

**PROTACIO VICENTE AND DOMINGA VICENTE, REPRESENTED BY  
RONDOLF VICENTE, PETITIONERS, VS. DELIA SOLEDAD AVERA AND  
RONBERTO VALINO, SHERIFF IV, REGIONAL TRIAL COURT, BRANCH  
70, PASI...**

*G.R. No. 169970. January 20, 2009*

Ponente: PUNO, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-169970/>

---

**PUNO, C.J.:**

This Petition for Review on Certiorari seeks to set aside the Decision[1] and Resolution[2] of the Court of Appeals (CA), dated June 16, 2005 and October 4, 2005 respectively, in CA-G.R. CV No. 79327, which reversed the Decision[3] of the Regional Trial Court (RTC), Branch 208, Mandaluyong City, dated March 30, 2003.

Jovencio Rebuquiao was the registered owner of the property in dispute, then covered by Transfer Certificate of Title (TCT) No. 34351.[4] On October 1, 1987, Rebuquiao executed a Deed of Absolute Sale in favor of petitioners, spouses Protacio Vicente and Dominga Vicente, over the property in dispute.[5] Respondent Delia Soledad Avera alleges that on October 9, 1987, Jose Rebuquiao, pursuant to a Special Power of Attorney granted to him by Jovencio Rebuquiao, executed a Deed of Absolute Sale with Assumption of Mortgage in favor of Roberto Domingo, Avera's spouse at the time, and herself.[6]

On May 29, 1991, Avera filed a Petition for Declaration of Nullity of Marriage before the RTC, Branch 70, Pasig City, entitled "Delia Soledad Domingo, etc. v. Roberto Domingo" and docketed as JDRC Case No. 1989-J (JDRC case).[7] In this case, Avera asserted exclusive ownership over the property in dispute.[8] On January 23, 1992, a notice of lis pendens was inscribed on TCT No. 34351, pertaining to the JDRC case pending at the time.[9]

Since 1997, petitioners possessed the property in dispute.[10] On July 22, 1998, TCT No. 34351 was cancelled, and in lieu thereof, the Registry of Deeds issued petitioners TCT No. 14216 for the property in dispute, on the basis of the deed of sale executed on October 1, 1987.[11] The notice of lis pendens was carried over to TCT No. 14216.[12]

On November 28, 1994, the RTC, Branch 70, Pasig City, rendered a Decision in the JDRC case, declaring the marriage of Avera and Domingo void and ordering the property acquired during their cohabitation to be put in the custody of Avera, including the property in dispute.[13] After the decision in the JDRC case became final and executory, the RTC, Branch 70, Pasig City, issued a Writ of Execution.[14] On June 13, 2001, the same trial court issued an Alias Writ of Execution, which reads:

Movant declared in her motion that the said property is now registered in the name of another person, namely, Protacio Vicente, under TCT No. 14216 of the Register of Deeds of Mandaluyong City. It appearing, however, that the transfer was made notwithstanding the annotation thereon of the notice of lis pendens that the same property is the subject of the instant case, it can still be the subject of a writ of execution to satisfy the judgment in favor of herein petitioner.

WHEREFORE, let an alias writ of execution be issued over Transfer Certificate of Title No. 34351, now covered by TCT No. 14216 of the Register of Deeds of Mandaluyong City.

SO ORDERED.[15]

Pursuant to the Alias Writ of Execution, respondent Ronberto Valino, in his capacity as Sheriff IV of the RTC, Branch 70, Pasig City, served a Notice to Vacate dated August 15, 2001, on petitioners.[16] On August 17, 2001, petitioners filed an Affidavit of Third Party Claim before the RTC, Branch 70, Pasig City.[17]

On August 22, 2001, petitioners filed a Complaint for Injunction with Prayer for a Temporary Restraining Order (TRO) before the RTC, Branch 208, Mandaluyong City, to enjoin Sheriff Valino from implementing the alias writ of execution.[18] On September 4, 2001, the trial court issued a TRO[19] and, on May 29, 2002, a Writ of Preliminary Injunction, enjoining respondents from enforcing the notice to vacate.[20] On March 30, 2003, it rendered a decision, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered making the writ of preliminary injunction PERMANENT.

Defendants' counterclaims are hereby dismissed for lack of merit.

SO ORDERED.[21]

It held that petitioners were entitled to permanent injunction considering the following: (1) it is undisputed that petitioners are the registered owners of the subject property, which certificate of title confers upon them conclusive ownership of the property; and (2) the writ of execution issued in the JDRC case could only be issued against a party to the action, and thus not to the petitioners.[22]

On appeal, the CA reversed and set aside the decision of the RTC, Branch 208, Mandaluyong City.[23] The CA held that petitioners are bound by the outcome of the JDRC case, because the annotation of the notice of lis pendens (January 23, 1992) was ahead of petitioners' registration of the deed of sale executed on October 1, 1987 (July 22, 1998).[24] Petitioners filed a Motion for Reconsideration, which the CA denied.[25]

Petitioners raise the following issues before this Court:

I

The CA erred in ordering the dismissal of the complaint for injunction despite the fact that the Petitioners are the registered owners of the property and as such cannot be evicted out therefrom unless:

A. the sale from which they based their acquisition is declared void.

B. the title issued in their names based on the Deed of Sale is likewise declared void.

II

The CA erred in dismissing the complaint because in so doing, it made an implied recognition that a real property titled under the torrens system may be attacked collaterally in contravention of law and established jurisprudence[.]

III

The CA erred in concluding that the Petitioners are bound by the lis pendens it being clear that the property was acquired long before the lis pendens was annotated. Petitioners' (sic) became owners of the property on October 1, 1987 and not on July 20, 1998 when their ownership was merely confirmed by the title issued by the Office of the Register of Deeds.

Petitioners maintain that as the registered owners and actual possessors of the property in dispute, they are entitled

to a writ of injunction that will prevent the implementation of the writ of execution corresponding to the JDRC case.

Respondents assert that petitioners are not entitled to the writ of injunction, because the petitioners are subject to the outcome of the JDRC case and thus the implementation of the writ of execution due to the notice of lis pendens annotated on their TCT. They further allege: (1) that there was no sale by Rebuquiao in favor of petitioners on October 1, 1987; and (2) if there was a sale, the same happened in 1997, the year petitioners registered the deed of sale executed in their favor.[26]

The core issue in the case at bar is whether injunction lies in favor of the petitioners to prevent the respondents from interfering in the exercise of their rights over the property in dispute.

We find merit in the petition.

Injunction, as a preservative remedy, aims to protect substantive rights and interests.[27] To be entitled to a writ of injunction, the complainant must establish the following requisites: (1) there must be a right in esse or the existence of a right to be protected; and (2) the act against which injunction is to be directed is a violation of such right.[28] The grant of the writ is conditioned on the existence of the complainant's clear legal right, which means one clearly founded in or granted by law or is "enforceable as a matter of law." [29]

As the registered owners and actual possessors of the property in question, petitioners have a clear legal right to the property in dispute. Section 51 of Presidential Decree (P.D.) No. 1529 provides that registration is the operative act that conveys or affects registered land as against third persons.[30] Thus, a TCT is the best proof of ownership of land.[31] In the case at bar, it is undisputed that petitioners are the registered owners and actual possessors of the subject property. Moreover, as the registered owners, petitioners have the right to the possession of the property, which is one of the attributes of ownership.[32]

It was erroneous for respondents to assail the deed of sale executed on October 1, 1987 in favor of petitioners, because this constitutes a collateral attack on petitioners' TCT. Section 48 of P.D. No. 1529 prohibits a collateral attack on a Torrens title.[33] This Court has held that a petition which, in effect, questioned the validity of a deed of sale for registered land constitutes a collateral attack on a certificate of title.[34] In the case at bar, respondents' allegation, that the deed of sale executed on October 1, 1987 in favor of petitioners does not exist, clearly constitutes a collateral attack on a certificate of title. The allegation of the inexistence of the deed of sale in effect attacks the validity of the TCT issued in the petitioners' names.

Petitioners' title to the property in dispute is not subject to the outcome of the litigation covered by the notice of lis pendens annotated on January 23, 1992. Section 24, Rule 14 of the 1964 Rules of Civil Procedure provides that a purchaser of the property affected by the notice of lis pendens is deemed to have constructive notice of the pendency of the action only from the time of filing such notice.[35] Section 14, Rule 13 of the 1997

Rules of Civil Procedure reiterates this rule.[36] Thus, a notice of lis pendens affects a transferee pendente lite, who by virtue of the notice, is bound by any judgment, which may be rendered for or against the transferor, and his title is subject to the results of the pending litigation.[37]

A notice of lis pendens neither affects the merits of a case nor creates a right or a lien.[38] It serves to protect the real rights of the registrant while the case involving such rights is pending resolution.[39] While the notice of lis pendens remains on a certificate of title, the registrant could rest secure that he would not lose the property or any part of it during the litigation.[40] Once a notice of lis pendens has been duly registered, any subsequent transaction affecting the land involved would have to be subject to the outcome of the litigation. For this reason, the Court has pronounced that a "purchaser who buys registered land with full notice of the fact that it is in

litigation between the vendor and a third party stands in the shoes of his vendor and his title is subject to the incidents and result of the pending litigation." [41]

In the case at bar, the notice of lis pendens does not affect petitioners' title to the property in dispute. A notice of lis pendens concerns litigation between a transferor and a third party, where the transferee who acquires land with a notice of lis pendens annotated on the corresponding certificate of title stands in the shoes of his predecessor and in which case the transferee's title is subject to the results of the pending litigation. The notice of lis pendens does not concern litigation involving Rebuquiao, who transferred his title to the property in dispute to petitioners, and his title. The notice of lis pendens pertains to the JDRC case, an action for nullity of the marriage between Avera and Domingo. Since Rebuquiao's title to the property in dispute is not subject to the results of the JDRC case, petitioners' title to the same property is also not subject to the results of the JDRC case.

To determine whether the second requisite for granting a writ of injunction exists, that the act against which injunction is to be directed is a violation of the complainant's right, we must examine the implications regarding the implementation of the writ of execution over TCT No. 14216. Pursuant to this writ of execution, Sheriff Valino served petitioners with a notice to vacate.

If allowed to be carried out, the act against which the injunction is directed, the implementation of the writ of execution, would violate petitioners' rights as the registered owners and actual possessors of the property in dispute. The registered owner has the right to possess and enjoy his property, without any limitations other than those imposed by law. [42] The implementation of the writ of execution would unduly deprive petitioners, as the registered owners, of their right to possess the subject property, which is one of the attributes of ownership. [43]

We must stress that until petitioners' title is annulled in a proper proceeding, Avera has no enforceable right over the property in dispute. At this point, petitioners' possession of the subject property must be respected. Since Avera failed to prove her indubitable right over the subject property, we rule that petitioners possess a clear and unmistakable right over the property in dispute that requires the issuance of a writ of injunction to prevent any damage to their interests as registered owners.

IN VIEW WHEREOF, the petition is GRANTED. The Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 79327, dated June 16, 2005 and October 4, 2005 respectively, are REVERSED and SET ASIDE.

**SO ORDERED.**

Carpio, Corona, Azcuna, and Leonardo-De Castro, JJ., concur.

---

[1] Rollo, pp. 41-50.

[2] Id. at 51.

[3] Id. at 64-72.

[4] Id. at 41.

[5] Id. at 64.

[6] Id. at 42, 67.

[7] Id. at 42.

[8] Id.

[9] Id.

[10] Id. at 68.

[11] Id. at 43.

[12] Id.

[13] Records, Vol. 1, pp. 377-385.

[14] Id. at 398.

[15] Id. at 399.

[16] Rollo, pp. 43-44.

[17] Records, Vol. 1, pp. 50-51.

[18] Rollo, p. 15.

[19] Id. at 44.

[20] Records, Vol. 2, p. 553.

[21] Rollo, p. 72.

[22] Id. at 70.

[23] Id. at 50.

[24] Id. at 49.

[25] Id. at 51.

[26] Id. at 110-114.

[27] *Idolor v. Court of Appeals*, G.R. No. 141853, February 7, 2001, 351 SCRA 399, 405.

[28] *Borbajo v. Hidden View Homeowners, Inc.*, G.R. No. 152440, January 31, 2005, 450 SCRA 315, 326-327.

[29] *Boncodin v. National Power Corporation Employees Consolidated Union*, G.R. No. 162716, September 27, 2006, 503 SCRA 611, 623.

[30] This provision provides:

SECTION 51. Conveyance and other dealings by registered owner. -- An owner of registered land may convey, mortgage, lease, charge or otherwise deal with the same in accordance with existing laws. He may use such forms of deeds, mortgages, leases or other voluntary instruments as are sufficient in law. But no deed, mortgage, lease, or other voluntary instrument, except a will purporting to convey or affect registered land shall take effect as a conveyance or bind the land, but shall operate only as a contract between the parties and as evidence of authority to the Register of Deeds to make registration.

The act of registration shall be the operative act to convey or affect the land insofar as third persons are concerned, and in all cases under this Decree, the registration shall be made in the office of the Register of Deeds for the province or city where the land lies.

[31] *Lee Tek Sheng v. Court of Appeals*, 354 Phil. 556, 561 (1998).

[32] *Miranda v. Besa*, G.R. No. 146513, July 30, 2004, 435 SCRA 532, 540.

[33] This provision provides:

SECTION 48. Certificate not subject to collateral attack. -- A certificate of title shall not be subject to collateral attack. It cannot be altered, modified, or cancelled except in a direct proceeding in accordance with law.

[34] *Zaragoza v. Court of Appeals*, G.R. No. 106401, September 29, 2000, 341 SCRA 309, 316-317.

[35] This provision provides:

SECTION 24. Notice of lis pendens. -- In an action affecting the title or the right of possession of real property, the plaintiff, at the time of filing the complaint, and the defendant, at the time of filing his answer, when affirmative relief is claimed in such answer, or at any time afterwards, may record in the office of the registrar of deeds of the province in which the property is situated a notice of the pendency of the action, containing the names of the parties and the object of the action or defense, and a description of the property in that province affected thereby. From the time only of filing such notice for record shall a purchaser, or incumbrancer of the property affected thereby, be deemed to have constructive notice of the pendency of the action, and only of its pendency against parties designated by their real names. (Emphasis supplied)

The notice of lis pendens hereinabove mentioned may be cancelled only upon order of the court, after proper showing that the notice is for the purpose of molesting the adverse party, or that it is not necessary to protect the rights of the party who caused it to be recorded.

[36] This provision provides:

SECTION 14. Notice of lis pendens. -- In an action affecting the title or the right of possession of real property, the plaintiff and the defendant, when affirmative relief is claimed in his answer, may record in the office of the registry of deeds of the province in which the property is situated a notice of the pendency of the action. Said notice shall contain the names of the parties and the object of the action or defense, and a description of the property in that province affected thereby. Only from the time of filing such notice for record shall a purchaser, or encumbrancer of the property affected thereby, be deemed to have constructive notice of the pendency of the action, and only of its pendency against the parties designated by their real names. (Emphasis supplied)

The notice of lis pendens hereinabove mentioned may be cancelled only upon order of the court, after proper showing that the notice is for the purpose of molesting the adverse party, or that it is not necessary to protect the rights of the party who caused it to be recorded.

[37] *Yu v. Court of Appeals*, 321 Phil. 897, 902-903 (1995).

[38] *Romero v. Court of Appeals*, G.R. No. 142406, May 16, 2005, 458 SCRA 483, 495.

[39] *Po Lam v. Court of Appeals*, G.R. No. 116220, December 6, 2000, 347 SCRA 86, 96.

[40] *Id.*

[41] *Carrascoso, Jr. v. Court of Appeals*, G.R. No. 123672, December 14, 2005, 477 SCRA 666, 692-693.

[42] *Heirs of Rosendo Sevilla Florencio v. Heirs of Teresa Sevilla De Leon*, G.R. No. 149570, March 12, 2004, 425 SCRA 447, 460.

[43] *Miranda v. Besa*, *supra* note 32.

**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.