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SECOND DIVISION

[G.R. No. 225141. September 26, 2016]

ENERGY REGULATORY COMMISSION, PETITIONER, VS. HON. GREGORIO L. VEGA, JR., PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 157, PASIG CITY, AND MANILA ELECTRIC COMPANY, RESPONDENTS.

RESOLUTION

BRION, J.:**

We resolve to **partially grant** Energy Regulatory Commission's (*ERC*) application for injunctive relief and at the same time allow the Regional Trial Court (*RTC*) to proceed with the principal case of declaratory relief (Special Civil Action No. 4149-PSG). We thus issue: a) a **preliminary mandatory injunction** directing the RTC to **vacate/suspend** its order dated June 13, 2016, granting Meralco's application for a writ of **preliminary injunction**; and b) a preliminary injunction ordering the RTC to **refrain** from issuing further orders and resolutions tending to enjoin the implementation of Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (*EPIRA*).

To summarize the basis for these rulings, we hold that the RTC properly exercised its jurisdiction over Meralco's petition for declaratory relief, but the trial court committed grave abuse of discretion when it issued: a) a 20-day Temporary Restraining Order (*TRO*) in its order dated June 13, 2016, and subsequently, b) a writ of preliminary injunction in its order dated July 13, 2016.

BACKGROUND

The present case originated from a **petition for declaratory relief** filed before the RTC, Branch 157, Pasig City docketed as Special Civil Action No. 4149-PSG.

In this petition, Manila Electric Company (*Meralco*) sought to declare null and void selected

issuances by the Department of Energy (DOE) and the ERC related to the Retail Competition and Open Access (RCOA) provision of the EPIRA.

Meralco's petition included an **ancillary prayer** for the issuance of a TRO and/or a writ of preliminary injunction to enjoin the implementation of the DOE/ERC issuances.

On June 13, 2016, the RTC issued an order granting Meralco's prayer and ordering the issuance of a 20-day TRO in its favor.

The ERC then filed the present petition before us assailing the RTC's June 13, 2016 order. ERC also prayed for injunctive relief to enjoin the RTC from: a) continuing its proceedings in Special Civil Action No. 4149-PSG, and b) issuing orders, resolutions, and decisions rendered in Special Civil Action No. 4149-PSG, until the present petition is finally resolved.

On September 14, 2016, we required Meralco to **comment** on the ERC's petition for *certiorari*, and subsequently ruled that although the RTC properly exercised jurisdiction over the petition for declaratory relief, **it committed grave abuse of discretion when it issued the 20-day TRO**. Thus, the TRO was null and void. Despite this ruling, **we did not expressly lift the TRO as the lifting was no longer needed: the issue of its validity had already become moot**, the TRO having expired on July 6, 2016.

MANIFESTATION WITH URGENT MOTION

On September 13, 2016, the ERC filed a **Manifestation with Urgent Motion for Resolution of ERC's Application for a Provisional Injunctive Writ** (*Manifestation with Urgent Motion*) where it states that since the expiration of the 20-day TRO, **the RTC has issued another order dated July 13, 2016 granting Meralco's application for a writ of preliminary injunction**.

The ERC reiterates its prayer for injunctive relief: a) to enjoin the RTC from continuing the proceedings in Special Civil Action No. 4149-PSG, and b) to suspend all orders and resolutions rendered in the said case until we resolve the present petition.

OUR RULING

At the outset, we clarify that in Special Civil Action No. 4149-PSG, the RTC exercised its jurisdiction over two matters, viz: **a)** the petition for declaratory relief, and **b)** the ancillary

prayer for the issuance of a TRO and/or writ of preliminary injunction. It then eventually issued a 20-day TRO and set the hearing for the application for writ of preliminary injunction. **I discuss these two matters separately below.**

We reiterate that the RTC's exercise of jurisdiction over the petition for declaratory relief is proper as this is a matter that expressly falls under its jurisdiction.^[1]

Section 1, Rule 63 of the Rules of Court furthermore is clear that the RTC has jurisdiction over petitions for declaratory relief, *i.e.*, over the present petition. **However, it does not have jurisdiction to issue any order or resolution enjoining the DOE/ERC issuances relating to the EPIRA.**

In a Rule 65 petition, the petitioner has the burden to show that there is meritorious ground for the issuance of a TRO or writ of preliminary injunction for the purpose of suspending the proceedings before the public respondent. The petitioner must show that an urgent necessity exists requiring injunctive relief to prevent serious damage.^[2]

In its petition for *certiorari*, the ERC's prayer for injunctive relief was based on an alleged **violation of its right to due process**, which, in turn, was based on the following: a) defect in the notice of raffle/service of summons; b) failure of RTC to give ample time for the ERC/DOE to prepare for the hearing; c) the RTC's failure to consider all arguments raised; and d) prejudging the case.

Under the clear terms of Section 78 of the EPIRA,^[3] **only the Supreme Court** may issue an order enjoining the EPIRA's implementation. This provision is similar to Section 3 of RA 8975,^[4] enacted in relation with government infrastructure projects, where we previously established that if the RTC issues a writ of preliminary injunction that will impede the process of national government projects, the lower court commits grave abuse of discretion.^[5]

Since the subject matter of Meralco's petition for declaratory relief are DOE/ERC issuances relating to the EPIRA and its implementation, **the RTC can only exercise jurisdiction over the main declaratory relief petition, but has into authority to issue writs enjoining or impeding the implementation of the disputed issuances during the petition's pendency – a matter that is reserved for the exclusive jurisdiction of this Court.**

Furthermore, none of these allegations show the existence of an urgent necessity for the issuance of a TRO or writ of preliminary injunction as these cited grounds are not clearly

established. An injunction may only issue to protect *actual* and *existing* rights. It cannot issue based on a right that is merely contingent, and that may never arise, or to restrain an act which does not give rise to a cause of action.^[6]

Thus, the RTC committed grave abuse of discretion when it issued the 20-day TRO and exercised jurisdiction over Meralco's application for writ of preliminary injunction. **Its subsequent issuance of another writ of preliminary injunction on July 13, 2016, is no less objectionable and is likewise an action outside the RTC's jurisdiction to undertake.**

In sum, we hold that the **RTC can proceed with the principal case of declaratory relief** (Special Civil Action No. 4149-PSG), but during the pendency of this petition, **cannot enjoin the implementation of DOE/ERC EPIRA-related issuances.**

WHEREFORE, premises considered, we therefore **DIRECT** the issuance of a:

- a) **Preliminary mandatory injunction** the RTC to **vacate/suspend** its order dated July 13, 2016, granting Meralco's application for a writ of preliminary injunction; and a
- b) **Preliminary injunction** ordering the RTC to **refrain** from issuing further orders and resolutions tending to enjoin the implementation of the EPIRA.

SO ORDERED.

Del Castillo, Mendoza, and Leonen, JJ., concur.

Carpio, (Chairperson), J., on official leave.

^{**} Designated as Acting Chairperson per Special Order No. 2374 dated September 14, 2016.

^[1] Section 19, Batas Pambansa Blg. 129, as amended by RA 7691.

^[2] *Republic v. Sandiganbayan*, G.R. No. 166859, June 26, 2006, 492 SCRA 747, 751.

^[3] Section 78, Injunction and Restraining Order. – The implementation of the provisions of this Act shall not be restrained or enjoined except by an order issued by the Supreme Court of the Philippines.

^[4] Section 3. Prohibition on the Issuance of Temporary Restraining Orders, Preliminary

Mandatory Injunctions. - No court, except the Supreme Court, shall issue any temporary restraining order, preliminary injunction or preliminary mandatory injunction against the government, or any of its subdivisions, officials or any person or entity, whether public or private acting under government direction, to restrain, prohibit or compel the following acts: (a) Acquisition, clearance and development of the right of way and/or site or location of any national government project; (b) Bidding or awarding of contract/project of the national government as defined under Section 2 hereof; (c) Commencement prosecution, execution, implementation, operation of any such contract or project; (d) Termination or rescission of any such contract/project; and (e) The undertaking or authorization of any other lawful activity necessary for such contract/project.

This prohibition shall apply in all cases, disputes or controversies instituted by a private party, including but not limited to cases filed by bidders or those claiming to have rights through such bidders involving such contract/project. This prohibition shall not apply when the matter is of extreme urgency involving a constitutional issue, such that unless a temporary restraining order is issued, grave injustice and irreparable injury will arise. The applicant shall file a bond, in an amount to be fixed by the court, which bond shall accrue in favor of the government if the court should finally decide that the applicant was not entitled to the relief sought.

If after due hearing the court finds that the award of the contract is null and void, the court may, if appropriate under the circumstances, award the contract to the qualified and winning bidder or order a rebidding of the same, without prejudice to any liability that the guilty party may incur under existing laws.

^[5] *Luvimin Cebu Mining Corp. v. Cebu Port Authority*, G.R. No. 201284, November 19, 2014.

^[6] *Garrido v. Tortogo*, G.R. No. 156358, August 17, 2011, 655 SCRA 553, 557.