

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. JUDGE CIRILIO C. MARCEREN AND JUDGE ENRIQUE A. FERNANDEZ OF THE COURT OF FIRST INSTANCE OF DAVAO, CARLOS IÑIGO, AND REMEDIOS IÑIGO D...*G.R. No. L-4791. December 27, 1951*

Ponente: BAUTISTA ANGELO, J.

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This is a petition for certiorari with preliminary injunction seeking to annul (a) the order of respondent Judge Enrique A. Fernandez, dated March 19, 1951, modifying his decision in civil case No. 13 after respondent Carlos Iñigo had filed his notice of appeal therein; and (b) the decision dated March 2, 1951, and the order of respondent Judge Cirilo C. Maceren in civil case No. 558 for the immediate execution of said decision, on the ground that they were all rendered and issued with great abuse of discretion and in excess of their Jurisdiction.

First Cause of Action

By virtue of Vesting Order No. P-254, the Philippine Alien Property Administrates of the United States of America conveyed in fee simple to the Republic of the Philippines the Bago Iñigo Estate, a parcel of land containing an area of approximately 273 hectares, situated in the City of Davao. On November 25, the President of the Philippines designated the National Abaca and other Fibers Corporation, hereinafter referred to as NAFCO, as the agency to take over and administer said Bago Iñigo Estate. On May 8, 1950, Carlos Iñigo filed a complaint against the NAFCO in the Court of First Instance of Davao, which was docketed as civil case No. 13, praying, among other things, that notwithstanding the agreement he had with the NAFCO to pay all the expenses and improvements it had made on said estate and the fact that, as a consequence of said agreement, he had taken possession of the estate, the NAFCO still intends and is preparing to strip the hemp on said estate, and for that reason he prayed that a writ of preliminary Injunction be issued against the NAFCO, its officers, representatives, employees and laborers restraining them from entering the property and stripping the hemp. On May 11, 1950, the NAFCO answered the complaint denying many of the allegations made therein and stating that the NAFCO never granted the heirs of Feliciano Iñigo permission to enter the estate, nor to take possession thereof, as said estate is actually occupied by tenants who had always recognized the NAFCO as the legal administrator, and, therefore, Carlos Iñigo cannot and will not suffer any irreparable loss or injury if the injunction prayed for is denied, for which reasons the NAFCO prayed that the complaint be dismissed.

On May 29, 1950, upon agreement of the parties, the court placed the property in question under receivership; the present receiver being Colonel Rafael Ramos of the Philippine Constabulary. On July 22, 1950, after due trial, respondent Judge Fernandez rendered decision holding that the Philippine Republic is the owner of the estate, that the same has not yet been transferred to the Philippine National Bank, and that the NAFCO was in possession thereof, and ordered the dissolution of the receivership. He dismissed the complaint without pronouncement as to costs. On November 27, 1950, Carlos Iñigo filed his notice of appeal. On February 20, 1951, Carlos Iñigo filed a

motion stating that in civil case No. 558 respondent Judge Cirilo C. Maceren rendered a decision dated January 22, 1951, wherein, among other things, he declared the heirs of Feliciano Iñigo owners of the Bago Iñigo Estate with full rights of possession with the solidary obligation to pay to the Philippine National Bank the sum of P 22,663.29 in fifteen equal annual installments with interest at the rate of 6 1/2 per annum, ordering at the same time the register of deeds to transfer and inscribe the title of the property in the name of said heirs, for which reason Carlos Iñigo prayed that the decision of respondent Judge Fernandez rendered on July 22, 1950, be modified accordingly. After hearing the arguments of both parties, respondent Judge Fernandez Issued an order on March 19, 1951, granting the motion and ordering the receiver to turn over the possession of the property to Carlos Iñigo after rendering an accounting of his administration within 10 days from notice and ordering the dissolution of the receivership. The Republic of the Philippines now claims that this order is illegal and arbitrary because it deprives it of its property without due process of law in that it was not a party to the proceedings and cannot be sued without Its consent. This Is one of the orders which are now the subject of the present petition for certiorari.

Second Cause of Action

It likewise appears from the record that on October 27, 1950, Carlos Iñigo and Remedios Iñigo de Monfort filed a complaint against the NAFCO and the Philippine National Bank in the Court of First Instance of Davao, which was docketed as civil case No. 558, alleging, among other things, that the NAFCO has assigned the Bago Iñigo Estate to the Philippine National Bank so that the latter could execute a deed of sale of the property to the plaintiffs and that the Philippine National Bank refused to convey the same as recommended by the NAFCO, and praying that the NAFCO be declared to have lost all its rights over the property and the Philippine National Bank be ordered to execute a deed of sale of said property in their favor. On November 15, 1950, the NAFCO filed its answer to the complaint averring that the assignment made by the NAFCO of the Bago Iñigo Estate to the Philippine National Bank was made subject to the approval of the President of the Philippines who, however, has disapproved the assignment and the NAFCO has no authority to convey, sell or assign the same. On December 28, 1950, the NAFCO filed a motion praying that plaintiffs be ordered to include the Republic of the Philippines, the owner of the property, as defendant, in accordance with the provisions of sections 7 and 11, Rule 3, of the Rules of Court, which motion was objected to by the plaintiffs. On January 6, 1951, respondent Judge Maceren denied the motion, whereupon the NAFCO filed with this Court a petition for a writ of mandamus to compel said respondent Judge to direct the plaintiffs to include the Republic of the Philippines as party-defendant, but this Court, in a resolution issued on January 25, 1951, denied the petition, stating that the question should be raised by appeal in due time. On January 22, 1951, respondent Judge Maceren rendered decision in said case No. 558, the dispositive part of which has been stated elsewhere, from which decision the NAFCO appealed in due time. On February 20, 1951, plaintiffs filed a motion praying that the execution of the judgment rendered on January 22, 1951 be ordered in accordance with Rule 39, section 2, of the Rules of Court, to which the NAFCO objected offering to file a supersedeas bond. Respondent Judge, however, overruled the opposition and on March 2, 1951, issued an order granting the immediate execution of the judgment. The Republic of the Philippines now claims that respondent Judge Maceren acted arbitrarily and without jurisdiction in rendering his decision of January 22, 1951, because it aims directly against the Republic of the Philippines as the real party in interest in the subject-matter of the controversy and said Republic is not a party to the proceedings and cannot be sued without its consent. The decision of January 22, 1951, and the order of execution of March 2, 1951, are also the subject of this petition for certiorari.

Relief

The petition before us seeks the following relief: (1) That the order of respondent Judge Fernandez dated March

19, 1951, modifying his decision in civil case No. 13 after respondent Carlos Iñigo had filed his notice of appeal, be declared null and void as having been rendered illegally, with great abuse of discretion, and in excess of his jurisdiction;

(2) that the decision dated January 22, 1951 and the order of respondent Judge Maceren dated March 2, 1951 for the immediate execution of said Judgment be also declared null and void as having been issued unlawfully, with great abuse of discretion, and in excess of his jurisdiction; and

(3) that a preliminary injunction be issued prohibiting the respondents, their agents, or representatives, and the register of deeds of Davao city, from enforcing the order of March 19, 1951, of respondent Judge Fernandez in civil case No. 13, and the order of respondent Judge Maceren, dated March 2, 1951 issued in civil case No. 558; or, in the alternative, if said orders have already been carried out, that an order be issued declaring all acts performed thereunder by respondents as null and void and of no effect.

Resolution

With respect to the first relief, we find that the NAFCO has already filed its notice of appeal from the order of the court dated March 19, 1951, stating in the notice that it was appealing to the Court of Appeals (Annex "D"), and it is to be presumed that the appeal has been given due course and the case is now pending appeal in the Court of Appeals. The purpose of the appeal is to have said order declared null and void not only because the court abused its discretion and acted without Jurisdiction, but because it was contrary to law and to the evidence. In other words, the appeal as thus submitted calls for a decision on the merits. Such being the case, it would seem now Improper for this Court to act on a petition which calls for the same purpose and which raises a question which has already been submitted to the proper court in the exercise of its appellate Jurisdiction. For this Court to act now on the petition would be premature or would create a situation which would place this Court in a position to act on a matter which has already been submitted to the Court of Appeals. It is, therefore, our considered opinion that, under the circumstances, the proper course for us to take is to refrain for the present from acting on this question until after the Court of Appeals had acted on the appeal and the matter is taken to this Court in due time if we find the appeal to be meritorious. The same consideration should be made with respect to the second relief. We also find that the NAFCO and the Philippine National Bank have already perfected their appeal to the Court of Appeals from the decision of respondent Judge Maceren dated January 22, 1951, in civil case No. 558, and it is to be presumed that the case is now pending appeal in said court (Annex "M"). Said appeal involves not only the validity of the decision but calls for a determination of the issues on the merits. It, therefore, also involves a determination of the same issues involved in this petition for certiorari. For reasons of propriety and orderly Judicial process, we likewise consider premature to act now on the petition, and we should, therefore, refrain from acting thereon until such time when the matter is brought to this Court (in due time) and we find the appeal meritorious.

With regard to the claim that the order of respondent Judge Maceren dated March 2, 1951, granting the immediate execution of the decision rendered in civil case No. 558, was issued with abuse of discretion and in excess of his jurisdiction, and, therefore, should be declared null and void, it appearing that the case in chief is now pending in the Court of Appeals, the petition for relief should be addressed to said court it being a process in aid of its appellate jurisdiction (Section h, Rule 67, of the Rules of Court, in connection with section 30 of Republic Act No. 296).

It may be contended that the Republic of the Philippines can come to this Court directly and invoke its protection in view of the fact that the decisions and orders which are the subject of this petition for certiorari affect said Republic directly because it is the owner in fee simple of the property subject of the controversy, and it is not a

party to the proceedings and cannot be sued without its consent. Whether the Republic of the Philippines is the real party in interest or not, or whether its interest is properly represented by the NAPCO as the agency expressly designated by the President of the Philippines to administer the Bago Iñigo Estate and to dispose thereof in accordance with law pursuant to the authority granted by Republic Act No. 8, we are not now in a position to determine as the case in chief, wherein all these questions are raised and controverted, is not before this Court, but before the Court of Appeals. Be that as it may, we do not consider it now opportune to act on this matter in view of the resolution of this Court issued on January 25, 1951, wherein the right of the Republic to Intervene in civil case No. 558 has been passed upon (G.R. No. L-4493). In said resolution, we held that the question regarding the Intervention of the Republic should be raised by appeal in due time, and the case having been appealed, it is to be presumed that the NAPCO has again raised the same question for the resolution of the court. If the case later reaches this Court it will then be the time for us to act on the matter if the issue is again submitted for our consideration. To act on the matter now would be premature.

In view of the foregoing, the petition should be dismissed, without pronouncement as to costs. The preliminary injunction issued is hereby dissolved.

Paras, C.J., Pablo, Bengzon, Padilla, Tuason, Montemayor, Reyes, and Jugo, JJ., concur.

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