GANIE P. OLAMA, DATU MAKAY S. BANTO, DARIMBANG ANTAL SULTAN, CAMAD SANGCOPAN, JAMIL ABIDEN TAMPUGAO, AND ABDULGAFOR ANGINDARAT, PETITIONERS, VS. PHILIPPINE NATIONAL BANK, REPRES...

G.R. NO. 169213. June 22, 2006

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

The petition for review assails the Decision[1] of the Court of Appeals dated June 22, 2005, in CA-G.R. SP No. 84112, which reversed the Decision[2] of the Regional Trial Court (RTC) of Lanao del Sur, Marawi City, Branch 10, in Spl. Civil Action No. 985-03, as well as the Resolution[3] dated August 15, 2005 denying petitioner's motion for reconsideration.

The antecedent facts are as follows:

Petitioners Ganie P. Olama, Datu Makay Banto, Darimbang Antal Sultan, Camad Sangcopan, Jamil Abiden Tampugao, and Abdulgafor Angindarat, alleged that they were the duly elected Punong Barangay in Barangays Alog, Bita, Campo, Madaya, Mindamudag and Riantaran, respectively, all of the Municipality of Tubaran, Lanao del Sur, during the special barangay and Sangguniang Kabataan elections held on August 13, 2002. Petitioners further claimed that notwithstanding their election and despite repeated demands, they were denied by the respondent Philippine National Bank (PNB) of their Internal Revenue Allotment (IRA) for the months of October, November and December 2002 and January 2003. PNB's refusal to release their IRA was allegedly anchored on the refusal of Local Government Operations Officer (LGOO) Hadji Hussein Tugaya Tabua (LGOO Tabua) to issue the certifications requested of him by the petitioners.[4]

Thus, petitioners filed a petition[5] for mandamus and injunction with prayer for the issuance of a writ of preliminary injunction and/or TRO with the RTC of Marawi City which was docketed as Spl. Civil Action No. 985-03 and raffled to Branch 10. It seeks the issuance of a judgment requiring PNB to release the IRA to the petitioners and their respective appointed Barangay Treasurers.[6]

Instead of an answer, PNB filed a motion to dismiss the complaint for lack of cause of action which was denied by the trial court in its Order dated March 31, 2003.[7] The RTC also ordered the issuance of a writ of preliminary injunction directing PNB's Marawi Branch to "cease, desist and refrain from releasing the subject IRA's for barangays Alog, Madaya, Mindamudag and Campo, Riantaran and Bita, except to petitioners Gani Olama, Datu Makay Banto, Darimbang Antal Sultan, Camad Sangcopan, Jamil Abiden Tampugao, and Abdulgafor Angindarat."[8]

Subsequently, several motions for leave of court to intervene were filed by herein intervenors Abol M. Salim,[9] Elias R. Ditucalan, Jalil Abiden, Mustapha Buat,[10] Jamaloden Diator and Bato Adam.[11] They alleged that each one is the incumbent punong barangay of the same barangays that herein petitioners are claiming to be, to

wit: Bato Adam for Brgy. Riantaran; Abol M. Salim for Brgy. Alog; Elias R. Ditucalan for Brgy. Campo; Jalil Abiden for Brgy. Madaya; and Macay Buat for Brgy. Bita, that they will be adversely affected if the petition is granted because they will be unlawfully and unwarrantedly ousted from their position as Punong Barangay.

According to the intervenors, there was a failure of election held on August 13, 2002 in barangays Alog, Bita, Campo, Madaya, Mindamudag and Riantaran based on the report of the election officer assigned in Tubaran, Lanao del Sur, to supervise the conduct of special barangay and SK elections on August 13, 2002.[12] Thus, they claimed that they are still the incumbent punong barangays of their respective barangays based on the hold over provision of Section 5 of Republic Act No. 9164[13] which provides that:

> Section 5. Hold Over. – All incumbent barangay officials and sangguniang kabataan officials shall remain in office unless sooner removed or suspended for cause until their successors shall have been elected and qualified. The provisions of the Omnibus Election Code relative to the failure of elections and special elections are hereby reiterated in this Act.

The court a quo granted the motions for intervention and thereafter issued an order[14] requiring all the parties to submit their respective memoranda pursuant to Section 8[15] of Rule 65 of the Rules of Court. On November 21, 2003, the trial court rendered a decision in favor of the petitioners, the dispositive portion of which states:

> WHEREFORE, premises considered, judgment is hereby rendered in favor of petitioners and against respondent and intervenors:
>
> - Recognizing petitioners' legal rights to continue assuming the position as Punong Barangay in six (6) subject barangay without prejudice to the outcome or resolution of the COMELEC EN BANC of the pending (sic) between the parties;
>
> - Commanding and ordering respondent Philippines National Bank of the Philippines, Marawi City Branch, represented by Bai Sandorie T. Disomangcop both in her official capacity as Branch Manager or whoever is the Acting Head/Executive officer or manager of the bank to release to petitioners the Internal Revenue Allotment (IRA) for the month of February 2003 and succeeding or subsequent months corresponding to the six (6) barangay units opposite their names as follows:
>
> Gani P. Olama --------- Brgy. alog, Tubaran, Lanao Del Sur
> Datu Makay S. Banto – Brgy. Bita, Tubaran, Lanao del Sur
> Darimbang Antal ------ Brgy. Campo, Tubaran, Lanao del Sur
> Sultan Camad Sangcopan – Brgy. Madaya, Tubaran, Lanao del Sur
> Jamil Abiden Tampogao ---- Brgy. Mindamudag, Tubaran, Lanao del Sur.
> Abdulgafor Angindarat ------ Brgy. Riantaran, Tubaran, Lanao Del Sur.
>
> - Ordering intervenors to desist, refrain, and cease from exercising the powers and functions of petitioners as Punong barangays of in (sic) their respective barangay aforestated.
>
> SO ORDERED.[16]

On appeal, the Court of Appeals reversed the decision of the trial court for want of factual and legal basis.

Petitioners' motion for reconsideration was denied, hence this petition.

The petitioners argue that the findings of facts made by the Court of Appeals are contrary to those of the trial court. Verily, the issue raised by the petitioners invite us to rule on questions of fact, contrary to the settled rule that only questions of law may be raised in a petition for review. However, while it is an established dictum that it is not the function of the Supreme Court to analyze or weigh evidence anew, the circumstances obtaining in the present case require us to disregard the general rule and to apply one of the recognized exceptions, i.e., when the

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findings of fact of the Court of Appeals are contrary to those of the trial court.[17]

Petitioners contend that the pieces of documentary evidence they presented before the trial court clearly established their right to the issuance of the writ of mandamus.

We are not persuaded.

A writ of mandamus is an extraordinary legal remedy granted by courts of appellate jurisdiction, directed to some corporation, officer, or inferior court, requiring the performance of a particular duty therein specified, which duty results from the official station of the party to whom the writ is directed from operation of some law.[18] Under the Rules of Court, the writ of mandamus is available as a remedy only under these circumstances:

> When any tribunal, corporation, board, officer or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station, or unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled, and there in no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent, immediately or at some other time to be specified by the court, to do the act required to be done to protect the rights of the petitioner, and to pay the damages sustained by the petitioner by reason of the wrongful acts of the respondent.
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> x x x x.[19]

Thus, as an extraordinary remedy, mandamus may be availed of only if the legal right to be enforced is well defined, clear and certain. It lies only to compel an officer to perform a ministerial duty, not a discretionary one. The duty is ministerial only when its discharge requires neither the exercise of official discretion nor judgment.[20]

Further, it is settled that in order that a writ of mandamus may aptly issue, it is essential that, on the one hand, the person petitioning for it has a clear legal right to the claim that is sought and that, on the other hand, the respondent has an imperative duty to perform that which is demanded of him. Mandamus will not issue to enforce a right, or to compel compliance with a duty, which is questionable or over which a substantial doubt exists. The principal function of the writ of mandamus is to command and to expedite, not to inquire and to adjudicate; thus, it is neither the office nor the aim of the writ to secure a legal right but to implement that which is already established. Unless the right to the relief is unclouded, mandamus will not issue.[21]

We have carefully reviewed the records of this case and we find that the arguments raised by the petitioners clearly fall below the yardstick of the clear legal right required to be possessed by someone petitioning for the issuance of the writ of mandamus.

Contrary to the contention of the petitioners that they have established their legal right to the relief that they are seeking, their claim rests on very doubtful grounds. Petitioners allege that they were the duly elected heads of their respective barangays based on the Certificates of Canvass of Votes and Proclamations of Winning Candidates for Punong Barangay and Kagawad ng Sangguniang Barangay by the Barangay Board of Canvassers[22] which showed that they garnered the highest number of votes for punong barangay in their respective areas. However, petitioners failed to explain why each of the said certificates bore identical serial numbers.

As the Court of Appeals aptly observed:

> Appellees (herein petitioners) failed to establish that they have been elected and proclaimed as punong barangays. What they submitted were xerox copies of supposedly certified copies of Certificates of Canvass of

> Votes and Proclamation (hereafter Certificates) which curiously enough bear the same serial number. No evidence has been adduced to explain these patent irregularities and the non-production in the trial court of the original Certificates. EO ALI who purportedly certified as true and correct the Certificates in question does not appear to have any right to the custody of the records nor does he appear to have authority to furnish authenticated copies thereof. Worse, EO ALI was not even presented in court to attest to the said Certificates and the statements he made in his letter to LGOO which Appellees claimed will prove that they were elected and proclaimed as punong barangays. All these cast serious doubts on the authenticity and admissibility of the said documents.
>
> The authenticity of the Certificates was not established in accordance with the Rules of Evidence. Section 24 of Rule 132 of the Revised Rules of Court provides that an official record or entries therein may be proved by an official publication or by a copy attested by the officer having legal custody of the record or by his deputy. Section 25 of the same Rule further states that whenever a copy of a document or record is attested for the purpose of evidence, the attestation must state, in substance, that the copy is a correct copy of the original, or a specific part thereof, as the case may be. The attestation must be under the official seal of the attesting officer, if there be any.[23]

To our mind, the attitude manifested by the petitioners towards establishing the veracity of their respective Certificates of Canvass, a piece of evidence upon which they greatly anchor their petition before us, is contrary to the behavior of one who is convinced that his claim is valid. Petitioners failed to offer any satisfactory explanation on the patent irregularity that attended their Certificates of Canvass. Worse, a perusal of the respective certificates of assumption of office[24] of each petitioner will show that these documents were executed and certified by the petitioners themselves. We agree with the Court of Appeals that no probative value can thus be accorded to these certificates, they being uncorroborated and evidently, self serving.

From the foregoing, it is not correct to say, as petitioners claimed, that the refusal of the respondent PNB to release the IRA is unjustified. PNB has the right to require petitioners to present the proper certification as duly elected punong barangays from the Local Government Operations Officer of Tubaran, Lanao del Sur. Since the latter did not issue the certifications to the petitioners, there must be compelling reasons for such refusal as shown in the foregoing discussion.

To be given due course, a petition for mandamus must have been instituted by a party aggrieved by the alleged inaction of any tribunal, corporation, board or person which unlawfully excludes said party from the enjoyment of a legal right. The petitioner in every case must therefore be an aggrieved party in the sense that he possesses a clear right to be enforced and a direct interest in the duty or act to be performed. The Court will exercise its power of judicial review only if the case is brought before it by a party who has the legal standing to raise the constitutional or legal question. "Legal standing" means a personal and substantial interest in the case such that the party has sustained or will sustain direct injury as a result of the government act that is being challenged.[25] Clearly, not only did the petitioners fail to establish a clear legal right to the relief they are seeking, they also failed to make a case of locus standi for themselves in this case. The principle echoed and reechoed is that legal rights may be enforced by mandamus only if those rights are well defined, clear and certain. Mandamus never issues in doubtful cases.[26]

WHEREFORE, the petition is DENIED. The assailed Decision dated June 22, 2005 and Resolution dated August 15, 2005 of the Court of Appeals in CA-G.R. SP No. 84112 are AFFIRMED.

Costs against petitioners.

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SO ORDERED.

Panganiban, C.J., (Chairperson), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

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[1] Rollo, pp. 9-22. Penned by Associate Justice Myrna Dimaranan Vidal and concurred in by Associate Justices Teresita Dy-Liacco Flores and Edgardo A. Camello.

[2] Id. at 197-204. Penned by Judge Yusoph K. Pangadapun.

[3] Id. at 23-26.

[4] Id. at 198.

[5] Id. at 69-78.

[6] Id. at 75.

[7] Id. at 86-89.

[8] Id. at 89.

[9] Id. at 97-99.

[10] Id. at 111-112.

[11] Id. at 90-91.

[12] Id. at 199.

[13] AN ACT PROVIDING FOR SYNCHRONIZED BARANGAY AND SANGGUNIANG KABATAAN ELECTIONS, AMENDING REPUBLIC ACT NO. 7160, AS AMENDED, OTHERWISE KNOWN AS THE "LOCAL GOVERNMENT CODE OF 1991", AND FOR OTHER PURPOSES.

[14] Rollo, pp. 136-137.

[15] SECTION 8. Proceedings after comment is filed. – After the comment or other pleadings required by the court are filed, or the time for the filing thereof has expired, the court may hear the case or require the parties to submit memoranda. If after such hearing or submission of memoranda or the expiration of the period for the filing thereof the court finds that the allegations of the petition are true, it shall render judgment for the relief prayed for or to which the petitioner is entitled.

The court, however, may dismiss the petition if it finds the same to be patently without merit, prosecuted manifestly for delay, or that the questions raised therein are too unsubstantial to require consideration.

[16] Rollo, pp. 203-204.

[17] Buduhan v. Pakurao, et al., G.R. No. 168237, February 22, 2006.

[18] Garcia v. Sweeney, 4 Phil. 751, 754 (1904). See also Systems Plus Computer College of Caloocan City v. Local Government of Caloocan City, G.R. No. 146382, August 7, 2003, 408 SCRA 494, 497.

[19] RULES OF COURT, Rule 65, Sec. 3.

[20] Civil Service Commission v. Department of Budget and Management, G.R. No. 158791, July 22, 2005, 464 SCRA 115, 133-134.

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[21] BPI Family Savings Bank, Inc. v. Manikan, G.R. No. 148789, January 16, 2003, 395 SCRA 373, 375.

[22] Rollo, pp. 175-180.

[23] Id. at 302.

[24] Id. at 182, 184, 187, 190.

[25] Pimentel, Jr. v. Office of the Executive Secretary, G.R. No. 158088, July 6, 2005, 462 SCRA 622, 630.

[26] Vda. De Serra v. Salas, No. L-27150, November 28, 1969, 30 SCRA 541, 546.

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