

**CESAR N. SARINO, PROF. H. HARRY L. ROQUE, JR. OSCAR
EVANGELISTA, CAESAR VENTURA, GERARDO ORTEGA, RENATO
TENORIO, JR., COSICO, AND MICAH B. DALABAJAN, SUNDIAM,
PETITIONERS-APPE...**

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COSICO, J:

This is an appeal under Rule 41 of the 1997 Rules of Civil Procedure from the Order dated December 21, 2005¹ of the Regional Trial Court, Branch 51 of Puerto Princesa City, Palawan in Civil Case No. 3978 wherein the said court dismissed the amended petition^[2] for certiorari, prohibition and mandamus with ancillary prayer for a writ of preliminary injunction filed by herein petitioners-appellants as citizens, taxpayers, and/or residents of the Province of Palawan against Eduardo Ermita in his official capacity as Executive Secretary and the Secretaries of the Department of Energy (“DOE”), Department of Finance (“DOF”) and Department of Budget and Management (“DBM”), together with the provincial government of Palawan, represented by its governor, Joel Reyes, and mayor of El Nido, Palawan, Edna Lim and punong barangay Sonny Distal of the barangay nearest to the Camago-Malampaya fields. The decretal portion of the appealed Order reads:

“WHEREFORE, premises considered, this Court hereby reinstates the Roque and Butuyan Law Office as regular counsel for petitioner, and this Petition is hereby ordered DISMISSED for lack of jurisdiction.

SO ORDERED.” (Order, p. 5)

Not in agreement with the above ruling, petitioners-appellants are now before us seeking a reversal of the said order arguing that the trial court in dismissing the said petition for lack of jurisdiction committed reversible errors.

The Facts

Succinctly put, the instant case started as early as December 11, 1990 when the National Government, through the DOE entered into a multi-billion dollar service contract^[3] with Shell Philippines Exploration B.V./Occidental Philippines, Incorp. for petroleum operations in the area referred to as Camago-Malampaya which was located some eighty kilometers (80 km) from the coast of Palawan province, in the South China Sea. The dispute arose with respect to the proportionate share in the proceeds of the Camago-Malampaya natural gas project. On one hand, the provincial government of Palawan is claiming a forty (40%) percent share in the proceeds thereof citing the Local Government Code of 1991^[4]. as legal basis and arguing that the Camago-Malampaya area is within the territorial jurisdiction of the said province; on the other hand, the National Government, through the DOF and DBM, disputes such claim and asserts that the said area is outside the territorial jurisdiction of Palawan.

Subsequently, negotiations for the proceeds-sharing in the Camago-Malampaya project ensued between the agencies of the National Government, through the DOE, DOF and DBM and the Provincial Government of Palawan which however proved unsuccessful. On March 14, 2003, Gov. Reyes in a letter addressed to the Secretaries of the aforesaid national government agencies reiterated his demand for the release of Palawan’s equitable share in the proceeds of the Camago-Malampaya project and called off further negotiations with the latter. Finally, on May 7, 2003, the Provincial Government of Palawan formally filed a petition for declaratory

relief to resolve the controversy surrounding the territorial jurisdiction of the Camago-Malampaya area.

Afterwards, herein petitioners-appellants instituted before the Regional Trial Court of Palawan a petition for certiorari, prohibition and mandamus with prayer for preliminary injunction on the premise that the pronouncements of the Chief Executive, as expressed in her own statements and as manifested through the acts of her cabinet secretaries, are reflective of the policy to treat the Camago-Malampaya fields as not part of the province of Palawan. This is shown from the issuance of Executive Orders Nos. 254[5] and 254-A[6] providing a total of Six Hundred Million Pesos (P600,000,000.00) of financial assistance to the provincial government of Palawan with respect to their contribution in the aforementioned project and not as a recognition of the province's territorial right to the Camago-Malampaya fields. In addition to this, in the 2003 Budget of the DOE, the amount of Seven Hundred Seventy Four Million, Seven Hundred Fifty Thousand Pesos (P774,750,000.00) was earmarked for the province of Palawan in connection with the Camago-Malampaya project wherein the use of the said funds are to be subject to the guidelines that may be issued by the DOE, DOF and DBM.[7]

This policy of the Chief Executive and her cabinet secretaries to treat the Camago-Malampaya fields was again replicated when an Interim Agreement was entered into between the DOE, DOF and DBM and the Provincial Government of Palawan involving the proceeds-sharing in the said Camago-Malampaya fields. As averred by petitioners-appellants, this agreement was contrary to both the Constitution and existing statutes.

Thereafter, in the proceedings below, the issue of whether the trial court had jurisdiction to issue the extraordinary writs being prayed for by petitioners-appellants in their petition, was raised. In this regard, the trial court, after much consideration, answered in the negative and consequently dismissed the said petition on the basis of the following ratiocinations as stated in the appealed December 21, 2005 Order which states:

‘GENERALLY, an Injunction under Section 21 of Batas Pambansa Bilang 129 is enforceable only within the region. The reason is that the trial court has no jurisdiction to issue a writ of preliminary injunction to enjoin acts being performed or about to be performed outside its territorial boundaries.

x x x

Under Section 9 of Batas Pambansa 129 which is a substantive law, the Court of Appeals likewise has original jurisdiction in the issuance of writs of CERTIORARI, PROHIBITION and MANDAMUS nationwide, or outside the territorial jurisdiction of the RTC, the jurisdiction of which is regional “whether or not in aid of its appellate jurisdiction.”

It is clear that the Court of competent jurisdiction in this case is the Court of Appeals which although is basically an appellate court was vested by B.P. 129 to acquire jurisdiction over the issuance of writs over petitions under Rule 65 of the Rules of Court.

The ruling in *Tan v. Sarmiento* is reiterated in the most recent case of *Embassy Farms, Inc. vs. Hon. Court of Appeals*, G.R. No. 80682, August 13, 1990 where BP 129 is now enforce. [sic]

In this case, Petitioners are praying for the issuance of the following writs:

- Writ of Certiorari regarding the legality/validity of Executive Orders 254 and 254-A and the Interim Agreement;
- Writ of Preliminary Mandatory Injunction directing the National government, through, its concerned agencies, to the initial release of the 40-percent share of the Provincial Government of Palawan;
- Writs of Preliminary Prohibitory Injunction against the disbursement of funds allocated under E.O. 254 and

254-A and the Special Use Provision of the 2003 Budget of DOE;

- Writ of mandamus directing the National Government to release the 40 percent share of the Province of Palawan from the proceeds of the Camago-Malampaya;

Clearly from the foregoing, the writs prayed for in the instant petition are directed against the national officials outside of the territorial jurisdiction of the Court. Thus, applying the foregoing jurisprudence and Section 21 of BP 129, this Court has no jurisdiction to issue these writs.” (Order, pp. 2-3)

As earlier adverted to, petitioners-appellants are not in agreement with the above-quoted ruling, hence, this appeal.

The Present Appeal

The sole issue raised in this appeal is whether or not the Regional Trial Court has jurisdiction to try the instant petition for certiorari, prohibition and mandamus under Rule 65 against the responsible National and Local Officials.

In their Memorandum[8], petitioners-appellants advance that the rulings in the case of *Tan v. Sarmiento and Embassy Farms v. Court of Appeals* relied upon by the trial court as basis for the dismissal of their petition are not applicable since the acts to be performed and are being performed by respondents-appellees government agencies are within the territorial jurisdiction of the Regional Trial Court of Puerto Princesa, Palawan . To lay stress, the Camago-Malampaya oil and gas fields are in the Palawan Region which is why the petitioners-appellants challenged the National Government’s declarations and policies regarding the project. Verily, the natural resources involved are in Palawan, consequently, the people of Palawan should receive its rightful share of the national wealth from the said project as provided for by law.

Moreover, regardless of the fact that the National Government agencies impleaded in the petition below have their principal offices outside the territorial jurisdiction of the Regional Trial Court of Palawan, it is undisputable that the scope of the power and authority of such agencies are national in character and the acts sought to be subject to the extraordinary writs of the Regional Trial Court of Palawan pertain to or have for their object, such matters, resources and revenues located in or originating from the province of Palawan. Thus, unless it is the holding of the Regional Trial Court of Palawan or of the Court of Appeals that the Camago-Malampaya oil and gas fields are not within the territory of the province of Palawan on the basis of mere presidential pronouncements on the matter, then there is no reason, nor legal justification for the conclusion that the Regional Trial Court has no jurisdiction to try the petition for certiorari, prohibition and mandamus filed before it.

In addition, with the advent of the 1987 Constitution, the Philippine courts have been granted expansive certiorari powers to check the abuses of government. With this expanded certiorari power, the Regional Trial Court has jurisdiction to resolve the issues raised by petitioners-appellants’ in their petition. For this matter, it is also worthwhile to stress that petitioners-appellants’ remedies in the petition shall be enforceable within its territory since such remedies pertain to acts that are to be performed or are being performed within its territorial jurisdiction.

On the other hand, in opposition to the above arguments, respondents-appellees Gov. Joel T. Reyes and Mayor Edna G. Lim of Palawan contend in their Memorandum[9] that unlike the Supreme Court and the Court of Appeals, the jurisdiction of the Regional Trial Court as a whole is confined only within its respective territorial jurisdiction or region as provided under Section 21 of BP Blg. 129. In the instant case, it is clear that the concerned government agencies[10] against which the petition was filed in Civil Case No. 3978 are all based in

the City of Manila or the National Capital Region.

Meanwhile, the respondents Executive Secretary and the Department Secretaries of the concerned agencies of the National Government through the Office of the Solicitor General argue^[11] that the Regional Trial Court of Palawan had no jurisdiction to issue the writs of certiorari, mandamus and injunction against the agencies of the National Government as the same is improper considering that the aforesaid agencies hold offices in the National Capital Region. Sec. 21 (1) of B.P. Blg 129 explicitly states that the issuance by the Regional Trial Courts of writs of certiorari, prohibition, mandamus may be enforced in any part of their respective regions. As such, the trial court correctly ruled in the dismissal of the petition for lack of jurisdiction.

Nonetheless, even assuming *arguendo* that the Regional Trial Court of Palawan has jurisdiction over the petition, a perusal of petitioners-appellants' prayer indicate that the modes by which the latter seek relief are inappropriate. In this regard, by its very definition in the Rules of Court, the mode of certiorari applies to correct the exercise of judicial or quasi-judicial functions which fact is not present in the case at bar as petitioners-appellants seek to question the acts and pronouncements of the Chief Executive and members of the Cabinet. Neither is there any grave abuse of discretion as there is legal basis to support the conclusion that the Camago-Malampaya fields are indeed outside the territorial jurisdiction of Palawan.

Prohibition is likewise unavailing as respondents-appellees did not exercise any judicial or quasi-judicial nor ministerial functions which is essential for a special civil action of prohibition to prosper. The writ of prohibition may not be used to restrain acts of the executive branch of the governments. Neither is it a remedy for acts already accomplished. Again, the absence of grave abuse of discretion negates the propriety of the issuance of a writ of prohibition. In turn, mandamus does not lie in the absence of a showing of a clear legal right. Verily, the Province of Palawan does not have a claim to a forty (40%) percent share in the proceeds of the Camago-Malampaya project as it is outside the territory of the province. Furthermore, a writ of mandamus may be issued when the public right to be enforced and the concomitant duty of the State are unequivocally set forth in the Constitution. This is not the case herein as petitioners-appellants claims are not anchored in the Constitution but are based on inapplicable provisions of the Local Government Code.

Anent the prayer for the issuance of a writ of preliminary injunction, petitioners-appellants are not entitled thereto for their failure to comply with the requirements for its issuance. Moreover, the acts being complained of, i.e. release and disbursement of funds under E.O. Nos. 254 and 254-A had been consummated and can no longer be restrained through the issuance of a writ preliminary prohibitory injunction.

This Court's Ruling

The appeal is bereft of merit.

Paragraph 1, Section 21 of BP Blg.129 is explicit in stating that the jurisdiction of Regional Trial Courts to issue extraordinary writs of certiorari, prohibition, mandamus as well as injunction is confined only to those which may be enforced in any part of their respective regions. On this note, a perusal of the petition would reveal that the main purpose for filing the same is to prevent the implementation of E.O. Nos. 254 and 254-A as well as the enforcement of the Interim Agreement between the national government and provincial government of Palawan on the "proceeds-sharing" in the Camago-Malampaya project, which acts, petitioners-appellants aver not to be in conformity with the provisions of the 1987 Constitution and the Local Government Code of 1991 with respect to the sharing of proceeds of the national wealth which is found within the territorial jurisdiction of a local government unit. As we see it, the acts subject of the extraordinary writs that are sought to be restrained in the petition are as follows:

- Prohibit the Chief Executive through respondents-appellants cabinet secretaries and the provincial government of Palawan from pursuing the enforcement and implementation of E.O. Nos. 254 and 254-A as well as the execution of the Interim Agreement respecting the sharing of proceeds of the Camago-Malampaya project;
- Prohibit the disbursement of funds in accordance with the aforementioned executive orders and the Special Use of Provision of the 2003 Budget of the DOE relative to the Camago-Malampaya fields;
- Direct the National Government through the DOE, DOF and DBM to release the 40% share of the proceeds which represents the rightful share of Palawan province in the Camago-Malampaya project; and
- Enjoin respondents-appellants from disbursing funds allocated under the above-mentioned executive orders and the 2003 Budget of the DOE relative to the Camago-Malampaya fields.

Admittedly, the Solicitor General has stated that the funds under Executive Orders Nos. 254 and 254-A had already been disbursed to the provincial government of Palawan to be used to finance its priority development projects and livelihood programs. Nonetheless, we note that the acts sought to be restrained in the petition not only involves the disbursements of funds under the executive orders but likewise involves the implementation of the Interim Agreement between the provincial government and national government with respect to the proceeds-sharing in the Camago-Malampaya project. Further, a facial examination of the petition would show that petitioners-appellants are also seeking to direct the National Government, through its concerned agencies, to release Palawan's 40% alleged share of the proceeds in the Camago-Malampaya project as provided under the Local Government Code. Verily, inasmuch as the acts sought to be restrained or directed to be performed subject of the extraordinary writs have not been sufficiently shown to be performed or about to be performed in the territorial jurisdiction of the Regional Trial Court of Palawan, we rule that the said court has no jurisdiction to resolve the issues raised in the petition and was correct in dismissing the petition on the ground of lack of jurisdiction.

To repeat, the acts sought to be restrained not only involves the disbursements of funds under the pertinent executive orders and the 2003 Budget of the DOE pertaining to the Camago-Malampaya project, but also relate to matters referring to the implementation of the proceeds-sharing between the national government and the provincial government of Palawan in the said project as well as the release of the alleged rightful share of the Palawan province in the project, and which release of funds had been directed by petitioners-appellants to be performed by the National Government, through the DOE, DOF, and DBM -- government agencies that are all situated and hold their respective offices in the National Capital Region. Thus, in the case of *Decano v. Edu*[12], the Supreme Court ruled that the determinative factor in resolving the issue of whether the Regional Trial Court has jurisdiction to issue extraordinary writs in a certain case lies in ascertaining whether the acts subject of such extraordinary writs are being performed or about to be performed in its territorial jurisdiction, thus:

"In the case of *Gonzales vs. Secretary of Public Works, et.al* x x x wherein the only question raised was whether the Court of First Instance of Davao had jurisdiction to entertain a case the main purpose of which was to prevent the enforcement of a decision of the Secretary of Public Works who was in Manila, this Court held that, inasmuch as the acts sought to be restrained were to be performed within the territorial boundaries of the province of Davao, the Court of First Instance of Davao had jurisdiction to hear and decide the case, and to issue the necessary injunction order. This *Gonzales* case was an action for certiorari and prohibition with preliminary injunction and/or preliminary mandatory injunction to prevent the demolition of *Gonzales'* dam in Davao in compliance with the order of the Secretary of Public Works."

In the instant case, since the alleged invalid acts sought to be enjoined and restrained in the petition below not only pertain to the disbursements of funds under the executive orders and under the 2003 Budget of the DOE but also seeks to restrain the enforcement of the implementation of the sharing of proceeds in the project as agreed upon by the national government and provincial government of Palawan in the Camago-Malampaya project and likewise involves the release of Palawan's 40% share in the proceeds therein directed to be performed by government agencies of the national government that are holding offices in the National Capital Region, it follows that the Regional Trial Court of Palawan is without jurisdiction to issue extraordinary writs therein as the same would only prove to be futile considering that the above-mentioned acts were not shown to be performed or about to be performed within its territorial jurisdiction.

Moreover, we find no reason why the ruling laid down in the case of *Tan v. Sarmiento*[13] cannot be applied to the case at bar. Notably, while we are not unmindful of the fact that the said case was decided before the effectivity of BP Blg. 129, it would appear that the ruling has not yet been overturned. To date, Sec. 21(1) is clear and leaves no room for interpretation on the confined jurisdiction of the Regional Trial Courts to issue extraordinary writs. In addition, as may be inferred from the subsequent pronouncements made by the Supreme Court after BP Blg. 129 took effect, the ruling in *Tan* is still followed. Thus, in the case of *Embassy Farms, Inc. v. Court of Appeals*[14] decided on August 13, 1990, the High Tribunal ruled that the extraordinary writ of injunction under Section 21 of BP Blg. 129 is enforceable within the region for the reason that the trial court has no jurisdiction to issue such writ to be performed outside its territorial boundaries. In *Martin v. Guerrero*[15] rendered on October 22, 1999, the Supreme Court again reiterated the rule that extraordinary writs issued by the Regional Trial Courts are limited to and operative only within such areas pertaining to their respective regions. Lastly, in *Gomos v. Adiong*[16] decided on October 22, 2004, the High Court again had the occasion to declare that Regional Trial Courts have no jurisdiction to enforce extraordinary writs under Sec. 21(1) of BP Blg. 129 beyond the boundaries of its territorial jurisdiction.

Considering the foregoing, law and jurisprudence are clear in confining the jurisdiction of the Regional Trial Courts in the issuance of extraordinary writs to those which may be enforced in their respective regions. It is without jurisdiction to issue extraordinary writs to affect acts that are performed or about to be performed beyond its territorial boundaries.

On another note, while we find laudable petitioners-appellants' observance of the principle of the hierarchy of courts, in particular, with respect to the concurrent original jurisdiction being shared by the Regional Trial Courts with the Court of Appeals and the Supreme Court in petitions for certiorari, prohibition, mandamus, quo warranto, habeas corpus and injunction, it must be impressed that there are cases where a direct resort to the Court of Appeals or the Supreme Court is allowed as where the redress desired cannot be obtained in the appropriate courts or where exceptional and compelling circumstances justify such invocation.[17]

In the present case, it must be impressed that the respondents impleaded in the petition include not only government agencies which hold offices in the National Capital Region but also the provincial government of Palawan, as represented by its provincial governor, mayor of El Nido Edna Lim and punong barangay Sonny Distal. Parenthetically, the subject matter of such extraordinary writs also directs the performance of acts by agencies of the national government that are holding offices outside the territorial jurisdiction of the Regional Trial Court of Palawan. Such being the case, in order to afford complete relief to petitioners-appellants in case the petition is granted, we are of the view that direct resort to the higher courts is allowable considering the surrounding circumstances.

Finally, certiorari, prohibition and mandamus are appropriate remedies to raise constitutional issues and to review and/or nullify, when proper acts of legislative and executive officials.[18]

WHEREFORE, premises considered, the instant appeal is DISMISSED and the Order dated December 21, 2005 of the Regional Trial Court, Branch 51 of Puerto Princesa City, Palawan in Civil Case No. 3978 is AFFIRMED.

SO ORDERED.

Sundiam, and Librea-Leagogo, JJ., concur.

[1] Records at 619-623.

[2] Id. at 345-407.

[3] Id. at 133-138.

[4] Section 290 of the Code states, “Local government units, shall, in addition to the internal revenue allotment, have a share of forty percent (40%) of the gross collection derived by the national government from the preceding fiscal year from mining taxes, royalties forestry and fishery charges, and such other taxes, fees or charges, including related surcharges, interests, or fees, and from its share in any co-production, joint venture or production sharing agreement in the utilization and development of the national wealth within their territorial jurisdiction.”

Meanwhile, Sec. 286 thereof provides, “... the share of each local government unit shall be released, without need of any further action, directly to the provincial, city, municipal, or barangay treasurer. The release shall be on a quarterly basis within five (5) days after the end of each quarter. It is also provided that the mentioned share shall not be subject to any lien or hold back that may be imposed by the national government for whatever purpose.”

[5] Records at 122-a-124-a.

[6] Id. at 124-a- 126-a

[6] Id. at 132-a.

[8] Rollo at 11-34.

[9] Id. at 40-48.

[10] Office of the President, Department of Finance, Department of Energy and Department of Budget and Management.

[11] Rollo at 56-73.

[12] 99 SCRA 410, 418 [1980].

[13] 64 SCRA 364 [1975].

[14] 188 SCRA 492, 500 [1990].

[15] 317 SCRA 166, 173-174 [1999].

[16] 441 SCRA 162, 169 [2004].

[17] La Bugal-Blaan Tribal Association, Inc. v. Ramos, 421 SCRA 148, 182[2004]

[18] Tañada v. Angara, 272 SCRA 18, 49[1997].

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