

SECOND DIVISION

[G.R. No. 134343, January 30, 2001]

**MAXIMO A. SAVELLANO, PETITIONER, VS. COURT OF APPEALS,
NENA DE GUZMAN, BEN DE GUZMAN AND CECILIO CRUZ,
RESPONDENTS.**

D E C I S I O N

BELLOSILLO, J.:

This is a petition for review seeking to set aside the 14 November 1997 Decision^[1] of the Court of Appeals nullifying the 20 June 1996 Order^[2] of the Regional Trial Court, Br. 75, San Mateo, Rizal, which directed the issuance of a Writ of Preliminary Prohibitory and Mandatory Injunction against private respondents requiring them and all persons claiming under them to vacate the three (3) parcels of land subject matter of the case, to desist from further entering the property, and to allow petitioner to take full possession and control of the property as registered owner thereof. Petitioner likewise seeks the review of the 28 April 1997 Resolution of the Court of Appeals denying his Motion for Reconsideration.

The facts: On 26 May 1993 petitioner Maximo A. Savellano Jr. filed a complaint^[3] for "Recovery of Possession of Real Property with Prayer for the Issuance of a Temporary Restraining Order and Writs of Preliminary Prohibitory and Mandatory Injunction" against private respondents Nena de Guzman, Ben de Guzman, Cecilio Cruz and John Doe. Petitioner claimed that he was the registered owner of three (3) parcels of land situated in Sitio Labahan, San Mateo, Rizal, covered by Transfer Certificates of Title Nos. 459007, 459008 and 459166 portions of which were allegedly occupied by the de Guzmans, Cruz and other John Does without his knowledge and consent for at least a year prior to the institution of his complaint.

In their Answer,^[4] private respondents denied the allegations stating that they had been in the peaceful possession of the property since 1976 or for more than seventeen (17) years prior to the institution of this complaint. In support thereof Nena de Guzman presented real property tax declarations and tax receipts issued by the Municipal Treasurer of San Mateo in her favor. Private respondents further claimed that the certificates of title offered in evidence by Maximo Savellano did not cover the premises being occupied by them.

To resolve this issue, the trial court, upon agreement of the parties, issued an order directing the surveyor of the Bureau of Lands to conduct a survey of the property, with the manifestation from counsel of private respondents that they would vacate the property if it be shown that they were occupying petitioner's property.

In compliance therewith, Engr. Andres L. Valencia, Chief of the Control Section, Surveys Division, Land Management Bureau, DENR-Region IV, conducted a ground survey of the property covered by TCT Nos. 459007, 459008, 459166. Thereafter,

Engr. Valencia submitted his narrative report with the following findings: "3.4. that there are three houses within the claim of the plaintiff; 3.5. that lot 11-A (LRC) Psd-88304 was encroach (*sic*) by the concrete fence at its eastern part; and 3.6. that corners 1 and 2 of lot 11-E (LRC) Psd 99304 and corners 5 & 6 of Lot 11-C-1 (LRC) Psd-206834 were not monumented."^[5]

Meanwhile, petitioner Maximo Savellano presented evidence in support of his application for the issuance of the writs of preliminary prohibitory and mandatory injunction. Likewise, private respondents presented evidence to refute the issuance of the writ. Subsequently, they moved that they be given until 20 May 1996 within which to file their *Formal Offer of Evidence*, which the trial court granted.

On 23 May 1996 petitioner Maximo Savellano filed an *Urgent Motion* praying that the right of private respondents to present documentary evidence be deemed waived. On 7 June 1996 the lower court granted the motion. Private respondents thereafter moved for reconsideration but it was denied.

After a consideration of the evidence presented, the trial court issued the assailed Order stating in part that petitioner Savellano had clearly established his right to a preliminary prohibitory and mandatory injunction. The court heavily relied on *Santos v. Court of Appeals*^[6] which held that the general rule prohibiting the use of injunction to transfer possession or control of property from one party to the other does not obtain when (a) the applicant has clearly established his rights over the disputed property, and (b) the defendant is merely an intruder; or (c) where the action seeks to prevent a purchaser at an auction sale from molesting the rights of a debtor's co-owner whose rights have not been affected by the sale.

Upon finding that petitioner Maximo Savellano was the registered owner of the property, the trial court ordered the issuance of a writ of Preliminary Prohibitory and Mandatory Injunction against private respondents.

Forthwith, private respondents moved for reconsideration. They argued against the accuracy and correctness of Engr. Valencia's narrative report inasmuch as: (a) only the monument check was used in the setting of the monuments and relocation survey in violation of Sec. 363 of the Surveyors' Manual of the Philippines; (b) Engr. Valencia disregarded the natural boundaries in the survey, such as the Susugin Creek; (c) the report was not approved by the Executive Director of Region IV of the DENR; and, (d) despite serious objections, Engr. Valencia used only one of the three (3) relative positions in plotting the plan submitted to the court.^[7]

On 18 October 1996 petitioner filed an *Ex-Parte Motion for Release and Enforcement of Writ of Injunction*, which was granted on 22 October 1996. In turn, on 17 February 1997, private respondents filed an *Omnibus Motion* praying for the immediate resolution of their motion for reconsideration. In due time, the lower court issued an order denying their motion.

On a petition for review on *certiorari* filed after initially issuing a restraining order, the Court of Appeals nullified the Order of the trial court holding that the resolution to vacate granted in the writ of preliminary injunction was patently erroneous since it preempted the decision that would have been rendered by the lower court after trial on the merits. The appellate court further held that the conclusion that private

respondents were mere squatters on Maximo Savellano's property should have been threshed out not in the hearing on the application for issuance of a writ of preliminary injunction but after trial on the merits.^[8]

Failing to obtain a reconsideration, Savellano filed this petition for review on certiorari raising issues that, in fine, centered on whether compelling reasons existed to justify the trial court's grant of preliminary prohibitory and mandatory injunction.

We find the petition devoid of merit. The well-settled principle, buttressed by a long line of cases^[9] is that injunctions, as a rule, will not be granted to take property out of the possession or control of one party and place it into that of another whose title has not been clearly established by law. In *Angela Estate, Inc. v. Court of Appeals*,^[10] we held -

Injunctions, like other equitable remedies, will issue only at the instance of a suitor who has sufficient interest or title in the right or property sought to be protected x x x x It is always a ground for denying injunction that the party seeking it has insufficient title or interest to sustain it, and no claim to the ultimate relief sought - in other words, that he shows no equity x x x x The complainant's right or title, moreover, must be clear and unquestioned, for equity, as a rule, will not lend its preventive aid by injunction where the complainant's title or right is doubtful or disputed.

The rationale for the rule as enunciated in *Devesa v. Arbes*^[11] is -

To hold otherwise would be to render practically of no effect the ordinary actions, and the enforcement of judgment in such action. If a complainant could secure relief by injunction in every case where the defendant is doing or threatens or is about to do, or is procuring or suffering to be done, some act probably in violation of the plaintiff's rights and could enforce the judgment granting the injunction by the summary contempt proceedings x x x x he would seldom elect to enforce his rights in such cases by the ordinary remedies, involving as they do the difficulty and oftentimes fruitless labor of enforcing judgments obtained therein by execution.

In the case before us, the preliminary prohibitory and mandatory injunction issued by the trial court practically granted the main relief prayed for even before the hearing of the case on the merits and solely on the basis of a narrative report the accuracy and validity of which are seriously questioned by private respondents. A punctilious perusal of the records leads us to the conclusion that the accuracy and validity of the report are at best debatable and should be ventilated during the trial on the merits before a definite determination can be reached. As succinctly put by the appellate court, "the report cannot be the sole basis of the court to finally rule that the premises occupied by the petitioners are within the subject property owned by private respondent."^[12]

More so, the pronouncement of the lower court in its assailed Order to the effect that private respondents were "mere intruders or squatters" constitutes a prejudgment of the case and a reversal of the rule on burden of proof, since it would