

**SOCIAL JUSTICE SOCIETY (SJS), PETITIONER, VS. HON. JOSE D. LINA,
IN HIS CAPACITY AS SECRETARY OF THE DEPARTMENT OF
INTERIOR AND LOCAL GOVERNMENT (DILG), LIPA CITY MAYOR
HON. VIL...**

G.R. No. 160031. December 18, 2008

Ponente: NACHURA, J.

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NACHURA, J.:

Assailed in this Rule 45 petition are the June 30, 2003[1] and the September 12, 2003[2] Orders of the Regional Trial Court (RTC) of Manila, Branch 14 in Civil Case No. 02-104585.

Filed with the trial court on September 12, 2002, by petitioner Social Justice Society, a registered political party, with the trial court was a petition for declaratory relief against the then Secretary of the Department of Interior and Local Government (DILG), respondent Jose D. Lina,[3] praying for Presented for resolution in its petition is the proper construction of Section 90 of Republic Act (R.A.) No. 7160, which provides that:

SEC. 90. Practice of Profession.—

(a) All governors, city and municipal mayors are prohibited from practicing their profession or engaging in any occupation other than the exercise of their functions as local chief executives.

(b) Sanggunian members may practice their professions, engage in any occupation, or teach in schools except during session hours: Provided, That sanggunian members who are members of the Bar shall not:

(1) Appear as counsel before any court in any civil case wherein a local government unit or any office, agency, or instrumentality of the government is the adverse party;

(2) Appear as counsel in any criminal case wherein an officer or employee of the national or local government is accused of an offense committed in relation to his office;

(3) Collect any fee for their appearance in administrative proceedings involving the local government unit of which he is an official; and

(4) Use property and personnel of the Government except when the sanggunian member concerned is defending the interest of the Government.

(c) Doctors of medicine may practice their profession even during official hours of work only on occasions of emergency: Provided, That the officials concerned do not derive monetary compensation therefrom. [Underscoring supplied.]

Based on the said provision, specifically paragraph (a) thereof, petitioner posited that actors who were elected as governors, city and municipal mayors were disallowed by law to appear in movies and television programs as one of the characters therein, for this would give them undue advantage over their political opponents, and would considerably reduce the time that they must devote to their constituents.[4]

To strengthen its point, petitioner later amended its petition to implead as additional respondents then Lipa City Mayor Vilma Santos, then Pampanga Provincial Governor Lito Lapid, and then Parañaque City Mayor Joey Marquez.[5]

Summing up the arguments of the other respondents in their respective pleadings, the DILG, through the Office of the Solicitor General (OSG), moved for the dismissal of the petition on the grounds that: (1) petitioner has no legal standing to file the petition, because it is not a “person whose rights are affected” by the statute; (2) it is not the real party-in-interest; (3) there is no judicial controversy; (4) there is no need for construction of the subject provision; (5) there is already a breach of the statute as alleged in the petition itself; and (6) declaratory relief is not the proper remedy.[6]

In the assailed June 30, 2003 Order,[7] the trial court, sustaining the arguments of the DILG, dismissed the petition for declaratory relief. It further denied, in the September 12, 2003 Order,[8] petitioner’s motion for reconsideration.

Dissatisfied, petitioner filed the instant petition for review on certiorari before this Court on the following grounds:

I.

THE REGIONAL TRIAL COURT SERIOUSLY ERRED IN DISMISSING PETITIONER’S PETITION FOR DECLARATORY RELIEF ON PURELY TECHNICAL GROUNDS.

II.

THE REGIONAL TRIAL COURT SERIOUSLY ERRED IN NOT RESOLVING THE ISSUE RAISED IN THE PETITION FOR DECLARATORY RELIEF.[9]

Petitioner contends that it, a registered political party composed of citizens, established to relentlessly pursue social justice in the Philippines, and allowed to field candidates in the elections, has the legal interest and the right to be informed and enlightened, on whether or not their public officials, who are paid out of public funds, can, during their tenure, lawfully appear as heroes or villains in movies, or comedians in television shows, and flaunt their disdain for legal and ethical standards. The determination further of a party’s legal standing in actions for declaratory relief involving laws should not be as rigid as when such action involves a deed, will or contract.[10]

It also argues that a party’s legal standing is a procedural technicality which may be set aside where the issues raised are of paramount public interest. In the instant case, the importance of the issue can never be minimized or discounted. The appearance of incumbent city or municipal mayors and provincial governors, who are actors, in movies and television programs enhances their income but reduces considerably the time that they should devote to their constituents. This is in violation of Section 90 of R.A. No. 7160 and Section 7 of R.A. No. 6713 or the Code of Conduct and Ethical Standards for Public Officials and Employees. Their appearance further gives them undue advantage in future elections over their opponents who are not actors.[11]

Petitioner likewise contends that the petition for declaratory relief should have been converted by the trial court into an action for prohibition, considering that, in their pleadings, Governor Lapid and Mayor Marquez offered justifications for their actions—financial constraints and freedom of expression.[12] Petitioner therefore prays that should the Court declares the respondents local chief executives as unable to lawfully engage in their professions as actors, it must also prohibit them from pursuing the same during their incumbency.[13]

The Court agrees with petitioner’s contentions on locus standi considering the liberal attitude it has taken in recent decisions.

However, following rules of procedure, we find as proper the trial court's dismissal of the petition for declaratory relief in Civil Case No. 02-104585., the petition for declaratory relief. Readily discernable is that the same is an inappropriate remedy to enforce compliance with Section 90 of R.A. 7160, and to prevent local chief executives Santos-Recto, Lapid and Marquez from taking roles in movies and television shows. The Court, thus, finds grants as apt the OSG's move to dismiss the case.

Indeed, an action for declaratory relief should be filed by a person interested under a deed, a will, a contract or other written instrument, and whose rights are affected by a statute, an executive order, a regulation or an ordinance. The purpose of the remedy is to interpret or to determine the validity of the written instrument and to seek a judicial declaration of the parties' rights or duties thereunder.[14] For the action to prosper, it must be shown that (1) there is a justiciable controversy; (2) the controversy is between persons whose interests are adverse; (3) the party seeking the relief has a legal interest in the controversy; and (4) the issue is ripe for judicial determination.[15] Suffice it to state that, in the petition filed with the trial court, petitioner failed to allege the ultimate facts which satisfy these requisites. Not only that, as admitted by the petitioner, the provision the interpretation of which is being sought has already been breached by the respondents. Declaratory relief cannot thus be availed of.[16]

WHEREFORE, premises considered, the petition is DENIED. No pronouncement as to costs.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Carpio-Morales, Tinga, Chico-Nazario, Velasco, Jr., Reyes, Leonardo-De Castro, and Brion, JJ., concur.
Corona, and Azcuna, JJ., on official leave.

[1] Rollo, pp. 76-82.

[2] Id. at 88-89.

[3] Id. at 12.

[4] Id. at 27.

[5] Id. at 24-25.

[6] Id. at 78.

[7] Supra note 2.

[8] Supra note 3.

[9] Rollo, p. 14.

[10] Id. at 14-15.

[11] Id. at 15-18.

[12] Id. at 18-19.

[13] Id. at 20.

[14] *Velarde v. Social Justice Society*, G.R. No. 159357, April 28, 2004, 428 SCRA 283, 290.

[15] *Bayan Telecommunications, Inc. v. Republic*, G.R. No. 161140, January 31, 2007, 513 SCRA 562, 568.

[16] Martelino v. National Home Mortgage Finance Corporation, G.R. No. 160208, June 30, 2008. See, however, Executive Secretary v. Southwing Heavy Industries, Inc., G.R. Nos. 164171, 164172 & 168741, 482 SCRA 673, 684, in which the Court entertained a suit for declaratory relief to finally settle the doubt as to the proper interpretation of the conflicting laws involved, notwithstanding a violation of the right of the party affected.

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