

SECOND DIVISION

[G.R. No. 141463, August 06, 2002]

**VICTOR ORQUIOLA AND HONORATA ORQUIOLA, PETITIONERS,
VS. HON. COURT OF APPEALS, HON. VIVENCIO S. BACLIG,
PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 77,
QUEZON CITY, THE SHERIFF OF QUEZON CITY AND HIS/HER
DEPUTIES AND PURA KALAW LEDESMA, SUBSTITUTED BY
TANDANG SORA DEVELOPMENT CORPORATION, RESPONDENTS.**

DECISION

QUISUMBING, J.:

This petition for review seeks the reversal of the decision^[1] of the Court of Appeals dated January 28, 1999 in CA-G.R. SP No. 47422, which dismissed the petition to prohibit Judge Vivencio Baclig of the Regional Trial Court of Quezon City, Branch 77, from issuing a writ of demolition against petitioners, and the sheriff and deputy sheriff of the same court from implementing an alias writ of execution. Also assailed is the resolution^[2] of the Court of Appeals dated December 29, 1999 which denied petitioners' motion for reconsideration.

The facts are as follows:

Pura Kalaw Ledesma was the registered owner of Lot 689, covered by TCT Nos. 111267 and 111266, in Tandang Sora, Quezon City. This parcel of land was adjacent to certain portions of Lot 707 of the Piedad Estates, namely, Lot 707-A and 707-B, registered in the name of Herminigilda Pedro under TCT Nos. 16951 and 16952, respectively. On October 29, 1964, Herminigilda sold Lot 707-A and 707-B to Mariano Lising who then registered both lots and Lot 707-C in the name of M.B. Lising Realty and subdivided them into smaller lots.

Certain portions of the subdivided lots were sold to third persons including herein petitioners, spouses Victor and Honorata Orquiola, who purchased a portion of Lot 707-A-2, Lot 5, Block 1 of the subdivision plan (LRC), Psd-42965. The parcel is now #33 Doña Regina St., Regina Village, Tandang Sora, Quezon City. The other portions were registered in the name of the heirs of Pedro, heirs of Lising, and other third persons.

Sometime in 1969, Pura Kalaw Ledesma filed a complaint, docketed as Civil Case No. Q-12918, with the Regional Trial Court of Quezon City against Herminigilda Pedro and Mariano Lising for allegedly encroaching upon Lot 689. During the pendency of the action, Tandang Sora Development Corporation replaced Pura Kalaw Ledesma as plaintiff by virtue of an assignment of Lot 689 made by Ledesma in favor of said corporation. Trial continued for three decades.

On August 21, 1991, the trial court finally adjudged defendants Pedro and Lising jointly and severally liable for encroaching on plaintiff's land and ordered them:

(a) to solidarily pay the plaintiff Tandang Sora Dev. Corp. actual damages in the amount of P20,000 with interest from date of filing of the complaint;

(b) to remove all construction, including barbed wires and fences, illegally constructed by defendants on plaintiff's property at defendants' expense;

(c) to replace the removed concrete monuments removed by defendants, at their own expense;

(d) to pay attorney's fees in the amount of FIVE THOUSAND PESOS (P5,000.00) with interest computed from the date of filing of the complaint;

(e) to relocate the boundaries to conform with the Commissioners' Report, particularly, Annexes "A" and "B" thereof, at the expense of the defendants.^[3]

As a result, in February 1998, the Deputy Sheriff of Quezon City directed petitioners, through an alias writ of execution, to remove the house they constructed on the land they were occupying.

On April 2, 1998, petitioners received a Special Order dated March 30, 1998, from the trial court stating as follows:

Before the Court for resolution is the "Ex-Parte Motion For The Issuance of A Writ of Demolition," filed by plaintiff, through counsel, praying for the issuance of an Order directing the Deputy Sheriff to cause the removal and/or demolition of the structures on the plaintiff's property constructed by defendants and/or the present occupants. The defendants-heirs of Herminigilda Pedro filed their comment on the said Motion.

Considering that the decision rendered in the instant case had become final and executory, the Court, in its Order of November 14, 1997, directed the issuance of an alias writ of execution for the enforcement of the said decision. However, despite the service of the said writ to all the defendants and the present occupants of the subject property, they failed to comply therewith, as per the Partial Sheriff's Return, dated February 9, 1998, issued by the Deputy Sheriff of this branch of the Court. Thus, there is now a need to demolish the structures in order to implement the said decision.

WHEREFORE, the defendants are hereby directed to remove, at their expense, all constructions, including barbed wires and fences, which defendants constructed on plaintiff's property, within fifteen (15) days from notice of this Order; otherwise, this Court will issue a writ of demolition against them.

SO ORDERED.^[4]

To prohibit Judge Vivencio Baclig of the Regional Trial Court of Quezon City from issuing a writ of demolition and the Quezon City sheriff from implementing the alias writ of execution, petitioners filed with the Court of Appeals a petition for prohibition

with prayer for a restraining order and preliminary injunction on April 17, 1998.^[5] Petitioners alleged that they bought the subject parcel of land in good faith and for value, hence, they were parties in interest. Since they were not impleaded in Civil Case No. Q-12918, the writ of demolition issued in connection therewith cannot be enforced against them because to do so would amount to deprivation of property without due process of law.

The Court of Appeals dismissed the petition on January 28, 1999. It held that as buyers and successors-in-interest of Mariano Lising, petitioners were considered privies who derived their rights from Lising by virtue of the sale and could be reached by the execution order in Civil Case No. Q-12918. Thus, for lack of merit, the petition was ordered dismissed.^[6]

Petitioners' motion for reconsideration was denied. Hence, this petition, where petitioners aver that:

I.

THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT THE DECISION IN CIVIL CASE NO. Q-12918 CAN ALSO BE ENFORCED AGAINST THE PETITIONERS EVEN IF THEY WERE NOT IMPEADED AS PARTIES THERETO.

II.

THE HONORABLE COURT OF APPEALS ERRED IN NOT UPHOLDING PETITIONERS' TITLE DESPITE THEIR BEING BUILDER IN GOOD FAITH AND INNOCENT PURCHASER AND FOR VALUE.

III.

PETITIONERS ARE ENTITLED TO INJUNCTIVE RELIEF CONSIDERING THAT THEY STAND TO SUFFER GRAVE AND IRREPARABLE INJURY IF ALIAS WRIT OF EXECUTION AND THE SPECIAL ORDER ISSUED BY THE COURT A QUO IN CIVIL CASE NO. Q-12918 FOR THE DEMOLITION OF ALL THE STRUCTURES ON THE DISPUTED PROPERTY WERE ENFORCED AGAINST THE PETITIONERS WHO WERE NOT EVEN GIVEN THEIR DAY IN COURT.^[7]

For our resolution are the following issues: (1) whether the alias writ of execution may be enforced against petitioners; and (2) whether petitioners were innocent purchasers for value and builders in good faith.

On the first issue, petitioners claim that the alias writ of execution cannot be enforced against them. They argue that the appellate court erred when it relied heavily on our ruling in *Vda. de Medina vs. Cruz*^[8] in holding that petitioners are successors-in-interest of Mariano Lising, and as such, they can be reached by the order of execution in Civil Case No. Q-12918 even though they were not impleaded as parties thereto. Petitioners submit that *Medina* is not applicable in this case because the circumstances therein are different from the circumstances in the present case.

In *Medina*, the property in dispute was registered under Land Registration Act No. 496 in 1916 and Original Certificate of Title No. 868 was issued in the name of