RAMONITO TANTOY, SR., PETITIONER, VS. HON. ZEUS C. ABROGAR, IN HIS CAPACITY AS PRESIDING JUDGE OF BRANCH 150 RTC-MAKATI CITY AND ABNER DREU, RESPONDENTS.

G.R. No. 156128. May 09, 2005

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

Assailed before us is the Decision[1] dated November 14, 2002 of the Court of Appeals in CA-G.R. SP No. 67476, dismissing the Petition for Certiorari and Prohibition below, for being moot and academic.

The present controversy stemmed from the administrative complaint filed in the Office of the Ombudsman by respondent Barangay Councilor Abner Dreu against petitioner Barangay Captain Ramonito Tantoy, Sr. The complaint was referred to the City Council of Makati, which in due course issued a Resolution[2] recommending the removal of petitioner from office. Petitioner appealed to the Office of the President, which granted the appeal and set aside the cited resolution. The City of Makati, then, moved for reconsideration on May 7, 2001.

For his part, herein respondent filed before the Regional Trial Court a Petition for Preliminary Injunction[3] on May 8, 2001 against the enforcement of the decision of the Office of the President, on the ground that there was still a pending motion for reconsideration. Initially the trial court denied the petition for lack of jurisdiction.[4] However, upon motion by respondent, the trial court reversed itself and issued a Writ of Preliminary Injunction.[5] Petitioner sought for reconsideration, but it was denied.

On October 11, 2001, the motion for reconsideration before the Office of the President was denied for lack of merit.[6] Citing the denial, petitioner filed a Motion to Dismiss and to Dissolve the Writ of Preliminary Injunction before the trial court.

However, pending action on said motion to dismiss, petitioner filed a Petition for Certiorari and Prohibition[7] before the Court of Appeals. But subsequently, the trial court lifted the order of preliminary injunction and dismissed the case based on the resolution of the Office of the President of the motion therein for reconsideration.[8] Due to this fact, the Court of Appeals dismissed the petition for being moot and academic.

Hence, this petition for review, assigning the following errors:

> - RESPONDENT JUDGE ZEUS C. ABROGAR HAD NO JURISDICTION TO ISSUE A WRIT OF PRELIMINARY INJUNCTION AGAINST THE OFFICE OF THE PRESIDENT.
>
> - THE PETITION OF PETITIONER DID NOT BECOME MOOT DESPITE THE DISMISSAL OF CIVIL CASE NO. 01-698, BECAUSE ... MEANWHILE THE VOID WRIT OF PRELIMINARY INJUNCTION WAS ENFORCED.[9]

Simply put, we are asked to resolve the issues of (1) whether the trial court has jurisdiction to issue and dissolve the writ of preliminary injunction, and (2) whether the case is already moot and academic.

Petitioner asserts that the Regional Trial Court has no jurisdiction to issue a writ of preliminary injunction against a co-equal body whose decisions are appealable to the Court of Appeals or to this Court. Petitioner avers that the trial court dismissed the case, not on the ground of lack of jurisdiction but, due to the denial by the Office of the President of the motion for reconsideration. He maintains that the issue of its lack of jurisdiction to issue a writ of preliminary injunction was never resolved.

Petitioner claims he suffered damages while the writ was in effect because he was deprived of the compensation and other benefits due him as barangay captain. Hence, the issue of the validity of the issuance of the writ must still be resolved properly to allow him to obtain redress for the injury he suffered.

On the second issue, petitioner cites Joy Mart Consolidated Corporation v. Court of Appeals,[10] and contends that the trial court could no longer dissolve the writ because the matter in dispute has already been elevated to the Court of Appeals.

On the other hand, private respondent maintains that the Regional Trial Court has jurisdiction to issue the writ of preliminary injunction because it was not issued against the Office of the President. Rather, it was against the Department of the Interior and Local Government, which was poised to enforce the decision of the Office of the President, despite the fact that there was a pending motion for reconsideration.

Respondent now counters that the instant case has already become moot and academic due to the dismissal of the civil case before the trial court and to the subsequent barangay election where petitioner lost but the herein respondent won.

A case becomes moot and academic when there is no more actual controversy between the parties or no useful purpose can be served in passing upon the merits.[11] We note that the case before the Court of Appeals was a petition for certiorari and prohibition under Rule 65, which sought to annul respondent judge's order granting the issuance of a writ of injunction. Considering that respondent judge had already lifted the writ of injunction, there is nothing left for the Court of Appeals to annul or act upon. The appellate court, then, was correct in ruling that the case had become moot and academic, notwithstanding the petitioner's claim of damages. The claim should have been directed against the injunction bond.[12]

Anent the other issue before us, the Court of Appeals was correct when it said that a finding that the trial court had no jurisdiction to issue the writ of preliminary injunction entails a ruling that the writ and all the proceedings held for that purpose are null and void.[13] Such ruling would render not only the writ of preliminary injunction without force and effect but also the injunction bond posted for the purpose, legally non-existent. Petitioner could no longer legally claim for damages against said bond. Any ruling on this issue would not serve the purpose for which this petition was filed, i.e. to claim for damages.

As to petitioner's contention that the trial court could no longer dissolve the writ because the issue has already been raised to the appellate court, his reliance on Joy Mart Consolidated Corporation v. Court of Appeals,[14] would not support his cause. In Joy Mart, the respondent was adjudged guilty of forum-shopping for filing a petition for certiorari before the Court of Appeals and a petition to dissolve writ of preliminary injunction before the trial court. In the same manner, petitioner hereby violated the rule against forum shopping, for having filed a petition for certiorari and prohibition before the Court of Appeals without waiting for the resolution of his motion to dismiss the case and to dissolve the writ filed before the trial court. It was because of his motion that the trial court lifted the writ of preliminary injunction and dismissed the case. Certainly, petitioner could not cry foul over something he himself caused.

WHEREFORE, the instant petition is DENIED. The Decision dated November 14, 2002 of the Court of Appeals

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in CA-G.R. SP No. 67476 is AFFIRMED.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

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[1] Rollo, pp. 158-162. Penned by Associate Justice Perlita J. Tria Tirona, with Associate Justices Roberto A. Barrios, and Edgardo F. Sundiam concurring.

[2] Id. at 49-50.

[3] Id. at 22-28.

[4] Id. at 88-91.

[5] Id. at 129-131.

[6] Id. at 150-152.

[7] Id. at 12-20.

[8] Id. at 153.

[9] Id. at 6.

[10] G.R. No. 88705, 11 June 1992, 209 SCRA 738, 745.

[11] Ocampo v. HRET, G.R. No. 158466, 15 June 2004, 432 SCRA 144, 150; Enrile v. Senate Electoral Tribunal, G.R. No. 132986, 19 May 2004, 428 SCRA 472, 477.

[12] Section 20, Rule 57 in relation to Section 8, Rule 58 of the Rules of Court.

[13] See Pio Barretto Realty Development Corp. v. Court of Appeals, G.R. No. 132362, 28 June 2001, 360 SCRA 127, 140 citing Chua v. Court of Appeals, G.R. No. 121438, 23 October 2000, 344 SCRA 136, 144-145.

[14] Supra, note 10.

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