

EMERITO S. CALDERON, PETITIONER, VS. HON. JUDGE AMADOR E. GOMEZ, AS PRESIDING JUDGE OF THE SECOND BRANCH OF THE COURT OF FIRST INSTANCE OF CEBU; ET AL., RESPONDENTS.*G.R. No. L-25239. November 18, 1967*

Ponente: MAKALINTAL, J.

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Claiming that the massive public works and the various highway projects commenced and undertaken in the province of Cebu during the period immediately preceeding the 1965 elections, particularly those being done in the 5th and 6th congressional districts, were illegal and in flagrant violation of the Election Law as well as the existing regulations affecting public works or highway projects, Emerito S. Calderon, then independent congressional candidate for the 5th district, together with then Congressman Manuel A. Zosa of the 6th district and some of the 6th district's municipal mayors filed on September 10, 1965 with the Court of First Instance of Cebu (Branch VII) a verified petition for injunction with preliminary injunction (Civil Case No. 241-BC). It was directed against "any or all per-sons connected directly or indirectly with the projects in question." Said petition specifically sought to en-join or stop further commencement of the questioned pub-lic works and highway projects as well as to enjoin or stop further disbursements of public funds earmarked for such projects.

After hearing the arguments of the contending parties and the testimonies of the witnesses for the petitioner, the court a quo concluded: "the employment of many laborers to undertake and prosecute these projects in question without the program of work, authority to undertake the work by administration, duly executed road rights of way, covering the projects, bills of materials, contracts for the purchase of materials, proofs of de-liveries of materials at the sites of the projects, proofs of tools at the sites of the projects, is tantamount to misuse and waste of public funds intended for the public welfare and affects adversely the rights and interest of the petitioners who are public officials, citizens, and taxpayers, considering that between September 15 and Septem-ber 24, 1965 is barely 10 days before the 45-day ban on the prosecution of public works or highways projects shall be enforced. There is no material time for the officials of the District Engineer of Cebu to procure the necessary materials and equipments for the successful prosecution of the projects in question." The dispositive portion of its order dated September 15, 1965 accordingly reads:

"WHEREFORE, let preliminary injunction issue, pending the final adjudication of the case on the merits, commanding and enjoining the herein respondents, their successors, subordinates and any or all persons connected directly or indirectly with the projects in question to refrain and desist from commencing, undertaking or prosecuting any such project in any municipality or city comprised in the fifth and sixth congressional dis-tribts of Cebu and from making, causing or authorizing payment of any payroll or voucher in connection with any of the projects in question, or in any manner allowing and causing the disbursement of public funds earmarked for such projects, upon the filing by the petitioners of a bond in the amount of TEN THOUSAND PESOS (P10,000.00) to answer for whatever damage may be caused to the respondents by reason of the issuance of the writ of preliminary injunction."

Upon the posting and approval of the necessary bond the writ of preliminary injunction was issued on September 16, 1965 and served upon all parties concerned.

Sometime later, or on October 16, 1965 to be exact, petitioner filed a petition for contempt asking the court a quo to cite respondents district engineer of the 4th Engineering District, the disbursing officer thereof, the highway auditor and the provincial auditor, to appear before it and show cause why they should not be punished for con-tempt for having continuously recruited laborers for the projects in question and for having authorized the pay-ments or disbursements of public funds in connection there-with despite the effectivity of the aforesaid writ of preliminary injunction.

Meanwhile, on October 30, 1965 and even before the arrival of the date set for the hearing of the con-tempt case (November 2, 1965), the laborers who had worked in the various road projects in the different towns of the 5th district filed a verified petition for mandamus with preliminary mandatory injunction before the Court of First Instance of Cebu (Branch II) presided by respondent Hon. Judge Amador E. Gomez. The primary object of the suit (Civil Case No. R-9053) was to compel the provincial treasurer and the provincial auditor of Cebu to effect payment of their wages for the period from September 8 to September 16, 1965. Respondent Judge gave due course to the petition and set the hearing on November 2, 1965, which was subsequently re-set to November 6, 1965.

Calderon immediately instituted the present peti-tion for prohibition with preliminary injunction. On November 2, 1965 we issued an order restraining respondent Judge from taking cognizance of and taking further action in Civil Case No. R-9053, and restraining also the provincial treasurer, provincial auditor and the Philippine National Bank (Cebu branch) from allowing, causing or au-thorizing in any manner payment of any payroll or voucher for public works or highway projects in the 5th congressional district of Cebu until November 5, 1965. On November 5, the restraining order was extended by us until further notice.

Petitioner argues that the cognizance by the Court of First Instance of Cebu (Branch II) of the mandamus suit (Civil Case No. 9053) constitutes undue interference with the writ of preliminary injunction issued by another court of co-equal and coordinate jurisdiction (Court of First Instance, Branch VII). Pursuing his arguments, peti-tioner points out that the subject-matter of the mandamus case before Branch II is the payment of payrolls covering wages of laborers allegedly working in various public works and highways projects in the 5th congressional dis-trict. In the injunction suit filed earlier before Branch VII, the same subject-matter, i.e., disbursements of pub-lic funds in connection with the questioned projects, is involved. Petitioner maintains that while the mandamus case before Branch II seeks to compel the provincial treasurer and provincial auditor of Cebu to pay or allow payment of payrolls of public works laborers, the writ of preliminary injunction earlier issued by Branch VII enjoins the very same acts sought to be accomplished by the application for mandamus.

We find merit in petitioner's stand. The writ of preliminary injunction issued by Branch VII seems clear enough. Among others, it specifically "commands respondents x x x to refrain and desist x x x from making, causing or authorizing payment of any payroll or voucher in connection with any of the projects in question, or in any manner allowing and causing the disbursement of public funds earmarked for such projects." When petitioners in the mandamus case before Branch II prayed that judgment be rendered to effect payment of (their) wages, they were obviously trying to render nugatory the effect of the preliminary injunction. Under the guise of a separate suit, petitioners in the mandamus suit would want a declaration in their favor and thereby avoid compliance with the writ of preliminary injunction.

If Branch II were permitted to take cognizance with the mandamus case and thereafter should render judg-ment granting the relief prayed for, it would amount in effect to the setting aside of the writ of preliminary injunction.

This situation should not be permitted to arise at all.

"It is settled by an overwhelming weight of authority that no court has power to interfere by injunction with the judgments or decree of a court of concurrent or coordinate jurisdiction having equal power to grant the relief sought by injunction. x x x The various branches of the Court of First Instance (of Manila) are in a sense coordinate courts and to allow them to interfere with each other's judgments or decrees by injunctions would obviously lead to confusion and might seriously hinder the administration of justice." (On-singco, et al., vs. Tan, et al., 97 Phil. 330)

"The principle has been announced that a judge of a branch of one court should not annul the order of a judge of another branch of the same court (meaning the same judicial district) because both of them are judges of the same category who act coordinately and independently of each other - except, of course, if the second judge acts in the place of the first judge in the same proceeding." (Mas v. Dumara-og, G.R. No. L-16252, September 29, 1964.)"

The same principle which legally prevents a court of justice from interfering, by means of injunction, with the judgment or decree of another court of concurrent and coordinate jurisdiction, applies with equal logic in a case where another provisional remedy, other than injunction, is resorted to. The basic reason for disallowing inter-ference is to avoid confusion and to enable the administra-tion of justice to go unhindered. This fundamental objective is definitely disregarded when a provisional remedy proceed-ing from one court is utilized to defeat a co-equal and coordinate court's lawful processes. Jurisprudence and existing laws do not justify such a course of action.

Reference is made to the fact that the 1965 elections, the event which largely influenced the filing of the suit below, are a thing of the past and that the instant case has become moot and academic as a result. We do not think so. As correctly pointed out by the peti-tioner:

"The present petition x x x was filed before this Honorable Tribunal primarily for the purpose of preventing the illegal, immoral, and scandalous disbursement and wastage of public funds, amounting to approximately P800,000.00.

x x x

"The fact that payrolls and vouchers covering these funds are padded and falsi-fied, however, has not been cured or ren-dered moot by the mere passing of the elec-tions, even by the political victory of those responsible for their preparation. This vital issue is still very much in dispute in Civil Case No. 241-B, and the Court of First Instance of Cebu, Branch VII, should be given all the opportunity to seek out the truth about those documents, x x x"

Wherefore, the writ prayed for is granted and the temporary restraining order issued by us on November 2, 1966 is hereby made permanent, with costs against respondents.

Concepcion, C.J., Reyes, J.B.L., Dizon, Bengzon, Zaldivar, Sanchez, Castro, and Angeles, JJ., concur. Fernando, J., did not take part.

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