

**ROSA PASCUAL, GREGORIO CRUZ, AND JOAQUIN SERIBAN,
PETITIONERS, VS. BIENVENIDO A. TAN, JUDGE, COURT OF FIRST
INSTANCE OF RIZAL, RIZAL CITY BRANCH, BERNARDICA LUCAS,
AND AMBROSIO ...**

G.R. No. L-2802. December 23, 1949

Ponente: TUASON, J.

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TUASON, J.:

This is a petition for certiorari to review an order of Judge Bienvenido A. Tan of the Court of First Instance of Rizal, Rizal City Branch, refusing to stay an execution issued in three unlawful detainer cases against the herein petitioners.

It appears that Joaquin Seriban, Rosa Pascual, and Gregorio Cruz, petitioners herein, were severally sued for unlawful detainer in the Justice of the Peace Court of Malabon, Rizal. The cases were jointly tried and decided in favor of the plaintiffs. On appeal to the Court of First Instance, decision was handed down on October 27, 1948, sentencing the defendants severally to pay the back rents and to vacate the premises that were the subjects of the actions, without costs. There was no appeal from that decision.

No question is raised as to the legality of the execution of the money part of the judgment. But as to eviction, the execution debtors claimed that on December 10, 1948, after the judgment was rendered, they purchased from the Rural Progress Administration the lots in question, and had brought actions to suspend the execution on the ground that they had become owners of the land. It should be stated that the plaintiffs were mere lessees and the defendants sub-lessees of these lots and that the Rural Progress Administration, an instrumentality of the Government, acquired recently, by purchase from the plaintiffs' lessors, the estate of which the said lots form part.

A court, or the judge thereof, has the power temporarily to stay execution of its judgment whenever it is necessary to accomplish the aims of justice. (33 C.J.S., 312.) The mere pendency of another court proceeding is not necessarily a ground for a stay. However, an execution will ordinarily be stayed pending the termination of other proceedings connected with the principal case. (Id., 314.) Other ground of relief from an execution refers to facts occurring subsequent to the judgment. (Chua A. H. Lee vs. Mapa, 51 Phil., 624.)

Here, there are three pending actions in the Court of First Instance of Rizal filed by the present petitioners against their former sublessors, the respondents Bernardica Lucas and Ambrosio J. Gutierrez, seeking preliminary injunction to suspend the execution and asking that they be declared entitled to the possession of the property in litigation. The right of the execution creditors to eject the execution debtors is directly involved in these suits. Their result will determine the right of the plaintiffs in the unlawful detainer cases to go ahead with the execution of the judgment. It is obvious that if the court in the pending cases should decide that the defendants have lawfully acquired the lots, they are now the lawful owners thereof, as they allege, entitled to stay thereon. The alleged purchases occurred subsequent to the judgment, the execution of which is the subject of the instant proceeding, and were not included in that judgment.

The execution therefore may proceed as to the money part of the judgment, but the petition is granted with reference to the attempted eviction of the defendants; and it is ordered that as to the said eviction, execution be stayed until the pending cases shall have been definitely concluded. Respondents Bernardica Lucas and Ambrosio J. Gutierrez will pay the costs of these proceedings.

Moran, C.J., Ozaeta, Paras, Pablo, Bengzon, Montemayor, Reyes, and Torres, JJ., concur.

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