser in a public auction is a ministerial act. After the consolidation of title in the buyer's name for failure of the mortgagor to redeem the property, the writ of possession becomes a matter of right. Its issuance to a purchaser in an extrajudicial foreclosure sale is merely a ministerial function. The trial court has no discretion on this matter.^[10] **The issuance of the writ of**