

ENGR. RANULFO C. FELICIANO, PETITIONER, VS. NESTOR P. VILLASIN, RESPONDENT.

G.R. No. 174929. June 27, 2008

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This is a Petition for Certiorari under Rule 65 of the Revised Rules of Court assailing the following: (1) the Order[1] dated 28 July 2006 of Branch 6 of the Regional Trial Court (RTC) of Tacloban City, Leyte, dismissing petitioner Ranulfo C. Feliciano's Petition for Quo Warranto against respondent Nestor P. Villasin in Civil Case No. 2006-03-29; and (2) the Order[2] dated 8 September 2006 of the same court denying petitioner's Motion for Reconsideration.

The following are the antecedent facts of this case:

Petitioner Feliciano was appointed General Manager (GM) of Leyte Metropolitan Water District (LMWD) on 11 June 1975 by the LMWD Board of Directors through Resolution No. 14, Series of 1975.[3]

On 6 March 1990, the Local Water Utilities Administration (LWUA) took over the management and policy-making functions of LMWD owing to LMWD's default on the payment of its obligations to LWUA. Said move was made pursuant to Presidential Decree No. 198, otherwise known as THE PROVINCIAL WATER UTILITIES ACT OF 1973,[4] issued on 25 May 1973. The LWUA appointed an Interim General Manager and Chairman of the Board of Directors, as well as its members.

After the LWUA took over the management and policy-making functions of the LMWD in March 1990, Engineer (Engr.) Cayo U. Emnas was appointed as take-over General Manager. Emnas thereafter filed administrative charges against Feliciano for Grave Misconduct, Dishonesty and Conduct Unbecoming an LMWD Official, docketed as Administrative Case No. LMWD-OGCC-01-01.[5] Feliciano was accused of authorizing payment of his backwages amounting to P134,721.64, for the period 6 March 1990 up to 23 October 1990, although he did not report for work during said period.

The Office of the Government Corporate Counsel (OGCC) handled the investigation of the charges against Feliciano. In a Resolution dated 16 September 1991, the OGCC found Feliciano guilty as charged and recommended the penalty of dismissal. Pertinent portions of the OGCC Resolution reads:

The action of respondent in authorizing, causing and receiving the aforesaid disbursement of P134,721.64 in payment ostensibly of his backwages for the period starting 6 March 1990 up to and until 23 October 1990, knowing that during the said period he did not report for work nor rendered service to LMWD as testified to by complainants witnesses, is not only irregular but unlawful. Worse, respondent being the General Manager, necessarily had taken advantage of his position and abused the confidence reposed in his office in the perpetration of the said rank dishonesty. As a consequence thereof, LMWD was defrauded and suffered damage in the sum of P134,721.64.

Accordingly, undersigned finds respondent Ranulfo C. Feliciano guilty, as charged, of GRAVE MISCONDUCT, DISHONESTY, AND CONDUCT UNBECOMING OF AN LMWD OFFICIAL.

In view of the grave nature of the offense committed by respondent, the large sum which LMWD has been defrauded of, and the existence of aggravating circumstances occasioned by respondent's taking undue advantage of his position and abusing the confidence of his office, undersigned recommends the imposition of the penalty of DISMISSAL on respondent.[6]

On 11 November 1991, the Interim LMWD Board of Directors approved in toto the findings of the OGCC including its recommendation to dismiss Feliciano.[7]

On 1 October 1993, the Civil Service Commission (CSC) issued Memorandum Circular No. 41, Series of 1993, directing Board Chairpersons and GMs of water districts to submit personnel appointments for approval by the CSC.

On 20 July 1998, the take-over of the management and operations of the LMWD by the LWUA was lifted by the LWUA Board of Trustees in its Resolution No. 138, Series of 1998.[8]

On 25 September 1998, the new regular LMWD Board of Directors unanimously approved Resolution No. 98-002 ordering Feliciano to re-assume [9] the post he had vacated as GM of LMWD. The position was accepted by Feliciano on 27 September 1998.[10]

As GM, Feliciano appointed Edgar R. Nedruda, Milagros A. Majadillas and Edgar B. Ortega as Division Manager, Quality Control Assurance Officer and Plant Equipment Operator E, respectively, at the LMWD.[11] In compliance with CSC Memorandum Circular No. 41, Series of 1993, Feliciano submitted the same to the CSC Regional Office (CSCRO) for approval. The CSCRO, however, disapproved Feliciano's LMWD personnel appointments in its Order issued on 8 June 1999 since GM Feliciano did not possess the required CSC-approved appointment pursuant to CSC Memorandum Circular No. 41, S. 1993.[12] Feliciano appealed the Order to the CSC.

On 8 September 2000, the CSC through its Chairperson Corazon Alma G. de Leon, issued CSC Resolution No. 002107 denying Feliciano's appeal of his disapproved LMWD personnel appointments on the ground that he was only a de facto officer.[13] It found that Feliciano had no authority to make appointments since he himself lacked the required CSC-approved appointment pursuant to CSC Memorandum Circular No. 40, Series of 1998, and Memorandum Circular No. 41, Series of 1993.[14] The CSC thus resolved:

WHEREFORE, the Order issued by the Civil Service Commission (CSCRO) Regional Office No. VIII, Palo, Leyte, disapproving the appointments of Nedruda, Majadillas and Ortega on the ground that Ranulfo Feliciano lacks the authority to appoint, is hereby affirmed.

Accordingly, the Human Resource Management Officer/Personnel Officer of the Leyte Metro Water District (LMWD) may re-submit the appointment of Ranulfo Feliciano to the position of General Manager of the LMWD, to the CSC Leyte Field Office for attestation.

Feliciano may likewise re-appoint Nedruda, Majadillas and Ortega to the same positions. (Emphases ours.)

Feliciano filed a Motion for Reconsideration citing as main argument the fact that the LMWD was not a government-owned and controlled corporation, but a special type of non-stock, non-profit private corporation imbued with public interest, and therefore, not covered by the civil service rules.

The CSC denied Feliciano's Motion for Reconsideration in its Resolution No. 010218, issued on 22 January 2001, which reiterated that Feliciano's argument on the private character of water districts had long been put to rest in

Davao City Water District v. Civil Service Commission, which declared water districts to be government-owned or controlled corporations with original charter, falling under the jurisdiction of the CSC and Commission on Audit (COA).

Not satisfied, Feliciano appealed CSC Resolutions No. 002107 and 010218 to the Court of Appeals via Petition for Certiorari. The case was docketed as CA-G.R. No. 63325. On 1 September 2005, the Court of Appeals in Cebu City, through Associate Justice Ramon M. Bato, Jr., denied the petition.[15] Feliciano filed a Motion for Reconsideration but the same was denied per Resolution dated 15 August 2006.[16] Feliciano thereafter appealed to this Court on 15 August 2006 via petition for review on certiorari in G.R. No. 174178. In an en banc Decision issued on 17 October 2006, this Court denied the petition for its failure to sufficiently show that the CSC committed any reversible error in issuing the challenged decision and resolution. Feliciano's Motion for Reconsideration thereof was denied on 23 January 2007.

On 12 January 2005, the CSC issued a Memorandum directing its Regional Director (for Region 8) Rodolfo Encajonado (RD Encajonado) to submit an update on the status of Feliciano's appointment as GM of LMWD.

In his Memorandum submitted to the CSC on 14 January 2005, RD Encajonado reported that the LMWD Board of Directors had not yet submitted the required appointment of Feliciano as GM of LMWD for attestation, as required by CSC Resolutions No. 002107 and No. 010218. On account thereof, the CSC, through its Chairperson Karina Constantino-David, issued on 28 February 2005 CSC Resolution No. 050307, declaring Feliciano to be a mere de facto officer of LMWD and ordering him to vacate the position of GM, to wit:

With the promulgation on September 13, 1991 of the above-mentioned Supreme Court decision,[17] the issuance on October 1, 1993 of the aforesated CSC Memorandum Circular, and the adoption on January 22, 2001 of CSC Resolution No. 01-2018 denying Feliciano's motion for reconsideration, Feliciano is under legal obligation to comply by submitting his appointment to the Commission for attestation/approval. This, he did not do. He instead stubbornly maintained his personal stand that water districts are private corporations, not government-owned or controlled corporations with original charter. For all legal intents and purposes, effective upon his receipt on February 6, 2001 of CSC Resolution No. 01-0218 denying his motion for reconsideration, Feliciano is a mere usurper or intruder who has no right or title whatsoever to the position/office of General Manager. His further occupancy of the position after said date holds him criminally liable for usurpation of authority.

x x x x

WHEREFORE, the Commission resolves as follows:

- Between June 8, 1999 (the date when the Civil Service Commission Regional Office No. VIII issued an Order disapproving the appointments of Edgar R. Nedruda, Milagros A. Majadillas and Edgar B. Ortega on the ground that Ranulfo C. Feliciano does not possess a CSC-approved appointment) and February 6, 2001 (the date when Feliciano received a copy of CSC Resolution No. 01-0218 denying his motion for reconsideration and affirming CSC Resolution No. 00-2107), Feliciano shall be treated as a de facto officer whose acts are valid and binding only as regards innocent third persons. Insofar as Feliciano himself is concerned, his acts are void, hence, he is not entitled to the emoluments of the office. Regarding the three (3) issued appointments, the same are all void, since Feliciano has no authority to issue the same.

- Starting February 6, 2001, Feliciano is a mere usurper or intruder without any right or title to the office/position of General Manager of the Leyte Metropolitan Water District (LMWD). His further occupancy of the position of General Manager after February 6, 2001 holds him criminally liable for usurpation of authority. Effective upon receipt of this Resolution, he is ordered to vacate the position of LMWD General Manager.[18]

On 22 March 2005, Feliciano again sought recourse at the Court of Appeals where he filed a Petition for Certiorari and Prohibition with application for Temporary Restraining Order (TRO) and Writ of Injunction, seeking to enjoin the implementation of CSC Resolution No. 050307, Series of 2005. The case was docketed as CA-G.R. SP No. 00489.[19]

On 30 March 2005, while CA-G.R. SP No. 00489 was still pending with the Court of Appeals, with no injunction having been issued by the appellate court, the LMWD Board of Directors declared the GM position occupied by Feliciano vacant by virtue of LMWD Resolution No. 050307.[20]

The Court of Appeals subsequently issued on 12 April 2005 a Resolution in CA-G.R. SP No. 00489 granting a TRO effective for sixty days. After the lapse of the TRO, the LMWD Board of Directors appointed Villasin as the new GM of LMWD on 14 June 2005. On 16 September 2005, the Court of Appeals dismissed CA-G.R. SP No. 00489 which reached this Court via petition for review in G.R. No. 172141. This was eventually denied by this Court and entry of judgment was made on 14 November 2006. On 28 December 2005, the LMWD Board of Directors unanimously approved LMWD Resolution No. 05-145 certifying that Villasin was the GM of LMWD pursuant to the provisions of Presidential Decree No. 198 and the CSC Rules and Regulations.

On 28 March 2006, Feliciano thus filed with the RTC a Petition for Quo Warranto against Villasin under Rule 66 of the 1997 Rules of Civil Procedure, docketed as Civil Case No. 2006-03-29.

Feliciano asked the RTC to restore him to his position as GM of LMWD, and to remove Villasin therefrom. In particular, he prayed for the following in his Petition for Quo Warranto:

- To order [Villasin] to vacate the Office of General Manager of LMWD and for [Feliciano] to be seated to such office;
- To mandate [Villasin] to pay the salaries and other emoluments of [Feliciano] which as of this date amounts to more than One Million Two Hundred Thousand Pesos (P1,200,000.00);
- To direct [Villasin] to pay [Feliciano] attorney's fees comprised of Two Hundred Thousand Pesos (P200,000.00) as acceptance fees and Five Thousand Pesos (P5,000.00) appearance per hearing;
- To command [Villasin] to pay the cost of herein Petition for Quo Warranto.

[Feliciano] also prays for such other reliefs as may be necessary under the circumstances.[21]

Citing the Court's ruling in *Villaluz v. Zaldivar*,[22] Feliciano argued that since the LWUA had no power to remove a GM appointed by a regular Board of Directors, it should follow then that an interim Board of Directors neither had the power to discipline or remove a regular GM of LMWD.

Villasin countered by filing a Comment/Answer with Motion to Dismiss the Petition for Quo Warranto, on the following grounds:

(a)

Forum shopping;

(b)

Feliciano is disqualified from government service due to his dismissal from office on 11 November 1991;

(c)

Petitioner's claim that LMWD is a private entity defeats his petition since quo warranto is a remedy of a person claiming a public office;

(d)

Quo warranto case was filed more than a year from the time the cause of action arose or beyond the reglementary period;

(e)

The Court of Appeals had already denied his petition for Review on Certiorari on CSC Resolution No. 050307.

A hearing with notice to the parties was set for 2 June 2006 but Feliciano failed to attend the same.[23] The RTC then ordered Civil Case No. 2006-03-29 submitted for Resolution.

On 28 July 2006, the RTC issued an Order dismissing Feliciano's Petition for Quo Warranto, finding that:

The scope of the remedy of quo warranto instituted by an individual is that he, the petitioner, has prior right to the position or office held by the respondent. Where there is no legal ground or where the fundamental basis of the petition is none or destroyed, it becomes unnecessary to pass upon the right of the respondent.

x x x x

WHEREFORE, in view of the foregoing (sic), for lack of cause of action amounting to want of jurisdiction, this petition shall be, as it is hereby ordered, dismissed.[24]

Feliciano filed his Motion for Reconsideration alleging that the Order issued by the RTC was conjectural, presumptuous and specious. However, the Motion for Reconsideration was denied by the RTC in an Order dated 8 September 2006. According to the RTC, the Quo Warranto Petition was prematurely filed considering that Feliciano's Petition for Review on Certiorari with the Court of Appeals, involving CSC Resolutions No. 002107 and No. 010218, was still pending with the Court of Appeals. Hence, the issue of whether Feliciano is holding the GM position in a de facto or a de jure capacity is yet to be resolved. The RTC therefore decreed:

WHEREFORE, with prematurity in the institution of the present petition as duly admitted by herein petitioner-movant coupled with the fact that the rest of the arguments raised in the motion have already been considered and rejected by this court in the order dated, July 28, 2006, the motion for reconsideration is hereby denied.[25]

On 14 October 2006, Feliciano went directly to this Court via the instant Petition for Certiorari under Rule 65 of the Revised Rules of Court, raising the following arguments:

I.

RESPONDENT COURT HAS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION AS ITS DISMISSAL OF THE PETITION IS SO WHIMSICAL, CAPRICIOUS AND ARBITRARY AMOUNTING THEREFORE TO A PATENT AND GROSS EVASION OF A POSITIVE DUTY OR VIRTUAL REFUSAL TO PERFORM JUDICIAL DUTY.

II.

RESPONDENT COURT HAS COMMITTED GRAVE ABUSE OF DISCRETION AS ITS DISMISSAL OF

THE PETITION, BASED ON GROUNDS NOT SOUGHT AND PRAYED FOR IN THE MOTION TO DISMISS, CONSTITUTES A DENIAL OF DUE PROCESS.

As hereinbefore stated, CA-G.R. SP No. 00489, Feliciano's Petition for Certiorari and Prohibition seeking to enjoin the implementation of CSC Resolution No. 050307, was dismissed by the Court of Appeals in a Decision dated 16 September 2005. Feliciano appealed said Court of Appeals Decision before this Court through a Petition for Review on Certiorari, docketed as G.R. No. 172141. This Court, however, in an En Banc Resolution dated 6 June 2006, ruled to:

b) DENY the petition for failure thereof to sufficiently show that the Court of Appeals committed any reversible error in issuing the challenged decision and resolution as to warrant the exercise by this Court of its discretionary appellate jurisdiction.[26]

The Court En Banc denied with finality Feliciano's Motion for Reconsideration on 22 August 2006, and entry of judgment was made in G.R. No. 172141 on 14 November 2006.

In the instant Petition, which actually arose from the appointment by the LMWD Board of Directors of Villasin as the new GM of LMWD after the CSC ordered Feliciano to vacate the same in its Resolution No. 050307, Feliciano prays that this Court set aside and declare null and void the Orders dated 28 July 2006 and 8 September 2006 of the RTC dismissing his Petition for Quo Warranto in Civil Case No. 2006-03-29.

Petitioner raises several issues in this Petition, which all boil down to the sole question of whether the RTC committed grave abuse of discretion amounting to lack or excess of jurisdiction in dismissing Feliciano's Petition for Quo Warranto.

Worthy to note is the failure of Feliciano to implead herein the RTC, the tribunal that rendered the assailed Orders, as a nominal party (public respondent) in the instant Petition for Certiorari. One of the requisites of an independent civil action for Certiorari is that it must be directed against a tribunal, a board, or an officer exercising judicial or quasi-judicial functions. Feliciano failed to comply with said requirement and this failure is sufficient to dismiss this Petition.

Under Rule 65 of the Rules of Court, failure to comply with any of the aforesaid requirements for filing an independent civil action for Certiorari is sufficient ground for the dismissal of the petition. This rule accords sufficient discretion to the court hearing the special civil action whether or not to dismiss the petition outright for failure to comply with said requirement.

Evidently, the function of this Court is merely to check whether the RTC committed grave abuse of discretion amounting to lack or excess of jurisdiction in dismissing Feliciano's Petition for Quo Warranto before it.

In a petition for certiorari under Section 1, Rule 65 of the Rules of Court, the following essential requisites must be present, to wit: (1) the writ is directed against a tribunal, a board, or an officer exercising judicial or quasi-judicial functions; (2) such tribunal, board, or officer has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction; and (3) there is no appeal or any plain, speedy, and adequate remedy in the ordinary course of law.[27]

Grave abuse of discretion implies such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, or, in other words, where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility,[28] and it must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.[29]

A petition for certiorari under Rule 65 of the Rules of Court will prosper only if there is a showing of grave abuse

of discretion or an act without or in excess of jurisdiction on the part of respondent tribunal. In the absence of such a showing, there is no reason for this Court to annul the decision of the respondent tribunal or to substitute it with its own judgment, for the simple reason that it is not the office of a petition for Certiorari to inquire into the correctness of the assailed decision.

Nonetheless, even as this Court delves into the merits of the present Petition, it still must fail.

Feliciano's Petition for Quo Warranto centers on his alleged right as the one legally entitled to occupy the position of GM of LMWD. He presented two main issues therein:

(1)

Whether or not the LMWD Board of Directors, through Resolution No. 05-037, legally and validly ousted him; and

(2)

Whether or not the LMWD Board of Directors legally and validly appointed Villasin.

Contending that his appointment as GM on 11 June 1975 by the LMWD Board of Directors and subsequent assumption of office bestowed on him a legal right to the said position, Feliciano argues that Republic Act No. 9286,[30] which further amended Presidential Decree No. 198, and was approved on 2 April 2004, vested him with security of tenure. Feliciano adds that the Interim LMWD Board of Directors, in fact, had no power to dismiss him when he was dismissed on 11 November 1991.

It is well-established that Quo Warranto proceedings determine the right of a person to the use or exercise of a franchise or an office and to oust the holder from its enjoyment, if the latter's claim is not well-founded, or if he has forfeited his right to enjoy the privilege. According to the Rules of Procedure:

The action may be commenced for the Government by the Solicitor General or the fiscal against a person who usurps, intrudes into, or unlawfully holds or exercises a public office, position or franchise; a public officer whose acts constitute a ground for the forfeiture of his office; or against an association which acts as a corporation without being legally incorporated or without lawful authority to so act.[31]

The action may also be instituted by an individual in his own name who claims to be entitled to the public office or position usurped or unlawfully held or exercised by another.[32] (Emphasis supplied.)

The possible outcome of a Petition for Quo Warranto can be any of the following:

If the court finds for the respondent, the judgment should simply state that the respondent is entitled to the office. If, however, the court finds for the petitioner and declares the respondent guilty of usurping, intruding into, or unlawfully holding or exercising the office, judgment may be rendered as follows:

"Sec. 10. Judgment where usurpation found.-- When the defendant is found guilty of usurping, intruding into, or unlawfully holding or exercising an office, position, right, privilege, or franchise, judgment shall be rendered that such defendant be ousted and altogether excluded therefrom, and that the plaintiff or relator, as the case may be, recover his costs. Such further judgment may be rendered determining the respective rights in and to the office, position, right, privilege, or franchise of all the parties to the action as justice requires."

If it is found that the respondent or defendant is usurping or intruding into the office, or unlawfully holding the same, the court may order:

(1) The ouster and exclusion of the defendant from office;

(2) The recovery of costs by plaintiff or relator;

(3) The determination of the respective rights in and to the office, position, right, privilege or franchise of all the parties to the action as justice requires.[33]

In the instance in which the Petition for Quo Warranto is filed by an individual in his own name, he must be able to prove that he is entitled to the controverted public office, position, or franchise; otherwise, the holder of the same has a right to the undisturbed possession thereof. In actions for Quo Warranto to determine title to a public office, the complaint, to be sufficient in form, must show that the plaintiff is entitled to the office.[34] In *Garcia v. Perez*,[35] this Court ruled that the person instituting Quo Warranto proceedings on his own behalf, under Section 5, Rule 66 of the Rules of Court, must aver and be able to show that he is entitled to the office in dispute. Without such averment or evidence of such right, the action may be dismissed at any stage.[36]

Due to the recent turn of events, Feliciano lost any legal standing to pursue via Quo Warranto proceedings his claim to the position of GM of LMWD considering this Court's En Banc Resolutions dated 6 June 2006 and 22 August 2006 in G.R. No. 172141 which denied with finality his Petition for Review on Certiorari of the Court of Appeals Decision dated 16 September 2005 and Resolution dated 31 March 2006 in CA-G.R. SP No. 00489 upholding the legality of CSC Resolution No. 050307. To recall, CSC Resolution No. 050307 treated Feliciano as a de facto officer with regard to his acts as GM of LMWD; and declared him to be a usurper of or an intruder to the said position beginning 6 February 2001, and thus ordered him to vacate the same.

Considering that entry of judgment was already made in G.R. No. 172141 as of 14 November 2006, there is therefore no more obstacle to the appointment by the LMWD Board of Directors of Villasin as the new GM of LMWD.

Feliciano imputes grave abuse of discretion on the part of the RTC for allegedly failing to afford him due process, since his Petition for Quo Warranto was dismissed based on its face and without having been heard. In granting Villasin's Motion to Dismiss the Petition for Quo Warranto, the RTC ratiocinated:

Inferred, in the year 1999, petitioner herein already knew that his appointment as General Manager of LMWD was placed in doubt and declared ineffective. So his acts as such since then were void. Petitioner, in fact was ordered by the Civil Service Commission to vacate the position of LMWD General Manager since he assumed the position without completed appointment (General Manager, Philippine Ports Authority, et al. vs. Julieta Monserat, 381 SCRA 200.)

x x x As of the moment, without the CSC approved appointment, he is, the law points, a de facto officer. He held the position of General Manager of LMWD without the completed appointment. Over this, but for the creed petitioner avows, the court believes that while the necessary intent is there, the sporting idea of fair play, is not sufficient for the petition to succeed. Petitioner surely is a de facto officer.[37]

The Court emphasizes that an action for Quo Warranto may be dismissed at any stage when it becomes apparent that the plaintiff is not entitled to the disputed public office, position or franchise.[38] Hence, the RTC is not compelled to still proceed with the trial when it is already apparent on the face of the Petition for Quo Warranto that it is insufficient. The RTC may already dismiss said petition at this point.

Feliciano presents as an alternative argument the fact that as GM of LMWD, he is not part of the personnel of the water district, arguing that his appointment does not need CSC attestation. He explains that:

[E]ven granting that the CSC can declare him a de facto officer and usurper, the same has already prescribed, since as early as September 8, 2000 in its Resolution No. 002107 or four (4) years before its Resolution No. 050307, it has already known about petitioner being a de facto officer, that being the GM of LMWD, he is not part of the personnel of LMWD, thus, his appointment is not subject to attestation under CSC Resolution No.

41, S. 1993 x x x.[39]

We find his argument untenable.

To determine whether personnel of the LMWD, particularly the GM, are subject to CSC Rules and Regulations, we must delve into the pertinent laws affecting the management and policy-making functions of the LMWD.

The provisions of Presidential Decree No. 198 read:

Chapter VI

Officers and Employees

Section 23. Additional Officers. - At the first meeting of the board, or as soon thereafter as practicable, the board shall appoint, by a majority vote, a general manager, an auditor, and an attorney, and shall define their duties and fix their compensation. Said officers shall service at the pleasure of the board.

x x x x

Section 25. Exemption from Civil Service. - The district and its employees, being engaged in a proprietary function, are hereby exempt from the provisions of the Civil Service Law. x x x.

On 15 August 1975, Presidential Decree No. 768 amended Section 23 of Presidential Decree No. 198 to read:

SEC. 23. The General Manager. - At the first meeting of the board, or as soon thereafter as practicable, the board shall appoint, by a majority vote, a general manager and shall define his duties and fix his compensation. Said officer shall serve at the pleasure of the board.

On 11 June 1978, Presidential Decree No. 1479[40] amended Presidential Decree No. 198, as amended by Presidential Decree No. 768, removing Section 25 of the latter, which had exempted the district and its employees from the coverage of the Civil Service. Thus, with such amendment, officers and employees of water districts were put under the mantle of Civil Service Rules and Regulations.

On 2 April 2004, Republic Act No. 9286 further amended Section 23 of Presidential Decree No. 198, to read:

Sec. 23. The General Manager. - At the first meeting of the Board, or as soon thereafter as practicable, the Board shall appoint, by a majority vote, a general manager and shall define his duties and fix his compensation. Said officer shall not be removed from office, except for cause and after due process.

From the foregoing, as early as the issuance of Presidential Decree No. 1479 on 11 June 1978, it is clear that the LMWD GM is covered by Civil Service Rules and Regulations.

As we have held in *Tanjay Water District v. Gabaton*,^[41] *Davao City Water District v. Civil Service Commission*,^[42] and *Hagonoy Water District v. National Labor Relations Commission*,^[43] water districts are government instrumentalities^[44] whose officers and employees belong to the civil service. These rulings are in consonance with the provisions of Article IX-B, Section 2 of the Constitution, whose provisions read:

The civil service embraces all branches, subdivisions, instrumentalities, and agencies of the Government, including government-owned or controlled corporations with original charters.

The position of General Manager being unequivocally part of the personnel of the water district whose officers and employees are covered under the civil service, an appointment thereto requires the attestation of the CSC for it to be valid.

Moreover, this Court cannot ignore the fact that petitioner Feliciano violated the rule on forum shopping^[45] in his quest for a favorable opinion on his cause of action.

Forum shopping exists when a party repetitively avails himself of several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues either pending in, or already resolved adversely by, some other court.[46]

The following elements of forum shopping have been established:

- (a) identity of parties, or at least such parties as represent the same interests in both actions;
- (b) identity of rights asserted and relief prayed for, the relief being founded on the same set of facts; and
- (c) the identity of the two preceding particulars, such that any judgment rendered in the other action will, regardless of which party is successful, amount to res judicata in the action under consideration.[47]

The prohibition on forum shopping is embodied in Rule 7 of the Rules of Court, which provides, viz:

Sec. 5. Certification against forum shopping.—The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.

What is pivotal to consider in determining whether forum shopping exists or not is the vexation caused to courts and the parties-litigants by a party who asks appellate courts and/or administrative entities to rule on the same or related causes and/or to grant the same or substantially the same reliefs, in the process creating the possibility of conflicting decisions being rendered by the different courts upon the same issues.[48]

Feliciano has evidently trifled with the courts and abused their processes in improperly instituting several cases and filing multiple petitions, cases or proceedings, and splitting causes of action - all of which focused on the legality of his termination as LMWD GM. While a party may avail himself of the remedies prescribed by the Rules of Court for the myriad reliefs from the court, such party is not free to resort to them simultaneously or at his pleasure or caprice.

It is pertinent to note that at the time Feliciano filed G.R. No. 174929 on 14 October 2006, the legality of his termination as LMWD GM has, in fact, been resolved with finality with the entry of judgment in G.R. No. 172141. To recall, this Court En Banc denied G.R. No. 172141 and affirmed CA-G.R. SP No. 00489 which upheld CSC Resolution No. 050307. With the denial of G.R. No. 172141, the validity of CSC Resolution No. 050307 declaring Feliciano to be a de facto officer from 8 June 1999 to 6 February 2001, and a mere usurper thereafter, has been laid to rest.

Feliciano, however, insisted on pursuing this petition for certiorari, being fully aware of the finality of G.R. No.

172141 and the consequences resulting therefrom.

This Court reiterates the *raison d'être* for the proscription against forum shopping. The grave evil sought to be avoided by the rule against forum shopping is the rendition by two competent tribunals of two separate and contradictory decisions – unscrupulous party litigants, taking advantage of a variety of competent tribunals, may repeatedly try their luck in several fora until a favorable result is reached.[49]

IN ALL, we find that the RTC committed no grave abuse of discretion in dismissing Feliciano's Petition for Quo Warranto.

WHEREFORE, premises considered, this Petition for Certiorari is DISMISSED, and the Orders dated 8 July 2006 and 8 September 2006 issued by Branch 6 of the Regional Trial Court in Tacloban, Leyte, in Civil Case No. 2006-03-29, dismissing petitioner Ranulfo C. Feliciano's Petition for Quo Warranto, are hereby AFFIRMED.

Feliciano and his counsel are hereby REPRIMANDED for FORUM SHOPPING, with a WARNING that a repetition of the same or similar act will be dealt with more severely. Costs against petitioner.

SO ORDERED.

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

Nachura, J., No part.

[1] Penned by Presiding Judge Santos T. Gil; rollo, pp. 24-28.

[2] Rollo, pp. 29-31.

[3] Wherefore, be it resolved, as it is hereby resolved, to appoint Engr. Ranulfo C. Feliciano as General Manager of the Leyte Metropolitan Water District as the rate of One Thousand Six Hundred Thirty-One Pesos (P1,631.00) per month effective June 11, 1975;

x x x x

Approved this 11[th] day of June 1975, 1975 at Tacloban City. (Rollo, p. 50.)

[4] The full title of which is: DECLARING A NATIONAL POLICY FAVORING LOCAL OPERATION AND CONTROL OF WATER SYSTEMS; AUTHORIZING THE FORMATION OF LOCAL WATER DISTRICTS AND PROVIDING FOR THE GOVERNMENT AND ADMINISTRATION OF SUCH DISTRICTS; CHARTERING A NATIONAL ADMINISTRATION TO FACILITATE IMPROVEMENT OF LOCAL WATER UTILITIES; GRANTING SAID ADMINISTRATION SUCH POWERS AS ARE NECESSARY TO OPTIMIZE PUBLIC SERVICE FROM WATER UTILITY OPERATIONS, AND FOR OTHER PURPOSES.

[5] Rollo, p. 84.

[6] Id. at 58.

[7] LMWD Resolution No. 18, Series of 1991.

[8] Rollo, p. 51.

[9] Id. at 51.

[10] Id. at 51-52.

[11] Id. at 53.

[12] Id. at 53.

[13] Id. at 53-56.

[14] Id. at 53-56.

[15] Penned by Associate Justice Ramon M. Bato, Jr. with Associate Justices Arsenio J. Magpale and Pampio A. Abarientos, concurring; CA rollo, pp. 547-556.

[16] Penned by Associate Justice Pampio A. Abarientos with Executive Justice Arsenio J. Magpale and Associate Justice Romeo F. Barza, concurring; CA rollo, p. 574.

[17] *Davao City Water District v. Civil Service Commission*, G.R. Nos. 95237-38, 13 September 1991, 201 SCRA 593.

[18] CSC Resolution No. 05037; rollo, pp. 57-64.

[19] CA rollo, pp. 2-34.

[20] Two board members were present out of the 3 working board members at that time; the board is composed of five directors. (Rollo, pp. 70-71.)

[21] Complaint for Quo Warranto; rollo, pp. 32-49.

[22] 122 Phil. 1091 (1965).

[23] Feliciano received the notice on the day of the scheduled hearing.

[24] Rollo, pp. 24-28.

[25] Rollo, p. 31.

[26] En Banc Resolution of this Court; Entry of Judgment dated 14 November 2006; rollo of G.R. No. 172141, p. 374.

[27] *Metro Drug Distribution, Inc. v. Metro Drug Corporation Employees Association-Federation of Free Workers*, G.R. No. 142666, 26 September 2005, 471 SCRA 45, 56; *Suntay v. Cojuangco-Suntay*, 360 Phil. 932, 939 (1998); *Cuison v. Court of Appeals*, 351 Phil. 1089, 1102 (1998); *Sanchez v. Court of Appeals*, 345 Phil. 155, 179 (1997); *Cochingyan, Jr. v. Cloribel*, 167 Phil. 106, 131 (1977).

[28] *Coca-Cola Bottlers, Philippines, Inc. v. Daniel*, G.R. No. 156893, 21 June 2005, 460 SCRA 494, 504, citing *Vda. de Daffon v. Court of Appeals*, 436 Phil. 233, 242 (2002); *Duero v. Court of Appeals*, 424 Phil. 12, 20 (2002); *De Baron v. Court of Appeals*, 420 Phil. 474, 482 (2001).

[29] *Cuison v. Court of Appeals*, supra note 27.

[30] AN ACT FURTHER AMENDING PRESIDENTIAL DECREE NO. 198, OTHERWISE KNOWN AS THE "PROVINCIAL WATER UTILITIES ACT OF 1973," AS AMENDED.

[31] RULES OF COURT, Rule 66, Section 1.

[32] Id., Section 5.

[33] *Mendoza v. Allas*, 362 Phil. 238, 244-245 (1999).

[34] Luna v. Rodriguez, 36 Phil. 401, 403 (1917).

[35] G.R. No. L-28184, 11 September 1980, 99 SCRA 628.

[36] Id.

[37] Rollo, pp. 26-27.

[38] Garcia v. Perez, supra note 35.

[39] Rollo, p. 13.

[40] FURTHER AMENDING PRESIDENTIAL DECREE NO. 198, OTHERWISE KNOWN AS "THE PROVINCIAL WATER UTILITIES ACT OF 1973," AS AMENDED.

[41] G.R. No. 63742, 17 April 1989, 172 SCRA 253.

[42] Supra note 17.

[43] G.R. No. L-81490, 31 August 1988, 165 SCRA 272.

[44] With original charter.

[45] Rules of Court, Rule 7.

[46] Chemphil Export & Import Corporation v. Court of Appeals, G.R. Nos. 112438-39, 12 December 1995, 251 SCRA 257, 291-292; Hongkong and Shanghai Banking Corporation Limited v. Catalan, G.R. Nos. 159590-91, 18 October 2004, 440 SCRA 498, 513; Garcia v. Sandiganbayan, G.R. No. 165835, 22 June 2005, 460 SCRA 600, 637-638; Guaranteed Hotels, Inc. v. Baltao, G.R. No. 164338, 17 January 2005, 448 SCRA 738, 744; San Juan v. Arambulo, Sr., G.R. No. 143217, 14 December 2005, 477 SCRA 725, 728; Navarro Vda. de Taroma v. Taroma, G.R. No. 160214, 16 December 2005, 478 SCRA 336, 345-346; Maricalum Mining Corporation v. Brion, G.R. Nos. 157696-97, 9 February 2006, 482 SCRA 87, 105-106; Philippine Airlines Employees Savings and Loan Association, Inc. v. Philippine Airlines, Inc., G.R. No. 161110, 30 March 2006, 485 SCRA 632, 646; Lim v. Vianzon, G.R. No. 137187, 3 August 2006, 497 SCRA 482, 494; Huibonhoa v. Concepcion, G.R. No. 153785, 3 August 2006, 497 SCRA 562, 569; Santos v. Parañaque Kings Enterprises, Inc., G.R. No. 153562, 23 October 2006, 505 SCRA 48, 53.

[47] Mondragon Leisure and Resorts Corporation v. United Coconut Planters Bank, G.R. No. 154187, 14 April 2004, 427 SCRA 585, 590; Ao-As v. Court of Appeals, G.R. No. 128464, 20 June 2006, 491 SCRA 339, 353.

[48] Tagaro v. Garcia, G.R. No. 158568, 17 November 2004, 442 SCRA 562, 571-572; Municipality of Taguig v. Court of Appeals, G.R. No. 142619, 13 September 2005, 469 SCRA 588, 595.

[49] Guevara v. BPI Securities Corporation, G.R. No. 159786, 15 August 2006, 498 SCRA 613, 637-638; Guaranteed Hotels, Inc. v. Baltao, supra note 46; San Juan v. Arambulo, Sr., supra note 46.

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