

**NATIONAL WATERWORKS & SEWERAGE AUTHORITY,
PETITIONER, VS. THE HON. GAUDENCIO CLORIBEL, PRESIDING
JUDGE OF BRANCH VI OF THE COURT OF FIRST INSTANCE OF
MANILA AND C & C COMMERCIAL...**

G.R. No. L-26733. November 28, 1969

Ponente: FERNANDO, J.

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FERNANDO, J.:

This special civil action for certiorari and prohibition instituted on October 24, 1966 by petitioner National Waterworks & Sewerage Authority imputed serious procedural irregularities on respondent Gaudencio Cloribel, then a Judge of the Court of First Instance of Manila, in connection with a case filed by the other respondent, C & C Commercial Corporation,[1] which he consolidated with another civil case[2] and which, in the opinion of the petitioner, ought to have been dismissed because of another action pending, acts vigorously objected to by petitioner. Respondent Judge, however, had failed to act on any of the motions aforesaid and had not lifted its restraining order thus preventing petitioner from proceeding with an urgently vital program of increasing the water supply to Manila.

More specifically, petitioner sought the nullification of the order of September 7, 1966 of respondent Judge setting the hearing of a petition by the other respondent for the issuance of a writ of preliminary injunction, restraining petitioner, as defendant, in the meanwhile from committing or continuing the acts complained of specifically implementing the contract previously awarded for the supply and furnishing of pipes;[3] the order of September 28, 1966 admitting a supplemental complaint by the other respondent setting the hearing for a preliminary injunction for another date and continuing such restraining order in the meanwhile;[4] and the order of October 13, 1966 directing the general manager of petitioner to appear before him on October 15, 1966 to submit proof of compliance with the previous order of September 28, 1966 rendering him liable for contempt for non-compliance therewith.[5]

On October 25, 1966, this Court issued a resolution requiring respondents to file an answer within ten days to the above petition and issuing a writ of preliminary injunction upon petitioner's posting a bond of P2,000.00. The answer of respondents was duly filed on November 10, 1966. There-after, respondents likewise sought the resolution or modification of the writ of preliminary injunction issued by this Court, but their efforts at first were unsuccessful as shown by a resolution of this Court of December 15, 1966 denying a motion to that effect. Subsequently, however, upon a motion for reconsideration being filed, this Court, on January 17, 1967, modified the writ of preliminary injunction so as to allow the trial on the merits of Civil Case No. 66679.

With such modification, respondent Judge was able to proceed with the trial of the case and did render a decision on the merits on October 10, 1967 declaring null and void a contract previously entered into by petitioner and ordering it to call for a new public bidding with reference to the furnishing and supply of the centrifugal cast iron pipes needed by it. The aforesaid decision on the merits of respondent Judge is now the subject of the appeal

before us in L-28655, petitioner as defendant having filed its notice of appeal on November 16, 1967.

It is thus clear from the above that the matter has become moot and academic. So it was alleged in a motion of respondent C & C Commercial Corporation dated October 23, 1967. Even assuming that procedural irregularities could be ascribed to respondent Judge including his failure to act on various motions of petitioner, there is now no particular need for their correction in this action in view of the case having proceeded to trial and actually decided by him. Moreover, there need be no fear as of this date that the threat of contempt would still hang on the head of the general manager of petitioner National Waterworks & Sewerage Authority. The legal issues that remained could very well be disposed of in L-28655, which is the proper proceeding for the resolution of whatever factual or legal questions still call for determination.

WHEREFORE, this special civil action for certiorari and prohibition with a plea for preliminary injunction is dismissed for being moot and academic. Without pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Castro, and Teehankee, JJ., concur.
Barredo, J., did not take part.

[1] Civil Case No. 66679.

[2] Civil Case No. 66027.

[3] Petition, Annex I.

[4] Ibid, Annex O.

[5] Ibid, Annex R.

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