

NOLI DELA CRUZ, PETITIONER, VS. JORIVEL CARIÑO, REPRESENTED BY HER ATTORNEY-IN-FACT, JOYMAE CARIÑO, RESPONDENT.

G.R. No. 270273, April 28, 2026

Ponente: SINGH, J.

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SINGH, J.:

Before the Court is a Petition for Review on Certiorari[1] under Rule 45 of the Rules of Court, assailing the Decision,[2] dated May 17, 2023, and the Resolution,[3] dated October 4, 2023, of the Court of Appeals (CA) in CA G.R. CV No. 114325. The CA affirmed the Decision,[4] dated October 10, 2019, of Branch 197, Regional Trial Court, Las Piñas City (RTC) in Civil Case No. 16-0105, which declared the steel gate enclosing Jorivel Cariño's (Cariño) property as a nuisance per accidens and ordered Noli Dela Cruz (Dela Cruz) to remove the said steel gate at his expense.[5]

The Facts

The present case stemmed from a Complaint for Abatement of Nuisance with Damages[6] (Complaint) filed by Cariño against Dela Cruz.

In her Complaint, Cariño alleged that she is the owner of a residential lot covered by Transfer Certificate of Title (TCT) No. 005-2016000582. The said lot is bounded on all sides by lots belonging to different owners and thus did not have adequate outlet to the public road, except through a passageway (subject passageway) with right of way declared under Dela Cruz's name.[7]

Sometime in February 2016, Cariño built a residential building on her lot. Dela Cruz fenced his house and installed a steel gate, enclosing the subject passageway and preventing Cariño from traversing any part of it, and blocking Cariño's free access to the public road.[8]

On September 27, 2016, Cariño sent a demand letter to Dela Cruz, demanding the latter to remove the structure obstructing Cariño's free access to the public road, but Dela Cruz refused. Thus, Cariño filed the Complaint, praying for the following: (1) that the steel gate be declared as a private nuisance; (2) that the steel gate be removed at the expense of Dela Cruz; and (3) that Dela Cruz be ordered to pay moral and exemplary damages, as well as attorney's fees.[9]

In his Answer, Dela Cruz claimed that he fenced his property because there was a violation of his family's privacy due to Cariño's use of the subject passageway. Furthermore, Dela Cruz argued that the contested right of way is not a private nuisance since it is not the sole passageway to the public road, as there is another accessible passageway at the back of Cariño's property.[10]

The Ruling of the RTC

The RTC ruled in favor of Cariño, declaring the steel gate as a nuisance per accidens and ordering Dela Cruz to remove the said steel gate at his expense, thus:

WHEREFORE, premises considered, judgment is hereby rendered in favor of plaintiff Jorivel Cariño against

defendant Noli Dela Cruz, as follows:

- Declaring the steel gate enclosing the plaintiffs property as a nuisance per accidens;
- Ordering defendant Noli Dela Cruz to remove the said steel gate at his expense;
- Ordering defendant Noli Dela Cruz to pay plaintiff Jorivel Cariño the amount of [PHP 50,000.00] as nominal damages;
- Ordering defendant Noli Dela Cruz to pay the costs of suit.

SO ORDERED.[11] (Emphasis in the original)

The RTC held that closing the subject passageway by erecting a steel gate caused Cariño to be isolated and enclosed within the confines of her property. Since the subject passageway has already been declared as an easement of right of way, as annotated at the back of the TCTs covering Dela Cruz's properties,[12] Cariño has the right to the unobstructed use of and free passage over the said passageway. Thus, the steel gate is a nuisance per accidens that transgressed Cariño's rights.[13]

Aggrieved, Dela Cruz appealed to the CA.

The Ruling of the CA

In the assailed Decision, the CA denied Dela Cruz's appeal and affirmed the RTC Decision, thus:

WHEREFORE, the present Appeal is DENIED. The Decision[,] dated October 10, 2019[,] issued by [Branch 197,] Regional Trial Court, [] Las Piñas City in favor of [Cariño] is AFFIRMED in toto.

SO ORDERED.[14] (Emphasis in the original)

The CA agreed with the RTC that the steel gate is a nuisance as it effectively resulted in the obstruction of the subject passageway of Cariño from her property to the public road. According to the CA, the steel gate is still a nuisance even though the steel gate may be opened by Cariño, as the fact remains that the existence of the said steel gate obstructed Cariño's free access to the public road.[15]

Still dissatisfied with the CA's ruling, Dela Cruz filed a Motion for Reconsideration, which was denied by the CA.[16] Hence, the present Petition.

The Issue

Is the steel gate constructed by Dela Cruz a nuisance per accidens?

The Ruling of the Court

The Petition should be denied.

Preliminarily, it is a well settled rule that questions of fact are outside the coverage of a Petition for Review on Certiorari under Rule 45 of the Rules of Court, which is limited to questions of law. The Court will not review facts, as it is not the Court's function to analyze or weigh all over again evidence already considered in the proceedings before the lower courts.[17] While this rule admits of certain exceptions,[18] the burden lies with the petitioner to allege and substantiate the presence of any such exception.[19] Here, petitioner Dela Cruz failed to do so.

Here, Dela Cruz raises the question of whether the steel gate which obstructed Cariño's access to the public road should be considered as a nuisance per accidens, which is a question of fact.[20] On this ground alone, the Petition ought to be denied outright.[21]

Nevertheless, even if the Petition is resolved based on its merits, it should still be denied.

The steel gate is a nuisance per accidens

A nuisance is defined under Article 694 of the Civil Code as "any act, omission, establishment, condition of property, or anything else which: (1) injures or endangers the health or safety of others; or (2) annoys or offends the senses; or (3) shocks, defies or disregards decency or morality; or (4) obstructs or interferes with the free passage of any public highway or street, or any body of water; or (5) hinders or impairs the use of property."

In relation to remedies available against a nuisance, it may be classified as nuisance per se or as nuisance per accidens.[22] A nuisance per se is one which is "recognized as a nuisance under any and all circumstances, because it constitutes a direct menace to public health or safety, and, for that reason, may be abated summarily under the undefined law of necessity." On the other hand, a nuisance per accidens is one which "depends upon certain conditions and circumstances, and its existence being a question of fact, it cannot be abated without due hearing thereon in a tribunal authorized to decide whether such a thing in law constitutes a nuisance." [23]

Here, Dela Cruz obstructed and interfered with Cariño's free passage or access to the public road by installing a steel gate on the subject passageway. In doing so, Dela Cruz also impaired Cariño's free use of her property. Since the subject passageway has been declared as an easement of right of way, as annotated at the back of the TCTs covering Dela Cruz's properties,[24] Cariño has the right to use the said passageway in order to access the public road.[25]

While the steel gate was not locked, it was tied with a wire, thus still requiring Cariño to untie the said wire in order to access the public road through the subject passageway.[26] Moreover, while there is an alternative way to access the public road at the back portion of Cariño's property, the RTC found that such alternative way requires Cariño to traverse through several gates belonging to other neighbors.[27]

As uniformly held by the RTC and the CA, Cariño would not have had to resort to more complicated and inconvenient means of accessing the public road were it not for the steel gate installed by Dela Cruz on the subject passageway, which has been established as an easement of right of way,[28] as annotated at the back of the TCTs covering Dela Cruz's properties.[29]

The steel gate is not a nuisance per se, as it is not recognized as a nuisance under any and all circumstances, and does not pose an immediate general threat upon the safety of all persons and property. Based on the circumstances of the present case, the steel gate is a nuisance per accidens, as it obstructs and interferes with Cariño's free access to the public road and impairs her free use of her property. It is only here, due to these peculiar circumstances, that the steel gate is declared a nuisance. Hence, the steel gate is a nuisance per accidens.

Award of nominal damages

Nominal damages "may be awarded to a plaintiff whose right has been violated or invaded by the defendant, for the purpose of vindicating or recognizing that right, and not for indemnifying the plaintiff for any loss suffered by him." [30] The amount of nominal damages is left to the sound discretion of the court, taking into consideration the relevant circumstances.[31]

Here, Dela Cruz willfully violated Cariño's right to access the public road through the subject passageway. The RTC's award of nominal damages in the amount of PHP 50,000.00 is reasonable.

Moreover, pursuant to the Court's ruling in *Lara's Gifts & Decors, Inc. v. Midtown Industrial Sales, Inc.*, [32] the

Court finds it proper to impose six percent (6%) per annum legal interest on the total monetary award to be reckoned from the date of finality of this Decision until fully paid.

ACCORDINGLY, the Petition for Review on Certiorari is DENIED. The Decision, dated May 17, 2023, and the Resolution, dated October 4, 2023, of the Court of Appeals in CA G.R. CV No. 114325 are AFFIRMED with MODIFICATION in that the total monetary award shall earn legal interest at the rate of six percent (6%) per annum from the date of finality of this Decision until fully paid.

SO ORDERED.

Caguioa (Chairperson), Inting, Gaerlan, and Dimaampao, JJ., concur.

[1] Rollo, pp. 11-31.

[2] Id. at 33-50. Penned by Associate Justice Lorenza R. Bordios and concurred in by Associate Justices Fernanda Lampas Peralta and Rafael Antonio M. Santos of the Second Division, Court of Appeals, Manila.

[3] Id. at 52-54. Penned by Associate Justice Lorenza R. Bordios and concurred in by Acting Presiding Justice Fernanda Lampas Peralta and Associate Justice Rafael Antonio M. Santos of the Former Second Division, Court of Appeals, Manila.

[4] Id. at 244-254. Penned by Judge Ismael T. Duldulao.

[5] Id. at 253.

[6] Id. at 55-61.

[7] Id. at 244.

[8] Id.

[9] Id. at 34.

[10] Id. at 35.

[11] Id. at 253-254.

[12] Id. at 42.

[13] Id. at 253.

[14] Id. at 49-50.

[15] Id. at 46.

[16] Id. at 53.

[17] Vidal-Plucena v. Mayor Balgos, 943 Phil. 700, 703 (2023) [Per J. Singh, Third Division].

[18] Sps. Miano v. Manila Electric Company, 800 Phil. 118, 122-123 (2016) [Per J. Leonen, Second Division] states:

"However, the general rule for petitions filed under Rule 45 admits exceptions. *Medina v. Mayor Asistio, Jr.* lists down the recognized exceptions: (1) When the conclusion is a finding grounded entirely on speculation, surmises[,] or conjectures; (2) When the inference made is manifestly mistaken, absurd[,] or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5)

When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record." (Citations omitted)

[19] *Pascual v. Burgos*, 776 Phil. 167, 169 (2016) [Per J. Leonen, Second Division].

[20] See *Knights of Rizal v. DMCI Homes, Inc.*, 809 Phil. 453, 542 (2017) [Per J. Carpio, En Banc].

[21] See *Securities and Exchange Commission v. College Assurance Plan Phils., Inc.*, 883 Phil. 134, 174 (2020) [Per J. Leonen, Third Division].

[22] *Spouses Calimlim v. Goño*, G.R. No. 272053, January 14, 2025 [Per J. Lazaro-Javier, Second Division] at 10. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[23] *AFP v. Amogod*, 889 Phil. 846, 867-868 (2020) [Per J. Gaerlan, First Division].

[24] *Rollo*, p. 42.

[25] See *Spouses Vargas v. Sta. Lucia Realty and Development, Inc.*, 926 Phil. 578, 583 (2022) [Per J. Gaerlan, Third Division].

[26] *Rollo*, p. 46.

[27] *Id.* at 252.

[28] *Id.* at 47, 252.

[29] *Id.* at 42.

[30] *Manila International Ports Terminal, Inc. v. Philippine Ports Authority*, 918-A Phil. 144, 181 (2021) [Per J. Hernando, En Banc].

[31] See *Libcap Marketing Corp., v. Baquial*, 737 Phil. 349, 361 (2014) [Per J. Del Castillo, Second Division].

[32] 929 Phil. 754 (2022) [Per Acting C.J. Leonen, En Banc].

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