

PILAR GREGORIO AND PACIFICO TUASON, PETITIONERS, VS. THE HONORABLE EULOGIO MENCINAS, JUDGE OF THE SECOND BRANCH OF THE COURT OF FIRST INSTANCE OF RIZAL, AND MERCEDES N. DE RELUCI...

G.R. No. L-16227. September 29, 1962

Ponente: PAREDES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/8fab46f5dd4/>

PAREDES, J.:

This is a petition for certiorari and mandamus to annul two orders of the Court of First Instance of Rizal, dated May 30, 1959 and September 17, 1959, in Civil Case No. 4640, entitled "Mercedes N. de Relucio, plaintiff-appellee, versus Pilar Gregorio and Pacifico Tuason, defendants-appellants, and to compel respondent judge to enter an order restoring Pilar Gregorio and Pacifico Tuason, petitioners, therein, to the possession of two lots subject matter of this case. The dispositive portion of the order of May 30, 1959, reads as follows:

"PREMISES CONSIDERED, the Court hereby grants the motion for preliminary mandatory injunction filed by plaintiff (Mercedes N. de Relucio). Let a writ of preliminary mandatory injunction be issued in this case in favor of the plaintiff, upon the latter's posting of a bond in the amount of P15,000.00, to be submitted to this Court for its approval." (Name supplied)

The Order of September 17, 1959, denied defendants-appellants' motion for reconsideration of the above order.

The record discloses the following facts: The lots involved in this action are two fishponds, formerly designated as Lots Nos. 48 and 61, but presently known as Lots Nos. 5 and 7, Block 22, Longos Estate, which previously belonged to the Roman Catholic Archbishop of Manila (MITRA). These lots were leased by the MITRA to one Ariston Nuñez, who had introduced improvements thereon. After his death in 1924, his leasehold rights thereon were transferred to his widow, Esperanza Garcia, and to his only daughter, Mercedes Nuñez de Relucio. Upon the death of Esperanza Garcia, said leasehold rights exclusively belonged to said Mercedes Nuñez de Relucio.

Sometime in 1947 the Loños Estate, together with other haciendas belonging to the MITRA, were sold by the latter to the Republic of the Philippines, free from any liens or encumbrances, excepting leases. Pursuant to Commonwealth Act No. 539, the Rural Progress Administration took over the administration and disposition of said Estate. In November, 1950, the Rural Progress Administration was abolished and its powers and duties were transferred to the Landed Estates Division of the Bureau of Lands.

On May 20, 1955 Mercedes N. de Relucio filed with the Landed Estates Division a formal application for the purchase of said fishponds. Eligio Estella of the Bureau of Lands, conducted an investigation, and on May 25, 1955, rendered a report, recommending approval of Relucio's application. (Annex 3 to Joint Answer)

No action, however, was taken by the Bureau of Lands upon Relucio's application for the purchase of the lots. On September 9, 1955, Republic Act 1400 was approved and by virtue thereof, the Landed Estates Division of the Bureau of Lands was abolished and its powers and functions were transferred to the newly created Land Tenure

Administration.

On October 11, 1952, Mercedes N. de Relucio leased said fishponds to Pilar Gregorio for a period of four years, starting from August 5, 1952 and ending on August 5, 1956. The lease contract was embodied in a public instrument, and in this document, Pilar Gregorio agreed to deliver the fishponds at the expiration of the contract on August 5, 1956 and to relinquish all the improvements made by her on the fishponds during the time of her occupation as lessee (Annex 4—Joint Answer). On August 5, 1956, Relucio notified Pilar Gregorio to vacate the lots and to deliver possession thereof to her (Relucio), in accordance with the terms of the lease contract. Because of the refusal of Pilar Gregorio to do so, Relucio filed on October 15, 1956, Civil Case No. 1340, and entitled "Mercedes N. de Relucio, plaintiff, vs. Pilar Gregorio and Pacifico Tuason, defendants" for unlawful detainer and damages, before the JP Court of Malabon, Rizal. On October 29, 1956, the defendants filed an answer, admitting therein the existence of the lease contract mentioned in the complaint and the termination thereof on August 5, 1956, but claiming as a special defense, that they "continue to be in possession of Lots 5 and 7 with the sanction and authorization of the Land Tenure Administration * * *."

On January 4, 1957, the Republic of the Philippines, represented by the LTA, filed with the CFI of Rizal, an action with preliminary injunction, against Mercedes N. de Relucio and JP of Malabon (docketed as Civ. Case No. 4397, entitled "Republic of the Philippines, etc., plaintiff, vs. Mercedes N. de Relucio, et al., defendants), to recover from defendant Relucio the sum of P46,633.34 by way of unpaid rentals and to compel her co-defendant Justice of the Peace to desist from further proceeding with Civil Case No. 1340, pending in his court. A writ of preliminary injunction was issued, but thereafter, upon motion of the defendant Relucio, the same was dissolved upon the latter's filing a bond of P10,000.00.

The hearing of Civil Case No. 1340 by the Justice of the Peace of Malabon continued. After a protracted trial, the Justice of the Peace, rendered, on July 10, 1957, a judgment ordering defendant Pilar Gregorio and her husband Pacifico Tuason to vacate the premises and to deliver the same to plaintiff Relucio, and to pay said plaintiff the sum of P433.50 as monthly rentals from August 6, 1956 until the lots shall have been vacated. From this decision, defendants spouses appealed to the CFI of Rizal, which appeal is docketed as Civil Case No. 4640 of that court and is mentioned in the earlier part of this decision. On August 8, 1957, the Land Tenure Administration, filed and served upon appellee Relucio a petition to intervene in Civil Case No. 4640, which petition was, on March 24, 1959, denied by said court. The order of denial was not appealed. Under date of August 21, 1957, defendants-appellants filed their Answer in Civil Case No. 4640, alleging as special defenses that the relationship of landlord and tenant between them and the appellee had terminated on August 5, 1956, and that they (Spouses Gregorio and Tuason) are now in possession of the fishponds by virtue of another lease contract entered into with the Government.

After the perfection of the appeal, appellee Relucio on September 2, 1957, filed a petition for the issuance of a writ of preliminary mandatory injunction, invoking the provisions of articles 539 and 1674 of the new Civil Code. In her petition, appellee averred that the appealed case of unlawful detainer was decided in her favor by the Justice of the Peace of Malabon; that she has a good and valid cause of action; that the appeal interposed by the defendants is frivolous and purely dilatory, and that the unlawful detention of the fishponds by appellants have caused irreparable damage to appellee.

In opposition thereto, the appellants claim that the appellee, Relucio, has lost her right to file the petition because she did not do so within 10 days from the time of the perfection of the appeal (July 29, 1957); and that appellants have a valid defense and have filed a supersedeas bond to answer for whatever damage the appellee may suffer. The Land Tenure Administration likewise filed a written opposition, claiming that the writ will affect the interests of the Government. On September 20, 1957, the appellee in her reply to the oppositions, argued that the motion

was filed on time and that defendants' appeal was not meritorious because: (a) they cannot deny appellee's title to the lots; (b) the appellee has the right to recover the possession of the lots upon the expiration of the lease contract; (c) the question of ownership of the fishponds is extraneous to the issue involved, which is merely de facto possession; (d) the Land Tenure Administration has no personality to appear in said case, because its petition to intervene has not been granted.

On May 23, 1959, the respondent Court set the petition for preliminary mandatory injunction for hearing. Both parties appeared with their respective counsel, and submitted the petition for consideration of the Court. On May 30, 1959, the court issued the order sought herein to of said order was denied by the court on September 17, be annulled. An "omnibus Motion for Reconsideration" 1959. This is the other order also sought to be voided. Hence this petition.

The present petition was given due course and a writ of preliminary injunction was issued on November 18, 1959, as prayed for in the petition, upon filing of a bond of P10,000.00. In compliance therewith, the respondent court on November 27, 1959 ordered respondent Relucio to deliver possession of said lots back to the petitioners. A motion dated December 3, 1959 filed by respondent Relucio, to set aside the writ issued, and to file a counterbond, was denied by this Court, on December 8, 1959.

It being a well established doctrine that in cases involving issuance of a preliminary injunction, this Court will not interfere with the exercise of sound discretion of a lower court (*Rudolf vs. Alfonso*, 76 Phil. 225), it is important to determine in this petition whether or not the respondent judge has committed grave abuse of discretion in issuing the two orders complained of.

In support of their claim that the disputed orders are null and void, petitioners contend that (a) respondent Relucio did not file on time her motion for the issuance of a writ of preliminary mandatory injunction; (b) respondent judge granted the motion without receiving evidence to support the disputed orders; and (c) the appeal of petitioners is not frivolous because they have a valid defense, which is, that petitioners are no longer tenants of respondent Relucio, but that they are now occupying the fishponds as lessees of the Land Tenure Administration.

Petitioners predicated their first contention upon the provisions of article 539 in relation to article 1674 of the Civil Code, arguing that the 10 days period should be counted from the perfection of the appeal, and in the present case, the motion for the mandatory preliminary injunction was filed beyond said period. The articles in question are hereunder reproduced:

"Art. 1674. In ejectment cases where an appeal is taken, the remedy granted in article 539, second paragraph, shall also apply, if the higher court is satisfied that the lessee's appeal is frivolous or dilatory, or that the lessor's appeal is prima facie meritorious. The period of ten days referred to in said article shall be counted from the time the appeal is perfected".

"Art 539. Every possessor has a right to be respected in his possession and should he be disturbed therein he shall be protected in or restored to said possession by the means established by the laws and the Rules of Court.

A possessor deprived of his possession through forcible entry may within ten days from the filing of the complaint present a motion to secure from the competent court, in the action for forcible entry, a writ of preliminary mandatory injunction to restore him in his possession. The court shall decide the motion within thirty (30) days from filing thereof."

The first contention cannot be sustained, in view of our ruling in the case of *De la Cruz vs. Bocar, et al.*, 99 Phil., 491, pertinent portions of which read as follows:

"With respect to the issuance of the writ of preliminary mandatory injunction against Cruz in Civil Case No. 3110, of the Court of First Instance, we gather from the pleadings filed in the said Court marked as annexes by both parties that petitioner Cruz claims that the petition for the issuance of the writ was filed beyond the ten days period fixed by Art. 1674 of the New Civil Code for the reason that the appeal was perfected on November 2, 1954, and the motion for the issuance of the writ was filed on November 23, 1954. Plaintiff Rufina and Company, however, explained that the said ten days should be counted not from the actual date of the perfection of the appeal which was on November 19, 1954. We agree with plaintiff-respondent. An appellee in a case appealed from the Justice of the Peace Court to the Court of First Instance is not called upon to be always on guard in the Justice of the Peace Court to ascertain the exact date and hour the appeal is perfected. All that an appellee is expected to do is to wait for the official notice to him of said perfected appeal from the Court of First Instance where the appeal is taken. Otherwise, said appellee may be prematurely filing a petition for the issuance of a writ of preliminary mandatory injunction in the Court of First Instance before the appeal is actually received by the said court; and said appellee would not know how to entitle or number his petition, and the Clerk of Court may not admit said petition because there is as yet no case or record of a case to which it may be attached and incorporated. We, therefore, rule that the period of ten days mentioned in Art. 1674 within which to file a petition for a writ of preliminary mandatory injunction should be counted from the date when the petitioning party is notified of the perfection of the appeal." (*Italics supplied*)

And the above ruling can not be otherwise, also for other reasons. A literal interpretation given to the provisions of law under discussion, would prove the extraordinary remedy of preliminary mandatory injunction unavailing. The issuance of such writ in an ejectment case is expressly vested in the appellate court because the law employs the phrase "higher court", and it is the higher court which must satisfy itself that the appeal is either frivolous or dilatory, in the case of the lessee, or prima facie meritorious in the case of the lessor. The record of an appealed case, whether from a municipal court or court of first instance, is invariably remanded to, or received by, the clerk of the appellate court beyond 10 days from the perfection of the appeal. And this happens despite the mandate of the law requiring clerks of court to transmit the record of an appealed case within a specified period (within 5 days in the case of municipal or justice of the peace courts, section 5, Rule 40, and within 10 days in the case of courts of first instance, section 11, Rule 41, Rules of Court), a plain ministerial duty on the part of these court officials of which parties litigants have no intervention whatsoever. (See *Sycip vs. Hon. Judge E. Soriano, et al.*, [CA] 52 Off. Gaz. 1474)

There are no potent or cogent reasons advanced to reverse or in any manner alter said ruling, which finds a fitting application to the facts obtaining in the case at bar. The Code Commission, it should be recalled, has stated that the purpose of said article 1674 Civil Code (*supra*) is to prevent the lessee from unduly prolonging possession of the leased properties during an appeal. Admittedly, when respondent Relucio filed on September 2, 1957 her motion for preliminary mandatory injunction, she had not even received from the trial court a notice of the appealed case, and the period of limitation had not commenced.

It is not true that the trial court did not have evidence to support its disputed orders. The lower court had set the motion for hearing on September 14, 1957 and May 23, 1959 with the sole purpose of receiving evidence. It was during these hearings that respondent Relucio presented several exhibits as evidence, and the petitioners had none. The evidence submitted by respondent Relucio, the pleadings filed by both parties and the decision of the Justice of the Peace Court of Malabon, were taken into consideration by the respondent court as basis for granting the writ of preliminary mandatory injunction. As shown by the stenographic notes, petitioners' counsel just submitted the matter of the issuance of the injunction to the court for resolution.

Petitioners claim that their appeal is not frivolous; that they were no longer tenants of respondent Relucio, and were then in possession of the fishponds as lessees of the Land Tenure Administration (LTA); and that they vacated the lots in question from August 6, to August 9, 1956, after the termination of the contract of lease with

Relucio. These claims were, however, denied by respondent Relucio and do not also reflect the truth. In petitioner Gregorio's application for the purchase of the fishponds, filed with the LTA on August 17, 1956 (Annex B to Petition), she unequivocally stated, thus—

"3. I have been an occupant of the Longos Estate/Homesite from August 5, 1952 to present and/or the lots applied for from August 5, 1952 to present. * * * "

In denying petitioner Gregorio's application, the LTA, on August 24, 1956, wrote—

"* * * please be informed that after an investigation conducted by a representative of this Office you have been occupying the premises only as a lessee of Mrs. Mercedes N. Relucio since the year 1952. * * * ." (Annex C of Petition).

On August 28, 1956, petitioner Gregorio again wrote to the LTA (Annex D to Petition), stating that—

"I am at present in actual, material and physical possession of said lots since August 5, 1952. * * * ."

Still in another application for the lease of the lots dated September 6, 1956 (Annex E to Petition), petitioner Gregorio reiterated that—

"2. I have been an occupant of said lots from August 5, 1952 to the present; said occupation was/is material, actual and physical * * * ."

Although during the months of August and September, 1956, petitioner Gregorio had been negotiating for the lease of the fishponds from the LTA, after her application to purchase the same was denied, the required bond of P6,000, which finalized the lease contract, was approved by the LTA only on October 18, 1956, one day after the filing of the action for unlawful detainer. This being the case, petitioners can not now deny the title of their lessor, respondent Relucio; neither can they assert any right adverse to said title, which may change their relationship (Art. 1436, New Civil Code, Sec. 68-b, Rule 123, Rules of Court); and can not plausibly establish a defense that another lease contract then existed with the LTA.

This is on one hand. On the other, respondent Relucio's evidence discloses, that she and her predecessors-in-interest have been in possession of the leased properties, as lessees of the MITRA, for many many years and that she had introduced substantial improvements thereon. Petitioners' only claim of damages consisted in the improvements allegedly made in the fishponds, during the four (4) year period of the lease contract. But petitioner Gregorio had agreed to turn over said improvements to respondent Relucio upon the expiration of the lease.

Under the facts herein obtaining, it becomes abundantly clear that respondent judge, in promulgating the Orders complained of, did not act without or in excess of his jurisdiction. No instance has been shown that there was any abuse, much less grave or capricious, of discretion, practiced by said respondent judge. The petitioners have not also established any clear right, so as to render the refusal of respondent Judge to order the restoration of the properties in litigation to them, an unlawful exclusion from the use and enjoyment of such right.

The petition for Certiorari and Mandamus is dismissed, for lack of merit. The Orders of the respondent Judge dated May 30, 1959 and September 17, 1959 are affirmed. The writ of preliminary injunction heretofore issued by this Court is dissolved. With costs against petitioners.

Bengzon, C. J., Padilla, Bautista Angelo, Concepcion, Reyes, J. B. L., and Dizon, JJ., concur.

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.