

**SPOUSES SALVADOR AND IGNACIA ESMILLA, PETITIONERS, VS.
FEDERICO ALVAREZ, JESUS SAMORTIN, RAYMUNDO REMOL-LINO,
AND THE REGIONAL TRIAL COURT OF QUEZON CITY, BRANCH 102,
RESPONDENTS.**

G.R. No. 80486. November 15, 1989

Ponente: PADILLA, J.

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PADILLA, J.:

This is a petition for certiorari with prayer for the issuance of a writ of preliminary injunction, premised upon the following facts:

In Civil Cases Nos. 38-48535, 38-48536, 38-48537, and 38-48538 of the Metropolitan Trial Court (MTC) of Quezon City, Branch 38, judgment was rendered in favor of herein petitioners (as plaintiffs) and against herein private respondents (as defendants), ordering the latter to vacate the premises in question.[1] The said decision dated 3 September 1986 was received by private respondents on 19 January 1987. They had, therefore, fifteen (15) days from said date or, up to 3 February 1987, within which to appeal. They filed their notice of appeal only on 5 February 1987 which was the 17th day after receipt of the decision. Hence, on 12 February 1987, petitioners moved for execution. Private respondents opposed the motion. On 27 February 1987, the MTC granted the motion for execution.

Thereafter, private respondents filed with this Court a petition for certiorari and prohibition, docketed as G.R. Nos. 77702-05, which was dismissed on 8 April 1987.[2] The resolution dismissing the petition held that a petition for certiorari cannot be a substitute for a lost appeal. Private respondents' motion for reconsideration was likewise denied.[3] Entry of this Court's judgment was made on 15 June 1987.[4]

Meanwhile, the MTC issued on 8 June 1987 an order to implement the writ of execution it had issued on 27 February 1987.[5]

On 11 June 1987, private respondents filed with the Regional Trial Court (RTC) of Quezon City, Branch 102 (respondent court), an action for the annulment of the MTC judgment in Civil Cases Nos. 38-48535, 38-48536, 38-48537 and 38-48538, with prayer for the issuance of a writ of preliminary injunction, docketed therein as Civil Case No. Q-51057. Private respondents alleged in their complaint before the respondent court that the lots and houses they occupy are located in areas covered by Presidential Decree No. 1517 (the urban land reform act), from which they may not be ejected; that their continued stay therein shall be the subject of negotiations between them and the owners, the herein petitioners; and that in case of failure to agree, the lots shall be expropriated by the government. In short, private respondents impugned the jurisdiction of the MTC to take cognizance of the ejectment cases against them.

Acting upon the private respondents' complaint, respondent court directed petitioners to answer the complaint and issued a temporary restraining order.[6] On 18 June 1987, petitioners filed with the respondent court a motion

to dismiss the complaint on the ground of res adjudicata.[7]

On 9 July 1987, respondent court issued an order,[8] granting the private respondents' prayer for the issuance of a writ of preliminary injunction enjoining the execution of the MTC judgment in the aforesaid ejectment cases. Petitioners moved for reconsideration of the order, but the same was denied on 26 October 1987.[9]

Hence, petitioners interposed the present recourse to annul and set aside the respondent court's order granting the writ of preliminary injunction as well as its order denying their motion for reconsideration, claiming that respondent court issued said orders with grave abuse of discretion.

Petitioners contend that the MTC judgment in the ejectment cases, which had already become final and executory, bars the action filed with the respondent court for annulment of said MTC judgment, under the doctrine of res adjudicata. On the other hand, private respondents argue that the lots which they have been occupying for more than ten (10) years are covered by the urban land reform act (PD 1517), thus, they may not be ejected from said property.

This Court's final and duly-entered resolution in G.R. Nos. 77702-05 ruled that herein private respondents were precluded from assailing, by certiorari, the final judgment rendered against them by the MTC in the aforesaid ejectment cases. In effect, this Court recognized the finality of the MTC judgment in the ejectment cases.

The action to annul said MTC final judgment, instituted by private respondents before the respondent court, is an indirect way of assailing the MTC judgment which they had failed to directly set aside. But, what one cannot do directly, he should not be allowed to do indirectly. The action for annulment filed by private respondents before the respondent court is not justifiable. For want of any showing that petitioners (as plaintiffs) had committed fraud upon private respondents (as defendants) or that the MTC had no jurisdiction over the subject matter and the parties, or that the MTC decision was patently void on its face, the said MTC judgment (in the ejectment cases) may not, at this stage, be set aside.[10]

We find no merit in private respondents' submission that the MTC had no jurisdiction over said ejectment cases, because the property from which they are being ejected is covered by the urban land reform decree (PD 1517).

There is no question that private respondents have continuously occupied the disputed property for over ten (10) years; however, it does not follow therefrom that they may no longer be ejected from the premises for non-payment of rentals for more than three (3) months or on other grounds for ejectment recognized by law. While it is true that PD 1517 extends protection to the tenants of residential lands covered by said law, by giving them the right of first refusal to purchase the land they have continuously occupied for at least ten (10) years, and, where such tenants or residents are unable (although desirous) to purchase said lands, the government will acquire the same by expropriation, or "other land acquisition techniques,"[11] these rights may be availed of only in cases where the owner of the property intends to sell it to a third party. As this is the law's evident intention, the legitimate tenant of at least ten (10) years standing may not be ejected, but only if he decides to purchase the property intended for sale by its owner.[12]

WHEREFORE, the petition is GRANTED. Civil Case No. Q-51057 before the respondent court is ordered DISMISSED and the temporary restraining order heretofore issued by the Court is made PERMANENT.

SO ORDERED.

Paras, (Acting Chairman), Sarmiento, and Regalado, JJ., concur.

Melencio-Herrera, J., (Chairman), on leave.

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- [1] Annex "A", G.R. Nos. 77702-05, Rollo, p. 11
- [2] G.R. Nos. 77702-05, Rollo, p. 24
- [3] Ibid., p. 31
- [4] ibid., p. 34
- [5] Annex "I", Petition, G.R. No. 80486, Rollo, p. 31.
- [6] Annex "E", Petition, Rollo, p. 20
- [7] Annex "F", Petition, Rollo, p. 21
- [8] Annex "A", Petition, Rollo, p. 15
- [9] Annex "B", Petition, Rollo, p. 17.
- [10] *Brillante vs. Arboleda*, G.R. No. L-48190, August 31, 1987, 153 SCRA 374
- [11] SEC. 6. Land Tenancy in Urban Land Reform Areas.

Within the Urban Zones, legitimate tenants who have resided on the land for ten years or more, who have built their homes on the land, and residents who have legally occupied the lands by contract, continuously for the last ten years shall not be dispossessed of the land and shall be allowed the right of first refusal to purchase the same within a reasonable time and at reasonable prices, under terms and conditions to be determined by the Urban Zone Expropriation and Land Management Committee created by Section 8 of this Decree.

SEC. 7. Acquisition of Residential Lands for Existing Tenants and Residents.

In cases where the tenants and residents, referred to in Section 6 of this Decree, are unable to purchase said lands, the Government shall acquire the land and/or improvements thereon by expropriation or other land acquisition technique provided for under Section 11 of this Decree.

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- [12] *Bermudes vs. IAC*, G.R. No. 73206, August 6, 1986, 143 SCRA 351

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