

**NICOLAS BOHAYANG, PETITIONER, VS. HON. CIRILIO C. MACEREN
JUDGE OF COURT OF FIRST INSTANCE OF DAVAO, RUFINO
TRAVENIO, LEON TRAVENIO, PRUDENCIO TRAVENIO, NARCISO
MENDEZ, MAXIMO C...**

G.R. No. L-7290. December 29, 1954

Ponente: PADILLA, J.

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PADILLA, J.:

An action for recovery of possession of a parcel of land known as lot No. 105 of Tagum Cadastre (accion publiciana or plenaria de posesion) and damages was filed in the Court of First Instance of Davao by the petitioner against the respondents excluding the respondent judge (civil case No. 454), predicated on prior entry upon, possession and cultivation of, the land since 1935 and application thereof homestead in 1939, such possession and cultivation having continued until the outbreak of the Pacific War, when the petitioner was compelled to abandon the land and seek refuge in another place for his survival and that of his family, but on his return in October 1946 he found the respondents squatting and in possession of parts of the land and profiting by the hills of hemp planted by him.

The hearing of the case was finally set for 8 July 1953. After learning from the first witness for the plaintiff, Chief, Survey Party of the Bureau of Lands, that there is a conflict of claims on lot No. 105 between the petitioner and the respondents, plaintiff and defendants in the court below, and that the conflict is pending investigation by the Director of Lands, the respondent court issued the following order:

IN VIEW OF THE FOREGOING CONSIDERATIONS, let this case be held in abeyance until the Director of Lands shall have finally determined and submitted his report on the conflict between the parties herein.

A motion for reconsideration praying for the setting aside of the order and for a setting of a date for the resumption of the trial of the case was denied. Thereupon, the plaintiff in the court below filed this petition to compel the respondent court to set aside the order complained of and to set a date for the resumption of the trial of the case.

If it were merely a matter of the respondent court's control of its calendar, this Court would not interfere with it. But the order complained of suspends the hearing of the case and makes the resumption thereof dependent upon action to be taken by the Director of Lands on the conflict of claims on the land between the petitioner and the respondents. Such postponement may be for a long stretch of time as it is made to depend upon the action to be taken by the Director of Lands. Such action would settle or determine who under the Public Land Act is entitled to the land as and for homestead. On the other hand, an action for recovery of possession is an urgent matter which must be decided promptly to forestall breaches of peace, bodily injury to person, mayhem, or perhaps loss of life. It is the duty of the Court to act swiftly and expeditiously in cases of that nature.

The writ prayed for is granted. The respondent Court is directed to set aside the order complained of and set a date

for the resumption of the hearing of the case, without pronouncement as to costs.

Paras, C.J., Pablo, Bengzon, Reyes, A., Jugo, Bautista Angelo, Labrador, Concepcion and Reyes, J.B.L., JJ.,
concur

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