

MANUEL CALAGUI, AND RODOLFO MAPAGU, PETITIONERS, VS. THE COURT OF APPEALS, HON. BONIFACIO CACDAC, JR., AS JUDGE OF THE COURT OF FIRST INSTANCE OF CAGAYAN, BRANCH V, VIRIATO MOLI...

G.R. No. L-47518. June 18, 1990

Ponente: PADILLA, J.

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PADILLA, J.:

This is a petition for review on certiorari of the decision,[1] promulgated on 16 September 1977, in CA-G.R. No. SP-06726-R, entitled “Manuel Calagui, et al. vs. Hon. Bonifacio Cacdac, Jr., as Judge CFI of Cagayan, Branch V, et al.”, which dismissed the petitioners’ petition for certiorari, prohibition and mandamus.

The facts are as follows:

On 2 August 1976, private respondents filed before the Court of First Instance of Cagayan, Branch V, in Civil Case No. 2433, an action for injunction with preliminary prohibitory injunction and damages against petitioners herein, alleging that as owners of the Tuguegarao cockpit in Tuguegarao, Cagayan, they had been issued a license to operate said cockpit in 1971 and yearly thereafter up to 1976. They further alleged that when P.D. No. 449, otherwise known as the “Cockfighting Law of 1974”, was promulgated on 9 May 1974, they were already operating the Tuguegarao Cockpit. The said law provides that only one (1) cockpit shall be allowed in a city or municipality where the population is not more than 100,000.[2] Tuguegarao, in 1976, had a population of less than 100,000. The same law likewise authorizes the city and municipal mayors to issue licenses for the operation and maintenance of cockpits subject to the approval of the Chief of the Philippine Constabulary or his authorized representative.[3]

Sometime in 1976, petitioners were able to secure from the P.C. Zone Commander approval of their request to operate a cockpit (Balzain cockpit) in Balzain, which is in Tuguegarao, and petitioners announced to the public the holding of cockfights in the Balzain cockpit on 8 August 1976.

On 14 August 1976, in said Civil Case No. 2433, respondent judge issued a writ of preliminary injunction against petitioners who were, however, given “for reasons of equity and fair play” in the same order an opportunity to file an injunctive counterbond, which they did, and the writ of preliminary injunction was stayed and dissolved until further orders from the court.

After trial, respondent judge rendered his decision dated 7 May 1977 in Civil Case No. 2433, ordering, among other things, that the preliminary injunction granted by the court in its Order dated 14 August 1976 be considered permanent, final and perpetual; the Municipal Mayor of Tuguegarao to issue a license to the Tuguegarao Cockpit for the year 1977, if he had not yet done so; the Chief of the Constabulary to approve the said license; and the defendants (herein petitioners) together with their bondsman to jointly and severally pay the amount of P4,000.00 to plaintiffs (private respondents) as damages.

Petitioners appealed from the said decision to the respondent Court of Appeals. However, believing that their appeal was not adequate to promptly relieve them from the injurious effects of the abovementioned decision, on 1 June 1977 petitioners filed a Petition for Certiorari, Prohibition, and Mandamus before respondent Court of Appeals, with application for issuance of a writ of preliminary injunction against respondent judge and private respondents. As earlier stated, the respondent appellate court rendered a decision on 16 September 1977, dismissing the petition, “but without prejudice to the petitioners herein, presenting for consideration of the Court which shall resolve the appeal of Civil Case No. 2433, the corresponding motion or petition for the lifting of the writ of injunction directed against them to operate the Balzain Cockpit in Tuguegarao, Cagayan.”[4]

Their motion for reconsideration having been denied, petitioners have come to this Court raising the following issues in their amended petition:[5]

- “1. Is there a legal impediment for the Court of Appeals to entertain and pass judgment on the errors raised before it in a Petition for Certiorari, Prohibition and Mandamus, when the injunction case from where the errors raised, emanated, is pending appeal?
2. In an injunction case seeking to prohibit and restrain the operation of a cockpit about to operate by virtue of a license granted to the operator thereof to hold cockfights for the current year, has the trial court trying the said injunction case, jurisdiction to restrain perpetually the operation of said cockpit, more so if in the meanwhile that said case is pending, another license is granted to the operator thereof to operate for the succeeding year, and the validity of the latter license is not challenged in the injunction case?
3. Is the writ of execution issued by the trial court pending appeal with respect to the award of damages in the injunction case, and which is deemed by the Court of Appeals as proper subject for the Petition for Certiorari, Prohibition, and Mandamus, had it not been enforced and executed, rendered moot and academic?
4. Is the error of the trial court ordering the Municipal Mayor to issue a license and ordering the Chief of the Philippine Constabulary to approve the same, when said public officers are not parties to the injunction case, merely an error of judgment or procedure, and not a jurisdictional error?”

Except for the first issue, the issues in the present petition are the same as those raised by petitioners in their petition for certiorari before the Court of Appeals.

We have reviewed the facts of this case and we fully agree with the respondent Court of Appeals that the correctness of the decision rendered by the lower court in Civil Case No. 2433 should be properly resolved in the appeal interposed by the petitioners and not by means of a petition for certiorari to declare as null and void said decision or any part thereof. As correctly found by respondent appellate court, the real issue raised in the petition for certiorari is the determination of the legality or illegality of the existence of the respective cockpits of the petitioners and private respondents. Said issue is within the jurisdiction of the lower court.

We note that in their petition before respondent appellate court, petitioners prayed for judgment to declare:

“x x x that the Respondent Judge acted with-out, or in excess of, jurisdiction, and/or gravely abused his discretion, in perpetually restraining the Petitioners from operating their Balzain Cock-pit; in immediately ordering the execution of the decision despite the appeal taken in Civil Case No. 2433; in compelling the Municipal Mayor of Tuguegarao, Cagayan, and the Chief of the Philip-pines Constabulary to issue and approve the 1977 license of the Private Respondents x x x.”[6]

In effect, petitioners were seeking a reversal of the lower court’s decision, which should properly be done in the appeal, not in a petition for certiorari.

In one case,[7] the Court had occasion to distinguish the two (2) approaches; thus:

“An appeal brings up for review errors of judgment committed by a court with jurisdiction over the subject of the suit and the persons of the parties or any such error committed by the court in the exercise of its jurisdiction amounting to nothing more than an error of judgment. On the other hand, the writ of certiorari issues for the correction of errors of jurisdiction only or grave abuse of discretion amounting to lack or excess of jurisdiction.”

By its nature, the extraordinary writ of certiorari offers a limited form of review, for its principal function is to keep lower courts within their jurisdiction.[8]

We, therefore, do not find error in the dismissal of the petition for certiorari by the Court of Appeals.

The present petition cannot prosper for an additional reason. In a Manifestation filed on 26 January 1983,[9] private respondents alleged that the Court of Appeals already rendered a decision affirming in toto the appealed decision in Civil Case No. 2433 and entry of judgment was made on 17th November 1982.[10]

WHEREFORE, the petition is DENIED, there being no reversible error in the assailed judgment of the respondent appellate court, and for being moot and academic. No costs.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Sarmiento, and Regalado, JJ., concur.

[1] Penned by Associate Justice Nestor B. Alampay, and concurred in by Associate Justices Pacifico P. de Castro and Jose G. Bautista.

[2] Section 5(b), P.D. No. 449.

[3] Section 6, *ibid.*

[4] Rollo, p. 53

[5] *Ibid.*, pp. 66-67

[6] Rollo, p. 37

[7] *Silverio vs. Court of Appeals*, L-39861, March 17, 1986, 141 SCRA 527

[8] *Enriquez vs. Rivera*, L-48948, June 19, 1979, 90 SCRA 641

[9] Rollo, p. 201

[10] *Ibid.*, p. 203

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