

HAGONOY MARKET VENDOR ASSOCIATION, PETITIONER, VS. MUNICIPALITY OF HAGONOY, BULACAN, RESPONDENT.*G.R. No. 137621. February 06, 2002*

Ponente: PUNO, J.

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Laws are of two (2) kinds: substantive and procedural. Substantive laws, insofar as their provisions are unambiguous, are rigorously applied to resolve legal issues on the merits. In contrast, courts generally frown upon an uncompromising application of procedural laws so as not to subvert substantial justice. Nonetheless, it is not totally uncommon for courts to decide cases based on a rigid application of the so-called technical rules of procedure as these rules exist for the orderly administration of justice. Interestingly, the case at bar singularly illustrates both instances, i.e., when procedural rules are unbendingly applied and when their rigid application may be relaxed.

This is a petition for review of the Resolution[1] of the Court of Appeals, dated February 15, 1999, dismissing the appeal of petitioner Hagonoy Market Vendor Association from the Resolutions of the Secretary of Justice for being formally deficient.

The facts: On October 1, 1996, the Sangguniang Bayan of Hagonoy, Bulacan, enacted an ordinance, Kautusan Blg. 28,[2] which increased the stall rentals of the market vendors in Hagonoy. Article 3 provided that it shall take effect upon approval. The subject ordinance was posted from November 4-25, 1996.[3]

In the last week of November, 1997, the petitioner's members were personally given copies of the approved Ordinance and were informed that it shall be enforced in January, 1998. On December 8, 1997, the petitioner's President filed an appeal with the Secretary of Justice assailing the constitutionality of the tax ordinance. Petitioner claimed it was unaware of the posting of the ordinance.

Respondent opposed the appeal. It contended that the ordinance took effect on October 6, 1996 and that the ordinance, as approved, was posted as required by law. Hence, it was pointed out that petitioner's appeal, made over a year later, was already time-barred.

The Secretary of Justice dismissed the appeal on the ground that it was filed out of time, i.e., beyond thirty (30) days from the effectivity of the Ordinance on October 1, 1996, as prescribed under Section 187 of the 1991 Local Government Code. Citing the case of *Tañada vs. Tuvera*,[4] the Secretary of Justice held that the date of effectivity of the subject ordinance retroacted to the date of its approval in October 1996, after the required publication or posting has been complied with, pursuant to Section 3 of said ordinance.[5]

After its motion for reconsideration was denied, petitioner appealed to the Court of Appeals. Petitioner did not assail the finding of the Secretary of Justice that their appeal was filed beyond the reglementary period. Instead, it urged that the Secretary of Justice should have overlooked this "mere technicality" and ruled on its petition on the merits. Unfortunately, its petition for review was dismissed by the Court of Appeals for being formally deficient

as it was not accompanied by certified true copies of the assailed Resolutions of the Secretary of Justice.[6]

Undaunted, the petitioner moved for reconsideration but it was denied.[7]

Hence, this appeal, where petitioner contends that:

I

THE HONORABLE COURT OF APPEALS, WITH DUE RESPECT, ERRED IN ITS STRICT, RIGID AND TECHNICAL ADHERENCE TO SECTION 6, RULE 43 OF THE 1997 RULES OF COURT AND THIS, IN EFFECT, FRUSTRATED THE VALID LEGAL ISSUES RAISED BY THE PETITIONER THAT ORDINANCE (KAUTUSAN) NO. 28 WAS NOT VALIDLY ENACTED, IS CONTRARY TO LAW AND IS UNCONSTITUTIONAL, TANTAMOUNT TO AN ILLEGAL EXACTION IF ENFORCED RETROACTIVELY FROM THE DATE OF ITS APPROVAL ON OCTOBER 1, 1996.

II

THE HONORABLE COURT OF APPEALS, WITH DUE RESPECT, ERRED IN DENYING THE MOTION FOR RECONSIDERATION NOTWITHSTANDING PETITIONER'S EXPLANATION THAT ITS FAILURE TO SECURE THE CERTIFIED TRUE COPIES OF THE RESOLUTIONS OF THE DEPARTMENT OF JUSTICE WAS DUE TO THE INTERVENTION OF AN ACT OF GOD – TYPHOON “LOLENG,” AND THAT THE ACTUAL COPIES RECEIVED BY THE PETITIONER MAY BE CONSIDERED AS SUBSTANTIAL COMPLIANCE WITH THE RULES.

III

PETITIONER WILL SUFFER IRREPARABLE DAMAGE IF ORDINANCE/KAUTUSAN NO. 28 BE NOT DECLARED NULL AND VOID AND IS ALLOWED TO BE ENFORCED RETROACTIVELY FROM OCTOBER 1, 1996, CONTRARY TO THE GENERAL RULE, ARTICLE 4 OF THE CIVIL CODE, THAT NO LAW SHALL HAVE RETROACTIVE EFFECT.

The first and second assigned errors impugn the dismissal by the Court of Appeals of its petition for review for petitioner's failure to attach certified true copies of the assailed Resolutions of the Secretary of Justice. The petitioner insists that it had good reasons for its failure to comply with the rule and the Court of Appeals erred in refusing to accept its explanation.

We agree.

In its Motion for Reconsideration before the Court of Appeals,[8] the petitioner satisfactorily explained the circumstances relative to its failure to attach to its appeal certified true copies of the assailed Resolutions of the Secretary of Justice, thus:

“x x x (D)uring the preparation of the petition on October 21, 1998, it was raining very hard due to (t)typhoon “Loleng.” When the petition was completed, copy was served on the Department of Justice at about (sic) past 4:00 p.m. of October 21, 1998, with (the) instruction to have the Resolutions of the Department of Justice be stamped as “certified true copies. However, due to bad weather, the person in charge (at the Department of Justice) was no longer available to certify to (sic) the Resolutions.

“The following day, October 22, 1998, was declared a non-working holiday because of (t)typhoon “Loleng.” Thus, petitioner was again unable to have the Resolutions of the Department of Justice stamped “certified true copies.” In the morning of October 23, 1998, due to time constraint(s), herein counsel served a copy by personal service on (r)espondent's lawyer at (sic) Malolos, Bulacan, despite the flooded roads and heavy rains. However, as the herein counsel went back to Manila, (official business in) government offices were suspended in the afternoon and the personnel of the Department of Justice tasked with issuing or stamping “certified true

copies” of their Resolutions were no longer available.

“To avoid being time-barred in the filing of the (p)etition, the same was filed with the Court of Appeals “as is.”

We find that the Court of Appeals erred in dismissing petitioner’s appeal on the ground that it was formally deficient. It is clear from the records that the petitioner exerted due diligence to get the copies of its appealed Resolutions certified by the Department of Justice, but failed to do so on account of typhoon “Loleng.” Under the circumstances, respondent appellate court should have tempered its strict application of procedural rules in view of the fortuitous event considering that litigation is not a game of technicalities.[9]

Nonetheless, we hold that the petition should be dismissed as the appeal of the petitioner with the Secretary of Justice is already time-barred. The applicable law is Section 187 of the 1991 Local Government Code which provides:

“SEC. 187. Procedure for Approval and Effectivity of Tax Ordinances and Revenue Measures; Mandatory Public Hearings. - The procedure for the approval of local tax ordinances and revenue measures shall be in accordance with the provisions of this Code: Provided, That public hearings shall be conducted for the purpose prior to the enactment thereof: Provided, further, That any question on the constitutionality or legality of tax ordinances or revenue measures may be raised on appeal within thirty (30) days from the effectivity thereof to the Secretary of Justice who shall render a decision within sixty (60) days from the receipt of the appeal: Provided, however, That such appeal shall not have the effect of suspending the effectivity of the ordinance and accrual and payment of the tax, fee or charge levied therein: Provided, finally, That within thirty (30) days after receipt of the decision or the lapse of the sixty-day period without the Secretary of Justice acting upon the appeal, the aggrieved party may file appropriate proceedings.

The aforecited law requires that an appeal of a tax ordinance or revenue measure should be made to the Secretary of Justice within thirty (30) days from effectivity of the ordinance and even during its pendency, the effectivity of the assailed ordinance shall not be suspended. In the case at bar, Municipal Ordinance No. 28 took effect in October 1996. Petitioner filed its appeal only in December 1997, more than a year after the effectivity of the ordinance in 1996. Clearly, the Secretary of Justice correctly dismissed it for being time-barred. At this point, it is apropos to state that the timeframe fixed by law for parties to avail of their legal remedies before competent courts is not a “mere technicality” that can be easily brushed aside. The periods stated in Section 187 of the Local Government Code are mandatory.[10] Ordinance No. 28 is a revenue measure adopted by the municipality of Hagonoy to fix and collect public market stall rentals. Being its lifeblood, collection of revenues by the government is of paramount importance. The funds for the operation of its agencies and provision of basic services to its inhabitants are largely derived from its revenues and collections. Thus, it is essential that the validity of revenue measures is not left uncertain for a considerable length of time.[11] Hence, the law provided a time limit for an aggrieved party to assail the legality of revenue measures and tax ordinances.

In a last ditch effort to justify its failure to file a timely appeal with the Secretary of Justice, the petitioner contends that its period to appeal should be counted not from the time the ordinance took effect in 1996 but from the time its members were personally given copies of the approved ordinance in November 1997. It insists that it was unaware of the approval and effectivity of the subject ordinance in 1996 on two (2) grounds: first, no public hearing was conducted prior to the passage of the ordinance and, second, the approved ordinance was not posted.

We do not agree.

Petitioner’s bold assertion that there was no public hearing conducted prior to the passage of Kautusan Blg. 28 is belied by its own evidence. In petitioner’s two (2) communications with the Secretary of Justice,[12] it

enumerated the various objections raised by its members before the passage of the ordinance in several meetings called by the Sanggunian for the purpose. These show beyond doubt that petitioner was aware of the proposed increase and in fact participated in the public hearings therefor. The respondent municipality likewise submitted the Minutes and Report of the public hearings conducted by the Sangguniang Bayan's Committee on Appropriations and Market on February 6, July 15 and August 19, all in 1996, for the proposed increase in the stall rentals.[13]

Petitioner cannot gripe that there was practically no public hearing conducted as its objections to the proposed measure were not considered by the Sangguniang Bayan. To be sure, public hearings are conducted by legislative bodies to allow interested parties to ventilate their views on a proposed law or ordinance. These views, however, are not binding on the legislative body and it is not compelled by law to adopt the same. Sanggunian members are elected by the people to make laws that will promote the general interest of their constituents. They are mandated to use their discretion and best judgment in serving the people. Parties who participate in public hearings to give their opinions on a proposed ordinance should not expect that their views would be patronized by their lawmakers.

On the issue of publication or posting, Section 188 of the Local Government Code provides:

“Section 188. Publication of Tax Ordinance and Revenue Measures. Within ten (10) days after their approval, certified true copies of all provincial, city, and municipal tax ordinances or revenue measures shall be published in full for three (3) consecutive days in a newspaper of local circulation; Provided, however, That in provinces, cities and municipalities where there are no newspapers of local circulation, the same may be posted in at least two (2) conspicuous and publicly accessible places.” (emphasis supplied)

The records is bereft of any evidence to prove petitioner's negative allegation that the subject ordinance was not posted as required by law. In contrast, the respondent Sangguniang Bayan of the Municipality of Hagonoy, Bulacan, presented evidence which clearly shows that the procedure for the enactment of the assailed ordinance was complied with. Municipal Ordinance No. 28 was enacted by the Sangguniang Bayan of Hagonoy on October 1, 1996. Then Acting Municipal Mayor Maria Garcia Santos approved the Ordinance on October 7, 1996. After its approval, copies of the Ordinance were given to the Municipal Treasurer on the same day. On November 9, 1996, the Ordinance was approved by the Sangguniang Panlalawigan. The Ordinance was posted during the period from November 4 - 25, 1996 in three (3) public places, viz: in front of the municipal building, at the bulletin board of the Sta. Ana Parish Church and on the front door of the Office of the Market Master in the public market.[14] Posting was validly made in lieu of publication as there was no newspaper of local circulation in the municipality of Hagonoy. This fact was known to and admitted by petitioner. Thus, petitioner's ambiguous and unsupported claim that it was only “sometime in November 1997” that the Provincial Board approved Municipal Ordinance No. 28 and so the posting could not have been made in November 1996[15] was sufficiently disproved by the positive evidence of respondent municipality. Given the foregoing circumstances, petitioner cannot validly claim lack of knowledge of the approved ordinance. The filing of its appeal a year after the effectivity of the subject ordinance is fatal to its cause.

Finally, even on the substantive points raised, the petition must fail. Section 6c.04 of the 1993 Municipal Revenue Code and Section 191 of the Local Government Code limiting the percentage of increase that can be imposed apply to tax rates, not rentals. Neither can it be said that the rates were not uniformly imposed or that the public markets included in the Ordinance were unreasonably determined or classified. To be sure, the Ordinance covered the three (3) concrete public markets: the two-storey Bagong Palengke, the burnt but reconstructed Lumang Palengke and the more recent Lumang Palengke with wet market. However, the Palengkeng Bagong Munisipyo or Gabaldon was excluded from the increase in rentals as it is only a makeshift, dilapidated place, with no doors

or protection for security, intended for transient peddlers who used to sell their goods along the sidewalk.[16]

IN VIEW WHEREOF, the petition is DISMISSED for lack of merit. No pronouncement as to costs.

SO ORDERED.

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

[1] Per Justice Cancio C. Garcia and concurred in by Justices Conrado M. Vasquez, Jr. and Teodoro P. Regino; Rollo, pp. 25-26.

[2] Annex “E,” Petition; Rollo, pp. 35-36; The ordinance was signed by Councilor Felix V. Ople, Tagapangulo ng Sanggunian and Dr. Maria Garcia Santos as Pangulo Punong Bayan.

[3] Per Certification of Sanggunian Secretary Ma. Perpetua R. Santos; Rollo, at p. 49.

[4] 146 SCRA 448, 452-454 (1986).

[5] Resolution, dated February 25, 1998; Rollo, pp. 27-29.

[6] Resolution, dated December 17, 1998; Rollo, pp. 22-23.

[7] Resolution, dated February 15, 1999; Rollo, pp. 25-26.

[8] Rollo, pp. 11-12.

[9] Government Service Insurance System vs. Court of Appeals, 266 SCRA 187 (1997).

[10] Reyes, et al., vs. Court of Appeals, et al., 320 SCRA 486 (1999), citing Agpalo, Statutory Construction, 1995 edition, p. 266.

[11] Commissioner of Internal Revenue vs. Algue, Inc., 158 SCRA 9 (1998).

[12] Pagtutol sa Kautusan Blg. 28, C.A. Rollo, p. 18; Paghahabol, CA Rollo, pp. 29-30.

[13] Rollo, pp. 82-95.

[14] Certification of Sanggunian Secretary Ma. Perpetua R. Santos; Rollo, p. 49; Affidavits of municipal employee Ruperto dela Cruz and Municipal Councilor Cruz; Rollo, pp. 99-100.

[15] See Reply; Rollo, at p. 54.

[16] As shown in pictures attached to respondent’s Memorandum; Rollo, pp. 117-118.

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