

**THE BASES CONVERSION AND DEVELOPMENT AUTHORITY,
ROGELIO L. SINGSON, IN HIS PERSONAL CAPACITY AND AS
CHAIRMAN-PRESIDENT OF BASES CONVERSION DEVELOPMENT
AUTHORITY, ROLANDO A. CAST...**

G.R. NO. 144062. November 02, 2006

Ponente: VELASCO, JR., J.

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VELASCO, JR., J.:

Republic Act No. 7227 prohibits courts from issuing preliminary injunctive writs or restraining orders against any project of the Bases Conversion Development Authority (BCDA), such as the Heritage Park Project, in order not to hamper or disrupt the implementation of the projects for "conversion into alternative productive uses"[1] of the military reservations and their extension which are considered by law to be "urgent and necessary"[2] or to frustrate "the effort to promote the economic and social development of Central Luzon in particular and the country in general."[3] The issue to be addressed in this petition is whether RA 7227 likewise forbids trial courts from rendering judgments granting permanent injunctions against BCDA projects.

The Case

Petitioners, through a Joint Petition for Review on Certiorari with Prayer for the Issuance of a Writ of Preliminary Injunction and/or a Temporary Restraining Order[4] under Rule 45 of the Rules of Court, assail the July 31, 2000 Decision[5] of the Court of Appeals (CA) which dismissed petitioners' prayer for the issuance of writs of certiorari and prohibition in CA-G.R. SP No. 56418 entitled *The Bases Conversion Development Authority, et al. v. Hon. Helen Bautista-Ricafort, Presiding Judge, RTC Parañaque, Branch 260, and Elpidio Uy, doing business under the name and style of Edison Development and Construction.*

The Facts

On March 13, 1992, Republic Act No. 7227,[6] otherwise known as "The Bases Conversion and Development Act of 1992," created the BCDA to "accelerate the sound and balanced conversion into alternative productive uses of the Clark and Subic military reservations and their extension (John Hay Station, Wallace Air Station, O'Donnell Transmitter Station, San Miguel Naval Communications Station and Capas Relay Station)," [7] and "to raise funds by the sale of portions of Metro Manila military camps." [8] Pursuant to this Act, then President Ramos issued Executive Order (EO) No. 40,[9] series of 1992, specifying, among others, the portions of Metro Manila military camps to be utilized to generate capital for the BCDA. For Fort Bonifacio, 96 hectares was set aside for the subject Heritage Park Project (the Project).

To carry out the Project and other fund generating projects pursuant to RA 7227 and EO 40, the BCDA entered into a Memorandum of Agreement (MOA) with the Public Estates Authority (PEA), designating the latter as Project Manager. Thereafter, on September 9, 1994, the BCDA, PEA, and the Philippine National Bank (PNB) executed a Pool Formation Trust Agreement (PFTA), creating an asset pool to generate funds for the development

of the Project.[10]

On November 20, 1996, after the requisite public bidding, the PEA entered into a Landscaping and Construction Agreement[11] (LCA) with respondent Elpidio Uy, doing business under the name and style of Edison Development and Construction. Subsequent to the LCA, the same parties forged on August 5, 1997 a negotiated Construction Agreement. On December 3, 1996, respondent received the requisite Notice to Proceed[12] from PEA, and duly mobilized within 14 days from notice and commenced the landscaping and construction of the Project. The LCA stipulated that respondent shall fulfill his contractual obligation within a period of 450 calendar days from its start, reckoned 14 days from respondent's receipt of the notice to proceed.[13] Specifically, the scope of respondent Uy's work in the LCA was to construct three (3) vertical structures, the Terrasoleum structures, and the landscaping.

Aside from respondent, two other contractors were engaged in the Project—Makati Development Corporation (MDC) undertook the horizontal site development and Romago Electric, Inc. (REI) which was contracted to do the electrification of the Project. The parties presented diametrically opposing versions on its progress. Nonetheless, it is undisputed that there were delays in the construction and landscaping under the LCA, and for which several extensions were granted to respondent Uy by PEA.

On the one hand, respondent asserted that the delays were justified and not attributable to him, as portions of the Project were delivered piecemeal and could not be worked on immediately pending the completion of work by the other contractors. On the other hand, petitioners maintained that respondent Uy was in delay with work "slippage" beyond tolerable levels and that respondent had already pulled out his equipment and machineries, and stopped working sometime in October 1999.

On November 29, 1999, respondent Uy received from PEA a Letter of Termination[14] of the LCA. This prompted respondent to file Civil Case No. 99-0425 for Injunction and Damages with the Parañaque Regional Trial Court (RTC) Branch 260 against PEA, petitioner BCDA, and private petitioners. On December 14, 1999, Parañaque RTC Executive Judge Helen Bautista-Ricafort issued a 72—hour Temporary Restraining Order (TRO), enjoining petitioners from excluding respondent from his contractual obligations under the LCA.[15] Subsequently, the case was raffled to the same Judge in the said trial court, who, on December 17, 1999, after the preliminary hearing of the case, extended the TRO for 17 days.[16]

On December 27, 1999, petitioners who were not joined by PEA forthwith filed their Joint Petition for Certiorari and Prohibition[17] before the CA. Alleging facts falling under the exceptions on filing a motion for reconsideration, said petition raised the sole issue of lack of jurisdiction of the RTC to hear an injunction case against the BCDA and the propriety of the issuance of the TRO in view of the proscription under Section 21 of RA 7227.

Petitioners argued that the said proviso not only prohibits lower courts from issuing a TRO or writ of injunction against BCDA projects but also clearly vests exclusive jurisdiction in this Court for injunctive relief and issuance of a TRO. Moreover, petitioners maintained that PD 1818 and the recent RA No. 8975 (both laws prohibit courts from issuing TRO and preliminary injunctions in cases involving infrastructure projects of the government) were equally applicable.

Meanwhile, on December 28, 1999, the Parañaque RTC issued an Order suspending proceedings until the final resolution of the certiorari case before the appellate court.

The Ruling of the Court of Appeals

On July 31, 2000, the CA rendered a Decision[18] dismissing petitioners' Joint Petition for Certiorari and

Prohibition. The CA reasoned that the assailed TRO had become *functus officio*, thus, it was moot and academic. Nonetheless, it held that the RTC did not commit grave abuse of discretion in issuing the assailed TRO and that prohibition was not a proper remedy. It ratiocinated that if petitioners want to stop the proceedings in the RTC for alleged manifest bias of the sitting judge, they should have filed a motion for inhibition before the trial court. In short, the CA ruled that the RTC was the proper venue to hear the injunction case—thereby ruling that the RTC had jurisdiction to hear the injunctive case and to issue the TRO.

The Issues

Without filing a motion for reconsideration, on August 7, 2000, petitioners came before this Court filing their Joint Petition for Review on Certiorari under Rule 45 on pure questions of law, raising the same sole issue of jurisdiction of the RTC to hear an injunctive case and to issue a TRO against the BCDA.

Furthermore, petitioners raise the following issues for our consideration:

I

UNDER R.A. NO. 7227, THE IMPLEMENTATION OF PROJECTS FOR THE CONVERSION OF MILITARY BASES INTO PRODUCTIVE USES SHALL NOT BE RESTRAINED OR ENJOINED EXCEPT BY AN ORDER OF THE SUPREME COURT, HENCE, THE LOWER COURT HAS NO JURISDICTION TO HEAR AND DECIDE CIVIL CASE NO. 99-0425.

II

IN DISMISSING THE JOINT PETITION FOR CERTIORARI AND PROHIBITION IN CA-G.R. SP NO. 56418 QUESTIONING SQUARELY THE LOWER COURT'S JURISDICTION OVER CIVIL CASE NO. 99-0425, THE APPELLATE COURT WENT BEYOND THE ISSUES RAISED IN THE PLEADINGS AND TOOK UP MATTERS EXTRANEEOUS TO THE CASE.

III

IF THE RESPONDENT HAS ANY CLAIM HE WANTS TO PURSUE BEFORE THE LOWER COURTS, THE RELIEF AVAILABLE TO THE RESPONDENT IS LIMITED TO A CASE FOR DAMAGES, NOT INJUNCTION, AGAINST THE PETITIONERS TO ENFORCE SUCH CLAIM.[19]

The Court's Ruling

The instant case arose from the termination by the PEA of the LCA which respondent Uy is contesting through an injunction case. As we see it, the core issue for our resolution is whether the trial court has jurisdiction to provisionally enjoin petitioners from terminating the LCA and to hear an injunction case against petitioners. On the other hand, respondent Uy aside from countering the issues presented by petitioners, also raised several procedural issues for the disallowance of the instant petition.

Preliminary Issues: Procedural Issues

At the outset, we tackle the three (3) procedural issues raised by respondent Uy in his September 6, 2000 Comment[20] to bolster his position that the petition should be dismissed. Respondent contends that the petition ought to be dismissed outright as petitioners did not file a motion for reconsideration from the assailed CA Decision, an alleged pre-requisite before this Court can entertain petitions under Rule 45. Respondent cites *Ybañez v. Court of Appeals*,[21] *Tan v. Court of Appeals*,[22] *Villarama v. NLRC*,[23] *Mactan Cebu International Airport Authority v. Court of Appeals*,[24] and *Sunshine Transportation, Inc. v. NLRC*[25] as authorities. Moreover, respondent Uy maintains that the verification and certification of non-forum shopping was defective as only one of the petitioners affixed his signature, (Ramon P. Ereneta) and such sole signatory cannot

represent petitioner BCDA as no Board Resolution was presented conferring such authority. Lastly, said respondent asserts that there is no proper joinder of parties considering that the major issue raised by petitioner BCDA is its invocation of RA 7227.

Motion for reconsideration not required in Rule 45 as condition precedent

We find the aforesaid arguments of respondent Uy tenuous and untenable. Rule 45 does not require the prior filing of a motion for reconsideration for this Court to take cognizance of appeals through petitions for review on certiorari. This can be gleaned from Sections 1 and 2 of Rule 45 which pertinently provides:

SECTION 1. Filing of petition with Supreme Court. — A party desiring to appeal by certiorari from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on certiorari. The petition shall raise only questions of law which must be distinctly set forth.

SEC. 2. Time for filing; extension. — The petition shall be filed within fifteen (15) days from notice of the judgment or final order or resolution appealed from, or of the denial of the petitioner's motion for new trial or reconsideration filed in due time after notice of the judgment (emphasis supplied). On motion duly filed and served, with full payment of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, the Supreme Court may[,] for justifiable reasons[,] grant an extension of thirty (30) days only within which to file the petition.

The foregoing provisos clearly do not require the filing of a motion for reconsideration as a condition precedent unlike certiorari under Rule 65. Moreover, as aptly noted by petitioners, the cases[26] cited by respondent Uy are not applicable in the instant case as they pertain to certiorari under Rule 65—an original action for certiorari, which requires a motion for reconsideration as a condition precedent. It must be noted that while both Rules 45 and 65 are petitions for certiorari, the former is a petition for review while the latter is an original special civil action for certiorari.

Signature of a principal party sufficient for verification and certification

Anent the assailed verification and certification of non-forum shopping, it is shown that it substantially complied with the requirements of the Rules. Dismissal of appeals that is purely on technical grounds is frowned upon.[27] While only petitioner Ramon P. Ereneta signed the verification and certification of non-forum shopping such is not fatal to the instant petition. In *Calo*,[28] we agreed with petitioners that the signature of only one petitioner in the verification and certification of non-forum shopping satisfies the requirement under Section 2, Rule 42 of the Revised Rules on Civil Procedure.[29] In *Calo*, we relied on *Condo Suite Club Travel, Inc., v. NLRC*[30]—where we ruled that the certification of non-forum shopping may be signed not only by the petitioners but also any of the principal parties. In the instant case, Mr. Ramon P. Ereneta, a member of the Investment Committee of the Heritage Park Management Corporation, is a principal party in the instant case having been impleaded in Civil Case No. 99-0425 pending in the RTC.

More so, in *Calo*, we also cited *Cavile, et al. v. Heirs of Clarita Cavile, et. al.*[31]—where we held that there was substantial compliance with the Rules when only petitioner Thomas George Cavile, Sr. signed in behalf of all the other petitioners of the certificate of non-forum shopping as the petitioners, being relatives and co-owners of the properties in dispute, shared a common interest in them, had a common defense in the complaint for partition, and filed the petition as a collective, raising only one argument to defend their rights over the properties in question. We reasoned that there was sufficient basis for Cavile, Sr., to speak for and in behalf of his co-petitioners, stating that they had not filed any action or claim involving the same issues in another court or tribunal, nor was there other pending action or claim in another court or tribunal involving the same issues. In the same vein, this is also

true in the instant case where petitioners have filed their petition as a collective, sharing a common interest and having a common single defense.

Anent the lack of a BCDA Board Resolution authorizing Ramon P. Ereneta, such defect has been substantially complied with by the subsequent filing of a Letter of Authority^[32] to represent and sign pleadings for and on behalf of BCDA in the instant case. In *Jaro v. Court of Appeals*, we had occasion to cite "ample jurisprudence holding that the subsequent and substantial compliance of an appellant may call for the relaxation of the rules of procedure."^[33] At any rate, this petty technicality deserves scant consideration where the question at issue is one purely of law and there is no need to delve into the veracity of the allegations in the petition. As we have held time and again, imperfections of form and technicalities of procedure are to be disregarded, except where substantial rights would otherwise be prejudiced.

There is proper joinder of parties

As regards the issue of non-joinder of parties, we find respondent's argument tenuous and quite drawn out. Respondent maintains that petitioners have no legal personality to pursue this appeal on the strenuous interpretation that the BCDA and other petitioners cannot invoke Sec. 21 of RA 7227 as only the Office of the Solicitor General (OSG) can invoke such defense. Verily, having impleaded petitioners in the civil case he filed before the trial court, respondent Uy cannot anymore question the locus standi of petitioners. Moreover, the invocation of Sec. 21 of RA 7227 was already made in the trial court during the December 17, 1999 hearing and it was duly raised before the CA on certiorari under Rule 65. This is a common defense invoked by petitioners at the outset. Moreover, it is not only the OSG who has the right and privilege to invoke provisions of the law pertaining to Government Owned and Controlled Corporations (GOCC). In fact, it is the Office of the Government Corporate Counsel (OGCC) who appears for GOCC and not the OSG.^[34]

Main Issue: Trial court has jurisdiction to hear the injunctive case

The three (3) issues presented by petitioners can be easily condensed to the core issue of whether the Parañaque RTC has jurisdiction over Civil Case No. 99-0425 entitled *Elpidio Uy v. Public Estates Authority, et al.*, to permanently restrain the rescission of the LCA entered into by respondent Uy and the PEA.

Petitioners contend that the Parañaque RTC has no power to issue the 20-day TRO or a writ of preliminary injunction under Section 21 of RA 7227 and has no jurisdiction to try and decide respondent Uy's action for injunction to prevent the termination of the November 20, 1996 LCA which was awarded to him.

Indeed, this is a novel issue on the matter of proscribing trial courts from rendering judgments granting permanent injunctions against certain activities relating to government contracts and projects.

Much reliance was placed by petitioners on laws which limit and prohibit issuance of TROs and writs of preliminary injunction, viz:

1. Section 21, RA 7227:

Injunction and Restraining Order. — The implementation of the projects for the conversion into alternative productive uses of the military reservations are urgent and necessary and shall not be restrained or enjoined except by an order issued by the Supreme Court of the Philippines.

2. Section 1, PD 1818:

No court in the Philippines shall have jurisdiction to issue any restraining order, preliminary injunction, or preliminary mandatory injunction in any case, dispute or controversy involving an infrastructure project, or a mining, fishery, forest or other natural resource development project of the government, or any public utility

operated by the government, including among others[,] public utilities for the transport of goods or commodities, stevedoring and arrastre contracts, to prohibit any person or persons, entity or governmental official from proceeding with, or continuing the execution or implementation of any such project, or the operation of such public utility, or pursuing any lawful activity necessary for such execution, implementation or operation.

3. Section 3, RA 8975:

Prohibition on the Issuance of Temporary Restraining Orders, Preliminary Mandatory Injunctions. — No court, except the Supreme Court, shall issue any temporary restraining order, preliminary injunction or preliminary mandatory injunction against the government, or any of its subdivisions, officials or any person or entity, whether public or private acting under the government direction, to restrain, prohibit or compel the following acts:

- (a) Acquisition, clearance and development of the right-of-way and/or site or location of any national government project;
- (b) Bidding or awarding of contract/project of the national government as defined under Section 2 hereof;
- (c) Commencement[,], prosecution, execution, implementation, [or] operation of any such contract or project;
- (d) Termination or rescission of any such contract/project; and
- (e) The undertaking or authorization of any other lawful activity necessary for such contract/project.

This prohibition shall apply in all cases, disputes or controversies instituted by a private party, including but not limited to cases filed by bidders or those claiming to have rights through such bidders involving such contract/project. This prohibition shall not apply when the matter is of extreme urgency involving a constitutional issue, such that unless a temporary restraining order is issued, grave injustice and irreparable injury will arise. The applicant shall file a bond, in an amount to be fixed by the court, which bond shall accrue in favor of the government if the court should finally decide that the applicant was not entitled to the relief sought.

If after due hearing the court finds that the award of the contract is null and void, the court may, if appropriate under the circumstances, award the contract to the qualified and winning bidder or order a rebidding of the same, without prejudice to any liability that the guilty party may incur under existing laws.

Prohibition covers only TRO and preliminary injunction

A perusal of these aforequoted provisions readily reveals that all courts, except this Court, are proscribed from issuing TROs and writs of preliminary injunction against the implementation or execution of specified government projects. Thus, the ambit of the prohibition covers only temporary or preliminary restraining orders or writs but NOT decisions on the merits granting permanent injunctions. Considering that these laws trench on judicial power, they should be strictly construed. Therefore, while courts below this Court are prohibited by these laws from issuing temporary or preliminary restraining orders pending the adjudication of the case, said statutes however do not explicitly proscribe the issuance of a permanent injunction granted by a court of law arising from an adjudication of a case on the merits.

Thus, petitioners' claim that Judge Ricafort has no jurisdiction over the complaint for injunction plus damages with a prayer for temporary restraining order and writ of preliminary injunction does not hold water.

RTC has jurisdiction over action for injunction

Firmly established is the doctrine that "jurisdiction over the subject matter is conferred by law." [35] Section 19 of BP 129 shows that a Regional Trial Court has jurisdiction over all civil cases in which the subject of litigation is

incapable of pecuniary estimation.[36] Jurisprudence has recognized complaints for injunction with a prayer for temporary restraining order or writ of preliminary injunction. We explained at length this specie of cases in *Manila Banking Corporation v. Court of Appeals*.^[37]

In the factual setting at bar, the Court rules that the Parañaque RTC has jurisdiction over the complaint of respondent Uy it being a case in which the subject of litigation for permanent injunction against the termination of his contract, is incapable of pecuniary estimation. The prayer of respondent Uy in Civil Case No. 99-0425 to permanently enjoin petitioners from rescinding the LCA, is not forbidden under RA 7227, PD 1818, and RA 8975. Said prohibitive laws cover only temporary or preliminary restraining orders or injunctions to prevent unjustified stoppage of the implementation of government projects; but not permanent injunctions.

Thus, the Parañaque RTC has jurisdiction to hear respondent Uy's action and even grant his supplication for a permanent injunction. While the issuance of the assailed TRO by Judge Helen Ricafort evidently constitutes a blatant violation of Section 21 of RA 7227 and hence void, the same has likewise been rendered moot for being *functus officio*, the 20-day validity period of the TRO having lapsed on January 3, 2000.

WHEREFORE, the instant petition is DISMISSED and the July 31, 2000 Decision of the Court of Appeals is hereby AFFIRMED IN TOTO. The Regional Trial Court, Parañaque City, Branch 260 is directed to hear without delay Civil Case No. 99-0425 for Injunction and Damages, but is prohibited from issuing TROs and writs of preliminary injunction.

No costs.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio Morales, and Tinga, JJ., concur.

[1] Republic Act No. 7227, Sec. 2.

[2] Republic Act No. 7227, Sec. 21.

[3] *Supra* note 1, at par. 2.

[4] Dated August 8, 2000, rollo, pp. 3-36.

[5] *Id.* at 37-43.

[6] Entitled as "An Act Accelerating the Conversion of Military Reservations Into Other Productive Uses, Creating the Bases Conversion and Development Authority For This Purpose, Providing Funds Therefor and For Other Purposes."

[7] *Supra* note 1.

[8] *Id.*

[9] Issued on December 8, 1992.

[10] In Pool Formation Trust Agreement, rollo, pp. 45-89.

[11] *Id.* at 90-112.

[12] *Id.* at 113.

[13] Article VI, Contract Time, par. 6.1, *supra* note 11, at 97.

[14] Rollo, p. 165.

[15] Id. at 168.

[16] Id. at 169.

[17] Id. at 170-216.

[18] Penned by Associate Justice Hilarion L. Aquino, with Associate Justices Buenaventura J. Guerrero and Mercedes Gozo-Dadole of the Seventh (7th) Division concurring, supra note 5.

[19] Supra note 4, at 16.

[20] Rollo, pp. 227-276.

[21] G.R. No. 117499, February 9, 1996, 253 SCRA 540.

[22] G.R. No. 108634, July 17, 1997, 275 SCRA 568.

[23] G.R. No. 106341, September 2, 1994, 236 SCRA 280.

[24] G.R. No. 121506, October 30, 1996, 263 SCRA 736.

[25] G.R. No. 116025, February 22, 1996, 254 SCRA 51.

[26] Supra notes 21-25.

[27] Calo v. Villanueva, G.R. No. 153756, January 30, 2006, 480 SCRA 561, 566 citing Remulla v. Manlongat, G.R. No. 148189, November 11, 2004, 442 SCRA 226, 236.

[28] Id. at 567.

[29] Id. at 566. We also cite: Section 2. Form and contents.— x x x

The petitioner shall also submit together with the petition a certification under oath that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom.

[30] Id. at 567, G.R. No. 125671, January 28, 2000, 323 SCRA 679, 687.

[31] Id., G.R. No. 148635, April 1, 2003, 400 SCRA 255.

[32] Dated August 4, 2000, signed by Rogelio L. Singson, Chairman of BCDA, rollo, p. 404.

[33] G.R. No. 127536, February 19, 2002, 377 SCRA 282, 297; See Cusi-Hernandez v. Diaz, G.R. No., 140436, July 18, 2000, 336 SCRA 113 and Piglas-Kamau v. National Labor Relations Commission, G.R. No. 138556, May 9, 2001, 357 SCRA 640.

[34] See Entry of Appearance/Manifestation, rollo, pp. 406-409.

[35] Manila Electric Company v. Energy Regulatory Board, G.R. No. 145399, March 17, 2006, 485 SCRA 19, 27 citing De Rossi v. NLRC, G.R. No. 108710, September 14, 1999, 314 SCRA 245.

[36] Section 19 (1), The Judiciary Reorganization Act of 1980 (B.P. Blg. 129, as amended).

[37] G.R. No. 45961, July 3, 1990, 187 SCRA 138, 144-145.

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