it which might have been misplaced. At any rate, the controversy appears to be academic, considering the fact that at the hearing of this case, counsel for appellant stated that in another case there is such certified copy of the Chinese law where it appears that Filipinos are given the right to acquire Chinese citizenship.

There being no error in the appealed decision, the same is affirmed.

Paras, Pablo, Briones, Feria, Bengzon, Padilla and *Tuason, JJ.*, concur.

IV

Consuelo S. de Garcia, Anastacio U. Garcia, Virginia S. de Meneses and Alfredo Meneses, petitioners, vs. Ambrosio Santos, Judge, Court of First Instance of Rizal, Natividad Reyes and Adriana Reyes, respondents, G. R. No. L-1422, October 17, 1947, PARAS, *J.*

1. INJUNCTION; PRELIMINARY INJUNCTION TO PRESERVE "STATUS QUO."—The respondents had been in material and physical possession of certain lots until January 7, 1947. In December, 1946, they commenced to build four houses of strong materials on said lots and the construction work was suspended only on January 7, 1947, due to the forcible entry of petitioners who thereafter built around the lots a wire fence and placed armed men on the premises to make the ouster of respondents and their laborers effective. *Held*: That petitioners' act may at most be considered as a mere interference with or disturbance of respondents' possession and that the issuance of a preliminary injunction to restore respondents in their *status quo* was proper.

2. ID.; POSSESSION AND CONTROL OF PROPERTY.—Injunction generally 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 clearly been established by law (Rodulfa vs. Alfonso, G. R. No. L-144, promulgated February 25, 1946, 42 Of. Gaz. 2439).

3. ID.; PRELIMINARY INJUNCTION TO PRESERVE "STATUS QUO."—The sole object of a preliminary injunction is to preserve the *status quo* until the merits can be heard. The *status quo* is the last actual peaceable uncontested *status* which preceded the pending controversy.

4. ID.; COURT; HEARING; JUDGE ACTED AFTER DUE HEARING.—Where injunction was granted by the respondent Judge almost two months after the filing of the complaint, and only after the parties had argued the point in open court and after considering the verified pleadings with their supporting papers, and the petitioners were able to file a motion for reconsideration, which was also denied by the respondent Judge after taking into account all the considerations invoked by the petitioners, the respondent Judge did not act hastily in the matter and without hearing.

Attys. Q. Paredes & Reyes & Castañeda for the petitioners.

Atty. Mariano Albert for the respondents.

DECISION

PARAS, *J.*:

Under date of January 22, 1947, the herein respondents, Natividad Reyes and Adriana Reyes, filed a verified complaint (Civil Case No. 129) in the Court of First Instance of Rizal against the herein petitioners, praying that a writ of preliminary mandatory injunction be issued ordering the petitioners to restore to the respondents the possession of two contiguous lots located in the municipaliy of Pasay, province of Rizal, and to take away the wire fence built around said lots by the petitioners; that after trial said injunction be made permanent; that the petitioners be sentenced to pay ₱20,000 by way of damages, and that the respondents be granted such other remedy as may be proper under the law. The complaint alleges in substance that the respondents acquired the two lots on June 6, 1945, from their former owner, Realty Investments, Inc.; that from such date the respondents have been in possession of the lots; that in December, 1946, the latter began constructing on the lots four houses of strong materials valued at about ₱14.400; that on January 7, 1947, when the houses were about to be finished, the petitioners forcibly entered the lots and ousted therefrom the respondents and the persons constructing the houses; that said petitioners thereafter built around the lots a wire fence and posted armed men on the lots with a view to preventing the respondents and their laborers from entering therein and proceeding with the construction of the houses above mentioned.

Under date of February 1, 1947, the petitioners filed a verified answer in said Civil Case No. 129, alleging in the main that the contract of June 6, 1945, between the Realty Investments, Inc. and the respondents, upon which the latter base their claim of ownership over the lots in question, was a mere contract to sell, which was converted on April 26, 1946, into a conditional contract to buy, which was in turn rescinded on December 19, 1946, by the Realty Investments, Inc.; that the petitioners are the registered owners of the lots, having bought the same from the Realty Investments, Inc. on December 28, 1946; that the petitioners have been in peaceful possession thereof, by themselves and through their predecessor in interest, Pararam Aildos (who transferred to the petitioners his right to buy the lots from the Realty Investments, Inc.), since November, 1941; that the respondents, on or about December 28, 1946, over the opposition of the petitioners and their predecessor in interest, entered the lots and began the construction of the four houses mentioned in the complaint; that it was the mayor of Pasay who ordered the suspension of said construction, and that the persons guarding the premises are members of the Detective and Protective Bureau, Inc., who are merely enforcing the order of said mayor.

Under date of February 1, 1947, the petitioners filed a verified written opposition to the issuance of the writ of preliminary mandatory injunction, based on practically the same allegations contained in their answer.

After a hearing in which the matter was argued at length, the herein respondent Judge of the Court of First Instance of Rizal, Honorable Ambrosio Santos, issued an order dated March 14, 1947, directing the issuance of the writ of preliminary mandatory injunction prayed for by the respondents, upon their filing of a bond in the sum of ₱5,000. Petitioners' motion for reconsideration dated March 28, 1946, was denied by the respondent Judge in his order of April 15, 1947. On this latter date, the respondent Judge issued an order approving the bond of ₱5,000 filed by the respondents and directing the issuance of the corresponding writ of preliminary mandatory injunction.

Whereupon, on April 19, 1947, the petitioners instituted the present petition for certiorari with preliminary injunction, praying that the orders of the respondent Judge of March 14 and April 15, 1947, and that the respondent Judge be ordered to set Civil case No. 129 for trial on the merits with a view to determining the question of title and possession over the two lots in question.

The respondent Judge, without attempting to settle the issue relating to the ownership of the lots, found, in his order of March 14, 1947, that the respondent have been in material and physical possession of the lots until January 7, 1947, and that in December, 1946, said respondents commenced to build four houses of strong materials on said lots and the construction work was suspended only on January 7, 1947, due to the forcible entry of the petitioners who thereafter built around the

lots a wire fence and placed armed men on the premises to make the ouster of the respondents and their laborers effective. After a careful examination of the record before us, we find said conclusions to be correct. It is significant that the petitioners admit the existence of a contract in favor of the respondents for the purchase of the lots in question, and that said contract preceded the alleged deeds of sale executed by the Realty Investments, Inc. on December 28, 1946, in favor of the petitioners. More significant still is the stubborn fact that there are actually on the lots four houses of strong materials about to be finished, the construction of which by the respondents in December, 1946, is not denied by the petitioners. These circumstances strongly militate against petitioners' pretense that they had ever been in peaceful possession of the lots prior to that of the herein respondents.

The legal question that arises is whether the issuance of a writ of preliminary mandatory injunction, such as that ordered by the respondent Judge, is proper, in view of the established rule that injunction generally 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 clearly been established by law. (Rodulfa v. Alfonso, G. R. No. L-144, promulgated February 28, 1946, 42 O. G. 2439, citing earlier cases.)

We are of the opinion that the respondent Judge did not gravely abuse his discretion in granting the injunction. We hereby reiterate the general rule pointed out in Rodulfa v. Alfonso, *supra*, but we consider the case at bar as not falling thereunder. Rather, it is a situation contemplated in the following passages of said decision:

> "But the fact that the petitioner might have been in sporadic possession of all or some of the lands in question, in the last months of 1945, having entered the same, by means of threats and intimidation, will not prevent the issuance of a writ of preliminary injunction in favor of herein respondent, as defendant in said civil case No. 8939, in whose name said lands had been registered under the Torrens System, and who has been in possession thereof, during the last 20 years, as said possession of the petitioner is completely and absolutely illegal.
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> "The sole object of a preliminary injunction is to preserve the *status quo* until the merits can be heard. The *status quo* is the last actual peaceable uncontested *status* which preceded the pending controversy. (Frederick *vs.* Huber, 180 Pa., 572; 37 Atl., 90.)
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> "In cases involving the issuance of a writ of preliminary injunction, the exercise of sound judicial discretion by the lower court will not generally be interfered with; and the refusal of the trial court to permit the plaintiff in this case to file a counterbond cannot be considered as an abuse of sound judicial consideration, *bearing in mind particularly the admission made by the plaintiff himself that sometime in 1945, or thereabouts, he occupied and took possession of all or some of the lands in question, without waiting for the final decision of the competent courts in said civil case No. 8930. It is a general principle in equity jurisprudence that 'he who comes to equity must come with clean hands.'* (North Negros Sugar Co. *vs.* Hidalgo, 63 Phil., 664.)" Rodulfa v. Alfonso, *supra*.

The action of the petitioners in encircling the lots in question with a wire fence and in guarding the place, may at most be considerd as a mere interference with or disturbance of respondents' possession and, as such, is even of less extent than the possession admittedly held by the petitioners in the case of Rodulfa v. Alfonso, *supra*. We have therefore, a much better instance in which a preliminary injunction may be availed of "to preserve the *status quo* until the merits can be heard." Said *status quo* is the "last actual peaceable and uncontested" possession of the herein respondents which preceded Civil Case No. 129, and certainly not the guarded possession of the petitioners. The necessity of restoring the parties in this case to their former situation is called for by the fact that the suspension of the construction of respondents' houses may result in a much greater damage than the granting of the injunction upon the filing of a bond which can amply indemnify the herein petitioners.

The injunction was granted by the respondent Judge almost two months after the filing of the complaint, and only after the parties had argued the point in open court and after considering the verified pleadings with their supporting papers. Again, the petitioners were able to file a motion for reconsideration, which was also denied by the respondent Judge after taking into account all the considerations invoked by the petitioners. We are thus unable to hold that the respondent Judge acted hastily in the matter and without a hearing. Of course, it was not yet necessary for the respondent Judge to require and receive such evidence as may be sufficient to settle the question of title, which should be decided after the trial on the merits. It is needless to state in this connection that the complaint in Civil Case No. 129 clearly makés out an action to quiet title.

Wherefore, the petition is hereby dismissed with costs against the petitioners. So ordered.

Feria, Pablo, Perfecto, Hilado Bengzon, Briones, Padilla and *Tuason, JJ.*, concur.

Moran, C.J., concurs in the result.

V

People of the Philippines, plaintiff-appellee, vs. Pilar Barrera de Reyes, defendant-appellant, G.R. No. L-397, November 23, 1948, PERFECTO, *J.*

CRIMINAL LAW; TREASON; EVIDENCE; WITNESSES; INHERENTLY IMPROBABLE OR CONTRADICTORY TESTIMONY OF WITNESSES.—Although there were two or more witnesses who testified to an overt act of treason, if their testimonies are contradictory in themselves or inherently improbable, the Court cannot hold that the guilt of the accused has been established beyond reasonable doubt.

Atty. Enrique Ramirez for the defendant-appellant.

The Solicitor General for the plaintiff-appellee.

DECISION

PERFECTO, *J.*:

Pilar Barrera de Reyes appealed against the lower court's judgment finding her guilty of treason and sentencing her, in accordance with the provisions of Article 114 of the Revised Penal Code, *to reclusion perpetua*, with the accessories of the law and to pay a fine in the amount of ₱10,000.00 and the costs.

The prosecution accuses her of having caused, by pointing them to Japanese officers and soldiers, the arrest of three Filipino guerrilla suspects, Pelagio Cabutin, Ignacio Mejia and Alejandro Tan, who, after having been apprehended inside the air raid shelter where they were hiding inside the ruins of the Santa Rosa College, Intramuros, Manila, were tortured and then brought to Fort Santiago where they were killed, the treasonous denunciation having been committed on February 15, 1945.

Two witnesses, Modesta B. Son and her daughter Lourdes B. Son, testified for the prosecution to show appellant's responsibility for the arrest, torture and killing of the three victims of Japanese brutality. According to the two witnesses, on February 5, 1945, all the male residents in Intramuros, about 400 of them, were taken by the Japanese and herded in Fort Santiago, while all the females, about 300, and the children, were herded inside the ruins of Santa Rosa College. The three victims, members of a guerrilla outfit in Laguna, who went to Intramuros to visit their relatives and observe the activities of the Japanese, were among the males who were rounded up, tied, tortured and brought to Fort Santiago on February 5, 1945. On February 9, 1945, they were able to secure permission from a Japanese lieutenant to go out for the purpose of visiting two girls, Rosing and Magdalena, Cabutin's nieces, who were among the women herded in the Santa Rosa College compound. (The statement in the government's brief that the three victims managed to escape is not based on any testimony on record.) Once inside the ruins, Cabutin and companions hid from the Japanese, dug an air raid shelter, covered it with wood and earth, and on top built a shack for Rosing and Magdalena to stay in. The accused, who was living in another shack with