

P10

**Republic of the Philippines
Supreme Court
Manila**

SECOND DIVISION

**SATURNINO NOVECIO, GAVINO
NOVECIO, ANASTACIO GOLEZ,
ABUNDIO SOMBILON, BERTING
RODRIGUEZ, MELITON CATALAN,**
Petitioners,

- versus -

**HON. RODRIGO F. LIM, JR., as
Chairman, HON. LEONCIA R.
DIMAGIBA as *ponente* and as member
and HON. ANGELITA A. GACUTAN
as member, former Twenty-Third
Division, COURT OF APPEALS,
Mindanao Station, HON. JUDGE
BENJAMIN ESTRADA, in his capacity
as Presiding Judge of Branch 9, RTC,
Malaybalay, Bukidnon, MARIA
CARMEN J. TUAZON, rep. by her
Attorney-in-fact, LOPE DUROTAN,**
Respondents.

X-----X

**VERGELIO ROSALES, LUIS
TEQUILIO, GREGORIO PANANGIN,
JOSEPH RODRIQUEZ, EDDIE
RODRIGUEZ,**
Petitioners,

- versus -

**HON. RODRIGO F. LIM, JR., as
Chairman, HON. LEONCIA R.
DIMAGIBA as *ponente* and as member**

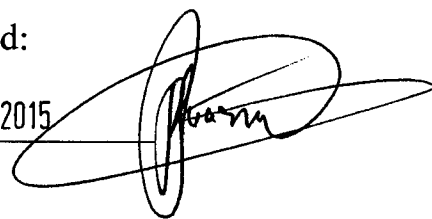
G.R. No. 193809

Present:

**BRION, J.,* *Acting Chairperson,*
DEL CASTILLO,
MENDOZA,
PERLAS-BERNABE,** and
LEONEN, JJ.**

Promulgated:

MAR 23 2015



* Designated as Acting Chairperson, per Special Order No. 1955 dated March 23, 2015.

** Designated as Acting Member *vice* Associate Justice Antonio T. Carpio, per Special Order No. 1956 dated March 23, 2015.



and HON. ANGELITA A. GACUTAN
as member, former Twenty-Third
Division, COURT OF APPEALS,
Mindanao Station, HON. JUDGE
BENJAMIN ESTRADA, in his capacity
as Presiding Judge of Branch 9, RTC,
Malaybalay, Bukidnon, MANUEL V.
NIETO, rep. by his Attorney-in-fact,
LOPE DUROTAN,

Respondents.

X-----X

DECISION

BRION, J.:

We resolve the petition for *certiorari*¹ filed under Rule 65 of the Rules of Court with prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction. The petition assails the resolutions² dated January 28, 2010 and July 16, 2010 of the Court of Appeals (CA) in CA-G.R. SP No. 02863.

The assailed resolutions denied the petitioners' prayer for the issuance of a preliminary injunction pending resolution of the Petition for Review filed in the CA. The subject of the Petition for Review was the consolidated decision of the Regional Trial Court (RTC), Branch 9, Malaybalay, Bukidnon, which reversed the decision of the Municipal Trial Court (MTC) of Quezon, Bukidnon. The MTC dismissed the forcible entry cases filed by the respondents against the petitioners.

On October 18, 2010, this Court issued a Temporary Restraining Order (TRO) enjoining the RTC from executing its consolidated decision.³

The Factual Antecedents

Respondents Maria Carmen J. Tuazon and Manuel V. Nieto, represented by their attorney-in-fact, Lope Durotan (*the respondents*), filed complaints⁴ for forcible entry with damages against petitioners Saturnino Novecio, Gavino Novecio, Anastacio Golez, *et al.* (*the petitioners*).⁵

¹ *Rollo*, pp. 3-25, received by this Court on October 12, 2010.

² *Id.* at 41-42 and 44-45; penned by Associate Justice Leoncia R. Dimagiba, and concurred in by Associate Justices Rodrigo F. Lim, Jr. and Angelita A. Gacutan.

³ *Id.* at 222-226.

⁴ *Id.* at 72-78, docketed as Civil Case Nos. 453 and 454.

⁵ Abundio Sombilon, Berting Rodriguez, Meliton Catalan, Vergelio Rosales, Luis Tequilio, Gregorio Panangin, Joseph Rodriguez and Eddie Rodriguez.

The respondents alleged that on February 15, 2004, the petitioners, by force, intimidation, threat, strategy and stealth, unlawfully squatted and took possession of several portions of land with an area of eight (8) hectares, described as Project No. 9, Block 1, LC Map No. 777. The petitioners allegedly planted crops, erected makeshift shelters, and continue to plant and /or improve the shelters as of the filing of the complaints for forcible entry, all without the consent and/or against the will of the respondents.

The petitioners, on the other hand, contended that they have already been in possession of the land for more than two years when the complaints were filed. They maintained that they have planted the land with corn, durian, coconut, mango, jackfruit, rambutan, etc. for their livelihood. They also alleged that they were harassed by some men armed with shotguns and pistols on February 12, 2004.⁶

The petitioners further maintained that Manuel V. Nieto, father of Maria Carmen J. Tuazon, had previous landholding in the area but the same was covered by the Comprehensive Agrarian Reform Program (*CARP*) and so it was subdivided in favor of the tenants.⁷

The MTC's Ruling

The MTC ruled in favor the petitioners.⁸

The MTC found that the respondents anchored their alleged prior possession on the fact that they have applied title for the land as shown by a certification authorizing land survey.⁹ Other than this, the respondents had no evidence of their actual and physical possession of the land. The MTC also found that they were not even residents of the place and never personally appeared in court during trial.

The petitioners, on the other hand, claimed their prior possession on the fact that their livelihood as fisher folks and farmers require them to live by the riverbank where the land is located. The petitioners also asserted that they have been occupying the land for more than two (2) years when the complaints were filed. The MTC held that the certification issued by the *barangay* captain that the petitioners are residents of the place is a very strong evidence of their prior physical possession.¹⁰

The MTC concluded: “[a]s between a resident and a non-resident the likelihood is that the resident has the prior physical possession because of his accessibility to the area.”¹¹

⁶ *Rollo*, pp. 80-81.

⁷ *Id.* at 81.

⁸ *Id.* at 99-106, consolidated decision in Civil Case Nos. 453 and 454, dated November 7, 2005, penned by Presiding Judge Dante L. Villa.

⁹ *Id.* at 103.

¹⁰ *Id.* at 104-105.

¹¹ *Id.* at 105.

The dispositive portion of the MTC decision reads:

WHEREFORE, by preponderance of evidence showing defendants' prior physical possession of the land and the filing of the complaint beyond the one-year period[,] judgment is rendered in favor of the defendants **DISMISSING** the cases.¹²

The respondents appealed the MTC decision to the RTC.

The RTC's Ruling

The RTC reversed the MTC decision.¹³

The RTC held that the MTC ignored some pieces of evidence, warranting the reversal of the decision.

The RTC ruled that the MTC should have given credence to the certification issued by the Department of Environment and Natural Resources - Community Environment and Natural Resources Office (*DENR-CENRO*) showing that the land in litigation is the subject of an application for title and claim by the respondents. The RTC also took judicial notice of the request for authority to conduct a survey over the subject property, which provides that "the parcel of land herein treated was an unsurveyed land and Manuel V. Nieto was the identified occupant and tiller of the land."¹⁴

In view of these, the RTC ruled that the respondents were the actual occupants of the property in litigation long before the petitioners had taken possession of the same property. The RTC ordered the petitioners' ejectment.

The dispositive portion of the RTC decision reads:

WHEREFORE, premises considered and finding the appeal to be with merit, the assailed Consolidated Decision dated November 7, 2005 of the Municipal Trial Court of Quezon, Bukidnon is hereby reversed and set aside, finding in favor of plaintiff-appellants, ordering the ejectment of all defendants-appellees and "John Does" in both cases and for them to turn over peaceful possession/occupancy of the landholding in litigation. No pronouncement as to costs.¹⁵

The Proceedings before the CA

The petitioners filed on April 30, 2009 a Petition for Review¹⁶ with the CA - Mindanao Station, assailing the judgment of the RTC.

¹² Id. at 106.

¹³ Id. at 107-110, consolidated decision In Civil Case Nos. 3491-05 and 3492-05, dated February 17, 2009, penned by Presiding Judge Josefina Gentiles Bacal.

¹⁴ Id. at 108. The request for authority to conduct survey was dated June 14, 1999.

¹⁵ Id. at 110.

¹⁶ Id. at 111-127.

As the respondents sought the execution of the RTC judgment, the petitioners filed on May 14, 2010 an Extremely Urgent Application for Writ of Preliminary Injunction and Immediate Issuance of Temporary Restraining Order.¹⁷

On July 13, 2009, the CA issued a TRO effective for sixty (60) days. Meanwhile, the CA directed the parties to submit their memoranda and position papers.

On January 28, 2010, the CA issued the first assailed resolution denying the petitioners' application for preliminary injunction.¹⁸ The CA, without necessarily resolving the petition on the merits, held that the petitioners were not entitled to the relief demanded under Rule 58 of the Rules of Court. The petitioners' Motion for Reconsideration was denied on July 16, 2010.

The Petition

The petitioners impute grave abuse of discretion on the CA in denying their prayer for injunction pending resolution of the Petition for Review.

The petitioners argue that the CA denied their prayer for preliminary injunction despite the pressing need for it to prevent grave and irreparable injury to them. They emphasize that the records clearly show that they were the prior possessors of the subject lot. In fact, the lot has been their home and source of livelihood for several years prior to the institution of the forcible entry cases.

The respondents filed their comment¹⁹ on December 3, 2010. They argue that grave abuse of discretion means such capricious and whimsical exercise of judgment equivalent to lack of jurisdiction. Mere abuse of discretion, according to the respondents, is not enough. The respondents maintain that the petitioners are not entitled to the injunctive relief since they have not established a clear legal right for its issuance.

This Court, acting on the petitioners' prayer, issued a TRO on October 18, 2010, enjoining the RTC from executing its decision. The TRO remains effective until this day.

Finally, it appears that the CA has yet to issue a decision on the Petition for Review.²⁰

¹⁷ Id. at 129-134.

¹⁸ Id. at 41-42.

¹⁹ Id. at 228-234.

²⁰ The records do not contain any notice that the Petition for Review has been decided by the CA.

The Issue

The sole issue is whether or not the CA acted with grave abuse of discretion, amounting to lack or excess of jurisdiction, when it denied the petitioners' prayer for preliminary injunction.

The Court's Ruling

We find the petition meritorious.

We note at the outset that the petition merely assails the interlocutory orders of the CA. Thus, the remedy of *certiorari* under Rule 65 is appropriate as the assailed resolutions are not appealable and there is no plain, speedy or adequate remedy in the ordinary course of law.²¹

Our decision in this case is without prejudice to the Petition for Review pending in the CA. Our judgment is limited to the resolutions of the CA denying the prayer for the issuance of a preliminary injunction.

Subject to this clarification, we find that the CA committed grave abuse of discretion when it denied the injunctive relief prayed for by the petitioners.

There is grave abuse of discretion when an act is (1) done contrary to the Constitution, the law or jurisprudence *or* (2) executed whimsically, capriciously or arbitrarily, out of malice, ill will or personal bias.²²

We quote the assailed CA resolutions.

The January 28, 2010 Resolution states:

Without necessarily resolving the instant petition on the merits, We find [the] petitioners not entitled to the relief demanded under Rule 58 of the Revised Rules of Procedure. Thus, [the] petitioners' application for the issuance of [a] Writ of Preliminary Injunction is hereby **DENIED**.

The July 16, 2010 Resolution reads:

Upon careful evaluation of [the] petitioners' Motion, We find no cogent and compelling reasons to warrant reversal of Our Resolution. The arguments raised by [the] petitioners were mere reiteration and already considered and passed upon by this Court in denying [the] petitioners' application for issuance of the Writ of Preliminary Injunction.

²¹ *New Frontier Sugar Corporation v. Regional Trial Court, Branch 39, Iloilo City*, G.R. No. 165001, January 31, 2007 (513 SCRA 601, 610).

²² *National Artist for Literature Virgilio Almario v. The Executive Secretary*, G.R. No. 189028, July 16, 2013, 701 SCRA 269, 316 citing *Doromal v. Biron*, G.R. No. 181809, February 17, 2010, 613 SCRA 160, 172; *St. Mary of the Woods School, Inc. v. Office of the Registry of Deeds of Makati City*, G.R. No. 174290, January 20, 2009, 576 SCRA 713, 727; *Information Technology Foundation of the Philippines v. Commission on Elections*, 464 Phil. 173 (2004).

A review of the records, however, shows that the CA ignored relevant facts that would have justified the issuance of a preliminary injunction. Contrary to established jurisprudence, the CA also denied the prayer for preliminary injunction without giving the factual and legal bases for such denial.

Section 3, Rule 58 of the Rules of Court provides that a preliminary injunction may be granted when the following have been established:

- i. That the applicant is entitled to the relief demanded, and the whole or part of such relief consist in restraining the commission or continuance of the act or acts complained of, or in requiring the performance of an act or acts, either for a limited period or perpetually;
- ii. That the commission, continuance or non-performance of the act or acts complained of during the litigation would probably work injustice to the applicant; or
- iii. That a party, court, agency or a person is doing, threatening, or is attempting to do, or is procuring or suffering to be done some act or acts probably in violation of the rights of the applicant respecting the subject of the action or proceeding, and tending to render the judgment ineffectual.

A preliminary injunction is proper when the plaintiff appears to be clearly entitled to the relief sought and has substantial interest in the right sought to be defended. As this Court has previously ruled, “while the existence of the right need not be conclusively established, it must be clear.”²³

A writ of preliminary injunction is generally based solely on initial or incomplete evidence. Such evidence need only be a sampling intended merely to give the court an evidence of justification for a preliminary injunction pending the decision on the merits of the case, and is not conclusive of the principal action which has yet to be decided.²⁴

In a prayer for preliminary injunction, the plaintiff is not required to submit conclusive and complete evidence. He is only required to show that he has an ostensible right to the final relief prayed for in his complaint.²⁵

In this case, the petitioners have adequately shown their entitlement to a preliminary injunction. First, the relief demanded consists in restraining the execution of the RTC decision ordering their ejection from the disputed

²³ *Power Sites and Signs, Inc. v. United Neon*, G.R. No. 163406, November 24, 2009, 605 SCRA 196, 208.

²⁴ *Spouses Nisce v. Equitable PCI Bank, Inc.*, 545 Phil. 138, 161 (2007).

²⁵ *Id.*

land. Second, their ejectment from the land from which they derive their source of livelihood would work injustice to the petitioners. Finally, the execution of the RTC decision is probably in violation of the rights of the petitioners, tending to render the MTC judgment dismissing the forcible entry cases ineffectual.

Moreover, the court in granting or dismissing an application for a writ of preliminary injunction based on the pleadings of the parties and their respective evidence must state in its order the findings and conclusions based on the evidence and the law. This is to enable the appellate court to determine whether the trial court committed grave abuse of its discretion amounting to excess or lack of jurisdiction in resolving, one way or the other, the plea for injunctive relief.²⁶

Thus, we do not understand why the CA denied the prayer for preliminary injunction without citing any legal or factual basis for the denial. The CA resolution provides: “[We] find [the] petitioners not entitled to the relief demanded under Rule 58 of the Revised Rules of Civil Procedure.”

Neither does the resolution denying the petitioners’ Motion for Reconsideration contain any factual and legal bases for the denial. It only provides that “[u]pon careful evaluation of the petitioners’ Motion, We find no cogent and compelling reasons to warrant reversal of Our Resolution.”

We therefore have no idea why and how the CA came to the conclusion that the petitioners are not entitled to the injunctive relief. Hence, we are forced to go beyond the function of a *certiorari* under Rule 65 and examine the factual findings of the MTC and the RTC.

The MTC found that the petitioners have been in actual and physical possession of the land for more than two (2) years prior to the institution of the complaints for forcible entry.²⁷ The MTC also found that the respondents were not even sure how the petitioners entered the land. In their complaints, they alleged that petitioners entered the land by means of “force, intimidation, threat, stealth and strategy,” a shotgun allegation which shows that respondents’ lack knowledge of how the petitioners entered the disputed property.

We quote the MTC decision with approval, *viz*:

x x x Force, intimidation[,] and threat usually connote actual knowledge of dispossession. One cannot force, intimidate or threaten another who is not around. In stealth and strategy[,] the actual entry is usually done without the knowledge of the plaintiff. If they are not sure how [the] defendants entered the land[,] the likelihood is that they also do not know when [the] defendant[s] entered the land. The court is apt to believe that [the]

²⁶

Id.

²⁷*Rollo*, pp. 104-105.

defendants have been in possession of the land for more than 2 years. And under Rule 70[,] the action of forcible entry must be filed within one year from dispossession. The filing of these cases was beyond the one-year period.²⁸

The RTC, on the other hand, relied on a mere request for authority to conduct a land survey, allegedly showing that respondent Manuel V. Nieto was the occupant and tiller of the land.

However, this document does not prove prior possession of the subject land. It only points to the fact that there was an application for a land title in the name of one of the respondents, which application was **not** even shown to have been granted. This document merely authorized the survey of the land; the declaration regarding possession was just incidental to the application for land survey.

Between the clear findings of the MTC, which conducted the trial of the forcible entry cases, and the RTC acting as an appellate court, which relied on documentary evidence but without sufficiently explaining how such evidence would prove prior possession, we are inclined to give weight to the MTC's ruling.

This Court has held:

xxx The Court generally recognizes the profundity of conclusions and findings of facts reached by the trial court and hence sustains them on appeal except for strong and cogent reasons inasmuch as the trial court is in a better position to examine real evidence and observe the demeanor of witnesses in a case. No clear specific contrary evidence was cited by the respondent appellate court to justify the reversal of the lower court's findings. Thus, in this case, between the factual findings of the trial court and the appellate court, those of the trial court must prevail over that of the latter.²⁹

Under this factual backdrop, we conclude that the CA committed grave abuse of discretion when it denied the prayer for preliminary injunction without explanation and justification.

We ought to remember that the grant of preliminary injunction would have only been provisional and would not be conclusively determinative of the principal action. The issuance of the writ would have served its purpose, *i.e.*, to preserve the *status quo* or to prevent future wrongs in order to preserve and protect the interests of the petitioners during the pendency of the action.³⁰

WHEREFORE, in view of the foregoing, we **GRANT** the writ of *certiorari* and accordingly **SET ASIDE** the resolutions of the Court of

²⁸ Id. at 105-106.

²⁹ *Heirs of Claudel v. Hon. Court of Appeals*, 276 Phil. 114, 126 (1991).

³⁰ *Cortez-Estrada v. Heirs of Domingo/Antonia Samut*, 491 Phil. 458, 472 (2005).

Appeals dated January 28, 2010 and July 16, 2010 for grave abuse of discretion.


SO ORDERED.


ARTURO D. BRION
Associate Justice

WE CONCUR:


MARIANO C. DEL CASTILLO
Associate Justice



JOSE CATRAL MENDOZA
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice

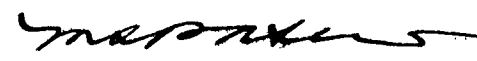
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ARTURO D. BRION
Associate Justice
Acting Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
Chief Justice