

HON. ANTONIO V. RAQUIZA, AS SECRETARY OF PUBLIC WORKS AND COMMUNICATIONS AND HON. BALTAZAR AQUINO, AS COMMISSIONER OF PUBLIC HIGHWAYS, PETITIONERS, VS. EQUIPMENT MARKETING CORPO...

G.R. No. L-28756. January 31, 1972

Ponente: FERNANDO, J.

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FERNANDO, J.:

A petition for certiorari and prohibition with pre-liminary injunction was filed on behalf of the then Secretary of Public Works and Communications, Antonio V. Raquiza, and the Commissioner of Public Highways, Baltazar Aquino, against respondent Equipment Marketing Corporation and Judge Walfrido de los Angeles of the Court of First Instance of Rizal, Branch IV. It sought in its prayer for a preliminary injunction to restrain respondent Judge from executing, enforcing and implementing a restraining order of January 17, 1968 enjoining petitioners "from making a final award in favor of Toyo Menka Kaisha, Ltd., and in the event that an award has been made in favor of the said bidder, the same be set aside; * * * from considering any and all awards made to any bidder or from implementing the said award by the execution of any contract or by opening the Letters of Credit in favor of said bidder's suppliers; * * *." [1] Such restrain-ing order was issued in favor of respondents Equipment Marketing Corporation, the plaintiff in a case filed with respondent Judge on January 15, 1968, seeking in its complaint that it be awarded the bid for the supply and delivery of 100 units of truck-mounted cranes. Notwithstanding a motion on January 25, 1968 which questioned the jurisdiction of respondent Judge and alleged that there was no cause of action as plaintiff, now respondent, Equipment Marketing Corporation's bid did not comply with the advertised specifications and was not the most advantageous to the government as it offered the highest rate of interest and the longest period of amor-tization, unlike that of another firm, Toyo Kaisha, Ltd., which offered the most advantages, respondent Judge did not lift the restraining order. Hence this petition before this Court on the ground of lack of jurisdiction, as the offices of the petitioners where they actually performed their official duties are in Manila and not Rizal, and grave abuse of discretion for issuing such restraining order notwithstanding the showing of non-compliance with the terms of the bid as well as the undeniable fact that it was not the most advantageous to the government.

On March 12, 1968, this Court issued a resolution requiring respondents to answer and enjoined respondent Judge from enforcing his restraining order. The answer on behalf of respondent Equipment Marketing Corporation and respondent Judge was duly filed on March 25, 1968 asserting both the jurisdiction of the lower court and the advantageous character of its bid as contrasted with that of Toyo Menka Kaisha, Ltd. which, in the meanwhile, had filed the petition to intervene. It prayed for the lifting of the restraining order of this Court and the dismissal of the petition. There was a reply on behalf of petitioners filed on April 8, 1968. Thereafter, the Court set the case for oral argument on May 15, 1968. The then Solicitor General, now Justice, Antonio P. Barredo, argued on behalf of petitioners, with counsel for respondents doing the same. The Court, in its resolution of May 15, 1968, likewise granted the motion for intervention filed by counsel for Toyo Menka Kaisha, Ltd. The parties, including

Attorney Francisco Soc Rodrigo who in the meanwhile was granted permission to appear as amicus curiae, were given a period of ten days within which to submit additional memoranda.

The first memorandum, submitted on May 20, 1968, came from the amicus curiae, followed by that of the intervenor Toyo Menka Kaisha, Ltd. The memorandum was filed on behalf of petitioners on June 11, 1968. Then they submitted a pleading on June 19, 1968, wherein it was alleged that respondent Equipment Marketing Corporation, on June 6, 1968, filed with the Court of First Instance of Manila a suit for prohibition with preliminary injunction, docketed as Civil Case No. 73216 against petitioners as well as intervenor Toyo Menka Kaisha, Ltd. It was therein further stated that by ventilating the issues of the case at bar before the Court of First Instance of Manila, respondent Equipment Marketing Corporation did submit itself to the jurisdiction of such court and did acknowledge the absence thereof on the part of respondent Court. Moreover, it was set forth in the supplemental petition that the filing of such Civil Case No. 73216 had in fact rendered moot and academic the case before respondent Court, out of which this petition arose. That was followed by a manifestation on the part of petitioners wherein it reiterated that the matter has now become moot and academic, not only due to the execution of March 21, 1968 of the contract of sale of the 100 units of truck-mounted cranes by the Toyo Menka Kaisha, Ltd. and the Bureau of Public Highways with the opening of the corresponding letters of credit covering the value of the equipment expected to arrive before the end of June. To all such pleadings, there was no response on the part of respondents.

This Court, then, on October 27, 1971, issued the following resolution: "It being shown on the record that there was docketed with the Court of First Instance of Manila on June 6, 1968 a petition for prohibition with preliminary injunction with respondent Equipment Marketing Corporation as petitioner therein against Commissioner Baltazar Aquino of the Bureau of Public Highways, one of the herein petitioners, as one of the respondents therein involving the same parties and cause of action, and in effect seeking the same relief, the parties are hereby required, within fifteen (15) days from receipt of this resolution, to show cause why the present petition should not be dismissed for being moot and academic." There was a manifestation and motion duly filed in accordance with the above resolution by Solicitor General Felix Q. Antonio, wherein an indorsement from Commissioner Baltazar Aquino was attached as Annex B. Its concluding paragraph reads as follows: "Considering that the purchase had actually been implemented and this Office had long time ago received all the cranes covered by the contract of sale, and had long been using these equipment in the different projects under this Bureau, it is the considered view of this Office that this case has now become moot and academic, because the action sought to be enjoined is already a 'fait accompli'." [2] Again, the resolution of this Court met with nothing but silence on the part of respondents. At the very least, it would indicate that the facts as set forth by the Office of the Solicitor General could not be successfully contradicted.

WHEREFORE, as prayed for by petitioners, their petition for certiorari and prohibition is dismissed for being moot and academic. Without pronouncement as to costs.

Concepcion, C.J., Reyes, J. B. L., Makalintal, Zaldivar, Castro, Villamor, and Makasiar, JJ., concur.

Teehankee and Barredo, JJ., did not take part.

[1] Petition, p. 8.

[2] Annex B, Manifestation and Motion, November 29, 1971.

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