

**MA. LUTGARDA P. CALLEJA, JOAQUIN M. CALLEJA, JR., JADELSON
PETER P. CALLEJA, MA. JESSICA T. FLORES, MERCIÉ C. TIPONES
AND PERFECTO NIXON C. TABORA, PETITIONERS, VS. JOSE PIERRE ...**

G.R. NO. 168696. February 28, 2006

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

This resolves the petition for review on certiorari assailing the Order^[1] of the Regional Trial Court of San Jose, Camarines Sur, Branch 58 (RTC-Br. 58) issued on July 13, 2005.

The antecedent facts are as follows.

On May 16, 2005, respondents filed a petition with the Regional Trial Court of San Jose, Camarines Sur for quo warranto with Damages and Prayer for Mandatory and Prohibitory Injunction, Damages and Issuance of Temporary Restraining Order against herein petitioners. Respondents alleged that from 1985 up to the filing of the petition with the trial court, they had been members of the board of directors and officers of St. John Hospital, Incorporated, but sometime in May 2005, petitioners, who are also among the incorporators and stockholders of said corporation, forcibly and with the aid of armed men usurped the powers which supposedly belonged to respondents.

On May 24, 2005, RTC-Br. 58 issued an Order transferring the case to the Regional Trial Court in Naga City. According to RTC-Br. 58, since the verified petition showed petitioners therein (herein respondents) to be residents of Naga City, then pursuant to Section 7, Rule 66 of the 1997 Rules of Civil Procedure, the action for quo warranto should be brought in the Regional Trial Court exercising jurisdiction over the territorial area where the respondents or any of the respondents resides. However, the Executive Judge of RTC, Naga City refused to receive the case folder of the subject case for quo warranto, stating that improper venue is not a ground for transferring a quo warranto case to another administrative jurisdiction.

The RTC-Br. 58 then proceeded to issue and serve summons on herein petitioners (respondents below). Petitioner Tabora filed his Answer dated June 8, 2005, raising therein the affirmative defenses of (1) improper venue, (2) lack of jurisdiction, and (3) wrong remedy of quo warranto. Thereafter, the other petitioners also filed their Answer, also raising the same affirmative defenses. All the parties were then required to submit their respective memoranda.

On July 13, 2005, RTC-Br. 58 issued the assailed Order, the pertinent portions of which read as follows:

It is undisputed that the plaintiffs' cause of action involves controversies arising out of intra-corporate relations, between and among stockholders, members or associates of the St. John Hospital Inc. which originally under PD 902-A approved on March 11, 1976 is within the original and exclusive jurisdiction of the Securities and Exchange Commission to try and decide in addition to its regulatory and adjudicated functions (Section 5, PD 902-A). Upon the advent of RA 8799 approved on July 19, 2000, otherwise known as the Securities and Regulation Code, the Commission's jurisdiction over all cases enumerated in Section 5, Presidential Decree

902-A were transferred ["]to the Court of general jurisdiction or the appropriate Regional Trial Court with a proviso that the "Supreme Court in the exercise of its authority may designate the Regional Trial Court branches that shall exercise jurisdiction over these cases." Pursuant to this mandate of RA 8799, the Supreme Court in the exercise of said mandated authority, promulgated on November 21, 2000, A.M. No. 00-11-03-SC which took effect 15 December 2000 designated certain branches of the Regional Trial Court to try and decide Securities and Exchange Commission Cases arising within their respective territorial jurisdiction with respect to the National Capital Region and within the respective provinces in the First to Twelve Judicial Region. Accordingly, in the Province of Camarines Sur, (Naga City) RTC Branch 23 presided by the Hon. Pablo M. Paqueo, Jr. was designated as "special court" (Section 1, A.M. No. 00-11-03-SC).

Subsequently, on January 23, 2001, supplemental Administrative Circular No. 8-01 which took effect on March 1, 2001 was issued by the Supreme Court which directed that "all SEC cases originally assigned or transmitted to the regular Regional Trial Court shall be transferred to branches of the Regional Trial Court specially designated to hear such cases in accordance with A.M. No. 00-11-03-SC.

On March 13, 2001, A.M. No. 01-2-04 SC was promulgated and took effect on April 1, 2001.

From the foregoing discussion and historical background relative to the venue and jurisdiction to try and decide cases originally enumerated in Section 5 of PD 902-A and later under Section 5.2 of RA 8799, it is evident that the clear intent of the circular is to bestow the jurisdiction "to try and decide these cases to the "special courts" created under A.M. No. 00-11-03-SC. . . .

Under Section 8, of the Interim Rules, [a] Motion to Dismiss is among the prohibited pleadings. On the otherhand, the Supreme Court under Administrative Order 8-01 has directed the transfer from the regular courts to the branches of the Regional Trial Courts specially designated to try and decide intra-corporate dispute.

In the light of the above-noted observations and discussion, the Motion to Dismiss is DENIED pursuant to the Interim Rules of Procedure for Intra-Corporate Controversies (A.M. No. 01-2-04-SC) which mandates that motion to dismiss is a prohibited pleading (Section 8) and in consonance with Administrative Order 8-01 of the Supreme Court dated March 1, 2001, this case is hereby ordered remanded to the Regional Trial Court Branch 23, Naga City which under A.M. No. 00-11-03-SC has been designated as special court to try and decide intra-corporate controversies under R.A. 8799.

The scheduled hearing on the prayer for temporary restraining order and preliminary injunction set on July 18, 2005 is hereby cancelled.

For reasons of comity the issue of whether Quo Warranto is the proper remedy is better left to the court of competent jurisdiction to rule upon.

SO ORDERED. [2]

Petitioners no longer moved for reconsideration of the foregoing Order and, instead, immediately elevated the case to this Court via a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure.

The petition raises the following issues:

I

WHETHER A BRANCH OF THE REGIONAL TRIAL COURT WHICH HAS NO JURISDICTION TO TRY AND DECIDE A CASE HAS AUTHORITY TO REMAND THE SAME TO ANOTHER CO-EQUAL COURT IN ORDER TO CURE THE DEFECTS ON VENUE AND JURISDICTION

II

WHETHER OR NOT ADMINISTRATIVE CIRCULAR NO. 8-01 DATED JANUARY 23, 2001 WHICH TOOK EFFECT ON MARCH 1, 2001 MAY BE APPLIED IN THE PRESENT CASE WHICH WAS FILED ON MAY 16, 2005. [3]

In their Comment, respondents argue that the present petition should be denied due course and dismissed on the grounds that (1) an appeal under Rule 45 is inappropriate in this case because the Order dated July 13, 2005 is merely an interlocutory order and not a final order as contemplated under Rule 45 of the 1997 Rules of Civil Procedure; (2) a petition for review on certiorari under Rule 45 is the wrong remedy under A.M. No. 04-9-07-SC, which provides that "all decisions and final orders in cases falling under the Interim Rules of Corporate Rehabilitation and the Interim Rules of Procedure Governing Intra-Corporate Controversies under Republic Act No. 8799 shall be appealable to the Court of Appeals through a petition for review under Rule 43 of the Rules of Court;" and (3) the petition was intended merely to delay the proceedings in the trial court because when the case was transferred to Branch 21 of the Regional Trial Court, said court granted petitioners' motion to hold the proceedings in view of the present petition pending before this Court.

Subsequently, petitioners also filed an Urgent Motion to Restore Status Quo Ante, alleging that on January 12, 2006, respondent Jose Pierre Panday, with the aid of 14 armed men, assaulted the premises of St. John Hospital in Naga City, taking away the daily hospital collections estimated at P400,000.00.

The Court notes that, indeed, petitioners chose the wrong remedy to assail the Order of July 13, 2005. It is hornbook principle that Rule 45 of the 1997 Rules of Civil Procedure governs appeals from judgments or final orders.[4] The Order dated July 13, 2005 is basically a denial of herein petitioners' prayer in their Answer for the dismissal of respondents' case against them. As a consequence of the trial court's refusal to dismiss the case, it then directed the transfer of the case to another branch of the Regional Trial Court that had been designated as a special court to hear cases formerly cognizable by the SEC. Verily, the order was merely interlocutory as it does not dispose of the case completely, but leaves something more to be done on its merits. Such being the case, the assailed Order cannot ordinarily be reviewed through a petition under Rule 45. As we held in *Tolentino v. Natanauan*, [5] to wit:

In the case of *Bangko Silangan Development Bank vs. Court of Appeals*, the Court reiterated the well-settled rule that:

... an order denying a motion to dismiss is merely interlocutory and therefore not appealable, nor can it be the subject of a petition for review on certiorari. Such order may only be reviewed in the ordinary course of law by an appeal from the judgment after trial. The ordinary procedure to be followed in that event is to file an answer, go to trial, and if the decision is adverse, reiterate the issue on appeal from the final judgment.[6]

It appears, however, that the longer this case remains unresolved, the greater chance there is for more violence between the parties to erupt. In *Philippine Airlines v. Spouses Kurangking*,[7] the Court proceeded to give due course to a case despite the wrong remedy resorted to by the petitioner therein, stating thus:

While a petition for review on certiorari under Rule 45 would ordinarily be inappropriate to assail an interlocutory order, in the interest, however, of arresting the perpetuation of an apparent error committed below that could only serve to unnecessarily burden the parties, the Court has resolved to ignore the technical flaw and, also, to treat the petition, there being no other plain, speedy and adequate remedy, as a special civil action for certiorari. Not much, after all, can be gained if the Court were to refrain from now making a pronouncement on an issue so basic as that submitted by the parties.[8]

In this case, the basic issue of which court has jurisdiction over cases previously cognizable by the SEC under

Section 5, Presidential Decree No. 902-A (P.D. No. 902-A), and the propensity of the parties to resort to violence behoove the Court to look beyond petitioners' technical lapse of filing a petition for review on certiorari instead of filing a petition for certiorari under Rule 65 with the proper court. Thus, the Court shall proceed to resolve the case on its merits.

It should be noted that allegations in a complaint for quo warranto that certain persons usurped the offices, powers and functions of duly elected members of the board, trustees and/or officers make out a case for an intra-corporate controversy.[9] Prior to the enactment of R.A. No. 8799, the Court, adopting Justice Jose Y. Feria's view, declared in *Unilongo v. Court of Appeals* [10] that Section 1, Rule 66 of the 1997 Rules of Civil Procedure is "limited to actions of quo warranto against persons who usurp a public office, position or franchise; public officers who forfeit their office; and associations which act as corporations without being legally incorporated," while "[a]ctions of quo warranto against corporations, or against persons who usurp an office in a corporation, fall under the jurisdiction of the Securities and Exchange Commission and are governed by its rules. (P.D. No. 902-A as amended)."[11]

However, R.A. No. 8799 was passed and Section 5.2 thereof provides as follows:

5.2. The Commission's jurisdiction over all cases enumerated under Section 5 of Presidential Decree No. 902-A is hereby transferred to the Courts of general jurisdiction or the appropriate Regional Trial Court: Provided, That the Supreme Court in the exercise of its authority may designate the Regional Trial Court branches that shall exercise jurisdiction over these cases. xxx

Therefore, actions of quo warranto against persons who usurp an office in a corporation, which were formerly cognizable by the Securities and Exchange Commission under PD 902-A, have been transferred to the courts of general jurisdiction. But, this does not change the fact that Rule 66 of the 1997 Rules of Civil Procedure does not apply to quo warranto cases against persons who usurp an office in a private corporation. Presently, Section 1(a) of Rule 66 reads thus:

Section 1. Action by Government against individuals. – An action for the usurpation of a public office, position or franchise may be commenced by a verified petition brought in the name of the Republic of the Philippines against

(a) A person who usurps, intrudes into, or unlawfully holds or exercises a public office, position or franchise;

x x x x

As explained in the *Unilongo*[12] case, Section 1(a) of Rule 66 of the present Rules no longer contains the phrase "or an office in a corporation created by authority of law" which was found in the old Rules. Clearly, the present Rule 66 only applies to actions of quo warranto against persons who usurp a public office, position or franchise; public officers who forfeit their office; and associations which act as corporations without being legally incorporated despite the passage of R.A. No. 8799. It is, therefore, The Interim Rules of Procedure Governing Intra-Corporate Controversies Under R.A. No. 8799 (hereinafter the Interim Rules) which applies to the petition for quo warranto filed by respondents before the trial court since what is being questioned is the authority of herein petitioners to assume the office and act as the board of directors and officers of St. John Hospital, Incorporated.

The Interim Rules provide thus:

Section 1. (a) Cases covered. – These Rules shall govern the procedure to be observed in civil cases involving the following:

x x x x

(2) Controversies arising out of intra-corporate, partnership, or association relations, between and among stockholders, members, or associates, and between, any or all of them and the corporation, partnership, or association of which they are stockholders, members, or associates, respectively;

(3) Controversies in the election or appointment of directors, trustees, officers, or managers of corporations, partnerships, or associations;

x x x x

SEC. 5. Venue. – All actions covered by these Rules shall be commenced and tried in the Regional Trial Court which has jurisdiction over the principal office of the corporation, partnership, or association concerned. xxx (Emphasis ours)

Pursuant to Section 5.2 of R.A. No. 8799, the Supreme Court promulgated A.M. No. 00-11-03-SC (effective December 15, 2000) designating certain branches of the Regional Trial Courts to try and decide cases formerly cognizable by the Securities and Exchange Commission. For the Fifth Judicial Region, this Court designated the following branches of the Regional Trial Court, to wit:

Camarines Sur (Naga City) Branch 23, Judge Pablo M. Paqueo, Jr.

Albay (Legaspi City) Branch 4, Judge Gregorio A. Consulta

Sorsogon (Sorsogon) Branch 52, Judge Honesto A. Villamor

Subsequently, the Court promulgated A.M. No. 03-03-03-SC, effective July 1, 2003, which provides that:

- The Regional Courts previously designated as SEC Courts through the: (a) Resolutions of this Court dated 21 November 2000, 4 July 2001, 12 November 2002, and 9 July 2002, all issued in A.M. No. 00-11-03-SC, (b) Resolution dated 27 August 2001 in A.M. No. 01-5-298-RTC; and (c) Resolution dated 8 July 2002 in A.M. No. 01-12-656-RTC are hereby DESIGNATED and shall be CALLED as Special Commercial Courts to try and decide cases involving violations of Intellectual Property Rights which fall within their jurisdiction and those cases formerly cognizable by the Securities and Exchange Commission;

x x x x

- The Special Commercial Courts shall have jurisdiction over cases arising within their respective territorial jurisdiction with respect to the National Capital Judicial Region and within the respective provinces with respect to the First to Twelfth Judicial Regions. Thus, cases shall be filed in the Office of the Clerk of Court in the official station of the designated Special Commercial Court; (Emphasis ours)

The next question then is, which branch of the Regional Trial Court has jurisdiction over the present action for quo warranto? Section 5 of the Interim Rules provides that the petition should be commenced and tried in the Regional Trial Court that has jurisdiction over the principal office of the corporation. It is undisputed that the principal office of the corporation is situated at Goa, Camarines Sur. Thus, pursuant to A.M. No. 00-11-03-SC and A.M. No. 03-03-03-SC, it is the Regional Trial Court designated as Special Commercial Courts in Camarines Sur which shall have jurisdiction over the petition for quo warranto filed by herein respondents.

Evidently, the RTC-Br. 58 in San Jose, Camarines Sur is bereft of jurisdiction over respondents' petition for quo warranto. Based on the allegations in the petition, the case was clearly one involving an intra-corporate dispute.

The trial court should have been aware that under R.A. No. 8799 and the aforementioned administrative issuances of this Court, RTC-Br. 58 was never designated as a Special Commercial Court; hence, it was never vested with jurisdiction over cases previously cognizable by the SEC.

Such being the case, RTC-Br. 58 did not have the requisite authority or power to order the transfer of the case to another branch of the Regional Trial Court. The only action that RTC-Br. 58 could take on the matter was to dismiss the petition for lack of jurisdiction. In *HLC Construction and Development Corp. v. Emily Homes Subdivision Homeowners' Association*,^[13] the Court held that the trial court, having no jurisdiction over the subject matter of the complaint, should dismiss the same so the issues therein could be expeditiously heard and resolved by the tribunal which was clothed with jurisdiction.

Note, further, that respondents' petition for quo warranto was filed as late as 2005. A.M. No. 03-03-03-SC took effect as early as July 1, 2003 and it was clearly provided therein that such petitions shall be filed in the Office of the Clerk of Court in the official station of the designated Special Commercial Court. Since the official station of the designated Special Commercial Court for Camarines Sur is the Regional Trial Court in Naga City, respondents should have filed their petition with said court. A.M. No. 00-11-03-SC having been in effect for four years and A.M. No. 03-03-03-SC having been in effect for almost two years by the time respondents filed their petition, there is no cogent reason why respondents were not aware of the appropriate court where their petition should be filed.

The ratiocination of RTC-Br.58 that Administrative Circular No. 08-2001 authorized said trial court to order the transfer of respondents' petition to the Regional Trial Court of Naga City is specious because as of the time of filing of the petition, A.M. No. 03-03-03-SC, which clearly stated that cases formerly cognizable by the SEC should be filed with the Office of the Clerk of Court in the official station of the designated Special Commercial Court, had been in effect for almost two years. Thus, the filing of the petition with the Regional Trial Court of San Jose, Camarines Sur, which had no jurisdiction over those kinds of actions, was clearly erroneous.

WHEREFORE, the petition is GIVEN DUE COURSE and GRANTED. The Order of the Regional Trial Court of San Jose, Camarines Sur dated July 13, 2005 is SET ASIDE for being NULL and VOID. The petition for quo warranto in Civil Case No. T-1007 (now re-docketed as SEC Case No. RTC 2005-0001), entitled "Jose Pierre A. Panday, et al. v. Sps. Joaquin M. Calleja, Jr., et al." is ordered DISMISSED.

SO ORDERED.

Panganiban, C.J., (Chairman), Ynares-Santiago, Callejo, Sr. and Chico-Nazario, JJ., concur.

[1] Penned by Presiding Judge Eufronio K. Maristela.

[2] Rollo, pp. 32-34.

[3] *Id.*, pp. 12, 16.

[4] See *Gallardo v. People*, G.R. No. 142030, April 21, 2005, 456 SCRA 494, 502.

[5] G.R. No. 135441, November 20, 2003, 416 SCRA 273.

[6] *Id.* at 280

[7] 438 Phil. 375 (2002).

[8] *Id.* at 379-380.

[9] *Unilongo v. Court of Appeals*, 365 Phil. 105 (1999).

[10] Id.

[11] Id. at 120, citing Jose Y. Feria, 1997 Rules of Civil Procedure.

[12] Supra. at 119.

[13] G.R. No. 139360. September 23, 2003, 411 SCRA 504.

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