

**JOSEPH SISO, NATIVIDAD GUINYAWAN AND ALBINO TANAS,
REPRESENTED BY MARITES TANAS, PLAINTIFFS-APPELLANTS, VS.
HEIRS OF EVELYN MANTIAS AND MUNICIPAL ASSESSOR OF LA
TRINIDAD, BENGUE...**

Ponente: CRUZ, J.

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CRUZ, J.:

THE CASE

This is an appeal under Rule 41 of the Rules of Court assailing (i) the Resolution dated June 3, 2011[1] of the Regional Trial Court (RTC) of La Trinidad, Benguet in Civil Case No. 08-CV-2489 and the subsequent (ii) Resolution dated July 7, 2011,[2] which denied the Plaintiff-Appellant Joseph Siso's motion for reconsideration. The dispositive portion of the Resolution dated June 3, 2011, reads:

" xxx xxx xxx

WHEREFORE, for clear violation of the Rules of Court an Supreme Court Circular, the Motions are hereby DENIED for lack of merit.

SO ORDERED.

xxx xxx xxx "

THE ANTECEDENTS

On December 23, 2008, Joseph Siso, Natividad Guinyawan and Albino Tanas, represented by Marites Tanas, as plaintiffs, filed a Complaint for Cancellation of Deed of Waiver of Rights, Tax Declaration /ARP No. 99-013-00297 and Damages with prayer for a Writ of Preliminary Injunction and Temporary Restraining Order. (TRO) against Evelyn Mantias, as defendant, before the Regional Trial Court of La Trinidad, Benguet, Branch 62, docketed as Civil Case No. 08-CV-2489.[3]

Plaintiffs, in their complaint, alleged the following material facts:

" xxx xxx xxx

5. That sometime before March 1977, defendant who represented herself as somebody with experience and influence to secure Certificates of Titles of Lands, entered into an agreement with the Plaintiff Joseph Siso and his above-named co-owners whereby the former agreed to work for the titling of the latter's lots namely Lots 9, 10, 11, 17, 19, and 20 of Plan Psu-01-003217 – all located at Puguis, La Trinidad, Benguet. For her compensation in securing the Certificates of Title to the above lots, Plaintiff Joseph Siso and his co-owners agreed to give defendant the above-described Lot No. 23 covered by Tax. Dec. No. 141 xxx. Thus, on March 2, 1977, Plaintiff Joseph Siso – for himself and in behalf of his co-owners – executed a Deed of Waiver of Rights over the said Lot 23 containing an area of 602 (sic) as above-described in favor of the defendant.

6. That pursuant to the said Waiver of Rights, Tax. Dec. No. 141 was cancelled and Tax Dec. No. 9194 in the name of defendant was issued. This Tax Declaration – after a series of revision – is now Tax Declaration or

ARP No. 99-013-00297 xxx xxx

7. That notwithstanding the execution of the said Deed of Waiver of Rights, Plaintiff Joseph Siso and his co-owners retained physical possession of the lot xxx xxx

8. xxx defendant disappeared and never contacted Plaintiff Joseph Siso and his co-owners. Efforts to locate her proved futile. xxx xxx

xxx xxx xxx

12. That for the reason that defendant unjustifiably failed to perform her corresponding obligation to secure the Certificates of Title of the plaintiffs' lots, Annexes "A" and "B" are hereof null and void, ineffective and unenforceable. Thus, there is need to cancel the said Deed of Waiver of Rights and Tax Declaration or ARP No. 00-013-00297 (sic) and to order the latter to execute the Deed of Reconveyance of the lot in favor of Plaintiff Joseph Siso for himself and in behalf of his plaintiffs (sic);[4]

xxx xxx xxx "

The Complaint was amended on March 2, 2009[5] and June 8, 2009[6] to implead the Municipal Assessor of La Trinidad and the surviving heirs of Defendant Evelyn Mantias,[7] as defendants.

In the meantime, Winnie Francisco, filed a Motion for Leave of Court to Intervene[8] stating that she has legal interest in the case because she bought the subject property from the late Evelyn Mantias. As the new owner of the subject land, she prayed that she be allowed to intervene. Appended with the motion is an Answer-in-Intervention.[9] In its Order dated June 29, 2009,[10] the RTC granted the motion for intervention filed by Winnie Francisco and admitted the Answer-in-Intervention.

In their Answer,[11] Defendants Heirs of Evelyn Mantias denied the material allegations of the complaint and averred that, the Waiver of Rights must be respected; they executed in good faith the Extrajudicial Settlement of the Estate of their late mother; they have transferred all their rights and interests over the the subject land to Winnie Francisco by virtue of sale, hence, pray for the dismissal of the complaint for lack of a cause of action.

On May 25, 2011, Plaintiff Joseph Siso filed a Motion for the Issuance of a Writ of Preliminary Injunction and Temporary Restraining Order alleging that the transfer of the Tax Declaration from Evelyn Mantias to Defendant-Intervenor Winnie Francisco must be enjoined to prevent multiplicity of suits and complication of the issues.[12]

Plaintiff Albino Tanas also filed an Urgent Motion for the Issuance of a Writ of Preliminary Injunction and/or Temporary Restraining Order[13] stating that unless the transfer of the tax declaration is enjoined, they shall suffer from grave and irreparable injury.

A hearing was conducted on the plaintiffs' motions.[14] Thereafter, on June 3, 2011, the RTC issued a Resolution[15] denying the plaintiffs' application for an injunctive writ. The RTC ruled that the plaintiffs failed to comply with requirements provided in Section 4, Rule 58 of the Rules of Court and OCA Circular No. 66-2008. The dispositive portion of the resolution reads:

" xxx xxx xxx

WHEREFORE, for clear violation of the Rules of Court an Supreme Court Circular, the Motions are hereby DENIED for lack of merit.

SO ORDERED.

xxx xxx xxx "

Plaintiffs filed a motion for reconsideration[16] but the same was denied in the Resolution dated July 7, 2011.[17] Aggrieved, plaintiffs filed a Notice of Appeal,[18] which the RTC gave due course in its Order dated July 29, 2011.[19]

THE ASSIGNED ERRORS

Plaintiffs, now appellants before Us, assign the following errors, that:

- I. THE HONORABLE RTC ERRED IN DENYING THEIR MOTIONS FOR THE ISSUANCE OF WRIT OF INJUNCTION AND/OR TEMPORARY RESTRAINING ORDER ON THE GROUNDS THAT THE SAME WERE NOT VERIFIED AS REQUIRED UNDER SECTION 4, RULE 58 OF THE RULES OF COURT AND THAT THERE WAS NON-COMPLIANCE WITH OCA CIRCULAR NO. 66-2008;
- II. THE HONORABLE RTC ERRED IN IGNORING THAT THE PRAYERS OF THE ISSUANCE OF A TEMPORARY RESTRAINING ORDER AND/OR WRIT OF PRELIMINARY INJUNCTION WERE INCORPORATED IN THE COMPLAINT WHICH WAS DULY VERIFIED; AND
- III. THE HONORABLE RTC ERRED IN RULING THAT THERE WAS NON-COMPLIANCE WITH OCA CIRCULAR NO. 66-2008 WHEN THE RECORDS WILL SHOW THAT ATTY. RONALD M. CELINO, ONE OF THE COUNSELS, INDICATED HIS MCLE COMPLIANCE.

Plaintiffs-appellants, in their brief,[20] posit that the denial of their motions for the issuance of the Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction is without factual and legal basis. They assert that there was compliance with Rule 58 of the Rules of Court because the motions were merely reiterations or request for the hearing on their application for an injunctive writ which was originally prayed in their complaint, hence, the same need not be verified. Moreover, Plaintiff-appellant Joseph Siso is represented by Celino, Celino, Celino & Celino Law Offices and one of the counsels, Atty. Ronald M. Celino, indicated his MCLE Compliance, thus, OCA Circular No. 66-2008 was sufficiently complied with.

Defendant-Intervenor-appellee, on the other hand, argues that appeal is not the proper remedy. The RTC's denial of the plaintiffs-appellants' motion for the issuance of a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction is an interlocutory order. Moreover, the application for an injunctive writ is already moot and academic because the tax declaration in the name of Evelyn Mantias has been cancelled and a new one was issued in Defendant-Intervenor-Appellee Winnie Francisco's name. An injunction cannot be issued against consummated acts.[21]

OUR RULING

The appeal shall fail.

Rule 41 of the Rules of Court explicitly provides that an interlocutory order is not appealable and that the immediate remedy available to the aggrieved party is to file a Special Civil Action for Certiorari under Rule 65 of the Rules of Court.[22] An interlocutory order merely resolves an incidental issue and does not terminate nor finally dispose of the case, but leaves something to be done by the court before the case is finally decided on the merits.[23] It refers to something intervening between the commencement and the end of the suit which decides some point or matter but is not a final decision of the whole controversy.[24]

Here, the assailed Resolution dated June 3, 2011, which denied Plaintiff-Appellant Joseph Siso's Motion for the issuance of a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction and Plaintiff-Appellant Albino Tanas' Urgent Motion for the issuance of a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction, and the subsequent Resolution dated July 7, 2011, which denied motion for reconsideration, are interlocutory in nature because these obviously did not terminate or decide the principal

action, i.e. cancellation of waiver of rights, with finality and left substantial proceedings still to be had. Being merely interlocutory, the assailed resolutions cannot be appealed independently of the main case.

The case of *Tambaoan vs. Court of Appeals*[25] is instructive. There, it was held that an order resolving a motion for reconsideration of order denying application for issuance of a writ of preliminary injunction is interlocutory and cannot be the subject of an appeal, viz:

" xxx xxx xxx

Indeed, the word "interlocutory" refers to "something intervening between the commencement and the end of a suit which decides some point or matter, but is not a final decision of the whole controversy." An interlocutory order does not terminate nor does it finally dispose of the case; it does not end the task of the court in adjudicating the parties' contentions and determining their rights and liabilities as against each other but leaves something yet to be done by the court before the case is finally decided on its merits.

It should be quite obvious that the order of 06 January 1995 has merely resolved the motion for reconsideration of the order, dated 25 October 1994, involving the denial of plaintiffs' application for the issuance of a writ of preliminary injunction. These orders did not as yet adjudicate the principal action raising as the basic issue the validity or nullity of the assailed appointments of defendants and the incidental question of damages. It would be inaccurate to say that the rights of respondent Loreto Aquino and petitioner Thelma Quinto to the disputed position have already been resolved and that, therefore, nothing else is to be done by the trial court. The inquiry in the proceedings for the issuance or denial of a writ of preliminary injunction is premised solely on initial evidence, and the findings thereon by the trial court should be considered to be merely provisional until after the trial on the merits of the case would have been concluded.

In fine, the trial court is still required to proceed with the determination of the principal action for declaration of nullity of appointment and damages on which no hearing has thus far been conducted by the trial court. In fact, the pre-trial has even been aborted because of the erroneous issuance of the order for a writ of execution.

Being merely interlocutory, the order of 06 January 1995 cannot be appealed independently of the main case but may only be so assailed as part of an appeal from the final judgment in the main case. Of course, the extraordinary remedy of certiorari could itself be availed of but since plaintiff Loreto Aquino has been discharging his duties as the elected president of the Liga ng mga Barangay of Mapandan and has assumed his position as ex-officio member of the Sangguniang Bayan, herein petitioners obviously did not have to.

xxx xxx xxx "

WHEREFORE, premises considered, the appeal is DISMISSED.

SO ORDERED.

Abdulwahid, (Chairperson), and Barza, JJ., concur.

[1] Penned by Acting Presiding Judge Roberty P. Fangayen, Records, pp. 285-286.

[2] Ibid., pp. 300-301.

[3] Complaint; Ibid., pp. 2-7.

[4] Ibid.,

[5] Amended Complaint, Ibid., pp. 33-38.

[6] Second Amended Complaint; Ibid., pp.110-116.

- [7] See Death Certificate, *Ibid.*, p. 13.
- [8] *Ibid.*, pp. 53-55.
- [9] *Ibid.*, pp. 57-72.
- [10] *Ibid.*, pp. 133-134.
- [11] *Ibid.*, pp. 121-124.
- [12] *Ibid.*, pp. 266-267.
- [13] *Ibid.*, pp. 269-272.
- [14] *Ibid.*, p. 284.
- [15] *Supra*, Note 1.
- [16] *Ibid.*, pp. 292-295.
- [17] *Supra*, Note 2.
- [18] *Ibid.*, p. 308.
- [19] *Ibid.*, p. 311.
- [20] Plaintiffs-appellants' Brief, *Rollo*, pp. 68-72.
- [21] Defendant-Intervenor-Appellee's Brief, *Ibid.*, pp. 94-101.
- [22] See Section 1, Rule 41 of the Rules of Court.
- [23] *Repol vs. COMELEC*, G.R. No. 161418, April 28, 2004. citing *Nepomuceno vs. Salazar*, G.R. No. 37165, May 15, 1989, 173 SCRA 366. See also *PhilGreen Trading Construction Corp. vs. Court of Appeals*, G. R. No. 120408, April 18, 1997. citing *Bairan v. Tan Siu Lay*, 18 SCRA 1235, 1239 [1966]; *People v. Hewald*, 105 Phil. 1297 [1959].
- [24] *United Overseas Bank vs. Ros*, G.R. No. 171532, August 7, 2007. citing *Ramiscal, Jr. v. Sandiganbayan*, G.R. Nos. 140576-99, 13 December 2004, 446 SCRA 166, 177.
- [25] G.R. No. 138219, September 17, 2001. citing *PLDT Employees' Union vs. PLDT Co. Free Tel. Workers' Union*, 97 Phil. 424; *Halili, etc. vs. Court of Industrial Relations*, 22 SCRA 785 citing *Bouver's Law Dictionary*, 3rd Revision, Volume 1, p. 1651. *BA Finance Corporation vs. Court of Appeals*, 178 SCRA 589; *Investments, Inc. vs. Court of Appeals*, 147 SCRA 334; *Montilla vs. Court of Appeals*, 161 SCRA 167. *La Vista Association, Inc. vs. Court of Appeals, et al.*, 278 SCRA 498.

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