

PEOPLE OF THE PHILIPPINES, HERMOGENES CONCEPCION, JR., AS CITY FISCAL OF MANILA, MANUEL R. PAMARAN, AS INVESTIGATING ASSISTANT FISCAL AND JOSE G. LUKBAN, DIRECTOR, NATIONAL BURE...

G. R. No. L-19633. November 28, 1966

Ponente: REGALA, J.

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REGALA, J.:

Petition for certiorari and prohibition with preliminary injunction from an order of the Court of First Instance of Rizal, enjoining petitioners from proceeding with the preliminary investigation of a criminal complaint filed with the City Fiscal of Manila.

On January 2, 1962, the City Fiscal of Manila received a criminal complaint of the Department of Justice against Martiniano Abad and Cosme P. Garcia, together with Jorge B. Vargas, Gaudencio L. Mascareñas, Victorino Arambulo, Bartolome San Diego and George M. O'Keefe (directors of the Continental Oil Company) for violation of Section 17-1/2 of Act No. 1459 (Corporation Law) and Section 5 of Republic Act No. 3019 (Anti-Graft Law), which was docketed as I.S. No. 62-202.

The crime allegedly committed arose from the purchase of a lot by Continental Oil Company from the Xavier School, Inc. for the construction and operation of a large supermarket and applying the income therefrom continuously to finance its ordinary business expenses incident to the development of its mining concessions, as contrary to the purpose clause of its articles of incorporation.

While the said complaint was under preliminary investigation, one Gus B. Dodds filed a minority stockholder's suit before the Court of First Instance of Rizal (Civil Case No. 6935) on January 17, 1962, against the members of the Board of Directors of the Continental Oil Company, to restrain the latter from proceeding with their conditional deed of sale of the subject lot to one Jose A. Roxas and to take such steps with the view of annulling or rescinding the same, claiming the purchase of the lot to be valid because it was done by the corporation's directors not for the purpose of investing its funds for a purpose different from its business purpose, in the sense of engaging in the supermarket business as a fixed and principal commercial activity, but for the purpose of immediately putting its idle corporate capital for use in a temporary but profitable business scheme contemplated to last, and for the purpose of financing the corporation's huge financial needs during the time that the corporation is unable to produce from its primary business end of mining.

Meanwhile, the proposed sale of the subject lot was taken by the board of directors after the Securities and Exchange Commission notified the Continental Oil Company that such investment was contrary to the purpose clause of the articles of incorporation of the said company and requested the latter to take immediate corrective measures in the premises.

On January 24, 1962, respondents Martiniano Abad and Cosme P. Garcia intervened in the aforementioned civil

suit and filed a third-party complaint before the same Court of First Instance, against herein petitioners, praying, among other things, that said petitioners be enjoined from proceeding with the investigation of the criminal complaint because of the existence of a prejudicial civil question created with the institution of the civil case, that is, whether or not the acquisition of the property from Xavier School, Inc. constituted a violation of the corporation law.

The following day, or on January 25, 1962, the respondent Judge issued an ex-parte restraining order directing, among others, that pending the resolution of the application for writ of preliminary injunction, the herein petitioners are enjoined from proceeding with the investigation of the criminal complaint.

On January 30, 1962, the petitioners filed a motion for the dissolution and lifting of the restraining order and at the same time answered the third-party complaint wherein they contended that the Court of First Instance of Rizal did not have jurisdiction to hear and decide an action for injunction and prohibition as well as to enjoin a preliminary investigation being held in Manila.

After due hearing, on March 20, 1962, the respondent Judge issued an order denying the petitioners' motion to dissolve the restraining order and directed the issuance of the writ of preliminary injunction prayed for in the third-party complaint, which, pursuant to the said order, a writ of preliminary injunction was issued against the petitioners on April 5, 1962. Hence, this petition raising the issue as to the jurisdiction of the respondent judge to issue a restraining order and writ of preliminary injunction enjoining the petitioners from proceeding with the preliminary investigation of the complaint.

This Court, thru its resolution dated April 11, 1962, ordered the herein respondent to file an answer to the petition and issued the writ of preliminary injunction prayed for, restraining the respondent Judge from enforcing his orders dated January 25, 1962, March 20, 1962, and April 5, 1962, in the Civil Case No. 6953 of the Court of First Instance of Rizal. Due to the writ of preliminary injunction issued by this Court, the City Fiscal of Manila scheduled the continuation of the preliminary investigation of the criminal complaint on April 14, 16 and 17, 1962, but the hearings were postponed upon petition of the respondents.

On April 13, 1962, the defendants and defendants-intervenors in Civil Case No. 6953 of the Court of First Instance of Rizal filed with this Court an urgent Motion For Stay, praying that the effectivity of the writ of preliminary injunction be held in abeyance and that they be given opportunity to give their side. But since the writ of preliminary injunction was already issued, the respondents filed a motion on April 17, 1962, for dissolution of the preliminary injunction on the ground that the writs of injunction and prohibition were sought by them from the Court of First Instance of Rizal, not through a complaint but through a third-party complaint and that a prejudicial civil question was raised.

Subsequently, a motion was filed by petitioners praying to set aside the order of Judge Mencias dated July 17, 1962 granting the motion for exclusion of defendants and third-party plaintiffs from Civil Case No. 6953. We decided to defer action on these various motions filed by the parties until the final resolution of the case on the merits.

The main issue now before this Court is: Can the Judge of the Court of First Instance of Rizal issue a restraining order and writ of preliminary injunction enjoining the City Fiscal of Manila from proceeding with the preliminary investigation of a criminal complaint if before the former a civil action with prejudicial question is raised?

On the issue of jurisdiction to take cognizance of the petition for certiorari and prohibition with preliminary injunction, it is already a settled rule that the jurisdiction or authority of courts of first instance to control or restrain acts by means of writ of injunction is limited to acts which are being committed or about to be committed

within the territorial boundaries of their respective provinces and districts. (Alhambra Cigar and Cigarette Manufacturing Co., Inc. v. The National Administrator of Regional Office No. 2, etc., et al, G. R. No. L-20491, August 31, 1965, and the cases cited therein)

The contention of the respondents that the decisions of this Court cited in the Alhambra Cigar and Cigarette case, supra, do not apply in the instant case because they sought the writs of injunction and prohibition from the Court of First Instance of Rizal not through a complaint but through a third-party complaint, is untenable for we agree with the observation of the Solicitor General that there is no basic difference and fundamental reason for making a distinction in the issuance of the writ whether through an original complaint or third-party complaint.

Another point to be considered is that, "as a general rule, an injunction will not be granted to restrain a criminal prosecution." (Kwong Sing v. City of Manila, 41 Phil. 103; Gorospe v. Peñaflorida, 101 Phil. 886; University of the Philippines v. City Fiscal of Quezon City, G. R. No. L-18562, July 31, 1961; and Lava v. Gonzales, G.R. No. L-23048, July 31, 1964)

We do not have to discuss whether there is a prejudicial question involved in this case, for even assuming that there is, still the Judge of the Court of First Instance of Rizal cannot enjoin the City Fiscal of Manila from proceeding with the preliminary investigation of the complaint, the latter being outside of the territorial jurisdiction of the former.

WHEREFORE, the petition is hereby granted and the writ of preliminary injunction dated April 11, 1962, restraining the respondent Judge from enforcing his questioned orders, is hereby made permanent. No costs.

Concepcion, C.J., Reyes, J. B. L., Barrera, Dizon, Makalintal, Bengzon, J. P., Zaldivar, Sanchez and Ruiz Castro, JJ., concur.

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