NATIONAL ELECTRIFICATION ADMINISTRATION AND ITS BOARD OF ADMINISTRATORS, PETITIONERS, VS. DANILO MORALES, RESPONDENT.

G.R. NO. 154200. July 24, 2007

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

The sole issue for resolution in the Petition for Review on Certiorari[1] before us is whether the Court of Appeals (CA) committed an error of law in its July 4, 2002 Decision[2] in CA-G.R. SP No. 62919 in ordering the implementation of a writ of execution against the funds of the National Electrification Administration (NEA).

There being no dispute as to the facts,[3] the following findings of the CA are adopted:[4]

Danilo Morales and 105 other employees[5] (Morales, et al.) of the NEA filed with the Regional Trial Court (RTC), Branch 88, Quezon City, a class suit[6] against their employer for payment of rice allowance, meal allowance, medical/dental/optical allowance, children's allowance and longevity pay purportedly authorized under Republic Act (R.A.) No. 6758.[7] In its December 16, 1999 Decision,[8] the RTC ordered NEA, thus:

> WHEREFORE, foregoing considered, the petition is hereby GRANTED directing the respondent NEA, its Board of Administrators to forthwith settle the claims of the petitioners and other employees similarly situated and extend to them the benefits and allowances to which they are entitled but which until now they have been deprived of as enumerated under Section 5 of DBM CCC No. 10 and their inclusion in the Provident Funds Membership, retroactive from the date of their appointments up to the present or until their separation from the service.
>
> No costs.
>
> SO ORDERED.[9]

Upon motion of Morales, et al., the RTC issued a Writ of Execution dated February 22, 2000,[10] which reads:

> NOW, THEREFORE, you are hereby directed to cause respondents National Electrification Administration (NEA) and its Board of Administrators with principal office address at 1050 CDC Bldg., Quezon Avenue, Quezon City to forthwith settle the claims of the petitioners and other employees similarly situated and extend to them the benefits and allowances to which they are entitled but which until now they have been deprived of as enumerated under Sec. 5 of DBM CCC No. 10 and you are further directed to cause their inclusion in the Provident Fund Membership, retroactive from the date of their appointments up to the present or until their separation from the service.[11]

Thereafter, a Notice of Garnishment[12] was issued against the funds of NEA with Development Bank of the Philippines (DBP) to the extent of P16,581,429.00.

NEA filed a Motion to Quash Writs of Execution/Garnishment,[13] claiming that the garnished public funds are exempt from execution under Section 4[14] of Presidential Decree (P.D.) No. 1445,[15] but manifesting that it is

willing to pay the claims of Morales, et al.,[16] only that it has no funds to cover the same, although it already requested the Department of Budget and Management (DBM) for a supplemental budget.[17]

In its Order of May 17, 2000, the RTC denied the Motion to Quash but, at the same time, held in abeyance the implementation of the Writ of Execution, thus:

> WHEREFORE, the motion to quash writs of execution/ garnishment is DENIED but the implementation of the judgment is placed on hold for ninety (90) days reckoned from this day. The respondents are directed to formally inform this Court and the petitioners of the prospect of obtaining funds from Department of Budget and Management within 30 days from receipt and every 30 days thereafter, until the 90 day period has lapsed.
>
> The motion to direct DBP to release to the petitioners the NEA funds garnished earlier amounting to P16,591.429 is also DENIED.
>
> SO ORDERED.[18] (Emphasis ours)

Morales, et al. filed a Partial Motion for Reconsideration[19] but the RTC denied it.[20]

Meanwhile, in a letter dated June 28, 2000, former DBM Secretary Benjamin E. Diokno informed NEA Administrator Conrado M. Estrella III of the denial of the NEA request for a supplemental budget on the ground that the claims under R.A. No. 6758 which the RTC had ordered to be settled cannot be paid because Morales, et al. are not "incumbents of positions as of July 1, 1989 who are actually receiving and enjoying such benefits."[21]

Moreover, in an Indorsement dated March 23, 2000, the Commission on Audit (COA) advised NEA against making further payments in settlement of the claims of Morales, et al.. Apparently, COA had already passed upon claims similar to those of Morales, et al. in its earlier "Decision No. 95-074" dated January 25, 1995. Portions of the Indorsement read as follows:

> This Office concurs with the above view. The court may have exceeded its jurisdiction when it entertained the petition for the entitlement of the after-hired employees which had already been passed upon by this Commission in COA Decision No. 95-074 dated January 25, 1995. There, it was held that: "the adverse action of this Commission sustaining the disallowance made by the Auditor, NEA, on the payment of fringe benefits granted to NEA employees hired from July 1, 1989 to October 31, 1989 is hereby reconsidered. Accordingly, subject disallowance is lifted."
>
> Thus, employees hired after the extended date of October 31, 1989, pursuant to the above COA decision cannot defy that decision by filing a petition for mandamus in the lower court. Presidential Decree No. 1445 and the 1987 Constitution prescribe that the only mode for appeal from decisions of this Commission is on certiorari to the Supreme Court in the manner provided by law and the Rules of Court. Clearly, the lower court had no jurisdiction when it entertained the subject case of mandamus. And void decisions of the lower court can never attain finality, much less be executed. Moreover, COA was not made a party thereto, hence, it cannot be compelled to allow the payment of claims on the basis of the questioned decision.
>
> PREMISES CONSIDERED, the auditor of NEA should post-audit the disbursement vouchers on the bases of this Commission's decision particularly the above-cited COA Decision No. 94-074 [sic] and existing rules and regulations, as if there is no decision of the court in the subject special civil action for mandamus. At the same time, management should be informed of the intention of this Office to question the validity of the court decision before the Supreme Court through the Office of the Solicitor General.[22] (Emphasis ours)

Parenthetically, the records at hand do not indicate when Morales, et al. were appointed. Even the December 16, 1999 RTC Decision is vague for it merely states that they were appointed after June 30, 1989, which could mean that they were appointed either before the cut-off date of October 31, 1989 or after.[23] Thus, there is not enough basis for this Court to determine that the foregoing COA Decision No. 95-074 adversely affects Morales, et al..

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Moreover, the records do not show whether COA actually questioned the December 16, 1999 RTC Decision before this Court.

On July 18, 2000, Morales, et al. filed a Motion for an Order to Implement Writ of Execution, pointing out that the reason cited in the May 17, 2000 RTC Order for suspension of the implementation of the writ of execution no longer exists given that DBM already denied NEA's request for funding.[24] They also filed a Petition to Cite NEA Board of Administrators Mario Tiaoqui, Victoria Batungbacal, Federico Puno and Remedios Macalingcag in Contempt of Court[25] for allegedly withholding appropriations to cover their claims.

Acting first on the petition for contempt, the RTC issued a Resolution dated December 11, 2000, to wit:

> The court is aware of its order dated May 17, 2000, particularly the directive upon respondents to inform this court and the petitioners of the prospect of obtaining funds from the Department of Budget and Management within the period specified. From the comments of the respondents, it appears they did or are doing their best to secure the needed funds to satisfy the judgment sought to be enforced. In this regard, Administrative Circular No. 10-2000 of the Supreme Court provides:
> "In order to prevent possible circumvention of the rules and procedures of the Commission on Audit, judges are hereby enjoined to observe utmost caution, prudence and judiciousness in the issuance of writs of execution to satisfy money judgments against government agencies and local government units.
>
> Judges should bear in mind that in Commissioner of Public Highways v. San Diego (31 SCRA 617, 625 [1970], this Court explicitly stated:
> "The universal rule that where the State gives its consent to be sued by private parties either by general or special law, it may limit claimant's action only up to the completion of proceedings anterior to the stage of execution and the power of the court ends when the judgment is rendered, since government funds and properties may not be seized under writs of execution or garnishment to satisfy such judgment, is based on obvious considerations of public policy. Disbursements of public funds must be covered by the corresponding appropriation as required by law. The functions and public services rendered by the State cannot be allowed to be paralyzed or disrupted by the diversion of public funds from their legitimate and specific objects as appropriated by law."

Moreover, it is settled jurisprudence that upon determination of State liability, the prosecution, enforcement or satisfaction thereof must still be pursued in accordance with the rules and procedures laid down in P.D. No. 1445, otherwise known as the Government Auditing Code of the Philippines (Department of Agriculture v. NLRC, 227 SCRA 693, 701-02 [1993] citing Republic v. Villasor, 54 SCRA 84 [1973]). All money claims against the Government must "first be filed with the Commission on Audit which must act upon it within sixty days. Rejection of the claim will authorize the claimant to elevate the matter to the Supreme Court on certiorari and in effect sue the State thereby (P.D. 1445, Sections 49-50)."

WHEREFORE, foregoing considered, petition to cite respondents in contempt of court is premature, hence the same is hereby DENIED.

SO ORDERED.[26] (Emphasis ours)

Subsequently, the RTC issued an Order dated January 8, 2001, denying the Motion for an Order to Implement Writ of Execution, citing the same SC Administrative Circular No. 10-2000.

Upon a Petition for Certiorari[27] filed by Morales, et al., the CA rendered the July 4, 2002 Decision assailed herein, the decretal portion of which reads:

> WHEREFORE, the petition is hereby GRANTED. The Order dated January 8, 2001 and the Resolution of December 11, 2000 of the public respondent Judge are declared NULL and VOID.

> Accordingly, the respondent judge is directed to implement the Writ of Execution relative thereto.
>
> SO ORDERED..[28]

The CA held that NEA can no longer take shelter under the provisions of P.D. No. 1445 and SC Administrative Circular No. 10-2000 because it is a government-owned or controlled corporation (GOCC) created under P.D. No. 269, effective August 6, 1973.[29] Citing Philippine National Bank v. Court of Industrial Relations,[30] the CA held that, as such GOCC, petitioner NEA may be subjected to court processes just like any other corporation; specifically, its properties may be proceeded against by way of garnishment or levy.[31]

NEA and its Board of Directors (petitioners) immediately filed herein petition for review. It is their contention that the CA erred in directing implementation of the writ of execution on two grounds: first, execution is premature as Morales, et al. (respondents) have yet to file their judgment claim with the COA in accordance with P.D. No. 1445 and SC Administrative Circular No. 10-2000;[32] and second, execution is not feasible without DBM as an indispensable party to the petition for certiorari for it is said department which can certify that funds are available to cover the judgment claim.[33]

The petition is meritorious.

Indeed, respondents cannot proceed against the funds of petitioners because the December 16, 1999 RTC Decision sought to be satisfied is not a judgment for a specific sum of money susceptible of execution by garnishment; it is a special judgment requiring petitioners to settle the claims of respondents in accordance with existing regulations of the COA.

In its plain text, the December 16, 1999 RTC Decision merely directs petitioners to "settle the claims of [respondents] and other employees similarly situated."[34] It does not require petitioners to pay a certain sum of money to respondents. The judgment is only for the performance of an act other than the payment of money, implementation of which is governed by Section 11, Rule 39 of the Rules of Court, which provides:

> Section 11. Execution of special judgments. - When a judgment requires the performance of any act other than those mentioned in the two preceding sections, a certified copy of the judgment shall be attached to the writ of execution and shall be served by the officer upon the party against whom the same is rendered, or upon any other person required thereby, or by law, to obey the same, and such party or person may be punished for contempt if he disobeys such judgment.

Garnishment cannot be employed to implement such form of judgment. Under Section 9 of Rule 39, to wit:

> Section 9. Execution of judgments for money, how enforced. -
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> x x x x
>
> (c) Garnishment of debts and credits. - The officer may levy on debts due the judgment obligor and other credits, including bank deposits, financial interests, royalties, commissions and other personal property not capable of manual delivery in the possession or control of third parties. Levy shall be made by serving notice upon the person owing such debts or having in his possession or control such credits to which the judgment obligor is entitled. The garnishment shall cover only such amount as will satisfy the judgment and all lawful fees.

Garnishment is proper only when the judgment to be enforced is one for payment of a sum of money.

The RTC exceeded the scope of its judgment when, in its February 22, 2000 Writ of Execution, it directed petitioners to "extend to [respondents] the benefits and allowances to which they are entitled but which until now they have been deprived of as enumerated under Sec. 5 of DBM CCC No. 10 and x x x to cause their inclusion in

the Provident Fund Membership."[35] Worse, it countenanced the issuance of a notice of garnishment against the funds of petitioners with DBP to the extent of P16,581,429.00 even when no such amount was awarded in its December 16, 1999 Decision.

However, in its subsequent Orders dated May 17, 2000 and January 8, 2001, the RTC attempted to set matters right by directing the parties to now await the outcome of the legal processes for the settlement of respondents' claims.

That is only right.

Without question, petitioner NEA is a GOCC[36] -- a juridical personality separate and distinct from the government, with capacity to sue and be sued.[37] As such GOCC, petitioner NEA cannot evade execution; its funds may be garnished or levied upon in satisfaction of a judgment rendered against it.[38] However, before execution may proceed against it, a claim for payment of the judgment award must first be filed with the COA.[39]

Under Commonwealth Act No. 327,[40] as amended by Section 26 of P.D. No. 1445, it is the COA which has primary jurisdiction to examine, audit and settle "all debts and claims of any sort" due from or owing the Government or any of its subdivisions, agencies and instrumentalities, including government-owned or controlled corporations and their subsidiaries.[41] With respect to money claims arising from the implementation of R.A. No. 6758, their allowance or disallowance is for COA to decide, subject only to the remedy of appeal by petition for certiorari to this Court.[42]

All told, the RTC acted prudently in halting implementation of the writ of execution to allow the parties recourse to the processes of the COA. It may be that the tenor of the March 23, 2000 Indorsement issued by COA already spells doom for respondents' claims; but it is not for this Court to preempt the action of the COA on the post-audit to be conducted by it per its Indorsement dated March 23, 2000.

In fine, it was grave error for the CA to reverse the RTC and direct immediate implementation of the writ of execution through garnishment of the funds of petitioners,

WHEREFORE, the petition is GRANTED. The July 4, 2002 Decision of the Court of Appeals is REVERSED and SET ASIDE. The Resolution dated December 11, 2000 and Order dated January 8, 2001 of the Regional Trial Court, Branch 88, Quezon City in Special Civil Action No. Q-99-38275 are REINSTATED.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, and Nachura, JJ., concur.

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[1] Under Rule 45 of the Rules of Court; rollo, p. 7.

[2] Penned by Associate Justice Eliezer R. De Los Santos with the concurrence of Associate Justices Hilarion L. Aquino and Danilo B. Pine, id. at 18-23.

[3] Petition, id. at 9.

[4] CA Decision, id. at 18-21.

[5] The records merely state that they were appointed after June 30, 1989; RTC Decision, CA rollo, p. 24.

[6] Docketed as Special Civil Action No. Q-99-38275.

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[7] Compensation and Classification Act of 1989, effective July 1, 1989.

[8] CA rollo, p. 23.

[9] Id. at 26.

[10] Id. at 27.

[11] Id. at 28.

[12] There is no copy of this notice in the records.

[13] CA rollo, p. 29.

[14] Section 4. Fundamental principles. - Financial transactions and operations of any government agency shall be governed by the fundamental principles set forth hereunder, to wit:1. No money shall be paid out of any public treasury of depository except in pursuance of an appropriation law or other specific statutory authority; 2. Government funds or property shall be spent or used solely for public purposes; 3. Trust funds shall be available and may be spent only for the specific purpose for which the trust was created or the funds received; 4. Fiscal responsibility shall, to the greatest extent, be shared by all those exercising authority over the financial affairs, transactions, and operations of the government agency; 5. Disbursements or disposition of government funds or property shall invariably bear the approval of the proper officials; 6. Claims against government funds shall be supported with complete documentation; 7. All laws and regulations applicable to financial transactions shall be faithfully adhered to; 8. Generally accepted principles and practices of accounting as well as of sound management and fiscal administration shall be observed, provided that they do not contravene existing laws and regulations.

[15] Ordaining and Instituting a Government Auditing Code of the Philippines, approved June 11, 1978.

[16] Motion to Quash, CA rollo, p. 29.

[17] Id. at 30.

[18] Id. at 43.

[19] Id. at 44.

[20] Id. at 51

[21] Id. at 69.

[22] Id. at 71-72.

[23] Supra note 5.

[24] Id. at 52.

[25] Id. at 55.

[26] Id. at 20-21.

[27] Id. at 2.

[28] Rollo, p. 23.

[29] Id. at 21.

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[30] G.R. No. L-32667, January 31, 1978, 81 SCRA 314.

[31] Rollo, pp. 22-23.

[32] Id. at 12-14.

[33] Id. at 14-15.

[34] CA rollo, p. 26.

[35] Id. at 28.

[36] National Irrigation Administration v. Enciso, G.R. No. 142571, May 5, 2006, 489 SCRA 570, 575; National Electrification Administration v. Commission On Audit, 427 Phil. 464, 476 (2002).

[37] Section 4, P.D. No. 269 partly reads:

> Section 4. NEA Authorities, Powers and Directives. The NEA is hereby authorized, empowered and directed to promote, encourage and assist public service entities, particularly cooperatives, to the end of achieving the objective of making service available throughout the nation on an area coverage basis as rapidly as possible; and for such purpose it is hereby, without limiting the generality of the foregoing and in addition to other authorizations, powers and directives established by this Decree, specifically authorized, empowered and directed: (a) To have a continuous succession under its corporate name until otherwise provided by law; (b) To prescribe and thereafter to amend and repeal its by-laws not inconsistent with this Decree; (c) To adopt and use a seal and alter it at its pleasure; (d) To sue and to be sued in any court: Provided, That NEA shall, unless it consents otherwise, be immune to suits for acts ex delicti; (e) To make contract of every name and nature and to execute all instruments necessary or convenient for the carrying on of its business.

[38] Sison v. Florendo, A.M. OCA IPI No. 04-1901-P, February 28, 2005; National Housing Authority v. Heirs of Guivelondo, 452 Phil. 481, 495 (2003); Rizal Commercial Banking Corporation v. De Castro, G.R. No. L-34548, November 29, 1988, 168 SCRA 49, 59; Philippine Rock Industries, Inc. v. Board of Liquidators, G.R. No. 84992, December 15, 1989, 180 SCRA 171, 174-175; Philippine National Bank v. Pabalan, G.R. No. L-33112, June 15, 1978, 83 SCRA 595, 601-602; Philippine National Railways v. Court of Appeals, G.R. No. L-55347, October 4, 1985, 139 SCRA 87, 91; Philippine National Bank v. Court of Industrial Relations, supra note 30, at 318.

[39] Parreño v. Commission on Audit, G.R. No. 162224, June 07, 2007, citing Department of Agriculture v. National Labor Relations Commission, G.R. No. 104269, November 11, 1993, 227 SCRA 693, 701.

[40] An Act Fixing the Time Within Which the Auditor General Shall Render his Decisions and Prescribing the Manner of Appeal Therefrom.

[41] As implemented under Section 1, Rule II of the 1997 COA Rules of Procedure, thus:

> Section 1. General jurisdiction. - The Commission on Audit shall have the power, authority, and duty to examine, audit and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to the Government, or any of its subdivisions, agencies, or instrumentalities, including government-owned and controlled corporations with original charters, and on a post-audit basis: (a) constitutional bodies, commissions and offices that have been granted fiscal autonomy under the Constitution; (b) autonomous state colleges and universities; (c) other government-owned or controlled corporations and their subsidiaries; and (d) such non-governmental entities receiving subsidy or equity directly or indirectly, from or through the government, which are required by law or the granting institution to submit to such audit as a condition of subsidy or equity. However, where the internal control system of the audited agencies is inadequate, the Commission may adopt such measures, including temporary or special pre-audit, as are necessary and appropriate to correct the deficiencies. It shall keep the general

> accounts of the Government, and for such period as may be provided by law, preserve the vouchers and other supporting papers pertaining thereto.
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> x x x x
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> Specifically, such jurisdiction shall extend over but not limited to the following cases and matters involving: x x x Money claims due from or owing to any government agency x x x.

[42] National Electrification Administration v. Commission on Audit, supra note 36; Philippine National Bank v. Palma, G.R. No. 157279, August 9, 2005, 466 SCRA 307; Public Estates Authority v. Commission on Audit, G.R. No. 156537, January 24, 2007; Philippine Ports Authority v. Commission on Audit, G.R. No. 100773, October 16, 1992, 214 SCRA 653; Manila International Airport Authority v. Commission on Audit, G.R. No. 104217, December 5, 1994, 238 SCRA 714.

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