

[G.R. NO. 155374, November 20, 2007]

**DR. ANTONIO C. SANTOS, PETITIONER, VS. COURT OF APPEALS,
EMMANUEL B. JUAN, AND CARMELITA JUAN DELOS SANTOS,
RESPONDENTS.**

R E S O L U T I O N

CARPIO, J.:

This case originated from an action for Injunction with Damages with prayer for the issuance of a preliminary injunction or temporary restraining order filed by Emmanuel B. Juan and Carmelita Juan Delos Santos (respondents) against Dr. Antonio C. Santos (petitioner) and Rolando Lim (Lim), Officer In Charge of the City Engineer's Office of Valenzuela City. Respondents alleged that they are the registered owners of a parcel of land located in Barangay Ugong, Valenzuela City. They developed a passage over the land leading to Barangay Que Grande Street and allowed adjoining property owners, including petitioner, to use the passage. In March 1999, respondents decided to construct commercial buildings on the land. Respondents fenced the land and closed the passage. However, respondents opened another passage on another side of their land. The new passage also leads to the same barangay road.

In May 1999, petitioner, with the help of armed men, demolished the concrete fence blocking the old passage. Respondents alleged that the demolition was done without any court order but with the support of Lim.

In an Order dated 24 May 1999,^[1] Judge Floro P. Alejo (Judge Alejo) of the Regional Trial Court of Valenzuela City, Branch 172 (trial court), issued an order setting for hearing the issuance of a temporary restraining order on 27 May 1999. On 27 May 1999, the trial court issued an Order (27 May 1999 Order), as follows:

When the plaintiffs' prayer in the complaint for the issuance of a temporary restraining order was called for hearing this morning, the parties, upon suggestion of the Court, agreed to submit in connection with said incident their respective position papers attaching thereto the affidavits of their respective witnesses and whatever documents they may wish to submit as evidence in support of their respective contentions within five (5) days from today, after which the incident of temporary restraining order shall be considered submitted for resolution.

SO ORDERED.^[2]

On 9 June 1999, the trial court issued another Order (9 June 1999 Order), thus:

For resolution is the prayer in the complaint for the issuance of a writ of preliminary injunction restraining "the defendants from entering or passing on the property described in T.C.T. No. V-52589 and from interfering with any improvement being constructed by plaintiffs."

X X X X

WHEREFORE, upon the posting by the plaintiffs of a bond in the amount of P50,000.00 to the effect that the plaintiffs will pay the defendants all the damages which they may sustain by reason of the injunction if the Court should finally decide that the plaintiffs are not entitled thereto, let the writ of preliminary injunction prayed for be issued accordingly.

SO ORDERED.^[3]

On 14 June 1999, the trial court issued a writ of preliminary injunction.^[4] Petitioner filed an Urgent Motion for Reconsideration.^[5]

In an Order^[6] dated 15 June 1999, the trial court set an ocular inspection of the property and held in abeyance petitioner's Urgent Motion for Reconsideration. Petitioner filed a motion for the inhibition of Judge Alejo on the ground that he uttered a statement that he could not reverse himself on his 9 June 1999 Order.^[7] The trial court denied the motion for inhibition in its Order dated 23 June 1999 (23 June 1999 Order).^[8]

Petitioner filed a petition for certiorari and prohibition with the Court of Appeals, docketed as CA-G.R. SP No. 53627, assailing the 9 June 1999 Order, the writ of preliminary injunction, and the 23 June 1999 Order issued by the trial court.

In its 23 April 2002 Decision,^[9] the Court of Appeals denied the petition and affirmed the 9 June 1999 and 23 June 1999 Orders of the trial court.

The Court of Appeals ruled that the grant or denial of an injunction rests upon the sound discretion of the trial court. The Court of Appeals ruled that Judge Alejo did not commit grave abuse of discretion in issuing the writ of preliminary injunction. The Court of Appeals did not agree with petitioner that the writ of preliminary injunction was issued without a hearing. A hearing was set on 27 May 1999 during which the parties agreed to submit their position papers. The Court of Appeals also ruled that the petition was prematurely filed because petitioner's Urgent Motion for Reconsideration had not yet been acted upon by the trial court. The Court of Appeals ruled that petitioner failed to show that the case falls under the exceptional circumstances where a petition for certiorari may be filed even without filing a motion for reconsideration.

Petitioner filed a motion for reconsideration. In its 26 September 2002 Resolution,^[10] the Court of Appeals denied petitioner's motion for reconsideration.

Petitioner came to this Court via a petition for review,^[11] raising the following issues:

1. Whether the Court of Appeals erred in ruling that the trial court did not commit grave abuse of discretion in issuing the 9 June 1999 Order, the writ of preliminary injunction, and the 23 June 1999 Order; and