CAGAYAN DE ORO CITY

TWENTY-SECOND DIVISION

[CA-G.R. SP No. 03585-MIN, January 22, 2014]

CARLOS S. ROSALES, CHARLIE LIM AND ARIEL SATO, PETITIONERS, VS. HON. EDGAR MANILAG, IN HIS CAPACITY AS PRESIDING JUDGE OF BRANCH 33 OF THE REGIONAL TRIAL COURT OF BUTUAN CITY, AND SHERIFF GEORGE VIAJAR, IN HIS CAPACITY AS SHERIFF OF BRANCH 4[1] OF THE REGIONAL TRIAL COURT OF BUTUAN CITY, AND MARVIN AQUA RESOURCES, INC., (LYNZEES)[2] REPRESENTED BY ITS PRESIDENT LUIS REYES,[3] RESPONDENTS.

D E C I S I O N

LOPEZ, J.:

Addressed here is a Petition for Certiorari[4] under Rule 65 of the Rules of Court assailing the following issuances of public respondent Regional Trial Court, Branch 33, Butuan City: 1) Order[5] dated December 22, 2008 which directed the issuance of a Writ of Preliminary Injunction; 2) Writ of Preliminary Injunction[6] dated December 23, 2008; and 3) Order[7] dated March 25, 2010 which granted private respondent's Motion to Fully Implement Injunctive Relief.

The pertinent facts are as follows:

On November 25, 2008, private respondent Marvin Aqua Resources, Inc. a corporation duly organized under Philippine laws, as represented by its president Luis Reyes, instituted a Complaint[8] for "Enforcement of Easement Right of Way under Article 652,[9] Civil Code; Damages and Attorney's Fees with Prayers for TRO[10] or Writ of Preliminary Injunction." The Complaint was filed against the defendants Heirs of Teofilo M. Santos, Jr. as represented by their attorney-in-fact Carlos S. Rosales; the City of Butuan as represented by the City Mayor; Wilfredo D. Sagusay in his capacity as Building Official; Richard Young as represented by Hermes Montilla; Charlie Lim; and Ariel Sato. The case was docketed as Civil Case No. 5843 and heard before public respondent Regional Trial Court, Branch 33, Butuan City.

Private respondent alleged in its Complaint that it is the owner in fee simple of a parcel of land known as Lot 2-A covered by Transfer Certificate of Title (TCT for brevity) No. RT-31561[11] with an area of 3,528 square meters situated at Butuan City. Private respondent acquired said land from the Development Bank of the Philippines which, in turn foreclosed the same as unredeemed collateral for a loan of a certain Alejandro Silaga. The latter acquired the land from a certain Teodoro Y. Tan who, in turn bought the same from the late Teofilo M. Santos, Jr., whose heirs are one of the defendants in the case below.[12] Private respondent constructed a two-storey commercial building in Lot 2-A known as "Lynzees".[13] Fronting the building

(southwestern[14] part) is the disputed land which consists of 53.69[15] square meters allegedly used as a sidewalk and to be used in a proposed road widening for J. Rosales Avenue.[16]

Without notice to private respondent however, defendant Heirs of Teofilo M. Santos, Jr., the owners of the other parcels of land surrounding private respondent's land, entered into several lease contracts with co-defendant Richard Young and petitioners Charlie Lim and Ariel Sato to use the disputed land. Defendant Richard Young had already acquired a building permit from defendant City of Butuan to build a perspective "Mister Donut" restaurant while petitioners Charlie Lim and Ariel Sato already have their respective building permits for the building of "D' Agusan Lechon Manok" and "Park N' Heaven", respectively. This being the case, the entire frontage of private respondent's land along J. Rosales Avenue is blocked by the structures to be built and already built by defendant Richard Young on one hand and petitioners Charlie Lim and Ariel Sato on the other.[17]

According to private respondent, since defendants Heirs of Teofilo M. Santos, Jr. is the servient estate, in addition to the fact that their predecessor-in-interest is the vendor who sold Lot 2-A to Teodoro Y. Tan, they are therefore bound to provide an easement of right of way to it under Article 652[18] of the Civil Code.[19]

In their Answer with Affirmative Defenses and Counterclaim,[20] petitioners claimed that they are the owners of the disputed land, thus they have the authority to lease out their land. Moreover, there are two existing passageways to and from the private respondent's land to a public highway, hence, it can no longer claim additional easement of right of way.

On December 8, 2008, public respondent set a summary hearing to determine the propriety of the issuance of a Temporary Restraining Order (TRO for brevity). After evaluating the arguments of the parties, public respondent issued a TRO on the next day or on December 9, 2008.[21]

On December 17, 2008, the case was set for hearing to resolve the issue on whether or not a Writ of Preliminary Injunction should be issued.[22]

On December 22, 2008, public respondent issued the first assailed Order[23] which granted private respondent's prayer for the issuance of a Writ, the dispositive portion of which reads:

> "WHEREFORE, in the light of the foregoing, let a writ of preliminary injunction be issued enjoining all the defendants, their lawyers, agents, representatives or all other persons acting for and in their behalf, to cease and desist from putting erecting or building any structure on that 53.69 meters stretch of Lot 3 fronting MARVIN'S Lynzees building and to remove any and all such structures not authorized by MARVIN, upon putting up a bond in the amount of FIFTY THOUSAND (P50,000.00) PESOS duly approved by the court, which bond shall be executed by the plaintiff in favor of the defendants to answer for the damages arising from or in connection with the issuances of the writ in the event that the court will finally declare that the plaintiff is, after all not entitled to the writ.

SO ORDERED."[24]

After the payment of the required bond[25] on the following day, public respondent issued the assailed Writ of Preliminary Injunction.[26]

On May 8, 2009, petitioners sought reconsideration and dissolution of the Writ.[27] On July 9, 2009 however, public respondent denied petitioners' motion. The latter no longer challenged the assailed two issuances to this Court.[28]

On February 2, 2010, private respondent filed a Motion to Fully Implement Injunctive Writ. Private respondent averred that on January 5, 2009, Sheriff Archibald Verga, submitted a Return of Service which stated that a copy of the Order dated December 22, 2008 and Writ of Preliminary Injunction dated December 23, 2008 were served upon defendants Heirs of Teofilo M. Santos, Jr. It appears however that Sheriff Verga merely treated the same as service of summons. Since private respondent has a pending case against Sheriff Verga docketed as OCA IPA No. 099-3159-P, the former prayed that if its Motion be granted, a sheriff from another branch of the court be designated to fully implement the Writ by removing any and all structures in the disputed land that it did not authorize.[29]

On March 25, 2010, public respondent issued its other assailed Order[30] which stated that since Sheriff Verga was not able to fully implement the Writ, the same should be given full force and effect by removing all structures in the disputed land not authorized by private respondent. The decretal portion of Order provides:

> "WHEREFORE, the instant motion is hereby GRANTED. Sheriff George E. Viajar, the Branch Sheriff of RTC-4 of this court, is hereby designated to fully implement the subject writ of preliminary injunction by removing any and all structures not authorized by plaintiff Marvin, specifically "Park n' Heaven and D' Agusan Lechon Manok", and any other structures of the defendants on the said 53.69 square meters stretch of Lot 3 fronting plaintiff's property, provided that proper clearance from the Clerk of Court as Ex-Officio Provincial Sheriff and the Presiding Judge of RTC, Branch 4 to which sala Sheriff Viajar is assigned as Sheriff, shall have been properly obtained.
>
> SO ORDERED."[31]

On May 6, 2010, petitioners instituted the present "Petition for Certiorari, Prohibition and/or Mandamus with Prayer for Temporary Restraining Order and Injunction."[32] In their Memorandum,33 petitioners raised the following issues:

> "WHETHER RESPONDENT JUDGE MAY LAWFULLY ESTABLISH AN EASEMENT OF RIGHT OF WAY THROUGH A PRELIMINARY INJUNCTION WHEN TWO EASEMENTS ARE ALREADY EXISTING(;)
>
> WHETHER RESPONDENT JUDGE MAY LAWFULLY CONSTITUTE THE ENTIRE PROPERTY OF PETITIONERS AS EASEMENT OF RIGHT OF WAY (AND)
>
> WHETHER IN DOING SO(,) RESPONDENT JUDGE ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISIDICTION(.)"[34]

Meanwhile on May 11, 2010, Sheriff George E. Viajar submitted a Return of Service[35] which stated that on May 6 and 7, 2010, the assailed Writ of Preliminary Injunction was fully implemented.

On September 28, 2010, this Court issued a Resolution[36] which directed the parties to inform Us whether or not the Order dated December 22, 2008 and Writ of Preliminary Injunction dated December 23, 2008 have been fully implemented.

On October 18, 2010, private respondent submitted a Compliance[37] with attached Sheriff's Return of Service38 dated May 11, 2010 which stated that indeed the Order and Writ were fully implemented. This was corroborated by Sheriff Viajar himself who also attached a copy of his Return of Service.[39]

With the foregoing, this Court issued a Resolution[40] dated August 4, 2011 which denied petitioners' prayer for the issuance of TRO and/or Writ of Preliminary Injunction since the well-entrenched rule is that consummated acts can no longer be restrained by injunction.

Now, to the Petition.

At the outset, it bears to note that in the present Petition, petitioners are assailing, among others, the Order dated December 22, 2008 and the Writ of Preliminary Injunction dated December 23, 2008. Petitioners subsequently sought reconsideration thereof which was however denied in public respondent's Order dated July 3, 2009. Petitioners never challenged the latter Order to this Court;[41] hence, the same has already become final.

The well-entrenched rule in Our jurisdiction is that once a judgment or order has already become final, it cannot be altered not even by the highest court of the land. Certainly, the elementary rule on finality of judgment or order is grounded on the fundamental principle of public policy and sound practice that, at the risk of occasional error, the judgment of courts must become final at some definite date fixed by law.[42] The case of PNB Credit Card Corporation v. Rodriguez[43] is instructive:

> "In *Olympia International vs. Court of Appeals*, we stated, thus:
>
> Xxx xxx xxx
>
> The law grants an aggrieved party a period of fifteen (15) days from his receipt of the court's decision or order disposing of the action or proceeding to appeal or move to reconsider the same.
>
> *After the lapse of the fifteen-day period, an order becomes final and executory and is beyond the power or jurisdiction of the court which rendered it to further amend or revoke. A final judgment or order cannot be modified in any respect, even if the modification sought is for the purpose of correcting an erroneous conclusion by the court which rendered the same." (Emphasis Supplied)*

Also in *Selga v. Brar*,[44] the Supreme Court stressed:

> "As we held in *Ram's Studio and Photographic Equipment, Inc. v. Court of Appeals*, a judgment which has acquired finality becomes immutable