



Republic of the Philippines  
**Supreme Court**  
 Baguio City

**THIRD DIVISION**

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JUN 08 2017

SUPREME COURT OF THE PHILIPPINES  
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**PABLO AND PABLINA  
 MARCELO-MENDOZA,**

Petitioners,

**G.R. No. 203492**

Present:

- versus -

VELASCO, JR., J.,  
*Chairperson,*  
 BERSAMIN,  
 REYES,  
 JARDELEZA, and  
 TIJAM, JJ.

**PEROXIDE PHILS., INC., herein  
 represented by ROBERT R.  
 NAVERA,**

Respondent.

Promulgated:

April 24, 2017

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**DECISION**

**REYES, J.:**

Assailed in this petition for review on *certiorari*<sup>1</sup> under Rule 45 of the Rules of Court are the Decision<sup>2</sup> dated May 21, 2012 and Resolution<sup>3</sup> dated September 12, 2012 of the Court of Appeals (CA) in CA-G.R. SP No. 122366, which revoked and vacated the Omnibus Order<sup>4</sup> dated June 22, 2011 of the Regional Trial Court (RTC) of Quezon City, Branch 220, in Civil Case No. Q-95-24760.

<sup>1</sup> Rollo, pp. 3-42.

<sup>2</sup> Penned by Associate Justice Leoncia Real-Dimagiba, with Associate Justices Hakim S. Abdulwahid and Marlene Gonzales-Sison concurring; id. at 47-78.

<sup>3</sup> Id. at 113-114.

<sup>4</sup> Rendered by Judge Jose G. Paneda; id. at 157-163.

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### The Facts

This case stemmed from an ejectment case filed by Pablo Marcelo (Pablo) and Pablina Marcelo-Mendoza (collectively, the petitioners) against respondent Peroxide Phils., Inc. (PPI), docketed as Civil Case No. 3916 and was raffled to Metropolitan Trial Court (MeTC) of Valenzuela City, Branch 82.<sup>5</sup>

As records show, on June 25, 1971, Gregorio Marcelo, the father and predecessor-in-interest of the petitioners, executed a Contract of Lease<sup>6</sup> with PPI over a parcel of land covered by Transfer Certificate of Title No. T-71843 (subject property) located in the barrio of Paso de Blas, Municipality of Valenzuela, Province of Bulacan.<sup>7</sup>

On July 18, 1988, the MeTC issued its Decision ordering PPI to vacate the subject property and pay the amount of ₱1,864,685.38. Accordingly, upon motion, the MeTC issued an Order dated June 2, 1995 granting the issuance of a writ of execution.<sup>8</sup>

On June 16, 1995, Affidavits of Third-Party Claims of United Energy Corporation and Springfield International, Inc. (third-party claimants) were filed with the sheriff.<sup>9</sup>

Ultimately, on August 3, 1995, the sheriff conducted a public auction and sold for ₱2 Million to Pablo, as the highest bidder, the levied properties of PPI that were found inside the subject property.<sup>10</sup>

Aggrieved, the third-party claimants filed a complaint with the RTC of Quezon City, docketed as Civil Case No. Q-93-24760, to declare void the sheriff's sale and Certificate of Sale with prayer for a temporary restraining order (TRO) and a writ of preliminary injunction (WPI).<sup>11</sup>

In an Amended Complaint<sup>12</sup> dated October 15, 2001, the third-party claimants added PPI as a party-plaintiff and prayed further for the declaration of PPI's ownership over the improvements erected and/or introduced on the subject property.

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<sup>5</sup> Id. at 53.

<sup>6</sup> Id. at 213-215.

<sup>7</sup> Id. at 50-51.

<sup>8</sup> Id. at 53.

<sup>9</sup> Id. at 54.

<sup>10</sup> Id.

<sup>11</sup> Id. at 55.

<sup>12</sup> Id. at 328-344.

On September 8, 1995, a WPI was issued by then Presiding Judge Pedro T. Santiago (Presiding Judge Santiago).<sup>13</sup>

Pablo then challenged the issuance of the WPI by petition for *certiorari* before the CA and later before this Court in G.R. No. 127271, where the Court upheld the validity of the WPI.<sup>14</sup>

Meanwhile, the deputy sheriff of the RTC of Quezon City padlocked the gate of the subject property. Pablo, however, forcibly opened the gate and brought out dismantled machineries of PPI.<sup>15</sup>

On October 4, 2000, the court *a quo*, now thru Judge Teodoro A. Bay, issued an Order to re-padlock the subject property. A motion for reconsideration was filed by Pablo but the same was denied.<sup>16</sup>

Again, upon seeing the gate re-padlocked, Pablo ordered his men to tear down the gate. Thereafter, Pablo occupied and took possession of the entire subject property and opened the same as a resort with swimming pools to the public for a fee with portions of the building rented to several businesses.<sup>17</sup>

On May 31, 2005, PPI filed an Omnibus Motion alleging specific acts that were characterized as violative of the court's injunction.<sup>18</sup>

On February 20, 2006, the court *a quo*, this time through herein Judge Jose G. Paneda (Judge Paneda), issued an Order granting the reliefs prayed for in the Omnibus Motion,<sup>19</sup> to wit:

WHEREFORE, in view of the foregoing, the Omnibus Motion is GRANTED. The deputy Sheriff is hereby ordered to conduct an inventory and the defendant to re-padlock the premises and allow the appraiser to enter the same and conduct an inventory of properties and improvements.<sup>20</sup>

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<sup>13</sup> Id. at 55.

<sup>14</sup> Id. at 56.

<sup>15</sup> Id.

<sup>16</sup> Id. at 57-58.

<sup>17</sup> Id. at 58-59.

<sup>18</sup> Id. at 59.

<sup>19</sup> Id. at 59-60.

<sup>20</sup> Id. at 60.

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Considering that the order was not complied with, PPI was again constrained to file a motion to direct the sheriff to re-padlock the subject property which was granted by the RTC in its Order<sup>21</sup> dated June 19, 2009. Hence, a Notice to Vacate was served by the deputy sheriff of the RTC to Pablo asking him to voluntarily turn over the subject property within five days from receipt thereof.<sup>22</sup>

For several days, Pablo refused to obey the court's order. Finally, on August 3, 2009, Pablo was forced out of the subject property. Immediately thereafter, or on August 4, 2009, Pablo filed a Motion for Reconsideration/Quash the Order dated June 19, 2009. Also, Pablo filed on July 27, 2010 another motion denominated as Motion to Remove Padlock on the Gate of the Land Owned<sup>23</sup> by the petitioners.<sup>24</sup>

On April 4, 2011, PPI filed a Motion for Ocular Inspection,<sup>25</sup> which was eventually granted by the court *a quo* in an Order dated May 9, 2011 and was set on May 20, 2011.<sup>26</sup>

On May 25, 2011, the PPI filed a Motion for Clarification/Motion to Hold in Abeyance Ocular Inspection considering that no particular time was stated for the inspection. On the same day, the court personally served to PPI an Order re-setting the ocular inspection to May 31, 2011. Thereafter, the ocular inspection was again re-set to June 8, 2011. Aggrieved, on June 8, 2011, PPI filed a Motion for Reconsideration and Inhibition.<sup>27</sup>

On June 22, 2011, the RTC issued an Omnibus Order<sup>28</sup> denying PPI's Motion for Reconsideration and Inhibition, and granting the petitioners' motion to remove padlock on the gate of the subject property. The dispositive portion reads:

**WHEREFORE,** premises considered, the Motion for Inhibition is **DENIED**. The Motion for Reconsideration is likewise **DENIED** for being moot and academic and the Motion to Remove Padlock of the gates of the land owned by the defendant is **GRANTED**. The Order dated June 19, 2009 is hereby recalled and [Pablo] is hereby allowed to enter the premises and enjoy possession thereof. The parties are hereby restored to their original position as they were, before the

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<sup>21</sup> Id. at 121-122.

<sup>22</sup> Id. at 60-62.

<sup>23</sup> Id. at 115-120.

<sup>24</sup> Id. at 62-63.

<sup>25</sup> Id. at 123-128.

<sup>26</sup> Id. at 63-64.

<sup>27</sup> Id. at 64-65.

<sup>28</sup> Id. at 157-163.

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issuance of the Order dated June 19, 2009 without prejudice to the case pending before this Court.

The Deputy Sheriff of this Court is hereby ordered to place a cordon around the [PPI] building to ensure inaccessibility thereto.

Furnish the parties, counsels and the Deputy Sheriff of this Court of the copy of this Order for strict implementation under pain of contempt for failure to comply.

**SO ORDERED.**<sup>29</sup>

Aggrieved, on June 30, 2011, PPI filed a motion for reconsideration.<sup>30</sup> Considering, however that no resolution has yet been promulgated by the presiding judge after the lapse of a considerable period of five months, PPI elevated the case before the CA attributing grave abuse of discretion and abuse of authority on the part of Judge Paneda.<sup>31</sup>

On May 21, 2012, the CA, in its Decision,<sup>32</sup> granted the petition and rendered the adverse decision under review, to wit:

**WHEREFORE**, in view of the foregoing, the petition for certiorari is hereby **GRANTED**. The Omnibus Order dated June 22, 2011 is hereby **REVOKED** and **VACATED**. The Deputy Sheriff of the [RTC] of Quezon City, Branch 204 is hereby directed to turn over possession of the subject premises located at Maysan Road, Barangay Paso de Blas, Valenzuela City, to [PPI], for the latter to continue with the retrieval of its properties. Immediately after said process, [PPI] is ordered to turn over possession of the premises to the court's custody and the same shall be re-padlocked and remain **PADLOCKED** pending the trial of the main case and until the trial court shall have determined the rights and obligations of the parties in its Decision.

Furthermore, [Judge Paneda] is hereby ordered to inhibit himself from sitting as presiding judge in Civil Case No. Q-95-24760. Let this case be raffled to another branch of the [RTC] of Quezon City for continuation of the proceedings and considering the period of time within which this case has remained pending, the Judge to whom this case will be raffled off is exhorted to conclude this case with dispatch.

**SO ORDERED.**<sup>33</sup>

The CA held that Judge Paneda acted with grave abuse of discretion and authority when he promulgated the assailed Omnibus Order dated June 22, 2011, as the said order in effect intends to legitimize the

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<sup>29</sup> Id. at 162-163.

<sup>30</sup> Id. at 164-176.

<sup>31</sup> Id. at 65.

<sup>32</sup> Id. at 47-78.

<sup>33</sup> Id. at 76-77.

unacceptable defiance and disrespect of Pablo to the court's authority and its lawful orders. According to the CA:

In fine, We find for [PPI] and uphold its position that the motions filed by [Pablo] to question the ruling of the court a quo on the possession over the subject premises are mere motions for reconsideration of a final order directing that the subject premises be padlocked pending litigation.

The assailed Omnibus Order dated June 22, 2011 gave due course to a motion for reconsideration of an Order which had attained finality several years ago. Giving due course to similar motions had unduly delayed the trial in the main case. To continue entertaining similar motions will further unduly delay the proceedings of this case which was initially filed 17 years ago.<sup>34</sup>

Upset by the foregoing disquisition, the petitioners moved for reconsideration<sup>35</sup> but it was denied in the CA Resolution<sup>36</sup> dated September 12, 2012. Hence, the present petition for review on *certiorari*.

### **The Issue**

WHETHER OR NOT THE CA ERRED IN FINDING THAT THE RTC COMMITTED GRAVE ABUSE OF DISCRETION IN GRANTING THE PETITIONERS' MOTION TO REMOVE THE PADLOCK OF THE SUBJECT PROPERTY.

### **Ruling of the Court**

The petition is bereft of merit.

The resolution of the issue of whether the CA erred in finding that the RTC committed grave abuse of discretion in granting the petitioners' motion to remove the padlock of the subject property boils down to the propriety of the issuance of the WPI.

At the outset, the Court noted that Pablo had already challenged the WPI before the CA and later before this Court in G.R. No. 127271, where the Court sustained the validity of the WPI then issued by Presiding Judge Santiago.

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<sup>34</sup> Id. at 73-74.

<sup>35</sup> Id. at 79-96.

<sup>36</sup> Id. at 113-114.



What is also uncontroverted is the absolute audacity of Pablo to the legitimate orders of the lower court in numerous occasions that is too long to be ignored, which appallingly has gone unpunished and uncorrected.

The petitioners' sole argument is premised on the fact that since they are the registered owners of the subject property, then the lower courts do not have legal basis in ordering that the subject property be turned over to PPI and the same be padlocked pending trial of the main case.

On the other hand, PPI anchors its claim on the following provisions in the Contract of Lease which induced it to introduce and put up various improvements<sup>37</sup> in the subject property, to wit:

- c) That after the termination of this agreement, the LESSEE shall remain the owner of all the improvements thereon erected and/or introduced by it, but that should the LESSEE decide to sell the improvements thereon erected and/or introduced and existing at the termination of this agreement, priority shall be given to the LESSOR;

x x x x

- 3) The LESSOR on the other hand covenants with the LESSEE as follows:
  - a) To authorize and enable the LESSEE to erect buildings, factories and/or machineries as the latter may deem fit and necessary in the pursuit of its business, but that the LESSEE shall be liable and answerable for any defects that may be found therein;
  - b) That during the existence or after the termination of this lease, the LESSOR, should he decide to sell the property leased, shall first offer the same to the LESSEE, and the latter has the priority to buy under similar conditions.

x x x x<sup>38</sup>

In this case, the Court finds the grant of injunction, as well as the order to padlock and re-padlock the subject property, to be in order.

<sup>37</sup> a) First removal of soft soil of the rice fields, back filling with escombro (adobe) and paving with reinforced concrete most of the 17,837 meters [sic] lot, to render it fit for the construction of factory building with plant equipments [sic] thereon;

b) The putting up of a complete [sic, should have been concrete] perimeter fence;

c) Erection of a nine-stories [sic] reinforced process building AG & P;

d) Construction of two additional factory building;

e) Introducing facilities such as electrical system including its own power substation, water and fuel tanks, reservoir and deep wells for water supply. Id. at 52-53.

<sup>38</sup> Id. at 214.

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“A preliminary injunction is an order granted at any stage of an action or proceeding prior to the judgment or final order, requiring a party or a court, agency or a person to refrain from a particular act or acts.”<sup>39</sup> “It is the ‘strong arm of equity,’ an extraordinary peremptory remedy that must be used with extreme caution, affecting as it does the respective rights of the parties.”<sup>40</sup> The sole purpose of which is to preserve the status *quo* until the merits of the main case can be heard.<sup>41</sup> It is usually granted to prevent a party from committing an act, or threatening the immediate commission of an act that will cause irreparable injury or destroy the status *quo*.<sup>42</sup>

Before a WPI may be issued, the concurrence of the following essential requisites must be present, namely: (a) the invasion of right sought to be protected is material and substantial; (b) the right of the complainant is clear and unmistakable; and (c) there is an urgent and paramount necessity for the writ to prevent serious damage. While a clear showing of the right is necessary, its existence need not be conclusively established. Hence, to be entitled to the writ, it is sufficient that the complainant shows that he has an ostensible right to the final relief prayed for in his complaint.<sup>43</sup>

From the foregoing, it appears clearly that a WPI may be issued only after a clear showing that there exists a right to be protected and that the act against which the writ is to be directed are violative of an established right. The holding of a hearing, where both parties can introduce evidence and present their side, is also required before the courts may issue a TRO or an injunctive writ.<sup>44</sup>

Under the factual setting of this case, PPI was able to sufficiently establish that it had a right over the properties which should be protected while being litigated. PPI’s claimed ownership over the improvements erected and/or introduced in the subject property was then being violated by the petitioners who had started entering the premises and started dismantling the improvements and machineries thereon. Worse, the petitioners even opened the subject property as a resort with swimming pools to the public for a fee and had portions of the buildings inside the premises rented to several businesses. If not lawfully stopped, such acts of the petitioners would certainly cause irreparable damage to PPI and other claimants. As owner of the improvements and machineries inside the subject property, PPI has the right to be protected. Hence, the issuance by the lower courts of the WPI and the order to padlock and re-padlock the subject property to enjoin the petitioners from disposing the properties of PPI was warranted.

<sup>39</sup> *Co, Sr. v. Philippine Canine Club, Inc.*, G.R. No. 190112, April 22, 2015, 757 SCRA 147, 155.

<sup>40</sup> *BPI v. Judge Hontanosas, Jr., et al.*, 737 Phil. 38, 53 (2014).

<sup>41</sup> *Co, Sr. v. Philippine Canine Club, Inc.*, supra note 39.

<sup>42</sup> *Id.*

<sup>43</sup> *Lakang v. Pagbilao Development Corporation, et al.*, 728 Phil. 608, 617-618 (2014).

<sup>44</sup> *China Banking Corporation v. Spouses Ciriaco*, 690 Phil. 480, 488 (2012).

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Undeniably, it is evident from the records of the case that the injunction issued was intended to protect the rights and interests of PPI and other claimants over machineries and equipment of substantial value that were gradually being brought out from the subject property, as shown by the Sheriff's Reports after the inventories conducted at different dates. The findings of the CA on this matter are informative:

It is evident from the comparison of the inventories conducted by different sheriffs on: a) June 15, 1995, together with Notice of Sheriff's Sale on Execution of Corporation Properties dated June 16, 1995; b) March 23, 2000 together with Sheriff's Report dated March 31, 2000; and, c) July 28, 2009 in relation to Sheriff's Report dated August 24, 2009; that the properties of petitioner housed in the [PPI] buildings were diminishing in time and eventually gone except for a cooling machine located in building 1 and a drum making machine located in building 2.

All this time, [Pablo] occupied the [PPI] premises when he was not allowed by the injunction and the subsequent orders of the court to be there. The allegation of [PPI] that [Pablo] removed the padlock on the gate of the premises of the [PPI] compound and eventually tore out the entire gate was never disputed by [Pablo] in his Comment. x x x.<sup>45</sup> (Citations omitted)

The Court also noted that the issue of possession of the subject property pending litigation has been resolved by the lower court under different judges in the Orders dated October 4, 2000, February 8, 2001, February 20, 2006, August 24, 2007 and June 19, 2009, all categorically commanding that the gates of the subject property be padlocked.<sup>46</sup> Hence, the Court is convinced that a special reason, supported by facts borne by the records of this case, exists to justify the injunction and its subsequent orders in relation thereto.

It may be argued that the dispossession of PPI is already a consummated act. However, it is a settled rule that even if the acts complained of have already been committed, but such acts are continuing in nature and were in derogation of PPI's rights at the outset, preliminary mandatory injunction may be availed of to restore the parties to the status *quo*.<sup>47</sup>

Furthermore, the restoration of PPI to the possession of the subject property is not tantamount to the disposition of the main case. The Court is simply of the impression that based on the parties' presentations of their

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<sup>45</sup> *Rollo*, pp. 71-72.

<sup>46</sup> *Id.* at 72-73.

<sup>47</sup> *Sps. Sarmiento, et al. v. Sps. Magsino*, 719 Phil. 573, 580 (2013).

cases, there appears a probable violation of PPI's rights and the injury it has been suffering due to that violation is grave, serious and beyond pecuniary estimation. PPI's restoration to possession pending litigation is a mere provisional remedy and is not determinative of the question of validity of the petitioners' titles which is the main issue in this case.

As to the matter of inhibition, the Court sustains the findings of the CA that it is for the best interest of both parties that Judge Paneda inhibits himself from the case to preserve the integrity of the court especially after going through this *certiorari* proceeding.

A perusal of the records of the case showed that Judge Paneda failed to act on PPI's motion for reconsideration for almost eight months. Evidently, Judge Paneda's failure to act with dispatch constitutes undue delay.

The Court has repeatedly emphasized that undue delay in the disposition of cases and motions erodes the faith and confidence of the people in the Judiciary and unnecessarily blemishes its stature.<sup>48</sup>

In *Biggel v. Judge Pamintuan*,<sup>49</sup> the Court held that:

There should be no more doubt that undue inaction on judicial concerns is not just undesirable but more so detestable especially now when our all-out effort is directed towards minimizing, if not totally eradicating the perennial problem of congestion and delay long plaguing our courts. The requirement that cases be decided within the reglementary period is designed to prevent delay in the administration of justice, for obviously, justice delayed is justice denied. An unwarranted slow down in the disposition of cases erodes the faith and confidence of our people in the judiciary, lowers its standards and brings it into disrepute.<sup>50</sup> (Citation omitted)

From the foregoing disquisition, it is evident that an injunction, as well as the lower courts' orders to padlock and re-padlock the subject property, is in order to preserve and protect the rights of PPI and other claimants during the pendency of the main case. Thus, the Court finds no cogent reason to annul the findings and conclusions of the CA.

**WHEREFORE**, the petition is **DENIED**. The Decision dated May 21, 2012 and Resolution dated September 12, 2012 of the Court of Appeals in CA-G.R. SP No. 122366 are **AFFIRMED**.

<sup>48</sup> *Biggel v. Judge Pamintuan*, 581 Phil. 319, 324-325 (2008).

<sup>49</sup> 581 Phil. 319 (2008).

<sup>50</sup> *Id.* at 325.

**SO ORDERED.**

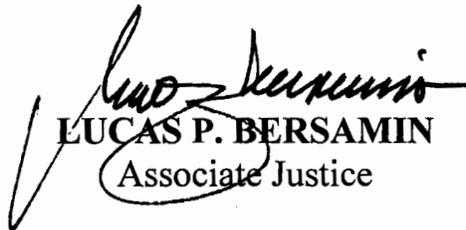


**BIENVENIDO L. REYES**  
Associate Justice

**WE CONCUR:**



**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson



**LUCAS P. BERSAMIN**  
Associate Justice



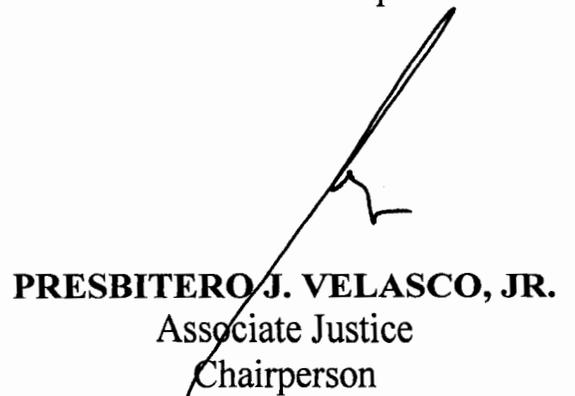
**FRANCIS H. JARDELEZA**  
Associate Justice



**NOEL GIMENEZ TIJAM**  
Associate Justice

**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson

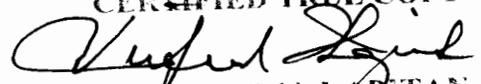
## CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**  
Chief Justice

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**WILFREDO V. LAPITAN**  
Division Clerk of Court  
Division

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