

MAMERTO RAMIREZ ET AL., PETITIONERS, VS. FIDEL IBAÑEZ, JUDGE OF THE COURT OF FIRST INSTANCE OF LAGUNA, ET AL., RESPONDENTS.

G.R. No. L-1878. March 09, 1949

Ponente: PERFECTO, J.

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PERFECTO, J.:

Petitioners allege in substance the following:

That Rev. P. Leo A. Cullum has instigated N.V. Sinclair to disregard and violate the provisions of Act 3, Title 26, Book 1 of the Novisima Recopilacion which provided for the expulsion from the Philippines of the priests of the Company of Jesus and the confiscation of their properties and temporalities and their incorporation to the Crom, and that according to said provisions, put into effect by the Real Cedula of Queen Isabel II, dated October 19, 1852, the said priests are perpetually prohibited from recovering said properties which include the lands now known as the San Pedro Tunasan Estate in the municipality of San Pedro, Laguna;

That N.V. Sinclair, under the name of "El Colegio de San Jose," which failed in 1915 to register as a unipersonal corporation, instituted in the Court of First Instance of Laguna on December 10, 1947, an action against 53 persons for the recovery of the sum of P433,307.61 as alleged rents in arrears due before the war from the properties involved in this case;

That no one of petitioners is a defendant in said action, civil case No. 9039, and that petitioners are exclusive owners of their respective lands in the municipality of San Pedro, and that their crops of palay in said parcels are not litigated in said case;

That the new complaint, based on a decision previously rendered in civil case No. 6663 against several residents of San Pedro, has been filed with malice, in violation of Section 6 of Rule 39, Rules of Court—which requires the filing of a new action based on the original claim—with knowledge of plaintiff that the court lacks jurisdiction over the subject matter, that the money claim falls under the law of moratorium, and after the cause of action based on case No. 6663 was renounced in favor of the Commonwealth of the Philippines by Rev. John F. Hurley (then the Superior of the Company of Jesus), in a public document executed on September 27, 1939;

That said Rev. Leo F. Cullum and N.V. Sinclair, secured on December 10, 1947, thru misrepresentation, the appointment ex parte as receiver of respondent Segundo Mastrili, who, since December 15, 1947, with the assistance of officers and soldiers of the military police, have prohibited petitioners from gathering and taking a single grain of their crop of palay, from picking any fruit from their trees, and from plowing or sowing any part of their lands without the permission of said receiver, to the extent of detaining without judicial warrant Ricardo Gerodias and Florencio Ambayec, of maltreating Enrique Marcellana and causing contusions to Marcos Vierende due to blows inflicted on several parts of his body;

That as a result, about 3,500 cavanos of palay have been exposed to destruction by the elements of nature and of

being eaten by bird and field animals;

That the MP officers and soldiers assisting the receiver have been acting under the command of Brigadier General Castañeda and on orders of the Secretary of Justice;

That instead of stopping the acts of the other respondents, the respondent judge issued on December 16, 1947, an order requiring the persons mentioned in the charge dated December 15, 1947, to appear in court on December 22, 1947, for an investigation of charges for contempt; and,

That should said order be allowed to continue in force, the petitioners and their respective families will be put in danger of enduring hunger, other sufferings and irreparable damages due to the acts of respondents.

As remedies, petitioners pray that, not being parties in civil case No. 9039, they be not held amenable to any order that may be issued in said case, and that respondents be ordered not to interfere with or prevent petitioners from harvesting their crops of palay in their respective lands.

Attached to the petition is a copy of the summons in case No. 9039 and of the order of December 10, 1947, appointing Segundo C. Mastrili as receiver to take possession of the properties and improvements involved in case No. 6663 (Jose H. Guevara, et al. vs. Carlos Young, et al.) whose judgment is sought to be revived in said case, and also a copy of the complaint in case No. 9039.

Petitioners having prayed for the issuance of a writ of preliminary injunction, respondents opposed the prayer alleging:

That there is no urgency for the issuance of said writ of preliminary injunction because the crops are being harvested by the tenants under the supervision of the receiver, and those already harvested, constitute only one sixth of the total estimated crops, as the remaining five sixths are not yet ready for harvest;

That the laborers or harvesters receive their share right in the field immediately after the harvest, while the shares of the tenants or lessees could not as yet be delivered because the palay has to be stacked and dried and said shares are usually delivered after the threshing, sometime during the months of February and March;

That in case No. 6663, the judgment of which is sought to be revived, a receiver has also been appointed.

That the Colegio de San Jose did not transfer to the Commonwealth of the Philippines its rights to the judgment in its favor in civil case No. 6663 with respect to the agricultural lands which are now the subject of controversy, but only its rights therein pertaining to the portion of the hacienda used as homesites;

That since the judgment in case No. 6663 sought to be revived orders the ejectment of the defendants due to their default in the payment of the annual rentals, and the sum of P433,307.61 mentioned in the complaint represents rents prior to liberation, and the rents from December, 1945 amounting to P90,000, the subject matter is not within the purview of the moratorium; and,

That the petition for the issuance of a writ of prohibition is premature because the motion for reconsideration of the order appointing the receiver is still pending resolution by respondent judge.

On January 13, 1948, this Court allowed the intervention in this case as co-petitioners of 75 other persons.

On March 22, 1948, by majority resolution, this Court denied petitioners' prayer for the issuance of a writ of preliminary injunction.

This case was heard on the merits in Baguio on May 19, 1948, at which hearing the parties submitted a written agreement which reads as follows:

"Ambas partes convienen:

"El depositario retendra los 30 por ciento de la cosecha (sujeto a las ordenes del Juzgado, la cosecha liquida sera retenida por el depositario) y dejara los 70 por ciento como participacion del aparcero al que labran actualmente el terreno. Y los que actualmente laborean el terreno continuaran trabajandolo su respective parcela, bajo la administracion, supervision y control del depositario, entendiendose sin embargo que todo aqui constatado no afectara el resultado del asunto pendiente en el Juzgado de primera instancia de Laguna; y ambas partes firmaran un recibo en duplicado de la participacion que ha recibido cada uno.

"Baguio, Mayo 19, 1948.

"Conforme:

"(Fdo.) JUAN S. RUSTIA

"(Fdo.) MANUEL A. CALANOG

"(Fdo.) DEOGRACIAS REYES

"(Fdo.) JOSE M. LUISON

"(Fdo.) ROBERTO GUIANZON"

On April 8, 1948, petitioners filed a motion for reconsideration of the resolution of this Court of March 22, 1948, which denied the issuance of a writ of preliminary injunction. That motion was kept under advisement to be considered upon the decision of the case on the merits.

Petitioners also filed a petition on August 7, 1948, praying that respondents be enjoined from acting on a petition filed with the Court of First Instance of Laguna by the receiver for the issuance of a writ of preliminary injunction to prohibit Attorney Rustia and the mayor of San Pedro, Laguna, as well as all their attorneys, agents, employees, privies and/or representatives from going into the fields under the administration of the receiver, and in a resolution of August 13, 1948, this Court ordered that said petition be acted upon when the case is decided on the merits.

Because all the questions involved in this case have been practically disposed of by the resolution of this Court dated March 22, 1948, the same is reproduced here-under, together with the dissenting opinion of the writer of this decision:

"The 'Reiteracion de la Peticion de Interdicto Prohibitorio Preliminar' filed by counsel for petitioners in L-1873, Ramirez et al. vs. Judge Ibañez, et al., is denied, it appearing that respondent Judge had given the parties a chance to be heard on the question of privity and identity of the land, and that, instead of arguing at the hearing, the present case was immediately brought here. Mr. Justice Perfecto dissented in a separate opinion.

DISSENTING

"**PERFECTO, J.:**

"The fact that due course has been given to this case is an evidence that, upon the pleadings, this Court has found that the petition is meritorious. Otherwise, this Court would have dismissed the petition from the very beginning, without causing respondents the trouble of appearing and showing their side of the question.

"Upon the above premise, the wit of preliminary injunction prayed by petitioners appears to be necessary so as

to save petitioners from further irreparable damages.

"Petitioners' contention that they have never been a party in the original case, upon the decision of which the receivership proceedings through which they are being deprived of the products of their labor, the crops that cost them time, effort, work, capital, is based, appears to be well taken and fully supported by the very pleadings in the lower court. It will be extremely unjust not to maintain the status quo, and to condemn them to starvation Tantalian wise, at the very sight of the crops they raised, even to touch which they are prohibited by the physical force at respondents' command.

"Respondents' plight appears to be more pitiable by the attitude shown by respondents at the hearing of this case, in which the receiver made the express commitment to allow petitioners to take their respective crops upon condition that they will furnish the receiver data as to the amount of said crops for record purposes. Petitioners accepted the condition, and the parties were allowed to withdraw from the hearing so as to put in writing the verbal agreement made before us. When both parties submitted their pleadings on February 16, 1948, the very date of the hearing, the receiver appeared to have backed out from the agreement, disregarding completely the commitment made before us in open court. This showing of bad faith should not be ignored by the Supreme Court nor rewarded by a denial of the petition for a writ of preliminary injunction.

"It has been said repeatedly that party litigants must appear before the courts of justice with clean hands to deserve hearing and remedy. In this case, the respondent receiver has appeared before us with hands tainted with bad faith, and the victims of the dirty trick, wantonly performed before our own eyes, are deprived of the remedy they are entitled to.

"We dissent from the majority resolution."

The main purpose of petitioners in this case is to enjoin respondents from depriving said petitioners of the possession of the lands claimed by them and of the crops therein, involved in the receivership in case No. 9039, upon the main theory that petitioners are not parties to said case nor parties or privies of the parties in case No. 6663, whose judgment is intended to be revived in case No. 9039.

The majority of this Court are of opinion that, before petitioners can seek any remedy from this Court, they must wait for the final action of respondent judge on the two questions, namely, as to whether or not petitioners are privies of the defendants in cases Nos. 6663 and 9039 of the lower court, and as to the identity of the lands in question in said cases, it appearing that respondent judge had given the petitioners a chance to be heard on said questions.

For all the foregoing, with the writer of this opinion dissenting, the petition is dismissed, with costs. In view of this result, the two pending incidental petitions are also denied.

Moran, C. J., Pablo, Bengzon, Briones, and Tuason, JJ., concur.

Paras, J., concurs in the result.

Feria, J., concurs in the dismissal of the petition.

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