

HADJI DIAMBANGAN DEMARONSING, PETITIONER, VS. HONORABLE TEODULO C. TANDAYAG, AS DISTRICT JUDGE OF THE COURT OF FIRST INSTANCE OF LANA DEL SUR AND DATU NATANGCOP INDOL, RESPONDE...*G.R. No. L-27057. August 21, 1974*

Ponente: FERNANDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/af4b9e9e004d/>**FERNANDO, J.:**

This certiorari proceeding is essentially predicated on the alleged denial of procedural due process. While petitioner did assail the validity of various orders of the then respondent Judge Teodulo C. Tandayag, the root cause of the grievance set forth was the issuance of a preliminary injunction[1] that would prevent him from constructing a house or from performing any act indicative of ownership on the land sought to be recovered by private respondent in an action for recovery of possession. Petitioner would assert that while duly notified of the hearing, he was not given an opportunity to hire counsel. Inasmuch, however, as his very petition did acknowledge that four orders[2] were subsequently issued maintaining such injunction after he had fully argued his side of the case, with no question raised as to lack of counsel, it can hardly be affirmed that he was denied procedural due process. Petitioner would seek to fortify his stand by alleging that even on the assumption that there was basis for the original injunction, the failure of the lower court to set it aside after an amended complaint changing his cause of action did amount to grave abuse of discretion. As will be shown, the assertion suffers from the vice of inaccuracy. The admission thereof is in accordance with law. Certiorari, therefore, does not lie.

In the complaint for recovery of possession filed by private respondent, there was a plea for the issuance of a writ of preliminary injunction "to restrain defendants or persons under their direction from continuing constructing their houses on the premises and from committing any act indicative of the exercise of dominion during the pendency of this case upon the filing of a bond by plaintiff in such amount as may be fixed by this Honorable Court and making said injunction permanent after the termination of the proceedings." [3] Thereafter, the plea was granted in an order worded thus: "Plaintiff in his verified complaint prays for the issuance of a writ of preliminary injunction alleging among other things that defendants have been illegally occupying the premises subject of the complaint and that despite plaintiff's demand upon defendants to vacate the premises, the latter have failed and refused and still fails and refuses to comply with the demand instead defendants have illegally started constructing their houses and unless restrained by this Court, defendants will succeed in constructing their houses on the premises in question thereby by reason of the acts of defendants, said plaintiff will suffer great and irreparable damages and injury; The Court hereby grants the petition for preliminary injunction restraining the afore-mentioned respondents from the acts aforesaid upon the filing of a bond in the amount of P5,000.00 of sufficient sureties approved by this Court. . ." [4] Then came an urgent motion for the dissolution of the writ of preliminary injunction which was denied in the following order: "As the writ of preliminary injunction was issued after hearing and as the motion : or dissolution of the writ of preliminary injunction is not verified and as the best interest of justice and peace will be served if the present status quo of the case will be maintained, the motion for

dissolution of the writ of preliminary injunction is hereby denied." [5] Petitioner was anything if not persistent. There was a second motion for the dissolution of the writ of preliminary injunction with a similar outcome. Thus: "As the second motion to dissolve the writ of preliminary injunction is based on similar grounds alleged in the first motion which was denied by this Court, the second motion is hereby denied for lack of merit and for being improper and irregular." [6] Not satisfied petitioner, still adamant, filed a third motion for reconsideration which likewise met the same fate as may be seen in the following order: "It appearing that this case is set for trial on the merits on November 17, 1966; that the motion does not allege additional and exceptional grounds to warrant the dissolution of the existing writ of preliminary injunction other than the those grounds alleged in the previous motions for reconsideration which were denied by this Court; and considering further that the purpose of the defendant, Hadji Diambangan Demaronsing, in praying for the lifting of the existing preliminary injunction is to enable him to construct a new house in the land in question which is in violation of the purpose for which the writ of preliminary injunction was issued, which is for the preservation of the rights of the parties pending the final disposition of the case. [Wherefore], the third motion for reconsideration to lift the existing writ of preliminary injunction is hereby denied." [7] The last order complained of, insofar as pertinent, is worded thus: "The opposition filed by defendant, Hadji Diambangan Demaronsing, and for judgment on the pleadings with the dissolution of the writ of preliminary injunction is hereby denied for lack of merit." [8]

It is thus apparent from a recital in the assailed orders, as already indicated, that there is no justification for the imputation of a grave abuse of discretion. Certiorari, to repeat, does not lie.

1. Petitioner cannot be possibly unaware that mere errors of law are not correctible by certiorari. As was set forth by Justice Aquino in the latest decision in point, *De Castro vs. Delta Motor Sales Corp.*: [9] "The petition is devoid of merit. It does not raise any genuine jurisdictional issue. Certiorari under Rule 65 of the Rules of Court is a remedy designed for the correction of errors of jurisdiction and not errors of judgment Its function is to keep an inferior court within its jurisdiction. As a rule, only jurisdictional questions may be raised in a petition for certiorari, including matters of grave abuse of discretion which are equivalent to lack of jurisdiction x x x" [10] It is to be admitted that if petitioner were denied procedural due process, [11] then a jurisdictional question did arise. All that he can say on the matter, however, is the following: "On another score, it appears that the defendant now herein petitioner was given due notice to be heard before the issuance of the writ of preliminary injunction. While it is true that he appeared on the day he was required to appear, x x x he had asked the lower court time to hire a lawyer to represent him as he is not a lawyer. But before he could hire a lawyer the writ of preliminary injunction was granted and issued. Here again is a clear case of a deliberate intent to circumvent the law, because [what is the use] of making a party who is not a lawyer appear if he is not given the chance to be represented by a lawyer. To our mind, such a case [is worse] than not giving him a day in- court." [12] Thereafter, however, as was made clear by his own petition, [13] he presented not one but four motions for reconsideration. Even on the assumption then that the issuance of the writ of preliminary injunction was vitiated by the grave infirmity thus alleged, still the fact that in at least four separate occasions thereafter he was heard through counsel on the matter would suffice to dispose of the objection thus raised. So it has been from *De Borja vs. Flores*, [14] a 1935 decision. The relevant excerpt from *Batangas Laguna Tayabas Bus Company vs. Cadiao* [15] makes that clear. Thus: "As far back as 1935, it has already been a settled doctrine that a plea of denial of procedural due process does not lie where a defect consisting of an absence of notice of hearing was thereafter cured by the alleged aggrieved party having had the opportunity to be heard on a motion for reconsideration. 'What the law prohibits is not the absence of previous notice, but the absolute absence thereof and lack of opportunity to be heard.' There is then no occasion to impute deprivation of property without due process where the adverse party was heard on a motion for reconsideration constituting as it does 'sufficient opportunity' for him to inform the Tribunal concerned of his side of the controversy. As was stated in a recent decision, what 'due process contemplates is freedom from

arbitrariness and what it requires is fairness or justice, the substance rather than the form being paramount,' the conclusion being that the hearing on a motion for reconsideration meets the strict requirement of the process.[16] It is obvious, therefore, that the principal ground relied upon by petitioner is legally untenable.

2. Petitioner to lend some credence to what is inherently a weak position would impute grave abuse of discretion to an order of respondent Judge admitting the amended complaint.[17] This is to ignore the well-settled doctrine that courts should not betray an attitude of reluctance in admitting amendments to pleadings. They should be welcome. Such an approach was given vigorous expression by Justice Moreland in *Alonso vs. Villamor*.^[18] Thus: "There is nothing sacred about processes or pleadings, their forms or contents. Their sole purpose is to facilitate the application of justice to the rival claims of contending parties. They were created, not to hinder and delay, but to facilitate and promote the administration of justice."^[19] Then came this oft-quoted excerpt from Justice Malcolm in *Torres vs. Tomacruz*:^[20] "Under code practice, amendments to pleadings are favored, and should be liberally allowed in furtherance of justice. This liberality, it has been said, is greatest in the early stages of a lawsuit, decreases as it progresses, and changes at times to a strictness amounting to a prohibition. The granting of leave to file amended pleadings is a matter peculiarly within the sound discretion of the trial court. This discretion will not be disturbed on appeal, except in case of an evident abuse thereof. But the rule allowing amendments to pleadings is subject to the general but not inflexible limitation that the cause of action or defense shall not be substantially changed, or that the theory of the case shall not be altered."^[21] The grant of leave to file amended complaints, as Justice Laurel emphasized, "is a matter within the sound discretion of the trial court. This discretion will not be disturbed on appeal, except in case of an evident abuse thereof."^[22] It is to be admitted that if there were a new cause of action, then possibly an objection might rise. A comparison of the original complaint as well as the amended complaint in this case would clearly reveal that the cause of action of private respondent was predicated on petitioner constructing on a lot to which private respondent as plaintiff had laid claim in this very action for recovery of possession. There was then no alteration on the right allegedly infringed giving rise to the suit as the difference was in the discretion thereof. As was made clear by Justice Zaldivar, in *Shaffer vs. Palma*,^[23] the original statement of the cause of action may be narrowed, enlarged, or fortified in varying forms. What is important is that the "courts should be liberal in allowing amendments to pleadings to avoid multiplicity of suits and in order that the real controversies between the parties are presented, their rights determined and the case decided on the merits without unnecessary delay. Hence it is a reversible error on the part of the trial court to disallow an amendment to a pleading when said disallowance would result in injustice to the moving party, or where the amendment would not prejudice the adverse party or place him at a disadvantage and he has all the time allowed by law to answer the amended pleading and to prepare for trial."^[24] Again, petitioner clearly has not made out a case for certiorari.

3. With the foregoing in mind, it does appear that petitioner ought to have refrained from filing this certiorari proceeding. A more careful and deliberate study of the controlling precedents ought to have warned him against taking such a step. It has served no useful purpose. Had he proceeded to trial, it is likely that by this time there would have been a definitive outcome. As it is, he has to wait some more, with no assurance of success, it might be added, the risk attendant on lawsuits being ever present. What is more, if such a course were followed, there is less intrusion into the time and attention of this Court. While zeal of counsel for the cause of his client is commendable, there is need at times for prudence and caution in planning the next move.

WHEREFORE, the petition for certiorari is dismissed. No costs.

Zaldivar, (Chairman), Barredo, Antonio, Fernandez, and Aquino, JJ., concur.

[1] Annex C to Petition.

[2] Annexes M, P, S, and X to Petition.

[3] Complaint, Annex A to Petition.

[4] Annex C to Petition.

[5] Annex M to Petition.

[6] Annex P to Petition.

[7] Annex S to Petition.

[8] Annex X to Petition.

[9] L-34971, May 31, 1974.

[10] Ibid.

[11] Both under the present and the 1935 Constitutions, no person "shall be deprived of life, liberty, or property without due process of law, . . ." Article IV, Section 1 of the present Constitution and Article III, Section 1, par. (1) of the 1935 Constitution.

[12] Petition, Argument on the First Ground.

[13] Annex S to Petition.

[14] 62 Phil. 106.

[15] L-28725, March 12, 1968, 22 SCRA 987.

[16] Ibid, 994. The cases cited in addition to De Borja vs. Flores include De Borja vs. Tan, 93 Phil. 167 [1953]; Flash Taxicab Co., Inc. vs. Cruz, L-15464, March 30, 1963, 7 SCRA 518; Caltex (Phil.), Inc. vs. Castillo, L-24657, November 27, 1967, 21 SCRA 1071.

[17] Annex X to Petition.

[18] 16 Phil. 315 (1910).

[19] Ibid. 321. Earlier such an attitude was already apparent. Cf. Alonso vs. The Municipality of Placer, 5 Phil. 71 (1905); Enriquez vs. Watson, 6 Phil. 114 (1906); Fianza vs. Reavis, 7 Phil. 610 (1907).

[20] 49 Phil. 913 (1927).

[21] Ibid. 915.

[22] Ramos vs. Gibbon, 67 Phil. 371, 375 (1939). Cf. H.E. Heacock Co. vs. Buntal Manufacturing Co., 66 Phil. 245 (1938); Breslin vs. Luzon Stevedoring Co., 84 Phil. 618 (1949); Rosario vs. Carandang, 96 Phil. 845 (1955); Avecilla vs. Yatco, 103 Phil. 666 (1958); Vda. de Villareal vs. Manila Motor Co., Inc., 104 Phil. 926 (1958); Costa vs. Balmes, 105 Phil. 119 (1959); Mendiola vs. Tancinco, 109 Phil. 317 (1960); Silva vs. Peralta, 110 Phil. 57 (1960).

[23] L-24115. March 1, 1968, 22 SCRA 934.

[24] Ibid. 946-947 Cf. Malayan Insurance Co., vs. Delgado Shipping Agencies, L-22811, March 109, 1966 17 SCRA 176 Salvador Frio, L-25352. May 29 1970. 33 SCRA 315.

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.