

## **NORA BUENO PASION, PETITIONER, VS. SIMPLICIO R. MELEGRITO, REPRESENTED BY ANSELMA TIMONES, RESPONDENT.**

*G.R. NO. 166558. March 28, 2007*

Ponente: TINGA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-166558/>

---

### **TINGA, J.:**

On 4 February 1999, respondent Simplicio R. Melegrito (respondent), represented by Anselma Timones, filed a complaint[1] for forcible entry against Filipina M. Bueno, Divina M. Bueno, and Regina M. Bueno (Bueno sisters) with the 5th Municipal Circuit Trial

Court (MCTC), Gerona, Tarlac. The case was docketed as Civil Case No. 1243-99. As plaintiff, respondent claimed that the Bueno sisters constructed a two-story concrete residential structure on his land located in Nilasin, Pura, Tarlac through stealth and strategy and without his knowledge and consent. He further claimed that despite notice and demand, the Bueno sisters still retained possession of the land and refused to remove the structure.

On 22 July 1999, the MCTC rendered its judgment,[2] the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered ordering defendants, Filipina Bueno & Divina Bueno or their agents or any person or persons, [sic] occupying said building in question in their names or by virtue of any authority by them:

(1) To vacate the premises occupied by said house/improvements thereon or to remove said building or improvements constructed thereon and restore the said possession to [respondent];

(2) To pay [respondent] attorney's fees in the amount of P10,000.00 plus P500.00 appearance fee per hearing;

(3) To pay the sum of P2,000.00 as damages representing the monthly rental of the land from February 1999 until possession is fully restored to [respondent]; and

(4) To pay the costs of suit.

SO ORDERED.[3]

Acting on the appeal[4] interposed by the Bueno sisters, on 13 December 1999, the Regional Trial Court (RTC), Branch 63, Tarlac, Tarlac set aside the 22 July 1999 judgment of the MCTC and ordered the case dismissed.[5] The RTC denied respondent's motion for reconsideration.

Respondent thereafter filed a petition for review before the Fourth Division of the Court of Appeals.[6] On 16 June 2000, the appellate court reversed and set aside the decision of the RTC and reinstated in toto the MCTC's judgment.[7]

On remand of the case, the MCTC granted respondent's motion for execution and that led to the issuance of a writ of execution on 28 June 2001. On 24 January 2002, the MCTC granted respondent's motion for the issuance of a writ of demolition for failure of the Bueno sisters to comply with the 22 July 1999 judgment.

Subsequently, on 12 September 2002, an alias writ of demolition[8] was issued directing the sheriff or his deputies to demolish the improvements erected by the Bueno sisters on the subject land belonging to respondent.

On 4 November 2002, petitioner Nora Bueno Pasion (petitioner), the recognized agricultural tenant on a portion of respondent's land and sister of the Bueno sisters, filed with the RTC, Branch 65, Tarlac, a Complaint[9] for Injunction with Writ of Preliminary Injunction and Temporary Restraining Order and Damages against respondent, Judge Luisito T. Adaoag,[10] and the Provincial Sheriff of Tarlac, seeking to restrain the enforcement of the writ of demolition issued in Civil Case No. 1243-99. Petitioner claimed that the judgment in Civil Case No. 1243-99 was being implemented against her although she was not a party to the case. She further claimed that she was a bonafide agricultural tenant of respondent and that she, as such tenant, owned and actually occupied the house sought to be demolished which was a reconstructed old family house on the lot. She offered as proof of such ownership the building permit[11] for the house's construction and a tax declaration covering the house.[12]

On 7 November 2002, the RTC, Branch 65, granted a temporary restraining order for a period of seventy-two (72) hours,[13] which was extended for another seventeen (17) days, completing the maximum twenty (20) day lifetime.[14] On 10 December 2002, the RTC denied the prayer for preliminary injunction.[15]

On 8 January 2003, petitioner filed a Petition[16] for Certiorari under Rule 65 with the Court of Appeals imputing grave abuse of discretion to the Presiding Judge of RTC, Branch 65 in allowing a writ of demolition to be enforced against her although she was not a party to Civil Case No. 1243-99 and in finding that she was not the owner of the house sought to be demolished.

On 5 May 2004, the Fifth Division of the Court of Appeals promulgated a Decision[17] in CA-G.R. SP No. 74784 denying the petition for lack of merit. The appellate court ruled:

In denying petitioner's petition for the issuance of a preliminary injunction to enjoin the implementation of the writ of demolition issued by the 5th MTC of Gerona-Ramos-Pura, public respondent Judge had as its basis the findings of [the] MTC, which was later affirmed by the 4th Division of this court. Their findings indicate that the house which is now the subject of a writ of demolition, was erected by the sisters of the petitioner and not by petitioner herself. On this score alone, public respondent Judge denied petitioner's application for injunction. The rule is well-entrenched that the issuance of the writ of preliminary injunction as an ancillary or preventive remedy to secure the right of party in a pending case rests upon the sound discretion of the trial court.[18] Rule 58, Section 7 of the Rules of Court gives generous latitude to the trial court in this regard for the reason that conflicting claim[s] in an application for a provisional writ more often than not involve a factual determination which is not the function of the appellate courts. Hence, the exercise of sound judicial discretion by the trial court in injunctive matters must not be interfered with except when there is manifest abuse.

Also, it is worthy to note that in this case, petitioner's grounds in support of the petition calls for an evaluation of the evidence presented which is not within the province of certiorari. Even if this court were to delve on the grounds raised by the petitioner, the findings of this Court would preempt the trial court's findings wherein the main action for injunction is still pending.

Moreover, the assailed Order of the public respondent Judge is only a denial of petitioner's application for a preliminary injunction, which is distinct from the main action for injunction filed with the trial court. Thus, in the case of *Tambaoan v. Court of Appeals*,[19] the Supreme Court held: the inquiry in the proceedings for the issuance or denial of a writ of preliminary injunction is premised solely on initial evidence, and the findings thereon by the trial court should be considered to be merely provisional until after the trial on the merits of the case would have been concluded.[20]

Petitioner moved for reconsideration[21] of the 5 May 2004 Decision, but the Court of Appeals denied the motion in its 15 December 2004 Resolution.[22]

Hence, petitioner filed this Petition for Review under Rule 45 of the Rules of Court.

The issue raised by petitioner may be formulated as follows: whether the denial of petitioner's prayer for a writ of preliminary injunction to enjoin the enforcement of a writ of demolition issued in another case to which she was not a party is tenable.

Questioning the enforcement of the writ of demolition against her, petitioner claims ownership of the structure sought to be demolished on the strength of a building permit and a tax declaration as well as harps on the fact that she was not a party to Civil Case No. 1243-99. Being a non-party in said case, she asserts, the judgment therein may not be implemented to prejudice her rights as the alleged owner and possessor of the subject structure.

The petition is without merit.

An ejectment suit is an action in personam wherein judgment is binding only upon parties properly impleaded and given an opportunity to be heard.[23] However, the rule admits of the exception that even a non-party is bound by the judgment in an ejectment suit where he is any of the following: (a) trespasser, squatter or agent of the defendant fraudulently occupying the property to frustrate the judgment; (b) guest or occupant of the premises with the permission of the defendant; (c) transferee pendente lite; (d) sublessee; (e) co-lessee; or (f) member of the family, relative or privy of the defendant.[24]

In the case at bar, it is not disputed that petitioner falls under situation (f) above because she is a relative of the Bueno sisters, the defendants in Civil Case No. 1243-99.[25] She herself admitted this fact in her complaint in Civil Case No. 9420 when she referred to the Bueno sisters as her legitimate sisters.

Besides, petitioner cannot deny her knowledge of the pendency of Civil Case No. 1243-99. Even the judgment in the said case acknowledges the fact that she went to the hearings with Geronimo Zafra, the representative of her sisters.

Indeed, if she truly had an interest in the structure sought to be demolished as she claims, she could have so informed respondent even before the filing of the case to enable the latter to take the necessary and appropriate action. Had respondent known that petitioner was claiming ownership over the structure, he could have, for example, allowed her to merely continue with its possession or he could have impleaded her in Civil Case No. 1243-99 as a necessary party, defined in Sec. 8, Rule 3 of the Rules of Court as "one who is not indispensable but who ought to be joined as a party if complete relief is to be accorded as to those already parties, or for a complete determination or settlement of the claim subject of the action." However, respondent apparently had been unaware of petitioner's ownership claim over the structure as she divulged the same only when she filed the complaint in Civil Case No. 9420.

Even if petitioner was prevented by the 1991 Revised Rules on Summary Procedure from intervening in Civil Case No. 1243-99, a motion for intervention being a prohibited pleading therein, she was not precluded from filing a separate case to assert and claim her ownership over the structure. Curiously, it was only on 4 November 2002, a month after the issuance of the alias writ of demolition in Civil Case No. 1243-99, that petitioner filed the complaint for injunction to restrain the implementation of the writ. At that time, Civil Case No. 1243-99, which originated in the MCTC, had already been appealed to the RTC whose decision was eventually reviewed

and reversed by the Court of Appeals. Through all these court proceedings spanning a number of years, petitioner did not do or say anything. She claims having filed a motion to quash the writ of demolition but even this came too late in the day and was definitely not enough to negate her apparent lackadaisical attitude in protecting her alleged right.

Verily, the principle of equitable estoppel would now operate to prevent petitioner from asserting her alleged ownership over the structure and defeating the alias writ of execution issued in execution of the decision in Civil Case No. 1243-99. Sec. 2(a), Rule 131 of the Rules of Court states:

Whenever a party has, by his own declaration, act, or omission, intentionally and deliberately led another to believe a particular thing true, and to act upon such belief, he cannot, in any litigation arising out of such declaration, act or omission, be permitted to falsify it.

Thus, we have held:

The principles of equitable estoppel, sometimes called estoppel in pais, are made part of our law by Art. 1432 of the Civil Code. Coming under this class is estoppel by silence, which obtains here and as to which it has been held that:

x x x an estoppel may arise from silence as well as from words. "Estoppel by silence" arises where a person, who by force of circumstances is under a duty to another to speak, refrains from doing so and thereby leads the other to believe in the existence of a state of facts in reliance on which he acts to his prejudice. Silence may support an estoppel whether the failure to speak is intentional or negligent.

'Inaction or silence may under some circumstances amount to a misrepresentation and concealment of facts, so as to raise an equitable estoppel. When the silence is of such a character and under such circumstances that it would become a fraud on the other party to permit the party who has kept silent to deny what his silence has induced the other to believe and act on, it will operate as an estoppel. This doctrine rests on the principle that if one maintains silence, when in conscience he ought to speak, equity will debar him from speaking when in conscience he ought to remain silent. He who remains silent when he ought to speak cannot be heard to speak when he should be silent.'

x x x x

x x x Litigation must end and terminate sometime and somewhere, and it is essential to an effective administration of justice that once a judgment has become final, the winning party be not, through a mere subterfuge, deprived of the fruits of the verdict. Courts must therefore guard against any scheme calculated to bring about that result. Constituted as they are to put an end to controversies, courts should frown upon any attempt to prolong them.[26] [Emphasis supplied.]

The rule on estoppel in pais is a well-settled rule of equity which has been adopted by the courts of law that where for instance A has, by his acts or representations, or by his silence when he ought to speak out, intentionally or through culpable negligence, induced B to believe certain facts to exist, and B has rightfully acted on his belief, so that he will be prejudiced if A is permitted to deny the existence of such facts, A is conclusively estopped to interpose a denial thereof.[27]

In the case at bar, petitioner had, by her silence, induced respondent to believe that she did not have any interest on respondent's property other than being his tenant. Thus, respondent rightfully acted on this belief and filed the forcible entry case only against petitioner's sisters whom he thought were the owners of the structure constructed on his land. Verily, to permit petitioner to deny the fact that she does not own the structure would work to prejudice the rights of respondent as the winning litigant in Civil Case No. 1243-99. Indeed, petitioner is conclusively estopped from interposing her claim of ownership against the writ of demolition issued to execute the decision in said case.

Furthermore, what is sought to be enjoined is a judgment that has long become final and executory. Under Sec. 1, Rule 39 of the Rules of Court, execution shall issue as a matter of right, on motion, upon a judgment or order that disposes of the action or proceeding upon the expiration of the period to appeal therefrom if no appeal has been

duly perfected. As in the case at bar, respondent, as the prevailing party in Civil Case No. 1243-99, is entitled to a writ of execution, and the issuance thereof is a ministerial duty of the court compellable by mandamus.[28]

A writ of preliminary injunction may only be issued upon a clear showing: (1) that there exists a right to be protected, and (2) that the action sought to be enjoined is violative of that right.[29]

In the case at bar, the RTC found that, in accordance with the MCTC's findings in Civil Case No. 1243-99 as affirmed by the Court of Appeals, the Bueno sisters, and not petitioner, were the owners of the structure sought to be demolished. Clearly, the trial court found that petitioner had no actual right that needs to be protected by a writ of preliminary injunction. Verily, we find no reason to disturb this finding of the trial court. It is well to remember that the general rule is that the grant or denial of an injunction rests on the sound discretion of the lower court in the exercise of which this Court will not intervene except in a clear case of abuse.[30]

WHEREFORE, premises considered, the 5 May 2004 Decision and the 15 December 2004 Resolution of the Court of Appeals in CA-G.R. SP No. 74784 are hereby AFFIRMED. Costs against petitioner.

**SO ORDERED.**

Quisumbing, (Chairperson), Carpio, Carpio Morales, and Velasco, Jr., JJ., concur.

---

[1]Records, pp. 9-13.

[2] Id. at 120-126.

[3] Id. at 125-126.

[4] Docketed as Civil Case No. 8908.

[5] Records, pp. 27-28; Decision in Civil Case No. 8908.

[6] Docketed as CA-G.R. SP No. 57075.

[7] Records, pp. 30-48.

[8] Id. at 49. See Notice of Demolition, Records, p. 151.

[9] Id. at 1-6. Docketed as Civil Case No. 9420.

[10] Acting Presiding Judge of the MCTC, Gerona, Tarlac.

[11]Records, p. 51.

[12] Id. at 50.

[13]Id. at 52.

[14] Id. at 61.

[15] Id. at 80-81.

[16] Id. at 85-98; Docketed as CA-G.R. SP No. 74784.

[17] CA rollo, pp. 114-118.

[18] Citing Urbanes, Jr. v. Court of Appeals, G.R. No. 117964, 28 March 2001, 355 SCRA 537.

[19] Cited as 365 SCRA 359.

[20] CA rollo, pp. 119-121.

[21] Id. at 117-118.

[22] Id. at 137.

[23] Biscocho v. Marero, 431 Phil. 147, 150 (2002), citing Republic v. Court of Appeals, 315 SCRA 600, 606 (1999).

[24] Biscocho v. Marero, supra, citing Oro Cam Enterprises, Inc. v. Court of Appeals, 319 SCRA 444, 454 (1999). See also Sunflower Neighborhood Association v. Court of Appeals, 457 Phil. 404, 409-410 (2003).

[25] Ariem v. Hon. de los Angeles, etc., et al., 151 Phil. 440 (1973).

[26] Philippine Bank of Communication v. Court of Appeals, 344 Phil. 90, 99 (1997) citing Santiago Syjuco, Inc. v. Castro, 175 SCRA 171 (1989).

[27] See R.J., Francisco, Evidence 403-404 (3rd ed., 1996) citing Am. & Eng. Ency. of Law, 2nd Ed., 421.

[28] See 2 O.M. Herrera., Remedial Law 255-256 (2000 ed.), pp. 255-256. See also Munez v. Court of Appeals, L-46010, 23 July 1987, 152 SCRA 197; City of Manila v. Court of Appeals, G.R. No. 100626, 29 November 1991, 204 SCRA 362.

[29] See 3 O.M. Herrera., Remedial Law 72 (2000 Ed.) citing Buayan Cattle Co. v. Quintillian, 128 SCRA 276; Sales v. Securities and Exchange Commission, G.R. No. 54330, 13 January 1989, 330 Phil. 590 (1996); National Power Corporation v. Vera, G.R. No. 83558, 27 February 1989, 170 SCRA 721; Searth Commodities Corp. v. Court of Appeals, G.R. No. 64220, 31 March 1992, 207 SCRA 622; Saulog v. Court of Appeals, 330 Phil. 590 (1996); Sps. Arcega v. Court of Appeals, 341 Phil. 166 (1997).

[30] See Herrera, Oscar M., Remedial Law (Vol. III, 2000 Ed.), p. 72.

**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.