EX-MAYOR GERARDO V. TAMBAOAN, EX-VICE MAYOR AZIL C. AQUINO, MUNICIPAL TREASURER PERLA GUTOMAN OF MAPANDAN, PANGASINAN, DEPUTY SHERIFF MARCELINO BONUAN, FRED CASTILLO, CESARIO BI...

G.R. No. 138219. September 17, 2001

Ponente: VITUG, J.

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VITUG, J.:

The case of origin, Civil Case No. 94-00321-D, was filed on 30 September 1994 by Loreto Aquino, Cenon Aquino, Fred Castillo, Cesario Biala, Rufino Gatinga, Pedro Meneses, Eugenio Mosada, Jr. and Jesus Tolentino, Sr., all barangay captains, said to have been the elected officers of the Liga ng mga Barangay or Association of Barangay Captains ("ABC") of Mapandan, Pangasinan, against Thelma P. Quinto and six other barangay captains who claimed to instead be the legitimate officers of the ABC by virtue of their appointments issued by then President Alex David of the National Liga ng mga Barangay.

On 30 June 1994, all the fifteen barangay captains of Mapandan were convened at the Session Hall of the Sangguniang Bayan for the purpose of electing the officers and directors of the Liga ng mga Barangay of Mapandan. Thelma Quinto and her six co-defendants walked-out from the session hall and boycotted the election. The election was held by the eight remaining barangay captains, including Loreto Aquino, the plaintiffs in Civil Case No. 94-00321-D. On 06 July 1994, Loreto Aquino was recognized as being the elected President of the Liga Ng Mga Barangay of Mapandan, Pangasinan, per official notification by the Department of Interior and Local Government ("DILG"). On 21 July 1994, however, Alex David, President and Secretary General of the National Liga ng mga Barangay, recalled the Certificate of Confirmation issued to Loreto Aquino as the elected President in view, upon review of the Certificates of Canvass and Proclamation, of the absence of the requisite signatures of the representatives of DILG, the Commission on Elections ("COMELEC") and the Department of Education, Culture and Sports ("DECS"). Due to an alleged failure in the election of officers of the Liga ng mga Barangay, the Liga Board, through its President, appointed, on 20 September 1994, private respondent Thelma Quinto president of the Liga ng mga Barangay. Forthwith, Thelma Quinto filed with the DILG a "Petition for Declaration of Nullity of election of Barangay Captain Loreto Aquino as ABC President."

Loreto Aquino and his seven co-plaintiffs questioned the appointment of Thelma Quinto and her co-defendants in an action for "Declaration of Nullity of Appointments, Issuance of Temporary Restraining Order, Injunction and Damages" before the Regional Trial Court ("RTC") of Dagupan City, Branch 40, then presided by Judge Deodoro Sison (Case No. 94-00321-D). On 04 October 1994, Judge Sison issued a temporary restraining order. The following day of 25 October 1994, however, Judge Sison denied the application for a writ of preliminary injunction for lack of merit and lifted the temporary restraining order of 04 October 1994. The 25th October 1994 order read:

> "Submitted for resolution is the application for the issuance of a writ of preliminary injunction.

> "From the records of the case, the Court finds that:
>
> "1. The plaintiffs failed to exhaust all administrative remedies;
>
> "2. Pending before the DILG Provincial Office is a case involving the same subject matter and between the same plaintiff Loreto Aquino and defendant Thelma Quinto;
>
> "3. Except (for) plaintiff Loreto Aquino, the other plaintiffs have no legal personality as party plaintiffs because they are not real parties in interest and so have no cause of action against the defendants;
>
> "4. On June 30, 1994, there was a failure of elections for the Liga ng mga Barangay in Mapandan;
>
> "5. The President/Secretary General of the National Liga, Alex David, recalled the Certificate of Confirmation dated July 7, 1994 previously issued to Loreto Aquino;
>
> "6. The appointment/designation of the defendants as officers of the Liga ng mga Barangay, Mapandan, Pangasinan Chapter is valid and legal, pursuant to Sec. 3, Art. IX of the Revised Implementing Rules & Guidelines for the General Elections of the Liga ng mga Barangay Officers;
>
> "7. The defendants have already qualified as officers of the Liga ng mga Barangay Officers and as such, they were prepared to assume office, but were reasonably restrained from doing so.
>
> "The plaintiffs have not shown any clear and positive right to be entitled to the protections of the ancillary relief of preliminary injunction (Prado vs. Veridiano II, 204 SCRA 654).
>
> "An injunction will not issue to protect a right not in esse and which may never arise or to restrain an act which does not give rise to a cause of action (ibid).
>
> "In order to be entitled to an injunction writ, one must show an unquestionable right over the premises and that such right has been violated (Dionisio vs. Ortiz, 204 SCRA 746).
>
> "In view of the foregoing, the plaintiffs have no cause of action against the defendants.
>
> "WHEREFORE, the application for the issuance of a writ of injunction is hereby DENIED for lack of merit.
>
> "The temporary restraining order dated October 4, 1994 is lifted and set aside."[1]

A motion for reconsideration of the order was sought on 15 November 1994 by Loreto Aquino and his co-plaintiffs but it was denied in an order, dated 06 January 1995, issued by Judge Sison; hence -

> "Acting on the Reconsideration dated November 15, 1994 filed by the plaintiffs of the Order of October 25, 1994, denying the application for a Writ of Injunction and lifting the temporary restraining order of October 4, 1994, and considering that there are no substantial arguments to warrant the modification of the questioned judgment and that the grounds relied upon by movants have already been passed upon, the same is hereby denied for lack of merit.
>
> "WHEREFORE, there being no legal impediment, defendant Thelma P. Quinto be allowed to assume office and to draw her salary as a member of the Sangguniang Bayan of Mapandan, Pangasinan, starting September 28, 1994 when she took her oath of office and qualified as such."[2]

The writ of execution issued to implement the orders of 25 October 1994 and 06 January 1995 was returned "unsatisfied" per the sheriff's return of 07 July 1995. Thereafter, an ex-parte motion for the issuance of an alias writ was filed by Thelma Quinto, et al., which motion was favorably acted upon by Judge Sison in his order of 28 July 1995.

Thelma Quinto, armed with her appointment and the orders of the trial court, reported for work as a member of

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the Sangguniang Bayan of Mapandan, Pangasinan. She was not permitted, however, to enter the Municipal session hall by herein petitioners Ex-Mayor Tambaoan, Vice-Mayor Azil Aquino and Loreto Aquino. Thelma Quinto made repeated demands that she be allowed to assume office and to perform her corresponding duties but petitioners refused to heed her pleas. Left with no choice, Thelma Quinto was constrained to hold office and perform her duties at the corridors of the session hall. Meanwhile, Loreto Aquino continued to so discharge his duties as the elected President of the Liga ng mga Barangay of Mapandan and also assumed his position as ex-officio member of the Sangguniang Bayan.

Several demands were made by Thelma Quinto upon the Municipal Treasurer to pay the salaries due her as being a member of the Sangguniang Bayan of Mapandan but her demands apparently fell on deaf ears.

For his part, Loreto Aquino filed a motion for the inhibition of Judge Sison and, ultimately, Civil Case No. 94-00321-D was raffled off to the sala of Judge Crispin Laron.

In the meantime, Thelma Quinto sought assistance from the DILG on her predicament. In a letter, dated 07 August 1996, DILG Undersecretary Alvin G. Dans requested Mayor Tambaoan "to comply with the order of the RTC of Dagupan City dated 06 January 1995 in adherence to the rule of law and in order to avoid any legal complications that may arise in the future." A follow-up letter was likewise sent to Mayor Tambaoan by Melba Bravo on 22 August 1996 to monitor the former's compliance with the DILG letter of 07 August 1996. In view of Mayor Tambaoan's continued refusal to abide by the court order, dated 06 January 1995, and his refusal to enforce the writ issued by the trial court, DILG Secretary Robert Barbers, in his letter of 29 August 1996, "enjoined the former to explain and/or comment on his alleged refusal to enforce the Regional Trial Court's alias writ of execution, together with relevant supporting documents, preferably within seven (7) days from date of receipt and further invited his attention to Section 60 of the Local Government Code of 1991 (RA 7160) and the pertinent provisions of the Code of Conduct and Ethical Standards for Public Officials and Employees (RA 6713)."

Back to Civil Case No. 94-00321-D, another "Urgent Motion for Issuance of an Alias Writ of Execution and to Cite Plaintiff and Others in Contempt of Court" was filed by private respondent Thelma Quinto before Judge Laron. The motion was opposed by Loreto Aquino, et al.

On 14 December 1995, a third-party complaint was instituted by Thelma Quinto against herein petitioners Gerardo Tambaoan, Azil Aquino, Perla Gutoman and Teresita Eden, who were then, respectively, the incumbent Mayor, the Vice-Mayor, the Treasurer and the Accountant of the Municipality of Mapandan. The municipal officials were impleaded third party defendants primarily in order to bring them within the jurisdiction of the trial court.

On 18 September 1996, Judge Laron issued an order to the following effect; viz:

> "WHEREFORE, the Alias Writ of Execution is GRANTED. In this connection, Municipal Mayor Gerardo Tambaoan, Vice Mayor Azil Aquino, Municipal Treasurer Perla Gutoman, Secretary of the Sangguniang Bayan Pedro David and Municipal Accountant Teresita Eden are directed and ordered to pay the salary of ABC President Thelma Quinto from September 28, 1994 up to the present.
>
> "The Court will rule on the Motion for Contempt depending upon the result of the Alias Writ of Execution.
>
> "Furnish copies of this Order to Atty. Nuelino B. Ranchez and Atty. Mario L. Cera."[3]

On 30 October 1996, Thelma Quinto, aggrieved by the continued inaction of petitioners in having the writs of execution duly satisfied and enforced, went to the Court of Appeals by way of a petition for mandamus (docketed CA-G.R. SP No. 42368).

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In the interim, Civil Case No. 94-00321-D was calendared by Judge Laron for pre-trial conference. Quinto opposed the move by filing a "Motion To Strike Out Order for Pre-Trial" upon the thesis that the case had already been finally disposed of.

On 06 November 1996, Judge Laron issued an order on the motion filed by Mayor Tambaoan, et al., and the Motion to Strike out Order of pre-trial filed by private respondents Quinto, et al., thusly:

> "WHEREFORE, the Order of this Court dated September 18, 1996 granting the alias writ of execution and directing movants to pay the salary of Thelma Quinto from September 28, 1994 up to the present, is reconsidered. The alias writ of execution issued in this case is hereby ordered recalled.
>
> "Furnish copies of this Order to Atty. Nuelino Ranchez, Atty. Mario Cera and Atty. Fernando Cabrera."[4]

Private respondent Thelma Quinto moved for a reconsideration of the order but it was denied, on 18 December 1996, by Judge Laron.

On 06 January 1997, Thelma Quinto sought to amend the petition for Mandamus (CA-G.R. SP No. 42368) pending with the Court of Appeals so as to include a review by certiorari of the orders of 06 November 1996 and 18 December 1996 of Judge Laron. On 13 March 1997, the Court of Appeals resolved to admit the amended petition for certiorari and mandamus. On 30 April 1997, the Court of Appeals rendered its herein assailed decision in favor of Thelma Quinto. The appellate court held:

> "So far, nothing in the records will even remotely suggest that respondents took measures to contest the above-cited January 6, 1995 Order. No motion for reconsideration, petition for certiorari or even an appeal was ever filed by the respondents to question the soundness and legality of the said Order. The tenor of the said Order allowing petitioner to assume office as member of the Sangguniang Bayan of Mapandan, Pangasinan and to draw salary therefrom is very clear and imposes no qualification whatsoever. The rights of respondent Loreto Aquino and petitioner Thelma Quinto to the disputed position have already been determined and therefore, nothing more is to be done by the respondent Court until the said Order is reversed or set aside.
>
> "Verily, there can be no dispute on the basic tenet that every litigation must come to an end. At this juncture, it can be rightly said that the Order of January 6, 1995 is already final because no action addressed to the respondent court or essayed to the appellate courts disputing the same was taken by the respondents within the prescribed period.
>
> "x x x x x x x x x
>
> "Having attained the character of finality in view of the foregoing discussion, can the Order of January 6, 1995 be the subject of execution? In the above quoted decision, clearly stated that `x x x our decision dissolving the writ immediately executory x x x.' Therefore, the January 6, 1995 Order is immediately executory and can be subject of execution. A judgment is likewise susceptible of execution when it acquires the character of finality (Prudence Realty and Development Corporation vs. CA, 231 SCRA 379). As such, the prevailing party is entitled as a matter of right to a writ of execution and the issuance thereof is a ministerial duty compellable by mandamus (Herrera: Remedial Law, Book II, 1994 ed., p. 188 citing the cases of Munez vs. CA, 152 SCRA 197 and City of Manila vs. CA, supra). Since the respondents refuse to comply with the January 6, 1996 order, petitioner had to resort to the issuance of a writ of execution.
>
> "Notwithstanding the fact that the issue on injunction have been decided with finality, the other issues prayed for by the respondents in Civil Case No. 94-00321-D can proceed independently and separately. Thus, the Supreme Court in the case of Vital-Gozon vs. CA, 212 SCRA 235 ruled that `a judgment can be enforced in part if the same is divisible'.
>
> "Coupled with the fact that said Order already acquired finality, the same may still be enforced by execution,

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as a matter of right.

"x x x x x x x x x

"WHEREFORE, judgment is hereby rendered:

"1. Setting aside the Orders of the respondent court dated November 6, 1996 and December 18, 1996;

"2. Ordering the enforceability of the January 6, 1995 order of Judge Deodoro J. Sison immediately;

"3. Remanding the case to the respondent court for reception of evidence on respondents' claim for damages."[5]

A reconsideration of the decision was denied in a resolution, dated 07 April 1999, of the appellate court.

Hence, the instant recourse which submits for resolution the following issues:

"1. WHETHER THE APPOINTMENT OF RESPONDENT THELMA P. QUINTO AS PRESIDENT OF THE LIGA NG MGA BARANGAY IS VALID OR NOT; (ANNEX `E' OF PETITION)

"2. WHETHER OR NOT RESPONDENT THELMA P. QUINTO CAN BE ALLOWED TO SERVE AS EX-OFFICIO MEMBER OF THE SANGGUNIANG BAYAN OF MAPANDAN, PANGASINAN, ON THE BASIS OF HER APPOINTMENT;

"3. WHETHER OR NOT THE ORDER OF JANUARY 6, 1995 ISSUED BY JUDGE DEODORO J. SISON (ANNEX 'J' OF PETITION) BRANCH 40 OF THE RTC, IS A VALID FINAL OR INTERLOCUTORY ORDER;

"4. WHETHER OR NOT THE AFORESAID ORDER OF JANUARY 6, 1995 IS ENFORCEABLE, AS ORDERED BY THE COURT OF APPEALS;

"5. WHETHER THE ORDERS OF THE REGIONAL TRIAL COURT DATED NOVEMBER 6, 1996 and DECEMBER 18, 1996 WERE ISSUED WITHOUT JURISDICTION OR IN EXCESS OF JURISDICTION OR WITH GRAVE ABUSE OF DISCRETION;"[6]

The Court gave due course to the petition and required the parties to submit their respective memoranda. Petitioners complied. Counsel for private respondent did not submit a memorandum despite the Court's show cause resolution, dated 21 June 2000; instead, a "Compliance" was submitted which simply attached a copy of the "Comment" previously filed with the Court. Evidently, respondents would want the case submitted for decision on the basis of the pleadings already on file.

Petitioners claim as being erroneous the holding by the appellate court that the 06[th]January 1995 order of Judge Sison can be enforced and be the subject of a writ of execution. Private respondent maintains, however, that the order has become final and executory by petitioners' failure to file either a motion for its reconsideration or an appeal therefrom to question its soundness and legality.

There is merit in the petition.

A court order is final if it puts an end to the particular matter there resolved or settles definitely the subject therein disposed of such that no further questions can come before the court except with respect to its execution. Such an order may refer to the entire controversy or to some defined and separate branch thereof.[7] On the other hand, a court order is merely interlocutory in character if it leaves substantial proceedings yet to be had in connection with the controversy. It is basically provisional in its application.

In this particular instance, the test to determine whether the order of 06 January 1995 is interlocutory or final

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would be: Does it leave something else to be done by the trial court on the case? If it does, it is interlocutory, if it does not, it is final.[8] Evidently, the trial court would still have to hear the parties on the merits of the case. The Court is impressed by the disquisition made by Judge Laron in recalling and setting aside the previous order of 18 September 1996 which order has granted the alias writ of execution. In the words of Judge Laron -

> "The Court believes that there is a basis to reconsider the Order dated September 18, 1996 granting the motion for issuance of writ of execution and directing the movants to pay the salary of Thelma Quinto from September 28, 1994 up to the present. An examination of the complaint shows that the movants are not impleaded as parties to this case. It is true that if they are not made parties in this case, they should not be bound by any judgment that will be rendered by the court and following the doctrine laid down in the New Owners/Management of TML Garments Inc. vs. Zaragoza, 170 SCRA 563, the writ of execution can only be issued against one who is a party. In the case of Salamat vda. de Medina vs. Judge Cruz, G.R. No. 39272, May 4, 1988, 161 SCRA 36, it was held that an execution can be issued only against a party and not against one who did not have his day in Court. The principle of due process should be followed, that is, before one can be bound by the proceedings in court, that party must be impleaded as one of the parties in the case. There was an election of officers of the ABC or Liga Ng Mga Barangay on June 30, 1994, and during that election the defendants walked out and the majority proceeded and held the election. Under the rules of implementing guidelines, therefore, the plaintiffs have clear and positive right to their respective positions and therefore they are entitled to respect and protection.
>
> "Plaintiff Loreto Aquino has been accredited member of the Sangguniang Bayan of Mapandan, Pangasinan, as ABC President. In fact, he has been listed as such and has been acting and participating in the deliberations. As a summary, the court should wish to state that the movants are not parties to this case. The instant case is between the eight (8) duly elected members of the ABC or Liga Ng Mga Barangay of Mapandan, Pangasinan, and against the seven (7) barangay captains.
>
> "The questioned order is not final. It is merely interlocutory. It cannot be a subject of execution."[9]

Indeed, the word "interlocutory" refers to "something intervening between the commencement and the end of a suit which decides some point or matter, but is not a final decision of the whole controversy."[10] An interlocutory order does not terminate nor does it finally dispose of the case; it does not end the task of the court in adjudicating the parties' contentions and determining their rights and liabilities as against each other but leaves something yet to be done by the court before the case is finally decided on its merits.[11]

It should be quite obvious that the order of 06 January 1995 has merely resolved the motion for reconsideration of the order, dated 25 October 1994, involving the denial of plaintiffs' application for the issuance of a writ of preliminary injunction. These orders did not as yet adjudicate the principal action raising as the basic issue the validity or nullity of the assailed appointments of defendants and the incidental question of damages. It would be inaccurate to say that the rights of respondent Loreto Aquino and petitioner Thelma Quinto to the disputed position have already been resolved and that, therefore, nothing else is to be done by the trial court. The inquiry in the proceedings for the issuance or denial of a writ of preliminary injunction is premised solely on initial evidence, and the findings thereon by the trial court should be considered to be merely provisional until after the trial on the merits of the case would have been concluded.[12]

In fine, the trial court is still required to proceed with the determination of the principal action for declaration of nullity of appointment and damages on which no hearing has thus far been conducted by the trial court. In fact, the pre-trial has even been aborted because of the erroneous issuance of the order for a writ of execution.

Being merely interlocutory, the order of 06 January 1995 cannot be appealed independently of the main case but may only be so assailed as part of an appeal from the final judgment in the main case. Of course, the extraordinary remedy of certiorari could itself be availed of but since plaintiff Loreto Aquino has been discharging his duties as

the elected president of the Liga ng mga Barangay of Mapandan and has assumed his position as ex-officio member of the Sangguniang Bayan, herein petitioners obviously did not have to.

Given the foregoing, the Court deems it inopportune to take up at this time the incidental issues raised in the petition without it being so perceived as making a prejudgment on the merits of the case.

WHEREFORE, the petition for review is GRANTED. The decision and resolution of the Court of Appeals of 30 April 1997 and 07 April 1999, respectively, are reversed and set aside, and the case is REMANDED to the court of origin for further proceedings on the merits of the case with a directive to proceed and dispose of Civil Case No. 94-00321-D with dispatch. No costs.

SO ORDERED.

Melo, (Chairman), Panganiban, Gonzaga-Reyes, and Sandoval-Gutierrez, JJ., concur.

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[1] Rollo, pp. 79-80.

[2] Rollo, pp. 123-124.

[3] Rollo, p. 124.

[4] Rollo, p. 97-98.

[5] Rollo, pp. 39-47.

[6] Rollo, p. 130.

[7] Republic vs. Tacloban City Ice Plant, 258 SCRA 145; dela Cruz vs. Paras, 69 SCRA 556.

[8] de Ocampo vs. Republic, 9 SCRA 440.

[9] Rollo, pp. 97-98.

[10] PLDT Employees' Union vs. PLDT Co. Free Tel. Workers' Union, 97 Phil. 424; Halili, etc. vs. Court of Industrial Relations, 22 SCRA 785 citing Bouvier's Law Dictionary, 3rd Revision, Volume 1, p. 1651.

[11] BA Finance Corporation vs. Court of Appeals, 178 SCRA 589; Investments, Inc. vs. Court of Appeals, 147 SCRA 334; Montilla vs. Court of Appeals, 161 SCRA 167.

[12] La Vista Association, Inc. vs. Court of Appeals, et al., 278 SCRA 498.

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