

**ALEJANDRO RODULFA, PETITIONER, VS. FRANCISCO ALFONSO,
JUDGE OF FIRST INSTANCE OF PANGASINAN, GUILLERMO SORIANO,
PROVINCIAL SHERIFF OF PANGASINAN, AND PABLO DEL MORAL,
RESPONDENTS.**

G. R. No. L-144. February 28, 1946

Ponente: DE JOYA,J.

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DE JOYA,J.:

This is an original action for the issuance of a writ of *eertlorari* instituted in this Court.

The petitioner Alejandro Rodulfa alleges, in his petition under oath, that in Civil Case No. 8930 of the Court of First Instance of Pangasinan, instituted by him against the respondent Pablo del Moral, on September 19, 1945, he has demanded the return and reconveyance of 15 parcels of land, with an aggregate area of about 31 hectares; that on October 26, 1945, before answering said complaint, Pablo del Moral, defendant therein, and now one of the respondents in this case, filed a motion praying for the issuance of a writ of preliminary injunction against the plaintiff therein, and now petitioner in this case, and the latter's agents, attorneys, representatives, and other persons acting on his behalf, to desist and refrain from molesting, retarding, or otherwise disturbing the possession of respondent Pablo del Moral of said 15 parcels of land, until further orders from the court; that on November 7, 1945, without any answer having been filed to the said complaint, the respondent judge, Honorable Francisco Alfonso, acting upon said motion of respondent Pablo del Moral, issued, over and above the objection of herein petitioner, an order providing that, upon the previous filing of a bond by respondent Pablo del Moral, in the sum of Five P5,000, to be approved by the court, said writ of preliminary injunction would be issued; that on November 8, 1945, respondent Pablo del Moral filed the bond of P5,000, pursuant to said order, and on the same day, the respondent judge approved said bond, and the respondent judge forthwith issued said writ of preliminary injunction; that on the same day, November 8, 1945, said writ of preliminary injunction was delivered to respondent Guillermo Soriano, provincial sheriff of Pangasinan, for service; but up to the time of the filing of the petition in this case, it had not been served upon the petitioner; that on November 9, 1945, the petitioner received copy of said order of the respondent judge, dated November 7, 1945, and on the same day, said petitioner filed a motion for reconsideration of the said order, praying that it be set aside and that another be issued denying the motion of respondent Pablo del Moral for the issuance of a writ of preliminary Injunction; that in* his motion for reconsideration, the petitioner alleged, under oath, that for many years previous to the filing of the complaint in said Civil Case No. 8930, and up to the present time, he has always been in the material possession of the parcels of land in question, and working the same; but on November 14, 1945, said motion for reconsideration was denied by the respondent judge, and copy of the order was received by herein petitioner on November 15, 1945; and herein petitioner further alleges that said order dated November 7, 1945, authorising the issuance of a writ of preliminary injunction, upon the filing of said bond in the sum of P5,000, and said order of November 14, 1945, denying petitioner's motion for reconsideration, are both illegal and have been issued without or in excess of the respondent judge's jurisdiction and with grave abuse of discretion, and are probably not in accord with law.

Petitioner, therefore, asks that said two (2) orders be declared null and void, as well as the writ of preliminary injunction issued in said case, and that in the meanwhile, an order of preliminary injunction be issued by this Court directing respondents, Judge Francisco Alfonso, and Guillermo Soriano, as provincial sheriff of Pangasinan, to desist and refrain, until further orders, from enforcing and carrying out said orders and writ of preliminary injunction.

On December 18, 1945, the three respondents filed their answer to the petition in this case, and substantially admitted the allegations' contained in the first ten (10) paragraphs thereof, denying, however, the allegations contained in paragraphs 11 and 12 of the petition, as they are mere conclusions of law.

Respondent Pablo del Moral further alleges that petitioner is now estopped from questioning the legality of the bond filed in this case, as said petitioner had filed a motion requesting that he be permitted to put up a counter bond in the same amount, which, motion was denied by the respondent judge; that the petitioner himself has admitted that the 15 parcels of land in question had been registered under the Torrens System in the name of the respondent Pablo del Moral, and that the latter has been in possession thereof, for, at least, 20 years, although petitioner in his verified motion for reconsideration, stated, contrary to his express allegations in the original petition filed in this case, as well as in the complaint filed by him in said Civil Case No. 8930 of the Court of First Instance of Pangasinan, that he has been in possession of the lands in question; that after the filing of the petition in this case, petitioner and his agents have entered the lands in question, on account of which respondent Pablo del Moral filed a motion for contempt; and that out of delicacy, the respondent judge, on December 10, 1945, issued an order suspending the proceedings, after said respondent judge had been served with a copy of the petition filed in this case. Respondent Pablo del Moral further alleges that, by the filing of the said bond in the amount of P5,000, the rights and interests of the petitioner are amply protected and that the respondent Judge had a perfect right to issue a writ of preliminary injunction in said Civil Case No. 8930, at the instance of the defendant, as the plaintiff therein was himself the wrongdoer.

On December 20, 1945, petitioner filed a reply to respondents answer, claiming that he has not been, under estoppel by reason of his offer to file a counter bond; that the issuance of a writ of preliminary injunction by the respondent judge in this case was an abuse of sound judicial discretion; and that petitioner herein, as plaintiff in said Civil Case No. 8930, has not admitted that the defendant therein, now respondent Pablo del Moral in this case, has been in possession of the lands in question; and that as a matter of fact herein petitioner has taken possession of said lands, as the period of 20 years, for their return and reconveyance, has already elapsed.

In his complaint in said Civil Case No. 8930, herein petitioner claims to have conveyed, since 1924, by means of fictitious documents, to the respondent the 15 parcels of land in question and authorized him to register the said lands in respondent's name, to enable him to raise funds with which to pay an P8,000 indebtedness of the petitioner, subject to the condition that the respondent would return and reconvey said lands to the petitioner after 20 years, free from all liens and encumbrances. On the other hand, in his verified answer filed in said civil case, in addition to his specific denials, respondent claims to have acquired since 1924, by purchase, some of the lands in question from said petitioner, and the rest from other parties, in an absolute manner, in good faith and for good and valuable consideration.

There are certain facts, which, according to the record in this case, including the pleadings in said Civil Case No. 8930, cannot be successfully disputed, to wit, that the 15 parcels of land in question had been registered in the name of the respondent Pablo del Moral, under the Torrens System; that the respondent has been in possession of said lands for more than 20 years; that after the filing of the complaint in said civil case No. 8930, the plaintiff therein, now petitioner in this case, by means of threats and intimidation, attempted to take possession of all or some of said lands, without waiting for the decision of the Court in said Civil Case No. 8930, instituted by him

against herein respondent Pablo del Moral, for the return of possession and reconveyance of said lands; and that there is now a dispute as to the title or ownership of said 15 parcels of land, between the plaintiff in said Civil Case No. 8930, now petitioner in this case, on the one hand, and the defendant in said civil case, now respondent Pablo del Moral in the instant case, on the other.

In the midst of economic hardships and disillusionment, after a long and a cruel war, the great masses of the people have still retained the consolation of religious hope, but a considerable portion of the different classes have lost their faith and look out upon this ruined world and harassed humanity, without any alleviating vision of that higher and vaster life in whose final justice and beauty those ugly ills would disappear. Humanitarian sentiments and moral values have reached their lowest ebb. And impelled by the socialist indictment of war and poverty and the biological stress placed upon the struggle for existence and the competition of life, on the one hand, and urged by cupidity perhaps, or by some new economic theory claimed to be the supreme achievement of an enlightened age, on the other, they have become emboldened and take the law into their own hands, occupying and taking possession of properties belonging to others, by the use of force, violence and intimidation, which cannot be justified under any code of law or code of morale in a much vaunted democracy. Such a situation cannot be tolerated. Governments and laws are established, for the protection not only of the persons of the inhabitants but also of their property. And no one can be permitted to enrich himself, with impunity, at the expense of another.

It is evident that the desperate acts and conduct of said plaintiff, now petitioner in this case, in attempting to occupy and take possession of all or some of the lands in question, in the last months of 1945, without waiting for the final decision of the competent courts in said Civil Case No. 8930, were unlawful and illegal. During the pendency of said Civil Case No. 8930, he had absolutely no right to take the law into his own hands. Laws are made for the purpose of securing justice; and law cannot, and will not, tolerate any act of injustice.

As expressly admitted by the petitioner himself in the petition filed in this case, as well as in the complaint filed by him in said Civil Case No. 8930, respondent Pablo del Moral has been in possession of the lands in question for more than 20 years, and that the said lands had been registered in the name of said respondent. The petitioner is strictly bound by the allegations made by him in said pleadings, and he cannot now be permitted to contradict and deny or ignore said facts, by means of his said petition for reconsideration and reply, alleging altogether different facts (*Perkins vs. Perkins*, 57 Phil. 205).

Injunction, as a rule, will not be granted to take property out of the possession or control of one party and place it into that of another whose title has not clearly been established by law. (*Devesa vs. Arbes*, 13 Phil., 273; *Evangelista vs. Pedreños*, 27 Phil., 648; *Asombra vs. Dorado and Gesmundo*, 36 Phil. 883; *Kabankalan Sugar Co. vs. Rubin*, 54 Phil., 645).

The rule that a court should not, by means of a preliminary injunction, transfer property in litigation from the possession of one party to another, is more particularly applicable where the legal title is in dispute and the party having possession asserts ownership in himself. (*Gordillo, et al. vs. Del Rosario*, 39 Phil., 829.)

But the fact that the petitioner might have been in sporadic possession of all or some of the lands in question, in the last months of 1945, having entered the same, by means of threats and intimidation, will not prevent the issuance of a writ of preliminary injunction in favor of herein respondent, as defendant in said Civil Case No. 8930, in whose name said lands had been registered under the Torrens system, and who has been in possession thereof, during the last 20 years, as said possession of the petitioner is completely and absolutely illegal.

Where a person other than the owner from time to time unlawfully enters upon land and commits depredations thereon, as by cutting wood or bamboo, the true owner, having possession, can maintain an action to quiet title and enjoin the intruder from the repetition of such trespass in the future. The circumstance that the trespasser in

such case also pretends to ownership of the same land is immaterial, (*Rustia vs. Franco*, 41 Phil., 280.)

The sole object of a preliminary injunction is to preserve the status quo until the merits can be heard. The status quo is the last actual peaceable uncontested status which preceded the pending controversy. (*Fredericks vs. Huber*, 180 Pa., 572, 37 Atl., 90.)

And this remedy may be Invoked by the defendant, when the plaintiff himself is the wrong-doer, under the provisions of Rule 60, section 6, of the Rules of Court.

"Where plaintiff in an injunction suit is himself a wrong-doer in first invading the rights of defendant whom he seeks to enjoin, and should therefore be denied all equitable relief on that account, he cannot complain that, instead of dismissing his complaint, as demanded in defendant's answer, the court grants a further relief to defendant by enjoining plaintiff and thus adjudicating all the equities between the parties growing out of the facts alleged or litigated," (*Power vs. Athens*. 99 N. Y. 592; 2 N.E., 609; 32 C. J. footnote.)

The plaintiff's offer to file a counter-bond was properly denied by the lower court, in the exercise of sound judicial discretion, for the preservation of the status quo; as the plaintiff's right and interest, if any, in the property in question are amply protected by the bond executed for the issuance of the writ of preliminary injunction.

The fact that no copy of said bond was given to the plaintiff in said civil case No. 8930, now petitioner herein, before it was submitted to the court for approval, cannot and will not invalidate said bond, as the failure to send copy of the bond to enable said plaintiff to object to the sufficiency was a mere formal defect, which might be waived, either expressly or impliedly, as by the filing in said Civil Case No. 8930 of a petition for permission to file a counterbond.

In cases involving the issuance of a writ of preliminary injunction, the exercise of sound judicial discretion by the lower court will not generally be interfered with; and the refusal of the trial court to permit the plaintiff in this case to file a counterbond cannot be considered as an abuse of sound judicial discretion. bearing in mind particularly the admission made by the plaintiff himself that sometime in 1945, or thereabouts, he occupied and took possession of all or some of the lands in question, without waiting for the final decision of the competent courts in said Civil Case No. 8930, It is a general principle in equity jurisprudence that "he who comes to equity must come with clean hands", (*North Negros Sugar Co. vs. Hidalgo*, 63 Phil., 664.)

There having been no abuse of sound judicial discretion in the issuance of the writ of preliminary injunction by the respondent judge, in connection with said orders dated November 7 and 14, 1945, respectively, the petition for certiorari filed in this case is hereby dismissed, with costs against the petitioner. So ordered.

Moran, C. J., Ozaeta, Paras, Jaranilla, Feria, Pablo, Perfecto, Hilado, Bengzon, and Briones, JJ., concur.

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