

**MANILA ELECTRIC COMPANY AND THE SHERIFF OF QUEZON CITY,
PETITIONERS VS. HON. JUAN P. ENRIQUEZ, IN HIS CAPACITY AS
JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA, BRANCH
VIII, AN...**

G.R. No. 15193. December 29, 1960

Ponente: PADILLA, J.

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PADILLA, J.:

This is a petition for a writ of certiorari.

On 8 October 1949 the Manila Electric Company, hereafter referred to as the petitioner, brought an action in the Court of First Instance of Rizal, Quezon City (civil No. Q-62, Annex A to Annex E of the petition) against the spouses Filemon Custodio and Dominga Marquez to recover possession (accion publiciana) of part of a parcel of land (Lot No. 25-A-3-A of the subdivision plan Psd-7331, being a part of Lot No. 25-A-3 delimited on plan Psd-7097, G.L.R.O. Rec. No. 7680, and described in transfer certificate of title No. 35913 issued by the Register of Deeds in and for the province of Rizal) and to compel them to remove the houses erected therein. After joinder of issues and after due hearing, on 27 October 1950 the Court rendered judgement ordering the defendants to vacate that part of the petitioner's parcel of land occupied by them and to remove that part of their house occupying the latter's property, and to pay the commissioner's fee of P65.47 and the costs of the suit (Annex C to Annex E of the petition for certiorari). On 5 January 1951 the Court, upon the petitioner's motion, entered an order modifying the dispositive part of the judgment "in the sense that the portions of the houses of defendants abutting and occupying the plaintiff's (petitioner's) land that should be removed are those portions indicated in the report of the City Engineer forming part of the record of this case." (Annex D to Annex E of the petition for certiorari). The defendants appealed to the Court of Appeals but on 22 September 1952 their appeal was dismissed for failure to file their brief and abandonment of their appeal (Annex E to Annex E of the petition for certiorari). On 13 December 1952; upon motion of the petitioner, the Court of First Instance of Rizal, Quezon City (Branch III) entered an order directing execution of the judgment and on 8 January 1953 issued the corresponding writ (Annex A; Annex F to Annex E of the petition for certiorari). On 17 November 1956, upon motion of the petitioner, the Court entered an order of demolition of parts of the defendants' house occupying the petitioner's property, under the provisions of section 13, Rule 39, but the sheriff failed to carry out the order of demolition because "the defendants are no longer residing therein and that they are no longer the owners of the house subject of demolition. The present owner of the house is one, Dr. Mena C. Espinosa, who bought the house from the defendants on October 31, 1950." (Sheriff's return dated 21 June 1957.) On 3 August 1957 the Court entered an order summoning the respondent "to appear before this Court on August 14, 1957, at 8:30 in the morning, to show cause why said motion for demolition should not be granted. (Annex G to Annex E of the petition for certiorari; Annex B). The respondent appeared in court on the day she was required to and proposed that she be allowed to settle the matter amicably with the petitioner. On 27 August 1957 the Court entered an order directing the respondent to report on the outcome of her proposed settlement with the petitioner on 11 September 1957. On 7

September 1957 the respondent filed an "urgent motion" praying, the Court to "hold in abeyance the consideration of plaintiff's (petitioner's) motion for demolition pending the final outcome of the negotiations currently being conducted by the above-named parties," and that she be excused from appearing in court on 11 September 1957 (Annex C). Upon failure of the parties to come to an amicable settlement, on 4 December 1957 the Court entered an order, the dispositive part of which is, as follows:

In view of the foregoing, as prayed for, Dr. Mena Espinosa, who is a privy of defendant Filemon Custodio, is hereby ordered to remove her house from the lot in question within sixty (60) days from today, and if after the expiration of said period the building has not been removed from said place, the Sheriff is hereby ordered to remove said house from the premises in question and/or demolish the same if necessary. (Annex D.)

On 31 January 1958 the respondent" filed a complaint against the petitioner and the Sheriff of Quezon City in the Court of First Instance of Manila for collection of damages and for a writ of preliminary injunction to enjoin the enforcement of the order dated 4 December 1957 of the Court of First Instance of Quezon City (civil case No. 35105), on the ground that it is null and void, having been issued without jurisdiction of her person (Annex X). On 1 February 1958 the respondent court entered an order setting the hearing for the issuance of a writ of preliminary injunction on 3 February 1958 at 10:00 o'clock in the morning (Annex 1). After hearing the oral arguments of the parties on that day, upon suggestion of the respondent CQurt and with the agreement of the parties, the respondent court suspended enforcement of the order of demolition for a period of ten days from that date (Annex 2). On 4 February 1958 the petitioner filed a "motion to dismiss and opposition to issuance of preliminary injunction," on the ground of improper venue, because the respondent's action being a real action, should be filed in the province or city where the property lies; lack of jurisdiction of the subject matter, because a court cannot interfere with the orders of a coordinate and co-equal one by issuing a writ of injunction to prevent the execution of the order of said court; bar by prior judgment, because the respondent, being a privy to the defendants spouses in civil case No. Q-62, is bound by the judgment rendered therein; and the complaint states no cause of action (Annex E). On 5 February 1958 the respondent court entered an order granting the respondent up to 7 February 1958 within which to submit a memorandum in support of her petition for a writ of preliminary injunction (Annex 3). On 7 February 1958 the respondent filed her memorandum (Annex 4). On 11 February 1958 the respondent court entered an order denying the petitioner's motion to dismiss and granting the respondent's prayer for a writ of preliminary injunction (Annex J to Annex E of the petition for certiorari; Annex F). On 14 February 1958 the petitioner filed a motion. for reconsideration (Annex G). The respondent court denied its motion. Hence this petition for certiorari to annul the order of the respondent court dated 11 February 1958. "

While this Court would not entertain petitions, for a writ of certiorari questioning the legality and validity of an interlocutory order, yet when a grave abuse of discretion is very patently committed, it devolves upon this Court to exercise its supervisory authority to correct the error committed.

It appears that after the Court of First Instance of Quezon City had rendered judgment on 27 October 1950 in civil case No. Q-62, ordering the defendants Filemon Custodio and Dominga Marquez to vacate the petitioner's property and remove parts of their house occupying it, on 31 October 1950 the respondent and Flora L. Gonzales acquired by purchase from the defendants the parcel of land and houses in question and on 27 March 1953 the respondent acquired her co-owners share and interest therein (Annexes A & B to Annex X of the petition for certiorari). In the deed of sale executed on 31 October 1950 by Filemon S. Custodio and witnessed by his wife Dominga Marquez, in favor of the respondent and her co-owner, it is stated that "the parcel of land above described and subject of this absolute deed of sale is not registered under Act 496 nor under the Spanish Mortgage Law, and the parties hereto agree to register this instrument under the provision of Act No. 3344." (Annex A to Annex X of the petition for certiorari.) On 2 November 1950 the document of sale was registered under the

provisions of Act No. 3344 in the office of the Register of Deeds of Quezon City (Annex D to Annex 4 of the answer to the petition for certiorari). The respondent derives her claim to part of the parcel of land from defendants. On the other hand, the petitioner's title to the same parcel of land is evidenced by transfer certificate of title No. 35913 issued by the Register of Deeds in and for the province of Rizal under the provisions of Act No. 496. The defendants could not acquire title thereto by prescription or adverse possession in derogation to that of the registered owner, the petitioner,[1] and respondent Mena C. Espinosa could not acquire a title better than her transferors. Furthermore, since she was a privy to the defendants, she was bound, by the judgment rendered by the Court of First Instance of Quezon City in civil case No. Q-62 (Annexes C and D to Annex E of the petition for certiorari). Neither could she complain that she is being deprived of her property without due process of law because by appearing, upon being summoned by the court after rendition of final judgment and before the issuance of the order of demolition (Annex D), proposing that she allowed to settle the matter amicably with the petitioner and filing an "urgent motion" "to hold in abeyance the consideration of the plaintiff's (petitioner's) motion for demolition pending the final outcome of the negotiations currently being conducted by the above-named parties" (Annex C), the respondent Mena C. Espinosa voluntarily had submitted to the jurisdiction of the court. To allow her to frustrate the execution of the judgment rendered by the Court of First Instance of Quezon City in civil Case No. Q-62, by filing a case against the petitioner in the Court of First Instance of Manila for collection of damages and for the issuance of a writ of preliminary injunction, would set at naught a judgment validly rendered by a court of competent jurisdiction, thereby sanctioning the commission of fraud by a defeated party colluding with another to nullify the said judgment.

The writ prayed for is granted, insofar as the writ of preliminary injunction granted and issued by the respondent court is concerned, which is hereby dissolved, with costs against the respondent Mena C. Espinosa.

Paras, C.J., Bengzon, Bautista Angelo, Concepcion, Reyes, J.B.L., Barrera, Gutierrez David, Paredes, and Dizon, JJ., concur.

[1] Section 46, Act No. 496.

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