

LANDBANK OF THE PHILIPPINES, PETITIONER, VS. CONTINENTAL WATCHMAN AGENCY INCORPORATED AND THE COURT OF APPEALS, RESPONDENTS.

G.R. No. 136114. January 22, 2004

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

We have consistently held that there is no grave abuse of discretion in the issuance of a writ of preliminary injunction where a party was not deprived of its day in court, as it was heard and had exhaustively presented all its arguments and defenses.[1] Hence, when contending parties were both given ample time and opportunity to present their respective evidence and arguments in support of their opposing contentions, no grave abuse of discretion can be attributed to the trial court which issued the writ of preliminary injunction, as it is given a generous latitude in this regard, pursuant to Section 4, Rule 58 of the 1997 Rules of Civil Procedure, as amended.

Assailed in this petition for certiorari under Rule 65 of the same Rules is the Decision[2] dated July 31, 1998 of the Court of Appeals in CA-G.R. SP No. 46890, entitled "Land Bank of the Philippines versus Judge Vivencio S. Baclig and Continental Watchman Agency Incorporated," the dispositive portion of which reads:

"WHEREFORE, premises considered, the petition is hereby denied due course and the same DISMISSED. Let the original record of the case be remanded to the court a quo immediately upon the finality hereof.

"SO ORDERED."[3]

On September 28, 1996, Land Bank of the Philippines (LBP), herein petitioner, caused to be published in the Philippine Daily Inquirer, a newspaper of general circulation, an "Invitation to Pre-Qualify," inviting reputable security agencies to pre-qualify for security guard services in the different LBP offices, properties and installations nationwide. Continental Watchmen Agency Incorporated (CWAI), herein private respondent, and other security agencies responded to the invitation and participated in the public bidding.

In the bidding proper held on June 10, 1997, all the pre-qualified security agencies, private respondent included, submitted their individual sealed bid proposals to petitioner's Special Committee for the Selection of Security Agencies (Bid Committee). Private respondent submitted a bid for three (3) areas, namely, Area I, Area III, and Area V, all in Luzon.

After all the bids were opened and evaluated, it turned out that private respondent was the lowest bidder for those three areas.

However, on June 18, 1997, the Bid Committee declared private respondent disqualified because (1) its bid price was below the monthly salary of a guard prescribed by the Philippine Association of Detective and Protective Agency Operators, Inc.; and (2) it violated petitioner's Bid Bulletin No. 1 requiring that the bid price should include night differential pay for all the guards.

Private respondent asked for reconsideration but was denied by the Bid Committee.

Hence, on July 22, 1997, private respondent filed with the Regional Trial Court, Branch 17, Manila, a petition for injunction and damages with a prayer for a preliminary mandatory injunction against petitioner LBP, docketed as Civil Case No. 97-84264.

On August 1, 1997, after the hearing wherein both parties presented their respective evidence, the trial court issued a temporary restraining order (TRO) effective for twenty (20) days. At the same time, the trial court set for hearing private respondent's application for preliminary injunction. This incident was heard on August 22, 1997. Thereafter, the trial court issued an Order directing the issuance of a writ of preliminary injunction, thus:

"WHEREFORE, the petition for the issuance of a writ of preliminary injunction is hereby granted. Upon the filing of a bond in the sum of Fifty Thousand Pesos (P50,000.00), Philippine currency, and the approval thereof by the Court, let a writ issue directing the defendant, its attorneys, representatives and other persons assisting it, to cease and desist from awarding the contract for security agencies for Area I, Area III and Area V in Luzon to any security agency, until further orders from the Court.

"SO ORDERED."[4]

Meanwhile, on August 27, 1997, petitioner filed its "Answer with Special and/or Affirmative Defenses and Compulsory Counterclaim."[5]

On September 2, 1997, a writ of preliminary injunction[6] was accordingly issued.

On January 12, 1998, the trial court issued an Order denying petitioner's motion for reconsideration of its Order directing the issuance of a writ of preliminary injunction.

Consequently, on February 23, 1998, petitioner filed with respondent Court of Appeals a "Petition for Certiorari and Prohibition with Preliminary Injunction and Temporary Restraining Order" under Rules 58 and 65 of the 1997 Rules of Civil Procedure, as amended, alleging that the two Orders of the trial court dated August 22, 1997 and January 12, 1998 were issued without jurisdiction or with grave abuse of discretion.[7]

On July 31, 1999, the Court of Appeals issued its assailed Decision dismissing the petition, thus:

"WHEREFORE, premises considered, the petition is hereby denied due course and the same DISMISSED. Let the original record of the case be remanded to the court a quo immediately upon the finality hereof.

"SO ORDERED."[8]

The Court of Appeals ratiocinated as follows:

"After a fine filtration of the record ('expediente') and a close look at the two assailed orders, We agree with the private respondent that the respondent court did not commit any grave abuse of discretion in issuing them. At this juncture, it is well to state that the special civil action for certiorari is a remedy designed for the correction of errors of jurisdiction and not errors of judgment (*Ramnani vs. Court of Appeals*, 221 SCRA 582). It will not even issue for simple abuse of discretion (*University of the Philippines vs. Civil Service Commission*, 228 SCRA 207). Parenthetically, grave abuse of discretion implies such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction (*Planters Products, Inc. vs. Court of Appeals*, 193 SCRA 563), or in other words, where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility—and it must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law (*Bustamante vs. Commission on Audit*, 216 SCRA 134; *Philippine Airlines, Inc. vs. Confesor*, 231 SCRA 41). In the case at bench, the record does not show such kind of actuation on the part of the respondent judge. As long as a court or quasi-judicial body acts within its jurisdiction, any alleged errors committed in the exercise of its jurisdiction will amount to

nothing more than errors of judgment which are reviewable by timely appeal and not by a special civil action of certiorari (New York Marine Managers, Inc. vs. Court of Appeal, 249 SCRA 416; Commissioner on Internal Revenue vs. Court of Appeals, 257 SCRA 200).

"Furthermore, this being a petition for certiorari, factual matters are not proper for consideration (Insular Bank of Asia and America vs. Court of Appeals, 228 SCRA 420; Navarro vs. Commission on Elections, 228 SCRA 596), for this Court has to confine itself to the issue of whether or not the respondent court lacked or exceeded its jurisdiction or committed grave abuse of discretion (San Pedro vs. Court of Appeals, 253 SCRA 145)—it cannot review conclusion of fact (Holy Cross of Davao College, Inc. vs. Joaquin, 263 SCRA 358). Anyway, it should be stated that the grant or denial of an injunction rests on the sound discretion of the trial court (Technology Developers, Inc. vs. Court of Appeals, 193 SCRA 147; Avila vs. Tapucar, 201 SCRA 148)—and the same will not be interfered with by appellate courts except on a clear abuse of discretion (S & A Gaisano Incorporated vs. Hidalgo, 19 SCRA 224), which situation appeared wanting in the case at bench. We took note that the respondent court conducted hearings before issuing a writ of preliminary injunction. More. The private respondent was even required to put a bond to answer for possible damages which may arise from the issuance of said writ of preliminary injunction. On this score, We wish to advert to Supreme Court rulings that erroneous conclusions or errors of judgment or of procedure, not relating to the court's jurisdiction or involving grave abuse of discretion, are not reviewable by certiorari under Rule 65 of the Rules of Court (Rodriguez vs. Court of Appeals, 245 SCRA 150; Commissioner on Internal Revenue vs. Court of Appeals, supra; Santiago Land Development Company vs. Court of Appeals, 258 SCRA 535). For, as already stated, such errors are reviewable by timely appeal.

"Similarly, the special civil action of prohibition must be based on jurisdictional grounds against the trial court's judgment (Vda. De Suan vs. Unson, 185 SCRA 437). It is designed to prevent the use of the strong arm of the law in an oppressive or vindictive manner (Planas vs. Gil, 67 SCRA 62; Lopez vs. City Judge, 18 SCRA 616). To justify its issuance, there are certain requisites which must be complied with (Guingona vs. City Fiscal of Manila, 137 SCRA 597), which requisites the petitioner failed to comply. Also, said recourse is available only when there is no appeal or any plain, speedy or adequate remedy in the ordinary course of law (Pilar Development Corporation vs. Court of Appeal, 225 SCRA 549). Undeniably, appeal will be available in the case at bench." [9]

Petitioner filed a motion for reconsideration but was denied by the Appellate Court in its Resolution dated September 22, 1998.

Hence, the present petition for certiorari alleging:

"IT IS MOST RESPECTFULLY SUBMITTED THAT THE HONORABLE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION WHEN IT PROMULGATED AND ISSUED THE DECISION DATED JULY 31, 1998 AND RESOLUTION DATED SEPTEMBER 22, 1998 UPHOLDING THE QUESTIONED ORDERS OF THE RESPONDENT COURT IN CIVIL CASE NO. 97-84264 DATED AUGUST 22, 1997 AND JANUARY 12, 1998." [10]

Petitioner submits inter alia that the Court of Appeals, by dismissing its petition, in effect compelled it to enter into a contract for security guard services with private respondent and as a result, Civil Case No. 97-84264 has been prematurely resolved.

Private respondent, on the other hand, counters that respondent Court of Appeals did not act with grave abuse of discretion in affirming the Order of the trial court directing the issuance of the writ of preliminary injunction. In the first place, the Order was issued after a hearing wherein the parties were given the opportunity to present their respective evidence. Secondly, private respondent, being the lowest bidder, has a clear right to an injunction. Lastly, whatever error the trial court may have committed is only an error of judgment, not correctible by certiorari.

The petition must fail.

First, petitioner's remedy is an appeal to this Court from the Court of Appeals' Decision dated July 31, 1998 by way of a petition for review on certiorari under Rule 45. Instead, it filed this petition for certiorari under Rule 65 only on November 18, 1998 or forty three (43) days after it received the Appellate Court's Decision denying its motion for reconsideration. Apparently, petitioner resorted to certiorari because it failed to interpose an appeal seasonably. This, of course, is a procedural flaw. Time and again we have reminded members of the bench and bar that the special civil action of certiorari cannot be used as a substitute for a lost appeal.[11]

Admittedly, this Court, in accordance with the liberal spirit pervading the Rules of Court and in the interest of justice, has the discretion to treat a petition for certiorari as a petition for review on certiorari under Rule 45, especially if filed within the reglementary period for filing a petition for review.[12] In this case, however, we find no reason to justify a liberal application of the Rules.

Even assuming that the present petition is a proper remedy, still it is dismissible. Based on the evidence presented by private respondent, the trial court found that all the requisites for the issuance of an injunctive writ were present.[13] Although petitioner presented evidence to rebut private respondent's assertions, those will be better assessed and considered in the trial proper. The assailed injunctive writ is not a judgment on the merits of the case, contrary to the submission of petitioner, for a writ of preliminary injunction is generally based solely on initial and incomplete evidence. The evidence submitted during the hearing of the incident is not conclusive or complete for only a "sampling" is needed to give the trial court an idea of the justification for the preliminary injunction pending the decision of the case on the merits.[14] As such, the findings of fact and opinion of a court when issuing the writ of preliminary injunction are interlocutory in nature and made before the trial on the merits is commenced or terminated. Furthermore, it does not necessarily proceed that when a writ of preliminary injunction is issued, a final injunction will follow, as erroneously argued by petitioner. There are vital facts that have yet to be presented during the trial which may not be obtained or presented during the hearing on the application for the injunctive writ.[15] Clearly, petitioner's contention that the trial court and the Court of Appeals had already disposed of the main case lacks merit.

Also, the sole object of a preliminary injunction is to preserve the status quo until the merits of the case can be heard.[16] Here, after evaluating the evidence presented by both contending parties, the trial court held that justice would be better served if the status quo is preserved until the final determination of the merits of the case. We find nothing whimsical, arbitrary, or capricious in such ruling.

Significantly, the rule is well-entrenched that the issuance of the writ of preliminary injunction rests upon the sound discretion of the trial court. It bears reiterating that Section 4 of Rule 58 gives generous latitude to the trial courts in this regard for the reason that conflicting claims in an application for a provisional writ more often than not involve a factual determination which is not the function of the appellate courts. Hence, the exercise of sound judicial discretion by the trial court in injunctive matters must not be interfered with except when there is manifest abuse,[17] which is wanting in the present case.

In sum, we find the petition bereft of merit. It is not the proper remedy and even if it is, no grave abuse of discretion was committed by respondent Court of Appeals.

WHEREFORE, the petition is DISMISSED.

SO ORDERED.

Vitug, (Chairman), Corona, and Carpio-Morales, JJ., concur.

[1] Santos vs. Court of Appeals, G.R. No. 61218, September 23, 1992, 214 SCRA 162.

[2] Penned by Associate Justice Ramon Mabutas, Jr. (retired) and concurred in by then Associate Justices Arturo B. Buena (retired Associate Justice of the Supreme Court) and Hilarion L. Aquino, (retired), Rollo at 26-37.

[3] Rollo at 37.

[4] Id. at 60.

[5] Id. at 62-70.

[6] Id. at 118.

[7] Id. at 79-94.

[8] Id. at 37.

[9] Id. at 35-37.

[10] Id. at 10.

[11] Bernardo vs. Court of Appeals, G.R. No. 106153, July 14, 1997, 275 SCRA 413.

[12] Delsan Transport Lines, Inc. vs. Court of Appeals, G.R. No. 112288, February 20, 1997, 268 SCRA 597.

[13] Sections 4, Rule 58 of the 1997 Rules of Civil Procedure, as amended in relation to Section 3 of the same rule:

SEC. 4. Verified application and bond for preliminary injunction or temporary restraining order. - A preliminary injunction or temporary restraining order may be granted only when:

(a)

The application in the action or proceeding is verified, and shows facts entitling the applicant to the relief demanded; and

(b)

Unless exempted by the court, the applicant files with the court where the action or proceeding is pending, a bond executed to the party or person enjoined, in an amount to be fixed by the court, to the effect that the applicant will pay to such party or persons all damages which he may sustain by reason of the injunction or temporary restraining order if the court should finally decide that the applicant was not entitled thereto. Upon approval of the requisite bond, a writ of preliminary injunction shall be issued. (4a)

(c)

When an application for a writ of preliminary injunction or a temporary restraining order is included in a complaint or any initiatory pleading, the case, if filed in a multiple-sala court, shall be raffled only after notice to and in the presence of the adverse party or the person to be enjoined. In any event, such notice shall be

preceded, or contemporaneously accompanied, by service for summons, together with a copy of the complaint or initiatory pleading and the applicant's affidavit and bond, upon the adverse party in the Philippines.

However, where the summons could not be served personally or by substituted service despite diligent efforts, or the adverse party is a resident of the Philippines temporarily absent therefrom or is a nonresident thereof, the requirement of prior or contemporaneous service of summons shall not apply.

(d)

The application for a temporary restraining order shall thereafter be acted upon only after all parties are board in a summary hearing which shall be conducted within twenty-four (24) hours after the sheriff's return of service and/or the records are received by the branch selected by raffle and to which the records shall be transmitted immediately.

SEC. 3. Grounds for issuance of preliminary injunction. - A preliminary injunction may be granted when it is established:

(a)

That the applicant is entitled to the relief demanded, and the whole or part of such relief consists in restraining the commission or continuance of the act or acts complained of, or in requiring the performance of an act or acts, either for a limited period or perpetually;

(b)

That the commission, continuance or non-performance of the act or acts complained of during the litigation would probably work injustice to the applicant; or

(c)

That the party, court, agency or a person is doing, threatening, or is attempting to do, or is procuring or suffering to be done, some act or acts probably in violation of the rights of the applicant respecting the subject of the action or proceeding and tending to render the judgment ineffectual. (3a)

[14] *Urbanes, Jr. vs. Court of Appeals*, G.R. No. 117964, March 28, 2001, 355 SCRA 537, citing *Olalia vs. Hizon*, 196 SCRA 665 (1991).

[15] *Id.*, citing *La Vista Association, Inc. vs. Court of Appeals*, 278 SCRA 498 (1997) and *Sto. Tomas University Hospital vs. Surla*, 294 SCRA 382 (1998).

[16] *Id.*, citing *Manila Banking Corporation vs. Court of Appeals*, 187 SCRA 138 (1990).

[17] *Id.*, citing *Saulog vs. Court of Appeals*, 262 SCRA 51 (1996); *Searth Commodities Corp. vs. Court of Appeals*, 207 SCRA 622 (1992); *S&A Gaisano, Inc. vs. Judge Hidalgo*, 192 SCRA 224(1990).

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