

JOSE MA. LOCSIN, JESUSA LOCSIN, CONCEPCION LOCSIN, EMMA LOCSIN, ROSARIO LOC-SIN AND TERESITA LOCSIN, PETITIONERS, VS. HON. RAFAEL C. CLIMACO, IN HIS CAPACITY AS DISTRICT JUDGE ...

G.R. No. L-27319. January 31, 1969

Ponente: CASTRO, J.

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CASTRO, J.:

This is a petition for certiorari with preliminary injunction by Jose Ma., Jesusa, Concepcion, Emma, Rosario and Teresita, all surnamed Locsin (hereinafter referred to as the Locsins), own-ers of the hacienda San Vicente situated in the Silay-Saravia mill district in Negros Occidental, against Judge Rafael C. Climaco of the Court of First Instance of Negros Occidental and the Hawaiian-Philippine Company (hereinafter referred to as the Central).

The Central is a domestic corporation organized under the laws of the Philippines, with principal office in Manila and branch office in Silay City. The Central owns a centrifugal sugar mill loc-ated in the said city, has operated it since the 1920-1921 crop year, and manufactures sugar from sugar cane planted and grown in the aforesaid mill district, also known as the Hawaiian-Philippine mill district 19.

In 1919 the Central entered into identical milling contracts with the sugar planters in the mill district, effective for thirty (30) crop years from 1921-1922 to 1951-1952. The Central, under the milling contracts, undertook to construct, maintain and operate a railway system over and across the lands of the sugar planters in the mill district for the trans-portion of sugar cane, materials and supplies. Concomitant to the above obligation, the landowners granted to the Central corresponding rights of way over their lands.

In 1920 the Central constructed railroad tracks on the lands of the sugar planters. One trunk thereof traverses the ha-cienda San Vicente.

The 1919 milling contracts expired automatically with the 1951-1952 crop year.

On March 30, 1953 the Central and the Asociacion de Hacenderos de Silay-Saravia, representing sugar planters in the mill district (hereinafter referred to as the Asociacion), among them the Locsins, entered into a memorandum agreement, the term of which was for twelve (12) crop years ending with the 1963--1964 crop year. Paragraphs 7, 8, 10 and 12 of this memorandum agreement are hereunder quoted:

"7. The Mill recognizes the Asociacion de Hacenderos de Silay-Saravia or its successors in interest as the sole agent of the planters of the Silay-Saravia Mill District in its dealings with them during the period of the milling contract. The Mill binds itself not to enter into milling contracts with any individual planter except through the Asociacion de Hacenderos de Silay-Saravia."

"8. The Planter agrees and undertakes to plant to cane at least one-third (1/3) of his land each crop year, and to carry another one-third (1/3) thereof in ratoons, or at his option, and sub-ject to the prior approval of the Planter's Association, to plant to cane each crop year not less than one-half (1/2) of his land, leaving the rest to

fallow or planted to other crops."

"10. Subject to the provisions stated in paragraph 9 of this Agreement, the rights of way availed of by the PARTY OF THE SECOND PART under the previous milling contract between the Mill and the Planter shall be granted to said PARTY OF THE SECOND PART for the entire period of the milling contract to be signed. The PARTY OF THE SECOND PART shall have two (2) years from the expiration of the contract within which to remove the railroad tracks at its expense, unless prevented from so doing by force majeure, and after which period the rail-road tracks not so removed shall become the absolute property of the Planter on whose property it is situated. During that period the Planters will be granted the use of said railroad tracks or the remaining portions thereof, free of charge, provided that this does not delay or interrupt the removal of the said tracks by the Mill."

"12. The Haciendas or sugar cane plantations initially affected by this Agreement are more or less the same as those affected by and described in the previous milling contracts executed between the individual planters and the Hawaiian-Philippine Company during the crop years 1921/1922-1951/1952 as registered in the offices of the Register of Deeds of the Province of Negros Occidental."

The "previous milling contracts" referred to in paragraphs 10 and 12 above are the 1919 milling contracts.

The 1953 memorandum agreement expired automatically with the 1963-1964 crop year.

Prior to the expiration of the 1953 memorandum agreement, or sometime in 1961, the Central and the Asociacion took steps to negotiate a new agreement; the Asociacion demanded a new milling contract on a 70% participation for the sugar planters and 30% participation for the Central, and the eventual purchase by the sugar planters of the sugar mill. These negotiations collapsed. In April 1962 the Asociacion pressed its aforesaid demands and made it known that unless the Central sold its sugar mill to the sugar planters, the Asociacion would buy a sugar mill and install and operate it in the mill district. Shortly afterwards the Asociacion organized the Agricultural Industrial Development Company of Silay-Saravia Incorporated (hereinafter referred to as the AIDSISA), with the primary purpose of establishing and operating a sugar mill in the Silay-Saravia mill district. The Asociacion and the AIDSISA thereafter signed a 15-year milling contract to take effect with the 1964-1965 crop year, and negotiations proceeded for the purchase of a sugar mill from abroad. The Locsin's were among the signatories to this 15-year milling contract.

On May 28, 1962 the Central informed the Asociacion and all adherent sugar planters of its willingness to negotiate a new milling contract, with the admonition that in the event the parties (Central-Planters) could not agree on an extension of the 1953 memorandum agreement, or, if no new milling contract is entered into between them after its expiration, the Central would invoke and "abide by the pertinent provisions of Republic Acts 809 and 1825 including the prescribed division of shares between the sugar mill and the sugar planters if said Acts shall not finally be declared invalid by the courts and are still in force."

On June 14 the Asociacion informed the Central that (1) it would resume negotiations for a new milling contract on a 70% participation for the sugar planters and 30% participation for the Central; (2) it desired an option to buy 50% of the common shares of the Central upon the signing of a new contract and the remaining 50% common shares 5 years afterwards, and (3) its decision to buy and own the sugar mill or to establish a new one is "irrevocable."

On June 25 the Central filed an action for declaratory relief with the Court of First Instance of Manila (CC 50760)[1] against the Asociacion, Arsenio J. Jison, and others named in an attached list, numbering 74 in all, praying that judgment be rendered:

"(1) Declaring Section 4 of Republic Act No. 1825 unconstitutional and hence, null and void.

"(2) In any event, defining the rights and obligations of petitioner Central and respondents Arsenio J. Jison, et al. and other sugar cane planters similarly situated as said respondents, under said statutory provision; (a) the sugar cane planter is not the owner of the totality of the sugar production allowance or quota; (b) the right of the sugar cane planter to transfer the quota can not prejudice the central's share in said quota; (c) the sugar cane planter can not establish a new central in a district where there is a milling contract in force and the existing central can satisfactorily meet the milling needs of planters therein; (d) the sugar cane planter can not transfer the quota to a central which did not produce sugar during the pre-war years specified under Philippine and American sugar quota legislation; (e) the sugar cane planter can not transfer the quota to any other central, so long as the existing central in the district is willing to grant it the sharing participations established under Section 1 of Republic Act No. 809 in the absence of a written milling contract."

On June 29 the Asociacion informed the Central by letter that it "welcomes your initiative in instituting an action for declaratory relief to determine the respective rights of the millers and the planters under R.A. 1825. Such action would constitute a distinct service not only to us but also the entire sugar industry * * *."

On February 14, 1965 the AIDSISA put up a sugar mill in the Silay-Saravia mill district.

Sometime in November, 1965, the Central submitted the following two proposals to the sugar planters in the mill district respecting the use and operation of the railway system:

"(1) The rights-of-way granted by the Planters to the Central over and across their respective plantations, as provided for in the Memorandum Agreement shall continue and be effective, in the meantime that the issue pertinent to said rights-of-way has not been finally decided by the courts.

"(2) Should final court judgment be in favor of the planters, the Central shall have one year from the date of such final judgment within which to remove the rails from the plantations concerned, and those rails not so removed within said period shall become the property of the owners of the respective plantations."

When these proposals were rejected by a majority of the sugar planters, the Central decided to dismantle the railway system and remove the tracks from the lands of the sugar planters, and so informed the latter that pursuant to paragraph 10 of the 1953 memorandum agreement, the Central "shall have two (2) years from the expiration of this contract within which to remove the railroad tracks at its expense, unless prevented from so doing by force majeure, and after which period the railroad tracks not so removed shall become the absolute property of the Planter on whose property it is situated."

On January 31, 1966 Luis F. Magalona and other sugar planters in the mill district, numbering 94 in all (who do not constitute a majority of the sugar planters in the said mill district), filed a complaint for injunction with the Court of First Instance of Negros Occidental (CC 246), praying that an ex parte writ of preliminary injunction issue restraining the Central from removing the railway system or any portion thereof from their lands; that after a hearing on the merits, the writ be made permanent until the close of the 1978-1979 crop year, pursuant to milling agreements which the plaintiffs allegedly entered into; and that the Central be directed to remove the railway system only after the said 1978-1979 crop year under just and equitable conditions.

The 94 plaintiffs alleged that in the absence of written milling contracts between the Central and a majority of the sugar planters in the mill district, the Central-Planters relationship should be governed by sections 1 and 5 of R.A. 809,[2] Under which law the Central is bound to mill the sugarcane of the planters in the mill district; that the then milling season in the district would continue for 3 more months from February to April 1966, for which reason the Central had to mill the sugar cane remaining in the fields; that a common practice in sugar plantations is that new plantings and cultivation of ratoons for the subsequent crop year are done simultaneously with the harvest of seasoned canes, and for the ensuing 1966-1967 crop year the planters had already planted sugar cane and/or cultivated ratoons and they would continue to do so until the close of the 1965-1966 milling season, and

the new crops would be milled necessarily at the sugar mill of the Central; that in view of the obligation of the Central to mill the sugar cane the railway system would be absolutely necessary and indispensable; that the Central has sued the Asociacion, et al., in the CFI of Manila (CC 50760),^[3] and the AIDSISA and others in the Court of First Instance of Negros Occidental (CC-214-S); that in the first case the Central maintained that even in the absence of a milling agreement between the Central and the sugar planters, the latter are obliged under existing laws to mill their sugar cane in its (Central's) sugar mill, and, without its consent, cannot transfer their sugar production allowance and coefficient or quota to any other sugar mill; that in CC 214-S the Central maintained that on the basis of applicable laws and rulings of this Court, it has acquired a vested right as the exclusive mill or mill company in the Silay-Saravia mill district 19 for all sugar quotas allocated to the said district in the form of production allowance and marketing allotments, as well as the vested right to demand from the planters after the expiration of the milling contracts the re-assumption by both parties of the same terms and conditions mutually stipulated by them under the said milling contracts and the continuation of the Central-Planters relationship as long as the said laws are effective and the sugar limitation and quota system established thereunder continue; that the Central in the said civil cases 50760 and 214-S impliedly assumed to keep the railway system intact at least up to the termination of the said cases; that independently of the said cases and in view of the absence of written milling contracts between the Central and a majority of the sugar planters in the mill district, the former might refuse to mill the sugar cane for the 1966-1967 crop year and on to include the 1978-1979 crop year, or, during the same crop years, the sugar planters may refuse or neglect to plant sugar cane in their lands, in any of which eventuality the Philippine Government, pursuant to sections 4 and 5 of R.A. 809, "in order to avoid a deficiency or delinquency of the national quota," might take over the sugar mill and/or the sugar plantations and operate and administer them under its name and authority, and in these events the railway system would be vital and necessary; that if not enjoined, the Central will dismantle and remove the railway tracks thus precluding the hauling and transportation of sugar cane and cause great and irreparable damage to the sugar planters; that while other means of transportation might be provided, like trucks and truck-trailers, their evident shortcomings pitted against the efficiency of locomotives and rail cars would result in permanent irreparable injury to the complainants; that an injunctive writ would avoid multiplicity of suits; and that their complaint for injunction is the only plain, speedy and adequate remedy in the ordinary course of law to restrain the Central from removing the railway system or any part thereof from the mill district.

On February 9 the CFI of Negros Occidental (CC 246) issued an order stating that at the hearing on the petition for preliminary injunction the counsel for the Central "appeared and confirmed the main allegations in the Complaint - particularly that despite its position that the previous milling agreement between it and the Plaintiffs had been renewed by force of law, the Defendant intends to remove the rails to protect its ownership over the said rails;" and the same counsel further indicated that "an injunction would safeguard the said rights of ownership." The same court also stated that "the Plaintiffs are entitled to the relief demanded," and consequently issued a writ of preliminary injunction restraining the Central from removing the railway system or any portion thereof pending decision of the case.

On March 4 the Central filed its answer to the basic complaint, containing admissions with clarifications and amplifications, and averring that (1) under the doctrine announced in Asturias Sugar Central, Inc. vs. Montinola, 69 Phil. 725, the railroad rights-of-way have by force of law been extended up to July 3, 1974 as to quota "A" and up to the end of 1973-1974 crop year as to quotas "B" and "C"; (2) the grant of railroad rights-of-way is an indivisible obligation assumed collectively and generally by all the sugar planters in the mill district under the 1919 milling contracts and the 1953 memorandum agreement; (3) should it be eventually resolved by the courts that there is no contract to govern the relationship between the Central and the sugar planters in the mill district, still it would be "quite remote" for the Central to refuse milling the sugar cane in the

district, it having manifested re-peatedly its willingness to mill the cane on the basis of the parti-cipation rates fixed by section 1 of R.A . 809, and until such time as the constitutionality of the said Act shall have been decided by the courts; (4) the Central has decided to dismantle and remove the railway system because "it would not want to run the risk of losing its ownership over said railways," pursuant to paragraph 10 of the 1953 memorandum agreement; (5) while in civil case 50760, the CFI of Manila, in its order of February 11, 1966, held that "where the central is willing to grant the participation pro-vided for in paragraph 4 of Republic Act 1825, and the adherent planters are willing to accept such participation, the other rights and obligations of the parties shall be covered by the memoran-dum of the parties which shall be deemed reproduced in accord-ance with the ruling in the case of Asturias Sugar Central vs. Montinola," nevertheless until that case is finally decided on ap-peal, the Central "continues to be subject to the risk of losing ownership of its railways * * * unless it dismantles the said rail-ways from the plantations;" and (6) the basic complaint failed to include all the sugar planters in the mill district, or, at least, all sugar planters who have granted rights-of-way to the Central over and across their plantations, and their non-inclusion would possibly prevent "the grant of complete relief as between the pre-sent plaintiffs and defendant."

Also on March 4 the Central filed a third-party complaint against Lourdes de la Paz and other third-party defendants, numbering 170 in all, including the Locsins, averring, in addition to allegations (1) to (6) above, as an alternative cause of action, that if the 1919 milling contracts, the 1953 memorandum agree-ment and the ruling in Asturias, supra, do not justify a grant and/ or continuation of railroad rights-of-way over and across the plantations in the Silay-Saravia mill district, "the third-party plaintiff is entitled to said rights-of-way as a legal easement un-der the Philippine Civil Code, the sugar limitation laws, and the pertinent executive orders and regulations issued in implementa-tion thereof." The Central prayed that judgment be rendered, in the alternative, (1) to compel the sugar planters in the mill dis-trict, including the third-party defendants to grant the Central railroad rights-of-way necessary for its railway system; or (2) if the sugar planters cannot be compelled to grant the same, the Central be given a reasonable time (not less than a year) to dis-mantle and remove the railway system from the plantations concerned; and that the status quo be preserved during the pendency of the case.

On April 30 the third-party defendants answered the third-party complaint, alleging, inter alia, that the Central had never averred or maintained that the grant of railroad rights-of-way over and across the lands of the sugar planters is an indivisible obliga-tion assumed collectively and generally by all the sugar planters in the mill district; that such averment was made by the Central only after and as a result of the sugar planters' assertion of their rights under paragraph 10 of the 1953 memorandum agreement; that no such indivisible and collective obligation could have been under-taken by the sugar planters under the milling contracts or memo-randum agreement as no consideration was given to or received by them in virtue of such obligation; that their obligations under the milling contracts and the memorandum agreement are individual and separate, unrelated to any other similar obligation in the same contracts and agreement; that there is no need for the Central to demand a railroad right-of-way in the mill district because the su-gar cane produced therein can be transported by other means of transportation such as trucks and truck-trailers; that the acts of the Central after the enactment of Act 4166[4] of executing and at-tempting to execute new milling contracts with the sugar planters in the mill district providing for definite expiration periods in them clearly indicate that it did not believe that the milling con-tracts and the memorandum agreement were automatically re-newed; that assuming arguendo that the ruling in Asturias, supra, is still controlling, nonetheless the reassumption mentioned in that case refers to the rights and obligations of the Central and the planters on the basic milling conditions, such as participation, rate, polarization, etc., and does not cover other terms like the grant of railroad rights-of-way, which, even if related, are nei-ther essential nor indispensable to its milling obligation since the Central can comply with its milling obligations by transporting su-gar cane from the plantations to the mill site by truck and truck-trailers; that having failed to dismantle or

remove its rails within two years after the 1963-1964 crop year, the Central has lost own-ership thereof to the sugar planters-owners; and that they deny they were "duly informed" of the Central's decision to dismantle its railroad tracks, the truth being that it was more practical for the Central to risk an adverse court decision after several years in respect to the ownership of the rails rather than remove them at its expense, aside from the fact that it does not want to incur additional expense in acquiring trucks and truck-trailers. The third-party defendants prayed that the third-party complaint be dismissed, that they be declared owners of the railroad tracks found in their respective lands, and that they be awarded reason-able attorney's fees.

The third-party defendants O. Ledesma & Co., Inc., Jua-nita J. Ledesma, Velia and Anita Gorres, filed a separate answer to the third-party complaint, reproducing "in toto the allegations of the basic Complaint" in civil case 246, "in so far as said alle-gations affect each of them, and adopt and make their own all said allegations and prayers, reserving unto them, however, the right to file amendatory answer as the development of the issues warrants."

On May 19 the Central answered the counterclaim for attor-ney's fees, further averring that the construction and maintenance of the railroad rights-of-way and system by it were "sufficient and valid consideration for the collective, solidary and indivisible obli-gation of petitioners to grant or cause to be granted the rights-of--way necessary for said railway system;" that it had two years from the 1963-1964 crop year within which to remove the railroad tracks and that said period has not yet expired; and that by reason of the writ of preliminary injunction issued by the respondent Judge, it had been prevented by force majeure from removing the railroad tracks and that therefore it remained the owner thereof. The Cen-tral prayed for the dismissal of the third-party defendants' coun-terclaim.

On November 18 Jose Ma. Locsin notified the Central that five days from receipt of such notice, he will "place obstructions and close my hacienda, Hda. San Vicente x x x to all traffic tra-versing the same by way of the railroad lines," placed a sign "PRIVATE PROPERTY NO TRESPASSING JOSE MA. LOCSIN" alongside the portion of the railroad tracks traversing a boundary of the hacienda, and erected two posts, one on each side of the railroad tracks.

On November 21 the Central filed an urgent ex parte motion for issuance of a writ of preliminary injunction, reiterating the main allegations in its third-party complaint, and praying that the Locsins be enjoined from obstructing and closing the portion of hacienda San Vicente through which the railroad lines pass.

On November 21 also, the 94 sugar planters, complainants in civil case 246, filed a manifestation that as such plaintiffs, they "in general, have legal interest in the preservation and free use of the entire railways system subject matter of the Complaint, and the plaintiffs Danilo Gamboa, Estate of Enrique Jaranilla, Letty Mijares, Priscilla Maglinte, and Pilar G. Hofileña, in particular, have a special legal interest in that portion of the said railways passing through Hacienda San Vicente, for the additional reason that their sugar cane are presently being hauled or about to be hauled by cane railways;" that they "have legal interest in the success of the afore-said 'Urgent Ex-Parte Motion for Preliminary Injunction' of the defendant and legal interest against the acts which defendant seeks to be restrained in that pleading;" and that they adopt the urgent ex parte motion for preliminary injunction and join in the prayer for its approval.

On November 22 the CFI of Negros Occidental issued an order, granting a writ of preliminary injunction restraining any and all parties to the case, particularly the Locsins, "from removing or in any manner damaging the railroad lines of the third-party plaintiff (Central), and/or obstructing, impeding or in any manner hindering its continued use and operation thereof, pending final decision of this case." This order reads in part:

"The plaintiffs have filed a manifestation joining in the petition for the issuance of such a writ, because the sugar of some of them are hauled on the portion of the railways going thru Hacienda San Vicente.

"Among the issues raised by the pleadings are:

- (a) Who owns the railways — the Central or the individual planters?
- (b) Does the Central still own and enjoy a right-of-way thru the land of the planters?

"To allow any of the planters (whether plain-tiffs or third-party defendants) to block the free movements of cane cars at this time — i.e., before final resolution of the issues and during the milling season — is to disturb the status quo; would work injustice to the Central and to the plan-ters whose crop has to be transported to the mill; and would seriously affect the production of sugar and injure the national economy.

"The said railways system, it may be added, has been in use by planters and Central these many, many years. To maintain the status quo for sometime yet cannot possibly prejudice greatly any one."

On November 28 the Locsins moved to dissolve the writ, on the ground that it was issued with grave abuse of discretion, because (1) the Central's right to maintain and operate the rail-way system within the hacienda San Vicente ceased to exist at the end of the 1964-1965 crop year, pursuant to paragraph 1 of the 1953 memorandum agreement; (2) there is no specific averment in the Central's third-party complaint and Urgent Ex-Parte Mo-tion for Preliminary Injunction that it has established the precon-ditions for the grant of a railroad right-of-way over the hacienda, pursuant to articles 649 and 650 of the Civil Code of the Philippines; (3) assuming arguendo that the Civil Code grants the Cen-tral the necessary railroad right-of-way over and across the hacienda, the Central waived this right when it executed the 1919 milling contracts and the 1953 memorandum agreement stipulating therein that the existence of the railroad tracks would be co-terminous with the life of the said contracts; (4) the railroad tracks are neither necessary nor indispensable to the operation of the Central's sugar mill, pointing out that at least two other sugar centrals in Negros Occidental employ trucks and truck-trailers in transporting their cane from the plantations to their respective mill sites; and (5) the Central in fact threatened to dismantle its railway complex in the entire Silay-Saravia mill district and would have succeeded in doing so had it not been res-trained.

On or about December 8 the Central opposed the motion to dissolve the writ of injunction, asserting that its dissolution would pave the way for the perpetration of the threatened acts - the blocking off of portions of the railway system - and once free movement through the railway system is impeded, the railway system would be rendered useless; that dissolution of the injunc-tion would negate whatever judgment may be rendered on the main reliefs sought by the 94 plaintiffs in their basic complaint and would do violence to the judgment of the CFI of Manila in CC 50760, which, "in fine, directs the continued operation of the railway sys-tem as one of the obligations under the Memorandum Agreement (milling contract) which were indeclinably reassumed by the par-ties by operation of law," and now on appeal in L-26344; and that the Central being "in uncontested possession of the railway sys-tem at the time the threatened acts of disturbance became known, to allow any of the movants to block off portions of the said rail-way system would be to run roughshod over the cardinal rule of law that every possessor should be respected in his possession (art. 539, Civil Code)."

On January 7, 1967 the said court issued another order, stating that "to dissolve the preliminary injunction at this stage is to allow one of the parties to go ahead and do what it pleases with the railway system even before the Supreme Court will have resolved in the appealed case from the Court of First Instance of Manila exactly what the rights of the Company and the planters are under the Asturias case -- and particularly the right to ope-rate and maintain the railway," and consequently maintained the writ of preliminary injunction.

Hence the present petition, the Locsins contending that the orders of November 22, 1966, and January 7, 1967, were is-sued with grave abuse of discretion and in excess of jurisdiction, and praying that a restraining order issue pending a hearing of the petition enjoining respondent court from enforcing the writ, and that after a hearing on

the merits the said orders be annulled and the injunction made permanent.

We gave due course to the petition on March 15, 1967 and required the respondents to file their answer.

On the Procedural Issues

The petition, the respondents maintain, is fatally defective and should be dismissed, because (1) it was filed without the petitioners first instituting a motion for reconsideration of the order of January 7, 1967; and (2) it does not implead as co-respondents the 94 complainants and the 170 third-party defendants (minus the Locsins), pursuant to section 5 of Rule 65 of the Revised Rules of Court providing in part that when the petition filed relates to the acts or omissions of a court or judge, "the petitioner shall join, as parties defendant with such court or judge, the person or persons interested in sustaining the proceeding in the court."

1. When a definite question has been properly raised, argued, and submitted to a lower court, and the latter has decided the question, a motion for reconsideration is no longer necessary as a condition precedent to the filing of a petition for certiorari in this Court.[5] From the order of November 22, 1966, enjoining any and all parties to the case "from removing or in any manner damaging the railroad lines," the Locsins filed a motion to dissolve the said writ, contending that the writ was issued in excess of jurisdiction and with grave abuse of discretion, and alleging five reasons in support thereof. This motion was denied by the respondent court when, in its order of January 7, 1967, it maintained the effectivity of the writ. The motion to dissolve the writ satisfied the requirements of a motion for reconsideration; another one of the same specie would be a patent superfluity.

2. 43 C.J.S. 35 says that in order to be entitled to an injunction, a complainant must be the "real party in interest," and that a real party in interest is one "who has an actual and substantial interest in the subject matter, as distinguished from one who has only a nominal interest, having reference not merely to the name in which the action was brought, but to the facts as they appear or record." And 1 Sutherland's Code Pleading, Practice and Forms, section 12, page 11, defines a real party in interest as "the party who would be benefited or injured by the judgment or the 'party entitled to the avails of the suit'. 'Interest', within the meaning of this rule, means material interest, an interest in issue and to be affected by the decree, as distinguished from a mere interest in the question involved, or mere incidental interest."

Tested by these rules the 94 plaintiffs and 170 third-party defendants (minus the Locsins) are not real parties in interest entitled to an injunction. While the respondent court found that they "have legal interest in the preservation and free use of the entire railway system," including of course the portion of the hacienda San Vicente in question, such "legal interest" is merely incidental to, and entirely dependent upon, the primary rights and interests of the Central in maintaining and operating the railway system. This is so because the 94 plaintiffs and the 170 third-party defendants have no cause of action against the Locsins, that is, they have no right to demand from the latter "the preservation and free use" of the part of the railway system that traverses the hacienda San Vicente. They have no contractual relations with the Locsins. Neither have they demanded that the Locsins grant them a railroad right of way over the hacienda San Vicente. And, significantly, they have not come forward to ask that they be impleaded as parties to the instant petition.

On the Merits

The basic issue herein posed is whether or not the respondent court acted in excess of jurisdiction and/or with grave abuse of discretion in issuing the writ of preliminary injunction.

This Court, in *Angela Estate, Inc., et al. vs. Court of First Instance of Negros Occidental et al.*, [6] explained quite unequivocally that a writ of preliminary injunction

"may be issued at any time after the commencement of an action and before judgment, when it is established

that the plaintiff is entitled to the relief demanded and only when his complaint shows facts entitling him to such relief. This extraordinary writ is not designed to protect contingent or future rights. 'An injunction will not issue to protect a right not in esse and which may never arise or to restrain an act which does not give rise to a cause of action. (32 C.J. pp. 34, 35)' 'Injunction, like other equitable remedies, will issue only at the instance of a suitor who has sufficient interest or title in the right or property sought to be protected. ... For the court to act, there must be an existing basis of facts affording a present right which is directly threatened by the act sought to be enjoined. An impending or threatened invasion of some legal right of the complainant, and some interest in preventing the wrong sought to be perpetrated must be shown. It is always a ground for denying injunction that the party seeking it has insufficient title or interest to sustain it, and no claim to the ultimate relief sought - in other words, that he shows no equity. Want of equity on the part of the plaintiff in attempting to use the injunctive process of the court to enforce a mere barren right will justify the court in refusing the relief even though the defendant has little equity on his side. The complainant's right or title, moreover, must be clear and unquestioned, for equity, as a rule, will not take cognizance of suits to establish title, and will not lend its preventive aid by injunction where the complainant's title or right is doubtful or disputed. He must stand on the strength of his own right or title, rather than on the weakness of that claimed by his adversary.' The possibility of irreparable damage, without proof of violation of an actually existing right, is no ground for an injunction, being a mere *damnum absque injuria*."

The principal relief sought by the Central, found in its third-party complaint, is that in the event the 1919 milling contracts, the 1953 memorandum agreement, and the ruling in *Asturias*, supra, do not justify the granting and/or continuation of the railroad rights-of-way, the Central is entitled to, and should therefore be granted, a right-of-way as a legal easement under the Civil Code of the Philippines, Act 4166 (otherwise known as "the Sugar Limitation Law"), and the pertinent executive orders and regulations issued in implementation thereof.

The 1919 milling contracts, as earlier stated, expired automatically with the 1951-1952 crop year. The 1953 memorandum agreement expired automatically with the 1963-1964 crop year.

The Central contends, notwithstanding, that its relationship with the sugar planters in the mill district, and its right to maintain and operate the railroad rights of way, continue by operation of law, conformably with the ruling in *Asturias*, hereunder reproduced:

"Fue en virtud de las mencionadas Leyes No. 213 del Congreso de los Estados Unidos, y No. 4166 de la Legislatura Filipina, como los recurridos se vieron obligados a moler sus cañas en la Central de la recurrente. Hubo por consiguiente una indeclinable reasunción tanto por los recurridos como por la recurrente de su contrato celebrado antes de la zafra de 1931-1932, reanudando entre sí, las relaciones que entre ellos entonces existían, y viéndose necesariamente obligadas a las prestaciones que se habían prometido mutuamente. Esto es obvio porque las obligaciones no solamente nacieron de los contratos y cuasi contratos, y de los actos y omisiones ilícitos, o culposos o negligentes sino también y más principalmente, de la ley. (Art. 1089, Código Civil)."

The contention is old saw, in a manner of speaking, which we disposed of in *Angela Estate*, supra, in the following words: "That case referred to a planter who had a verbal milling contract with a central before the crop year 1931-32. Under this contract the former received from the latter a certain form of bonus as additional participation. In the crop years 1932-1933 and 1933-1934, the planter milled his sugar cane with another central. After the passage of Act 4166 in 1934, the planter resumed milling his sugar cane with the first central. Resolving the question whether the planter was entitled to the same bonus which the central had given him in the 1931-1932 and previous crop years, this Court ruled in the affirmative, holding that there was an indeclinable reassumption both by the central and the planter of their contract subsisting before the 1931-1932 crop year, reviewing the relations which between them then existed, they finding themselves necessarily obligated by the undertaking which they had mutually assumed." Apart, therefore, from the fact that the issue therein posed is

completely alien to the main issue in the present case, which is, whether the Central is entitled to a right of way over the hacienda San Vicente the inescapable, fundamental and decisive difference is that the verbal milling contract of the parties in Asturias was deemed re-newed to govern the relationship which existed between them; while in the case at bar, the 1919 milling contracts and the 1953 memorandum agreement were not renewed.

Is the Central entitled to a legal easement under the new Civil Code? This was the self-same question resolved by this Court in Angela Estate, supra:

"By express provision of articles 649 and 650 of the new Civil Code, the owner of an estate may claim a compulsory right of way only after he has established the existence of four requisites, namely, (1) the estate is surrounded by other immovables and is without adequate outlet to a public highway; (2) after payment of the proper indemnity; (3) the isolation was not due to the proprietor's own acts; and (4) the right of way claimed is 'at a point least prejudicial to the servient estate, and in so far as consistent with this rule, where the distance from the dominant estate to a public highway may be the shortest.' The onus is upon the owner of the dominant estate to show by specific averments in his complaint the existence of the requisites or pre-conditions enumerated. And in granting the writ of preliminary injunction, the order of the court must show by specific finding, even preliminary, that the preconditions exist."

The record yields no indication that the Central has met or satisfied the requisites or pre-conditions required by the Civil Code.

The Sugar Limitation Law (Act 4166) is erroneously invoked as authority to sustain the position that the Central is entitled to railroad rights of way on the hacienda San Vicente. Act 4166, even with the amendments introduced by Commonwealth Acts 77 and 323 and Republic Acts 1072 and 1825, contains no provision conferring upon the Central the right to establish rights of way on the lands of the adherent planters. It would appear from its title and declaration of policy that Act 4166 was enacted solely for the purposes of limiting and allocating the production of sugar in the Philippines as well as regulating the processing and marketing thereof.

The respondents likewise contend that the dissolution of the writ of preliminary injunction would do violence to the judgment of the CFI of Manila in CC 50760, which, according to them, "directs the continued operation of the railway system as one of the obligations under the 1953 Memorandum Agreement which were indeclinably reassumed by the parties by operation of law."

Without prejudging the merits of the appeal in L-26344, nothing in either the body or the dispositive portion of the decision in that case supports this contention. The dispositive portion of the said decision is quoted hereunder:

"WHEREFORE, judgment is hereby rendered declaring that Sections 1 and 2, Republic Act 809, Section 4, Republic Act 1825, and Section 3, Republic Act 1072, are valid and constitutional; that the respondent planters cannot transfer their export sugar, or 'A' and 'AA' sugar to a central which did not produce sugar in 1940; and that the respondent planters cannot transfer their export quota, or 'A' and 'AA' sugar to any other central as long as the petitioner is willing to grant them the participation provided for in Section 1, Republic Act 809 in the absence of a milling contract."

Indeed, the CFI of Manila in the said civil case could not have decreed the continuous operation of the railway system as one of the obligations under the 1953 milling agreement that were indeclinably reassumed by the parties by operation of law, since all that the Central prayed for in the said cases are (1) to declare section 4 of R.A. 1825 unconstitutional; and (2) in any event, to define the rights and obligations of the Central and the sugar planters in the district under the said Act. This Act, by its title, provides for "THE ALLOCATION, REALLOCATION AND ADMINISTRATION OF THE ABSOLUTE QUOTA ON SUGAR," and this Court has expressed the view in Angela Estate, supra, that R.A. 1825, among other Acts therein mentioned, "contains no provision conferring upon the Central the right to establish rights of way on the lands of the adherent planters."

It then follows ineluctably that in the absence of a renewal contract or the establishment of a compulsory servitude of right of way on the same spot and route which must be predicated on the satisfaction of the preconditions required by law, there subsists no right of way to be protected or respected.

The Central finally maintains that the writ of preliminary injunction should be preserved to safeguard its rights of ownership of the railways. Such claim of ownership, however, is contested by the sugar planters, particularly the third-party defendants, claiming that the Central, having failed to dismantle or re-move the rails within two years after the 1963-1964 crop year, thereby lost ownership in their favor. This conflict as to the ownership of the railways can best be considered after this case is tried on the merits.

The pronouncements of this Court in *Bacolod-Murcia Milling Co. vs. Capitol Subdivision, et al.*, [7] L-25887, July 26, 1966, reiterated in *Angela Estate, supra*, are apropos to the present case:

"In truth, the court of origin seems to have proceeded on the erroneous assumption that, even after expiration of its contractual right of way, petitioner Central was entitled to a compulsory right of way in the same location and route it has been using up to the present. This is not true: the Central's use of the present railway for the preceding 45 years was based on the assent of the Sub-division's predecessors-in-interest, as evidenced by their milling contract, while a compulsory servitude of right of way on the same spot and route must be predicated on the minimum inconvenience to the would-be servient estate, in addition to the other requisites above set forth. There is no specific finding by the court of origin that the prerequisites exist, and the lack of it suffices to negate the Central's right to the servitude claimed, as it likewise negates the propriety of the temporary injunction issued.

"In issuing the preliminary writ for defendant to permit the Central to use its railway, in the manner established under the milling contract, the court of origin in effect extended that corresponding part of the contract even beyond the term stipulated by the parties. Such action is not warranted by law. The function of an injunction is the maintenance of the status quo as of the time of its issuance, and at that time, the right of the Central under the milling contract had uncontrovertibly expired. It needs no emphasizing that the court can not create contracts between the parties.

x x x

"[T]he preliminary injunction was issued on an erroneous premise, 'the premature assumption that respondent Bacolod-Murcia Milling Co., Inc., is entitled to the legal easement prayed for by it', since the existence of the statutory requisites for such easement had not been properly averred or proved. x x x Of course, petitioner may duly show at the hearing on the merits that the pre-conditions required by the Civil Code do actually exist; but until that is done, the right to the legal servitude is not clear, and the writ of injunction is unwarranted, and issued in grave abuse of discretion."

ACCORDINGLY, the petition for certiorari is granted, and the orders of November 22, 1966, and January 7, 1967 are annulled and set aside, at the private respondent's cost.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Fernando, Capistrano, and Barredo, JJ., concur.

Teahankee, J., did not take part.

[1] The case is now on appeal to this Court (G.R. L-26344, entitled "Hawaiian-Philippine Company, Petitioner-Appellant versus Asociacion de Hacenderos de Silay-Saravia, Inc., et al., Respondents-Appellants").

[2] "AN ACT TO REGULATE THE RELATIONS AMONG PERSONS ENGAGED IN THE SUGAR INDUSTRY."

[3] Luis F. Magalona, et al. ceased to be members of the Asociacion de Hacenderos de Silay-Saravia, Inc. in 1964, and have organized themselves into an association denominated ASSOCIATED PLANTERS OF SILAY-SARAVIA

[4] Otherwise known as "The Sugar Limitation Law," approved Dec. 14, 1934.

[5] Pajo, et al. vs. Ago, et al., L-15414, June 30, 1960.

[6] L-27084, July 31, 1968, 24 SCRA 500.

[7] L-25887, July 26, 1966, 17 SCRA 738-739.

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