

PHILIPPINES INTERNATIONAL FAIR, INC., LUIS MONTILLA, FEDERICO MANGAHAS AND JUAN COLLAS, PETITIONERS, VS. HON. FIDEL IBÁÑEZ, AS JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA, PO...

G.R. No. L-6448. February 25, 1954

Ponente: PADILLA, J.

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PADILLA, J.:

This is a petition for a writ of certiorari and prohibition. As prayed for a writ of preliminary injunction was issued.

The facts pleaded in the petition are: The Philippines International Fair, Inc. announced and published through daily newspapers the holding of an essay contest entitled "500 Years of Philippine Progress" under the rules which read as follows:

- The subject of this contest is: "500 Years of Philippine Progress."
- The length of the essay should be not less than 800 words nor more than 1,000 words.
- The essay must be a formal type and should be historically correct.
- The contest is open to everybody, regardless of sex, age, and religion—except to, members of the staff of the Philippines International Fair, Inc.
- The contest opens July 1, 1952, and closes August 30, 1952.
- Each of the 10 Manila daily newspapers will offer cash prize of P200 in the name of the Philippines International Fair, Inc. and a certificate of merit to the first prize winners.
- Each newspaper running the contest will select and appoint a Jury to determine the winning essay.
- All first prize winners in the different newspapers are automatically eligible to the Grand Prize of P500 and a diploma to be presented by the Philippines International Fair, Inc.
- The Director General of the Philippines International Fair will select and appoint a Jury of three; members, including the Chairman, to determine the winner of the Grand prize.
- The grand prize winning essay becomes the property of the Fair, and will be printed in the Official Program of the 1953 Philippines International Fair.
- Newspaper editors may formulate their own rules and regulations provided these do not conflict with those of the Fair. (Exhibit A.)

Ten newspapers responded to the call and organized preliminary contests. The newspapers certified their respective winners to the Director General of the Philippines International Fair, Inc., who appointed the judges to

pass upon and examine the various essays certified to by the newspapers as the winning essays in the preliminary contests. After study of the various essays submitted the board of judges adjudged Enrique Fernandez Lumba, representing La Opinion, as winner of the final contest and transmitted its findings to the Director General of the Philippines International Fair, Inc. Upon learning of the result of the contest and the award made by the board of judges, Ponciano B. Jacinto filed a complaint in the Court of First Instance of Manila (civil case No. 18255) where the validity of the award by the board of judges was drawn into question and the respondent court issued a writ of preliminary injunction upon the filing of a bond in the sum of P1,000.

The Philippines International Fair, Inc., Luis Montilla, Federico Mangahas and Juan Collas answered the complaint and set up these special defenses: (1) that the subject matter complained of is not of such a character as would allow legally the court to intervene and that for that reason the Court of First Instance of Manila has no jurisdiction over the subject matter of the action and (2) that the complaint states no cause of action. Simeon G. del Rosario filed a petition for leave to intervene and filed his complaint in intervention. The defendants set up in their answer to the complaint in intervention the same special defenses. The plaintiff and intervenor asked that the case be set for a preliminary hearing on the legal issues raised in the first special defense to the complaints, the defendants invoking the rule laid down in the case of Ramon Felipe, Sr. vs. Hon. Jose M. Leuterio,[*] G. R. No. L-4606, 30 May 1952. After hearing, the respondent court ruled that it had jurisdiction of the case. A motion for reconsideration was denied. The writ of preliminary injunction was dissolved upon the filing by the defendants of a counter bond in the sum of P5,000 to answer for any damage which plaintiff Ponciano B. Jacinto and intervenor Simeon G. del Rosario might suffer by reason of the continuance of the defendant's actions complained of. The hearing on the merits of the case was set for 29 January 1953 at 8:30 a.m.; of which the parties were duly notified.

The petitioners, defendants in the case pending in the respondent court, contend that the jurisdiction attempted to be exercised by the respondent court is contrary to law. And as there is no appeal or any other plain, speedy and adequate remedy in the ordinary course of law to prevent the respondent court from proceeding with the trial of the case, they pray for a writ of preliminary injunction and after hearing for a writ of certiorari and prohibition to enjoin the respondent court from trying or hearing civil case No. 18255.

In their answer the respondents allege and claim that in the essay contest in question there was an offer and acceptance which constitute the consent or meeting of the minds of the contracting parties; there was the essay contest, an object certain or the subject matter of the contract; and the prize of P500, a diploma to be presented by the Philippines International Fair, Inc., and the printing of then winning essay in" the official program of the 1953 Philippines International Fair were the cause or consideration of the contract; that the provisions or rules of the essay contest were not complied with, because the winning essay was written in Spanish and contained 1,864 words, whereas the essay chosen by the committee as winning was written in English and contained less than 1,000 words; that in the Felipe-Leuterio case the attempt to revise the award was made because one of the judges admitted he had committed a mistake in grading, whereas in this case the board of judges made the award in violation of the rules promulgated for the contest; that in the Felipe-Leuterio case it was a mere error, whereas in this case it was a commission of a clear, palpable and manifest wrong, in clear abuse of authority and in gross violation of the rights of respondent Ponciano B. Jacinto, who was the first prize winner in three newspapers, namely, Bagong Buhay, Evening News and Star Reporter; and that a wrongful award was made in this case.

Although an order denying a motion to dismiss a complaint on the ground of lack of jurisdiction is interlocutory, still if it is clear that the trial court lacks jurisdiction a higher court of competent jurisdiction would be justified in issuing a writ of certiorari and prohibition, for the proceedings in the court below would be a nullity and waste of time. But the facts alleged in the complaint filed in the respondent court, if proved, constitute an actionable wrong or a tortious act committed by the respondent board of judges. In the absence of a clear showing that the

respondent court lacks jurisdiction over the case which involves an actionable wrong or a tortious act, the time-honored rule that from an interlocutory order an appeal does not lie must be adhered to. If from an interlocutory order an appeal does not lie, an extraordinary legal remedy cannot be resorted to have the order reviewed by a higher court.

The petition for a writ of certiorari and prohibition is denied and the writ of preliminary injunction heretofore issued discharged, without pronouncement as to costs.

Paras, C. J., Pablo, Bengzon, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador, Concepcion, and Diokno, JJ., concur.

[*] 91 Phil., 482.

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