REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE NATIONAL POWER CORPORATION,PETITIONER, VS. ATTY. RICHARD B. RAMBUYONG, RESPONDENT.

G.R. No. 167810. October 04, 2010

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

This petition for review assails the May 20, 2004 Decision[1] and April 13, 2005 Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP No. 72800, which dismissed the petition before it and denied reconsideration, respectively.

Factual Antecedents

Alfredo Y. Chu (Chu) filed a case for collection of a sum of money and/or damages against the National Power Corporation (NPC) docketed as Civil Case No. 1-197 which was raffled to the Regional Trial Court (RTC) of Ipil, Zamboanga Sibugay, Branch 24. Appearing as counsel for Chu is Atty. Richard B. Rambuyong (Atty. Rambuyong) who was then the incumbent Vice-Mayor of Ipil, Zamboanga Sibugay.

Thereafter, NPC filed a Motion for Inhibition[3] of Atty. Rambuyong arguing that under Section 90 (b), (1) of Republic Act (RA) No. 7160, otherwise known as the Local Government Code, sanggunian members are prohibited "to appear as counsel before any court wherein x x x any office, agency or instrumentality of the government is the adverse party." NPC contended that being a government-owned or controlled corporation, it is embraced within the term "instrumentality."

Ruling of the Regional Trial Court

In an Order[4] dated January 4, 2002, the RTC ruled that government-owned or controlled corporations are expressly excluded from Section 90 (b), (1) of the Local Government Code. Citing other provisions of the Local Government Code wherein the phrase "including government-owned or controlled corporations" is explicitly included, the trial court held that if it was the intention of the framers of RA 7160 to impose obligations or give rights and privileges to local government units, agencies, instrumentalities or corporate entities, then they would have explicitly stated so. The RTC further held that "to insistently maintain that 'government-owned or controlled corporations' are included in the signification of 'agency and instrumentality of the government' x x x would be leaving behind what is apparent in favor of opening the door to the realm of presumption, baseless conjecture and even absurdity."[5]

The dispositive portion of the Order reads:

> WHEREFORE, upon the foregoing disquisition, the defendant's motion is DENIED due course, and this Court declares:

- Sec. 90 of R.A. 7160 does not include government-owned or controlled corporations as among the political units

against which lawyer members of the Sanggunian cannot appear as counsel of the adverse party;

- That Atty. Richard B. Rambuyong, who is the incumbent Vice-Mayor of the Municipality of Ipil, Zamboanga Sibugay, is not disqualified to continue acting as counsel for the plaintiff in this case.

SO ORDERED.[6]

Petitioner filed a motion for reconsideration but it was denied.[7]

Hence, petitioner filed a petition for certiorari with the CA alleging grave abuse of discretion on the part of the trial judge in ruling that the statutory prohibition pertaining to the private practice of law by sanggunian members does not apply to cases where the adverse party is a government-owned or controlled corporation.

Ruling of the Court of Appeals

On May 20, 2004, the CA dismissed the petition for lack of merit. The CA pointed out that for certiorari to lie, there must be a capricious, arbitrary and whimsical exercise of power. It held that there was no showing that the trial judge exercised his power of judgment capriciously, arbitrarily and whimsically. Neither did it find proof that the trial judge, in making the rulings, was motivated by passion or personal hostility towards the petitioner.

It ruled that if ever there has been an erroneous interpretation of the law, the same may be attributed to a mere error of judgment which is definitely not the same as "grave abuse of discretion." The dispositive portion of the Decision states:

WHEREFORE, in view of the foregoing, the instant petition is DISMISSED.

SO ORDERED.[8]

The motion for reconsideration of NPC was denied. Hence, the present petition.

Issues

Petitioner raises the following arguments:

I

BOTH THE LOCAL GOVERNMENT CODE AND THE 1987 ADMINISTRATIVE [CODE] ESSENTIALLY REQUIRE ATTY. RAMBUYONG TO INHIBIT HIMSELF FROM ACTING AS COUNSEL AGAINST NPC IN THE PROCEEDINGS BELOW.

II

NPC IS INCLUDED IN THE TERM "INSTRUMENTALITY" OF GOVERNMENT.

III

THE PROHIBITION IN SECTION 90(b), (1) OF RA 7160 INTENDS TO PREVENT PUBLIC OFFICIALS FROM REPRESENTING INTEREST ADVERSE TO THE GOVERNMENT.

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IV

BACANI CASE IS NO LONGER THE PREVAILING JURISPRUDENCE ON THE REAL MEANING OF GOVERNMENT INSTRUMENTALITIES.

V

ATTY. RICHARD RAMBUYONG IS THE REAL-PARTY-IN-INTEREST IN THE SUBJECT PETITION.[9]

In the main the issue is whether NPC is an instrumentality of government such that Atty. Rambuyong, as a sanggunian member, should not appear as counsel against it.

Petitioner's Arguments

Petitioner contends that the trial court refused to apply the law, specifically Section 90 (b), (1) of RA 7160, which clearly states that lawyer-sanggunian members cannot appear as counsel in any case where the adverse party is a local government unit, office, agency or instrumentality. It argues that courts are not authorized to distinguish where the law makes no distinction.

Petitioner alleges that the RTC gravely abused its discretion when it failed to recognize that the 1987 Administrative Code and the Local Government Code are in pari materia in defining the terms used in the latter, such as "office, agency or instrumentality." It argues that the RTC acted beyond the scope of its jurisdiction when it constricted the definition of "instrumentality" in Section 90 (b), (1) of RA 7160 to exclude government-owned and controlled corporations.

Petitioner argues that NPC is an instrumentality of government and that there is no cogent reason to exclude government-owned and controlled corporations from the operation of Section 90 (b), (1) of RA 7160.

Finally, petitioner claims that the government's challenge against Atty. Rambuyong's appearance is directed against him alone to the exclusion of his client whose right to prosecute his claim as party litigant is beyond question.

Respondent's Arguments

On the other hand, respondent contends that the party who would be benefited or injured by the compulsory inhibition of plaintiffs counsel is the plaintiff in Civil Case No. 1-197. Thus, , he insists that the plaintiff is the real party in interest and his (Atty. Rambuyong) inclusion as respondent in the present petition is erroneous.

Our Ruling

The petition has merit.

Instrumentality of the Government

The provisions of law relevant to the present case state:

> Sec. 90.[10] 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 also 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;

x x x

x x x

x x x

Sec. 5.[11] Rules of Interpretation. — In the interpretation of the provisions of this Code, the following rules shall apply:

x x x

x x x

x x x

(e) In the resolution of controversies arising under this Code where no legal provision or jurisprudence applies, resort may be had to the customs and traditions in the place where the controversies take place. (Emphasis supplied.)

Sec. 2.[12] General Terms Defined. — Unless the specific words of the text, or the context as a whole, or a particular statute, shall require a different meaning:

x x x

x x x

x x x

(4) "Agency of the Government" refers to any of the various units of the Government, including a department, bureau, office, instrumentality, or government-owned or controlled corporations, or a local government or a distinct unit therein.

x x x

x x x

x x x

(10) Instrumentality — refers to any agency of the National Government, not integrated within the department framework, vested with special functions or jurisdiction by law, endowed with some if not all corporate powers, administering special funds, and enjoying operational autonomy, usually through a charter. This term includes regulatory agencies, chartered institutions and government-owned or controlled corporations. (Emphasis supplied.)

In Aparri v. Court of Appeals,,13 the Court instructs:

It is the rule in statutory construction that if the words and phrases of a statute are not obscure or ambiguous,

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> its meaning and the intention of the legislature must be determined from the language employed, and, where there is no ambiguity in the words, there is no room for construction. The courts may not speculate as to the probable intent of the legislature apart from the words. The reason for the rule is that the legislature must be presumed to know the meaning of words, to have used words advisedly and to have expressed its intent by use of such words as are found in the statute.

Section 2 of the Administrative Code of 1987 is clear and unambiguous. It categorically provides that the term "instrumentality" includes government-owned or controlled corporations. Hence there is no room for construction. All that has to be done is to apply the law as called for by the circumstances of the case. It is not disputed that the NPC is a government-owned or controlled corporation. Therefore following Section 2 of the Administrative Code of 1987, the NPC is clearly an instrumentality of the government.

It is also significant to point out that in Maceda v. Macaraig, Jr.[14] the Court stated that "[t]he NPC is a government instrumentality with the enormous task of undertaking development of hydroelectric generation of power and production of electricity from other sources, as well as the transmission of electric power on a nationwide basis, to improve the quality of life of the people pursuant to the State policy embodied in Section [9], Article II of the 1987 Constitution."

Given the categorical words of both the law and jurisprudence, to still go to extra-ordinary lengths to interpret the intention of the lawmakers and come out with the construction that a government-owned or controlled corporation like the NPC is not included within the term "instrumentality of the government" is grave abuse of discretion.

"By grave abuse of discretion is meant, such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction."[15] "Grave abuse of discretion is an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law or to act in contemplation of law as when the judgment rendered is not based on law and evidence but on caprice, whim and despotism."[16]

The strained and contrary interpretation of clearly worded provisions of law, which therefore should be merely applied and not interpreted, is an earmark of despotism and grave abuse of discretion.

Finally, Section 446 of the Local Government Code provides that "[t]he sanggnniang bayan, the legislative body of the municipality, shall be composed of the municipal vice mayor as the presiding officer x x x." Thus, pursuant to Sec. 90 (b), (1) of the Local Government Code, Atty. Rambuyong, as sanggunian member, cannot appear as counsel of a party adverse to the NPC, which is an instrumentality of government.

WHEREFORE, the petition is GRANTED. The May 20, 2004 Decision and April 13,2005 Resolution of the Court of Appeals in CA-G.R. SP No. 72800 are REVERSED and SET ASIDE. Atty. Richard B. Rambuyong is disqualified from appearing in Civil Case No. 1-197.

SO ORDERED.

Corona, C.J. (Chairperson), Velasco, Jr., Leonardo-de Castro, and Perez, JJ., concur.

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[1] Rollo, pp. 50-55; penned by Associate Justice Mariflor P. Punzalan Castillo and concurred in by Associate Justices Lucenito N. Tagle and Romulo V. Borja.

[2] Id. at 56; penned by Associate Justice Romulo V. Borja and concurred in by Associate Justices Rodrigo F. Lim, Jr. and Normandie B. Pizzaro.

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[3] CA rollo, pp. 33-37.

[4] Id. at 25-30; penned by Judge Demosthenes B. Manginsay.

[5] Id. at 29.

[6] Id.

[7] Id. at 30-32.

[8] Rollo, p. 54.

[9] Id. at 114-115.

[10] Local Government Code.

[11] Local Government Code.

[12] Administrative Code of 1987.

[13] 212 Phil. 215, 224-225 (1984). Citations omitted.

[14] 274 Phil. 1060, 1101 (1991).

[15] Banal III v. Panganiban, G.R. No. 167474, November 15, 2005, 475 SCR A 164, 174.

[16] Ferrer v. Office of the Ombudsman, G.R. No. 129036, August 6, 2008,561 SCRA51,65.

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