

JOHN THOMAS GONZALES, PETITIONER, VS. DEPARTMENT OF AGRARIAN REFORM ADJUDICATION BOARD (DARAB), PRESIDING ADJUDICATOR IBRA D. OMAR, AL-HAJ REGION IV-B (MIMAROPA), DEPARTMENT OF ...

Ponente: REYES, JR., J.C., J.

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REYES, JR., J.C., J.:

This resolves the Petition for Certiorari filed under Rule 65 of the 1997 Rules of Civil Procedure assailing the following Orders issued by public respondent Department of Agrarian Reform Adjudication Board (DARAB), in DCN V-0405-0001-00: (1) Order dated January 31, 2013 (Rollo, pp. 15-18); (2) Order dated March 19, 2013 (Rollo, pp. 20-21) and (3) Order dated April 1, 2013 (Rollo, pp. 23-33).

Herein petitioner is the owner of Two Million (2,000,000) MERALCO shares which he purchased by way of cross-trade at the Philippine Stock Exchange (PSE) on December 15, 2008. Said shares stand in the books of Meralco in the name of a certain Josefina S. Lubrica. The said 2 million Meralco shares owned by herein petitioner form part of a bloc of Meralco shares originally owned by respondent Land Bank of the Philippines (LBP) but acquired by Josefina S. Lubrica at a sheriff's execution sale.

On November 21, 2012, respondent LBP filed a Motion for Issuance of a Writ of Execution with the Office of the respondent Adjudicator Ibra D. Omar, Al-Haj of the DARAB seeking to recover the bloc of shares standing in the books of Meralco in the name of Josefina S. Lubrica. Part of the said bloc of shares, however, are the 2 million shares purchased thru cross-trade at the PSE by herein petitioner.

On December 11, 2012, petitioner filed a Motion to Intervene with the Office of the respondent Adjudicator praying that he be allowed to intervene and resist respondent LBP's Motion for Issuance of Writ of Execution on the ground that a sweeping execution would severely prejudice him, a holder for value and in good faith of a bloc of Meralco shares of stock purchased at the PSE. Petitioner claims that he is a complete stranger to the case between respondent LBP and Josefina Lubrica. He is but an innocent investor in shares traded at the stock exchange who put in a bid for 2 million readily tradable Meralco shares of stock through his stock broker. The bid was matched with an offer to sell from another broker for the desired quantity of meralco shares. Thus, he insisted that the sale by cross-trade was consummated in due course, effectively transferring ownership of the 2 Million Meralco shares to petitioner.

On January 31, 2013, respondent Adjudicator, acting for the DARAB, issued the 1[st] assailed Order (Rollo, pp. 15-18) denying herein petitioner's Motion to Intervene for utter lack of merit. On February 28, 2013, petitioner filed a Motion for Reconsideration (Rollo, pp. 38-39).

On March 19, 2013, respondent Adjudicator, acting for the DARAB, issued the 2[nd] assailed Order (Rollo, pp. 20-21) denying petitioner's Motion for Reconsideration.

Thereafter, on April 1, 2013, respondent Adjudicator, acting for the DARAB, issued the 3[rd] assailed Order

granting respondent LBP's Motion for Issuance of a Writ of Execution of the Supreme Court Decision in G.R. No. 157903, which in essence restored the ownership of the transferred stocks to respondent LBP. In the said Order dated April 1, 2013, respondent Adjudicator reiterated its earlier rulings denying petitioner's Motion to Intervene stating that petitioner's claim can be adequately pursued in the regular court as in fact he has a pending claim with the RTC of Baguio, docketed as Civil Case No. 7243-R.

Feeling aggrieved with the said Orders of public respondent DARAB, through respondent Adjudicator Ibra D. Omar, Al-Haj, petitioner filed the instant Petition for Certiorari, ascribing grave abuse of discretion on the part of respondent Adjudicator (acting for the DARAB) when he denied petitioner's Motion to Intervene.

The main issue to be resolved in the case at bar is whether or not respondent Adjudicator, acting for the DARAB, committed grave abuse of discretion in denying petitioner's Motion to Intervene.

In denying petitioner's Motion to Intervene, respondent Adjudicator cited as his legal anchor Section 3, Rule IX of the DARAB Rules, thus:

“Section 3. Intervention. The filing of a motion for intervention shall be discouraged. Such motion shall be entertained only upon a clear showing by the would-be intervenor that he has a substantial right or interest in the case that cannot be adequately pursued and protected in another proceeding”.

Indeed, for a motion for intervention to be entertained, two (2) requisites must concur: First, the would-be intervenor must show that he has a substantial right or interest in the case and that second, it cannot be adequately pursued and protected in another proceeding (*The Secretary of Agrarian Reform vs. Tropical Homes, Inc.*, 362 SCRA 115, 128 [2001]). The absence of even one requisite will warrant its denial (*ibid.*).

Assuming there was truth to the averment of petitioner that his interest would be greatly prejudiced if the writ of execution will be issued in favor of respondent LBP, he failed to show however that said interest can no longer be protected in another proceeding. As explained by respondent Adjudicator, there was already a case (for Specific Performance with Damages and Injunction) filed by petitioner pending with the RTC of Baguio pertaining to the same subject matter. Although the said case was dismissed without prejudice, it was shown here that his claim may be pursued in another proceeding. In other words, there was a forum available where he can adequately ventilate his cause of action. Verily, as one requisite to intervene was not complied with, petitioner's Motion to Intervene must necessarily fail. As held by the Supreme Court, the right to intervene is not an absolute right, for the statutory rules or conditions for the right to apply must be shown (*The Secretary of Agrarian Reform vs. Tropical Homes, Inc.*, 362 SCRA 115, 130 [2001]).

Respondent Adjudicator also correctly pointed out that the Decision of the instant case has long become final and executory. Thus, it is too late for petitioner to intervene. True enough, petitioner filed the instant motion for Intervention after judgment had already been rendered and when the same has become final and executory. We agree with respondent Adjudicator that this cannot be allowed. There is no jurisprudence allowing an intervention by a person after the decision has become final and executory. Even the Rules of Court (Section 2, Rule 19) does not permit intervention after the judgment has become final. As fortified by the Supreme Court:

“Certainly, intervention can no longer be allowed in a case already terminated by final judgment. Intervention is merely collateral or accessory or ancillary to the principal action, and not an independent proceeding; it is an interlocutory proceeding dependent on or subsidiary to the case between the original parties. Where the main action ceases to exist, there is no pending proceeding wherein the intervention may be based (*Looyuko vs. Court of Appeals*, 361 SCRA 150, 165 [2001]).

Thus, in the instant case, since the same was already terminated upon the rendition of the final judgment, intervention was no longer possible.

The Supreme Court ruled that the discretion of a court (in this case a quasi-judicial agency) to allow intervention, once exercised, cannot be reviewed by certiorari nor controlled by mandamus save in instances where such discretion has been exercised in an arbitrary or capricious manner (See: *The Secretary of Agrarian Reform vs. Tropical Homes, Inc.*, 362 SCRA 115, 129 [2001]). In the same way, the Supreme Court also leaves to the wisdom of the PARAD the denial of the motion for intervention, and once a ruling of denial has been made, the same cannot also be reviewed by certiorari unless attended with grave abuse of discretion (*ibid.*). Thus, in this case, We see no reason to deviate from the findings of respondent Adjudicator when he denied petitioner's Motion for Intervention. Since his ruling of denial is well-supported by facts and law, then no grave abuse of discretion can be ascribed to respondent Adjudicator.

WHEREFORE, the Petition for Certiorari is DENIED. The assailed Orders dated January 31, 2013, March 19, 2013 and April 1, 2013, issued by public respondent Adjudicator, acting for the Department of Agrarian Reform Adjudication Board, in DCN V-0405-0001-00 are hereby AFFIRMED.

SO ORDERED.

Lopez and Inting, JJ., concur.

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