

HEIRS OF PEDRO GACUTAN, NAMELY PEDRITO, MANUEL, JESUS, EUSEBIO, PHOEBE, NORMA, GILDA, FELY, ROMEO, AND DELIA, ALL SURNAMED GACUTAN, REPRESENTED BY PEDRITO GACUTAN AND JESUS GACU...*G.R. No. L-40069. August 11, 1988*

Ponente: SARMIENTO, J.

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The legality of the issuance of the writ of preliminary prohibitory injunction granted by the respondent court is the sole issue in this petition for certiorari with prayer for the issuance of a preliminary injunction. The questioned orders, dated October 4, 1974 and January 17, 1975, of the respondent judge, enjoined and/or prohibited the petitioners, who are the defendants in Civil Case No. 1463 (for recovery of ownership, annulment of sale, and damages, with prayer for the issuance of a preliminary prohibitory injunction) in the then Court of First Instance of Zamboanga del Sur, entitled, "Alejandro Daliposon, et al. vs. Heirs of Pedro Gacutan, et al.," from entering or occupying portions of the land in question occupied and possessed by the plaintiffs Alejandro Daliposon and Tranquilino del Rosario, the herein private respondents, and likewise enjoining and/or prohibiting the said defendants, or any of their agents or representatives, from getting the owner's share or rentals of the said portions from the tenants thereof.[1]

On February 7, 1975, we issued a temporary restraining order, by which we restrained the private respondents from taking over the possession of the property subject of the herein petition, and from enforcing the assailed orders of the public respondent. We also required the respondents to file their answer to the petition after which we gave due course.

The complaint filed in the respondent court states that the private respondents, the spouses Alejandro Daliposon and Mercedes Peralta, were the original owners of the entire property comprising of 171,100 square meters situated at Tawagan, Pagadian, Zamboanga (now Tawagan Norte, Labangan, Zamboanga del Sur), and originally covered by Original Certificate of Title (O.C.T.) No. P-354. The same spouses claim having sold to their co-private respondent, Tranquilino del Rosario, a 3-hectare portion of the said property on February 26, 1940, and to Pedro Gacutan, the predecessor-in-interest of the petitioner, an 8-hectare portion thereof sometime in 1957. They allege however that in 1974, shortly before they filed their complaint (on August 13, 1974), they discovered that by virtue of an alleged deed of sale dated October 6, 1966, which contained their (Daliposon's) forged signatures and notarized by a notary public before whom they never appeared their Original Certificate of Title had been cancelled and a new one. Transfer Certificate of Title (T.C.T.) No. T-2651 in favor of Pedro Gacutan was issued. Further, they allege that at the time they filed their complaint with the respondent court, the petitioners-defendants were poised to occupy and take possession of the portion of the property in their (private respondents-plaintiffs') possession and actual control, and, likewise, were trying to get the owner's share or rental from their tenants. Thus, the private respondents pray that the title of the portions of the property included in T.C.T. No. T-2651 in their possession and control be reconveyed to them. On the other hand, the petitioners

(defendants in the court a quo) in their answer to the complaint, allege that they are the ones who are in possession of the entire property covered by T.C.T. No. T-2651 in the name of Pedro Gacutan, the petitioners' predecessor-in-interest.

The respondent court conducted a hearing on the private respondents' application for the issuance of a preliminary prohibitory injunction which was opposed by the petitioners. After hearing, the trial court issued the assailed order of October 4, 1974, granting the application for the issuance of a writ of preliminary injunction conditioned upon the filing of a P4,000.00-bond. The petitioners moved for a reconsideration of the order but their motion was denied on January 17, 1975. Hence, this petition in which the petitioners claim that the issuance by the respondent judge of the assailed orders is a violation of their rights as owners of the disputed property and amounted to a grave abuse of discretion.

The petition lacks merit.

The respondent trial court did not commit any grave abuse of discretion in issuing the writ of preliminary prohibitory injunction. The same was issued after a hearing was conducted wherein both parties were afforded the opportunity to ventilate their respective sides. In that hearing, the petitioners asserted their control and possession of the contested property under a claim of title originating from the torrens title of their predecessor-in-interest. The private respondents, on the other hand, by their testimonies and by that of the tenants tilling the subject property, were able to show satisfactorily that prior to the commencement of the action the private respondents were in actual possession and control of the said property in the concept of owners. Interestingly, one Rominico Acosaga, whom the petitioners claimed to be their tenant,[2] when called by the court to the witness stand declared that he was coerced into surrendering the owner's share of the fruits of the property to the said petitioners after he was hauled to the Philippine Constabulary camp.[3] It is evident that in the hearing conducted by the respondent trial court, the private respondents were able to establish a prima facie showing that they have a right to the final relief they seek.

The private respondents' complaint for reconveyance at the least raises doubt on the validity of the petitioners' title over the contested property. To permit, therefore, the petitioners to take possession and control of the said property, even during the pendency of the case, would most certainly be detrimental to the private respondents' rights. The respondent judge thus acted in consonance with the law when he issued the assailed writ of preliminary prohibitory injunction. It is precisely the province of a preliminary injunction, mandatory or prohibitory, to preserve the status quo between litigants to prevent possible violation of a party's rights.[4] Besides, in compliance with the respondent judge's order, the private respondents posted the required bond conditioned to answer for any damage the petitioners may suffer in case the issuance of the writ of preliminary prohibitory injunction is later on found unwarranted.[5]

WHEREFORE, for lack of merit and for failure to show grave abuse of discretion committed by the respondent court the petition is DISMISSED, and the Temporary Restraining Order earlier issued is hereby LIFTED. Costs against the petitioners.

SO ORDERED.

Melencio-Herrera, (Chairperson), Paras, and Padilla, JJ., concur.

[1] Rollo, 33.

[2] Rollo, 109.

[3] Id., 114-116.

[4] *Banyan Cattle Co., Inc. vs. Quintillan*, No. L-26970, March 19, 1984, 128 SCRA 276; *Feranil vs. Arcilla*, No. L-44353, February 28, 1979, 88 SCRA 770.

[5] *Mendoza vs. Cruz*, No. L-26829, December 27, 1979, 94 SCRA 821.

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