

MARIANO AVILA AND MAGDALENA AVILA, PETITIONERS, VS. HON. LAURO L. TAPUCAR, PRESIDING JUDGE, BRANCH 1, COURT OF FIRST INSTANCE OF AGUSAN DEL NORTE AND BUTUAN CITY, JULITO BAHAN, ...

G.R. No. L-45947. August 27, 1991

Ponente: BIDIN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/6b803bcdddf3/>

BIDIN, J.:

In this special action for certiorari, petitioners seek to set aside the (a) Order dated February 8, 1977 dissolving the Writ of Preliminary Injunction issued by Judge Lauro L. Tapucar, Court of First Instance of Agusan del Norte and Butuan City (now Regional Trial Court), Branch I in Civil Case No. 1585 entitled "Julito Bahan, et al. versus Mariano P. Avila, et. al."; and (b) Order dated March 4, 1977 denying the motion for reconsideration thereon, which orders were allegedly promulgated with grave abuse of discretion amounting to an excess of jurisdiction and denial of due process.

The facts are as follows:

In 1918, spouses Pedro Bahan and Dominga Exsaure acquired a parcel of land situated at Tabangao, Victory, Tubay, Agusan del Norte, which is more particularly described as follows:

"A parcel of coconut land containing an area of 1.8340 has. (now reduced to 1.3485 due to road) covered by Tax Dec. No. 270, bounded on the North by Anastacio Luyahan, on the East and South by Tabangao Creek and on the West by Tomas Colon, assessed in the amount of P330.00."

and was covered by Tax Declaration No. 5461 of even year.

In 1965, said property was inherited by private respondents Julito Bahan, Cristina Bahan-Panis, Lucita Cartera, Boy Cartera and Candelaria Bahan-Mendoza as successors-in-interest.

On October 11, 1960, petitioner Magdalena Avila (then Mrs. Magdalena R. Vda. de Leon) bought a parcel of land situated at Tabangao, Victory, Tubay, Agusan del Norte, containing an area of 4,371 square meters more or less from Luis Cabalan and his wife under a Deed of Absolute Sale of Unregistered Land and under Tax Declaration No. 3055.

On November 3, 1971, the heirs of Pedro Bahan, represented by Julito Bahan filed Free Patent Application No. (IX-2) 10144 for an area of 2.2400 hectares of Lot No. 2383, Pls-736 which lot has a total area of 6.9027 hectares in its entirety. Deputy Public Land Inspector Francisco C. Baylen in his report, dated November 28, 1971 stated that the heirs of Pedro Bahan, represented by Julito Bahan, have cultivated only 2.2500 hectares of land applied for and consequently, he did not recommend the issuance of the patent. Said report was erroneously forwarded to the Bureau of Lands by then Acting Assistant District Land Officer of Butuan City dated December 23, 1971, recommending the issuance of patent therefor.

In May 1973, private respondent Julito Bahan together with ten persons who were alleged to be members of the Free Farmers Federation, gathered coconuts from the land purchased by petitioner Magdalena Avila but was intercepted by the Chief of Police of Tubay, Agusan del Norte.

On June 27, 1973, private respondents Bahans filed an action for quieting of title and damages with the Court of First Instance of Agusan del Norte and Butuan City, Branch I docketed as Civil Case No. 1585 entitled "Julito Bahan, Cristina Bahan Panis, Lucita Cartera, Boy Cartera, Candelaria Bahan-Mendoza, Alfreda Pol, in her own behalf and in behalf of her minor children: Carmencita, Oscar, Julia, Julita and Gervacio, Jr., all surnamed Bahan versus Ludovico Avila (Mariano Avila) and Magdalena Avila" alleging that they were the successors-in-interest of "a parcel of coconut land containing an area of 1.8340 has. (now reduced to 1.3485 due to the road)" and that sometime in 1968, he discovered that the northwestern portion of said land containing an area of about 1/3 of a hectare was already in the possession of the Avilas; and the latter were harvesting the fruits of about 40 coconut trees found therein. The Bahans prayed that the petitioners Avilas be ordered to pay the Bahans the sum of not less than P1,800.00 a year from the time they took possession of the aforesaid property until the possession thereof is restored to them.

In their answer, the petitioners Avilas raised the defense that on October 11, 1960, Magdalena Avila purchased a parcel of land situated at Tabangao, Victory, Tubay, Agusan del Norte, containing an area of 4,371 square meters more or less from Luis Cabalan and from then on has been in open, continuous, public, peaceful and uninterrupted possession of the same.

On August 21, 1973, private respondents Bahans took advantage of the Avilas' absence in the premises and was able to gather 354 fruits of the coconut trees on the disputed land which produce costs about P300.00 more or less. On October 6, 1973, petitioner Avilas filed a motion for a preliminary writ of injunction praying that the Bahans be enjoined and ordered to refrain and desist from gathering or continue harvesting the fruits on the land in controversy until the termination of the case and that the seven young banana seedlings newly planted by the Bahans be uprooted.

In the meantime, private respondents Bahans' application for free patent was approved for 6.9027 hectares and Free Patent No. 552571 was issued on December 6, 1973. Original certificate of title No. P-8424 was issued in the name of the Heirs of Pedro Bahan, represented by Julito Bahan on the same date.

On January 14, 1974, Judge Vicente B. Echaves, Jr. granted Avilas' motion for a writ of preliminary injunction enjoining and ordering the Bahans to refrain and desist from gathering or continue harvesting the fruits on the contested land until the termination of the case but with the prohibition not to uproot the 7 young banana seedlings newly planted by the Bahans and conditioned upon filing of a bond in the sum of P1,000.00 by the Avilas.

On January 23, 1974, a Writ of Preliminary Injunction was issued and the Sheriff's Return was filed on January 25, 1974 implementing said writ.

On March 13, 1974, O.C.T. No. P-8424 issued to the Bahans was transcribed in the registration book for the province of Agusan del Norte pursuant to the provisions of Section 41 of Act 496.

On October 17, 1974, the Avilas filed an administrative protest against the Bahans before the Bureau of Lands docketed as B.L. Claim No. 872 (N) D.L.O. Lot No. 2383 Tabangao, Dona Rosario, Tubay, Agusan del Norte, entitled "Mariano P. Avila and Magdalena R. Avila, Claimants-Protestants versus F.P.A. No. (IX--2) 10144 (Patent No. 552571) Heirs of Pedro Bahan, represented by Julito Bahan, Applicant-Respondent" for having erroneously included their land under the issued free patent and Original Certificate of Title, which protest was

filed 11 months after the issuance of the patent and 7 months and 3 days after the registration of the Certificate of Title in the Registration Book of the Register of Deeds, Agusan del Norte.

Private respondents Bahans filed a motion dated December 5, 1976 for dissolution of the writ of preliminary injunction alleging that pursuant to the court's Order of August 16, 1976, where the Avilas were granted an extension of up to October 31, 1976 within which to terminate the administrative protest filed by the Avilas against the Bahans before the Bureau of Lands, the trial court stated that "it being understood that on such date if the administrative protest is not yet terminated, this case will be decided and the claim of said defendants ordered dismissed giving to the exercise (sic) of ownership of the plaintiffs of the land titled in their names." The Avilas were likewise granted up to December 31, 1976 within which to terminate the administrative protest in the Order of November 4, 1976 and that the period of December 31, 1976 has already elapsed and the Avilas have failed to secure any order from the Bureau of Lands.

On December 13, 1976, the Bureau of Lands issued an Order in the administrative protest lodged by the Avilas against the Bahans, the decretal portion of which states:

"WHEREFORE, this Office is of the opinion and so declares that Free Patent No. 552571 issued to the heirs of Pedro Bahan, represented by Julito Bahan pursuant to his Free Patent Application No. (IX-2) 10144 for Lot No. 2383, Pls-736, Tabangao, Dona Rosario, Tubay, Agusan del Norte is erroneous insofar as it embraces and includes the portions thereof which rightfully belong to protestants Hernando P. Bigas, Mariano P. Avila and his wife Magdalena R. Avila and Lily S. Mijares, as shown in the sketch drawn at the back hereof. Accordingly, steps shall be taken in court for the cancellation or amendment of the said patent and the certificate of title issued pursuant thereto. After cancellation or amendment of the patent and certificate of title shall have been effected, protestants Hernando P. Bigas, Mariano P. Avila and his wife Magdalena R. Avila and Lily S. Mijares shall cause the survey of their portions respectively occupied by them at their own expense and thereafter, file their respective appropriate applications therefor.

SO ORDERED."

On January 15, 1977, petitioners Avilas filed an opposition to the motion for dissolution of the writ of preliminary injunction invoking the Order of the Bureau of Lands dated December 13, 1976. The Avilas likewise filed a Supplemental Manifestation alleging that the issuance of Free Patent Title No. 552571 issued to the heirs of Pedro Bahan, being erroneous could not be considered as documentary evidence for the Bahans.

On February 8, 1977, Judge Lauro L. Tapucar issued an Order the dispositive portion of which reads:

"WHEREFORE, it is hereby ordered:

- '1. Dissolving the writ of preliminary injunction issued on January 24, 1974 pursuant to the order of this Court dated January 14, 1974;
2. Directing the Clerk of Court or any person in custody of the amount of P1,000.00 put up by the defendants as bond for the preliminary injunction to deliver said amount to the plaintiffs or his counsel; and
3. Setting the continuation of trial of the case for the reception of further evidence of the defendants on March 8, 1977.

SO ORDERED."

On February 9, 1977, Atty. Jose T. Gonzales as counsel for the Bahans withdrew from the office of the Clerk of Court, CFI, Agusan del Norte and Butuan City, Branch I, the cash bond of P1,000.00 posted by the Avilas for the issuance of the writ of preliminary injunction.

The Avilas' motion for reconsideration of the February 8, 1977 order was denied in the Order of March 4, 1977.

The primary issue in this case is whether or not the Order dissolving the writ of preliminary injunction issued by respondent judge is tainted with grave abuse of discretion amounting to lack of or in excess of jurisdiction that necessitates the strong hand of certiorari.

Admittedly, the Bahans are the successors-in-interest of a parcel of coconut land containing an area of about 1,8340 sq. m. situated at Tabangao, Victory, Tubay, Agusan del Norte.

On the other hand, the Avilas are the purchasers for value of a 4,371 square meters lot situated in the same place and are in possession of aforesaid property since 1960.

The Order of January 14, 1974 granting a Writ of Preliminary Injunction was issued for the purpose of enjoining the Bahans to cease and desist from harvesting the fruits on the land possessed by the Avilas until the final determination of the suit for quieting of title between the parties.

The subsequent erroneous approval of the application for free patent for 6.9027 hectares in favor of the Bahans (the land which rightfully pertains to the Avilas being embraced and included therein), the issuance of Free Patent No. 552571 and Original Certificate of Title No. P-8424 in favor of the Bahans during the pendency of the case for quieting of title does not call for dissolution of the Writ of Preliminary Injunction already issued since the property in the possession of the Avilas would be placed in the hands of the Bahans, pending final outcome of the action between them. Such transfer of property in litigation from the possession of one party having possession asserting ownership thereto would be predeterminative of the main case.

The trial judge obviously abused his discretion in dissolving the writ of injunction by relying on the mere presentation by the Bahans of an Original Certificate of Title in their names which was secured while the case is on-going and erroneously included lands claimed by the Avilas, et. al. which were not even applied for by the Bahans. Such dissolution of the injunctive writ would put the Bahans in an advantageous position over the Avilas.

The sole object of a preliminary injunction, whether prohibitory or mandatory, is to preserve the status quo until the merits of the case can be heard. The status quo is the last actual peaceable uncontested status which preceded the controversy. It may only be resorted to by a litigant for the preservation or protection of his rights or interests and for no other purpose during the pendency of the principal action. It should only be granted if the party asking for it is clearly entitled thereto (*Capitol Medical Center vs. Court of Appeals*, 178 SCRA 493 [1989]).

Respondent judge's pronouncements that the Bahans' title to the property has become infeasible and incontestable is a pre-judgment and uncalled for inasmuch as the parties have not as yet finally rested their cases and the trial is still in progress.

It is axiomatic in this jurisdiction that "while land registration is a proceeding in rem and binds the whole world, the simple possession of a certificate of title under the Torrens Systems does not necessarily make the holder a true owner of all the property described therein. If a person obtains a title under the Torrens system, which includes by mistake or oversight land which can no longer be registered under the system, he does not, by virtue of the said certificate alone, become the owner of the lands illegally included" (*Miranda vs. Court of Appeals*, 177 SCRA 303 [1989]) citing *Coronel v. IAC*, 155 SCRA 270; *Ledesma v. Municipality of Iloilo*, 49 Phil. 769, 773; *Caragay-Layno v. CA*, 133 SCRA 718).

The evidence shows that Free Patent No. 552571 issued to the Bahans is erroneous as it embraced and comprised in portions thereof lands which belong to the Avilas. The subsequent registration of the portion of land belonging to the Avilas by the Bahans could not make the latter owners thereof. It has been held in registration proceedings,

a cadastral court has no authority to award a property in favor of persons who have not put in any claims to it and have never asserted any right of ownership thereon, and the certificate of title issued under the circumstances to such persons would be declared null and void subject to the right of innocent purchasers for value (*Director of Lands v. Basilio Abache, et. al.*, 73 Phil. 606 [1942]).

Registration does not vest title. It is not a mode of acquiring ownership but is merely evidence of such title over a particular property. It does not give the holder any better right than what he actually has, especially if the registration was done in bad faith. The effect is that it is as if no registration was made at all (*Miranda vs. Court of Appeals*, supra citing *De Guzman v. CA*, 156 SCRA 701).

The rule is that the grant or denial of an injunction rests upon the sound discretion of the court, except on a clear case of abuse (*Belisle Investment & Finance Co., Inc. vs. State Investment House, Inc.*, 151 SCRA 630 [1987]). This case falls within the excepted cases whereby the injunctive writ was unjustifiably dissolved.

WHEREFORE, the petition for certiorari is Granted. The Orders of February 8 and March 4, 1977 of respondent judge are ANNULLED and SET ASIDE and the Writ of Preliminary Injunction issued in Civil Case No. 1585 is REINSTATED and to remain effective until the final determination of the case. The counsel for the private respondents is ordered to RETURN the sum of P1,000.00 to the Office of the Clerk of Court, RTC, Agusan del Norte and Butuan City, Branch I as cash bond put up by the Avilas.

SO ORDERED.

Fernan, C.J., (Chairman), Gutierrez, Jr., and Davide, Jr., JJ., concur.
Feliciano, J., on leave.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.