

SECOND DIVISION

[G.R. No. 142308, November 15, 2005]

SPS. REV. ELMER J. BAÑES & ANGELA BAÑES, SPS. REV. MANUEL DEL ROSARIO & GUIA DEL ROSARIO, AND PRESENT: SPS. PEDRO SAN RAMON & NENITA SAN RAMON, PETITIONERS, VS. LUTHERAN CHURCH IN THE PHILIPPINES, OSCAR ALMAZAN, JAMES CERDENOLA, LUIS AO-AS, EDWINO MERCADO, ANTONIO REYES AND THE HON. COURT OF APPEALS, RESPONDENTS.

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

This refers to the petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the Decision^[1] of the Court of Appeals (CA) in **CA-G.R. SP No. 44333** dated November 12, 1999 and its Resolution^[2] dated February 15, 2000 denying petitioners' motion for reconsideration.

The facts are as follows:

On August 16, 1990, certain members of the Lutheran Church in the Philippines (LCP) filed an action against its President, Thomas Batong, and six other members of the Board of Directors,^[3] before the Securities and Exchange Commission (SEC), for accounting and damages with prayer for preliminary injunction and appointment of a management committee. This resulted in the division of the LCP into two factions, namely: the Batong/ Saguilayan group which includes herein petitioners and the Ladlad/Almazan group which includes herein respondents Almazan, *et al.*

On October 16, 1992, the SEC issued a writ of preliminary injunction, which reads as follows:

...It is hereby ordered that you, the above-named respondents,^[4] your agents, representative or any person acting for or under your instruction refrain from representing yourselves or from acting as board of directors or officers of the Lutheran Church in the Philippines, Inc. (LCP) and from holding any convention or general or special membership meeting as well as election of the members of the LCP Board of Directors, until further order from this Hearing Officer.^[5]

By virtue of said injunction, on August 13, 1993,^[6] herein respondents, with the aid of certain members of the Department of Interior and Local Government, the Philippine National Police, and Sheriff Primo Alimurong of the Regional Trial Court (RTC), Manila, tried to dispossess petitioners, as previous clergymen and occupants of the residential houses located at 4443 Old Sta. Mesa Street, Manila, owned by LCP and form part of the compound where the principal office of LCP is located. Petitioners however refused to leave the same. Thus, the main gate of the subject

property was padlocked by respondents, preventing the petitioners and their families from going in and out of said place. Security guards were also stationed at the premises with an instruction not to allow petitioners entry and exit.^[7]

Almost a month thereafter, or on September 9, 1993, petitioners Manuel G. Del Rosario and Elmer J. Bañes wrote letters addressed to Rev. Eduardo Ladlad, as LCP President.

Del Rosario's letter reads:

Dear Rev. Ladlad:

Greetings in Christ's love and peace.

This is to request for an extension of my family's stay at the residence we are presently staying and which I was told to leave on or before September 10, 1993. If it is all possible, please let us stay up to the Schools' semestral break so as to give us sufficient time to look for a place where we could settle in and which will not so much affect the travel time of my girls to go to and come home from school.

We hope that your Board will favorably grant this request for the sake of Christian charity with which we are making the appeal. And, thank you so much for the benign audience you accorded us last night.

In Christ,
(sgd.)
Manuel G. del Rosario

(In his own handwriting)

P.S.

Ed,

I assure you that we will leave the place even before the semestral break as soon as we get a place to move into. Hope you take much considerations on the difficulty of looking for a place we can afford to stay.

Ditto^[8]

Bañes's letter reads as follows:

Dear Rev. Ladlad,

Grace, Mercy and Peace from God our Father and Lord!

The house where we live in for some two years now, meant so many things to us...

...

Now we don't have a place to go. I'm sure Eddie, you know my situation. We can't hardly afford to rent a decent house. Please do extend your helping hand to me and my family.

May I propose that we stay in the Caloocan Property – the lower portion of the house. The Upper portion is for Rev. Saquilayang's office and Chapel of Immanuel Lutheran Church.

We will definitely leave the Yellow house once we find a place to live.

Thank you very much.

May we expect a favorable response soonest.

...

In Christ,
(sgd)

Rev. Elmer J. Bañes^[9]

Petitioners Bañes and Del Rosario eventually left the premises.^[10] Petitioners-spouses San Ramon did not write any letter but they were able to leave the premises by befriending the guards posted at the gate.^[11]

On December 3, 1993, petitioners filed an action for forcible entry with prayer for issuance of temporary restraining order and preliminary mandatory injunction against the respondents herein. Metropolitan Trial Court (MeTC), **Branch 13**, Manila granted petitioners' prayer for the issuance of temporary restraining order.^[12] The case, docketed as Civil Case No. 142991-CV, was subsequently raffled to MeTC, **Branch 7** and on March 2, 1994, the court, through Judge Emelita Habacon-Garayblas, issued an order granting petitioners' prayer for injunctive relief, pertinent portions of which read:

...it appearing that plaintiffs are suffering and will continue to suffer great and irreparable damage and injury unless restored in the physical possession of the premises in dispute; and it further appearing that at present defendants threaten to continue demolishing the houses of the plaintiffs on the basis of these considerations, the Court finds that the issuance of a writ of preliminary mandatory injunction pending final determination of the principal issues is proper and in order. The Court therefore resolves to grant the application for writ of preliminary mandatory injunction.^[13]

On March 5, 1994, respondents filed a (belated) motion to suspend resolution of the prayer for issuance of preliminary mandatory injunction and for inhibition. On March 16, 1994, Judge Habacon-Garayblas inhibited herself from further hearing the case and ordered its record to be returned to the office of the Executive Judge for re-raffle. The case was re-raffled to **Branch 18** on March 18, 1994.^[14]

Respondents then went to the RTC by way of prohibition with prayer for the issuance of temporary restraining order and preliminary mandatory injunction, docketed as

Civil Case No. 94-69789, questioning the correctness of the issuance of preliminary mandatory injunction in favor of the petitioners. On March 21, 1994, RTC, Branch 42, Manila, issued a temporary restraining order in favor of herein respondents.^[15] On April 8, 1994, the RTC Branch 42, Manila issued an Order stating that inasmuch as the case emanated from a case before the SEC, respondents are entitled to the injunctive relief prayed for.^[16] Pertinent portions of said Order read:

On the petitioners' (herein respondents) application for a writ of preliminary injunction, admittedly the parties in the case before the lower court are members of the Lutheran Church of the Philippines. And the evidence submitted by the petitioners, as well as the transcript of the proceedings in the lower court which were attached to the respondents' opposition to the application for preliminary injunction established that the case in the lower court is an off-shoot of a case that emanated from a case before the Securities and Exchange Commission, whose orders were elevated to the Court of Appeals.

From the admitted facts, as well as evidence adduced, this Court finds that the petitioners are entitled to the injunctive relief prayed for.

WHEREFORE, upon the filing of a bond in the amount of Fifty Thousand Pesos (P50,000.00) let a writ of preliminary injunction be issued enjoining the respondents, particularly the Presiding Judge of the Metropolitan Trial Court from further conducting proceedings in Civil Case No. 142991 until further orders from this Court.^[17]

Petitioners elevated said Order to the CA, docketed as **CA-G.R. SP No. 34504** via a petition for *certiorari*, which rendered a decision on October 13, 1995, annulling and setting aside the injunction issued by the RTC, the *fallo* of which reads:

WHEREFORE, IN VIEW OF THE FOREGOING, the petition is GRANTED. The assailed orders are hereby ANNULLED and SET ASIDE and the writ of preliminary injunction issued by respondent court is DISSOLVED.

SO ORDERED.^[18]

Respondents' motion for reconsideration was denied.

The case was thereafter remanded to the MeTC, **Branch 18**, presided by Judge Thelma Ponferrada who rendered her decision dated May 2, 1996, thus:

The fact of dispossession of the subject property is not disputed. The sole issue as defined in the preliminary conference order of January 16, 1996... is whether or not such dispossession constitutes forcible entry under Section 1, Rule 70 of the Rules of Court.

From the evidence on record, the Court believes and so finds that the dispossession of the subject property was effected **without** the required attendant circumstances of force, intimidation, threat, strategy or stealth.

...

WHEREFORE, judgment is hereby rendered dismissing this case without pronouncements as to costs.^[19] (Emphasis supplied)

In ruling that there was no force, intimidation, threat, strategy and stealth, Judge Ponferrada gave weight to: the letter of petitioner Rev. Elmer Bañes to the LCP President asking that they be allowed to live in the LCP's Caloocan property and signifying that they (Spouses Bañes) will leave the "yellow house" once they find another place to live in; the testimony of petitioner Angela Bañes that the sheriff did not approach her concerning the enforcement of the writ and that she is not aware that the sheriff approached her husband; the testimony of petitioner Nenita San Ramon that she and her husband were able to leave the premises by befriending the guard posted in their compound; and the joint affidavit of the petitioners which stated that the guards and the counsel of LCP, Atty. Almazan, stopped Nenita San Ramon from leaving the premises to prevent her from appearing in the criminal complaint she filed against them.^[20]

Petitioners appealed the MeTC decision to the RTC, docketed as **Civil Case No. 96-79078**. The RTC, on April 15, 1997, reversed and set aside the MeTC decision.^[21] The decretal portion of the RTC decision reads:

WHEREFORE, on the basis of the foregoing considerations, the decision of the lower court is hereby set aside and a new one is hereby entered:

1. Ordering the defendants and those who derived possession from them to vacate, surrender and restore possession of the questioned premises to the plaintiffs;
2. Ordering defendants to jointly and solidarily pay each of the plaintiffs' spouses the sum of P5,000.00 a month, starting from October 15, 1993 until defendants vacate and surrender the questioned premises to the plaintiffs, as and for reasonable compensation for the use and occupation of the premises;
3. Ordering defendants to jointly and solidarily pay each plaintiff spouses the sum of P20,000.00 as and for attorney's fee; and
4. The cost of suit.^[22]

Respondents thereafter went to the CA on a petition for review, docketed as CA-G.R. SP. No. 44333. On November 12, 1999, the CA rendered herein assailed judgment wherein it found that while herein respondents (petitioners in the CA) committed acts contrary to what is sanctioned by the laws, still, herein petitioners (respondents in the CA) are not entitled to favorable judgment in their forcible entry case as evidence show that they were willing to vacate the premises, thus:

Petitioner in utilizing the preliminary injunction order of SEC in evicting the respondents from the subject premises, indeed committed an act contrary to what is sanctioned by the laws...

...