

SECOND DIVISION

[G.R. No. 113235, July 24, 1997]

**VICTORINA MEDINA, VIRGINIA VINUYA, ANSELMO YABOT AND
SALVACION MENDOZA, PETITIONERS, VS. CITY SHERIFF,
MANILA AND SPOUSES JUSTINO V. JIMENEZ AND AURORA
RUEDA JIMENEZ, RESPONDENTS.**

RESOLUTION

ROMERO, J.:

The sole issue in the instant petition for certiorari is whether or not the Court of Appeals, in denying petitioners' application for a writ of preliminary injunction, committed grave abuse of discretion amounting to lack of jurisdiction. The facts which gave rise to this petition are stated below:

Private respondent spouses Justino and Aurora Jimenez filed an unlawful detainer suit against petitioners on April 8, 1991 docketed as Civil Case No. 92-135259-CV. The Jimenezes, as lessors and as owners of a parcel of land in Tondo, Manila, sought to evict petitioners-lessees therefrom.^[1] On January 2, 1992, the Metropolitan Trial Court of Manila rendered its decision in favor of plaintiff-lessors below and herein respondents with the following dispositive portion:

"WHEREFORE, judgment is hereby rendered against the defendants and in favor of the plaintiffs, ordering the defendants to vacate the premises being occupied by them under TCT No. 194409 of plaintiffs, including all persons claiming rights and title under them. Defendants are also ordered, jointly and severally, to pay the plaintiffs the amount of P15,000.00 as attorney's fees and expenses of litigation, as well as the costs of this suit."^[2]

Unknown to petitioners, the spouses Jimenez had earlier sold the subject property to Ernesto and Rose Concepcion for P450,000.00 on October 14, 1990. After the above-mentioned ejectment case was initiated against petitioners, private respondents Jimenez commenced a complaint in the Regional Trial Court of Manila, Branch 8 for annulment of the deed of sale they had executed in favor of the spouses Concepcion.^[3] On March 12, 1992, the court dismissed the complaint for lack of merit and ordered the plaintiffs Jimenez to pay liquidated damages and litigation expenses, as well as attorney's fees amounting to P50,000.00 and P30,000.00, respectively.^[4] Respondent appellate court dismissed the appeal filed by the Jimenezes due to the late filing of the appellant's brief.^[5]

Petitioners allege that they were not aware of the conveyance to the Concepcions and the legal battle between the latter and the Jimenez spouses until after private respondents Jimenez moved for the issuance of a writ of execution in the ejectment case. Petitioners filed their opposition to said motion on the ground of the

supervening event of private respondents' loss of ownership over the property. The Metropolitan Trial Court, through Judge Reinato G. Quilala, granted the motion for execution and issued the assailed writ on April 27, 1993.^[6]

Petitioners resorted to filing a case for "Damages with Preliminary Injunction and/or Temporary Restraining Order" before the Regional Trial Court of Manila, Branch 22.^[7] After the lower court denied petitioner's application for the issuance of the writ of preliminary injunction,^[8] they proceeded to file a petition for prohibition and certiorari with preliminary injunction and/or restraining order in the Court of Appeals, docketed as CA-G.R. SP No. 31337.^[9] On December 15, 1993, respondent court rendered the questioned Resolution denying petitioners' motion for issuance of preliminary injunction, which reads:

"Acting on the petitioners' Motion for Issuance of Preliminary Injunction dated December 7, 1993 after having gone over the petition and comment thereto with their respective annexes, We find no factual and legal basis to warrant issuance of a preliminary injunction.

WHEREFORE, the petitioners' motion is DENIED and the main case is now deemed submitted for decision."^[10]

Consequently, a Sheriff's Notice to Demolish and Vacate was issued on January 10, 1994.^[11]

Hence, the instant petition for certiorari.

In a Resolution of this Court dated February 2, 1994, private respondents herein were required to comment on the petition. On July 11, 1994, after noting that the aforesaid Resolution was unclaimed by private respondents, we required counsel for petitioners to inform the Court of private respondents' address, under pain of dismissal of the petition.

On March 15, 1995, the Court required counsel for petitioners to show cause why he should not be disciplinarily dealt with for failure to comply with the July 11, 1994 Resolution. Atty. Floriano Par, counsel for petitioners, filed his Compliance on May 2, 1995 stating that the address of the Jimenezes is 1393 Sta. Maria St., Tondo, Manila, which is the same address in the Deed of Sale dated October 14, 1990 and in the complaint for ejectment in Civil Case No. 92-135259 filed in 1991.^[12] On June 21, 1995, the Court reiterated its earlier directive requiring comment from private respondents and its Resolution was sent to the same address.

On August 21, 1995, the Court required counsel for petitioners once again to furnish the address of private respondents. On September 13, 1995, Atty. Floriano Par complied and stated that the true and present address of the spouses Jimenez continues to be at 1393 Sta. Maria Street, Tondo, Manila. Said address is that declared in a complaint for ejectment filed by the spouses Jimenez against the Heirs of Rita de Jesus, et al. (Civil Case No. 146572-CV) filed on January 27, 1995 and which is still pending.^[13] On October 2, 1995, the Court noted Atty. Par's Compliance and directed petitioners to serve a copy of the petition directly on private respondents.^[14]