

EUFROCINA FLORENTIN ELLA, JUANITO ELLA, CONCEPCION CALVO Y AMOR, AND FLORA P. ARMOVIT, PETITIONERS, VS. THE HON. JUDGE ANGELINO C. SALANGA, OF THE COURT OF FIRST INSTANCE OF ILO...

G.R. No. L-23826. September 28, 1970

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

The issue raised in this petition for certiorari and prohibition is whether the presiding Judge of Branch III of the Court of First Instance of Ilocos Sur acted validly in ordering the transfer of a case assigned to and partially tried in Branch II of the same court upon ex parte motion of one of the parties and in dissolving the writ of preliminary injunction theretofore issued by the presiding Judge of Branch II. To be resolved here also is the motion for contempt filed by petitioners against respondents for allegedly disobeying the writ of preliminary injunction issued by this Court.

The following facts are substantially borne out by the record:

A verified complaint[1] dated July 14, 1962 was filed in the Court of First Instance of Ilocos Sur by Eufrocina Ella, Juanito Ella, Concepcion Calvo, Flora Armovit, Marita Aurellado and Bienvenida Amor (all petitioners herein except Marita Aurellado and Bienvenida Amor)[2] against the Secretary of Public Works and Communications; the Director of Public Works, the Commissioner of Highways; the Highway District Engineer, Provincial Treasurer, Provincial Auditor, and Disbursing Officer in the Office of the Highway District Engineer, all of Ilocos Sur; and Caridad Aguila. These defendants are now respondents herein. The suit was for specific performance, to compel payment of the sum of P52,606.50 as price of the land allegedly purchased by the government under a perfected sales contract with the plaintiffs, plus attorney's fees and expenses of litigation as well as moral and exemplary damages.

The complaint alleges in essence as follows: The plaintiffs, absolute owners of a parcel of land situated in Barrio Tamag, Vigan, Ilocos Sur, containing an area of 35,071 square meters more or less, started negotiations in June 1961 with the Secretary of Public Works thru the Highway District Engineer of Ilocos Sur for the acquisition of the said property by the government, to be used as site for the North Luzon Tuberculosis Sanitarium, the acquisition and construction of which had been authorized under Republic Act 3101. Pursuant to said negotiations the provincial appraisal committee, composed of the Highway District Engineer, the Provincial Treasurer and the Provincial Auditor, stated in a resolution dated July 6, 1961 that they had inspected the property and found it suitable for the purpose envisioned, and that its fair market value was P1.50 per square meter. The Provincial Fiscal investigated the plaintiffs' title, and finding it to be clear advised the Highway District Engineer to effect the purchase. The Fiscal then prepared a document of sale, which the plaintiffs signed. Thereafter the Highway District Engineer earmarked, in ROA dated January 15, 1962 and signed by Engineer Falca, the sum of P52,606.50 for the payment of the purchase price. The plaintiffs then allowed the provincial government to

occupy the said property. Subsequently, however, the Highway District Engineer refused to perform the government's obligation to pay. The plaintiffs learned that he had entered into negotiations for the acquisition of another parcel of land from Caridad Aguila, which land had been acquired by her only three months back for the price of P17,500.00, payable in installment. In a resolution dated July 11, 1962, the due date of the last installment, the appraisal committee placed the fair market value of this other parcel at P1.20 per square meter.

After the complaint was filed the case was raffled and assigned to Branch II in Vigan. On July 18, 1962 a writ of preliminary injunction was issued by the presiding Judge thereof, Hon. Ulpiano C. Dumauual, restraining the defendants from further negotiating with any party other than the plaintiffs for the acquisition of land to be used as sanitarium site, and from using, committing, engaging, obligating and disbursing the amount of P52,606.50 already specifically earmarked and obligated in favor of the plaintiffs, or from violating the plaintiffs' contractual rights, until further orders from the Court.

On August 8, 1962 the Provincial Fiscal moved for the dismissal of the complaint. On August 20 the plaintiffs opposed the motion to dismiss, and on August 24, they moved that the defendant national officials be declared in default.

On September 3, 1962 Judge Dumauual issued an order deferring the resolution of the motion to dismiss until after the case had been heard on the merits, denying the motion to declare the defendants in default and granting them time to answer the complaint.

Thereafter the defendants Secretary of Public Works and Communications, Director of Public Works, Commissioner of Public Highways and Highway District Engineer, all represented by the Solicitor General; the defendants Provincial Treasurer and Provincial Auditor, represented by the Provincial Fiscal; and the private party defendant Caridad Aguila, filed their separate answers dated February 26, 1963, September 12, 1962, and February 23, 1963, respectively, denying the substantial averments of the complaint and alleging as affirmative defenses that since the claim was liquidated and determinable it should have been filed first with the Auditor General; that the real party defendant was the Republic of the Philippines, which may not be sued without its consent; that the Highway District Engineer had no authority to enter into a contract of sale and bind the Republic of the Philippines; and that the steps taken toward the acquisition of the land were merely preparatory and had not been approved by the Secretary of Public Works and Communications as required by law, nor examined and reviewed by the Auditor General or Provincial Auditor as provided in Administrative Order 290 dated February 3, 1959. For her part, Caridad Aguila filed a counterclaim for P600 a month as lost earnings and P3,000 for attorney's fees.

On January 24, 1964 the parties submitted a partial stipulation of facts, in which certain documents relevant to the case were admitted.

Then on July 15, 1964 the defendants filed a "Motion Ex Parte to Return the Case to Vigan and To Set Same for Trial," alleging that after the demise of Judge Ulpiano Dumauual, who used to preside at the preliminary hearings of the case, Judge Nicanor Nicolas, upon his appointment, continued hearing the same; that upon the transfer of the second sala presided by Judge Nicolas to Narvacan the case was carried over to said place, where trial was started; that during the vacation recess Judge Florencio Villamor took over the case but refused to continue with the hearing, preferring that Judge Nicolas hear the same upon his return; that Judge Nicolas, however, was transferred to Mindoro and Judge Villamor to Nueva Ecija; and that the case involves real property situated in Vigan, Ilocos Sur, and the principal parties are residents of Vigan.

The above motion was filed with Judge Angelino Salanga in his capacity as Executive Judge of the Court of First Instance of Ilocos Sur. Judge Salanga was formerly presiding Judge of Branch III in Vigan. In the early part of 1964 he was appointed District Judge for the Province of Ilocos Sur, Branch IV, with station at Candon. But by

Administrative Order No. 184 of the Secretary of Justice, dated June 15, 1964, Judge Salanga was authorized "to continue holding court at Vigan, effective immediately and until further orders, for the purpose of trying all kinds of cases and to enter judgments therein."

On July 22, 1964, Judge Salanga issued an order directing the "Clerk of Court of Narvacan, Branch 2, to transfer all the records of the above entitled case to this Court for the further prosecution of this proceeding."

The plaintiffs filed an ex-parte motion dated August 3, 1964 seeking to reverse and/or recall the order of Judge Salanga on the grounds that they had not been served with notice thereof and that after the hearing had been commenced in Branch II,

jurisdiction to hear and decide the case had been firmly lodged in said branch to the exclusion of other branches.

Caridad Aguila, for her part, filed a motion dated October 5, 1964 to dissolve the writ of preliminary injunction issued by Judge Dumaual on July 18, 1962. The plaintiffs opposed in an omnibus motion dated October 12, 1964.

Resolving the several motions of the parties, Judge Salanga, in an order dated November 5, 1964, sustained his order transferring the case from Narvacan to his sala in Vigan and lifted the preliminary injunction previously granted ex-parte, upon the filing of a cash bond by Caridad Aguila in the amount of P20,000.00.

On November 18, 1964 this petition for certiorari and prohibition with preliminary injunction was filed, questioning the above order of Judge Salanga. This Court issued a writ of preliminary injunction on November 20, 1964, enjoining the defendant government officials "(1) from going through with the purchase, acquisition and payment of respondent Caridad Aguila's land, in substitution of herein petitioners' land; (2) from using and/or disbursing the sum of P52,606.50 already specifically obligated to herein petitioners, in favor of respondent Caridad Aguila and/or any third party; and (3) from enforcing the order dated November 5, 1964 in Civil Case No. 2346 x x x ."

On December 10, 1964, the Provincial Fiscal of Ilocos Sur filed the answer for respondents Provincial Treasurer and Provincial Auditor of Ilocos Sur, alleging among other things that the parcel of land which the petitioners seek to sell to the government appears to be fragmented instead of a contiguous whole, because two part owners of the land, Bienvenida Amor and Marita A. Aurellado, had sold their shares to a third party, one Modesto Almacher, and as a consequence had withdrawn as plaintiffs in the case below.

Caridad Aguila also filed her answer on December 10, 1964, disclosing that on November 6, 1964 the government paid her the purchase price of her 50,000 square-meter property at the

rate of P1.20 per square meter, or a total of P60,000. The Solicitor General filed an answer for the other respondents on January 27, 1965.

On January 27, 1965 the petitioners filed a motion to have the preliminary injunction issued by this Court on November 20, 1964 modified in part and converted into a mandatory injunction to compel Caridad Aguila to return to the disbursing officer of the office of the Highway District Engineer the sum of P60,000 received by her and to direct the said disbursing officer to accept and keep the same until further orders from the Court. No action has been taken by this Court on the motion. On March 11, 1966 the petitioners filed a motion for contempt alleging that the respondents had willfully disobeyed this Court's injunctive order by presenting before the Court a *fait accompli*, thus rendering ineffectual any judgment on the merits.

- This case does not present a novel issue. The different branches of a Court of First Instance of one province do not possess jurisdictions independent of and incompatible with each other. The Judiciary Act vests jurisdiction upon the court, not upon any particular branch or Judge thereof. The case of *Bacalso vs. Ramolete*[3] explains this

as follows:

"x x x It is incorrect to assume, as the respondent judge did assert in his order complained of, that because the case No. 7278 has been assigned to Branch V, by agreement of the Judges presiding over the six branches of the Court of First Instance of Cebu, that he has acquired exclusive jurisdiction to try and decide the case to the exclusion of the other Judges presiding over the other branches of the same court. The various branches of the Court of First Instance of Cebu under the Fourteenth Judicial District, are coordinate and co-equal courts, and the totality of which is only one Court of First Instance. The jurisdiction is vested in the court, not in the judges. And when a case is filed in one branch jurisdiction over the case does not attach to the branch or judge alone, to the exclusion of the other branches. Trial may be held or proceedings continued by and before another branch or judge. It is for this reason that Section 57 of the Judiciary Act expressly grants to the Secretary of Justice, the administrative right or power to apportion the cases among the different branches, both for the convenience of the parties and for the coordination of the work by the different branches of the same court. The apportionment and distribution of cases do not involve a grant or limitation of jurisdiction; the jurisdiction attaches and continues to be vested in the Court of First Instance of the province, and the trials may be held by any branch or judge of the court."

The petitioners' argument therefore that Branch II had acquired exclusive jurisdiction over the case has no legal basis. The more pertinent question here is whether the transfer of the said case from Branch II to Branch III constituted undue interference with the processes of the former. For the branches being coordinate and co-equal, one branch or the judge thereof cannot unduly interfere with the processes and proceedings of another branch or Judge. Thus, in the case of *Luque versus Kayanan*,^[4] this Court ordered the return of a case to the branch where it originated because the transfer of the case was made without any justifiable reason and the Judge who ordered its transfer to his sala laid himself open to the charge of "unusual interest" in the case.

Here, however, the petitioners' charge that the transfer of Civil Case 2346 was part of a deliberate and concerted scheme is not borne out by the record and is in fact negated by the circumstances. The respondents claim, and this is not controverted by the petitioners, that after the transfer of Judge Nicolas to Mindoro and Judge Villamor to Nueva Ecija, Branch II was left without any presiding Judge. The respondents therefore filed a motion to have the case returned to any of the salas in Vigan, considering that the property subject of the suit is located in Vigan and that the principal parties were residents of Vigan. The respondent Judge, altho at the time of the motion for the return of the case to Vigan had already been appointed to Branch IV, with station at Candon, had authority from the Department of Justice to continue holding court at Vigan, where he was Presiding Judge of Branch III prior to his appointment to Branch IV. This authority granted to Judge Salanga is allowed under Section 56 of the Judiciary Act, which provides as follows:

"SEC. 56. Special terms of court.- When so directed by the Department Head, District Judges shall hold special terms of court at any time or in any municipality in their respective districts for the transactions of any judicial business."

The order for him to remain in Vigan came about because the Candon branch still had neither personnel nor available courthouse, by reason of which Judge Salanga could not immediately assume his duties there.

These considerations should remove any apprehension about the motive behind Judge Salanga's order transferring the case to his sala. The petitioners have not cited any evidence of undue interest in the case on the part of said Judge. The transfer of the case to Vigan was not an unusual one under the circumstances, and did not constitute a grave abuse of discretion, or an excess of jurisdiction such as to call for the issuance of the extraordinary writ of certiorari.

- Respondent Judge, in dissolving the injunctive writ issued by Judge Dumaul, reasoned out: "it appears now that

the continuance thereof had caused and is causing great damage to the defendants by reason of the undue delay in the construction of the said sanitarium and consequently causing irreparable damage to the public interest whereas the plaintiffs would be fully compensated for any and all damages they may suffer x x x." As a condition of the dissolution, a bond in the amount of P20,000 was required of the private party respondent, Caridad Aguila.

The dissolution of the writ of injunction upon the ground stated and after the filing of a bond is allowed under Section 6 of Rule 58. It rests upon the sound discretion of the court, and we are not prepared to say that such discretion has been caused in this case. The damage that it could cause to the petitioner is not irreparable, being subject to compensation in money. And a further consideration that cannot be ignored at this stage is that two of the original plaintiffs, co-owners of the land which was the subject of the earlier negotiations with the government, have sold their shares to a third party, as a result of which there is a distinct possibility that the said land may no longer be suited for the purpose for which it was intended.

- We do not believe there is any case for contempt against the respondents. The instant petition for certiorari and prohibition with preliminary injunction was filed on November 18, 1964. But the order of respondent Judge dissolving the injunctive writ in the lower court was issued on November 5, 1964. Private respondent Caridad Aguila was paid the purchase price of her property on November 6, 1964, so that twelve days had elapsed when the petitioners tried to seek relief before us. The preliminary injunction was issued by this Court on November 20, 1964, or fourteen days after the act sought to be enjoined, and consequently, could not possibly have been disobeyed. When the events sought to be prevented have already happened, they may no longer be enjoined or prohibited.[5]

WHEREFORE, the petition is dismissed, the writ of preliminary injunction issued by this Court is dissolved, and the motion for contempt is denied. No pronouncement as to costs.

Reyes, J.B.L., Acting C.J., Dizon, Zaldivar, Ruiz Castro, Fernando, Teehankee, Barredo, Villamor and Makasiar, JJ., concur.

Concepcion, C.J., is on leave.

[1] Civil Case No. 2346. An amended complaint dated February 20, 1963 was filed to include Bienvenida Amor as one of the plaintiffs and Caridad Aguila as private party defendant, with additional allegations.

[2] These two plaintiffs withdrew from the case in April 1964, before the present petition was filed, because they had sold their portions of the land subject of the dispute and therefore no longer have any interest in the case.

[3] L-22488, October 26, 1967, 21 SCRA 519, at 523-524.

[4] L-26826, August 29, 1969, 29 SCRA 165, at 183.

[5] *Aragones vs. Subido*, L-24303, September 23, 1968, 25 SCRA 95, 101, *Magin Velez vs. Court of Appeals, et al.*, L-24703, July 31, 1970.

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