

PEDRO S. VICTORIANO III, PLAINTIFF-APPELLANT, VS. MUNICIPAL GOVERNMENT OF LOOC, ROMBLON, HON. MAYOR MANUEL L. ARBOLEDA, HON. VICE MAYOR ALDEN DALISAY, HON. MEMBERS OF THE SANGGU...

Ponente: BUESER, J.

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BUESER, J.:

Before this Court on appeal is the Decision dated January 13, 2011,[1] rendered by the Regional Trial Court of Odiongan, Romblon, Branch 82 (RTC), which found merit in the complaint filed by plaintiff-appellant Pedro Victoriano III (“Plaintiff”) against defendants-appellants Municipal Government of Looc, Romblon (“Defendant Municipality”) and its impleaded public officials (“Impleaded Defendants”) for recovery of a sum of money and damages, the dispositive portion of which reads in this wise:

“WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against defendant Municipal Government of Looc, directing the latter to pay the former the amount of P40,505.00 representing the amount deposited by Mr. Alfredo Martinez with the Office of the Municipal Treasurer of Looc under O.R. No. 9759950 dated May 16, 1986 with no interest, the dismissal of the case as against the other co-defendants.

NO COSTS.

SO ORDERED.”

The Facts

The pertinent facts and antecedents of this case, as borne by the records, are as follows:

A Notice of Bidding dated May 5, 1986[2] was posted by the defendant Municipality through its Office of the Treasurer inviting bidders for the exclusive right to catch bangus fry and fries of other species within its territorial waters for commercial purposes for a period of two (2) years. The leasing of this exclusive privilege was based on the program of the Ministry of Agriculture pursuant to P.D. 704, otherwise known as the Fisheries Decree of 1975.

The requirements for the bid are as follows: (1) it shall not be less than Forty Thousand Pesos (P40,000.00) per annum, (2) the bid shall be accompanied with a cash deposit equivalent to 100% of the amount of bid per year (c) the successful bidder shall upon certification of the Committee on Award withdraw the 100% cash deposit and pay the said amount to the Municipal Treasurer and (d) to pay the second payment for the year 1987 in advance on January 5, 1987.

On May 7, 1986, the Sangguniang Bayan of defendant Municipality enacted Municipal Fishing Ordinance No. 18 in order to comply with the formalities required by the Bureau of Fisheries and Aquatic Resources (“Bureau”), which were in turn, necessary for the implementation of the Basic Fishery Ordinance of Looc.[3]

Despite the lack of the required approval of the municipal ordinance, the conduct of the public bidding proceeded with three participating bidders, among which were Alfredo Martinez (“Martinez”) and plaintiff’s father, Atty. Pedro Victoriano, Jr. (“Atty. Victoriano”).

Being the highest bidder during the public bidding, Martinez was awarded the contract. Complying with the requirements set forth in the Notice to Bid, Martinez paid Forty One Thousand and Ten Pesos (P41,010.00) to the Municipal Treasurer as evinced by Official Receipt No. 9759902. Considering, however, that the required approval of the Municipal Ordinance was yet to be granted by the Minister of Agriculture at that time, the resulting contract of lease in favor of Martinez had not been immediately executed.

On May 16, 1986, Martinez approached Atty. Victoriano regarding the latter’s facilities in the operation of his bangus fry business. Martinez also requested assistance in the preparation of a contract between him and the Municipality.

On the same day, Martinez together with Atty. Victoriano went to the Municipal Hall. Upon verification, they confirmed that the required municipal fishery ordinance had yet to be approved. Thus, they caused the cancellation of the official receipt earlier issued to Martinez. With the consent of the Municipal Treasurer, Official Receipt No. 9759950 for Forty Thousand Five Hundred Five Pesos (P40,505.00) was issued to Martinez with the notation that the same is “for deposit only, to be withdrawn and paid as soon as the contract is signed and approved.”

On May 19, 1986, Municipal Sangguniang Bayan Resolution No. 57-86 was passed authorizing defendant Officer-in-Charge Manuel L. Arboleda to enter into contract for and in behalf of the Municipality.[4]

Meanwhile, Municipal Fishing Ordinance No. 18 was approved by the Minister of Agriculture as per 5th Indorsement dated July 29, 1986 and returned to the Sangguniang Bayan for implementation by way of its 6th Indorsement dated August 14, 1986. It was only sometime in September 1986 the plaintiff had been informed of the approval of the ordinance. By then, the Bangus fry season had already passed.

On May 27, 1987, plaintiff deposited the amount of Forty Thousand Five Hundred Five Pesos (P40,505.00) to complete the full payment for the year 1987. Despite full payment, the Sangguniang Bayan proposed to implement the award but subject to the right of defendant Mayor to select the people who can catch and sell bangus fry. This was not acceptable to the plaintiff.

On June 2, 1987, the Sangguniang Bayan formally revoked the exclusive privilege granted to Martinez for failure of the latter to pay the advance payment for the year 1987 and likewise, due to the non-existence of a valid contract.[5]

As assignee, plaintiff demanded the return of the amount of Forty Thousand Five Hundred Five Pesos (P40,505.00) representing the deposit made by Martinez in consideration of the void contract. Defendants refused to accede to the demands made by the plaintiff, which prompted the latter to file the present complaint against the Municipality and the impleaded defendants for recovery of a sum of money and damages.[6]

Allegedly, the approval and the eventual enforcement of the ordinance were unreasonably and deliberately delayed by the impleaded defendants for political reasons and personal gain. By reason of such delay, the awarded fishing zone had been exploited by other people, specifically by the father and brother of the impleaded Mayor. Martinez cannot legally enforce his exclusive right over the fishing zone considering that the required fishing ordinance upon which his contract of lease would be based upon had yet to be approved.

To appease him and to avoid litigation with defendants, plaintiff, as manager of his bangus operation, offered to

reimburse Martinez of his expenses. This offer was accepted by Martinez and in consideration thereof, plaintiff gave the latter the amount of Forty Five Thousand Pesos (P45,000.00). The parties executed a Deed of Assignment dated September 10, 1986[7] reflecting said agreement. However, plaintiff himself suffered loss of income considering the failure of the impleaded defendants to consummate the contract of lease and recognize his rights as an assignee. Also, it was alleged that instead of returning to him the amount deposited by Martinez, impleaded defendants used the same for the purchase of a jeep.

Refuting plaintiff's accusations, defendants maintained that the present complaint and another criminal case before the Tanodbayan had been filed merely to harass the defendant Mayor. Contrary to the assertions of the plaintiff, the delay that attended the approval of the fishing ordinance had not been tainted with bad faith. It was actually Martinez who had unreasonably refused to consummate the contract despite the approval of the ordinance in order to avoid payment of lease rentals.

It was also pointed out that to allow plaintiff to recover the entreated amount would run counter to the principle of unjust enrichment given that Martinez and plaintiff had substantially benefited from their harvest of bangus fry from the territorial waters of the Municipality. Defendants further argued that assuming there was a valid deed of assignment between plaintiff and Martinez, such agreement could not bind them for want of privity of contract.[8]

After the termination of the pre-trial of the case, trial on the merits ensued. Aside from his documentary exhibits and own testimony, plaintiff presented in evidence the testimonies of his witnesses Martinez, Atty. Victoriano and Jacobo Llorca. Defendants, on the other hand, presented in evidence their documentary exhibits and the testimonies of witnesses Renato Barredo, Fermina Gaytano, Perla Bautista, Judito Fillartos and Rogelio Gadacho.

In the now assailed Decision dated January 13, 2011, the trial court, in the manner as afore-quoted, found merit in plaintiff's complaint. The trial court opined that the subject amount of P40,505.00 should be considered as a cash deposit and not as payment in consideration of the unconsummated contract of lease. Since there was no lease contract to speak of, the subject amount should be returned to Martinez. By virtue of the Deed of Assignment and Confirmation of Assignment in his favor, the trial court ruled as reasonable plaintiff's entreaty for its recovery in his capacity as the assignee of Martinez.

Both dissatisfied with the trial court's pronouncements, plaintiff and defendants elevated the same on appeal before this Court.

The Issues

The issues to be resolved in this case, as interposed by the parties, may be summarized as follows:

1. Whether the trial court has jurisdiction over the subject matter of the complaint.
2. Whether the subject amount of P40,505.00 was received by the defendant Municipality as cash deposit or as payment for the awarded contract.
3. Whether defendant Municipality is legally bound by the Deed of Assignment between Martinez and plaintiff.
4. Whether the trial court erred in not ordering the payment of legal interest on the monetary award.
5. Whether impleaded defendants should be held personally liable for damages.

The Court's Ruling

We find the separate appeals to be equally devoid of merit.

First off, considering that the jurisdiction of the trial court has been put into issue, the resolution of the same takes

precedence before the issues questioning the factual and legal findings of the court. For if the trial court indeed lacks jurisdiction of the subject matter of the case, the resolution of the parties' respective assigned errors is beyond the jurisdiction of the courts. For this Court to delve into said issues, in itself, constitutes blatant jurisdictional error. Lest it commits such error, this Court, at the outset, resolves this issue.

On the point, defendants assert that it is the Commission on Audit (COA), and not the trial court, that has primary jurisdiction over the present complaint pursuant to the provisions of Commonwealth Act No. 327, as amended by P.D. 1445,[9] considering that it involves a money claim arising from law of contract due or owing to a government agency. Defendants entreat that the case be dismissed for lack of jurisdiction and the assailed Decision declared null and void.

We do not agree.

Time-honored is the doctrine of primary jurisdiction, which mandates that a court cannot arrogate unto itself the authority to resolve a controversy, the jurisdiction over which is initially lodged with an administrative body of special competence. Courts cannot or will not determine a controversy involving a question which is within the jurisdiction of the administrative tribunal prior to resolving the same, where the question demands the exercise of sound administrative discretion requiring special knowledge, experience and services in determining technical and intricate matters of fact.[10]

The objective of the doctrine of primary jurisdiction is to guide the court in determining whether it should refrain from exercising its jurisdiction until after an administrative agency has determined some question or some aspect of some question arising in the proceeding before the court.[11]

Emphatically, the COA, as asserted by defendants, has the primary jurisdiction to examine, audit and settle "all debts and claims of any sort" due from or owing the Government or any of its subdivisions, agencies and instrumentalities, including government-owned or controlled corporations and their subsidiaries.[12] Such jurisdiction may not be waived by the parties' failure to argue the issue nor active participation in the proceedings.[13]

However, while this Court unequivocally recognizes and definitely intends to uphold the aforesaid doctrine, the factual milieu of the present controversy negates its application. As can be gleaned from the circumstances of the case, plaintiff's complaint does not involve a money claim against the Municipality, which would otherwise vests the COA with jurisdiction over its subject matter.

Truth be told, the subject matter of plaintiff's complaint pertains to the recovery of the cash deposit that his predecessor-in-interest had made with the defendant Municipality. It does not involve a monetary obligation that needs to be paid. A money claim is "a demand for payment of a sum of money, reimbursement or compensation arising from law or contract due from or owing to a government agency." [14]

As aptly ruled by the trial court and as substantiated by the records, there was no valid lease contract between the municipality and Martinez to begin with. Thus, without any contract to bind them, there is no obligation to pay on the part of either party. In like manner, there is no law that validates such payment. Without the approval of the Agriculture Secretary as required under the law, the municipal fishery ordinance has no legal consequence. It cannot bind Martinez and his assignee to make any payment in favor of the Municipality.

Evidently, the present case is not a money claim that falls under the primary jurisdiction of the COA. The court a quo is clothed with jurisdiction to take cognizance and adjudicate on its merits.

With said jurisdictional issue resolved in the negative, this Court now proceeds to decide on the merits of the

substantive arguments espoused by the contending parties.

As already stated, the present complaint does not involve a money claim as it pertains to plaintiff's cause of action to recover the deposit that his assignor had made in consideration of the unconsummated agreement. Indeed, while captioned as one for sum of money, the cause of action of the present complaint primarily involves the right of plaintiff to seek recovery of the cash deposited with the Municipal Treasurer and the duty of the latter to return the same.

Verily, there was no legal provision or contract to validate defendants' postulation that the subject amount should be deemed as payment for the grant of the exclusive right to harvest bangus fry within the municipality's territorial waters. Explicitly, Section 4 of the P.D. No. 704, otherwise known as the Fishing Code of 1975, requires that "all municipal or city ordinances and resolutions affecting fishing and fisheries and any dispositions thereunder shall be submitted to the Secretary for appropriate action and shall have full force and effect only upon his approval."

Thus, sans approval of the Agriculture Secretary, the subject municipal fishing ordinance did not have the full force and effect of the law. It is considered invalid and unenforceable. As it is, the subject amount remains as a mere deposit made in consideration of the requirement of the notice to bid. It cannot be plausibly considered as payment since there is no law or contract that requires or validates the same. Certainly, a contract whose purpose is contrary to law, morals, good customs, public order or public policy is considered void^[15] and as such, creates no rights or obligations or any juridical relations.^[16]

We likewise find no error in the disquisition of the trial court in allowing the plaintiff, in his capacity as an assignee of Martinez, to recover the amount deposited with the defendant Municipality. True, Article 1625 of the Civil Code provides that "an assignment of a credit, right or action shall produce no effect as against third person, unless it appears in a public instrument, or the instrument is recorded in the Registry of Property in case the assignment involves real property."^[17]

Still and all, said legal provision does not preclude plaintiff's cause of action against defendants. In *Teoco vs. Metropolitan Bank and Trust Company*,^[18] citing the case of *Co vs. Philippine National Bank*,^[19] the Supreme Court interpreted the phrase "effect as against a third person" to be damage or prejudice to such third person. In this connection, it bears to stress that the crux of plaintiff's claim against defendants does not involve the enforcement of the fishing contract but simply entreats the recovery of the amount deposited by Martinez for his bid to obtain such contract.

For this reason, defendants cannot plausibly argue that they could sustain damage or injury by reason of the disputed assignment of rights when they themselves do not have any legal right to the amount being claimed. Besides, while the first deed of assignment had not been duly notarized, Martinez, aside from appearing as witness for plaintiff, executed and duly notarized a Confirmation of Deed of Assignment^[20] in favor of plaintiff. Thus, for all intents and purposed, whatever rights Martinez has in connection with the failed contract with defendant Municipality had already been legally conveyed in favor of plaintiff.

Equally unmeritorious are the assignment of errors raised by the plaintiff in his instant appeal. He asserts that the trial court erred in not ordering the payment of interest and in not holding the impleaded defendants liable for the damages that he had sustained. On both accounts, this Court disagrees.

Verily, aside from the dearth of evidence to support plaintiff's claims, it should be highlighted that the factual circumstances of the present case contradict the same. In maintaining that the subject amount should be subjected to interest, plaintiff alleged that said amount had been deposited with a bank and had eventually earned interest.

However, this claim remains unsubstantiated and is in fact contradictory to plaintiff's earlier allegation that the Municipality used subject amount to purchase a government vehicle.

More importantly, while it can be argued that the unwarranted withholding of the subject amount can be deemed as a forbearance of money and thus justifies the accrual of interest, emphasis should be made that plaintiff had admittedly and heftily benefited from the lease agreement, albeit the same is herein declared null and void. Plaintiff and Martinez, as the evidence on record readily shows, harvested bangus on several occasions during the two (2) year period and in fact profited despite the absence of a valid government contract.

Indeed, to brazenly claim the payment of interest when the delay of the execution of the lease contract can also be attributed to his fault and that of his predecessor-in-interest and considering that they had benefited from the void contract is tantamount to unjust enrichment that cannot be countenanced by the Court.

Considering that there is no evidence establishing that the impleaded defendants acted in bad faith in the performance of their duties as public officials, there is no cogent reason to hold said defendants liable for damages. They have in their favor the presumption of regularity in the performance of official duties which plaintiff failed to rebut. There is no evidence to prove partiality, malice and bad faith on the part of the impleaded defendants. Bad faith can never be presumed; it must be proved by clear and convincing evidence.[21]

All told, there is no error in the dispositions of the trial court in ordering defendants to return the subject amount of P40,505.00 to plaintiff, the assailed Decision having been rendered in accordance with law and jurisprudence.

WHEREFORE, the foregoing considered, the present appeals filed by plaintiff and defendants are hereby DISMISSED and the assailed Decision dated January 13, 2011 AFFIRMED in toto. No costs.

SO ORDERED.

Salazar-Fernando, R. A. (Chairperson), and Garcia, R. R., JJ., concur.

[1] Original Records, pp. 357-374.

[2] Plaintiff's Exhibit "A."

[3] Defendants' Exhibit "11."

[4] Id., at p. 26.

[5] Id, at p, 157.

[6] Id, at pp. 1-7, sans annexes.

[7] Id., at pp. 144-145.

[8] Id., at pp. 18-24.

[9] Section 26. General jurisdiction. The authority and powers of the Commission shall extend to and comprehend all matters relating to auditing procedures, systems and controls, the keeping of the general accounts of the Government, the preservation of vouchers pertaining thereto for a period of ten years, the examination and inspection of the books, records, and papers relating to those accounts; and the audit and settlement of the accounts of all persons respecting funds or property received or held by them in an accountable capacity, as well as the examination, audit, and settlement of all debts and claims of any sort due from or owing to the Government or any of its subdivisions, agencies and instrumentalities. The said jurisdiction extends to all government-owned

or controlled corporations, including their subsidiaries, and other self-governing boards, commissions, or agencies of the Government, and as herein prescribed, including non-governmental entities subsidized by the government, those funded by donations through the government, those required to pay levies or government share, and those for which the government has put up a counterpart fund or those partly funded by the government. (Underscoring ours)

[10] Guy vs. Ignacio, G.R. No. 167824, July 2, 2010.

[11] Province of Aklan vs. Jody King Construction and Development Corp., G.R. Nos. 197592 & 20262, November 27, 2013

[12] National Electrification Administration (NEA) vs. Morales, G.R. No. 154200, July 24, 2007.

[13] Euro-Med Laboratories Phil., Inc. vs. Province of Batangas, G.R. No. 148106, July 17, 2006.

[14] Parreño vs. Commission on Audit, G.R. No. 162224, June 7, 2007.

[15] Article 1409 (1) of the Civil Code.

[16] Nunga, Jr. vs. Nunga III, G.R. No. 178306, December 18, 2008.

[17] Underscoring ours.

[18] G.R. No. 162333, December 23, 2008.

[19] G.R. No. L-51767, June 29, 1982.

[20] Original records, p. 146.

[21] Gatmaitan vs. Gonzales, G.R. No. 149226, June 26, 2006.

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