

PROVINCE OF BOHOL, PLAINTIFF-APPELLEE, VS. NATIONAL WATERWORKS & SEWERAGE AUTHORITY, DEFENDANT-APPELLANT.

G.R. No. L-30856. February 27, 1970

Ponente: RUIZ CASTRO, J.

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RUIZ CASTRO, J.:

This appeal by the National Waterworks & Sewerage Authority (NAWASA) from the decision of the Court of First Instance of Bohol in civil case 1522 was certified to this Court by the Court of Appeals on the ground that only one question of law is presented for resolution, to wit: whether the CFI correctly denied the verbal manifestation made by the appellant (NAWASA) in open court for the appointment of a commissioner to appraise the waterworks system of the appellee (Province of Bohol).

On August 23, 1962 the plaintiff, the Province of Bohol, sued the NAWASA, alleging (1) that the plaintiff is the owner of the Tagbilaran Waterworks System, situated on a parcel of land in barrio Dampas, Tagbilaran, Bohol, containing an area of 1,228 sq. m. and described in original certificate of title 178; (2) that on March 31, 1959, without paying any compensation, the NAWASA took from the plaintiff the possession, custody and control of the said waterworks system including its assets, and has since been operating the same and receiving fees from its water consumers to the exclusion, and to the prejudice, of the plaintiff; and (3) that despite repeated demands, the NAWASA has refused and failed, and still refuses, to pay or reimburse to the plaintiff the reasonable value of the said waterworks system which is P190,163.27, or return the possession, custody and control thereof. And so the plaintiff prays, alternatively, that the NAWASA be ordered to pay the plaintiff the sum of P190,163.27 with legal interest from March 31, 1959 until fully paid, or that it be ordered to return to the plaintiff the possession, control and custody of the said waterworks system together with all its assets, including the amount of P16,496.06 which the NAWASA received from the plaintiff on the said date, and other amounts it has received for operating the said waterworks system.

In its answer, the NAWASA prays for the dismissal of the complaint; at the same time it counterclaimed for recovery of P80,000 for necessary improvements and expenses, P50,000 for actual moral damages, and P20,000 for attorney's fees.

On November 21, 1962 the plaintiff filed its answer to the counterclaim.

On June 23, 1964 the parties submitted the following stipulation of facts:

- "1. That plaintiff is the owner of the Tagbilaran Waterworks System;
- "2. That on March 11, 1959, plaintiff delivered to defendant, only for the latter's, administration, the said Tagbilaran Waterworks System;
- "3. That, presently, plaintiff wants to recover from defendant the administration over said Waterworks System;

"4. That, on the other hand, defendant insists on continuing with its administration over the Water-works System;

"5. That the parties are trying to enter into an amicable settlement for which reason this Honorable Court is requested to defer the hearing of this case un-til July 17, 1964 at 11:00 a.m., on which date the parties will inform this Honorable Court whether or not they have entered into such amicable settlement."

When the case was called for trial on July 17, 1964, the NAWASA made the following admissions:

"(a) that the plaintiff is the owner of the parcel of land described in paragraph 2 of the complaint;

"(b) and that the value of the pieces of property described in paragraph III of the complaint is P190,163.27, as alleged in the said complaint."

The plaintiff then rested its case. The trial was thereafter postponed several times, all on motion of the defendant.

On July 16, 1965 the court issued the following order:

"Make it of record that when this case was called today the parties admit the following facts:

"That on January 15, 1965 this case was called for the presentation of the evidence of the defendant, but defendant instead of pre-senting evidence, made only a verbal manifes-tation through its counsel, Atty. Tiburcio M. Cue, that a commissioner be appointed to ass-ess the property of the plaintiff in the possession of the defendant; but this petition was de-nied by the Court.'

"That after this denial, defendant rested its case;

* * *

"With the foregoing facts, plaintiff and defen-dant submit this case for decision."

The judgment a quo reads:

"PREMISES CONSIDERED, the Court renders judgment:

"(a) Declaring the plaintiff owner of the parcel of land described in paragraph 2 of the complaint, with all its improvements or assets described in paragraph 3 of the same complaint as follows:

Building - - - - -

P 2,176.16

Plant - - - - -

148,369.61

Industrial Machinery and equipment - - - - -

156.32

Technical and Scientific equipment - - - - -

6,276.37

Hand tools - - - - -

916.51

Miscellaneous equipment- - - - -

9,668.51;

“(b) Ordering the defendant to deliver to plain-tiff the possession of the said parcel of land and its improvements or assets mentioned in the previous para-graph;

“(c) Ordering the defendant to make, within the period of thirty days from the date the present judgment has become final and executory, an accounting of all its incomes and expenses resulting from the operation of the Tagbilaran Waterworks System. This accounting shall cover the period from March 31, 1959, date of the operation of the Tagbilaran Waterworks System by defendant, to the date the latter has com-pletely delivered to plaintiff the properties, subject matter of the present decision. Be it understood that in this account defendant shall include the sum of P16,496.06 which it had received from the plaintiff on March 31, 1959, as alleged in the complaint.”

As already stated, the NAWASA appealed upon the following lone question of law: Did the lower court err in denying NAWASA's verbal manifestation for the appointment of a commissioner to ap-praise the waterworks system of the plaintiff-appellee?

This lone issue may be summarily disposed of by recogniz-ing the correct nature of the present appeal, which is one from an interlocutory order of the lower court. It is all too well-settled to require any citation of authorities that an interlocutory order can-not be the subject of an appeal, as it does not dispose of the case on the merits. The word "interlocutory" refers to "something intervening between the commencement and the end of a suit which de-cides some point or matter but is not a final decision of the whole controversy." [1]

At all events, the verbal motion made by the NAWASA in open court for the appointment of a commissioner to appraise the waterworks system was, to our mind, made half-heartedly. The counsel for NAWASA has not shown and did not offer to show that there was need of reference of the matter to a commissioner. When the motion was denied in open court, the NAWASA simply rested its case without requesting a reconsideration of the denial or submitting any evidence. THE NAWASA was afforded every opportunity to present its evidence, as can be gleaned from the fact that there was a 26-month delay in the hearing caused by no less than 13 postponements, all at the behest of the NAWASA itself.

What the NAWASA should have done, if it seriously desired to project the issue of just compensation or fair market value, tak-ing into account what it now claims as the depreciation of the pro-perties of the waterworks system, was to file the proper motion in writing with the court a quo, accompanied by supporting affidavits and other documents. The NAWASA did not even attempt to present in evidence the records of the properties and other assets of the waterworks system which are in its control, possession and custody, to prove the matter of just compensation and the fact of depreciation.

ACCORDINGLY, this appeal by the NAWASA is hereby dis-missed. Costs against the NAWASA.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Fernando, Teehankee, Barredo, and Villamor, JJ., concur.

[1] Black's Law Dictionary, 4th ed., 1951, p. 952; Bouvier's Law Dictionary, 3rd Revision, Vol. I, p. 1651.

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