Supreme Court E-Library

THIRD DIVISION

[G.R. No. 131680. September 14, 2000]

SUBIC BAY METROPOLITAN AUTHORITY, RICHARD J. GORDON, FERDINAND M. ARISTORENAS, MANUEL W. QUIJANO and RAYMOND P. VENTURA, *petitioners, vs.* **UNIVERSAL INTERNATIONAL GROUP OF TAIWAN, UIG INTERNATIONAL DEVELOPMENT CORPORATION and SUBIC BAY GOLF and COUNTRY CLUB, Inc.,** *respondents.*

SYNOPSIS

Respondent UIG and petitioner SBMA entered into a Lease and Development Agreement (LDA) whereby respondent UIG shall lease from petitioner SBMA the Binictican Golf Course and appurtenant facilities thereto to be transformed into a world class 18-hole golf course, golf club/resort, commercial tourism and residential center. The contract contained pre-termination clauses. Subsequently, because of respondent UIG's failure to comply with several of its contractual undertakings, petitioner SBMA rescinded the LDA and took over the possession, operation and management of the subject premises. Thereafter, respondents filed a complaint against petitioner SBMA for Injunction and Damages with prayer for a writ of temporary restraining order and writ of preliminary injunction before the Regional Trial Court (RTC) of Olongapo City. Petitioner SBMA filed a Motion to Dismiss contending, among others, that respondent UIG had no capacity to sue because it is a foreign non-resident corporation not licensed by the Securities and Exchange Commission. The RTC granted respondents' application for a writ of preliminary mandatory and prohibitory injunction and dismissed petitioner SBMA's motion to dismiss. The Court of Appeals affirmed the decision of the trial Court. While it conceded that the law allowed extrajudicial rescission of the contract, it ruled that no rationalization was possible for the extrajudicial taking of possession. Hence, this petition.

The Court of Appeals correctly affirmed the denial of the Motion to Dismiss but erred in sustaining the Writ of Preliminary Mandatory and Prohibitory Injunction.

Supreme Court E-Library

In order to subject a foreign corporation doing business in the country to the jurisdiction of our courts, it must acquire a license from the SEC and appoint an agent for service of process. Without such license, it cannot institute a suit in the Philippines. It should be stressed, however, that the licensing requirement was never intended to favor domestic corporations who enter into solitary transactions with unwary foreign firms and then repudiate their obligations simply because the latter are not licensed to do business in this country. After contracting with a foreign corporation, a domestic firm is estopped from denying the former's capacity to sue. In this case, SBMA was estopped from questioning the capacity to sue of UIG. In entering into the LDA with UIG, SBMA effectively recognized its personality and capacity to institute the suit before the trial court.

A stipulation authorizing a party to extrajudicially rescind a contract and to recover possession of the property in case of contractual breach is lawful. A party is free to enforce it by rescinding the contract and recovering possession of the property even without court intervention. Where it is objected to, however, a judicial determination of the issue is still necessary before a takeover may be allowed. In the present case, however, respondents do not deny that there was such a breach of the Agreement. They merely argue that the stipulation allowing a rescission and a recovery of possession is void. Hence, the other party may validly enforce such stipulation. Thus, there was a rationalization and legal justification for the stipulation authorizing SBMA to rescind the contract and to take over the property.

SYLLABUS

1. **COMMERCIAL LAW; CORPORATION CODE; AN UNLICENSED FOREIGN CORPORATION CANNOT INSTITUTE A SUIT IN THE PHILIPPINES.** — A corporation has legal status only within the state or territory in which it was organized. For this reason, a corporation organized in another country has no personality to file suits in the Philippines. In order to subject a foreign corporation doing business in the country to the jurisdiction of our courts, it must acquire a license from the SEC and appoint an agent for service of process. Without such license, it cannot institute a suit in the Philippines.

Supreme Court E-Library

2. **ID.; ID.; A DOMESTIC CORPORATION WHO ENTERS INTO A CONTRACT WITH UNLICENSED FOREIGN CORPORATION IS ESTOPPED FROM DENYING THE LATTER'S CAPACITY TO SUE; CASE AT BAR.** — It should be stressed, that the licensing requirement was "never intended to favor domestic corporations who enter into solitary transactions with unwary foreign firms and then repudiate their obligations simply because the latter are not licensed to do business in this country." After contracting with a foreign corporation, a domestic firm is estopped from denying the former's capacity to sue. In this case, SBMA is estopped from questioning the capacity to sue of UIG. In entering into the LDA with UIG, SBMA effectively recognized its personality and capacity to institute the suit before the trial court.

3. **REMEDIAL LAW; CIVIL PROCEDURE; PARTIES TO CIVIL ACTIONS; REAL PARTY IN INTEREST; DEFINED; RESPONDENT CORPORATIONS SHOULD BE DEEMED REAL PARTIES IN INTEREST IN CASE AT BAR.** — Section 2, Rule 3 of the 1997 Rules of Court, defines a real party in interest in this manner: "*Sec. 2. Parties in Interest.* — A real party in interest is the party who stands to be benefited or injured by the judgment of the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest." The CA made a factual finding that UIGDC and SBGCCI were in possession of the property when SBMA took over. Moreover, it also found that they had already made substantial investments in the project. We find no reason at this time to justify a different conclusion. In view of these circumstances, we agree with the CA that UIGDC and SBGCCI stand to be benefitted or injured by the present suit and should be deemed real parties in interest.

4. **ID.; COURTS; REGIONAL TRIAL COURT; HAS JURISDICTION OVER ACTION FOR RESCISSION OF CONTRACT;** — A close scrutiny of the amended Complaint reveals that it sought to enjoin petitioners from rescinding the contract and taking over the property. While possession was a necessary consequence of the suit, it was merely incidental. The main issue was whether SBMA could rescind the Agreement. Because it was a dispute that was incapable of pecuniary estimation, it was within the jurisdiction of the RTC.

Supreme Court E-Library

5. **ID.; PROVISIONAL REMEDIES; INJUNCTION; WRIT OF PRELIMINARY INJUNCTION; CANNOT BE ISSUED TO RESTRAIN IMPLEMENTATION OF CONVERSION PROJECTS; SECTION 21 OF RA 7227; SHOULD NOT BAR JUDICIAL SCRUTINY OF IRREGULARITIES COMMITTED BY THE PARTIES TO A CONTRACT.** —We agree with the CA that Section 21 of R.A. 7227 is not a blanket prohibition of the issuance of an injunctive relief against any SBMA action. Section 21 of RA 7227 prohibits only such court orders which restrain the "implementation of the projects for the conversion into alternative productive uses of the military reservations." The Writ issued in this case did not restrain or enjoin the implementation of any of SBMA's conversion projects. In fact, it *allowed UIG to proceed with the development* of the golf course pursuant to the LDA. It merely restrained SBMA from taking over the golf course. Clearly, the assailed RTC Order did not seek to delay or hamper the conversion of the former naval base into civilian uses. Moreover, the assailed Writ of Preliminary Injunction was issued in connection with a dispute pertaining to the *correct interpretation* of the LDA. To divest the trial court of that authority is to give SBMA unhampered discretion to disregard its contractual obligations under the guise of implementing its projects. Indeed, Section 21 of RA 7227 should not bar judicial scrutiny of irregularities allegedly committed by SBMA.

6. **ID.; ID.; ID.; WRIT OF MANDATORY INJUNCTION; REQUISITES FOR GRANT THEREOF; MANDATORY INJUNCTION DOES NOT PRESERVE THE STATUS QUO.** — A writ of mandatory injunction requires the performance of a particular act and is granted only upon a showing of the following requisites: " 1. The invasion of the right is material and substantial; 2. The right of a complainant is clear and unmistakable; 3. There is an urgent and permanent necessity for the writ to prevent serious damage." Because it commands the performance of an act, a mandatory injunction does not preserve the *status quo* and is thus more cautiously regarded than a mere prohibitive injunction. Accordingly, the issuance of the former is justified only in a clear case, free from doubt and dispute. Necessarily, the applicant has the burden of showing that it is entitled to the writ.

Supreme Court E-Library

7. **CIVIL LAW; CONTRACTS; STIPULATION AUTHORIZING A PARTY TO EXTRAJUDICIALLY RESCIND A CONTRACT AND TO RECOVER POSSESSION OF PROPERTY IN CASE OF CONTRACTUAL BREACH IS ALLOWED BY LAW.** — Because of UIG's failure to comply with several of its contractual undertakings, SBMA rescinded the LDA and took over the possession, the operation and the management of the property without any judicial *imprimatur*. In doing so, it relied on the provisions of the LDA . The subject stipulation is allowed by law. Moreover, a party is free to enforce it by rescinding the contract and recovering possession of the property even without court intervention. Where it is objected to, however, a judicial determination of the issue is still necessary. Force or bloodshed cannot be justified in the enforcement of the stipulation. Where the lessees offer physical resistance, the lessors may apply for a writ of preliminary mandatory injunction, to which they have a clear and unmistakable right. Indeed, courts are the final arbiters. Thus, contrary to the ruling of the CA and the RTC, there is a rationalization and a legal justification for the stipulation authorizing SBMA to rescind the contract and to take over the property.

8. **ID.; ID.; NO VALID OBJECTION TO PETITIONERS' EXERCISE OF ITS RIGHT IN CASE AT BAR ; PARTIES CANNOT DISREGARD A LAWFUL STIPULATION AT WILL WITHOUT ANY VALID REASON.** — Respondents' stand was not a valid or sufficient objection to SBMA's exercise of its right. Indeed, sustaining their claim would unduly diminish the force of such lawful stipulation and allow parties to disregard it at will without any valid reason. In this case, respondents miserably failed to give any semblance of objection to the merits of SBMA's allegations. Moreover, we find no adequate showing of resistance to SBMA's implementation of the subject stipulation. Under the circumstances, SBMA showed that it had a right not only to rescind the contract, but also to take over the property. On the other hand, respondents have not shown any "clear and unmistakable right" to restrain SBMA from enforcing the contractual stipulation. Indeed, they have offered no objection to SBMA's allegations of contractual breach. Without prejudging their right to offer controverting evidence during the trial on the merits, the Court holds that they failed to do so in their application for a writ of preliminary injunction.

Supreme Court E-Library

APPEARANCES OF COUNSEL

Rizal V. Katalbas and *Manuel W. Quijano* for petitioners.
Yulo Torres Velasco and Bello Law Offices for private respondents.

D E C I S I O N

PANGANIBAN, *J.*:

A stipulation authorizing a party to extrajudicially rescind a contract and to recover possession of the property in case of contractual breach is lawful. But when a valid objection is raised, a judicial determination of the issue is still necessary before a takeover may be allowed. In the present case, however, respondents do not deny that there was such a breach of the Agreement; they merely argue that the stipulation allowing a rescission and a recovery of possession is void. Hence, the other party may validly enforce such stipulation.

The Case

Before us is a Petition[1] under Rule 45 of the Rules of Court assailing the December 3, 1997 Decision[2] of the Court of Appeals (CA) in CA-GR SP No. 45501. The decretal portion of the CA Decision reads as follows:

"WHEREFORE, premises considered, the Petition is, as it is hereby, *DISMISSED* for lack of merit, and *certiorari DENIED*. The Orders of the respondent court both dated 03 October 1997 hereby *STAND*."[3]

The first Order[4] of the Regional Trial Court (RTC) of Olongapo City (Branch 73),[5] which was affirmed by the appellate court,

---

[1] Although the Petition was captioned "Petition for *Certiorari*," petitioners averred that it was a "Petition for Review on *Certiorari* under Rule 45 of the 1997 Revised Rules of Court." (Petition, p. 2; *rollo*, p. 4.)

[2] *Rollo*, pp. 420-434. It was penned by Justice Romeo A. Brawner, with the concurrence of Justices Ricardo P. Galvez (Division chairman) and Marina L. Buzon (member).

[3] CA Decision, p. 15; *rollo*, p. 434.

[4] *Rollo*, p. 356.

[5] Presided by Judge Alicia L. Santos.

Supreme Court E-Library

granted herein respondents' application for a writ of preliminary mandatory and prohibitory injunction in this wise:[6]

"WHEREFORE, premises considered, the defendants, their agents, officers and employees, and all persons acting in their behalf are directed to restore peacefully to the plaintiffs all possession of the golf course, clubhouse, offices and other appurtenances subject of the Lease and Development Agreement between UIG Taiwan and the SBMA; and the said defendants, and their agents, officers [and] employees to refrain [from] obstructing or meddling in the operation and management thereof or x x x otherwise committing acts inimical to the interest of plaintiffs in the management or operation of the same, until the parties may be heard on the merits of the case.

"The Injunction bond is fixed at One Million Pesos (P1,000,000.00) in cash or surety bond provided by a surety company of reputable solvency."

The second RTC Order, also dated October 3, 1997, disposed of petitioners' Motion to Dismiss as follows:[7]

"WHEREFORE, and the foregoing p[re]mises considered, Defendants' Amended and Consolidated Motion To Dismiss is hereby DENIED for lack of merit.

"The Motion to Dismiss filed by Richard J. Gordon is [g]ranted insofar as the suit against him is concerned in his private or personal capacity. He shall, however, remain as defendant in his official capacity."

The Facts

The undisputed facts are summarized by the Court of Appeals as follows:[8]

"On 25 May 1995, a 'Lease and Development Agreement' was executed by respondent UIG and petitioner SBMA under which respondent UIG shall lease from petitioner SBMA the Binictican Golf Course and appurtenant facilities thereto to be transformed into a world class 18-hole golf course, golf club/resort, commercial tourism

---

[6] *Rollo*, pp. 268-269.

[7] *Rollo*, p. 276.

[8] CA Decision, pp. 2-4; *rollo*, pp. 421-423.

Supreme Court E-Library

and residential center. The contract in pertinent part contains pre-termination clauses, which provide:

> **'Section 22. Default**
>
> (a) The following acts and omissions shall constitute default by Tenant (each an Event of Default):
>
> xxx xxx xxx
>
> (ii) Tenant or any of its Subsidiaries shall commit a material breach or violation of any of the conditions, covenants or agreements herein made by Tenant or such Subsidiary (other than those described in Sections 22.2 [a] [I] and such violation or failure shall continue for thirty (30) days after notice from the Landlord, or, at Landlord's sole discretion, sixty (60) days if such violations or failure is reasonably susceptible of cure during such 60 day period and Tenant or such Subsidiary begins and diligently pursues to completion such cure within thirty (30) days of the initial notice from Landlord;
>
> xxx xxx xxx
>
> (b) If an event of default shall have occurred and be continuing, Landlord may, in its sole discretion;
>
> (i) Terminate this Lease thirty (30) days after the expiration of any period granted hereunder to cure any Event of Default and retain all rent and other amounts previously paid by tenant and its Subsidiaries. Thereafter, Landlord may immediately reenter, renovate or relet all or part of the Property to others, and cancel all rights and privileges granted to Tenant and its Subsidiaries without any restriction on recovery by Landlord for rents, fees and damages owned by Tenant and its Subsidiaries.'

"On 4 February 1997, Petitioner SBMA sent a letter to private respondent UIG calling its attention to its alleged several contractual violations in view of private respondent UIG's failure to deliver its various contractual obligations, primarily its failure to complete the rehabilitation of the Golf Course in time for the APEC Leader's Summit, and to pay accumulated lease rentals and utilities, and to post the

Supreme Court E-Library

required performance bond. Respondent UIG, in its letter of 7 February 1997, interposed as an excuse the alleged default of its main contractor FF Cruz, resulting in their filing of suit against the latter, and committed itself to comply with its obligations within a few days. Private respondent UIG, however, failed to comply with its undertakings. On 7 March 1997, petitioner SBMA sent a letter to private respondent UIG declaring the latter in default of its contractual obligations to SBMA under Section 22.1 of the Lease and Development Agreement and required it to show cause why petitioner SBMA should not pre-terminate the agreement. Private respondents paid the rental arrearages but the other obligations remained unsatisfied.

"On 8 September 1997, a letter of pre-termination was served by petitioner SBMA requiring private respondent UIG to vacate the premises. On 12 September 1997, petitioner served the formal notice of closure of Subic Bay Golf Course and took over possession of the subject premises. On even date, private respondent filed a complaint against petitioner SBMA for 'Injunction and Damages' with prayer for a writ of temporary restraining order and writ of preliminary injunction. On 3 October 1997, respondent court issued the two assailed orders subject of the petition."

Ruling of the Court of Appeals

The Court of Appeals upheld the capacity to sue of Respondent Universal International Group of Taiwan (UIG) because petitioners, having entered into a Lease Development Agreement (LDA) with it, were estopped from questioning its standing. It also held that Respondents UIG International Development Corporation (UIGDC) and Subic Bay Golf and Country Club, Inc., (SBGCCI) were real parties in interest because they had made substantial investments in the venture and had been in possession of the property when Subic Bay Metropolitan Authority (SBMA) rescinded the LDA

Likewise, it debunked petitioners' submission that Section 21 of RA 7227[9] was "a blanket proscription against the issuance

[9] Entitled "An Act Accelerating the Conversion of Military Reservations Into Other Productive Uses, Creating the Bases Conversion and Development Authority for this Purpose, Providing Funds Therefor and for Other Purposes."

Supreme Court E-Library

of any and all injunctive relief[s] against SBMA." It said that "those actions which are removed from the stated objectives of the corporate entity x x x cannot be placed beyond the pale of prohibitory writs."[10]

While it conceded that the law allowed extrajudicial rescission of a contract, it ruled that "no rationalization was possible" for the extrajudicial taking of possession. It reasoned that "no one may take the law into his own hands. To hold otherwise would be productive of nothing but mischief and chaos."

It also rejected petitioners' reliance on *Consing v. Jamandre*,[11] in which the Supreme Court allowed a contractual stipulation giving the lessor the right to take possession of the leased property without need of court order. It explained that *Consing* was a "judicial aberration, not common but not unknown in the body of our jurisprudence, which lays down a ruling contrary to the teaching of the greater mass of cases."[12]

Furthermore, it held that the issuance of the Writ of Preliminary Injunction did not dispose of the main issue. Concluding, it observed that "we cannot and should not send the message to foreigners who do business here that we are a group of jingoists who cannot look beyond our narrow interests and must look at every stranger with a wary eye and treat them with uneven hands."

Disagreeing with the above judgment, petitioners elevated the matter to this Court.[13]

---

[10] CA Decision, p. 8; *rollo*, p. 427.

[11] *Infra*.

[12] CA Decision, p. 13; *rollo*, p. 432.

[13] The case was deemed submitted for resolution on September 23, 1999, upon receipt by this Court of Petitioner SBMA's Memorandum signed by Atty. Rizal V. Katalbas Jr.. Respondents' Memorandum, which was signed by Atty. Reynaldo A. Ruiz of Yulo Torres Velasco and Bello Law Offices, had been filed earlier on March 29, 1999. While the SBMA's Memorandum appears to have been filed on behalf of SBMA only and not of the other SBMA officials, it may be noted that the Petition signed by Atty. Manuel M. Quijano was filed not only for SBMA but also for the SBMA officials who had been impleaded as defendants in their official capacities before the trial court. Hence, the Memorandum is deemed to benefit said SBMA officials.

Supreme Court E-Library

The Issues

In its Memorandum, Petitioner SBMA submits the following issues for our consideration:[14]

I.

"Whether or not the respondent court committed a reversible error in ruling that petitioner's action of *extra-judicially recovering the possession* of the subject premises is supposedly illegal [as it] runs counter to the established law and [the] applicable decisions of the Supreme Court on the matter.

II.

"Whether or not the respondent court committed a reversible error in ruling that:

(a) The trial court ha[d] jurisdiction over the nature and subject matter of the case despite the fact that the suit filed by private respondents is essentially an ejectment case, and

(b) The trial court ha[d] authority to issue the questioned injunctive relief despite the express prohibition under Section 21 of R.A. 7227

III.

"Whether or not respondent court committed a reversible error in ruling that private respondents ha[d] the capacity to sue and possess *material interest* to institute an action against petitioners.

IV.

"Whether or not the respondent court committed a reversible error by sanctioning departure by the trial court from the accepted and usual course of judicial proceedings by failing to make any ruling on the essential elements of injunctive relief consisting of: (1) a clear and *unmistakable* right and (2) *irreparable damage* on the part of the private respondents.

V.

"Whether or not respondent court committed a reversible error in departing from the accepted and usual course of judicial proceedings by sanctioning the illegal procedure of *taking possession of the subject*

---

[14] Petitioners' Memorandum, pp. 10-12; *rollo*, pp. 607-609.

Supreme Court E-Library

premises from petitioner SBMA and transferring it into the hands of the private respondents, although the rights of the latter ha[d] not yet been clearly established.

VI.

"Whether or not respondent court committed a reversible error by departing from the accepted and usual course of judicial proceedings by sustaining the grant of injunctive relief which effectively prejudged the merits of the main case.

VII.

"Whether or not respondent court committed a reversible error by departing from the accepted and usual course of judicial proceedings by sustaining the grant of injunctive relief in favor of the private respondents although the latter [we]re clearly not entitled thereto as they came before the courts with *unclean hands.*

VIII.

"Whether or not in the event of a 'no reversible error' judgment on the questioned decision of the respondent court, this Honorable Division of the Supreme Court might *modify* or even reverse the doctrines and principles of law laid down by the Supreme Court in several leading cases, in violation of Section 4, Article VIII of the 1987 Philippine Constitution.

IX

"Whether or not in the event of a 'no reversible error' judgment, this Honorable Division of the Supreme Court might unwittingly cause great loss or irreparable damage to the government because such a ruling tend[ed] to send a wrong signal that Philippine Courts [would] *reward rather than punish* foreign investors who miserably failed to comply with their contractual commitments to develop vital government assets."

Distilling the above-quoted assignment of errors, we find two main issues before us: (a) whether the denial of petitioners' Motion to Dismiss was correct, and (b) whether the issuance of the Writ of Preliminary Mandatory and Prohibitory Injunction was proper.

Under the first issue, the Court shall resolve (1) whether Respondent UIG has the capacity to sue, (2) whether

Supreme Court E-Library

Respondents UIGDC and SBGCCI are real parties in interest, and (3) whether the RTC has jurisdiction over the suit.

Under the second issue, the Court shall determine these questions: (1) whether the Writ of Injunction against SBMA issued by the trial court contravenes Section 21 of RA 7227; (2) whether respondents have established their entitlement to the Writ; and (3) whether SBMA's rescission of the LDA and takeover of the property are allowed by law.

The Court's Ruling

The Petition is partly meritorious. The CA correctly affirmed the denial of the Motion to Dismiss, but erred in sustaining the Writ of Preliminary Mandatory and Prohibitory Injunction.

First Issue:
Denial of the Motion to Dismiss

In its amended Motion to Dismiss filed before the RTC, petitioners contended that UIG had no capacity to sue, and that UIGDC and SBGCCI had no material interest in the present case. Both the appellate and the trial courts rejected these contentions. Reiterating the arguments before us, petitioners add that the RTC had no jurisdiction over the nature of the case.

(a) Respondents' Capacity to Sue

Petitioners contend that UIG does not have the capacity to sue, because it is a foreign non-resident corporation not licensed by the Securities and Exchange Commission to do business in the Philippines. They contend that the capacity to sue is conferred by law and not by the parties.

As a general rule, unlicensed foreign non-resident corporations cannot file suits in the Philippines. Section 133 of the Corporation Code specifically provides:

"SECTION 133. No foreign corporation transacting business in the Philippines without a license, or its successors or assigns, shall be permitted to maintain or intervene in any action, suit or proceeding in any court or administrative agency of the Philippines, but such

Supreme Court E-Library

corporation may be sued or proceeded against before Philippine courts or administrative tribunals on any valid cause of action recognized under Philippine laws."

A corporation has legal status only within the state or territory in which it was organized. For this reason, a corporation organized in another country has no personality to file suits in the Philippines. In order to subject a foreign corporation doing business in the country to the jurisdiction of our courts, it must acquire a license from the SEC and appoint an agent for service of process.[15] Without such license, it cannot institute a suit in the Philippines.

It should be stressed, however, that the licensing requirement was "never intended to favor domestic corporations who enter into solitary transactions with unwary foreign firms and then repudiate their obligations simply because the latter are not licensed to do business in this country."[16] After contracting with a foreign corporation, a domestic firm is estopped from denying the former's capacity to sue. Hence, in *Merril Lynch Futures v. CA*,[17] the Court ruled:

"The rule is that a party is estopped to challenge the personality of a corporation after having acknowledged the same by entering into a contract with it. And the 'doctrine of estoppel to deny corporate existence applies to foreign as well as to domestic corporations'; "one who has dealt with a corporation of foreign origin as a corporate entity is estopped to deny its existence and capacity.' The principle 'will be applied to prevent a person contracting with a foreign corporation from later taking advantage of its noncompliance with the statutes, chiefly in cases where such person has received the benefits of the contract x x x'"

This doctrine was initiated as early as 1924 in *Asia Banking Corporation v. Standard Products*[18] and reiterated in *Georg*

---

[15] *Communication Materials and Design v. CA*, 260 SCRA 673, August 22, 1996.

[16] *Ibid.*, p. 694, per Torres, *J.*

[17] 211 SCRA 824, 837, July 24, 1992, per Narvasa, *J.* (Subsequently *CJ*)

[18] 46 Phil. 144, September 11, 1924.

Supreme Court E-Library

Grotjahn GMBH v. Isnani[19] and *Communication Materials and Design v. CA.*[20] In *Antam Consolidated v. CA,*[21] the Court also rejected a similar argument and noted that "it is a common ploy of defaulting local companies which are sued by unlicensed foreign companies not engaged in business in the Philippines to invoke lack of capacity to sue."

In this case, SBMA is estopped from questioning the capacity to sue of UIG. In entering into the LDA with UIG, SBMA effectively recognized its personality and capacity to institute the suit before the trial court.

(b) Material Interest of SBGCCI and UIGDC

Section 2, Rule 3 of the 1997 Rules of Court, defines a real party in interest in this manner:

"SECTION 2. *Parties in Interest.* — A real party in interest is the party who stands to be benefited or injured by the judgment of the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest."[22]

SBMA contends that UIGDC is not a real party in interest, because it was not privy to the LDA between UIG and SBMA. It further alleges that it did not approve the assignment to UIGDC of UIG's rights thereunder. In like manner, SBGCCI had no interest in the LDA because it only derived its rights from the Development Agreement it had entered into with UIGDC.

We are not persuaded. The CA made a factual finding that UIGDC and SBGCCI were in possession of the property when SBMA took over. Moreover, it also found that they had already

---

[19] 235 SCRA 216, August 10, 1994.

[20] *Supra.*

[21] 143 SCRA 288, 297, July 31, 1986, per Gutierrez, *J.*

[22] See also *Tankiko v. Cezar*, 302 SCRA 559, February 2, 1999; *Smith, Bell & Co. v. CA,* 267 SCRA 530, February 6, 1997; *Arcelona v. CA,* 280 SCRA 20, October 2, 1997.

Supreme Court E-Library

made substantial investments in the project. We find no reason at this time to justify a different conclusion. In view of these circumstances, we agree with the CA that UIGDC and SBGCCI stand to be benefitted or injured by the present suit and should be deemed real parties in interest.[23]

SBMA's contention — that it had not approved UIG's assignment of rights to UIGDC — is not necessarily bereft of merit, however. SBMA should raise this issue, not now but in appropriate proceedings before the trial court.

(c) Jurisdiction Over the Subject Matter

Petitioners also argue that the RTC had no jurisdiction over the case, which was allegedly an ejectment suit cognizable by municipal trial courts. They add that the Complaint demanded that respondents be restored to the possession of the subject leased premises.

We disagree. A close scrutiny of the amended Complaint reveals that it sought to enjoin petitioners from rescinding the contract and taking over the property. While possession was a necessary consequence of the suit, it was merely incidental. The main issue was whether SBMA could rescind the Agreement. Because it was a dispute that was incapable of pecuniary estimation, it was within the jurisdiction of the RTC.[24]

Second Issue:
Issuance of the Writ of Injunction

(a) Present Writ of Injunction Not Barred by RA 7227

Petitioners contend that the RTC was barred from issuing a writ of injunction in this case, pursuant to Section 21 of RA 7227 which provides as follows:

---

[23] *Uy v. CA*, GR No. 120465, September 9, 1999.

[24] See *Zulueta v. Mariano*, 111 SCRA 206, January 30, 1982.

Supreme Court E-Library

"SECTION 21. *Injunction and Restraining Order.* — The implementation of the projects for the conversion into alternative productive uses of the military reservations is urgent and necessary and shall not be restrained or enjoined except by an order issued by the Supreme Court of the Philippines."[25]

We are not persuaded. We agree with the CA that the present provision is not a blanket prohibition of the issuance of an injunctive relief against any SBMA action. Section 21 of RA 7227 prohibits only such court orders which restrain the "implementation of the projects for the conversion into alternative productive uses of the military reservations."

The Writ issued in this case did not restrain or enjoin the implementation of any of SBMA's conversion projects. In fact, it *allowed UIG to proceed with the development* of the golf course pursuant to the LDA. It merely restrained SBMA from taking over the golf course. Clearly, the assailed RTC Order did not seek to delay or hamper the conversion of the former naval base into civilian uses.

Moreover, the assailed Writ of Preliminary Injunction was issued in connection with a dispute pertaining to the *correct interpretation* of the LDA. To divest the trial court of that authority is to give SBMA unhampered discretion to disregard its contractual obligations under the guise of implementing its projects. Indeed, Section 21 of RA 7227 should not bar judicial scrutiny of irregularities allegedly committed by SBMA.[26]

---

[25] Cf. Section 1 of Presidential Decree No. 1818, which provides:

"Section 1. No court in the Philippines shall have jurisdiction to issue any restraining order, preliminary injunction, or preliminary mandatory injunction in any case, dispute, or controversy involving an infrastructure project, or a mining, fishery, forest, or other natural resource development project of the government, or any public utility operated by thegovernment, including among others public utilities for the transport of the goods or commodities, stevedoring and arrastre contracts, to prohibit any person or persons, entity or government officials from proceeding with, or continuing the execution or implementation of any such project, or the operation of such public utility, or pursuing any lawful activity necessary for such execution, implementation or operation."

[26] See *Malaga v. Penachos*, 213 SCRA 516, September 3, 1992, in relation to PD 1818.

Supreme Court E-Library

(b) Right of Respondents to Injunctive Relief

A writ of mandatory injunction requires the performance of a particular act[27] and is granted only upon a showing of the following requisites:

"1. The invasion of the right is material and substantial;
2. The right of a complainant is clear and unmistakable.
3. There is an urgent and permanent necessity for the writ to prevent serious damage."[28]

Because it commands the performance of an act, a mandatory injunction does not preserve the *status quo*[29] and is thus more cautiously regarded than a mere prohibitive injunction. Accordingly, the issuance of the former is justified only in a clear case, free from doubt and dispute. Necessarily, the applicant has the burden of showing that it is entitled to the writ.

In this case, the first assailed RTC Order dated October 3, 1997 was effectively a preliminary mandatory injunction because it "directed [herein petitioners] to restore peacefully to the [herein respondents] possession of the golf course, clubhouse, offices and other appurtenances subject of the Lease and Development Agreement between UIG Taiwan and the SBMA." In addition, it was also a prohibitive injunction because it restrained petitioners from obstructing or meddling in the operation and management of the disputed property.

The records, however, do not show that herein respondents were indubitably entitled to a mandatory writ. Under the LDA, we find no proof of a "clear and unmistakable right" on their

---

[27] Section 1, Rule 58 of the Rules of Court, provides: "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. It may also require the performance of a particular act or acts, in which case it shall be known as a preliminary injunction."

[28] *Pelejo v. CA,* 117 SCRA 665, October 18, 1982, per Relova, *J.*

[29] *Prosperity Credit Resources v. CA,* 301 SCRA 52, January 15, 1999.

Supreme Court E-Library

part to continue the operation and the development of the golf course. Indeed, the RTC based its assailed Order mainly on the ground that SBMA's takeover was "not legally justifiable." Thus, it ruled in this wise:[30]

"From all the foregoing, the Court is of the considered view that the forcible take over [by] the [petitioners] of the golf course and its appurtenances is not legally justifiable. Based on the evidence adduced during the hearing, the [respondents] have established a clear right to continue the operation and management of the golf course, and x x x continued withholding of the premises by the [petitioners] will result to irreparable damages to [respondents]."

Furthermore, the CA did not make any categorical ruling that respondents established a "clear and unmistakable right" to the Writ. Like the RTC, it emphasized that there was "no rationalization" for SBMA's extrajudicial takeover of the disputed property. In other words, both the CA and the trial court effectively ruled that respondents are entitled to the Writ of Mandatory Injunction because SBMA's action was not in accordance with law.

On this point, we disagree with the trial and the appellate courts. As we will now show, there is legal basis for petitioners' rescission of the contract and takeover of the property without any court order.

(c) Legality of SBMA's Rescission of the LDA and Takeover of the Property

Because of UIG's failure to comply with several of its contractual undertakings, SBMA rescinded the LDA and took over the possession, the operation and the management of the property without any judicial imprimatur. In doing so, it relied on the provisions of the LDA, which we quoted earlier.

The Court of Appeals held that the extrajudicial rescission of the LDA was lawful, but that the extrajudicial takeover of

---

[30] First assailed RTC Order, p. 7; *rollo*, p. 268.

Supreme Court E-Library

the property was not. It relied on *Nera v. Vacante,*[31] in which the Supreme Court held:

x x x A stipulation entitling one party to take possession of the land and building if the other party violates the contract does not *ex proprio vigore* confer upon the former the right to take possession thereof if objected to without judicial intervention and determination."

It also cited *Zulueta v. Mariano,*[32] which reiterated the above-quoted ruling. That case was purportedly applicable because it involved a similar contractual stipulation, which reads as follows:

"12. That upon failure of the BUYER to fulfill any of the conditions herein stipulated, BUYER automatically and irrevocably authorizes OWNER to recover extra-judicially, physical possession of the land, building and other improvements which are subject of this contract, and to take possession also extrajudicially whatever personal properties may be found within the aforesaid premises from the date of said failure to answer for whatever unfulfilled monetary obligations BUYER may have with OWNER; and this contract shall be considered as without force and effect also from said date; x x x"

Because *Zulueta* was a subsequent Decision, it supposedly overturned the "diametrically opposed" earlier ruling in *Consing v. Jamandre,*[33] in which the Supreme Court upheld a contractual stipulation authorizing the sub-lessor to take possession of the leased premises in case of contractual breach. As earlier noted, the CA also ruled that *Consing* was a "judicial aberration."

We disagree. At the outset, it should be underscored that these cases are not "diametrically opposed" to each other. In fact, they coexist. It should be noted also that the CA erred in holding that *Zulueta*, being a later case, overturned *Consing*. The CA logic is flawed, because after the promulgation of *Zulueta, Consing* was reiterated in 1991 in *Viray v. IAC.*[34]

---

[31] 3 SCRA 505, 512, November 29, 1961, per Padilla, *J.*

[32] 111 SCRA 206, January 30, 1982, per Melencio-Herrera, *J.*

[33] 64 SCRA 1, May 12, 1975, per Esguerra, *J.*

[34] 198 SCRA 786, 792, July 4, 1991, per Narvasa, *J.* (Subsequently *CJ*). See also *Campo Assets Corporation v. Club X.O. Company*, GR No. 134986, March 17, 2000.

Supreme Court E-Library

Moreover, *Zulueta* and *Nera* recognized the validity and the effectivity of a contractual provision authorizing the extrajudicial rescission of a contract and the concomitant recovery of possession. Like *Nera, Zulueta* merely added the qualification that the stipulation "has legal effect x x x where the other party does not oppose it. Where it is objected to, a judicial determination of the issues is still necessary." Significantly, *they did not categorically rule that such stipulation was void.*

In fact, the stipulation is lawful. In *Consing,* the Court held that "this kind of contractual stipulation is not illegal, there being nothing in the law proscribing such kind of agreement."[35] Affirming this ruling, the Court in *Viray v. IAC*[36] reiterated that the stipulation "was in the nature of a resolutory condition, for upon the exercise by the sub-lessor of his right to take possession of the leased property, the contract is deemed terminated."

UP v. De los Angeles[37] is instructive on this point. Pursuant to a stipulation similar to that in the present case, the University of the Philippines (UP) rescinded its Logging Agreement with ALUMCO and subsequently appointed another concessionaire to take over the logging operation. Hence, the issue was "whether [P]etitioner UP can treat its contract with ALUMCO rescinded, and may disregard the same before any judicial pronouncement to that effect." Ruling in favor of UP, the Court held that a party could enforce such stipulation:

"[T]he party who deems the contract violated may consider it resolved or rescinded, *and act accordingly,* without previous court action, but it proceeds at its own risk. For it is only the final judgment of the corresponding court that will conclusively and finally settle whether the action taken was or was not correct in law. *But the law*

---

[35] Citing *Froilan v. Pan Oriental Shipping,* 12 SCRA 276, October 31, 1964.

[36] 198 SCRA 786, 792, July 4, 1991, per Narvasa, *J.* (Subsequently *CJ*)

[37] 35 SCRA 102, September 29, 1970, per Reyes, JBL, *J.*

Supreme Court E-Library

definitely does not require that the contracting party who believes itself injured must first file suit and wait for a judgment before taking extrajudicial steps to protect its interest. Otherwise, the party injured by the other's breach will have to passively sit and watch its damages accumulate during the pendency of the suit until the final judgment of rescission is rendered when the law itself requires that he should exercise due diligence to minimize its own damages." (italics supplied.)

The Court also noted that the rescission was "provisional" and "subject to scrutiny and review by the proper court." It further noted that "if the other party denies that rescission is justified, it is free to resort to judicial action in its own behalf, and bring the matter to court." It observed that the "practical effect of the stipulation [was] to transfer to the defaulter the initiative of instituting suit, instead of the rescinder."

In the present case, it is clear that the subject stipulation is allowed by law. Moreover, a party is free to enforce it by rescinding the contract and recovering possession of the property even without court intervention. Where it is objected to, however, a judicial determination of the issue is still necessary.[38] Force or bloodshed cannot be justified in the enforcement of the stipulation. Where the lessees offer physical resistance, the lessors may apply for a writ of preliminary mandatory injunction, to which they have a clear and unmistakable right. Indeed, courts are the final arbiters.

Thus, contrary to the ruling of the CA and the RTC, there is a rationalization and a legal justification for the stipulation authorizing SBMA to rescind the contract and to take over the property.

No Valid Objection on the Part of Respondents

As earlier observed, there were several violations[39] of the LDA, which were duly reported by SBMA to UIG. Respondents, however, did not deny or controvert them. Effectively, therefore,

---

[38] See Vitug, *Compendium of Civil Law and Jurisprudence,* 1993 revised ed., pp. 483-484.

Supreme Court E-Library

they offered no valid or sufficient objection to SBMA's exercise of its stipulated right to extrajudicially rescind the LDA and take over the property in case of material breach.

First, the Amended Complaint merely argued that the takeover was "grounded upon a void provision of the agreement."[40] It did not controvert the grounds for SBMA's exercise of its rights under the subject stipulation. Indeed, glaring was respondents' failure to deny the alleged violations of the LDA.

Second, Respondent UIG was given several opportunities by SBMA to explain the alleged violations. Instead of controverting them, UIG instead indicated its willingness to comply with all its undertakings. Hence, in its February 4, 1997 letter,41 SBMA called its attention to several instances showing contractual breach. In response, UIG's counsel did not deny the violations and instead apologized for the delay.[42]

Finding the response and the explanation unsatisfactory, SBMA, in a letter dated March 7, 1997, declared UIG in default and required it to explain why the LDA should not be terminated. UIG did not submit any written explanation. Instead, its counsel

---

[39] The trial court summarized the alleged violations as follows: (1) failure to rehabilitate the existing eighteen (18) holes of the Binictican Golf Course in time for the 1996 APEC leaders summit meeting, and x x x after the recent completion of the rehabilitation work, after a delay of almost a year, noted were discrepancies showing failure to upgrade the golf course according to world/first class USGA standards; (2) failure to accomplish construction of a new clubhouse; (3) failure to design and construct [a] one hundred (100) [-room] condominium building before the APEC summit meeting in November 1996; (4) inability to undertake the construction and development of Phase II Development which includes: (a) further renovation and improvement of the golf course; (b) construction of additional nine (9) holes to the golf course; (c) provision of floodlighting to the aforementioned nine holes for nighttime golf; and (d) constructing an additional twenty (20) villas/bungalows; all within a period of six (6) months after the APEC meeting or until May 1997." (First assailed Order dated October 3, 1997, pp. 4-5; *rollo*, pp. 265-266.)

[40] Amended Complaint, pp. 5-6; *rollo*, pp. 180-181.

[41] *Rollo*, pp. 119-121.

[42] Letter dated February 7, 1997, pp. 1-2; *rollo*, pp. 123-124.

Supreme Court E-Library

called the SBMA chief operating officer[43] to inform him of its "commitment to undertake anew the remedial measures regarding the matter."[44]

In its letter dated September 8, 1997, SBMA directed UIG to vacate the premises and to settle its outstanding accounts. Finally, on September 12, 1997, SBMA served UIG a Notice of Closure [45] *It should be underscored that during all these exchanges, UIG did not controvert its alleged noncompliance with the LDA.*

Third, in the hearing for the application for a writ of mandatory injunction, respondents presented two witnesses: Orlando de la Masa, operations manager of SBGCCI; and Danilo Alabado, comptroller of UIGDC. De la Masa testified on the alleged forcible takeover by SBMA, while Alabado testified that respondents had invested $12 million in the rehabilitation of the golf course. Respondents, however, did not deny the violations of their undertaking, which were explained by Atty. Raymond P. Ventura.[46]

Most significant, neither the CA nor the RTC made any finding that there was no breach on the part of UIG. Likewise, they did not even make any observation that respondents had controverted SBMA's claim.

Clearly, respondents' stand was not a valid or sufficient objection to SBMA's exercise of its right. Indeed, sustaining their claim would unduly diminish the force of such lawful stipulation and allow parties to disregard it at will without any valid reason. In this case, respondents miserably failed to give any semblance of objection to the merits of SBMA's allegations. Moreover, we find no adequate showing of resistance to SBMA's implementation of the subject stipulation.

---

[43] Petitioner Ferdinand M. Aristorenas.

[44] SBMA's letter dated September 8, 1997 addressed to UIG, p. 1; *rollo*, p. 132.

[45] *Rollo*, p. 138.

[46] See Ventura's Affidavit, pp. 1-11; *rollo*, pp. 246-256

Supreme Court E-Library

Under the circumstances, SBMA showed that it had a right not only to rescind the contract, but also to take over the property. On the other hand, respondents have not shown any "clear and unmistakable right" to restrain SBMA from enforcing the contractual stipulation. Indeed, they have offered no objection to SBMA's allegations of contractual breach. Without prejudging their right to offer controverting evidence during the trial on the merits, the Court holds that they failed to do so in their application for a writ of preliminary injunction.

Epilogue

The Court of Appeals expressed its apprehension that a ruling against UIG would send a message to foreign investors that we "are a group of jingoists." We do not share that view. Jingoism is not an issue here. Far from it. In partially reversing the CA, this Court is merely performing its mandate to do justice and to apply the law to the facts of the case. It is merely affirming the message that in this country, the rule of law prevails; and contracts freely entered into, whether by foreign or by local investors, must be complied with. Indeed, rule of law and faithfulness in the performance of contracts are cherished values everywhere.

WHEREFORE, the Petition is partially *GRANTED,* and the assailed Decision of the Court of Appeals *REVERSED* and *SET ASIDE* insofar as it affirmed the Writ of Preliminary Injunction issued by the trial court. The said Writ is hereby *LIFTED* and the case *REMANDED* to the RTC for trial on the merits. In the meantime, respondents shall, upon finality of this Decision, yield the possession, the operation and the management of the subject property to SBMA. No costs.

SO ORDERED.

Melo, Vitug, Purisima and *Gonzaga-Reyes, JJ.*, concur.