HON. PHILIP M. CASTILLO, VICE-MAYOR AND PRESIDING OFFICER, SANGGUNIANG PANLUNGSOD, LUCENA CITY, PETITIONER-APPELLANT, VS. HON. RAMON Y. TALAGA, JR., MAYOR AND CHIEF EXECUTIVE, L...

Ponente: SADANG, J.

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SADANG, J.:

Before the Court is an appeal from the Order[1] dated August 27, 2010 of the Regional Trial Court of Lucena City, Branch 55, in Special Civil Action No. 2009-08, dismissing the petition for declaratory relief, and of the Order[2] dated October 8, 2010 denying the motion for reconsideration.

Antecedents of the Appeal
On April 20, 2009, respondents-appellees Ramil C. Talaga, Clarinda S. Cabana, Benito J. Brizuela, Michael C. Dalida, Felix F. Avillo, Americo F. Lacerna, Wilfredo F. Asilo, Marcelo C. Magadia, and Mikael Sandino T. Andrey (hereafter, appellees), as members of the Sangguniang Panlungsod (SP, for short) of Lucena City passed Resolution No. 14-470, Series of 2009 entitled:

> "A RESOLUTION AUTHORIZING THE HONORABLE CITY MAYOR TO NEGOTIATE/ENTER INTO AN OMNIBUS TERM LOAN AGREEMENT, FOR AN AMOUNT NOT EXCEEDING TWO HUNDRED MILLION PESOS (PHP 200,000,000.00) WITH THE LAND BANK OF THE PHILIPPINES, SUBJECT TO THE RATIFICATION OF THE SANGGUNIANG PANLUNGSOD, ALL LAWS, AND EXISTING LEGAL RULES AND REGULATIONS" (the Resolution, for brevity).

The Resolution was approved by respondent-appellee Mayor Ramon Talaga but it was not signed by petitioner-appellant Philip Castillo (hereafter, appellant), vice-mayor and presiding officer of the SP of Lucena City.[3]

On June 4, 2009, appellant filed a Petition for declaratory relief[4] before the RTC claiming that the Resolution violates the 1987 Constitution and the Local Government Code (LGC). Specifically, appellant alleged that: 1) the Resolution is defective because there is no existing ordinance that specifies in detail the various projects that would be funded by the loan; 2) there were no public hearings before the passage of the Resolution; 3) the

Annual Budget for Calendar Year 2009 does not provide for the principal and interest payments of the loan; and 4) the city government will surpass the twenty-percent (20%) ceiling on debt servicing.

Appellant filed an Amended Petition which was admitted by the lower court in its Order dated January 22, 2010.[5] The Amended Petition impleaded as additional respondents City Treasuer Amelia F. Pasumbal, City Budget Officer Ester Y. Matibag, and City Account Bernadette B. Valenzuela, as well as Nicetas B. Gaviño Jr., Lucena City Branch Head of the Land Bank of the Philippines (LBP), and Alex A. Hinojosa, Head of the Quezon Lending Center of LBP. It was further prayed that a temporary restraining order (TRO) and/or writ of preliminary injunction be issued against appellees to prevent them from processing and releasing the P200M loan until the final consideration of the Resolution.[6] On January 26, 2010, the lower court issued a TRO;[7] however, on

February 12, 2010, the lower court denied appellant's prayer for injunctive relief.[8]

Appellees filed their Answer alleging that there is no law that requires an ordinance specifying programs before they can pass the Resolution; public hearings were conducted and a committee report was prepared; the 2009 budget has no provision for interest payments because there is yet no such obligation to be paid and the Resolution is just the first step for securing a loan; and the city government will never surpass the 20% ceiling on debt servicing because the LBP requires a certification from the Department of Finance on the actual debt service capacity of the local government unit (LGU). Appellees averred that the petition does not state a cause of action because appellant did not state his right that may be affected by the Resolution. They also argued that a mere resolution can not be the proper subject of declaratory relief.[9]

On August 27, 2010, the RTC issued an Order dismissing the petition. Citing Heirs of Alberto Suguitan v. City of Mandaluyong[10] and Municipality of Parañaque v. V.M. Realty Corporation,[11] the RTC sustained appellees' position that unlike an ordinance which is a law, a resolution is merely a declaration of the sentiment or opinion of the lawmaking body. The RTC also ruled that the petition states no cause of action because it does not allege an act or omission of appellees that violated appellant's right or the provisions of the Constitution of LGC. Finally, the RTC ruled that because the issues raised would not terminate the uncertainty or controversy, it may refuse its power to declare rights and to construe the Resolution pursuant to Section 5, Rule 63 of the Rules Court.[12]

Appellant's motion for reconsideration was denied; hence, this appeal raising the following alleged errors:[13]

> THE LOWER COURT ERRED WHEN IT RULED TO DISMISS THE INSTANT PETITION FOR DECLARATORY RELIEF ON THE FOLLOWING GROUNDS, TO WIT:
>
> - THAT THE SUBJECT MATTER OF THE CONTROVERSY IS A RESOLUTION AND NOT AN ORDINANCE IN VIOLATION OF THE REQUISITES OF AN ACTION FOR DECLARATORY RELIEF;
>
> - THAT THE PETITION STATES NO CAUSE OF ACTION BECAUSE IT DID NOT STATE ANY ACT OR MISSION BY RESPONDENTS THAT VIOLATED THE PRIMARY RIGHT OF PETITIONER NOR ALLEGED WITH CLARITY PETITIONER'S RIGHT THAT MAY BE VIOLATED IN RELATION TO THE ISSUANCE OF SANGGUNIANG PANLUNGSOD NO. 14-473 [sic], SERIES OF 2009;
>
> - THAT THE COURT IS REFUSING TO EXERCISE THE POWER TO DECLARE THE ALLEGED RIGHTS AND TO CONSTRUE THE SUBJECT RESOLUTION INVOKING SECTION 5, RULE 63 OF THE RULES OF COURT, CONSIDERING THAT THE ISSUES RAISED BY PETITIONER WOULD NOT TERMINATE THE UNCERTAINTY OR CONTROVERSY.

Arguments
Appellant contends that the distinction between an ordinance and a resolution as stated in Heirs of Suguitan and Parañaque applies only to eminent domain cases. He argues that in various provisions of the LGC “resolution” is interchangeably used with “ordinance.” He also avers that while Section 1, Rule 63 of the Rules of Court does not mention resolution, it is nonetheless included in the phrase “other governmental regulation.”

Appellant also maintains that he has the capacity to bring the suit because as a taxpayer he is affected by the use of public funds and therefore he can question contracts entered into by the LGU, particularly the loan to be borrowed from LBP.[14]

On the other hand, appellees maintain that a “resolution” is not a “regulation” within the context of Rule 63 and that the petition failed to state a cause of action.[15]

RULING
There is no merit in the appeal.

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Simply put, the issue is whether the petition for declaratory relief may prosper against the Resolution.

Declaratory relief is defined as an action by any person interested in a deed, will, contract or other written instrument, executive order or resolution, to determine any question of construction or validity arising from the instrument, executive order or regulation, or statute; and for a declaration of his rights and duties thereunder.[16] The only issue that may be raised in such a petition is the question of construction or validity of provisions in an instrument or statute.[17]

Accordingly, the following requisites must be present in order that the remedy of declaratory relief may be availed of: (1) there must be a justiciable controversy; (2) the controversy must be between persons whose interests are adverse; (3) the parties must have legal interest in the controversy; and (4) the controversy must be ripe for judicial determination.[18]

A justiciable controversy refers to an existing case or controversy that is appropriate or ripe for judicial determination, not one that is conjectural or merely anticipatory.[19] The court must be satisfied that “an actual controversy” or the ripening seeds of one, exists between the parties, all of whom are sui juris and before the court, and that the declaration sought will be of practical help in ending the controversy. By "ripening seeds" it is meant, not that sufficient accrued facts may be dispensed with, but that a dispute may be tried at its inception before it has accumulated the asperity, distemper, animosity, passion, and violence of a full blown battle that looms ahead. The concept describes a state of facts indicating imminent and inevitable litigation provided that the issue is not settled and stabilized by tranquilizing declaration.[20]

An actual justiciable controversy, or even the ripening seeds thereof, is not present in this case. The petition lacks sufficient factual allegation of any controversy between the parties, whether existing or imminent. While appellant bewails the invalidity of the Resolution, he does not cite any provision of the Constitution, or the LGC, or other laws that was violated by the appellees members of the SP and city mayor. Apellant alleges that there must first be an ordinance providing for projects to be funded, however, he does not cite the legal basis of his position. As correctly observed by the RTC, appellant filed the petition out of a sense of dread that the loan might not be used properly for the public good. Obviously, such fear rests on pure speculation which cannot give rise to a justiciable controversy that warrants judicial relief.

Appellant has no legal standing to pursue the petition. Legal standing or locus standi is a party's personal and substantial interest in a case such that he has sustained or will sustain direct injury as a result of the governmental act being challenged. It calls for more than just a generalized grievance. The term "interest" means a material interest, an interest in issue affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest. Unless a person's constitutional rights are adversely affected by the statute or ordinance, he has no legal standing.[21]

The petition does not allege appellant's personal or substantial interest that will be directly injury by the challenged resolution. Appellant's mere allegation that he is a taxpayer does not give him legal standing. Parties suing as taxpayers must still specifically prove sufficient interest in preventing the illegal expenditure of money raised by taxation.[22] No such interest can be present in this case for the simple reason that, by itself, the Resolution does not effect and cannot be the basis of any disbursement or expenditure of taxpayers' money. At best, the Resolution merely expresses the sentiment of the members of the SP on the need to borrow a certain amount of money to be used for public projects. For what specific projects the loan would be used would obviously be subject to the passage of an ordinance appropriating funds for that purpose.

Appellant invokes the principle of transcendental importance upon the argument that the Resolution involves the substantial amount of P200 million. It is true that in cases where serious legal issues were raised or where public

expenditures of millions of pesos were involved, the Supreme Court gave legal standing to taxpayers.[23] However, the principle does not apply because, to repeat, the Resolution is merely an expression of sentiment on the part of the SP on the need to raise funds. The Resolution cannot, by any means, serve as legal authority for the SP or the city mayor to spend the amount that may be loaned for whatever purpose that they wish without regard for the public welfare.

In view of the absence of a judicial controversy and the lack of personality of the appellant, the RTC did not commit reversible error in dismissing the petition for declaratory relief.[24]

WHEREFORE, the appeal is DENIED. The Orders dated August 27, 2010 and October 8, 2010 of the Regional Trial Court of Lucena City, Branch 55, in Special Civil Action No. 2009-08 are AFFIRMED.

SO ORDERED.

Dimaampao, J., Chairperson, and Diamante, JJ., concur.

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[1] Record, pp. 412-414.

[2] Id. at 492.

[3] Id. at 71-82, 206-215, and 275-279.

[4] Id. at 3-8.

[5] Id. at 167.

[6] Id. at 71-82.

[7] Id. at 175-176.

[8] Id. at 273.

[9] Id. at 275-279.

[10] G.R. No. 135087, March 14, 2007, 328 SCRA 137.

[11] G.R. No. 127820, July 20, 1998, 292 SCRA 678.

[12] Id. at 412-414.

[13] Rollo, p. 40.

[14] Id. at 45-52.

[15] Id. at 68-70 and 83-86.

[16] Province of Camarines Sur v. Honorable Court of Appeals, G.R. No. 175064, September 18, 2009 citing Section 1, Rule 63 (Declaratory Relief and Similar Remedies) of the Rules of Court.

“Section 1. Who may file petition. — Any person interested under a deed, will, contract or other written instrument, or whose rights are affected by a statute, executive order or regulation, ordinance, or any other governmental regulation may, before breach or violation thereof, bring an action in the appropriate Regional Trial Court to determine any question of construction or validity arising, and for a declaration of his rights or duties, thereunder.”

[17] Id., citing Atlas Consolidated Mining & Development Corporation v. Court of Appeals, G.R. No. 54305, 14 February 1990, 182 SCRA 166, 177, cited in Almeda v. Bathala Marketing Industries, Inc., G.R. No. 150806, 28 January 2008, 542 SCRA 470, 480.

[18] Herrera, Remedial Law, Volume III, Special Civil Actions Rule 57-71, p. 236 (2006), citing Tolentino v. Board of Accountancy, 90 Phil. 83 (1951); Caltex v. Palomar, 18 SCRA 247; Board of Optometry v. Colet, 260 SCRA 88 (1996).

[19] Brother Mariano "Mike" Z. Velarde v. Social Justice Society, G.R. No. 159357, April 28, 2004 citing Board of Optometry v. Colet, supra.

[20] Supra note 17 at p. 237 citing Tolentino v. Board of Accountancy, supra and In re: Pablo Y. Sen. v. Republic of the Philippines, 96 Phil. 987 (1955).

[21] Jumamil v. Cafe, G.R. No. 144570, September 21, 2005 citing Velarde v. Social Justice Society, supra; Integrated Bar of the Philippines v. Zamora, 392 Phil. 618, 632-633 (2000); Joya v. PCGG, 225 SCRA 568, 576 (1993).

[22] Id. citing Velarde v. Social Justice Society, supra, citing Del Mar v. Philippine Amusement and Gaming Corporation, 346 SCRA 485, 29 November 2000; Francisco, Jr. v. Nagmamalasakit na mga Manggagawang Pilipino, Inc., G.R. No. 160261, 10 November 2003, 415 SCRA 44, 136-137.

[23] Mamba v. Lara, G.R. No. 165109, December 14, 2009, see Constantino, Jr. v. Cuisia, supra at note 39; Abaya v. Ebdane, Jr., G.R. No. 167919, February 14, 2007, 515 SCRA 720; Province of North Cotabato v. Government of the Republic of the Philippines Peace Panel on Ancestral Domain (GRP), G.R. Nos. 183591, 183752, 183893, 183951 & 183962, October 14, 2008, 568 SCRA 402; Garcillano v. House of Representatives Committees on Public Information, Public Order and Safety, National Defense and Security, Information and Communications Technology, and Suffrage and Electoral Reforms, G.R. Nos. 1708338 & 179275, December 23, 2008, 575 SCRA 170.

[24] See Republic, et al. v. Roque, et al., G.R. No. 204603, September 24, 2013, where the Supreme Court found the petition for declaratory relief lacked a justiciable controversy and held that the RTC should have dismissed the same.

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