

IMAM SAHIM (MORO), PETITIONER VS. GREGORIO D. MONTEJO, JUDGE OF THE COURT OF FIRST INSTANCE OF BASILAN CITY AND DOMINGO ALVAREZ, RESPONDENTS.

G.R. No. L-15606. June 29, 1963

Ponente: MAKALINTAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/bf3b4953b62f/>

MAKALINTAL, J.:

This is a petition for certiorari to review and set aside the order of preliminary (mandatory) injunction issued by respondent Judge in Civil Case No. 256 of the Court of First Instance of Zamboanga, entitled "Domingo Alvarez vs. Imam Sahim," and the subsequent order denying petitioner's motion for reconsideration.

The action below is for recovery of possession of a parcel of land with an area of 4.3475 hectares, more or less, the same being a portion of lot No. 410 of the Jamitan cadastre, Basilan City, covered by Free Patent application No. 64825 (E-41089) of plaintiff and now respondent, Domingo Alvarez. The complaint was filed by him as early as November 1950, but for reasons which do not appear in the record now before us, was still pending trial when the first of the orders now under review was issued on February 27, 1959. It is alleged in the answer to the petition, however, that respondent had rested his case since February 17, 1959, but that the hearing was not concluded because of petitioner's requests for continuance.

Prior to the issuance of the orders complained of, several petitions for preliminary injunction, mandatory in character, had been filed by respondent Alvarez, seeking to obtain possession of the land in dispute during the pendency of the action, but they had invariably been turned down. It was only after he had finished, as aforesaid, the presentation of his evidence that, upon a new petition, the court granted it in an order which reads as follows:

"There is a petition for preliminary injunction. The case appears to have been initiated about three years ago and without any progress the case is still pending. The plaintiff has manifested thru counsel that it would be for the best interest if a writ of preliminary injunction be issued.

"It appearing that the petition is proper, the plaintiff is given possession of the property by means of preliminary injunction upon posting a bond of P4,000.00 in order to insure whatever damages may be incurred by or damages which would accrue to the defendant.

"SO ORDERED."

Petitioner invokes the general rule that injunction will not be granted to take property out of the possession or control of one party and place it in that of another whose title has not been clearly established. This doctrine proceeds on the theory that possession is presumed to be in good faith and, if in concept of owner, that the possessor has a just title. It is only in actions for forcible entry and in ejectment cases where an appeal is taken, that the Civil Code expressly affords the remedy of preliminary mandatory injunction to the plaintiff (Arts. 539 and 1674), having in view the summary nature of the proceeding and the fact that the only question involved is that of actual or material possession. This provision of the Civil Code, however, is not meant to exclude

absolutely other cases where for compelling reasons the court may, in the proper exercise of discretion, grant a mandatory injunction to place the plaintiff, pendente lite, in possession of the real property sought to be recovered.

Respondent Judge properly exercised such discretion here. The land in litigation was part of the public domain. It was the subject of conflicting homestead applications under the Public Land Act by petitioner Imam Sahim and respondent Domingo Alvarez. On June 8, 1951 the conflict was decided by the Director of Lands, who dismissed petitioner's application and gave due course to that of respondent. The former appealed to the Secretary of Agriculture and Natural Resources, who affirmed the decision of the Director of Lands on September 16, 1952. Petitioner moved to reconsider, but on May 5, 1954 his motion was denied. Still not satisfied, he elevated the case to the Office of the President, which likewise affirmed the decision on July 22, 1957. Copies of the decisions of the different officials above mentioned were submitted by petitioner as evidence in the court below, and it was presumably on the strength thereof that the order of injunction was issued.

Considering that with regard to the disposition of lands of the public domain the acts of the corresponding executive officials, done in the exercise of their jurisdiction under the Public Land Act and with proper observance of due process, are generally not subject to judicial review; and considering further that in spite of the favorable decisions of said officials respondent Alvarez has not, for a long time, been able to take possession of the land awarded to him, we are of the opinion that the issuance of the injunctive order complained of was not a grave abuse of discretion.

The writ prayed for is denied, and the order of preliminary injunction issued by us on August 15, 1959, is dissolved. Costs against petitioner.

Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera Paredes, Dizon, and Regala, JJ., concur.

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.