NAGKAKAISANG KAPISANAN KAPITBAHAYAN SA COMMONWEALTH AVENUE REPRESENTED BY WILFREDO PADILLA, PETITIONER, VS. THE HON. COURT OF APPEALS, TOYOTA QUEZON AVENUE, INC., HON. ISMAEL MA...

G.R. No. 135865. July 20, 2001

Ponente: DE LEON, JR., J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-135865/

DE LEON, JR., J.:

Before us is a petition for review on certiorari of the Decision[1] dated June 29, 1998 and Resolution[2] dated September 28, 1998 of the Court of Appeals affirming the Order[3] dated November 13, 1997 and Resolution dated February 16, 1998,[4] of the Regional Trial Court (RTC, for brevity) of Quezon City, Branch 222.

The facts are as follows:

Petitioner Nagkakaisang Kapisanan Kapitbahayan sa Commonwealth Avenue is a duly organized non-stock corporation which is an association of families living in the Calderon compound, Old Balara, Diliman, Quezon City. They claimed that they purchased from the caretaker of the said lot their alleged right to occupy the same. When the compound was sold by its registered owner, the Lombos family, to respondent Toyota Quezon Avenue, Incorporated (Toyota, for brevity), the latter assumed the obligation to transfer the occupants thereof to a relocation site.

On February 26, 1997, a Memorandum of Agreement was signed by and between the petitioner and the respondents Social Housing Movement, Inc., Quezon City Mayor Ismael Mathay, Jr., and Toyota. Under the agreement, Toyota shall give financial assistance to qualified beneficiaries, a subsidy for land development for the two (2) relocation sites at Gaya-gaya, San Jose del Monte and Tandang Sora, Quezon City, a livelihood support fund, and the actual cost of transportation. It likewise provides that the transfer of the occupants shall be effected only after the basic amenities (which include potable water system, adequate Meralco electricity, roads, drainage and garbage disposal facilities) have been substantially completed by Toyota and upon the issuance of a Certificate of Acceptance by the petitioner association. The parties agreed that the transfer shall be on or before April 18, 1997.

After the lapse of the stipulated date of transfer or sometime in June of 1997, petitioner claimed that although the basic amenities referred to in the agreement have not been fully complied with and the Certificate of Acceptance has not yet been issued, respondents Mayor Mathay and Toyota threatened to demolish the houses in the subject compound and to forcibly transfer the residents therein to the relocation site in Gaya-gaya. It is on this basis that it filed Civil Case No. Q-97-31342, which is an action for damages, specific performance and injunction with prayer for temporary restraining order. It prayed, among others, that Toyota comply with its principal obligations in the agreement, to rescind the agreement (in the event that said performance becomes impossible), and to determine the amounts that petitioner's members will pay for their respective relocation area. The case was raffled to Branch 88 of RTC Quezon City presided by Judge Tirso D.C. Velasco, and later re-raffled to Branch 222 of the same

court presided by respondent Judge Eudarlio Valencia.

During the hearing of the petitioner's application for a temporary restraining order, in Branch 88 of the trial court, the respondents claimed that they only assisted in the transfer of some residents of the Calderon compound who decided to transfer to the relocation site in Gaya-gaya. Counsel for the petitioner moved for an ocular inspection which the court granted. Judge Tirso D.C. Velasco personally went to the site and observed the premises. He ruled in an Order dated July 1, 1997[5] that the Gaya-gaya relocation site was already completely developed and further held that "it has no basis nor authority to prevent the residents of Calderon Compound from voluntarily transferring to the Gaya-gaya site because that is in accordance with their Memorandum of Agreement".[6]

On November 13, 1997, the trial court, this time through respondent Judge Valencia, presiding Judge of Branch 222 of the trial court, issued an Order denying the petitioner's prayer for a temporary restraining order and/or preliminary injunction in view of the findings and pronouncement made by Judge Velasco during the ocular inspection. In its motion for reconsideration, petitioner presented as evidence of the impending demolition and forcible eviction a document called "Paunawa sa Pagbabaklas" which was issued by Task Force Copris. But the motion for reconsideration was also denied by the trial court in its Resolution dated February 16, 1998.

The petitioner then filed a Petition for Certiorari and Injunction before the Court of Appeals questioning the said orders of the trial court denying the injunctive relief being prayed for. On June 29, 1998, the appellate court rendered a Decision, the dispositive portion of which reads:

> WHEREFORE, the petition for certiorari and injunction with prayer for the issuance of a temporary restraining order is hereby DENIED DUE COURSE and the same is DISMISSED.
>
> SO ORDERED.[7]

The petitioner's motion for reconsideration of the said decision was also denied in a resolution dated September 28, 1998.

According to the petitioner, on October 29, 1998 while its petition for review of the appellate court's decision was pending before this Court, Task Force Copris and some elements of the SWAT, acting by virtue of a memorandum issued by respondent Mayor Mathay, demolished the make-shift houses of the residents in the Calderon compound. The demolition was allegedly made without a court order in violation of Republic Act No. 7279 and in disregard of the Memorandum of Agreement executed by and between the petitioner and the respondents. Hence, petitioner filed the instant petition for review of the decision of the appellate court with prayer for preliminary mandatory injunction to compel the respondents to allow the petitioner to return to the Calderon compound.

Petitioner raises this sole assignment of error:

> THE RESPONDENT COURT OF APPEALS HAS ERRONEOUSLY DECIDED QUESTIONS OF SUBSTANCE, IN A MANNER NOT IN ACCORD WITH LAW AND THE CONSTITUTION, WHEN IT AFFIRMED AND UPHELD THE ORDERS OF THE REGIONAL TRIAL COURT OF QUEZON CITY DENYING PETITIONER'S PETITION FOR CERTIORARI AND INJUNCTION ON THE GROUND THAT RELIANCE ON REPUBLIC ACT NO. 7279 IS MISPLACED.[8]

Petitioner contends that the appellate court erred in relying on the pronouncements of Judge Velasco that the relocation site at Gaya-gaya was already completely developed. Petitioner claims that the said judge did not really conduct an ocular inspection, but "stayed and remained at the middle portion of the site and never went around the entire two-hectare project site, thus, failing to see the edge of the river where the supposed riprapping was necessary." Petitioner also faults the appellate court in ruling that Republic Act No. 7279, otherwise known as

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

"The Urban Development and Housing Act of 1992", is not applicable to the instant case[9]. According to the petitioner, the said law was sufficiently cited and referred to in its complaint and in the Memorandum of Agreement. More particularly, petitioner quotes as having been violated by the respondents Section 28 of the said law which partially provides that:

> Section 28. Eviction and Demolition - Eviction or demolition as a practice shall be discouraged. Eviction or demolition, however, may be allowed under the following situations:
>
> (a)
>
> When persons or entities occupy danger areas such as esteros, railroad tracks, garbage dumps, riverbanks, shorelines, waterways, and other public places such as sidewalks, roads, parks, and playgrounds;
>
> (b)
>
> When government infrastructure projects with available funding are about to be implemented; or
>
> (c)
>
> When there is a court order for eviction and demolition.

The main and related issues for resolution is whether or not there is inadequacy of basic amenities at the relocation site at Gaya-gaya, and whether or not the demolition of the houses of the members of petitioner in the Calderon compound merits the issuance of a preliminary mandatory injunction to compel the respondents to allow the concerned residents or members of petitioner to return to the said compound.

The petition is not meritorious.

According to the courts a quo, the Gaya-gaya relocation site is completely developed based on the finding and ocular inspection conducted by Judge Velasco. Proof of its fitness to be inhabited is the number of residents of the Calderon compound who have voluntarily transferred to the said relocation site. Petitioner, however, takes exception to this finding of fact of the trial court by claiming that Judge Velasco did not allegedly go around and see for himself the two-hectare relocation site.

Section 1 of Rule 45 of the Revised Rules of Court provides that "(T)he petition (for review) shall raise only questions of law which must be distinctly set forth." Thus, we have ruled that factual findings of the Court of Appeals, as in the case at bar, are conclusive on the parties and not reviewable by this Court and they carry even more weight when the Court of Appeals affirms the factual findings of the trial court.[10]

Inasmuch as the courts a quo found that an ocular inspection was in fact conducted by Judge Velasco and adopted his finding and pronouncement that the said relocation site at Gaya-gaya is already completely developed, this Court has to accord the utmost respect to the said finding of fact. We fail to see any evidence on record that can overturn this finding of fact. The absence of evidence to support the petitioner's motion for the injunctive relief prayed for is explained by the fact that counsel for petitioner failed to show up during the hearing on the said motion as well as during the ocular inspection. On this point, the appellate court found and ruled that:

> The factual premise for the above argument was not established. The ocular inspection conducted by Judge Tirso Velasco showed that the Gaya-gaya site "was already completely developed" and that many of the residents have already transferred to the said site. The respondent judge has not incorrectly adopted said finding considering petitioner's counsel's failure, despite notice, to appear not only at the ocular inspection, which he himself asked for, but also his failure to attend the hearing on the motion which was set by the court for the afternoon of July 1, 1997. Thus the court ruled that plaintiff association failed to adduce evidence and/or satisfactory arguments in support of the injunctive reliefs prayed for. The instant petition has not

> controverted these observations of the court; it simply alleges that the basic amenities stipulated in the Memorandum of Agreement have not yet been installed/constructed. Despite opportunity to prove this general allegation, and despite the fact that it has the burden of proof to establish its entitlement to the relief demanded to restrain the acts actually violative of such right, plaintiff association failed to adduce evidence to show that the basic amenities agreed upon have not been completed. (Italics supplied)[11]

Hence, for purposes of the petition in the case at bar, we affirm and uphold the finding of facts of both the trial court and the Court of Appeals.

The petitioner subsequently seeks the issuance of a preliminary mandatory injunction on account of the demolition of the houses and forcible eviction of its members from the Calderon compound conducted by the respondents in alleged violation of Section 28 of Republic Act No. 7279. The respondents, on the other hand, maintain that the said demolition and eviction were done legally and in accordance with the Orders of the trial court; that the trial court found that the relocation site in Gaya-gaya was already fully developed for occupancy; and that the petitioner agreed and undertook to transfer its members to the said relocation site on or before April 15, 1997 provided that the amenities are substantially completed. With the complete development of the relocation site at Gaya-gaya, to which the remaining members of the petitioner can be relocated, and considering the said Memorandum of Agreement of the parties, respondent Court of Appeals correctly found and ruled, in effect, that there is no factual and legal basis to issue a writ of preliminary mandatory injunction to compel the respondents to allow the members of the petitioner to return to the Calderon compound especially since the facilities and structures of the lot owner, respondent Toyota, have already been established therein. In other words, petitioner's reliance on Republic Act No. 7279 in connection with its prayer for preliminary mandatory injunction is indeed misplaced.

In any event, the case at bar is without prejudice to the right of the petitioner to pursue its main action for damages in Civil Case No. Q-97-31342 before the RTC of Quezon City.

In sum, the Court of Appeals did not commit any reversible error in its assailed decision and resolution.

WHEREFORE, the petition is hereby DENIED. No costs.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, and Buena, JJ., concur.
Quisumbing, J., on official business.

---

[1] Penned by Associate Justice Minerva P. Gonzaga-Reyes (now Associate Justice of the Supreme Court) and concurred in by Associate Justices Ramon A. Barcelona and Demetrio G. Demetria; Rollo, pp. 28-38.

[2] Rollo, p. 40.

[3] Penned by Judge Eudarlio B. Valencia, Presiding Judge of the Regional Trial Court of Quezon City, Branch 222, Rollo, pp. 59-62.

[4] Rollo, pp. 65-67.

[5] Rollo, pp. 56-58.

[6] Rollo, p. 30.

[7] Rollo, p. 37.

[8] Rollo, pp. 14-15.

[9] Page 10 of the Court of Appeals Decision provides that: "The arguments raised with respect to R.A. 7279 are misplaced. Said law cannot be properly invoked in this case, where the principal action for damages, specific performance and injunction arose out of the Memorandum of Agreement dated February 26, 1997 between the parties. The writ of preliminary injunction, as an ancillary or preventive remedy, may only be resorted by a litigant to protect or preserve his rights or interest and for no other purpose during the pendency of the principal action (Bengzon vs. CA, 161 SCRA 543). The sole object of preliminary injunction is to maintain the status quo until the merits can be heard (Phil. Virginia Tobacco Ltd., vs. De Los Angeles, 164 SCRA 543; Search Commodities Corp. vs. CA, 207 SCRA 622). Since the question whether petitioner corporation may invoke R.A. 7279 to resist eviction of one of its members for a cause extraneous to the MOA, was not raised in issue in the principal action, the injunctive relief sought could not be in violation of its rights respecting the subject of the action or proceeding. The incident on the injunction is simply ancillary to the main issue to be tried, which refers to the rights and obligations of the parties under the Memorandum Agreement. In fact, this issue was not raised at all in the original application for injunctive relief, and was not properly raised for the first time in the motion for reconsideration."

[10] Borromeo v. Sun, 317 SCRA 176, 182 (1999).

[11] Rollo, pp. 34-35.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

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.