IDERLINA C. PATLI, ENGR. NEMAH G. BANAN, DR. MINERVA S. PAZ1, PETRONILA P. PANALIGAN2 AND JESSICA F. TALANG3, PETITIONERS, VS. HON. LORETO CLORIBEL-PURUGGANAN, PRESIDING JUDGE, ...

Ponente: DIMAAMPAO, J.

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DIMAAMPAO, J.:

Challenged in this Petition for Certiorari are (1) the Order[4] dated 15 August 2001 of the Regional Trial Court, Second Judicial Region, Tuguegarao City, Branch 3, in Civil Case No. 5809; and (2) the Order[5] dated 18 September 2001 denying petitioners' motion for reconsideration thereof.

The antecedent facts are as follows:

Private respondents Teodora Domingo, Antonia Padilla and Victorina Vergel de Dios filed a Complaint for Declaration of Nullity and Cancellation of Deed of Sale, Specific Performance and Damages with Application for Temporary Restraining Order and Preliminary Injunction against Ligaya Avelino, Jaime Avelino, Miguel Vergel de Dios and Monina Plan. Docketed as Civil Case No 5809, the case was raffled to the Regional Trial Court of Tuguegarao City, Branch 3[6].

Claiming that they have legal interest in the matter under litigation, petitioners Iderlina Patli, Nemah Banan, Minerva Paz, Petronila Panaligan and Jessica Talang filed their Motion-in-Intervention/Complaint-in-Intervention.[7]

On 15 August 2001, the public respondent court issued an Order[8] denying the said motions/complaints for inter-vention. Petitioners moved for reconsideration thereof, but their motions were denied by the public respondent court in the assailed Order dated 18 September 2001.[9]

Aggrieved, petitioners, through Atty. Edwin Pascua, filed the instant Petition for Certiorari alleging that the public respondent court gravely abused its discretion in denying their motion to intervene as well as their motion for reconsideration thereof. We directed private respondents to file their comment on the said petition.[10]

On 8 November 2001, private respondents filed their Comment[11] on the petition. Thereafter, they manifested[12] and moved that said comment be treated as their memorandum, which We granted in the Resolution dated 21 February 2002.[13] On 4 March 2002, petitioners except Nemah Banan filed their Memorandum.[14]

On 8 March 2002[15] and 26 April 2002,[16] Atty. Edwin Pascua filed his withdrawal of appearance as petitioners' counsel. Subsequently, Atty. Marivic Cacatian-Beltran entered her appearance as counsel for petitioner Nemah Banan,[17] and filed the required Memorandum.[18] On the other hand, Atty. Francisco Donato formally entered his appearance as counsel for petitioner Petronila Panaligan.[19]

On 10 November 2003, Attys. Ephraim Lasam and Edgar Orro filed a Motion to Withdraw Petition,[20] praying for the withdrawal of the petition for certiorari previously filed by Atty. Edwin Pascua without prejudice to

refiling the same in the future. Thereafter, a Manifestation[21] was filed by petitioner Nemah Banan, through her counsel, Atty. Marivic Cacatian-Beltran, stating therein that the Motion to Withdraw Petition filed by Attys. Lasam and Orro does not bind nor represent her and that she does not intend to withdraw the same.

In a Resolution dated 13 April 2004, We directed Attys. Lasam and Orro to file their Entry of Appearance as counsel for petitioners with the latter's conformity, but the latter failed to comply therewith. Thus, in a Resolution dated 14 October 2004, We directed them to show cause why they should not be cited for contempt. On 12 November 2004, a Notice of Appearance/Compliance/Motion,[22] was filed by Attys. Lasam and Orro formally entering their appearance as counsel for petitioners Petronila Panaligan and Minerva Paz and asserted that the filing of "Withdrawal of Petition" was made with utmost good faith and with full protection to the rights of all parties. They further alleged that the public respondent court had impliedly vacated the order of default when it admitted the answers filed and scheduled the pre-trial of the case. Attys. Lasam and Orro attached copies of waiver of rights of petitioners Jessica Talang and Iderlina Patli including affidavits of petitioners Jessica Talang, Minerva Paz and Petronila Panaligan showing the latter's conformity to the withdrawal of the subject petition.

On November 23, 2004, petitioner Iderlina Patli manifested that she did not engage the services of Attys. Lasam and Orro.[23]

In a Resolution dated 15 December 2004, We granted the withdrawal of the petition for certiorari insofar as petitioners Minerva Paz and Petronila Panaligan are concerned.[24]

We resolve the instant petition with respect to petitioners Iderlina Patli and Nemah Banan.

The focal issue in this case is whether or not the public respondent court gravely abused its discretion in denying petitioners' motion for intervention.

We rule in the negative. A fortiori, the Petition lacks merit.

The extraordinary writ of certiorari issues only for the correction of errors of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction. Grave abuse of discretion is such capricious and whimsical exercise of judgment which is equivalent to an excess or lack of jurisdiction, meaning that the abuse of discretion must be so patent and so gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion or hostility.[25]

In the case at bench, We find no grave abuse of discretion on the part of the public respondent court. In denying petitioners' motion for intervention, the public respondent court ratiocinated that the intervention would only unduly delay the case and prejudice the adjudication of the rights of the original parties, and that if allowed, would only result in confusion and make the case more complicated considering that the intervenors and defendants are being represented by one and the same counsel, Atty. Edwin Pascua. Thus, the public respondent court ruled:

> "For resolution are the Motion for Reconsideration of the order of this Court dated June 15, 2001 declaring defendants in default as well as the Motions in Intervention of intervenors PETRONILA PANALIGAN, NEMAH BANAN, GLORIA P. MORTE, IDERLINA C. PATLI, JESSICA F. TALANG and DR. MINERVA S. PAZ.
> x x x
>
> As to the Motions for Intervention -
>
> The intervenors, except GLORIA MORTE, are all represented by ATTY. EDWIN V. PASCUA, who is also the counsel of record of the defendants. It must be noted that the complaint in intervention is against both

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> plaintiffs and defendants.
>
> Canon 15 of the Code of Professional Responsibility provides that “a lawyer shall observe candor, fairness and loyalty in all his dealings and transactions of his clients.”
>
> Canon 15.03 specifically stated that “a lawyer shall not represent conflicting interest except by written consent of all concerned given after a disclosure of the facts.”
>
> A lawyer cannot represent both parties with conflicting interests, as in this case where the defendants and intervenors have claims against each other. Even if counsel shall withdraw his representation for the defendants, still a lawyer-client relationship has already been established, barring him from appearing for a case which is contrary to the latter's interest.
>
> Besides, there is no showing whether Atty. Pascua is armed with the written consent of the defendants and intervenors to represent both sides, although con-flicting.
>
> Further, the defendants were already declared in default and plaintiffs correctly stated that if inter-vention would be allowed, the defendants would be able to introduce their evidences (sic) through the inter-venors especially so that they are represented by one and the same counsel.
>
> Therefore, it is of this Court's honest belief that the intervention would unduly delay or prejudice the adjudication of the rights of the original parties because intervention, if allowed, will result to confusion and will make the case more complex to litigate upon. Anyway, there are several remedies which the intervenors may avail of and where their rights can be more protected.”[26]

The foregoing disquisition of the public respondent court finds support in Section 1, Rule 19 of the 1997 Rules of Civil Procedure which provides:

> “SECTION 1. Who may intervene. — A person who has a legal interest in the matter in litigation, or in the success of either of the parties or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action. The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding.

The right to intervene is not an absolute right. The statutory rules or conditions for the right of intervention must be shown. The procedure to secure the right to intervene is to a great extent fixed by the statute or rule, and intervention can, as a rule, be secured only in accordance with the terms of the applicable provision. Under our rules on intervention, the allowance or disallowance of a motion to intervene is addressed to the sound discretion of the court.[27]

The permissive tenor of the provision on intervention shows the intention of the Rules to give to the court the full measure of discretion in permitting or disallowing the same. But needless to say, this discretion should be exercised judiciously and only after consideration of all the circumstances obtaining in the case.[28] The discretion of the court, once exercised, cannot be reviewed by certiorari nor controlled by mandamus save in instances where such discretion has been so exercised in an arbitrary or capricious manner. As a general guide in determining whether a party may intervene, the court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding.[29] On this score, We hold and so rule that the petitioners' right may be fully protected in a separate proceedings.

In a nutshell, We discern no grave abuse of discretion on the part of the public respondent court in denying petitioners' motion to intervene.

WHEREFORE, the Petition is hereby DISMISSED. The assailed Orders dated 15 August 2001 and 18 September 2001 are AFFIRMED.

SO ORDERED.

Buzon, and Maambong, JJ., concur.

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[1] Filed withdrawal of the petition which was granted under Resolution dated 15 December 2004, Rollo, pp. 244-246.

[2] Ibid.

[3] Consented to the withdrawal of petition. See Affidavit, Rollo, p. 232.

[4] Rollo, pp. 122-123.

[5] Rollo, pp. 12-13.

[6] See Petition and Opposition , Rollo, pp. 5, 118-121.

[7] Id., pp. 14- 17, 21-25, 35-38, 42-47, 56-59, 63-68, 77-80, 84-88, 98-101, 105-109.

[8] Id., pp. 122-123.

[9] Id., pp. 12-13.

[10] Id., p. 126.

[11] Id., pp. 127-137,

[12] Id., pp. 140-141.

[13] Rollo, p. 143.

[14] Id., pp. 148-153.

[15] Id., pp. 156-158.

[16] Id., pp. 165-168.

[17] Id., pp. 171-172.

[18] Id., pp. 175-186.

[19] Id., p. 189.

[20] Id., pp. 192-195

[21] Id., pp. 202-203.

[22] Id., pp. 226-229.

[23] Rollo, pp. 241-242.

[24] Id., pp. 244-246.

[25] Philippine Rabbit Bus Lines, Inc. v. Goimco, Sr., 476 SCRA 361, 366 (2005).

[26] Rollo, pp. 122-123.

[27] Big Country Ranch Corp. v. Court of Appeals, 227 SCRA 161, 165 (1993).

[28] Pinlac v. Court of Appeals, 410 SCRA 419, 425 (2003) citing Mago v. Court of Appeals, 303 SCRA 600 (1999).

[29] Big Country Ranch Corp. v. Court of Appeals, 227 SCRA 161, 165 (1993).

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