

ANGELINA PAHILA-GARRIDO, PETITIONER, VS. ELIZA M. TORTOGO, LEONILA FLORES, ANANIAS SEDONIO, ADELINO MONET, ANGIE MONET, JUANITO GARCIA, ELEONOR GARCIA, BENITA MOYA, JULIO ALTARE...*G.R. No. 156358. August 17, 2011*

Ponente: BERSAMIN, J.

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Nothing is more settled in law than that once a judgment attains finality it thereby becomes immutable and unalterable.[1] The enforcement of such judgment should not be hampered or evaded, for the immediate enforcement of the parties' rights, confirmed by final judgment, is a major component of the ideal administration of justice. This is the reason why we abhor any delay in the full execution of final and executory decisions.[2] Thus, a remedy intended to frustrate, suspend, or enjoin the enforcement of a final judgment must be granted with caution and upon a strict observance of the requirements under existing laws and jurisprudence. Any such remedy allowed in violation of established rules and guidelines connotes but a capricious exercise of discretion that must be struck down in order that the prevailing party is not deprived of the fruits of victory.

Via her pleading denominated as a petition for review on certiorari, the petitioner has come directly to the Court from the Regional Trial Court (RTC), Branch 48, in Bacolod City for the nullification of the order dated November 12, 2002 (granting the respondents' application for a writ of preliminary prohibitory injunction [enjoining the execution of the final and executory decision rendered in an ejectment suit by the Municipal Trial Court in Cities [MTCC], Branch 6, in Bacolod City]) issued in SCA Case No. 01-11522[3] for being in violation of law and jurisprudence.

The petitioner also prays that the Court should enjoin the RTC from taking further proceedings in SCA Case No. 01-11522, except to dismiss it.

Antecedents

On June 23, 1997, Domingo Pahila commenced in the MTCC in Bacolod City an action for ejectment with prayer for preliminary and restraining order to evict several defendants, including the respondents herein, from his properties, docketed as Civil Case No. 23671 and raffled to Branch 6 of the MTCC. He amended the complaint to implead the spouses of some of the defendants. However, he died during the pendency of the action, and his surviving spouse, herein petitioner Angelina Pahila-Garrido, was substituted for him on September 24, 1998.

The defendants in Civil Case No. 23671 were divided into two discrete groups. The first group, represented by Atty. Romeo Subaldo, included those defendants occupying Lot 641-B-1, covered by Transfer Certificate of Title (TCT) T-167924; Lot 641-B-2, covered by TCT No. T-167925; and Lot No. 641-B-3, covered by TCT No. T-167926, all owned by the plaintiff. The defendants in this group relied on the common defense of being agricultural tenants on the land. The second group, on the other hand, was represented by Atty. Ranela de la

Fuente of the Public Attorney's Office (PAO) and counted the defendants occupying Lot No. F-V-3-3749-D, covered by TCT No. T-55630, also owned by the plaintiff. The second group's common defense was that the plaintiff's title was not valid because their respective portions were situated on foreshore land along the Guimaras Strait, and thus their respective areas were subject to their own acquisition from the State as the actual occupants.

After the parties submitted their respective position papers, the MTCC rendered a decision dated March 17, 1999 in favor of the petitioner,[4] to wit:

WHEREFORE, JUDGMENT IS RENDERED IN FAVOR OF THE PLAINTIFF AND AGAINST THE DEFENDANTS except the defendant Damiana Daguno, as follows:

- Ordering the affected defendants or any person or persons in acting in their behalf, assignees or successors-in-interests including members of their family to vacate portions of Lot No. 641-B-1 covered by TCT No. 16742, Lot No. 641-B-2 covered by TCT No. T-167926 and Lot Plan-F-V-337490-D covered by TCT No. T-55630 which they occupy and turn over the possession of the said property to the plaintiff, and to pay the cost of the suit.

The prayer for preliminary injunction/restraining order is denied for lack of basis.

All the defendants appealed. On September 22, 1999, the RTC in Bacolod City affirmed the decision of the MTCC.[5]

Only the second group, which includes respondents herein, appealed the RTC's decision to the Court of Appeals (CA), insisting that the land was foreshore land and that the petitioner's title (TCT No. 55630) was not valid. Considering that the first group did not appeal, the RTC's decision became final and executory as to them.

On December 6, 1999, the CA dismissed the second group's appeal, and later denied their motion for reconsideration on April 17, 2000.[6]

The respondents herein appealed the dismissal to the Court via a petition for certiorari (G.R. No. 143458), but the Court rejected their recourse on July 19, 2000, and issued an entry of judgment on October 20, 2000.[7]

In the meantime, on February 16, 2000, the MTCC amended its decision to correct typographical errors in the description of the properties involved.[8] None of the parties objected to or challenged the corrections.

On April 5, 2000, the MTCC issued the writ of execution upon the petitioner's motion.[9] The writ of execution was duly served on August 24, 2000 upon all the defendants, including the respondents, as the sheriff's return of service indicated.[10]

On April 20, 2001, the respondents filed a motion to quash against the April 5, 2000 writ of execution and its aliases, and a motion to stay the execution of the March 17, 1999 decision and the February 16, 2000 amended decision.[11] They anchored their motions on the supposedly supervening finding that the lot covered by the writ of execution was foreshore land belonging to the State. To support their contention, they presented the following administrative issuances from the Department of Environment and Natural Resources (DENR), namely:

(a) Memorandum dated August 30, 2000 issued by the Community Environment and National Resources Office (CENRO) of the DENR recommending the cancellation of Free Patent F.P. No. 309502 from which was derived Original Certificate of Title (OCT) No. P-1, and petitioner's TCT No. T-55630; and

(b) Memorandum dated November 13, 2000 of the DENR Regional Executive Director for Region VI in Iloilo City.

They argued that such supervening event directly affected the execution of the March 17, 1999 decision and its

amendment, whose continued execution affecting foreshore land would be unjust to the occupants or possessors of the property, including themselves.[12]

On May 4, 2001, the MTCC denied the respondents' motion to quash, observing that the cancellation of the petitioner's TCT No. T-55630 was an event that might or might not happen, and was not the supervening event that could stay the execution.[13] A month later, on June 8, 2001, the MTCC denied the respondents' motion for reconsideration,[14] viz:

As of this point in time the movant has not shown that she has a better right to possess the land she is presently occupying as a squatter, than the plaintiff who is in possession of a clean Torrens Title. It is not true that the execution of the decision of this court would be unjust to her. To put it bluntly, it would be more unjust to the plaintiff who was deprived of possession of his land for a very long time, because of the movant's insistence in occupying said land even after the decision ejecting her from the plaintiff's land had become final and executory.

In fine, the movant has not shown additional evidences or arguments which would warrant the reversal of the order dated May 4, 2001.

WHEREFORE, the motion for reconsideration dated June 1, 2001 is denied.

SO ORDERED.

The story would have ended then but for the fact that on October 1, 2001, or more than a year after the writ of execution was served upon the defendants in Civil Case No. 23671, the respondents, led by respondent Elisa M. Tortogo, and now assisted by Atty. Leon Moya, filed a petition for certiorari and prohibition (with prayer for the issuance of a writ of preliminary injunction and restraining order) in the RTC in Negros Occidental, docketed as SCA Case No. 01-11522,[15] praying:

WHEREFORE, premises considered, it is most respectfully prayed of this HONORABLE COURT that the assailed ORDERS dated 4 May 2001 and 8 July 2001 be REVERSED, ANNULLED and SET ASIDE.

PETITIONERS are further praying that after due notice and hearing, a temporary restraining order and a writ of preliminary prohibitory injunction be issued to enjoin the execution/implementation of the Decision dated 17 March 1999 and the 16 February 2000 Amended Decision.

Such other and further reliefs just and equitable under the premises.

On October 11, 2001, Judge Gorgonio J. Ybañez, to whose branch SCA Case No. 01-11522 was raffled, granted the respondents' prayer for a temporary restraining order (TRO) in the following terms,[16] to wit:

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WHEREAS, the matter of issuance or not of a TRO was summarily heard on October 5, 2001 in the presence of the parties and counsels who were both heard in support/amplification of their respective stand(s);

WHEREAS, it appears that the issuance of a TRO prayed for would be in order at this stage in this case because there appears an imminent danger of demolition of the structures of herein petitioners at the premises in question, pending the trial and final determination of the merits in this case - in this case (sic) wherein the private respondent Pahila does not appear to have prior possession of the premises in question, and, wherein although it appears that the title of the premises in question is in the name of respondent Pahila, there also is a showing that the same title may have been illegally issued;

WHEREAS, the very imminent danger of demolition may result to irreparable damage to herein petitioners, thus, the impending demolition appears to be a compelling reason for the issuance of a TRO at this stage in this

case.

NOW THEREFORE, YOU, the herein respondents, YOUR AGENTS, REPRESENTATIVES, or ANY PERSON acting for and in your behalf, are hereby ENJOINED to CEASE and DESIST from further implementing the 5 April 2000 Writ of Execution and/or any of its Aliases or any demolition order, if one might have already been issued, in civil case No. 23671, MTCC, Branch 6, Bacolod City, until further orders from this Court.

On October 25, 2002, the petitioner sought a clarificatory order,[17] moving that the TRO be vacated due to its being effective for only twenty days and because such effectivity could neither be extended nor be made indefinite. She complained that her hands had already been tied for a year from executing the decision and from availing herself of the writ of demolition; and pleaded that it was time to give her justice in order that she could already enjoy the possession of the property.

On October 30, 2002, the respondents moved for the early resolution of the case and for the issuance of the writ of prohibitory injunction.[18]

On November 12, 2002, the RTC issued the assailed writ of preliminary prohibitory injunction,[19] as follows:

NOW, THEREFORE, YOU, the herein respondents, YOUR AGENTS, REPRESENTATIVES, or any person acting for and in behalf, are hereby ENJOINED to CEASE and DESIST from further implementing the April 25, 2000 Writ of Execution and/or any of its aliases, or any demolition order, if one might have been issued already, in Civil Case No. 23671 before MTCC, Branch 6, Bacolod City, pending the hearing and final determination of the merits in this instant case, or until further orders from this Court.

xxxx

SO ORDERED.

The petitioner then directly came to the Court through her so-called "petition for review on certiorari," seeking to annul and set aside the writ of preliminary prohibitory injunction issued by the RTC pursuant to its order dated November 12, 2002. She contended that: (a) the RTC issued the writ of preliminary prohibitory injunction in a way not in accord with law or the applicable jurisprudence, because the injunction was directed at the execution of a final and executory judgment of a court of law; (b) the respondents (as the petitioners in SCA Case No. 01-11522) had no existing right to be protected by injunction, because their right and cause of action were premised on the future and contingent event that the petitioner's TCT No. T-55630 would be cancelled through a separate proceeding for the purpose; and (c) the writ of preliminary prohibitory injunction to enjoin the execution was issued long after the March 17, 1999 judgment of the MTCC had become final and executory.

Issues

The petition presents the following issues, to wit:

- a. Whether the present petition is a proper remedy to assail the November 12, 2002 order of the RTC; and
- b. Whether the RTC lawfully issued the TRO and the writ of preliminary prohibitory injunction to enjoin the execution of the already final and executory March 17, 1999 decision of the MTCC.

Ruling

We give due course to the petition as a petition for certiorari.

The RTC was guilty of manifestly grave abuse of discretion amounting to lack or excess of jurisdiction in taking cognizance of SCA Case No. 01-11522 and in issuing the TRO and the writ of preliminary prohibitory injunction

to restrain the execution of the final and executory decision of the MTCC.

I

November 12, 2002 order of the RTC is an interlocutory order that was not subject of appeal

With the petition being self-styled as a petition for review on certiorari, a mode of appeal, we have first to determine whether the assailed order of November 12, 2002 was an interlocutory or a final order. The distinction is relevant in deciding whether the order is the proper subject of an appeal, or of a special civil action for certiorari.

The distinction between a final order and an interlocutory order is well known. The first disposes of the subject matter in its entirety or terminates a particular proceeding or action, leaving nothing more to be done except to enforce by execution what the court has determined, but the latter does not completely dispose of the case but leaves something else to be decided upon.[20] An interlocutory order deals with preliminary matters and the trial on the merits is yet to be held and the judgment rendered.[21] The test to ascertain whether or not an order or a judgment is interlocutory or final is: does the order or judgment leave something to be done in the trial court with respect to the merits of the case? If it does, the order or judgment is interlocutory; otherwise, it is final.

The order dated November 12, 2002, which granted the application for the writ of preliminary injunction, was an interlocutory, not a final, order, and should not be the subject of an appeal. The reason for disallowing an appeal from an interlocutory order is to avoid multiplicity of appeals in a single action, which necessarily suspends the hearing and decision on the merits of the action during the pendency of the appeals. Permitting multiple appeals will necessarily delay the trial on the merits of the case for a considerable length of time, and will compel the adverse party to incur unnecessary expenses, for one of the parties may interpose as many appeals as there are incidental questions raised by him and as there are interlocutory orders rendered or issued by the lower court.[22] An interlocutory order may be the subject of an appeal, but only after a judgment has been rendered, with the ground for appealing the order being included in the appeal of the judgment itself.

The remedy against an interlocutory order not subject of an appeal is an appropriate special civil action under Rule 65,[23] provided that the interlocutory order is rendered without or in excess of jurisdiction or with grave abuse of discretion. Then is certiorari under Rule 65 allowed to be resorted to.[24]

II

The petition, by alleging acts constituting manifestly grave abuse of discretion, was a petition for certiorari

Without disregarding the rule that an interlocutory order cannot be the subject of appeal, the Court is constrained to treat the present recourse as a special civil action for certiorari under Rule 65.

Certiorari is a writ issued by a superior court to an inferior court of record, or other tribunal or officer, exercising a judicial function, requiring the certification and return to the former of some proceeding then pending, or the record and proceedings in some cause already terminated, in cases where the procedure is not according to the course of the common law.[25] The remedy is brought against a lower court, board, or officer rendering a judgment or order and seeks the annulment or modification of the proceedings of such tribunal, board or officer, and the granting of such incidental reliefs as law and justice may require.[26] It is available when the following indispensable elements concur, to wit:

- That it is directed against a tribunal, board or officer exercising judicial or quasi-judicial functions;
- That such tribunal, board or officer has acted without or in excess of jurisdiction or with grave abuse of

discretion; and

- That there is no appeal nor any plain, speedy and adequate remedy in the ordinary course of law.[27]

Certiorari being an extraordinary remedy, the party who seeks to avail of the same must strictly observe the rules laid down by law.[28] The extraordinary writ of certiorari may be availed of only upon a showing, in the minimum, that the respondent tribunal or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion.[29]

For a petition for certiorari and prohibition to prosper and be given due course, it must be shown that: (a) the respondent judge or tribunal issued the order without or in excess of jurisdiction or with grave abuse of discretion; or (b) the assailed interlocutory order is patently erroneous, and the remedy of appeal cannot afford adequate and expeditious relief.[30] Yet, the allegation that the tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction or with grave abuse of discretion will not alone suffice. Equally imperative is that the petition must satisfactorily specify the acts committed or omitted by the tribunal, board or officer that constitute grave abuse of discretion.

Grave abuse of discretion means such capricious or whimsical exercise of judgment which is equivalent to lack of jurisdiction.[31] To justify the issuance of the writ of certiorari, the abuse of discretion must be grave, as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and the abuse must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined, or to act at all, in contemplation of law, as to be equivalent to having acted without jurisdiction.[32]

A reading of the petition shows that the petitioner has satisfied the requirements to justify giving due course to her petition as a petition under Rule 65. She has identified therein some acts as constituting the RTC Judge's manifestly grave abuse of discretion amounting to lack or excess of jurisdiction, namely: (a) despite the final and executory nature of the judgment sought to be enjoined, the RTC still issued the TRO and, later on, the assailed writ of preliminary prohibitory injunction to enjoin the implementation of the writ of execution; (b) the RTC issued the writ of preliminary prohibitory injunction to protect the respondents' alleged right in the subject properties, but the right did not appear to be in esse; and (c) the issuance of the TRO and the writ of preliminary prohibitory injunction was in violation of the requirements imposed by Rule 58 of the Rules of Court and pertinent jurisprudence.

Did the petitioner's failure to first make a motion for reconsideration in the RTC preclude treating her petition as a petition for certiorari?

The answer is in the negative. That the petitioner did not file a motion for reconsideration in the RTC before coming to this Court did not preclude treating her petition as one for certiorari. The requirement under Section 1 of Rule 65 that there must be no appeal, or any plain or adequate remedy in the ordinary course of law admits exceptions. In *Francisco Motors Corporation v. Court of Appeals*,[33] the Court has recognized exceptions to the requirement, such as: (a) when it is necessary to prevent irreparable damages and injury to a party; (b) where the trial judge capriciously and whimsically exercised his judgment; (c) where there may be danger of a failure of justice; (d) where an appeal would be slow, inadequate, and insufficient; (e) where the issue raised is one purely of law; (f) where public interest is involved; and (g) in case of urgency. The allegations of the petition definitely placed the petitioner's recourse under most, if not all, of the exceptions.

Was the petition timely filed?

It was. The petitioner received a copy of the order dated November 12, 2002 on November 15, 2002. Pursuant to Section 4 of Rule 65,[34] she had until January 14, 2003, or 60 days from November 15, 2002, within which to

file a petition for certiorari. She filed the petition on January 2, 2003,[35] well within the period for her to do so.

We also observe that the rule that a petition should have been brought under Rule 65 instead of under Rule 45 of the Rules of Court (or vice versa) is not inflexible or rigid.[36] The inflexibility or rigidity of application of the rules of procedure is eschewed in order to serve the higher ends of justice. Thus, substance is given primacy over form, for it is paramount that the rules of procedure are not applied in a very rigid technical sense, but used only to help secure, not override, substantial justice. If a technical and rigid enforcement of the rules is made, their aim is defeated.[37] Verily, the strict application of procedural technicalities should not hinder the speedy disposition of the case on the merits.[38] To institute a guideline, therefore, the Rules of Court expressly mandates that the rules of procedure "shall be liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding." [39]

III

March 17, 1999 Decision of the MTCC, being already final and executory, could not be assailed; nor could its execution be restrained

The respondents elevated to the Court the CA decision dated December 6, 1999 and resolution dated April 17, 2000 via a petition for certiorari (G.R. No. 143458 entitled *Damiana Daguno, et al. v. Court of Appeals, et al.*) The Court dismissed the petition on July 19, 2000, and the dismissal became final and executory on October 20, 2000 because the respondents did not timely file a motion for reconsideration. Consequently, the MTCC rightly issued the writ of execution on April 5, 2000. Based on the sheriff's return of service, the writ of execution was duly served upon all the defendants.

Under the circumstances, the principle of immutability of a final judgment must now be absolutely and unconditionally applied against the respondents. They could not anymore be permitted to interminably forestall the execution of the judgment through their interposition of new petitions or pleadings.[40] Even as their right to initiate an action in court ought to be fully respected, their commencing SCA Case No. 01-11522 in the hope of securing a favorable ruling despite their case having been already fully and finally adjudicated should not be tolerated. Their move should not frustrate the enforcement of the judgment, the fruit and the end of the suit itself. Their right as the losing parties to appeal within the prescribed period could not defeat the correlative right of the winning party to enjoy at last the finality of the resolution of her case through execution and satisfaction of the judgment, which would be the life of the law.[41] To frustrate the winning party's right through dilatory schemes is to frustrate all the efforts, time and expenditure of the courts, which thereby increases the costs of litigation. The interest of justice undeniably demanded that we should immediately write *finis* to the litigation, for all courts are by oath bound to guard against any scheme calculated to bring about the frustration of the winning party's right, and to stop any attempt to prolong controversies already resolved with finality.[42]

It is true that notwithstanding the principle of immutability of final judgments, equity still accords some recourse to a party adversely affected by a final and executory judgment, specifically, the remedy of a petition to annul the judgment based on the ground of extrinsic fraud and lack of jurisdiction, or the remedy of a petition for relief from a final order or judgment under Rule 38 of the Rules of Court.[43] He may also have a competent court stay the execution or prevent the enforcement of a final judgment when facts and circumstances that render execution inequitable or unjust meanwhile transpire;[44] or when a change in the situation of the parties can warrant an injunctive relief.[45]

Neither of such remaining equitable remedies is available anymore to the respondents, however, for the time for such remedies is now past. Indeed, it is now high time for the respondents to bow to the judgment, and to accept

their fate under it.

IV

Issuance of TRO and writ of preliminary prohibitory

injunction is patently without basis and violated the requirements of the

Rules of Court and jurisprudence

At this juncture, we find and declare that the RTC Judge's issuance of the assailed order dated November 12, 2002 granting the respondents' application for the writ of preliminary prohibitory injunction constituted manifestly grave abuse of discretion.

A.

Respondents had no existing right violated

by the implementation of the writ of execution

Generally, injunction, being a preservative remedy for the protection of substantive rights or interests, is not a cause of action in itself but merely a provisional remedy, an adjunct to a main suit. It is resorted to only when there is a pressing necessity to avoid injurious consequences that cannot be redressed under any standard of compensation. The controlling reason for the existence of the judicial power to issue the writ of injunction is that the court may thereby prevent a threatened or continuous irremediable injury to some of the parties before their claims can be thoroughly investigated and advisedly adjudicated. The application for the writ rests upon an alleged existence of an emergency or of a special reason for such an order to issue before the case can be regularly heard, and the essential conditions for granting such temporary injunctive relief are that the complaint alleges facts that appear to be sufficient to constitute a cause of action for injunction and that on the entire showing from both sides, it appears, in view of all the circumstances, that the injunction is reasonably necessary to protect the legal rights of plaintiff pending the litigation.[46]

A writ of preliminary injunction is an extraordinary event and is the strong arm of equity or a transcendent remedy. It is granted only to protect actual and existing substantial rights. Without actual and existing rights on the part of the applicant, and in the absence of facts bringing the matter within the conditions for its issuance, the ancillary writ must be struck down for being issued in grave abuse of discretion. Thus, injunction will not issue to protect a right not in esse, which is merely contingent, and which may never arise, or to restrain an act which does not give rise to a cause of action.[47]

Here, the respondents did not establish the existence of an actual right to be protected by injunction. They did not, to begin with, hold any enforceable claim in the property subject of the MTCC decision and of the writ of execution. The Memoranda and investigative report, whereby the DENR appeared to classify the property as foreshore land, conferred upon the respondents no interest or right in the land. Under all circumstances, the classification was not a supervening event that entitled them to the protection of the injunctive relief. Their claim to any right as of then was merely contingent, and was something that might not even arise in the future. Simply stated, they could not lay proper claim to the land before the State has taken a positive act of first properly classifying the land as foreshore land and the courts have first conclusively determined and adjudged the ownership in their favor in a suit brought for the purpose. Without the State's positive act of classification and the courts' adjudication, all that the respondents had was an inchoate expectation that might not at all materialize, especially if we consider that the petitioner was already the registered owner of the same property, as evidenced by her existing and valid transfer certificate of title covering the land (a fact that they themselves admitted and acknowledged),[48] for which she enjoyed the indefeasibility of a Torrens title.[49]

Presumably well aware that the respondents held absolutely no valid and existing right in the land, the RTC Judge had plainly no factual and legal bases for enjoining the enforcement of the writ of execution through the TRO and

the writ of preliminary injunction. He obviously acted arbitrarily and whimsically, because injunction protected only an existing right or actual interest in property. Thus, he was guilty of committing manifestly grave abuse of discretion, and compounded his guilt by stopping the enforcement of a final and executory decision of the MTCC.

B.

TRO and writ of preliminary prohibitory injunction were wrongfully issued for an indefinite period

We further note that the RTC Judge expressly made the TRO effective until further orders from him. He thereby contravened explicit rules of procedure. He knowingly did so, considering that he thereby disregarded the nature and purpose of the TRO as a temporary and limited remedy, instead of a permanent and unrestricted relief. He disregarded Section 5, Rule 58 of the Rules of Court, which expressly stated that the life span of a TRO was only 20 days from service of the TRO on the party or person sought to be enjoined. Considering that the limited life span of a TRO was a long-standing and basic rule of procedure, he consciously arrogated unto himself a power that he did not have. Ignoring a rule as elementary as the 20-day life span of a TRO amounted to gross ignorance of law and procedure. His violation is seemingly made worse by the fact that he thereby usurped the authority of the Court as the only court with the power to issue a TRO effective until further orders.[50]

Due to its lifetime of only 20 days from service on the party or person to be enjoined, the TRO that the RTC Judge issued automatically expired on the twentieth day without need of any judicial declaration to that effect. Yet, by making the TRO effective until further orders, he made the effectivity of the TRO indefinite. He thus took for granted the caution that injunction, as the strong arm of equity,[51] should not be routinely or lightly granted. Again, restraint was required of him, for the power to issue injunctions should be exercised sparingly, with utmost care, and with great caution and deliberation. The power is to be exercised only where the reason and necessity therefor are clearly established, and only in cases reasonably free from doubt.[52] For, it has been said that there is no power the exercise of which is more delicate, requires greater caution and deliberation, or is more dangerous in a doubtful case, than the issuing of an injunction.[53]

WHEREFORE, we GRANT the petition for certiorari.

We NULLIFY and SET ASIDE the writ of preliminary prohibitory injunction issued on November 12, 2002 for being devoid of legal and factual bases; and DIRECT the Regional Trial Court, Branch 48, in Bacolod City to dismiss SCA Case No. 01-11522.

Presiding Judge Gorgonio J. Ybañez of the Regional Trial Court, Branch 48, in Bacolod City is ORDERED TO SHOW CAUSE in writing within ten days from notice why he should not be administratively sanctioned for gross ignorance of the law and procedure for his manifest disregard of the prohibition under the Rules of Court against unwarranted restraining orders and writs of injunction, and for issuing a temporary restraining order effective until furthurs of the court.

Costs of suit to be paid by the respondents.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Del Castillo, and Villarama, Jr., JJ., concur.

[1] Gallardo-Corro v. Gallardo, G.R. No. 136228, January 30, 2001, 350 SCRA 568.

[2] Session Delights Ice Cream and Fast Foods v. Court of Appeals (Sixth Division), G.R. No. 172149, February 8, 2010, 612 SCRA 10.

[3] Entitled Elisa M. Tortogo, et al. v. Hon. Eliseo C. Geolingo, in his capacity as the Presiding Judge of Branch 6, Municipal Trial Court in Cities, Bacolod City, Nicolas G. Albayda, in his capacity as Deputy Sheriff of Branch 6, Municipal Trial Court in Cities, Bacolod City, and Domingo Pahila, as represented by Angelina Pahila-Garrido.

[4] Rollo, pp. 32-51.

[5] Id., p. 58.

[6] Id., pp. 55-56.

[7] Id., p. 57.

[8] Id., pp. 52-54.

[9] Id., pp. 58-60.

[10] Id., pp. 61-64.

[11] Id., pp. 67-69.

[12] Id., p. 68.

[13] Id., pp. 71-72.

[14] Id., pp. 73-75.

[15] Id., pp. 76-91.

[16] Id., pp. 92-93.

[17] Id., pp. 94-95.

[18] Id., pp. 96-97.

[19] Id., pp. 99-100.

[20] Tan v. Republic, G.R. No. 170740, May 25, 2007, 523 SCRA 203, 210-211.

[21] See Miranda v. Court of Appeals, G.R. No. L-33007, June 18, 1976, 71 SCRA 295.

[22] United Overseas Bank (formerly Westmont Bank) v. Judge Ros, G.R. No. 171532, August 7, 2007, 529 SCRA 334; citing Rudecon Management Corporation v. Singson, G.R. No. 150798, 31 March 2005, 454 SCRA 612, 629; also, Sitchon v. Sheriff of Occidental Negros, 80 Phil. 397, 399 (1948).

[23] Section 1, Rule 41, Rules of Court, pertinently states:

Section 1. Subject of appeal.--An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

No appeal may be taken from:

x x x

(c) An interlocutory order;

x x x

In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65. (emphasis supplied)

- [24] 1 F. Regalado, Remedial Law Compendium 540 (8th revised ed.).
- [25] I Bouvier's Law Dictionary, Third Rev., p. 442.
- [26] Sec. 1, Rule 65, 1997 Rules of Civil Procedure.
- [27] Gelindon v. Judge Dela Rama, G.R. No. 105072, December 9, 1993, 228 SCRA 322; Tan vs. Director of Forestry, G.R. No. L-24548, October 27, 1983, 125 SCRA 302, 322; Cochingyan, Jr. v. Cloribel, G.R. No. L-27070-71, April 22, 1977, 76 SCRA 361.
- [28] Manila Midtown Hotels & Land Corp. v. NLRC, G. R. No. 118397, March 27, 1998, 288 SCRA 259, 265.
- [29] Camacho v. Coresis, Jr., G.R. No. 134372, August 22, 2002, 387 SCRA 628.
- [30] Investments, Inc. v. Court of Appeals, G.R. No. 60036, January 27, 1987, 147 SCRA 334.
- [31] Feliciano v. Villasin, G.R. No. 174929, June 27, 2008, 556 SCRA 348; Uy v. Office of the Ombudsman, G.R. Nos. 156399-400, June 27, 2008, 556 SCRA 73.
- [32] Vergara v. Ombudsman, G.R. No. 174567, March 12, 2009, 580 SCRA 693; Nationwide Security and Allied Services, Inc. v. Court of Appeals, G.R. No. 155844, 14 July 2008, 558 SCRA 148.
- [33] G.R. Nos. 117622-23, October 23, 2006, 505 SCRA 8; see also Cervantes v. Court of Appeals, G.R. No. 166755, November 18, 2005, 475 SCRA 562; Flores v. Sangguniang Panlalawigan of Pampanga, G.R. No. 159022, February 23, 2005, 452 SCRA 278, 282; Acance v. Court of Appeals, G.R. No. 159699, March 16, 2005, 453 SCRA 548, 558-559.
- [34] Section 4. When and where position filed. - The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case of a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be counted from notice of the denial of said motion. x x x
- [35] Rollo, pp.19-20.
- [36] See, e.g., Salinas v. National Labor Relations Commission, G.R. No. 114671, November 24, 1999, 319 SCRA 54.
- [37] Ramiscal, Jr. v. Sandiganbayan, G. R. Nos. 140576-99, December 13, 2004, 446 SCRA 166; citing Salazar v. NLRC, G.R. No. 109210, April 17, 1997, 256 SCRA 273.
- [38] Caraan v. Court of Appeals, G.R. No. 124516, April 24, 1998, 289 SCRA 579.
- [39] Section 6, Rule 1, Rules of Court.
- [40] Bongcac v. Sandiganbayan, G.R. No. 156687-88, May 21, 2009, 588 SCRA 64.
- [41] Yau v. Silverio, Sr., G.R. Nos. 158848 and 171994, February 4, 2008, 543 SCRA 520.
- [42] Lim v. Jabalde, G.R. No. 36786, April 17, 1989, 172 SCRA 211, 224; citing Banogon v. Serna, G.R. No. L-35469, October 9, 1987, 154 SCRA 573.
- [43] Salting v. Velez and Velez, G.R. No. 181930, January 10, 2011.
- [44] Bachrach Corporation v. Court of Appeals, G.R. No. 128349, September 25, 1998, 296 SCRA 487, citing Lee v. De Guzman, Jr., G.R. No. 90926, July 6, 1990, 187 SCRA 276.

[45] *Bachrach Corporation v. Court of Appeals*, id.; citing *Luna v. Intermediate Appellate Court*, G.R. No. L-68374, June 18, 1985, 137 SCRA 7; *Heirs of Pedro Guminpin v. Court of Appeals*, G.R. No. L-34220, February 21, 19883, 120 SCRA 687.

[46] *Del Rosario v. Court of Appeals*, G.R. No. 115106, March 15, 1996, 255 SCRA 152, 158.

[47] 43 CJS Injunctions § 18.

[48] *Rollo*, p. 382.

[49] *Ugale v. Gorospe*, G.R. No. 149516, September 11, 2006, 501 SCRA 376; *Seville v. National Development Company*, G.R. No. 129401, February 2, 2000, 351 SCRA 112; *De Pedro v. Romasan Development Corp.*, G.R. No. 158002, February 28, 2005, 452 SCRA 564, 575.

[50] Section 5, Rule 58, 1997 Rules on Civil Procedure.

[51] 43 CJS Injunctions § 2; citing *Anderson v. Smith*, 8 Alaska 470; *Miollis v. Schneider*, 222 N. E. 2d 715, 77 Ill. App. 2d 420; *Triangle Sign Co. v. Randolph & State Property, Inc.*, 147 N. E. 2d 451, 16 Ill. App. 2d 21; *Arthur Murray Dance Studios of Cleveland v. Witter, Com. Pl.*, 105 N. E. 2d 685.

[52] 43 CJS Injunctions § 15.

[53] *Detroit Newspaper Publishers Association v. Detroit Typgraphical Union No. 18*, Intern. Typographical Union, C. A. Mich., 471 F. 2d 872; *Ancora-Citronelle Corp. v. Green*, 115 Cal. Rptr., 879, 41 C. A. 3d 16; *Mallon v. City of Long Beach*, 330 P. 2d 423, 164 C. a. 2d 178.

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