



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

**SPOUSES CARMELITO and
ANTONIA ALDOVER,**
Petitioners,

G.R. No. 167174

- versus -

**THE COURT OF APPEALS,
SUSANA AHORRO,
ARLINE SINGSON,
BIBIANA CAHIBAYBAYAN,
LUMINADA ERQUIZA,¹
ANGELITA ALBERT,
JOSELITO ACULA,
SORAYDA ACULA,
JOMAR ACULA,
CECILIA FAMORCA,
CELESTE VASQUEZ,
ALFONSO CABUWAGAN,
CARMELITA RIVERA,
JESSIE CAHIBAYBAYAN,
MA. ANA V. TAKEGUCHI,
ROSEMARIE BONIFACIO,
ANGELINA FLORES,
ALMACERES D. MISHIMA,
AURELIA CAHIBAYBAYAN,
SONIA S. MALAQUE,
NORA ANTONIO,
REYNALDO ANTONIO,
REGINALD ANTONIO,
RONALDO ANTONIO, JR.,
JUANITA CHING,²
MARIETA PACIS,
TITO PACIS,
JOSE IBAYAN,
ELSIE SISON,
LEONARDO SISON,**

¹ Should be Iluminada Erquiza per the Verification and Certification attached to respondents' Amended Petition with the Court of Appeals, CA rollo, p. 183.

² Although impleaded herein as one of the respondents, she was not among the signatories in the Verification and Certification of Non-Forum Shopping attached to respondents' Amended Petition with the Court of Appeals, id. at 183-196.

**MERCEDES ANTONIO,
RICARDO SARMIENTO,³
SERGIO TEGIO,
CRISENCIA FAVILLAR,
NELLY FERNANDEZ,
MARILYN DE VEGA,
CELIA TUAZON,
CELINE RAMOS,
EUTEMIO RAMOS,
LUZVIMINDA VERUEN,
NICANOR ORTEZA,
ADELAIDA CALUGAN,⁴
GLORIA AGBUSAC,⁵
VIRGINIA GAON,
REMIGIO MAYBITUIN,
LAURA GARCIA,
CHARLES GARCIA,
MA. CRISTINA GARCIA,⁶
RICARDO SARMIENTO, SR.,
ROBERTO TUAZON,
GEMMA TUAZON,
ANALYN TUAZON,
JOHN ROBERT TUAZON,
ELJEROME TUAZON,
JEMMALYN TUAZON,
MILAGROS TUBIGO,⁷
MARICAR TUBIGO,⁸
MARISSA BITUIN,⁹
ROGER GOBRIN,
MARCELINA RAMOS,
ESTRELLA RAMOS,
ALFREDO RAMOS,
ADORACION RAMOS,
ERICSON RAMOS,
CAMILLE RAMOS,
RAMIL MARQUISA,¹⁰
ROMEO PORCARE,
NIDA PORCARE,
JEROME PORCARE,**

³ Should be Ricardo Sarmiento, Jr. per the Verification and Certification attached to respondents' Amended Petition with the Court of Appeals, id. at 184.

⁴ Should be Adelaida Calugay, id.

⁵ Should be Gloria Agbusag, id.

⁶ Should be Ma. Cristina Garcia Soliman, id.

⁷ Should be Milagros Tubigon, id.

⁸ Should be Maricar Tubigon, id.

⁹ Should be Marissa Maybituin, id.

¹⁰ Should be Ramil Marquina, id.

**JONATHAN PORCARE,
PILARCITA ABSIN,
JHON-JHON ABSIN,
JASON ABSIN,¹¹
JAYSON ABSIN,
EDUARDO ABSIN,
MAMRIA EDEN,¹²
ARNEL REUCAZA,
ZENAIDA REUCAZA,
MICHELE REUCAZA,
NALYN REUCAZA,¹³
MARICRIS REUCAZA,
ABELLE REUCAZA,¹⁴
JHON VILLAVECENCIO,
CILLE VILLAVECENCIO,
ARIEL CAHIBAYBAYAN,
JOHN EDWARD VILLAVECENCIO,
ARCELITO VILLAVECENCIO,
FERMINA RIVERA,
ANITA RIVERA,¹⁵
EDWIN HOSMILLO,
ESTER HOSMILLO,
REGINE HOSMILLO,
MARFIKIS VENZON,
CURT SMITH VENZON,
ALBERTO VILLAVECENCIO,
MARILYN DE VEGA,
JEFFREY DE VEGA,
LIANA DE VEGA,
RAMIL DE VEGA,¹⁶
SHANE VENZON,
RUFO SINGSON,
ROSALIE BALINGIT,
RAUL SINGSON,
HAZEL GARCIA,
CRISTINE GARCIA,
JASON GARCIA,
ECY B. TAN,¹⁷**

¹¹ Although impleaded herein as one of the respondents, he was not among the signatories in the Verification and Certification of Non-Forum Shopping attached to respondents' Amended Petition with the Court of Appeals, id. at 183-196.

¹² Should be Maria Eden Absin per the Verification and Certification attached to respondents' Amended Petition with the Court of Appeals, id. at 185.

¹³ Should be Analyn Reucaza, id.

¹⁴ Should be Anabelle Reucaza, id.

¹⁵ Should be Anita Rivera Bacamante, id.

¹⁶ Should be Drandeb P. De Vega, id. at 186.

¹⁷ Should be Recy B. Tan, id.

**GREGORIO AURE,
VICTORIA SARMIENTO,¹⁸
OSCAR TUBIGO,¹⁹
JOVY SARMIENTO,
BABYLYN SARMIENTO,
JEAN CAHIBAYBAYAN,²⁰
RONALD CAHIBAYBAYAN,²¹
ALLAN CAHIBAYBAYAN,
AMELIA DEQUINA,
DENNIS DEQUINA,
IRMA DEQUINA,
FREDERICK DEQUINA,
CRISTINE JOY DEQUINA,
ENRIQUE LOPEZ,²²
NERY LOPEZ,
NERISSA LOPEZ,
ERICA LOPEZ,
VANESSA LOPEZ,
LEO JIMENEZ,
MICHELLE JIMENEZ,
MAYLEEN JIMENEZ,
LEONARDO JIMENEZ,²³
FELICIANO MIRALLES,
VIRGINIA ECIJA,
LEONARDO AHORRO,
MA. GINA SORIO,
ARNEL SORIO,
JOENNY PAVILLAR,
SALVACION PAVILLAR,
JOHNNY BALDERAMA,
MARY JANE BALDERAMA,
FERDINAND MALAQUE,
MARK ADELCHI MALAQUE,
CLIO JOY MALAQUE,
IRISH MADLANGBAYAN,
EFFERSON MADLANGBAYAN,
ROBERTO MALAQUE,
HELARIA MALAQUE,²⁴**

¹⁸ Should be Victoria Sarmiento, id.

¹⁹ Should be Oscar Tubigon, id.

²⁰ Should be Jean Cahibaybayan Patron, id.

²¹ Should be Arnold Cahibaybayan, id.

²² Although impleaded herein as one of the respondents, he was not among the signatories in the Verification and Certification of Non-Forum Shopping attached to respondents' Amended Petition with the Court of Appeals, id. at 183-196.

²³ Should be Leonardo Jimenez, Jr., per the Verification and Certification of Non-Forum Shopping attached to respondents' Amended Petition with the Court of Appeals, id. at 187.

²⁴ Should be Hilaria Malaque, id.

**ARBIE MAY MALAQUEROY,²⁵
GILBERT MALAQUE,²⁶
SARRY LEGASPI,
TERESITA LEGASPI,
ROSEANN CRUZ,
SHE ANN CRUZ,
EXELEN LEGASPI,
GREGORIO RAMOS,
NENITA RAMOS,
FELINO TEGIO,
JOYZAIRRA ACULA,
JUANITO CALUGAY,²⁷
GEMMA CALUGAY,
CARLITO ANTONIO,
CELIA ANTONIO,²⁸
PRINCES MARGARET,²⁹
JOSE CECILIO,³⁰
JEROME CZAR,³¹
RAMON SISON,
DANILO SISON,
MARILOU SISON,
ALEX RIVERA,
NARCISO DEL ROSARIO,
BRIAN DEL ROSARIO,³²
CHARLINE DEL ROSARIO,
CARMELA DEL ROSARIO,
KEVIN DEL ROSARIO,
BEHNSIN JOHN DEL PACIS,³³
MELRON ANTONIO,
ANGELO ANTONIO,³⁴
DAISY ANN ANTONIO,
IVAN ANTONIO,
RAYMART ANTONIO,
PRESCILLA PAGKALIWANGAN,
MARK KENNETH PAGKALIWANGAN,
MARK JULIUS PAGKALIWANGAN,**

²⁵ Should be Arbie May Malaque, id.

²⁶ Should be Roy Gilbert Malaque, id.

²⁷ Should be Juanita Calugay Chin, id. at 188.

²⁸ Should be Celia Lao Santos, id.

²⁹ Should be Princess Margaret Lao Santos, id.

³⁰ Should be Jose Cecilio Lao Santos, id.

³¹ Should be Jerome Czar Lao Santos, id.

³² Although impleaded herein as one of the respondents, he was not among the signatories in the Verification and Certification of Non-Forum Shopping attached to respondents' Amended Petition with the Court of Appeals, id. at 183-196.

³³ Should be Behnsil John Del Rosario per the Verification and Certification of non-Forum Shopping attached to respondents' Amended Petition with the Court of Appeals, id. at 188.

³⁴ Should be Angelo Antonio, id. at 189.

VINCENT PAGKALIWANGAN,
DOLORES ORTEZA,
JONECA ORTEZA,³⁵
YUMI ORTEZA,
NICANOR ORTEZA,
RAUL BALINGIT,
KATRINA CASSANDRA BAES,
CHRISTOPHER BAES,
MARK GIL BAES,
BIENVENIDO BAES,
ARTEMIO SANTOS,
CATHERINE UMINGA,
ROLANDO UMINGA, SR.,
ERLINDA TUAZON,
CHRISTIAN TUAZON,
ARGEL ANGELO SANTOS,
MONTANO PAGKALIWANGAN,
in their own behalf and as members
of Samahang Magkakapitbahay ng
Villa Reyes Compound Association,
Respondents.

Present:

CARPIO, *Chairperson*,
BRION,
DEL CASTILLO,
PEREZ, *and*
PERLAS-BERNABE, *JJ.*

Promulgated:

SEP 23 2013

X ----- X

DECISION

DEL CASTILLO, J.:

This Petition for *Certiorari*³⁶ filed under Rule 65 of the Rules of Court seeks to annul: (i) the January 3, 2005 Resolution³⁷ of the Court of Appeals (CA) in CA-G.R. SP No. 86363, which granted herein respondents' ancillary prayer for injunctive relief; and, (ii) the February 10, 2005 Writ of Preliminary Injunction³⁸ issued pursuant thereto. Said writ enjoined the Regional Trial Court (RTC), Branch 71, Pasig City from implementing its August 9, 2004 Order³⁹ directing the issuance of a Writ of Demolition against the respondents.

Factual Antecedents

Siblings Tomas M. Reyes and Sidra M. Reyes and their father Alfredo Reyes (the Reyeses) were the registered owners of a 4,044-square meter lot

³⁵ Should be Jonica Orteza, *id.*

³⁶ *Rollo*, pp. 3-27.

³⁷ *CA rollo*, pp. 426-427; penned by Associate Justice Josefina Guevara-Salonga and concurred in by Associate Justices Conrado M. Vasquez, Jr. and Fernanda Lampas Peralta.

³⁸ *Id.* at 476-477.

³⁹ Records, pp. 65-66; penned by Judge Celso D. Laviña.

(TCT) No. PT-107508.⁴⁰ On August 12, 1999, they obtained a loan from Antonia B. Aldover (Aldover) secured by a Real Estate Mortgage (REM)⁴¹ over the said property.

When the Reyeses failed to pay, Aldover caused the extrajudicial foreclosure of mortgage. At the foreclosure sale conducted, Aldover emerged as the winning bidder. A Certificate of Sale was issued in her favor which was annotated at the back of TCT No. PT-107508 on September 2, 2002.⁴²

Thereafter, Aldover filed with the RTC of Pasig City a verified Petition for the Issuance of a Writ of Possession docketed as LRC Case No. R-6203.⁴³ On August 26, 2003, Branch 71 of the RTC of Pasig City issued a Decision⁴⁴ granting Aldover's Petition for Issuance of a Writ of Possession subject to the posting of a bond.

On December 12, 2003, the Reyeses filed a Motion to Recall and Lift Issuance of Writ of Possession⁴⁵ claiming, among others, that the mortgage and the auction sale of property are both null and void as the mortgagee (Aldover) was not armed with a special power of attorney to foreclose the mortgaged property extrajudicially. This drew Aldover's Opposition⁴⁶ where she also prayed for the issuance of the writ *sans* the requisite bond as the property was not redeemed within the one-year redemption period.

In the meantime, Aldover also caused the consolidation of title over the foreclosed property in her name. On December 17, 2003, TCT No. PT-107508 was cancelled and, in lieu thereof, TCT No. PT-122311⁴⁷ was issued in Aldover's name.

On March 17, 2004, Branch 71 issued an Order⁴⁸ denying the Reyeses' Motion to Recall and granting Aldover's motion to dispense with the posting of a bond. On the same date, a Writ of Possession⁴⁹ was issued directing the Branch Sheriff to place Aldover in possession of subject lot.

⁴⁰ Id. at 8-10.

⁴¹ Id. at 5-6. Although the amount of the loan as reflected in the REM is ₱500,000.00, the Reyeses claimed that its true amount is only ₱300,000.00 with 5% per month for 6 months interest rate. The Reyeses alleged that herein petitioners falsely and wrongfully made it appear that the amount of the loan is ₱500,000.00. (See Complaint for Annulment of Mortgage Contract, Foreclosure Proceedings, Auction Sale, Certificate of Sale, Consolidation of Ownership, with Prayer for A Temporary Restraining Order and/or Writ of Preliminary Injunction with Damages, Moral and Exemplary docketed as Civil Case No. 69949, CA *rollo*, pp. 136-143).

⁴² Records, p. 10.

⁴³ Id. at 2-4.

⁴⁴ Id. at 27-29; penned by Judge Celso D. Laviña.

⁴⁵ Id. at 30-31.

⁴⁶ Id. at 35-37.

⁴⁷ Id. at 38.

⁴⁸ Id. at 47-48.

⁴⁹ Id. at 51-52.

In compliance with the writ, the Branch Sheriff issued a Notice to Vacate⁵⁰ dated April 1, 2004. Then on April 23, 2004, he issued a Sheriff's Partial Report⁵¹ informing the court that he cannot fully implement the writ because there are several other persons who occupy portions of subject lot claiming to be the owners thereof.

On May 17, 2004, respondents filed before the RTC of Pasig City a Complaint for Declaration of Nullity of Documents and Title, Reconveyance and Damages with Prayer for Temporary Restraining Order and/or Preliminary Injunction⁵² against Aldover and her husband Carmelito (petitioners), the Reyeses, the Branch Sheriff, and the Registrar of Deeds of Pasig City. In said Complaint docketed as Civil Case No. 69979 and raffled to Branch 268 of said court, respondents alleged that they have been residing in the same lot subject of LRC Case No. R-6203 since the 1960's by virtue of lease contracts wherein they were allowed by the Reyeses to build their houses. Subsequently, their occupation became in the concept of owners after the Reyeses sold to them portions of the lot they respectively occupy. Respondents insisted that petitioners were aware of the lease and subsequent sale. Respondents also claimed that the REM is a fictitious transaction because at the time of its execution the Reyeses were no longer the owners of the entire property subject thereof. Hence, the mortgage as well as the subsequent foreclosure sale is null and void.

Respondents sought the issuance of a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction to immediately restrain petitioners from further committing acts of dispossession and prayed for the cancellation of TCT No. PT-122311. On July 5, 2004, however, they filed a Motion to Admit Attached Amended Complaint as a matter of right (with prayer for withdrawal of TRO and injunction).⁵³

On July 26, 2004, Branch 268 issued an Order⁵⁴ denying respondents' prayer for TRO on the ground that it cannot interfere with the order of a coordinate court. This was followed by an Order⁵⁵ dated August 27, 2004 granting respondents' Motion to Admit and admitting respondents' Amended Complaint where they withdrew their ancillary prayer for injunctive relief.

Meanwhile, in LRC Case No. R-6203, in view of the Sheriff's Partial Report, Aldover filed a Motion for Special Order of Demolition.⁵⁶ Branch 71 granted the Motion in an Order⁵⁷ dated August 9, 2004, thus:

⁵⁰ Id. at 53.

⁵¹ Id. at 57-58.

⁵² *CA rollo*, pp. 322-332.

⁵³ *Rollo*, pp. 150-153.

⁵⁴ *CA rollo*, p. 336; penned by Judge Amelia C. Manalastas.

⁵⁵ *Rollo*, p. 162.

⁵⁶ Records, pp. 59-60.

⁵⁷ Id. at 65-66.

WHEREFORE, in view of the foregoing, the Motion for Special Order of Demolition is hereby GRANTED. Let a writ issue.

The respondents and all other persons deriving rights from them are given sixty (60) days from receipt of this Order to vacate the premises.

SO ORDERED.⁵⁸

On September 14, 2004, respondents filed before the CA a Petition for *Certiorari*, Prohibition, Injunction with prayer for the issuance of a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction⁵⁹ against the petitioners and the Reyeses, which they later on amended.⁶⁰ Respondents alleged that on August 23, 2004 they were surprised to receive the August 9, 2004 Order of demolition directing them to vacate the premises within 60 days from notice since they were neither impleaded nor notified of the proceedings conducted in LRC Case No. R-6203, as well as in the foreclosure sale. Respondents postulated that they are not, therefore, bound by the August 9, 2004 Order of Branch 71 for want of jurisdiction over their persons. Respondents reiterated their claim in Civil Case No. 69979 that they own the portions of subject lot which they respectively occupy. Thus, the implementation of said Order would deprive them of their property without due process of law and would render Civil Case No. 69979 pending before Branch 268 moot.

Respondents also asserted that the right they sought to be protected in their Petition is clear and unmistakable and that the invasion of such right is material and substantial. They thus prayed for the issuance of a TRO and/or Writ of Preliminary Injunction to enjoin the implementation of Branch 71's Order of demolition.⁶¹

On September 23, 2004, the CA issued a Resolution⁶² outrightly dismissing

⁵⁸ Id. at 66.

⁵⁹ CA *rollo*, pp. 2-37.

⁶⁰ See Omnibus Motion for Reconsideration x x x and Motion to Admit Attached Amended Petition, id. at 151-158. See also Amended Petition, id. at 159-215.

⁶¹ Respondents likewise claimed that in recognition of their long and continued occupation, they were allowed to purchase the lots they occupy on installment; that some of them were able to pay in full their obligation and for which the Reyeses executed Deeds of Sale while others are still in the process of paying the monthly amortizations as provided in their respective Contracts to Sell; and, that the rest remain as lessees while still negotiating for the eventual acquisition of the portion of the lot they occupy. However, the Reyeses in cahoots with herein petitioners, mortgaged the entire property to the latter without any intention of paying the loan, thereby allowing the eventual transfer of the property to the petitioners. Respondents asserted that even then the mortgage is a nullity because prior to the alleged mortgage petitioners had actual knowledge that they occupy the property by virtue of deeds of conveyance.

Respondents further alleged in their CA Petition that they were in the process of filing Estafa charges against the Reyeses. They believed that the case initiated by the Reyeses for the recovery of the subject property which was subsequently consolidated with their case pending before Branch 268 was a mere cover up to give semblance of truth to the alleged mortgage transaction. Notably, the Reyeses intentionally suppressed the fact that the actual occupants of the mortgaged property are herein respondents by not mentioning the same in their Complaint.

⁶² CA *rollo*, pp. 145-146; penned by Associate Justice Josefina Guevara-Salonga and concurred in by Associate Justices Conrado M. Vasquez, Jr. and Fernanda Lampas Peralta.

the Petition on procedural grounds.

Invoking substantial justice and great and irreparable damage that may be caused by the impending demolition of their homes, respondents filed an Omnibus Motion for Reconsideration and Motion to Admit Attached Amended Petition.⁶³ This was followed by an Extremely Urgent Omnibus Motion for Re-Raffle and for Early Resolution⁶⁴ since the Justice to whom the case was assigned was then on official leave.

In a Resolution⁶⁵ dated October 22, 2004, the CA reconsidered its resolution of dismissal and granted respondents' prayer for the issuance of a TRO. It restrained the implementation of the Order of demolition as well as of the Notice to Vacate. In the same Resolution, the CA required petitioners to file their comment to the Petition.

After the parties' filing of pleadings⁶⁶ and upon respondents' motion,⁶⁷ the CA set for hearing on January 4, 2005 the propriety of issuing a Writ of Preliminary Injunction. This hearing, however, did not push through since the CA already issued the challenged January 3, 2005 Resolution⁶⁸ granting respondents' ancillary prayer for injunctive relief. It disposed thus:

WHEREFORE, we resolve to:

1. GRANT [respondents'] prayer for the issuance of a writ of preliminary injunction enjoining [petitioners] from enforcing the Notice to Vacate and Order of Demolition.
2. ORDER the [respondents] to file a bond in the amount of Three Hundred Thousand (₱300,000.00) Pesos within five (5) days from notice hereof, which shall answer for whatever damages [petitioners] may sustain by reason of the injunction in the event that we finally decide that [respondents] were not entitled thereto.
3. CANCEL the hearing set on January 4, 2005.
4. CONSIDER the main petition submitted for decision.

SO ORDERED.⁶⁹

⁶³ Id. at 151-158.

⁶⁴ Id. at 216-220.

⁶⁵ Id. at 306-307; penned by Associate Justice Josefina Guevara-Salonga and concurred in by Associate Justices Conrado M. Vasquez, Jr. and Fernanda Lampas Peralta.

⁶⁶ See herein respondents' Comment, id. at 314-321; and herein petitioners' Reply, id. at 353-363 and Rejoinder, id. at 395-396.

⁶⁷ See Urgent Motion for Early Resolution of Injunction, id. at 397-404; and, Extremely Urgent Motion to Maintain Status Quo, id. 405-408.

⁶⁸ Id. at 426-427.

⁶⁹ Id. at 427.

On January 12, 2005, petitioners filed a Motion for Reconsideration⁷⁰ which was denied by the CA in its January 24, 2005 Resolution.⁷¹ Then on February 8, 2005, respondents posted the required injunction bond⁷² and the CA accordingly issued the Writ of Preliminary Injunction⁷³ on February 10, 2005.

Petitioners subsequently filed a Motion for Inhibition of the CA Sixth (6th) Division⁷⁴ which the CA granted in a Resolution⁷⁵ dated March 28, 2005. Thereafter, petitioners sought recourse before us *via* this Petition for *Certiorari* ascribing grave abuse of discretion on the part of the CA for the following reasons:

Issues

I

THE COURT OF APPEALS, IN EFFECT, GAVE ITS IMPRIMATUR ON THE VERY CLEAR ACT OF FORUM SHOPPING DONE BY THE PRIVATE RESPONDENTS.

II

THE PETITION FOR CERTIORARI FILED BY PRIVATE RESPONDENTS BEFORE THE COURT OF APPEALS WAS AN IMPROPER REMEDY.

III

IN ANY CASE, EVEN ASSUMING THE PETITION FOR CERTIORARI WAS A PROPER REMEDY THE SAME, HOWEVER, WAS CLEARLY FILED OUT OF TIME.

IV

THE WRIT OF PRELIMINARY INJUNCTION THE COURT OF APPEALS ISSUED GOES AGAINST ESTABLISHED JURISPRUDENCE ON THE MATTER.

V

PRIVATE RESPONDENTS, EVEN ASSUMING THEIR FACTUAL CLAIMS TO BE TRUE, CANNOT HAVE A BETTER RIGHT OVER THE SUBJECT PROPERTY THAN HEREIN PETITIONERS.⁷⁶

Petitioners' Arguments

Petitioners contend that the CA gravely abused its discretion in issuing the assailed January 3, 2005 Resolution and the Writ of Preliminary Injunction. They

⁷⁰ Id. at 435-445.

⁷¹ Id. at 465.

⁷² See photocopies of official receipts, id. at 473.

⁷³ Id. at 476-477.

⁷⁴ Id. at 478-479.

⁷⁵ Id. at 481; penned by Associate Justice Josefina Guevara-Salonga and concurred in by Associate Justices Conrado M. Vasquez, Jr. and Fernanda Lampas Peralta.

⁷⁶ *Rollo*, pp. 9-10.

maintain that the CA did not only condone respondents' clear and blatant act of forum shopping; it actually rewarded them for pursuing the same. According to the petitioners, respondents' Complaint in Civil Case No. 69979 pending before Branch 268 already included an ancillary relief for TRO and/or Preliminary Injunction for the purpose of stopping Branch 71 from implementing its Order of demolition and dispossessing them of the disputed property. However, since Branch 268 did not favorably act on their prayer for such provisional remedy, respondents withdrew the same by amending their Complaint, only to later on file an original action for *certiorari*, prohibition and injunction before the CA practically raising the same issues, same cause of action, and the very same prayer to temporarily and then permanently restrain Branch 71 from implementing its Order of demolition. Petitioners assert that what respondents actually did was to split a single cause of action as they could have pursued their prayer for injunction in CA-G.R. SP No. 86363 as a mere ancillary relief in Civil Case No. 69979 pending before Branch 268. Petitioners also accuse respondents of misleading the CA by concealing the fact that their Complaint in Civil Case No. 69979 included an ancillary relief for injunction and by not attaching a copy thereof to their Petition filed with the CA.

Petitioners likewise contend that respondents' recourse to the CA was premature because they did not give Branch 71 an opportunity to correct its alleged errors. Petitioners point out that before resorting to a special civil action for *certiorari* before the CA, respondents should have first appealed or filed the appropriate motion or pleading before Branch 71 so that said court could correct any of its perceived errors. But they did not. Hence, no error or grave abuse of discretion can be attributed to Branch 71. And even assuming that respondents' Petition before the CA is not premature, petitioners assert that the same was filed out of time. Respondents received the Notice to Vacate on April 1, 2004 and, therefore, had only until May 31, 2004 within which to file a petition for *certiorari*. However, it was only on September 14, 2004 when they invoked the *certiorari* jurisdiction of the CA. Petitioners maintain that respondents erroneously reckoned the 60-day period for filing a petition for *certiorari* on the date they received the Order of demolition because the same was a mere offshoot of the Writ of Possession and Notice to Vacate issued by Branch 71.

Petitioners further argue that the pendency of Civil Case No. 69979 will not bar the issuance and implementation of the Writ of Possession in LRC Case No. R-6203.

Lastly, petitioners asseverate that respondents' ancillary prayer for injunctive relief lacked basis as they have no clear and unmistakable right that must be protected. Only 15 out of the 315 respondents are armed with proof of

ownership.⁷⁷ And of these 15, only five have deeds of absolute sale; the remaining 10 have only contracts to sell containing incomplete details of payment. In addition, the alleged proofs of ownership do not bear the signatures of all the co-owners and some of those proofs are not even notarized. And assuming further that the titles of these 15 respondents are true, their collective rights over the subject lot cannot prevail over the rights of the petitioners. The total area they occupy constitute only about 1,371.66 square meters, or a little over 30% of the disputed 4,432-square meter lot.⁷⁸ Above all, petitioners registered their claim as early as January 3, 2000 while none of respondents' alleged proofs of ownership were ever registered.⁷⁹

Respondents' Arguments

Respondents, on the other hand, deny having misled the CA. They claim that on July 5, 2004 they filed their Motion to Admit Attached Amended Complaint as a matter of right seeking the withdrawal of their prayer for TRO and on August 27, 2004 Branch 268 issued its Order admitting their Amended Complaint. Thus, when they filed their Petition in CA-G.R. SP No. 86363 on September 14, 2004, they found it unnecessary to state that, previously, their Complaint in Civil Case No. 69979 contained a prayer for the issuance of a TRO.

With regard to the second and third assigned errors, respondents assert that the instant Petition for *Certiorari* assails only the propriety of the CA's January 3, 2005 Resolution and February 10, 2005 Writ of Preliminary Injunction. This Court cannot thus pass upon the correctness of respondents' recourse to the CA as well as the prematurity and timeliness of such legal remedy, as the same is still pending with said court.

Respondents further assert that the issue of who have a better right over the property in question is an extraneous matter that is totally irrelevant in the present controversy. They emphasize that the issue to be resolved in this Petition for *Certiorari* is whether the CA committed grave abuse of discretion amounting to lack or excess of jurisdiction in granting their ancillary prayer for injunction. They claim that the points raised by the petitioners in support of their contention should be threshed out in Civil Case No. 69979 (declaration of nullity of documents and title, reconveyance, and damages) pending before Branch 268.

⁷⁷ Namely: (a) Spouses Hernando and Susana Ahorro; (b) Spouses Carlito and Iluminada Erquiza; (c) Arline M. Singson; (d) Brian Del Rosario; (e) Ma. Luisa Lucas-Santos and Sonia Santos-Malague; (f) Carmelita Rivera, Ma, Luisa Vistro, Virginia Navarro; (g) Almaceres Mishima; (h) Rosemarie Bonifacio; (i) Spouses Efen and Angelina Flores; (j) Aurelia Cahibaybayan; (k) Spouses Jessie and Bibiana Cahibaybayan; (l) Ma. Celeste L. Vasquez; (m) Cecilia R. Famorca; (n) Alfonso F. Cabuganan; and, (o) Angelita S. Albert. See *rollo*, pp. 21-22.

⁷⁸ As alleged in petitioners' Memorandum, *id.* at 592. Note however that per TCT No. PT-107508, the subject property consists only of 4,044 square meters.

⁷⁹ Prior to the inscription of the Certificate of Sale on September 2, 2002, Aldover also caused the annotation of an Adverse Claim on TCT No. PT-107508 on January 3, 2000.

Our Ruling

The review we are bound to undertake in this Petition for Certiorari is limited to the determination of whether the CA committed grave abuse of discretion in granting respondents' ancillary prayer for preliminary injunction.

We stress at the outset that this Petition for *Certiorari* merely assails the CA's interlocutory resolutions granting respondents' ancillary prayer for injunctive relief. This does not pertain to the main action for *certiorari*, prohibition and injunction in CA-G.R. SP No. 86363, which is still pending before the CA. We will thus limit ourselves to the determination of whether the CA gravely abused its discretion in issuing the questioned Resolutions and avoid matters that will preempt or render moot whatever final decision it may render in CA-G.R. SP No. 86363. More specifically, we will not touch on petitioners' contentions that respondents are guilty of forum shopping and that the latter's filing of a Petition for *Certiorari* before the CA was premature and out of time for the assailed CA Resolutions pertained only to the propriety of the issuance of the Writ of Preliminary Injunction.

A Petition for *Certiorari* lies only to correct acts rendered without or in excess of jurisdiction or with grave abuse of discretion. "Its principal office is only to keep the inferior court within the parameters of its jurisdiction or to prevent it from committing such a grave abuse of discretion amounting to lack or excess of jurisdiction."⁸⁰ "Grave abuse of discretion in the issuance of writs of preliminary injunction implies a capricious and whimsical exercise of judgment that is equivalent to lack of jurisdiction, or where the power is exercised in an arbitrary or despotic manner by reason of passion, prejudice or personal aversion amounting to an evasion of positive duty or to a virtual refusal to perform the duty enjoined, or to act at all in contemplation of law."⁸¹

A Petition for *Certiorari* is not the proper remedy to review the intrinsic correctness of the public respondent's ruling. It is settled that as long as a court or quasi-judicial body acts within its jurisdiction, any alleged errors committed in the exercise of its jurisdiction will amount to nothing more than errors of judgment which are not reviewable in a special civil action of *certiorari*. Thus, whether the CA committed errors in proceedings, misappreciated the facts, or misapplied the law is beyond our power of review in this Petition for *Certiorari* for it cannot be

⁸⁰ *Tagle v. Equitable PCI Bank*, G.R. No. 172299, April 22, 2008, 552 SCRA 424, 436.

⁸¹ *Dela Rosa v. Heirs of Juan Valdez*, G.R. No. 159101, July 27, 2011, 654 SCRA 467, 480.

used for any purpose except to limit the action of the respondent court within the bounds of its jurisdiction.⁸²

CA did not commit grave abuse of discretion.

From our review of the case, nothing indicates that the CA acted without or in excess of jurisdiction or with grave abuse of discretion in ordering the issuance of the Writ of Preliminary Injunction. Measured against jurisprudentially established parameters, its disposition to grant the writ was not without basis and, hence, could not have been arrived at capriciously, whimsically, arbitrarily or despotically. Respondents amply justified the grant of the provisional relief they prayed for. A Writ of Preliminary Injunction is issued at any stage of an action prior to judgment or final order to prevent threatened or continuous irreparable injury to some of the parties before their claims can be thoroughly studied or adjudicated. To justify its issuance, the applicants must prove the following requisites: (1) that they have a clear and unmistakable right to be protected, that is a right *in esse*; (2) there is a material and substantial invasion of such right; (3) there is an urgent need for the writ to prevent irreparable injury to the applicants; and, (4) there is no other ordinary, speedy, and adequate remedy to prevent the infliction of irreparable injury.⁸³

It is true that the buyer in a foreclosure sale becomes the absolute owner of the property if it is not redeemed within one year from registration of the sale and title is consolidated in his name. “As the confirmed owner, the purchaser’s right to possession becomes absolute. There is even no need for him to post a bond, and it becomes the ministerial duty of the courts,” upon application and proof of title, to issue a Writ of Possession to place him in possession.⁸⁴ This rule is clear from the language of Section 33, Rule 39 of the Rules of Court. The same provision of the Rules, however, provides as an exception that when a third party is actually holding the property adversely to the judgment debtor, the duty of the court to issue a Writ of Possession ceases to be ministerial. Thus:

SEC. 33. *Deed and possession to be given at expiration of redemption period; by whom executed or given.* – If no redemption be made within one (1) year from the date of the registration of the certificate of sale, the purchaser is entitled to a conveyance and possession of the property; or, if so redeemed whenever sixty (60) days have elapsed and no other redemption has been made, and notice thereof given, and the time for redemption has expired, the last redemptioner is entitled to the conveyance and possession; but in all cases the judgment obligor shall have the entire period of one (1) year from the date of the registration of the sale to redeem the property. The deed shall be executed by the

⁸² *Tagle v. Equitable PCI Bank*, supra note 80.

⁸³ *St. James College of Parañaque v. Equitable PCI Bank*, G.R. No. 179441, August 9, 2010, 627 SCRA 328, 344.

⁸⁴ *Asia United Bank v. Goodland Company, Inc.*, G.R. No. 188051, November 22, 2010, 635 SCRA 637, 646.

officer making the sale or by his successor in office, and in the latter case shall have the same validity as though the officer making the sale had continued in office and executed it.

Upon the expiration of the right of redemption, the purchaser or redemptioner shall be substituted to and acquire all the rights, title, interest and claim of the judgment obligor to the property as of the time of the levy. The possession of the property shall be given to the purchaser or last redemptioner by the same officer ***unless a third party is actually holding the property adversely to the judgment obligor.*** (Emphasis supplied)

Jurisprudence abounds applying this exception to the ministerial duty of the court in issuing the Writ of Possession.⁸⁵

Here, respondents alleged in their CA Petition that they possess and own portions of the property subject of the Writ of Demolition. In support thereof, they annexed to their Petition and Reply deeds of conveyances, contracts to sell, receipts, etc. showing that the Reyeses already sold to them the portions of the subject lot they respectively occupy. A number of these documents predate the REM which the Reyeses executed in favor of Aldover while others were executed subsequent thereto. Respondents' allegation of actual possession is likewise confirmed by the Sheriff's Partial Report⁸⁶ which states that there are several other persons who occupy portions of subject lot and claim to be the owners thereof. In fine, respondents have indubitably shown that they are in actual possession of the disputed portions of subject property. Their possession, under Article 433 of the Civil Code, raises a disputable presumption that they are the owners thereof.⁸⁷ Thus, petitioners cannot resort to procedural shortcut in ousting them by the simple expedient of filing a Motion for Special Order of Demolition in LRC Case No. R-6203 for under the same Article 433 petitioners have to file the appropriate judicial process to recover the property from the respondents. This "judicial process," as elucidated in *Villanueva v. Cherdan Lending Investors Corporation*,⁸⁸ "could mean no less than an ejectment suit or a reivindicatory action, in which the ownership claims of the contending parties may be properly heard and adjudicated." Moreover, to dispossess the respondents based on the proceedings taken in LRC Case No. R-6203 where they were not impleaded and did not take part would be tantamount to taking of real property without due process of law.⁸⁹

⁸⁵ Id.; *Bank of the Philippine Islands v. Icot*, G.R. No. 168061, October 12, 2009, 603 SCRA 322; *Development Bank of the Philippines v. Prime Neighborhood Association*, G.R. Nos. 175728 and 178914, May 8, 2009, 587 SCRA 582; *Dayot v. Shell Chemical Company (Phils.), Inc.*, 552 Phil. 602 (2007); *Philippine National Bank v. Court of Appeals*, 424 Phil. 757 (2002).

⁸⁶ Records, pp. 57-58.

⁸⁷ Article 433 of the CIVIL CODE reads:

Actual possession under claim of ownership raises a disputable presumption of ownership. The true owner must resort to judicial process for the recovery of the property.

⁸⁸ G.R. No. 177881, October 13, 2010, 633 SCRA 173, 183; citing *Dayot v. Shell Chemical Company (Phils.) Inc.*, supra at 615.

⁸⁹ Id.; id.

But petitioners downplayed respondents' documentary evidence as unreliable for being unnotarized and unregistered compared to their TCT No. PT-122311 which was duly issued after the Reyeses failed to redeem the property and they (petitioners) consolidated their title thereto. However, "between an unrecorded sale of a prior date and a recorded mortgage of a later date the former is preferred to the latter for the reason that if the original owner had parted with his ownership of the thing sold then he no longer had the ownership and free disposal of that thing so as to be able to mortgage it again."⁹⁰

In fine, the CA cannot be said to have acted capriciously, whimsically, arbitrarily or despotically in issuing its January 3, 2005 Resolution and February 10, 2005 Writ of Preliminary Injunction to prevent a threatened or continuous irremediable injury. There is preliminary showing that respondents have clear and unmistakable right over the disputed portions of the property which must be protected during the pendency of CA-G.R. SP No. 86363. Indeed, the precipitate demolition of their houses would constitute material and substantial invasion of their right which cannot be remedied under any standard compensation. Hence, the need for a Writ of Preliminary Injunction.

Besides, it has been held that the trial court (or the CA in this case) has a wide latitude in determining the propriety of issuing a Writ of Preliminary Injunction. The assessment and evaluation of evidence in the issuance of a Writ of Preliminary Injunction involve findings of facts ordinarily left to it for its determination. Hence, absent a clear showing of grave abuse of discretion, the trial court's disposition in injunctive matters is not generally interfered with by the appellate courts.⁹¹

Furthermore, we note that although the scheduled January 4, 2005 hearing on the propriety of issuing a Writ of Preliminary Injunction did not push through, the parties were nonetheless amply heard thru their pleadings. At the time the CA issued its challenged January 3, 2005 Resolution, petitioners had already filed their Comment⁹² and Rejoinder⁹³ where they argued at length why no injunctive relief should be granted in favor of the respondents. In *Land Bank of the Phils. v. Continental Watchman Agency, Inc.*,⁹⁴ we reiterated our ruling that there can be no grave abuse of discretion on the part of the respondent court in issuing a Writ of Preliminary Injunction when the parties were amply heard thereon. Thus:

We have consistently held that there is no grave abuse of discretion in the issuance of a [W]rit of [P]reliminary [I]njunction where a party was not deprived

⁹⁰ *Reyes v. De Leon*, 126 Phil. 710, 717 (1967).

⁹¹ *Australian Professional Realty, Inc. v. Municipality of Padre Garcia, Batangas Province*, G.R. No. 183367, March 14, 2012, 668 SCRA 253, 261-262.

⁹² *CA rollo*, pp. 314-321.

⁹³ *Id.* at 395-396.

⁹⁴ 465 Phil. 607, 610 (2004).

of its day in court, as it was heard and had exhaustively presented all its arguments and defenses. Hence, when contending parties were both given ample time and opportunity to present their respective evidence and arguments in support of their opposing contentions, no grave abuse of discretion can be attributed to the x x x court which issued the [W]rit of [P]reliminary [I]njunction, as it is given a generous latitude in this regard, pursuant to Section 4, Rule 58 of the 1997 Rules of Civil Procedure, as amended.

We emphasize though that the evidence upon which the CA based its January 3, 2005 Resolution is not conclusive as to result in the automatic issuance of a final injunction. “The evidence submitted [for purposes of issuing] a [W]rit of [P]reliminary [I]njunction is not conclusive or complete for only a ‘sampling’ is needed to give the x x x court an idea of the justification for the preliminary injunction pending the decision of the case on the merits.”⁹⁵ In the same vein, our Decision in this case is without prejudice to whatever final resolution the CA and Branch 268 may arrive at in CA-G.R. SP No. 86363 and Civil Case Nos. 69979 and 69949, respectively.

WHEREFORE, the instant Petition for *Certiorari* is **DISMISSED**. The Resolutions dated January 3, 2005 and January 24, 2005 of the Court of Appeals in CA-G.R. SP No. 86363 are **AFFIRMED**. This case is **REMANDED** to the Court of Appeals for the immediate resolution of the main petition in CA-G.R. SP No. 86363.

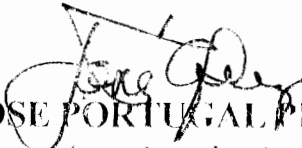
SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice


WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson


ARTURO D. BRION
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice

⁹⁵ *Urbanes, Jr. v. Court of Appeals*, 407 Phil. 856, 867 (2001)


ESTELA M. PERLAS-BERNABE
Associate Justice

ATTESTATION

I hereby 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.


ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division 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