

**PEDRO BABALA, PETITIONER, VS. HON. MAXIMINO ABAÑO, ET AL.,
RESPONDENTS.***G.R. No. L-4600. February 28, 1952*

Ponente: PARAS, C.J.

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Consequent upon a dispute over a market stall, an information for grave coercion was filed on January 26, 1951, in the Court of First Instance of Camarines Norte, against the herein petitioner Pedro Babala, at the instance of the herein respondent Patricio Canela. On the same date, respondent Canela filed in said court a civil action against petitioner Babala, for damages based on the same facts alleged in the information for grave coercion, in which action respondent Canela prayed for the issuance of a writ of preliminary mandatory injunction. In the civil case, the petitioner insisted that the criminal case should have precedence. The Court of First Instance of Camarines Norte, however, issued an order dated February 6, 1951, providing that the trial of the civil case upon the merits was suspended until after the criminal case shall have been decided and terminated, but that the hearing on the petition for preliminary injunction might be proceeded with. The present petition for certiorari and prohibition was instituted by the petitioner to set aside this order, it being argued that the criminal case suspended the trial of the civil case, including the matter of the issuance of the writ of preliminary injunction.

Petitioner's contention is unfounded. In the case of *Ramcar, Inc., vs. De Leon* (44 Off. Gaz., p. 3795; 78 Phil., 449) we have already ruled that, although the civil action is suspended until final judgment in the criminal case, the court is not thereby deprived of its authority to issue preliminary and auxiliary writs, such as preliminary injunction, attachment, appointment of receiver, fixing amounts of bonds, and other processes of similar nature which do not go into the merits of the case. It was reasoned out that "if those ancillary processes cannot be resorted to during the suspension, there is no sense in the rule providing only for suspension, when its effect is to kill the action."

It becomes unnecessary to touch upon the contention of the respondents that the petition for certiorari and prohibition is defective for lack of verification.

Wherefore, the petition is dismissed with costs against the petitioner. So ordered.

Feria, Bengzon, Padilla, Tuason, Montemayor, Reyes, Jugo, and Bautista Angelo, JJ., concur.

DISSIDENTE**PABLO, M.:**

Disiento por las mismas razones expuestas en mi disidencia en *Ramcar, Inc., contra De Leon*, 44 O. G., 3795; 78 Phil., 449.

Petition dismissed.

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