

JUAN GARCIA, JONALD SOLAS, NORBERTO PULMONES AND SABINO FLORES, PETITIONERS, VS. REGIONAL HEARING OFFICER KISSACK B. GABAEN OF NATIONAL COMMISSION ON INDIGENOUS PEOPLES AND ANAB...

Ponente: DIMAAMPAO, J.

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DIMAAMPAO, J.:

A petition for certiorari under Rule 65 of the Rules of Court is a special civil action that may be resorted to only in the absence of appeal or any plain, speedy and adequate remedy in the ordinary course of law. The existence and availability of the right of appeal prohibits the resort to certiorari because one of the requirements for the latter remedy is that there should be no appeal.[1]

This rudimentary procedural precept comes to light as We resolve petitioners' Motion for Clarification and/or Motion for Reconsideration[2] of Our Resolution[3] dated 21 November 2013.

In retrospect, in Our 21 November 2013 Resolution, We considered the Petition for Certiorari[4] filed by petitioners as a Petition for Review under Rule 43 of the Rules of Court. We accentuated that Republic Act No. 8371[5] (RA 8731) and its Implementing Rules and Regulations (IRR) mandated that decisions of the National Commission of Indigenous Peoples (NCIP) shall be appealable to Us by way of a Petition for Review. Notwithstanding Our Resolution, petitioners bring forth this Motion.

Petitioners postulate that We erred in treating their Petition as a Petition for Review under Rule 43 of the Rules of Court. They avow that via the present Petition, they are merely assailing the interlocutory Order[6] dated 28 August 2013 of herein public respondent, Regional Hearing Officer Kissack Gabaen (public respondent) denying their bid for reconsideration[7] of the Resolution[8] dated 23 July 2013. As it was merely an interlocutory Order, petitioners clamor that the proper recourse is to file a Petition for Certiorari under Rule 65 of the Rules of Court, and not a Petition for Review.

Petitioners' postulation deserves short shrift. After a second hard look, We find and so hold that the Petition must be dismissed.

We stand by Our pronouncement that RA 8371 and its IRR ordain that decisions of the NCIP are appealable to Us by way of a Petition for Review.[9] On this score, Section 69 of Administrative Circular No. 1-03[10] decreed in no uncertain terms that—

"Section 69. Appeal to the Court of Appeals. Decisions or judgments of the Commission may be appealed to the Court of Appeals only by way of petition for review on certiorari."

Plain as day, petitioners committed a procedural blunder in filing a Petition for Certiorari instead of a Petition for Review under Rule 43 of the Rules of Court.

So, too, even if We are to consider that a Petition for Certiorari is the appropriate recourse against the Order of the

public respondent, still, the Petition falls through.

First. Petitioners raised an error of judgment on the part of public respondent when he decreed to strike out the names of Jaime and Mariano Lanaja as defendants in the case. Yet, petitioners' prayer to join their defenses and consequently be dropped as party-defendants was denied.

Well-ensconced is the rule that when a court, tribunal, or officer has jurisdiction over the person and the subject matter of the dispute, the decision on all other questions arising out of the case is an exercise of that jurisdiction. Where the issue or question involved affects the wisdom or legal soundness of the decision, not the jurisdiction of the court to render said decision, the same is beyond the province of a special civil action for certiorari.[11] Applying this juris-prudential yardstick, the purported error committed by public respondent, which relates to an exercise of judgment, is not reviewable by certiorari. Ineludibly, this Petition is not the appropriate remedy to assail public respondent's Order.

Second. Petitioners failed to convincingly demonstrate that the challenged interlocutory Order is appealable.

As a rule, an interlocutory order is not appealable until after the rendition of the judgment on the merits, given that a contrary rule would delay the administration of justice and unduly burden the courts subject to well-defined exceptions such as: (1) the tribunal issued the order without or in excess of jurisdiction or with grave abuse of discretion; and, (2) the assailed interlocutory order is patently erroneous and the remedy of appeal would not afford adequate and expeditious relief.[12]

In this case, petitioners failed to show the presence of the foregoing circumstances to warrant a deviation from the general rule. Petitioners' mere lamentations over the non-dismissal of the case against them, despite the dismissal of the cases against their co-defendants, hardly suffice to prove that public respondent acted with whimsicality and capriciousness. Manifestly, petitioners failed to characterize the Order of public respondent as patently arbitrary and capricious.

On this score, We resonate the doctrinal precedent that the petition for certiorari under Rule 65 of the Rules of Court filed with Us will prosper only if there is clear showing of grave abuse of discretion or an act without or in excess of jurisdiction. Abuse of discretion is so patent and gross as to amount to an evasion of a positive duty enjoined or to act at all in contemplation of law.[13]

Appropriately, petitioners should have appealed the judgment of public respondent to the NCIP Commissioner as it is a more expeditious means to afford relief where their defenses would be ventilated and heard. In case of an adverse decision, petitioners' remedy is to appeal therefrom.

Third. Petitioners violated the doctrine of exhaustion of administrative remedies. A fortiori, the filing of the Petition is premature.

It is a hoary doctrine that before a party may seek the intervention of the court, he should first avail himself of all the means afforded him by administrative processes. The issues which administrative agencies are authorized to decide should not be summarily taken from them and submitted to the court without first giving such administrative agency the opportunity to dispose of the same after due deliberation.[14] The premature invocation of the intervention of the court is fatal to one's cause of action. The doctrine of exhaustion of administrative remedies is based on practical and legal reasons. For reasons of comity and convenience, courts will shy away from a dispute until the system of administrative redress has been completed and complied with, so as to give the administrative agency concerned every opportunity to correct its error and dispose of the case.[15]

Quite palpably, petitioners failed to exhaust the available administrative remedy. Sections 47[16] and 50[17] of

Administrative Circular No. 1-03 clearly provide that decisions, awards or final orders of the public respondent may be appealed to the NCIP Commission on the ground of grave abuse of discretion. Despite the availability of this remedy, petitioners appealed to Us by way of certiorari in contravention of the rules. Beyond a nary of doubt, this Petition for Certiorari must be dismissed for failure to exhaust administrative remedies.

One final reflection. Procedural rules are tools designed to facilitate the adjudication of cases. Courts and litigants alike are, thus, enjoined to abide strictly by the rules. While it is true that litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with the prescribed procedure to insure an orderly and speedy administration of justice. The instant case is no exception to this rule.¹⁸

WHEREFORE, the Resolution dated 21 November 2013 is hereby REVERSED and SET ASIDE. The Petition for Certiorari is DISMISSED. Accordingly, the Motion for Clarification and/or Motion for Reconsideration is DENIED.

SO ORDERED.

Ybañez, and Paredes, JJ., concur.

[1] See *Malayang Manggagawa ng Stayfast Phils., Inc. v. National Labor Relations Commission*, 704 SCRA 24, 34-35 (28 August 2013).

[2] *Rollo*, pp. 106-114.

[3] *Id.*, pp. 104-105.

[4] *Id.*, pp. 3-15.

[5] Entitled, An Act to Recognize, Protect and Promote the Rights of Indigenous Cultural Communities/ Indigenous Peoples, Creating a National Commission on Indigenous Peoples, Establishing Implementing Mechanisms, Appropriating Funds Therefor, and for Other Purposes.

[6] *Id.*, pp. 34-35.

[7] See Motion for Reconsideration; *Id.*, pp. 23-27.

[8] *Id.*, pp. 21-22.

[9] See Section 67 of R.A. No. 8371 and Section 8, Rule III, Part II of the Implementing Rules and Regulations of the said law.

[10] Entitled, Rules on Pleadings, Practice and Procedure Before the NCIP.

[11] See *Jan-Dec Construction Corporation v. Court Of Appeals*, 481 SCRA 556, 566 (6 February 2006).

[12] See *United Overseas Bank (formerly Westmont Bank) v. Ros*, 529 SCRA 334, 346 (7 August 2007).

[13] See *Purefoods Corporation v. Nagkakaisang Samahang Manggagawa ng Purefoods Rank-and-File*, 563 SCRA 471, 479-480 (28 August 2008).

[14] See *Corales v. Republic*, 703 SCRA 623, 644-645 (27 August 2013).

[15] See *Special Audit Team, Commission on Audit v. Court of Appeals*, 696 SCRA 166, 180 (11 April 2013).

[16] Sec. 47. Appeal to the Commission. Decisions, awards, or final orders of the RHO may be appealed to the

Commission by filing a Memorandum on Appeal with the RHO and serving a copy thereof upon the adverse party.

[17] SECTION 50. Grounds for Appeal. The appeal may be acted upon on any of the following grounds:

- a) Grave abuse of discretion on the part of the Regional Hearing Officer;
- b) On pure question of law; and
- c) Serious errors in the findings of facts which, if not corrected, would cause grave or irreparable damage or injury to the appellant.

[18] See *Bergonia v. Court of Appeals (4th Division)*, 664 SCRA 322, 331-332 (25 January 2012).

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