

101 Phil. 907

[G. R. No. L-9578. July 30, 1957]

**TOMÁS RAMOS, ET AL., PETITIONERS VS. HON. MANUEL ARRANZ, ETC., ET AL.,
RESPONDENTS.**

D E C I S I O N

PARAS, C.J.:

On August 24, 1954, respondent Carlos Malasig filed with respondent Court of First Instance of Isabela an action for recovery of possession with injunction against the petitioners. The Court thereupon granted the writ of injunction conditioned on the filing of a bond by respondent Malasig in the sum of P500,00 guaranteed by two or more sureties, to answer for damages. The necessary bond having been filed on August 31, 1954, a "writ of preliminary injunction was issued on September 1, 1954. The petitioners filed their answer to the complaint on November 22., 1954 and a motion to dissolve the preliminary injunction on December 12, 1954. Hearing on the latter motion was held on January 22, 1955 after which the court denied the same and ordered the bond filed by respondent Malasig to be increased by P100,00. The petitioners thereafter re-entered the land in question; where upon respondent Malasig filed a petition for contempt against the petitioners. The latter have now come to this Court with a petition to set aside the orders of August 22, 1954 and July 30, 1955, and to dissolve the writ of preliminary injunction, with costs against respondent Malasig.

Petitioners argue that respondent court acted with grave abuse of discretion in granting the writ of preliminary injunction *ex parte* because (1) it does not appear from the complaint that great or irreparable injury would result to respondent Malasig before the matter could be heard on notice, (2) the complaint was not properly verified and (3) the bond filed by respondent Malasig was not sufficient in law. The petitioners charge respondent court with having summarily and arbitrarily denied petitioner's motion to dissolve the writ on the following grounds: (1) that the petitioners had offered to file a bond in an amount twice as that filed by respondent Malasig; (2) that in the answer to the

complaint, there are allegations that the petitioners were and had always been in continuous possession in concept of owner of the land in question, which called for judicial inquiry.

This Court finds in respondent Malasig's complaint an allegation that the petitioners were about to re-enter and re-occupy the land in dispute to the "grave damage and prejudice of respondent-plaintiff". This phrase "grave damage" is in form and substance equivalent to "great or irreparable injury." The recitals in the verified complaint show that great or irreparable injury would result to the applicant (respondent Malasig), in the following manner:

* * * * *

"5. That sometime in or about the first week of August, 1954, the defendants by themselves and through other persons, such as Dionisio Macadangcadang and one Martin nicknamed Bulbulagao, tried again to re-enter, re-occupy the land described in paragraph 2 hereof, but only succeeded in temporarily possessing and occupying a portion of the land;

"6. That the defendants with the aid and active cooperation of the persons referred to in the preceding Paragraph again threaten and are about to re-enter, repossess and re-occupy the land to the grave damage and prejudice of the plaintiff;

"7. That the plaintiff has no other plain, adequate and speedy remedy to protect his rights as the lawful owner of the land and to render effectual any relief which he is entitled under the law except the issuance by this Honorable Court of a writ of preliminary injunction ordering the defendants to desist and to refrain from entering the land described in Paragraph 2 hereof and/ or occupying, possessing or cultivating the same."

* * * * *

In the verification of the complaint, the affiant, attorney for respondent Malasig, stated that the allegations contained therein are true to the best of his knowledge, information and belief. Its sufficiency will not be looked into herein, as it has not been questioned in the lower court.

As to the contention that respondent Malasig did not bind himself as principal in the bond filed for the issuance of the writ in question, we find that in Annexes "C" and "I" said respondent had bound himself as principal, solidarily liable with the two sureties for the damages that the petitioners may sustain because of said writ. There is in the records an order of respondent court dated January 8, 1955, relative to the motion to dissolve the writ. We observe that said order allowed the parties to present evidence of actual possession and cultivation of the land in question for the year 1954-1955. On January 22, 1955, the date of hearing, the petitioners moved the court to allow them to double the amount of the bond filed by respondent Malasig; they did not present evidence to support their allegation that they had actual possession. The court, finding no basis for disturbing its order granting the writ, denied their bid to double the amount of the bond, as well as their motion to dissolve.

It having been shown that respondent Malasig has alleged ownership and possession under a Torrens Title, and the petitioners had dispossessed him of the land in question by force and intimidation, and at the hearing held for the very purpose of settling the question of possession, no evidence was adduced to destroy the finding that respondent Malasig is the registered owner, the orders complained of are well founded.

Wherefore, the present petition is hereby dismissed and the writ of preliminary injunction heretofore issued against respondent court dissolved. So ordered, with costs against the petitioners.

Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Conception, Reyes, J. B. L., Endencia and Felix, JJ., concur.