

PETER L. PO, MARRIED TO VICTORIA LEE PO, PETITIONER, VS. HON. GENEROSA G. LABRA, PRESIDING JUDE, REGIONAL TRIAL COURT, BRANCH 23, CEBU CITY, AND THE NATIONAL GRID CORP. OF THE P...

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HERNANDO, J:

Before this Court is a Petition for Certiorari under Rule 65 of the Rules of Court, filed by Peter L. Po[1] challenging the March 25, 2014 Order[2] of the Regional Trial Court (RTC), Branch 23, of Cebu City and its subsequent Order[3] dated May 8, 2014 in Civil Case No. CEB-39534, a petition for expropriation.

The Antecedents:

On March 7, 2013, the National Grid Corporation of the Philippines (NGCP), by virtue of Republic Act No. 9511,[4] filed before the RTC a petition to expropriate a portion of the property (Lot No. 10979) of the Spouses Peter L. Po and Victoria Lee Po. The expropriation of the subject property was necessary for the NGCP's Colon-Cebu 138kV Transmission Line Project. On August 22, 2013, the NGCP filed an Urgent Motion for Issuance of Writ of Possession[5] before the RTC stating that it had fully complied with the requirements set forth under Section 2, Rule 67 of the Rules of Court. Moreover, it has already deposited the amount of Php 28, 562, 524.00 with the Land Bank of the Philippines. The NGCP claims that the deposited amount was higher than the assessed value and current BIR zonal value of the subject property sought to be expropriated.

On March 25, 2014, the court a quo issued its assailed Order directing the issuance of a Writ of Possession and commanding the Sheriff of the Office of the Clerk of Court, RTC, of Cebu City to immediately place the NGCP in possession of the subject property. The trial court ratiocinated that it was its ministerial duty to issue the writ of possession after the requirements under Section 2, Rule 67 of the Rules of Court have been met and the amount equivalent to the assessed value of the property is deposited.

To forestall the NGCP's possession of the subject property, petitioner contends that the installation of transmission lines and its maintenance, which the NGCP undertakes, is a national government infrastructure project. Thus, petitioner argues that the provisions of Republic Act No. 8974[6] apply to the expropriation of his property and not Section 2, Rule 67 of the Rules of Court. Consequently, petitioner asserts that since the requirements set forth under Republic Act No. 8974 have not been complied with by the NGCP, then it should be denied possession of his property. Moreover, petitioner stresses that his right to due process was violated since no hearing was conducted on the NGCP's Motion for the issuance of the writ of possession.

On April 7, 2014, petitioner filed an Urgent Motion for Reconsideration.[7] Nevertheless, it was denied by the trial court in the assailed Order[8] dated May 8, 2014.

Hence, the instant Petition for Certiorari where petitioner also prayed for the issuance of a Temporary Restraining Order (TRO).

The Issue:

The main issue here is whether or not the court a quo, in granting the Urgent Motion for Issuance of Writ of

Possession, acted with grave abuse of discretion amounting to lack or excess of jurisdiction.

The Court's Ruling

The petition is bereft of merit.

It bears stressing that the extraordinary writ of certiorari under Rule 65 of the Rules of Court is a remedy designed for the correction of errors of jurisdiction, not errors of judgment. In *People v. Dir. Gen. Cesar P. Nazareno, et. al.*,^[9] the Supreme Court was emphatic that:

x x x Misapplication of facts and evidence, and erroneous conclusions based on evidence do not, by the mere fact that errors were committed, rise to the level of grave abuse of discretion. That an abuse itself must be “grave” must be amply demonstrated since the jurisdiction of the court, no less, will be affected. The mere fact, too, that a court erroneously decides a case does not necessarily deprive it of jurisdiction.

Here, the issues raised by the petitioner obviously relate more to the correctness of the lower court's judgment rather than its capricious and whimsical exercise of judgment. Thus, at the outset, this petition must necessarily fail.

In any event, looking past this infirmity, We still find no merit in the petition. Petitioner stresses that his right to due process was violated since no hearing was conducted on the NGCP's Urgent Motion for Issuance of Writ of Possession. Unfortunately, petitioner's contention holds no water. It has been settled that the essence of due process is simply the opportunity to be heard.^[10] “To be heard” does not mean only verbal arguments in court; one may be heard also thru pleadings.^[11] Where opportunity to be heard, through either oral arguments or pleadings, is accorded, there is no denial of procedural due process.^[12] Here, it is clear that petitioner's right to due process was not violated since he was given an ample opportunity to contest the NGCP's Urgent Motion for Issuance of Writ of Possession through the several pleadings he filed with the court a quo. Subsequently, petitioner filed a Motion for Reconsideration when NGCP's Urgent Motion was granted, which was then set for hearing on April 11, 2014. Thereafter, petitioner's Motion for Reconsideration was carefully evaluated and ruled upon by the trial court. Thus, petitioner cannot justly claim that he was denied his Constitutional right to due process.

Petitioner also argues that the trial court's assailed March 25, 2014 and May 8, 2014 Orders have no factual and legal basis. This argument simply deserves scant consideration. The trial court aptly observed that the requirements under Rule 67 of the Rules of Court for immediate possession of the subject property were duly complied with by the NGCP, to wit:^[13]

Record shows that the court received on 22 August 2013 the Notice to Take Possession filed by plaintiff, with copies thereof being furnished to defendant Spouses Peter L. Po and Victoria Lee Po and their counsel. In that notice, plaintiff informed the defendants and their counsel of its intent to enter and take possession and control of the portion of Lot No. 10979, a parcel of land located at Barangay Talamban, Cebu City as described in the complaint, which is traversed by NGCP's Colon-Cebu 138 KV Transmission Line Project. The record likewise disclose that the Land Bank of the Philippines, through Ma. Caridad M. Rodenas, issued a Certification dated 12 December 2012 attesting to Savings Account No. 2821-0901-75 in the name of Spouses Peter Po and Victoria Lee Po. Plaintiff submitted to the court the letter of the Regional Director of the Bureau of International Revenue dated 05 May 2011 together with the latest zonal valuation of the subject portion of the property sought to be expropriated amounting to P3,500.00 per square meter. The foregoing shows that all the requisites for issuance of the writ of possession are present and have been complied with by the applicant.

Assayed from the foregoing, the trial court's March 25, 2014 Order clearly and distinctly set out the facts and the law on which its judgment was based. Verily, the trial court correctly ruled that it was its ministerial duty to issue

the writ of possession since the NGCP filed a complaint for expropriation, which was sufficient in form and substance, furnished petitioners with a Notice to Take Possession^[14] and had deposited an amount equivalent to the assessed value of the property subject to expropriation. Consequently, the issuance of the writ of possession was only proper and was not tainted with grave abuse of discretion.

Along the same vein, the trial court's May 8, 2014 Order did not fail to justify its denial of petitioner's Motion for Reconsideration. Petitioner asserts that the provisions of Republic Act No. 8974 should apply to the expropriation of his property and not Section 2, Rule 67 of the Rules of Court. He claims that the project being undertaken by the NGCP is a national government infrastructure project, which is within the ambit of Republic Act No. 8974. We are not convinced. This Court agrees with the court a quo that he who asserts should prove whether the Colon-Cebu 138kV Transmission Line Project undertaken by the NGCP is indeed a national government infrastructure project. In Section 2 of Republic Act No. 8974 "national government projects" are defined as:

Sec. 2. National Government Projects. – The term "national government projects" shall refer to all national government infrastructure, engineering works and service contracts, including projects undertaken by government-owned and controlled corporations, all projects covered by Republic Act No. 6957, as amended by Republic Act No. 7718, otherwise known as the Build-Operate-and-Transfer Law, and other related and necessary activities, such as site acquisition, supply and/or installation of equipment and materials, implementation, construction, completion, operation, maintenance, improvement, repair and rehabilitation, regardless of the source of funding.

Regrettably, petitioner failed to prove that the project undertaken by the NGCP falls under the preceding definition. On the other hand, the NGCP satisfactorily rebuffed petitioner's unsubstantiated claim. Petitioner never contested the fact that the NGCP is a private corporation. Therefore, being a private corporation, the NGCP cannot be considered as a government-owned and controlled corporation. Equally, the NGCP is neither a government instrumentality or agency. Therefore, any project which the NGCP undertakes cannot be considered as a project carried out by the national government even if it is for a public purpose or is in line with government services. Consequently, Republic Act No. 8974 does not govern the expropriation proceedings in this case as it obviously applies only to acquisition of real property by the government for national government infrastructure projects. If private corporations, which are exercising the power of eminent domain through its legislative franchise, were required to follow the same guidelines for expropriation proceedings under Republic Act No. 8974, then the law should have categorically stated so. *Expressio unius est exclusio alterius*. Where a statute, by its terms, is expressly limited to certain matters, it may not, by interpretation or construction, be extended to other matters.^[15]

All told, the court a quo correctly ruled that the Colon-Cebu 138kV Transmission Line Project is not a national government infrastructure project in view of the fact that the NGCP is a private corporation and does not form part of the national government. Thus, it did not gravely abuse its discretion when it ruled that Republic Act No. 8974 does not govern the expropriation proceedings in this case. Corollarily, We find no grave abuse of discretion when the trial court granted the issuance of a writ of possession since the NGCP had sufficiently complied with the requirements under Rule 67 of the Rules of Court. In *Flaminiano v. Hon. Arsenio P. Adriano, S.Q. Films Laboratories, Inc., et al.*^[16] grave abuse of discretion was defined as such capricious and whimsical exercise of judgment amounting to excess or lack of jurisdiction. The abuse of discretion must be so patent and 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, or where the power is exercised in an arbitrary and despotic manner by reason of personal hostility. Evidently, contrary to petitioner's assertion, the assailed March 25, 2014 and May 8, 2014 Orders of trial court had been fully supported by factual and legal grounds as to foreclose the impression that it acted in an

arbitrary, capricious and whimsical manner in the issuance thereof.

WHEREFORE, the Order dated March 25, 2014 of the Regional Trial Court, Branch 23, of Cebu City and its subsequent Order dated May 8, 2014 in Civil Case No. CEB-39534 are AFFIRMED. Consequently, the NGCP's prayer for the issuance of a Temporary Restraining Order (TRO) is DENIED for lack of merit.

SO ORDERED.

Quijano-Padilla, and Azcarraga-Jacob, JJ ., concur.

[1] Hereinafter petitioner.

[2] Penned by Generosa G. Labra, Rollo, pp. 24-25.

[3] Ibid, Rollo, pp. 26-27.

[4] An Act Granting the National Grid Corporation of the Philippines a Franchise to Engage in the Business of Conveying or Transmitting Electricity Through High Voltage Back-Bone System of Interconnected Transmission Lines, Substations and Related Facilities, and for other Purposes

[5] Rollo, pp. 71-74.

[6] An Act to Facilitate the Acquisition of Right of Way, Site or Location for National Government Infrastructure Projects and for Other Purposes.

[7] Rollo, pp. 28-32.

[8] Rollo, pp. 26-27.

[9] G.R. No. 168982, August 5, 2009.

[10] Gatus v. Quality House, Inc., G.R. No. 156766, April 16, 2009.

[11] Pagayanan R. Hadji-Sirad v. Civil Service Commission, G.R. No. 182267, August 28, 2009.

[12] Ibid.

[13] Supra, Rollo, pp. 24-25.

[14] Rollo, p. 78.

[15] Sario Malinias v. COMELEC, et. al., G.R. No. 146943, October 4, 2002.

[16] G.R. No. 165258, February 4, 2008.

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