

BACOLOD CITY WATER DISTRICT, PETITIONER, VS. THE HON. EMMA C. LABAYEN, PRESIDING JUDGE, RTC OF BACOLOD CITY, BR. 46 AND THE CITY OF BACOLOD, RESPONDENTS.

G.R. No. 157494. December 10, 2004

Ponente: PUNO, J.

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PUNO, J.:

First, the chronology of facts. Petitioner Bacolod City Water District (BACIWA) is a water district established pursuant to Presidential Decree No. 198 as a government-owned and controlled corporation with original charter. It is in the business of providing safe and potable water to Bacolod City.

Public respondent City of Bacolod is a municipal corporation created by Commonwealth Act No. 326, otherwise known as the Charter of Bacolod.

On March 26, 1999, respondent City filed a case for Injunction With a Prayer for Temporary Restraining Order And/Or Preliminary Mandatory Injunction against petitioner in the sala of public respondent judge. The petition stated that on January 15, 1999, BACIWA published in the Visayan Daily Star,[1] a local paper of general circulation, a Schedule of Automatic Water Rates Adjustments for the years 1999, 2000 and 2001. The rates were supposed to take effect seven (7) days after its posting in the local papers or on January 22, 1999. The increase was aborted after petitioner unilaterally suspended the January 22, 1999 scheduled implementation. On March 15, 1999, however, petitioner announced that the rate hike will be implemented on April 1, 1999. [2]

Respondent City opposed. It alleged that the proposed water rates would violate due process as they were to be imposed without the public hearing required under Letter of Instructions No. 700[3] and Presidential Decree No. 1479.[4] Hence, it prayed that before the hearing of the main case, a temporary restraining order or a preliminary injunction be issued.[5]

On March 30, 1999, the court a quo issued an Order[6] summoning the parties with their counsels to attend the preliminary hearing for the issuance of a temporary restraining order or preliminary mandatory injunction. On April 8, 1999, it required the parties to simultaneously submit their respective memoranda on whether it had jurisdiction over the case and whether a public hearing was conducted re the proposed increase in water rates.[7]

Petitioner filed its Position Paper dated April 15, 1999. It attached documents evidencing the conduct of extensive and lengthy public hearings in fifty-eight (58) of the sixty-one (61) barangays of Bacolod City. It opined that original jurisdiction over cases on rate review is vested in the Local Water Utilities Administration (LWUA); appellate jurisdiction is vested in the National Water Resources [Board] (NWRB) whose decisions shall be appealable to the Office of the President.[8]

On May 5, 1999, petitioner also filed a Motion to Dismiss. In an Order[9] dated May 7, 1999, the court directed respondent City to file its Opposition to petitioner's Motion to Dismiss within fifteen (15) days.

On June 17, 1999, respondent City filed a Motion to Set [for] Hearing[10] its application for a temporary

restraining order or preliminary mandatory injunction. It alleged that the parties had already submitted their respective memoranda and it has already submitted its Opposition to petitioner's Motion to Dismiss. It also alleged that petitioner had already effected the water rates increase and collection, hence, causing irreparable injury to the public.

Petitioner opposed the Motion. On July 20, 1999, respondent City filed its Reply to Opposition and reiterated that the application for the issuance of a temporary restraining order or preliminary mandatory injunction be heard since petitioner continued to violate the right of the public to due process and it might take time before the case would be finally resolved.[11] On the same date, petitioner filed a Manifestation and Motion[12] stating that the hearing may no longer be necessary as the respective positions of both parties have already been presented and amplified in their pleadings and memoranda.

On July 22, 1999, respondent trial court issued an Order[13] stating that there was no more need to hear the case on the merits[14] as both parties have already submitted their position papers and documents to prove their respective allegations.

On July 23, 1999, petitioner filed its Reply[15] to respondent City's Opposition to the Motion to Dismiss reiterating that petitioner failed to exhaust administrative remedies provided by law hence the petition be dismissed for utter lack of merit.

After a hiatus of nearly seven (7) months, or on February 18, 2000, respondent City filed an Urgent Motion for the Issuance of Temporary Restraining Order And[/]Or Writ of Preliminary Injunction[16] praying that the case be set for hearing on February 24, 2000. On the same date requested, respondent court heard respondent's application for temporary restraining order and issued an Order[17] commanding petitioner to stop, desist and refrain from implementing the proposed water rates for the year 2000 which were then supposed to take effect on March 1, 2000.

On March 7, 2000, petitioner filed an Urgent Motion for Reconsideration and Dissolution of the Temporary Restraining Order.[18] Respondent court a quo issued on March 10, 2000 an Order[19] directing respondent City to file an Opposition to the Urgent Motion. In its Opposition, respondent City[20] contended that the temporary restraining order issued was not infirmed with procedural and substantive defects. It also averred that respondent court has jurisdiction over the case since the sole question of the lack of public hearing does not require the special knowledge or expertise of an administrative agency and may be resolved by respondent court, hence the doctrine of primary jurisdiction does not apply.

Respondent court continued with the proceedings by receiving the evidence of petitioner in support of its Motion for Reconsideration and Dissolution of Temporary Restraining Order. It further issued Orders dated March 17, 2000[21] and March 20, 2000.[22]

On April 6, 2000, respondent court issued an Order[23] finding petitioner's Urgent Motion for Reconsideration and Dissolution of Temporary Restraining Order moot and academic considering petitioner's compliance of said temporary restraining order.

Four (4) days after, in an Order[24] dated April 10, 2000, it denied petitioner's Motion to Dismiss for lack of merit.

On April 19, 2000, respondent City filed a Manifestation praying that respondent trial court issue a writ of preliminary injunction against petitioner, stating thus:

A Temporary Restraining Order was issued against the respondents which, however, expired before the parties

were able to finish the presentation of their respective witnesses and evidences;

The instant case was submitted for resolution and decision of this Honorable Court during the last week of March but while awaiting the decision of this Honorable Court, several complaints had reached the petitioner that the respondents had already reflected in the water billings for the month of April the new water rates for the year 2000;

x x x [25]

Petitioner, for its part, filed a Motion for Reconsideration[26] of respondent trial court's Order denying its Motion to Dismiss. Respondent City filed an Opposition to [the] Motion for Reconsideration[27] on June 1, 2000.

Respondent court did not act upon petitioner's Motion for Reconsideration until respondent City filed an [Ex Parte] Motion for Speedy Resolution[28] of the case on October 6, 2000 praying that the case be resolved before the year 2000 ends in order to prevent the implementation of the water rates increase for the year 2001 which was to be imposed allegedly without the benefit of a public hearing.

On December 21, 2000, respondent court issued the assailed Decision[29] granting the final injunction which allegedly confirmed the previous preliminary injunction.

Petitioner filed its Motion for Reconsideration[30] of the assailed Decision on January 11, 2001 asserting, among others, that the case was not yet ripe for decision when the court granted the final injunction, the petitioner having had no opportunity to file its answer, avail of the mandatory pre-trial conference and have the case tried on the merits.

Respondent court denied the Motion for Reconsideration for lack of merit in an Order[31] dated January 24, 2001. Petitioner then filed a special civil action for certiorari under Rule 65 in the Court of Appeals. It alleged that public respondent judge acted without or in excess of jurisdiction and/or with grave and patent abuse of discretion amounting to lack or excess of jurisdiction when she issued the final injunction in disregard of petitioner's basic right to due process.[32]

The Court of Appeals dismissed the petition for review on certiorari, ratiocinating thus:

In the case at bar, the [O]rder of public respondent dated 24 February 2000, though termed by BACIWA as a temporary restraining order, is in fact a preliminary injunction. The period of the restraint was not limited. By its wordings, it can be safely inferred that the increased water rates must not be effected until final disposition of the main case. This note of semi-permanence simply cannot issue from a mere temporary restraining order. It must be further noted that the temporary restraining order has been elevated to the same level as the preliminary injunction in the procedure, grounds and requirements of its obtention by S[ection] 4, Rule 58. Thus, to set [a] distinction, the present practice is to categorically refer to it as a temporary restraining order. In which case, the omission by the public respondent in referring to the 24 February 2000 order as a temporary restraining order could not have been a mere oversight but deliberate.[33]

Resorting to this Court, petitioner raises the following issues:

I

THE COURT OF APPEALS GRAVELY ERRED WHEN IT FAILED AND REFUSED TO RULE THAT RESPONDENT COURT HAD ACTED WITHOUT OR IN EXCESS OF JURISDICTION AND/OR WITH GRAVE ABUSE OF DISCRETION FOR ARBITRARILY AND CAPRICIOUSLY RENDERING A DECISION PURPORTING TO ISSUE A FINAL INJUNCTION AND CONFIRMING ITS ALLEGED PRELIMINARY INJUNCTION, DESPITE THE FACT THAT:

- NO PRELIMINARY INJUNCTION HAD BEEN ISSUED;
- THE RESPONDENT LOWER COURT DID NOT RESOLVE HEREIN PETITIONER'S MOTION FOR RECONSIDERATION OF THE ORDER DENYING PETITIONER'S MOTION TO DISMISS;
- THE HEREIN PETITIONER HAD NOT YET FILED ITS ANSWER TO THE PETITION;
- THERE WAS STILL NO JOINDER OF THE ISSUES SINCE NO ANSWER HAD YET BEEN FILED;
- THE MANDATORY PRE-TRIAL CONFERENCE WAS NOT YET CONDUCTED;
- THERE WAS NO TRIAL ON THE MERITS FOR THE MAIN CASE.

II

THE COURT OF APPEALS GRAVELY ERRED WHEN IT INSISTED THAT THE 24 FEBRUARY 2000 ORDER (ANNEX R) ISSUED BY THE TRIAL COURT WAS A PRELIMINARY INJUNCTION WHEN THE RECORDS CLEARLY AND INDUBITABLY SHOW THAT IT WAS A TEMPORARY RESTRAINING ORDER (TRO).

III

BY DISMISSING THE PETITION FOR CERTIORARI, THE COURT OF APPEALS GRAVELY ERRED WHEN IT EFFECTIVELY PREVENTED PETITIONER FROM FULLY VENTILATING ITS CASE IN THE MAIN ACTION DUE TO THE IRREGULAR AND CONFUSED PROCEEDINGS CONDUCTED BY THE RESPONDENT COURT.[34]

We rule in favor of petitioner.

The initial issue is the proper characterization of the Order dated February 24, 2000.

The sequence of events and the proceedings that transpired in the trial court make a clear conclusion that the Order issued was a temporary restraining order and not a preliminary injunction.

First. We quote the pertinent parts of the questioned Order:

x x x

When this motion was called for hearing wherein both parties have argued exhaustedly their respective sides, this court denied the ten (10) days extension for further amplification of the arguments of the respondent to oppose the said motion for issuance of a temporary restraining order.

It appearing therefore, that the acts of the defendant will actually affect the plaintiff before the decision of this court can be rendered and in order to afford the court to pass on the issues without the same becoming moot and academic and considering the urgency of the matter that immediate action should be taken, and pursuant to Administrative Circular No. 6, Paragraph 4 and sub-paragraph 15 and The Interim Rules and Guidelines [set forth] by the Rules of Court, this court hereby orders the respondent[,], its agents, representatives or any person acting in his behalf to stop, desist and refrain from implementing in their billings the new water rate increase which will start on March 1, 2000. The Deputy Provincial Sheriff of this court is hereby ordered to furnish copy of this order to the respondent Bacolod City Water District as well as to its agents or representatives acting [o]n his behalf.

x x x [35] (emphases supplied)

It can be gleaned from the afore-quoted Order that what the trial court issued was a temporary restraining order

and not a preliminary injunction. The trial court has always referred to it as a temporary restraining order in the succeeding Orders it issued on March 10, 2000[36] and April 6, 2000.[37]

The parties, in their succeeding pleadings,[38] also referred to the assailed Order as a temporary restraining order. The petitioner filed an Urgent Motion for Reconsideration and Dissolution of Temporary Restraining Order (TRO)[39] on March 1, 2000. This was opposed by respondent City itself in its Opposition to Motion for Reconsideration and Dissolution of Temporary Restraining Order (TRO)[40] dated March 14, 2000. Further, respondent City, in its Manifestation dated April 19, 2000 stated, viz:

x x x

A Temporary Restraining Order was issued against the respondents which, however, expired before the parties were able to finish the presentation of their respective witnesses and evidences;

x x x

WHEREFORE, it is most respectfully prayed that while waiting for the decision and order of the Honorable Court, a preliminary injunction as prayed for in the petition be issued against the respondents.

x x x[41] (emphases supplied)

It can be gleaned from the foregoing that both parties and respondent trial court have consistently referred to the directive as a temporary restraining order. It was only in the respondent court's assailed Decision that the Order was referred to as a preliminary injunction, viz:

x x x

This Court therefore grants the final injunction prayed for restraining the respondent from the commission of the act complained of for the year 2001 and hereby confirming the preliminary injunction previously ordered.

x x x [42] (emphasis supplied)

Again, it was only when petitioner expressed its vehement objection on the ruling that the final injunction confirmed the preliminary injunction previously issued, when the respondent City and the respondent trial court started to insist that the questioned Order was a preliminary injunction. Given the previous undeviating references to it as a temporary restraining order, respondents cannot now consider it as a preliminary injunction to justify the validity of the assailed Decision. The attendant facts and circumstances clearly show that the respondent trial court issued a temporary restraining order.

Second. Injunction is a judicial writ, process or proceeding whereby a party is ordered to do or refrain from doing a certain act. It may be the main action or merely a provisional remedy for and as an incident in the main action.[43]

The main action for injunction is distinct from the provisional or ancillary remedy of preliminary injunction which cannot exist except only as part or an incident of an independent action or proceeding. As a matter of course, in an action for injunction, the auxiliary remedy of preliminary injunction, whether prohibitory or mandatory, may issue. Under the law, the main action for injunction seeks a judgment embodying a final injunction which is distinct from, and should not be confused with, the provisional remedy of preliminary injunction, the sole object of which is to preserve the status quo until the merits can be heard.[44] A preliminary injunction is granted at any stage of an action or proceeding prior to the judgment or final order. It persists until it is dissolved or until the termination of the action without the court issuing a final injunction.[45]

A restraining order, on the other hand, is issued to preserve the status quo until the hearing of the application for

preliminary injunction which cannot be issued ex parte. Under Rule 58[46] of the Rules of Court, a judge may issue a temporary restraining order with a limited life of twenty (20) days from date of issue. If before the expiration of the twenty (20)-day period the application for preliminary injunction is denied, the temporary restraining order would be deemed automatically vacated. If no action is taken by the judge on the application for preliminary injunction within the said twenty (20) days, the temporary restraining order would automatically expire on the 20th day by the sheer force of law, no judicial declaration to that effect being necessary.[47]

Hence, in the case at bar, since no preliminary injunction was issued, the temporary restraining order granted automatically expired after twenty (20) days under the Rules. The fact that respondent court merely ordered “the respondent[,] its agents, representatives or any person acting in his behalf to stop, desist and refrain from implementing in their billings the new water rate increase which will start on March 1, 2000”[48] without stating the period for the restraint does not convert the temporary restraining order to a preliminary injunction.

The rule against the non-extendibility of the twenty (20)-day limited period of effectivity of a temporary restraining order is absolute if issued by a regional trial court. The failure of respondent court to fix a period for the ordered restraint did not lend the temporary restraining order a breath of semi-permanence which can only be characteristic of a preliminary injunction. The twenty (20)-day period provided by the Rules of Court should be deemed incorporated in the Order where there is an omission to do so. It is because of this rule on non-extendibility that respondent City was prompted to move that hearings be set for its application of a preliminary injunction. Respondent City cannot take advantage of this omission by respondent trial court.

Third. Even if we assume that the issued Order was a preliminary injunction, petitioner is correct in contending that the assailed Decision is premature.

The records reveal that respondent court did not resolve petitioner’s Motion for Reconsideration of the Order denying its Motion to Dismiss before it issued the assailed Decision. Consequently, there was no answer filed by petitioner, no joinder of issues, no mandatory pre-trial conference, and no trial on the merits, yet, a Decision was handed down by the respondent trial court.

The short circuiting of the procedural process denied the petitioner due process of law. It was not able to allege its defenses in an answer and prove them in a hearing. The convoluted procedure allowed by the respondent trial court and the pleadings filed by the parties which are not models of clarity certainly created confusion. But this confusion should not be seized as a reason to deny a party the constitutional right to due process. Over and above every desideratum in litigation is fairness. All doubts should be resolved in favor of fairness.

IN VIEW WHEREOF, the petition is GRANTED. The Decision and Resolution of the Court of Appeals dated November 27, 2002 and February 28, 2003, respectively, are REVERSED and SET ASIDE. The case is remanded to the court a quo for further proceedings.

SO ORDERED.

Austria-Martinez, Callejo, Sr., Tinga, and Chico-Nazario, JJ., concur.

[1] CA Rollo, p. 44.

[2] Id. at 39-40; Petition, pp. 2-3.

[3] Providing Measures to Continue and Regulate Increases in Water Rates, issued on June 1, 1978 by then President Ferdinand E. Marcos.

[4] Further Amending P.D. No. 198, Otherwise Known as the Provincial Water Utilities Act of 1973, As Amended by P.D. No. 768.

[5] Id. at 42; Id. at 5.

[6] Id. at 50.

[7] Id. at 51.

[8] Id. at 55-57.

[9] Id. at 87.

[10] Id. at 88.

[11] Id. at 90-91.

[12] Id. at 92-94.

[13] Id. at 95.

[14] Emphasis supplied.

[15] Id. at 96-100.

[16] Id. at 102-105.

[17] Id. at 107.

[18] Id. at 108-119.

[19] Id. at 120.

[20] Id. at 121-130.

[21] Id. at 131. The Order directed the issuance of subpoenas to four (4) barangay captains of Bacolod City.

[22] Id. at 132. The Order reset the hearing for the presentation of rebuttal evidence.

[23] Id. at 133.

[24] Id. at 134-135.

[25] Id. at 136-137.

[26] Rollo, pp. 175-181.

[27] CA Rollo, pp. 139-142.

[28] Id. at 143-144.

[29] Rollo, pp. 87-96.

[30] Id. at 188-200.

[31] CA Rollo, p. 37.

[32] Id. at 2-3; Petition for Certiorari, pp. 1-2.

[33] Rollo, pp. 77-78.

[34] Id. at 42-43; Petition for Review on Certiorari, pp. 14-15. Petitioner did not raise the issue of jurisdiction in the instant petition.

[35] Id. at 143.

[36] CA Rollo, p. 120.

[37] Id. at 133.

[38] Rollo, pp. 144-155, Urgent Motion for Reconsideration and Dissolution of Temporary Restraining Order; pp. 157-166, Opposition to Motion for Reconsideration and Dissolution of Temporary Restraining Order (TRO).

[39] Emphasis supplied.

[40] Emphasis supplied.

[41] Rollo, pp. 172-174.

[42] Id. at 96.

[43] I Regalado, REMEDIAL LAW COMPENDIUM 637 (1999).

[44] Urbanes, Jr. v. CA, G.R. No. 117964, March 28, 2001, 355 SCRA 537.

[45] Miriam College Foundation, Inc. v. CA, G.R. No. 127930, December 15, 2000, 348 SCRA 265.

[46] RULE 58, SECTION 1. Preliminary Injunction defined; classes. – A preliminary injunction is an order granted at any stage of an action or proceeding prior to the judgment or final order, requiring a party or a court, agency or a person to refrain from a particular act or acts. It may also require the performance of a particular act or acts, in which case it shall be known as a preliminary mandatory injunction.

x x x

SEC. 5. Preliminary Injunction not granted without notice; exception. – No preliminary injunction shall be granted without hearing and prior notice to the party or person sought to be enjoined. If it shall appear from facts shown by affidavits or by the verified application that great or irreparable injury would result to the applicant before the matter can be heard on notice, the court to which the application for preliminary injunction was made, may issue ex parte a temporary restraining order to be effective only for a period of twenty (20) days from service on the party or person sought to be enjoined, except as herein provided. Within the said twenty-day period, the court must order said party or person to show cause at a specified time and place, why the injunction should not be granted, determine within the same period whether or not the preliminary injunction shall be granted, and accordingly issue the corresponding order.

x x x

In the event that the application for preliminary injunction is denied or not resolved within the said period, the temporary restraining order is deemed automatically vacated. The effectivity of a temporary restraining order is not extendible without need of any judicial declaration to that effect and no court shall have authority to extend or renew the same on the same ground for which it was issued.

However, if issued by the Court of Appeals or a member thereof, the temporary restraining order shall be effective for sixty (60) days from service on the party or person sought to be enjoined. (emphases supplied)

[47] Supra Note 45.

[48] Rollo, p. 143.

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