

**GONZALO B. MENDOZA, DOING BUSINESS UNDER THE FIRM NAME
"GONZALO B. MENDOZA & SONS", AND CONRADO
G. GENILO, IN HIS OFFICIAL CAPACITY AS DIVISION
SUPERINTENDENT OF SCHOOLS FOR PAN...**

G.R. No. L-26829. December 27, 1979

Ponente: CONCEPCION, JR., J.

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CONCEPCION, JR., J.:

Petition for certiorari, with preliminary injunction, to annul and set aside the order of the respondent Judge issued on November 2, 1966 in Civil Case No. C-878 of the Court of First Instance of Rizal, Caloocan City, entitled: "Restituto H. Samson, Jr., etc., petitioner, versus Conrado G. Genilo, etc., et al., respondents," for having been issued without jurisdiction.

It is not disputed that on August 5, 1966, the herein petitioner, Conrado G. Genilo, in his capacity as Division Superintendent of Schools for Pangasinan, issued a notice to contractors, requesting submission of sealed proposals for furnishing and delivering school desks, teacher's tables, teacher's aparadors, and teacher's chairs. The petitioner Gonzalo B. Mendoza and the private respondent Restituto H. Samson, Jr. submitted their respective bids. The bid of Gonzalo B. Mendoza being lower, the contract was awarded to him.[1] Immediately thereafter, Gonzalo B. Mendoza made deliveries of the equipment called for, such that by the end of October, 1966, the delivery of the school equipment was almost complete.[2]

However, on November 2, 1966, Restituto H. Samson, Jr. filed a petition for injunction with preliminary writ of injunction against Conrado G. Genilo and Gonzalo B. Mendoza with the Court of First Instance of Rizal, Caloocan City, docketed therein as Civil Case No. C-878, to restrain Gonzalo B. Mendoza from effecting further delivery of school equipment to the Pangasinan Division of Schools, and Conrado G. Genilo, as Division Superintendent of Schools for Pangasinan, from paying for said items from the funds in his custody, claiming that the bidding had all the earmarks of a spurious public bidding brazenly concocted and conceived by the therein respondents to prejudice the government.[3] Upon the filing of a bond in the amount of P2,000.00, the respondent Judge of the Court of First Instance issued, ex parte, a writ of preliminary injunction, restraining Gonzalo B. Mendoza from effecting deliveries of school equipment to the Division of Schools of Pangasinan; and Conrado G. Genilo, as Division Superintendent of Schools for Pangasinan, from paying for said items from the funds in his custody.[4]

The respondents therein filed an urgent ex parte motion to lift the restraining order for the reason, among others, that the Court has no jurisdiction to issue the restraining order for acts which are committed or about to be committed outside its territorial jurisdiction,[5] but the respondent Judge denied the motion.[6] Whereupon the respondents therein filed the instant petition to quash the aforementioned restraining order. As prayed for, the Court issued a writ of preliminary injunction, restraining the respondent Judge from enforcing or in any way effecting the restraining order issued in Civil Case No. C-878.[7]

Answering the petition, the respondents manifested, among others:

"(3) That the petitioners' petition being predicated on the lack of jurisdiction of the respondent judge of Caloocan City to issue a writ of preliminary injunction or restraining order, in Civil Case No. C-878 and the respondent Restituto H. Samson, Jr., having filed a motion to dismiss said Civil Case No. 878, before a responsive pleading is filed, wherein he intimated that he would file the same case in the court of proper jurisdiction, a copy of which motion is herein attached as Annex 'A' of this answer and made an integral part hereof, the question therefore before the Honorable Court becomes moot and academic;"

and prayed that the petition be dismissed.[8]

On December 14, 1966, the petitioner filed a Reply alleging that as a consequence of the reckless and imprudent act on the part of respondent Samson in filing Civil Case No. C-878 before the court presided by respondent Judge who has no jurisdiction as admitted by the former, the petitioners have suffered actual damages and incurred expenses of litigation including attorney's fees and costs, and praying that the respondent Restituto H. Samson, Jr. be ordered to pay the petitioners the amounts of P5,000.00 as exemplary and actual damages; P5,000.00, as and for attorney's fees; and treble costs.[9]

On January 4, 1967, the private respondent Restituto H. Samson, Jr. filed a rejoinder to the petitioners' Reply stating that the petitioners' claim for damages contained in their Reply has no basis in law and in fact; and that the same question of damages arising from the filing of Civil Case No. C-878 is at issue in an injunction case, Special Civil Action No. 14589 of the Court of First Instance of Pangasinan, entitled: "Restituto H. Samson, Jr., etc., petitioner, versus Conrado G. Genilo, etc., et al., respondents.[10]

On January 17, 1967, the Court granted the petitioners' motion to withdraw the cash bond deposited for the issuance of the writ of preliminary injunction.[11]

The instant petition was filed to quash the writ of preliminary injunction issued on November 2, 1966 in Civil Case No. C-878 of the Court of First Instance of Rizal, Caloocan City, which restrained Gonzalo B. Mendoza of Dagupan City from delivering school equipment to the Division of Schools of Pangasinan, and the Division Superintendent of Schools for Pangasinan from paying for said items from the funds under his custody. The acts sought to be restrained are committed or about to be committed in Pangasinan. It is already a settled rule 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 committed or about to be committed within the territorial boundaries of their respective provinces and districts.[12] The respondent Judge, therefore, had no jurisdiction in Civil Case No. C-878 to restrain the herein petitioners from performing the acts complained of. Considering however, that the respondent Restituto H. Samson, Jr., the plaintiff therein, had already sought the dismissal of the said case and the consequent quashal of the writ of preliminary injunction issued, the instant petition is now moot and academic.

The application for damages contained in the petitioners' Reply cannot be entertained. It appears that a bond had been filed in Civil Case No. C-878 for the issuance of the writ of preliminary injunction. The injunction bond is intended as a security for damages in case it is finally decided that the injunction ought not to have been granted. It is designed to cover all damages which the party enjoined can possibly suffer. Its principal purpose is to protect the enjoined party against loss or damage by reason of the injunction. And the Rules of Court has outlined the procedure for the filing of a claim for damages against an injunction bond. Sec. 9, Rule 58 of the Rules of Court provides:

"Sec. 9. Judgment to include damages against party and sureties. - Upon the trial the amount of damages to be awarded to the plaintiff, or to the defendant, as the case may be, upon the bond of the other party, shall be claimed, ascertained, and awarded under the same procedure as prescribed in section 20 of Rule 57."

Section 20 of Rule 57 reads, as follows:

"Sec. 20. Claim for damages on account of illegal attachment. - If the judgment on the action be in favor of the party against whom attachment was issued, he may recover, upon the bond given or deposit made by the attaching creditor, any damages resulting from the attachment. Such damages may be awarded only upon application and after proper hearing, and shall be included in the final judgment. The application must be filed before the trial or before appeal is perfected or before the judgment becomes executory, with due notice to the attaching creditor and his surety or sureties, setting forth the facts showing his right to damages and the amount thereof.

If the judgment of the appellate court be favorable to the party against whom the attachment was issued, he must claim damages sustained during the pendency of the appeal by filing an application with notice to the party in whose favor the attachment was issued or his surety or sureties, before the judgment of the appellate court becomes executory. The appellate court may allow the application to be heard and decided by the trial court."

From the provisions of law cited, it appears that whenever a bond is filed because of the issuance of a preliminary injunction and damages are suffered as a result thereof, the claim for damages must be presented in the principal action and judgment therefor should be included in the final judgment of the case. The application for such damages should be filed "before the trial or before appeal is perfected or before the judgment becomes executory, with due notice to the (plaintiff) and his surety or sureties, setting forth the facts showing the right to damages and the amount thereof."

Moreover, it appears that the private respondent, Restituto H. Samson, Jr., has filed another case against the herein petitioners with the Court of First Instance of Pangasinan (Special Civil Act No. 14589) and the herein petitioners have specifically asked therein for damages arising from the issuance of a writ of preliminary injunction in Civil Case No. C-878 of the Court of First Instance of Rizal, Caloocan City Branch.[13]

WHEREFORE, the petition should be, as it is hereby DISMISSED. The writ of preliminary injunction heretofore issued is hereby lifted. With costs against the respondent Restituto H. Samson, Jr.

Barredo, (Chairman), Santos, and Abad Santos, JJ., concur.

Antonio and Aquino, JJ., in the result.

[1] Rollo, p. 10.

[2] Par. 3 of Petition, Rollo, p. 3.

[3] Rollo, p. 13.

[4] Id., p. 23.

[5] Id., p. 24.

[6] Id., p. 5; par. 9 of Petition.

[7] Id., p. 30.

[8] Id., p. 31.

[9] Id., p. 37.

[10] Id., p. 44.

[11] *Id.*, p. 52.

[12] *Alhambra Cigar & Cigarette Mfg. Co. vs. The National Administrator of Regional Office No. 2*, L-20491, Aug. 31, 1965 & cases cited therein, 14 SCRA 1019; *De la Cruz vs. Gabor*, L-30774, Oct. 31, 1969 & cases cited therein, 30 SCRA 325.

[13] *Rollo*, p. 46.

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