

RAOUL ROBERTO P. GOCO, PETITIONER, VS. HONORABLE RODOLFO R. BONIFACIO IN HIS CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF PASIG, BRANCH 59 AND ELEANOR S. BELEN-GOC...

Ponente: SALANDANAN-MANAHAN, J.

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SALANDANAN-MANAHAN, J.:

This Petition for Certiorari with Application for the Issuance of a Temporary Restraining Order and/or a Writ of Preliminary Injunction seeks to annul, reverse and set aside, the following:

- The 08 November 2013 Order[1] of the Regional Trial Court, Branch 159, Pasig City in JDRC Case No. 7829 which denied Petitioner's Motion to Reset Hearing dated 07 November 2013; and
- The 20 January 2014 Order[2] of the same court in the same case, which denied petitioner's Motion for Reconsideration dated 02 December 2013.

On 10 June 2014, this Court issued a Resolution[3] requiring the Private Respondent to file her Comment on the Petition. On 25 July 2014, the required Comment[4] was filed within an extended period[5].

On 11 August 2014, petitioner filed a Manifestation⁶ stating thus:

"x x x the public respondent, Regional Trial Court of Pasig City, Branch 159, has already rendered a Decision on 29 April 2014 in the same case where the Orders subject of the present Petition for Certiorari were issued. Likewise, the same public respondent issued a final Order dated 04 July 2014 denying the petitioner's Motion for Reconsideration. Consequently, the herein petitioner filed his Notice of Appeal with the public respondent court on 04 August 2014.

Per Resolution of this Honorable Court dated 10 June 2014, the parties are ordered to promptly notify the Court if there are cases involving the same parties and issues in other divisions of the Court of Appeals or in other courts pursuant to Supreme Court Decision dated 02 July 2013 in A.M. No. CA-13-51-J. Hence, this manifestation of the aforesaid filing of Notice of Appeal to the Court of Appeals in the case entitled, "Eleanor S. Belen-Goco vs. Raul Roberto P. Goco," docketed as JDRC No. 7829, filed with the Regional Trial Court, Branch 159, Pasig City."

On 18 August 2014, the private respondent filed a Manifestation⁷ similarly stating thus:

"x x x Branch 159 of the Regional Trial Court of Pasig City, per Bonifacio, J., promulgated a Decision 29 April 2014, a copy of which is attached as Annex "1". The trial court also denied petitioner's motion for the reconsideration of that Decision in an Order dated 4 July 2014, a copy of which is attached as Annex "2". With these issuances from the trial court, private respondent respectfully submits that this Petition has become moot and academic."

Be it noted that under the Rules, certiorari is an extraordinary remedy available when any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or

with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law[8].

The remedies of appeal (including petitions for review) and certiorari are mutually exclusive, not alternative or successive.[9] As between the instant petition for certiorari and petitioner's appeal, the former must give way to the latter considering that appeal is the ordinary, plain and adequate remedy to assail the perceived error/s in public respondent's 29 April 2014 Decision[10] including the issues raised in this action.

IN LIGHT OF THE FOREGOING, considering that a Decision had been promulgated on 29 April 2014 where the assailed Orders were issued, this Petition for Certiorari with application for injunctive reliefs is hereby DISMISSED for being moot and academic.

SO ORDERED.

Dimaampao, (Chairperson), and Ybañez, JJ., concur.

[*]Now the Twelfth Division pursuant to Office Order No. 300-14-ABR which took effect on 04 July 2014.

[1] Rollo, P. 28.

[2] Id., P. 29.

[3] Id., P. 173.

[4] Id., P. 184.

[5] Id., P. 183-A. Private respondent's "Motion for Extension with Compliance" having been granted in this Court's 25 July 2014 Minute Resolution.

[6] Id., P. 286.

[7] Id., P. 290.

[8] Section 1, Rule 65 of the 1997 Rules of Civil Procedure.

[9] *Madrigal Transport Inc. v. Lapanday Holdings Corp.*, G.R. No. 156067, August 11, 2004.

[10] Id., P. 293. Machine copy of the Certified Original Duplicate Copy of the Decision.

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