

****Title:****

Fausto R. Preysler, Jr. v. Court of Appeals and Far East Enterprises, Inc.

****Facts:****

Far East Enterprises, Inc. (private respondent) owns the Tali Beach Subdivision. Fausto R. Preysler Jr. and his wife (petitioner) owned lots in the subdivision and adjacent parcels of land. To access their properties, the Preyslers had to pass through the subdivision. Preysler offered P10,000 for an easement of right of way, which Far East Enterprises found inadequate and refused. Far East Enterprises then barricaded the front gate of the Preyslers' property, hindering their access.

Preysler filed a Complaint for Right of Way and sought a preliminary prohibitive injunction with the Regional Trial Court (RTC) of Nasugbu, Batangas. The RTC issued a writ of preliminary injunction on December 12, 1996, ordering Far East Enterprises to remove the barricade and allow access to the Preyslers and their representatives, pending litigation.

On July 8, 1998, Preysler used the subdivision road for transporting heavy equipment and construction materials to develop his property, prompting Far East Enterprises to seek dissolution of the writ, claiming it violated their right to peaceful possession. They pointed to an alternative route through the barangay road and Calabarzon Road. Both parties submitted motions to the RTC regarding the scope and enforcement of the writ.

On December 29, 1998, the RTC issued a Joint Resolution amending the original writ. This resolution included provisions to allow Preysler's contractors, visitors, and other representatives access to the property for construction purposes and the installation of power lines.

Far East Enterprises appealed to the Court of Appeals, which granted their petition for certiorari, lifted the amended writ, and reinstated the original writ with bond modifications. Preysler's motion for reconsideration was denied, prompting him to seek relief from the Supreme Court.

****Issues:****

1. Whether the trial court committed grave abuse of discretion in issuing the amended writ of preliminary injunction.
2. Whether the right of passage allowed under the original writ applies to the petitioner's visitors, contractors, construction workers, heavy equipment, construction materials, and installation of power lines.

3. Determination of temporary easements for construction purposes under Article 649 and Article 656 of the New Civil Code.

Court's Decision:

1. **Grave Abuse of Discretion:** The Court found that the trial court did not commit grave abuse of discretion when it issued the amended writ, as it aimed to preserve the status quo.
2. **Scope of Right of Passage:** The Supreme Court noted the necessity of maintaining the status quo as it existed in 1995 when the original writ was applied — which was limited to the Preyslers' household access, not construction materials or workers.
3. **Temporary Easements under Civil Code Articles:**
 - **Article 649 (New Civil Code):** The petitioners were entitled to an easement of right of way due to the lack of an adequate outlet to a public highway.
 - **Article 656 (New Civil Code):** The court allowed a temporary easement for the passage of construction materials and heavy equipment as it was indispensable for the development of the Preyslers' property, emphasizing the necessity to pay an appropriate indemnity.

Doctrine:

- **Easement of Right of Way:** An owner, or individual with real rights to cultivate or use an immovable surrounded by other properties without adequate outlet, is entitled to demand a right of way through the neighboring estates upon payment of proper indemnity (Article 649 of the New Civil Code).
- **Temporary Easement for Construction:** The right to temporary easement for construction, repair, improvement, or alteration of a building through estates of others upon payment of indemnity (Article 656 of the New Civil Code).

Class Notes:

- **Article 649, New Civil Code:** Right of way through neighboring estates, requiring indemnity payment.
- **Article 428, New Civil Code:** Right of the owner to enjoy and dispose of property within legal limitations.
- **Article 656, New Civil Code:** Temporary easement for construction, requiring indemnity for any damage caused.
- **Status Quo in Preliminary Injunctions:** To preserve the last actual, peaceable, and uncontested situation before the controversy.

Historical Background:

The historical context primarily involves property rights and the balance between private

property utility and communal property management within subdivisions. The case underscores the evolving jurisprudence surrounding easement rights in the Philippines, particularly emphasizing the application of Civil Code provisions to modern property disputes. The Supreme Court's decision illustrates the nuanced balance of preserving peaceable conditions pending trials, while ensuring legal entitlements for property development are respected, contingent upon fair compensations.