

HON. EMILIA T. BONCODIN, IN HER CAPACITY AS SECRETARY OF BUDGET AND MANAGEMENT, PETITIONER, VS. COURT OF APPEALS, ANGEL TEVES, JR., ESTABAN VALENCIA, JR., VICENTE SAPIO, NEMENCI...

G.R. No. 130757. January 18, 2002

Ponente: PARDO, J.

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PARDO, J.:

The Case

The case is an appeal via certiorari from the resolutions of the Court of Appeals[1] that denied petitioner's motion for intervention in the main petition now pending before the Court of Appeals on appeal by the City Government of Cebu against private respondents.

The Facts

The facts, as stated in the petition,[2] are as follows:

"On January 3, 1990, respondents Angel Teves, Jr., Estaban Valencia, Jr., Vicente Sapio, Nemenciano Rubillos, Alberto del Mar, Leo de los Reyes and Terollo Bacalso, filed with the Regional Trial Court, Cebu a petition for mandamus against the City Government of Cebu, seeking the implementation of Republic Act (RA) No. 6758, otherwise known as the Salary Standardization Law, retroactive to the date of its effectivity on July 4, 1989, by proper budgetary appropriation.

"On June 13, 1990, the trial court rendered a decision ordering the City Government of Cebu to enact a supplemental budget within fifteen (15) days from receipt of said decision, in such amount as may be determined by the City Treasurer for the implementation of the salary wage increase retroactive to July 1, 1989.

"In due time, the City Government of Cebu appealed from the aforesaid decision to the Court of Appeals.[3]

"During the pendency of the appeal, the City Government of Cebu passed and approved supplemental budget No. III for salary adjustment covering the period July 1, 1989 to October 31, 1989 embodied in Ordinance No. 1373.

"On October 21, 1993, Court of Appeals promulgated a decision affirming the decision of the trial court ordering the City Government of Cebu to enact a supplemental budget for the implementation of the salary wage increase retroactive to July 1, 1989. The decision of the trial court became final and executory on November 11, 1993.

"On July 5, 1995, private respondents filed with the trial court a motion for execution of the decision which the City Government of Cebu opposed on the ground of full compliance with R. A. 6758.

"On September 19, 1995, the City Government of Cebu filed a motion for reconsideration of the order issuing

a writ of execution, reiterating that there was already full payment of the salary differentials and full compliance with R. A. 6758 which justifies the non-issuance of the writ of execution or the non-enforcement of the final and executory judgment.

“On February 29, 1996, the trial court issued an alias writ of execution for the City Government of Cebu to appropriate the amount of P384,860,540.00 to satisfy the full implementation of the Salary Standardization Law upon proper allocation of position titles and salary grades and to pay the salary differentials due the employees starting from the date the said law become effective.[4]

“On July 15, 1996, the City Government of Cebu filed with the Supreme Court a petition for certiorari with temporary restraining order against Judge Leonardo B. Cañares, Angel Teves, Jr., Estaban Valencia, Jr., Vicente Sapio, Nemenciano Rubillos, Alberto del Mar, Leo de los Reyes and Terollo Bacalso.[5] The petition sought to annul the following orders of Judge Leonardo B. Cañares:

‘a) Order dated September 8, 1995 ordering the issuance of a writ of execution for the satisfaction of judgment dated June 13, 1990 which ordered the City Government of Cebu to enact a supplemental budget within fifteen (15) days from receipt of the decision, in such amount as may be determined by the Office of the City Treasurer for the implementation of the salary wage increase retroactive to July 1, 1989;

‘b) Order dated February 29, 1996, denying the motion for reconsideration of the order dated September 8, 1995 filed by the City Government of Cebu; and

‘c) Order dated June 21, 1996, denying the manifestation and opposition to the issuance of a writ of execution for the enforcement of the June 13, 1990 decision, filed by the City Government of Cebu.’

“Acting thereon, we referred the petition to the Court of Appeals.[6]

“On September 11, 1996, petitioner filed with the Court of Appeals a motion for leave to intervene[7] stating among other things that:

‘12. That the Department of Budget and Management has a legal interest in the matter under litigation in pursuance of the provision of the Salary Standardization Law (R. A. 6758) mandating the DBM as the administrator of a unified Compensation and Position Classification System in the light of a decision of the Supreme Court rendered in the case of Victorina Cruz vs. Court of Appeals, G. R. No. 119155, dated January 30, 1996, to wit:

‘DBM has the sole power and discretion to administer the compensation and position classification system of the government.

‘Thus, Section 2, Rule 12 of the Rules of Court provides:

‘Section 2. Intervention.- A person may, before or during a trial be permitted by the court in its discretion to intervene in an action, if he has legal interest in the matter in litigation, or in the success or either of the parties, or an interest against both, or when he is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof. (Emphasis ours)

‘If implemented as is, the RTC decision will mean that with respect to Cebu City alone, the Salary Standardization Law will be implemented the second time around, which for all intents and purposes is beyond the contemplation and legislative intent of RA 6758, AND WHICH IS PROHIBITED BY THE CONSTITUTION AS A DOUBLE COMPENSATION.’

On September 24, 1996[8] and December 27, 1996,[9] the private respondents and the City Government of Cebu filed their respective comment on petitioner’s motion for leave to intervene. Private respondents opposed petitioner’s motion for intervention, however, the City Government of Cebu supported petitioner’s position and arguments in his motion.

On April 21, 1997, the Court of Appeals resolved to deny petitioner's motion for leave to intervene for the reason that "his legal interest in the matter in litigation does not approximate the interest sufficient to allow him to intervene in the case, especially at this stage of the proceedings." [10]

On May 20, 1997, petitioner filed a motion for reconsideration of the denial of his motion for leave to intervene. [11]

On September 11, 1997, the Court of Appeals denied petitioner's motion for reconsideration for the reason that the motion carried no persuasive argument for the court to alter its earlier resolution. [12]

Hence, this appeal. [13]

The Issues

The issues raised are:

(1)

Whether petitioner may intervene at the execution stage of the decision in CA-G. R. SP No. 22459; and

(2)

Whether the Court of Appeals acted with grave abuse of discretion in denying petitioner's motion for leave to intervene. [14]

The Court's Ruling

The appeal is without merit. It is not appropriate for petitioner to intervene at the execution stage of the decision. Such right to intervene has lapsed. In other words, if petitioner wanted to intervene, he must do so at the earliest opportunity.

The petitioner's intervention is clearly against the provision of Section 2, Rule 19, Revised Rules of Court, which provides that:

"Time to Intervene – the motion to intervene may be filed at any time before the rendition of judgment by the trial court. A copy of the pleading in intervention shall be attached to the motion and served on the original parties."

The Judgment

WHEREFORE, the Court DENIES the petition and AFFIRMS the resolutions in question. [15]

No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

[1] In CA-G. R. SP No. 41444, promulgated on April 21, 1997, Guerrero, J., ponente, Cui, and Brawner, JJ., concurring.

[2] With editorial changes.

[3] Docketed as CA-G. R. SP No. 22459.

- [4] Petition, Annex “E”, Rollo, pp. 55-58.
- [5] Docketed as G. R. No. 125439.
- [6] Docketed as CA-G. R. SP No. 41444.
- [7] Petition, Annex “G”, Rollo, pp. 61-65.
- [8] Petition, Annex “H”, Rollo, pp. 67-79.
- [9] Petition, Annex “I”, Rollo, pp. 80-83.
- [10] Petition, Annex “A”, Rollo, pp. 45-47.
- [11] Petition, Annex “J”, Rollo, pp. 84-89.
- [12] Petition, Annex “B”, Rollo, p. 48.
- [13] Petition filed on December 8, 1997, Rollo, pp. 22-44. On September 6, 1999, we gave due course to the Petition (Rollo, pp. 161-162).
- [14] Memorandum for Private Respondent, Rollo, pp. 166-175, at p. 170.
- [15] In CA-G. R. SP No. 41444.

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