

FELIPE NACORDA AND LUZ NACORDA, PETITIONERS, VS. HON. NICASIO YATCO, AS PRESIDING JUDGE OF COURT OF FIRST INSTANCE OF RIZAL (QUEZON CITY BRANCH), J. M. TUASON & CO., INC., AND T...

G.R. No. 19520. August 12, 1966

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

In Civil Case No. Q-4108 of the Court of First Instance of Rizal, Quezon City Branch, J. M. Tuason & Co., Inc., sued Fernando Castro to recover possession of a parcel of land with an area of about 100 square meters, included within a larger parcel covered by a transfer certificate of title in the plaintiff's name. The complaint alleged that the defendant entered into such possession unlawfully and without the plaintiff's consent, and prayed that Castro be ejected and ordered to pay damages at the rate of P30.00 a month. On August 1959 the court, Judge Nicasio Yatco presiding, rendered judgment for the plaintiff but reduced the amount to be paid to P10.00 a month from May 1953 until restoration of possession. The said judgment became final, and on 9 October 1959 a writ of execution was issued, followed by an order for the demolition of the house situated on the land.

On 22 February 1960 the spouses Felipe Nacorda and Luz Nacorda, alleging that they had just learned of the proceedings abovementioned, filed a petition in Civil Case No. Q-4108, praying that the writ of execution and demolition be lifted on the ground that they were the owners of the land and the house, having acquired said land by virtue of a series of transfers from the original owner, a certain Agustin de Torres, and that Fernando Castro, defendant in the case, was merely a tenant of theirs. The petition was denied by Judge Yatco.

On 12 March 1960, after the denial of their petition, the spouses Nacorda filed a separate action against J. M. Tuason & Co., Inc., Civil Case No. 5053 of the same Court, but in the branch presided by Judge Hermogenes Caluag, asking that they be declared the owners of the same properties and that a writ of preliminary injunction be issued to restrain the execution of the judgment in the previous case.

On 10 February 1962 Judge Yatco issued an order in Civil Case No. Q-4108 giving the defendant there a period of 30 days, to expire 12 March 1962, within which to vacate the land and demolish the house situated thereon. In view thereof, and admitting that Judge Caluag could not properly enjoin the actuations of coordinate branch of the same court in another case, the spouses Nacorda filed before Us the instant original petition for injunction, with a prayer for the issuance of a writ of preliminary injunction, to stop the execution and demolition order issued by Judge Yatco. We gave due course to the petition but did not issue the preliminary injunction writ prayed for.

Under date of 19 March 1962 Fernando Castro filed a manifestation in Civil Case Q-4108 to the effect that he had removed and demolished his house voluntarily, pursuant to the order of 10 February 1962. On 21 March 1962, however, the plaintiff moved in the same case that the sheriff of Quezon City be directed to break into the house, which he had found padlocked, in order to carry out the order of demolition. Castro opposed the motion, but after hearing the Court granted it in an order dated 27 March 1962, having found that the house in question was still

standing although a small portion "attached" to it had really been removed. This last order was implemented on 29 March 1962, for which reason petitioners here filed in the instant case a "Supplementary Petition for Mandatory Injunction", maintaining that the house that was demolished belonged to them and not to Fernando Castro, and praying that respondent J. M. Tuason & Co., Inc., be ordered to return possession of the land to them and to restore the demolished house in the same site and in its original form and size as before the demolition.

It is quite obvious that the petition for injunction, as the principal remedy sought here, is not proper. Injunction is an ancillary writ and cannot be resorted to for the purpose of preventing the enforcement of a judgment that has already become final, except possibly in a proper action to annul such judgment. The validity of the judgment in Civil Case No. Q-4108, in so far as the parties therein are concerned, is not and has never been questioned: what petitioners seek is to prevent its execution on the ground that they are the owners of the property involved therein. This question of ownership is not litigated before Us in the instant petition; and the bare claim of petitioners on this point is certainly no reason to obstruct the judgment duly rendered in a case against another party, especially considering that the question in that case was merely one of possession. Indeed, petitioners have filed the proper reivindicatory action, and they should pursue their remedy there to its logical conclusion.

WHEREFORE, the writ prayed for is denied and the petition is dismissed, with costs.

Concepcion, C.J., Reyes, J.B.L., Barrera, Dizon, Bengzon, J.P., Sanchez, and Ruiz Castro, JJ., concur.
Regala, and Zaldivar, JJ., no part.

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