

**THE CITY OF DAVAO, ELIAS B. LOPEZ, IN HIS OFFICIAL CAPACITY
AS CITY MAYOR OF DAVAO CITY, MANUEL C. SOTTO, IN HIS
OFFICIAL CAPACITY AS VICE-MAYOR, CITY OF DAVAO, MANUEL M.
GARCIA...**

G.R. No. L-30719. May 26, 1977

Ponente: FERNANDO, J.

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FERNANDO, J.:

The merit of this certiorari proceeding filed by the City of Davao through the then Mayor Elias B. Lopez^[1] against respondent Walfrido de los Angeles, then Judge of the Court of First Instance of Quezon City, and private respondent Philippine Pipes and Merchandising Corporation, is evident even from a cursory perusal. What was impugned by the City of Davao was a writ of preliminary injunction of respondent Judge, issued on July 5, 1969 in a pending case before him where private respondent was the plaintiff with petitioner as one of the defendants, ordering the then Mayor Elias B. Lopez or any other person or persons acting on behalf of the City of Davao "to desist and refrain from including in the public bidding scheduled on July 10, 1969 or any time and date thereafter, the quantity of 17,963 lineal meters 18" pipes or any quantity of pipes of the same or similar size, particularly those covered by the three (3) Letter Orders * * * and not to contract for the same purpose pending final termination of this litigation [or] unless a contrary order is issued by this Court."^[2]

Clearly then, a judge of the Court of First Instance of Rizal Province presiding over Branch IV in Quezon City did, by the challenged order, seek to enjoin petitioner City, its then mayor and any other public officials, to desist and refrain from certain acts. Whatever doubt could have existed as to the lack of validity of such an injunction was erased by the leading case of *Acosta v. Alvendia*,^[3] decided in 1960, where this Court, through Justice Gutierrez David, after citing section 44 of the Judiciary Act of 1948,^[4] and section 2 of Rule 60 of the Rules of Court, categorically stated: "These provisions clearly show that the jurisdiction or authority of courts of first instance to control or restrain acts by means of the writ of injunction is limited to acts which are being committed or about to be committed within the territorial boundaries of their respective provinces and districts."^[5] Certiorari, as prayed for, must thus be granted and the aforesaid writ of preliminary injunction nullified and set aside.

At the time of the issuance of the impugned order of July 5, 1969, the *Alvendia* ruling had been applied in *Samar Mining Co., Inc. v. Arnado*,^[6] *Central Bank of the Philippines v. Cajigal*,^[7] *Hacbang v. The Leyte Autobus Co., Inc.*,^[8] *Alhambra Cigar and Cigarette Mfg. Co., Inc. v. The National Administrator*,^[9] *Gonzales v. The Secretary of Public Works and Communications*,^[10] *People v. Mencias*,^[11] *Lo Chi v. De Leon*,^[12] *Zamboanga General Utilities, Inc. v. Secretary of Agriculture and Natural Resources*,^[13] *Cudiamat v. Torres*,^[14] *National Waterworks and Sewerage Authority v. Reyes*,^[15] and *Palanan Lumber and Plywood Co., Inc. v. Arranz*.^[16] Since then, four other decisions were rendered: *De la Cruz v. Gabor*,^[17] *Director of the Bureau of Telecommunications v. Aligaen*,^[18] *Director of Forestry v. Ruiz*,^[19] and *Tan, Jr. v. Sarmiento*.^[20] It does not admit of doubt therefore that respondent Judge acted without jurisdiction in issuing such preliminary injunction.

The attempt of private respondent to assail the applicability of the Alvendia ruling to the situation presented by this case on the ground that the preliminary injunction was issued in connection with an ordinary civil suit and not a special civil action is distinguished only by its futility. The opinions in the above decisions do not make such a distinction. *Acosta v. Alvendia*[21] was an ordinary civil case. So were *Hacbang v. The Leyte Autobus Co., Inc.*[22] and *Cudiamat v. Torres*. [23] The latest case, *Tan, Jr. v. Sarmiento*, [24] argues most strongly against the pretension of private respondent. It was, as in the case pending before respondent Judge, a complaint for specific performance of a contract and damages with preliminary injunction. That likewise is the complaint in Civil Case No. Q-13124 filed in the sala of respondent Judge, as an incident of which the preliminary injunction sought to be annulled was issued.

WHEREFORE, the order of preliminary injunction of July 5, 1969 issued by the then respondent Judge Walfrido de los Angeles is declared null and void and of no force and effect for having been issued without jurisdiction. Costs against private respondent.

Barredo, Antonio, Aquino, and Martin, JJ., concur.
Concepcion, Jr., J., on leave.

[1] The other officials who joined the petitioner are the following: Manuel C. Sotto, Vice-Mayor, Manuel M. Garcia, Cornelio P. Maskariño, Felicidad C. Santos, Cipriano Villafuerte, Jr., Benigno S. Bangoy, Antonio S. Castillo, Bonifacio Tamayo and Pantaleon Pelayo, Jr., Members of the City Council of Davao City.

[2] Order, Civil Case No. Q-13124, Annex E to Petition.

[3] 109 Phil. 1017.

[4] Republic Act No. 296, as amended.

[5] 109 Phil. 1017, 1021-1022.

[6] 112 Phil. 678 (1961), per Concepcion, J., later C. J.

[7] 116 Phil. 1375 (1962), per Concepcion, J., later C.J.

[8] 118 Phil. 110 (1963), per Concepcion, J., later C.J.

[9] L-20491, August 31, 1965, 14 SCRA 1019, per Zaldivar, J.

[10] L-21988, September 30, 1966, 18 SCRA 296, per Concepcion, C.J.

[11] L-19633, November 28, 1966, 18 SCRA 807, per Regala, J.

[12] L-18584, January 30, 1967, 19 SCRA 152, per Castro, J., now C.J.

[13] L-21275, July 31, 1967, 20 SCRA 881, per Angeles, J.

[14] L-24225, February 22, 1968, 22 SCRA 695, per Reyes, J. B. L., J.

[15] L-28597, February 29, 1968, 22 SCRA 905, per Angeles, J.

[16] L-27106, March 20, 1968, 22 SCRA 1186, per Reyes, J. B. L., J.

[17] L-30774, October 31, 1969, 30 SCRA 325, per Reyes, J.B.L., J.

[18] L-31135, May 29, 1970, 33 SCRA 368, per Zaldivar, J.

[19] L-24882, April 30, 1971, 38 SCRA 559, per Castro, J., now C.J.

[20] L-24971, June 20, 1975, 64 SCRA 364, per Antonio, J.

[21] 109 Phil. 1017.

[22] 118 Phil. 110 (1963).

[23] L-24225, February 22, 1968, 22 SCRA 695.

[24] L-24971, June 20, 1975, 64 SCRA 364.

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