

STAR SPECIAL WATCHMAN AND DETECTIVE AGENCY, INC., CELSO A. FERNANDEZ AND MANUEL V. FERNANDEZ, PETITIONERS, VS. PUERTO PRINCESA CITY, MAYOR EDWARD HAGEDORN AND CITY COUNCIL OF PU...

G.R. No. 181792. April 21, 2014

Ponente: MENDOZA, J.

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MENDOZA, J.:

This petition for mandamus[1] seeks to direct, command and compel the respondents to enforce, implement or pay the petitioners the judgment award of the November 18, 2003 Decision[2] of the Regional Trial Court, Branch 223, Quezon City (RTC-Br. 223), in Civil Case No. Q-01-45668, the decretal portion of which reads:

WHEREFORE, premises considered, defendant Puerto Princesa City is hereby ordered to pay the plaintiffs Star Special Watchman and Detective Agency, Inc., Celso A. Fernandez and Manuel V. Fernandez, the following:

1. The amount of ten million six hundred fifteen thousand five hundred sixty-nine pesos and sixty three centavos (P10,615,569.63), representing the defendants unpaid balance under the July 22, 2003 Decision, with twelve percent (12%) interest per annum, as pegged in the said Decision, from November 27, 2001, the date of the judicial demand in the form of the filing of the present Complaint; and
2. Three hundred eighty thousand pesos (P380,000.00), and the rentals of two thousand pesos (P2,000.00) monthly from November 2001, until full payment of the amount stated in No. 1 hereof.

Plaintiffs' claim for attorney's fees is DENIED [for] lack of basis.

Costs against the defendant.

SO ORDERED.[3]

The Facts

Records show that Star Special Watchman and Detective Agency, Inc., Celso A. Fernandez and Manuel V. Fernandez (petitioners) were the owners of two (2) parcels of land located in Puerto Princesa City. One was covered by Transfer Certificate of Title (TCT) No. 7827 consisting of 5,261 square meters and the other by TCT No. 7828 with an area of more or less 130,094 square meters. On June 3, 1989, the two (2) parcels of land were subdivided into seven (7) lots.[4]

Before Puerto Princesa became a city, the national government established a military camp in Puerto Princesa, known as the Western Command. In building the command's facilities and road network, encroachment on several properties of petitioners resulted. Among the properties taken for the build-up of the Western Command Headquarters was Lot 7, consisting of 5,942 square meters and covered by TCT No. 13680. Petitioners' property was used as a road right-of-way leading to the military camp. This road was named the "Wescom Road." Soon after, the City of Puerto Princesa decided to develop the "Wescom Road" because local residents started to build

their houses alongside it.

In view of the encroachment, petitioners filed an action for Payment of Just Compensation (Civil Case No. Q-90-4930) against Puerto Princesa City, Mayor Edward Hagedorn and the City Council of Puerto Princesa City (respondents) before the RTC, Branch 78, Quezon City (RTC-Br. 78), praying that the court render judgment ordering respondents to pay petitioners for the fair market value of their land and a monthly rental fee until fully paid.

On July 22, 1993, the RTC-Br. 78 rendered a decision^[5] (RTC-Br. 78 Decision) in favor of petitioners. The dispositive portion of the said decision reads:

WHEREFORE, judgment is hereby rendered ordering the defendant Puerto Princesa City to pay plaintiffs as follows:

The amount of One Thousand Five Hundred Pesos (P1,500.00) per square meter on their land covered by Transfer Certificate of Title No. 13680 of the Register of Deeds of Puerto Princesa City, measuring 5,942 square meters with interest at twelve (12%) percent from March 12, 1990, date of the filing of the complaint, and after payment, the Register of Deeds of Puerto Princesa City is ordered to cancel Transfer Certificate of Title No. 13680 in the names of the plaintiffs and another one be issued in the name of Puerto Princesa City, after payment of the corresponding fees; P2,000.00 monthly rental from 1986 until the whole value of the land has been fully paid; damages and attorney's fees are dismissed; and counterclaim of the defendant is likewise dismissed for lack of merit.

With costs against the defendant.

SO ORDERED.^[6]

After the RTC-Br. 78 Decision became final and executory, a writ of execution, dated February 17, 1994, was issued which directed respondents to satisfy the money judgment contained in the said decision.

The total money judgment amounted to P16,930,892.97 as of October 1995. Nonetheless, sometime in November 1995, petitioner Celso A. Fernandez and respondents' legal counsel, Atty. Agustin Rocamora (Atty. Rocamora), met and agreed to reduce the money judgment from P16,930,892.97 to P12,000,000.00, subject to the condition that respondents would pay the amount of P2 million in February 1996 and, thereafter, P1 million monthly until fully paid. The P1 million monthly payment was further reduced to P500,000.00.

Pursuant thereto, respondents initially appropriated the amount of P2 million representing the initial payment of petitioners' claim. On January 30, 1996, LBP Check No. 049646^[7] was drawn in the name of Celso Fernandez which the latter received in February 1996. Thereafter, respondents enacted Sangguniang Panlungsod Resolution No. 292-96,^[8] "A Resolution Authorizing the Release of FIVE HUNDRED THOUSAND PESOS Monthly as Payment to the Claim of Star Special Watchman and Detective Agency, Inc. for the Parcel of Land Traversed by The City Road."

On May 10, 1996, however, Celso Fernandez wrote a letter^[9] informing respondents that after petitioners received the amount of P2 million from them in February 1996, there were no more payments received for the months of March, April and May 1996. He also requested respondents to enact a continuing resolution for the P500,000.00 monthly payment until the full payment of the remaining balance of P10 million. Otherwise, petitioners would, within the first week of June 1996, set aside the verbal agreement with Atty. Rocamora and respondents would be required to pay the total amount of P16,234,690.21.

Records show that the total negotiated amount of P12 million was already fully paid and received by petitioners on the basis of the certification issued by then City Treasurer of Puerto Princesa, Rogelio L. Hitosis. The

certification shows that from February 6, 1996 up to October 23, 1997, a total amount of P12,000,000.00 was disbursed by respondents to petitioners for the payment of a parcel of land traversed by the city road, as follows:

DATE ISSUED

CHECK NO.

AMOUNT

February 6, 1996

049646

P 2,000,000.00

September 10, 1996

18278355

P 1,000,000.00

November 5, 1996

21562399

P 1,000,000.00

January 31, 1997

4205501

P 2,000,000.00

May 15, 1997

22977614

P 2,000,000.00

May 26, 1997

22986270

P 1,500,000.00

June 24, 1997

22991909[10]

P 500,000.00

July 24, 1997

22992012

P 500,000.00

August 29, 1997

22992130

P 500,000.00

September 25, 1997

25535162[11]

P 500,000.00

October 23, 1997

25535244

P 500,000.00

Grand Total:

P12,000,000.00[12]

Nevertheless, on November 27, 2001, petitioners filed a complaint before the RTC-Br. 223 (Civil Case No. Q-01-45668) against respondents for collection of unpaid just compensation, including interests and rentals, in accordance with the RTC-Br. 78 Decision. Petitioners averred, among others, that respondents indeed paid a total amount of P12 million, but not on time; that as of October 31, 2001, they had an unpaid balance of P10,615,569.63 inclusive of interests; and that as of October 31, 2001, the rentals due on the subject property reached the amount of P380,000.00 plus the monthly rentals of P2,000.00 from November 2001.

On November 18, 2003, after petitioners presented their evidence and respondents waived their right to present theirs, the RTC-Br. 223 rendered its decision in favor of petitioners.

After its November 18, 2003 decision became final and executory on January 20, 2004, the RTC-Br. 223 granted petitioners' motion for execution and issued a writ of execution,[13] dated February 10, 2005.

Subsequently, petitioners filed two (2) motions, dated May 4, 2005 and July 20, 2005, both asking the RTC-Br. 223 1] to order the Land Bank of the Philippines to deliver the garnished account of respondents; and/or 2] to order respondents to appropriate funds for the payment of the money judgment rendered against them and in favor of petitioners.

On October 27, 2005, the RTC-Br. 223 issued an order[14] denying both motions on the ground that pursuant to Section 305(a) of the Local Government Code,[15] government funds could not be subjected to execution and levy, or to garnishment for that matter, unless there was a corresponding appropriation law or ordinance. The RTC-Br. 223, however, stated that respondents must still honor their obligation and that petitioners were entitled to a full and just compensation considering that its decision had long become final and executory. Accordingly, it directed respondents to comply with its decision and to immediately pay petitioners the sums of money specified in the said decision.

On February 14, 2006, petitioners filed a motion to declare respondents in indirect contempt of court for their failure to comply with the November 18, 2003 RTC-Br. 223 decision despite the issuance of a writ of execution against them. Again, petitioners' motion was denied by the RTC-Br. 223 in its Order,[16] dated September 6, 2006. The RTC-Br. 223 reiterated the rule that government funds may not be subjected to execution and levy, or to garnishment, unless there was a corresponding appropriation law or ordinance. It also cited the Supreme Court Administrative Circular No. 10-00, dated October 25, 2000, which enjoined the observance of utmost caution, prudence and judiciousness in the issuance of writs of execution to satisfy money judgments against government

agencies and local government units.

The RTC-Br. 223 likewise issued an order,[17] dated June 5, 2007, denying the petitioners' motion to compel respondents to comply with the writ of execution, dated February 1, 2007, restating the proscription with respect to the satisfaction of money judgment against government agencies and local government units.

On May 7, 2007, petitioners wrote a letter to the Commission On Audit (COA) requesting that it order respondents to pay petitioners the amount adjudged in the November 18, 2003 decision of the RTC-Br. 223. Subsequently, on July 13, 2007, petitioners filed a formal claim[18] with the COA praying that it issue an order directing respondents to appropriate/allocate the necessary funds for the full satisfaction of the said decision including the corresponding interests and rentals which as of June 26, 2007 amounted to P21,235,894.41.

On July 7, 2007, the COA, through its Legal and Adjudication Office-Local, wrote a letter[19] to petitioner Celso Fernandez informing him that it could not act upon his request to order respondents to pay petitioners the amount adjudged in the November 18, 2003 decision because it had no jurisdiction over the matter as the case was already in the execution stage. The COA wrote another letter,[20] dated March 28, 2008, reiterating its stand on the matter.

Undaunted, petitioners filed similar complaints against respondents before the Office of the Deputy Ombudsman for Luzon and to the Office of the Undersecretary of the Department of Interior and Local Government praying that respondents pay the subject money judgment and that they be suspended from office for their refusal to comply with the money judgment.

Hence, this Petition for Mandamus under Rule 65 of the 1997 Rules of Court.

Petitioners anchor their prayer on the following

ISSUE

WHETHER OR NOT THE REMEDY OF MANDAMUS IS PROPER TO COMPEL HEREIN RESPONDENTS PUERTO PRINCESA CITY, MAYOR EDWARD HAGEDORN AND THE CITY COUNCIL OF PUERTO PRINCESA CITY TO COMPLY WITH THE NOVEMBER 18, 2003 DECISION OF THE REGIONAL TRIAL COURT OF QUEZON CITY, BRANCH 223 AND PAY HEREIN PETITIONERS OF THE JUDGMENT DEBT STATED THEREIN, PLUS THE INTERESTS UNTIL FULLY PAID.[21]

Petitioners basically argue that the remedy of mandamus is proper to compel respondents to comply with the November 18, 2003 decision of the RTC-Br. 223 which ordered respondents to pay petitioners the sums of money stated therein. They cited the rule that a writ of mandamus may issue when a 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. According to them, their rightful claim against respondents became well-defined, clear and certain when the November 18, 2003 decision became final and executory. Considering that the said decision already became final, respondents had the legal duty to comply with the same and pay petitioners the judgment debt stated therein as the compliance and payment of a judgment debt are mere ministerial duties on the part of respondents.[22]

Petitioners further argue that the delay in the payment of just compensation for the taking of their property has prejudiced their rights as owners of the subject property. Respondents' continued refusal to perform their ministerial duty of paying the judgment debt as provided in the November 18, 2003 decision had harmed the interest of the government as the interests on the principal obligation continued to balloon. By February 29, 2008, the petitioners' claim reportedly reached P22,884,179.91.[23]

Respondents' argument

On the other hand, respondents counter that they have settled in full the amount of just compensation claimed by petitioners. Thus, their obligation has been extinguished. According to respondents, the agreed amount of P12,000,000.00 was already settled and paid as evidenced by the vouchers and checks in favor of petitioners and duly acknowledged by the latter.

Respondents also argue that a petition for mandamus is not the proper remedy to compel them to comply with the RTC-Br. 223 decision. They contend that the said decision is not a “law” as contemplated under Section 3, Rule 65 of the Rules of Court, which can order their compliance. It is not a “duty” either imposed by “law” compellable by mandamus as it is a remedy available only to compel the doing of an act enjoined by law as a duty.

Moreover, respondents contend that Supreme Court Administrative Circular No. 10-2000, dated October 25, 2000, as implemented further by COA Circular No. 2001-002, laid down the proper procedure to enforce the November 18, 2003 decision of the RTC-Br. 223 and the writ of execution it issued. The said circular mandates that “...upon determination of state liability, the prosecution, enforcement or satisfaction thereof must still be pursued in accordance with the rules and procedures laid down in P.D. No. 1445, otherwise known as the Government Auditing Code of the Philippines. All money claims against the Government must first be filed with the Commission on Audit which must act upon it within sixty (60) days...” Accordingly, respondents posit that even if the alleged judgment has attained finality, the requirements provided for in Presidential Decree (P.D.) No. 1445 have to be complied with before any government funds or property may be seized under writs of execution and that only funds and property owned by the government in its proprietary capacity can be subjected to execution. Petitioners, therefore, have no clear legal right to their demand in the absence of funds and property owned by respondents in their proprietary capacity since properties owned by the City Government for public purpose are not subject to execution.

Respondents further aver that the RTC-Br. 223 denied on three (3) occasions their motion and prayer to garnish the property of respondents, to compel them to comply with the subject writ of execution, and to declare them in indirect contempt.

Respondents add that petitioners have committed forum shopping by seeking similar remedies before different fora to compel them to satisfy their claim. Prior to the filing of this petition for mandamus, petitioners filed similar complaints before the Office of the Deputy Ombudsman for Luzon and the Office of the Undersecretary of the Department of Interior and Local Government as well as with the COA.

The Court's Ruling

The Court cannot blame petitioners for resorting to the remedy of mandamus because they have done everything in the books to satisfy their just and demandable claim. They went to the courts, the COA, the Ombudsman, and the DILG. They resorted to the remedy of mandamus because in at least three (3) cases, the Court sanctioned the remedy in cases of final judgments rendered against a local government unit (LGU). The Court ruled that a claimant may resort to the remedy of mandamus to compel an LGU to enact the necessary ordinance and approve the corresponding disbursement in order to satisfy the judgment award. In *Municipality of Makati v. The Honorable Court of Appeals*,^[24] it was written:

There is merit in this contention. The funds deposited in the second PNB Account No. S/A 263-530850-7 are public funds of the municipal government. In this jurisdiction, well-settled is the rule that public funds are not subject to levy and execution, unless otherwise provided for by statute [*Republic v. Palacio*, *supra*.; *The Commissioner of Public Highways v. San Diego*, G.R. No. L-30098, February 18, 1970, 31 SCRA 616]. More

particularly, the properties of a municipality, whether real or personal, which are necessary for public use cannot be attached and sold at execution sale to satisfy a money judgment against the municipality. Municipal revenues derived from taxes, licenses and market fees, and which are intended primarily and exclusively for the purpose of financing the governmental activities and functions of the municipality, are exempt from execution [See *Viuda De Tan Toco v. The Municipal Council of Iloilo*, 49 Phil. 52 (1926); *The Municipality of Paoay, Ilocos Norte v. Manaois*, 86 Phil. 629 (1950); *Municipality of San Miguel, Bulacan v. Fernandez*, G.R. No. 61744, June 25, 1984, 130 SCRA 56]. The foregoing rule finds application in the case at bar. Absent a showing that the municipal council of Makati has passed an ordinance appropriating from its public funds an amount corresponding to the balance due under the RTC decision dated June 4, 1987, less the sum of ₱99,743.94 deposited in Account No. S/A 265-537154-3, no levy under execution may be validly effected on the public funds of petitioner deposited in Account No. S/A 263-530850-7.

Nevertheless, this is not to say that private respondent and PSB are left with no legal recourse. Where a municipality fails or refuses, without justifiable reason, to effect payment of a final money judgment rendered against it, the claimant may avail of the remedy of mandamus in order to compel the enactment and approval of the necessary appropriation ordinance, and the corresponding disbursement of municipal funds therefor [See *Viuda De Tan Toco v. The Municipal Council of Iloilo*, supra; *Baldivia v. Lota*, 107 Phil. 1099 (1960); *Yuiengco v. Gonzales*, 108 Phil. 247 (1960)]. [Emphasis and underscoring supplied]

This doctrine was reiterated in *Teresita M. Yujuico v. Hon. Jose L. Atienza*,^[25] as follows:

Respondents also argue that the members of the CSB cannot be directed to decide a discretionary function in the specific manner the court desires. The question of whether the enactment of an ordinance to satisfy the appropriation of a final money judgment rendered against an LGU may be compelled by mandamus has already been settled in *Municipality of Makati v. Court of Appeals*.

Nevertheless, this is not to say that private respondent and PSB are left with no legal recourse. Where a municipality fails or refuses, without justifiable reason, to effect payment of a final money judgment rendered against it, the claimant may avail of the remedy of mandamus in order to compel the enactment and approval of the necessary appropriation ordinance, and the corresponding disbursement of municipal funds therefore [See *Viuda De Tan Toco v. The Municipal Council of Iloilo*, supra, *Baldivia v. Lota*, 107 Phil 1099 (1960); *Yuiengco v. Gonzales*, 108 Phil 247 (1960)].

Clearly, mandamus is a remedy available to a property owner when a money judgment is rendered in its favor and against a municipality or city, as in this case.

The same ruling was arrived at in the more recent case of *Spouses Ciriaco and Arminda Ortega v. City of Cebu*.^[26]

It has been held, however, that a resort to the remedy of mandamus is improper if the standard modes of procedure and forms of remedy are still available and capable of affording relief. The equitable nature of a writ of mandamus was discussed in the case of *Uy Kiao Eng vs. Nixon Lee*,^[27] thus:

Mandamus is a command issuing from a court of law of competent jurisdiction, in the name of the state or the sovereign, directed to some inferior court, tribunal, or board, or to some corporation or person 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 or from operation of law. This definition recognizes the public character of the remedy, and clearly excludes the idea that it may be resorted to for the purpose of enforcing the performance of duties in which the public has no interest. The writ is a proper recourse for citizens who seek to enforce a public right and to compel the performance of a public duty, most especially when the public right involved is mandated by the Constitution. As the quoted provision instructs, mandamus will lie if the tribunal, corporation, board, officer, or person unlawfully neglects the performance of an act which the law enjoins as a duty

resulting from an office, trust or station.

The writ of mandamus, however, will not issue to compel an official to do anything which is not his duty to do or which it is his duty not to do, or to give to the applicant anything to which he is not entitled by law. Nor will mandamus issue to enforce a right which is in substantial dispute or as to which a substantial doubt exists, although objection raising a mere technical question will be disregarded if the right is clear and the case is meritorious. As a rule, mandamus will not lie in the absence of any of the following grounds: [a] that the court, officer, board, or person against whom the action is taken unlawfully neglected the performance of an act which the law specifically enjoins as a duty resulting from office, trust, or station; or [b] that such court, officer, board, or person has unlawfully excluded petitioner/relator from the use and enjoyment of a right or office to which he is entitled. On the part of the relator, it is essential to the issuance of a writ of mandamus that he should have a clear legal right to the thing demanded and it must be the imperative duty of respondent to perform the act required.

Recognized further in this jurisdiction is the principle that mandamus cannot be used to enforce contractual obligations. Generally, mandamus will not lie to enforce purely private contract rights, and will not lie against an individual unless some obligation in the nature of a public or quasi-public duty is imposed. The writ is not appropriate to enforce a private right against an individual. The writ of mandamus lies to enforce the execution of an act, when, otherwise, justice would be obstructed; and, regularly, issues only in cases relating to the public and to the government; hence, it is called a prerogative writ. To preserve its prerogative character, mandamus is not used for the redress of private wrongs, but only in matters relating to the public.

Moreover, an important principle followed in the issuance of the writ is that there should be no plain, speedy and adequate remedy in the ordinary course of law other than the remedy of mandamus being invoked. In other words, mandamus can be issued only in cases where the usual modes of procedure and forms of remedy are powerless to afford relief. Although classified as a legal remedy, mandamus is equitable in its nature and its issuance is generally controlled by equitable principles. Indeed, the grant of the writ of mandamus lies in the sound discretion of the court. [Emphasis supplied]

Regarding final money judgment against the government or any of its agencies or instrumentalities, the legal remedy is to seek relief with the COA pursuant to Supreme Court Administrative Circular 10-2000 dated October 25, 2000, which states as follows:

SUBJECT : EXERCISE OF UTMOST CAUTION, PRUDENCE AND JUDICIOUSNESS IN THE ISSUANCE OF WRITS OF EXECUTION TO SATISFY MONEY JUDGMENTS AGAINST GOVERNMENT AGENCIES AND LOCAL GOVERNMENT UNITS.

In order to prevent possible circumvention of the rules and procedures of the Commission on Audit, judges are hereby enjoined to observe utmost caution, prudence and judiciousness in the issuance of writs of execution to satisfy money judgments against government agencies and local government units.

Judges should bear in mind that in *Commissioner of Public Highways v. San Diego* (31 SCRA 617, 625 [1970]), this Court explicitly stated:

"The universal rule that where the State gives its consent to be sued by private parties either by general or special law, it may limit claimant's action 'only up to the completion of proceedings anterior to the stage of execution' and that the power of the Court ends when the judgment is rendered, since government funds and properties may not be seized under writs of execution or garnishment to satisfy such judgments, is based on obvious considerations of public policy. Disbursements of public funds must be covered by the corresponding appropriation as required by law. The functions and public services rendered by the State cannot be allowed to be paralyzed or disrupted by the diversion of public funds from their legitimate and specific objects, as appropriated by law."

Moreover, it is settled jurisprudence that upon determination of State liability, the prosecution, enforcement or satisfaction thereof must still be pursued in accordance with the rules and procedures laid down in P. D. No. 1445, otherwise known as the Government Auditing Code of the Philippines (Department of Agriculture v. NLRC, 227 SCRA 693, 701-02 [1993] citing Republic v. Villazor, 54 SCRA 84 [1973]). All money claims against the Government must first be filed with the Commission on Audit which must act upon it within sixty days. Rejection of the claim will authorize the claimant to elevate the matter to the Supreme Court on certiorari and, in effect, sue the State thereby (P. D. 1445, Sections 49-50).

However, notwithstanding the rule that government properties are not subject to levy and execution unless otherwise provided for by statute (Republic v. Palacio, 23 SCRA 899 [1968]; Commissioner of Public Highways v. San Diego, *supra*) or municipal ordinance (Municipality of Makati v. Court of Appeals, 190 SCRA 206 [1990]), the Court has, in various instances, distinguished between government funds and properties for public use and those not held for public use. Thus, in *Viuda de Tan Toco v. Municipal Council of Iloilo* (49 Phil 52 [1926]), the Court ruled that "[w]here property of a municipal or other public corporation is sought to be subjected to execution to satisfy judgments recovered against such corporation, the question as to whether such property is leviable or not is to be determined by the usage and purposes for which it is held." The following can be culled from *Viuda de Tan Toco v. Municipal Council of Iloilo*:

1. Properties held for public uses - and generally everything held for governmental purposes - are not subject to levy and sale under execution against such corporation. The same rule applies to funds in the hands of a public officer and taxes due to a municipal corporation.
2. Where a municipal corporation owns in its proprietary capacity, as distinguished from its public or governmental capacity, property not used or used for a public purpose but for quasi-private purposes, it is the general rule that such property may be seized and sold under execution against the corporation.
3. Property held for public purposes is not subject to execution merely because it is temporarily used for private purposes. If the public use is wholly abandoned, such property becomes subject to execution.

This Administrative Circular shall take effect immediately and the Court Administrator shall see to it that it is faithfully implemented.

Issued this 25th day of October, 2000 in the City of Manila.

On July 31, 2001, the COA itself issued COA Circular No. 2001-002[28] which cited the full mandate of Supreme Court Administrative Circular 10-2000 for the information and guidance of its Heads of Departments, Chiefs of Bureaus and Offices, Managing Heads of Government-Owned and/or Controlled Corporations, Local Chief Executives, Assistant Commissioners, Directors, Officers-In-Charge, and Auditors of COA.

Considering that a writ of execution was already issued by RTC-Br. 223, the remedy of petitioners is to follow up their claim with the COA. Petitioners rightfully did so, but the COA erred in not acting on the claim.

Petitioners did file their Formal Money Claim[29] with the COA, but the latter, through its Legal and Adjudicating Office-Local, wrote a letter,[30] dated July 17, 2007, stating that it could not act upon petitioners' request because it would encroach upon the prerogatives of the RTC and the case was already in the execution stage. The COA was of the position that it had no proper legal standing and jurisdiction anymore.

On August 27, 2007, respondents, through the City Legal Officer, wrote a letter,[31] requesting the COA to reconsider its opinion in its letter, dated July 17, 2007, and at the same time take cognizance of the money claim. On March 28, 2008, however, the COA wrote another letter reiterating its stand on the matter.[32]

It is the opinion of this Court that COA should have acted on the formal request of petitioners. Sections 26, 49 and 50 of P.D. No. 1445 otherwise known as the Government Auditing Code of the Philippines, provide:

Section 26. General jurisdiction. The authority and powers of the Commission shall extend to and comprehend all matters relating to auditing procedures, systems and controls, the keeping of the general accounts of the Government, the preservation of vouchers pertaining thereto for a period of ten years, the examination and inspection of the books, records, and papers relating to those accounts; and the audit and settlement of the accounts of all persons respecting funds or property received or held by them in an accountable capacity, as well as the examination, audit, and settlement of all debts and claims of any sort due from or owing to the Government or any of its subdivisions, agencies and instrumentalities. The said jurisdiction extends to all government-owned or controlled corporations, including their subsidiaries, and other self-governing boards, commissions, or agencies of the Government, and as herein prescribed, including non-governmental entities subsidized by the government, those funded by donations through the government, those required to pay levies or government share, and those for which the government has put up a counterpart fund or those partly funded by the government.

Section 49. Period for rendering decisions of the Commission. The Commission shall decide any case brought before it within sixty days from the date of its submission for resolution. If the account or claim involved in the case needs reference to other persons or offices, or to a party interested, the period shall be counted from the time the last comment necessary to a proper decision is received by it.

Section 50. Appeal from decisions of the Commission. The party aggrieved by any decision, order or ruling of the Commission may within thirty days from his receipt of a copy thereof appeal on certiorari to the Supreme Court in the manner provided by law and the Rules of Court. When the decision, order, or ruling adversely affects the interest of any government agency, the appeal may be taken by the proper head of that agency. [Emphases supplied]

From the above provisions, it is clear that the COA has the authority and power to settle “all debts and claims of any sort due from or owing to the Government or any of its subdivisions, agencies and instrumentalities.” This authority and power can still be exercised by the COA even if a court’s decision in a case has already become final and executory. In other words, the COA still retains its primary jurisdiction to adjudicate a claim even after the issuance of a writ of execution.

The case of *National Electrification Administration v. Morales*,^[33] is instructive on this matter:

Without question, petitioner NEA is a GOCC -- a juridical personality separate and distinct from the government, with capacity to sue and be sued. As such GOCC, petitioner NEA cannot evade execution; its funds may be garnished or levied upon in satisfaction of a judgment rendered against it. However, before execution may proceed against it, a claim for payment of the judgment award must first be filed with the COA.

Under Commonwealth Act No. 327, as amended by Section 26 of P.D. No. 1445, it is the COA which has primary jurisdiction to examine, audit and settle "all debts and claims of any sort" due from or owing the Government or any of its subdivisions, agencies and instrumentalities, including government-owned or controlled corporations and their subsidiaries. With respect to money claims arising from the implementation of R.A. No. 6758, their allowance or disallowance is for COA to decide, subject only to the remedy of appeal by petition for certiorari to this Court.

All told, the RTC acted prudently in halting implementation of the writ of execution to allow the parties recourse to the processes of the COA. It may be that the tenor of the March 23, 2000 Indorsement issued by COA already spells doom for respondents’ claims; but it is not for this Court to preempt the action of the COA on the post-audit to be conducted by it per its Indorsement dated March 23, 2000.

In fine, it was grave error for the CA to reverse the RTC and direct immediate implementation of the writ of execution through garnishment of the funds of petitioners.^[34]

Equally relevant is the more recent case of *University of the Philippines v. Hon. Dizon*,^[35] to wit:

The execution of the monetary judgment against the UP was within the primary jurisdiction of the COA. This was expressly provided in Section 26 of Presidential Decree No. 1445, to wit:

Section 26. General jurisdiction. - The authority and powers of the Commission shall extend to and comprehend all matters relating to auditing procedures, systems and controls, the keeping of the general accounts of the Government, the preservation of vouchers pertaining thereto for a period of ten years, the examination and inspection of the books, records, and papers relating to those accounts; and the audit and settlement of the accounts of all persons respecting funds or property received or held by them in an accountable capacity, as well as the examination, audit, and settlement of all debts and claims of any sort due from or owing to the Government or any of its subdivisions, agencies and instrumentalities. The said jurisdiction extends to all government-owned or controlled corporations, including their subsidiaries, and other self-governing boards, commissions, or agencies of the Government, and as herein prescribed, including non governmental entities subsidized by the government, those funded by donations through the government, those required to pay levies or government share, and those for which the government has put up a counterpart fund or those partly funded by the government.

It was of no moment that a final and executory decision already validated the claim against the UP. The settlement of the monetary claim was still subject to the primary jurisdiction of the COA despite the final decision of the RTC having already validated the claim. As such, Stern Builders and dela Cruz as the claimants had no alternative except to first seek the approval of the COA of their monetary claim.

On its part, the RTC should have exercised utmost caution, prudence and judiciousness in dealing with the motions for execution against the UP and the garnishment of the UP's funds. The RTC had no authority to direct the immediate withdrawal of any portion of the garnished funds from the depository banks of the UP. By eschewing utmost caution, prudence and judiciousness in dealing with the execution and garnishment, and by authorizing the withdrawal of the garnished funds of the UP, the RTC acted beyond its jurisdiction, and all its orders and issuances thereon were void and of no legal effect, specifically: (a) the order Judge Yadao issued on January 3, 2007 allowing Stern Builders and dela Cruz to withdraw the deposited garnished amount; (b) the order Judge Yadao issued on January 16, 2007 directing DBP to forthwith release the garnish amount to Stern Builders and dela Cruz; (c) the sheriff's report of January 17, 2007 manifesting the full satisfaction of the writ of execution; and (d) the order of April 10, 2007 deying the UP's motion for the redeposit of the withdrawn amount. Hence, such orders and issuances should be struck down without exception.

Considering that the COA still retained its primary jurisdiction to adjudicate money claim, petitioners should have filed a petition for certiorari with this Court pursuant to Section 50 of P.D. No. 1445. Hence, the COA's refusal to act did not leave the petitioners without any remedy at all.

WHEREFORE, the petition for mandamus is DENIED. Petitioners are enjoined to refile its claim with the Commission on Audit pursuant to P.D. No. 1445.

SO ORDERED.

Velasco, Jr., (Chairperson), Peralta, Abad, and Leonen, JJ., concur.

May 2, 2014

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on ____April 21, 2014____ a Decision, copy attached herewith, was rendered by the

Supreme Court in the above-entitled case, the original of which was received by this Office on May 2, 2014 at 10:00 a.m.

Very truly yours,

(SGD)

LUCITA ABJELINA SORIANO

Division Clerk of Court

[1] Rollo, pp. 3-24.

[2] Id. at 35-43. Penned by then Presiding Judge Ramon A. Cruz.

[3] Id. at 42-43.

[4] Id. at 5.

[5] Id. at 25-34. Penned by Judge Percival Mandap Lopez.

[6] Id. at 34.

[7] Id. at 117.

[8] Id. at 258-259.

[9] Id. at 113-114.

[10] Id. at 132.

[11] Id. at 131.

[12] Id. at 135.

[13] Id. at 46-47.

[14] Id. at 48-49.

[15] Sec 35(a). No money shall be paid out of the local treasury except in pursuance of an appropriations ordinance or law.

[16] Id. at 73-74.

[17] Id. at 75-76.

[18] Id. at 95-100.

[19] Id. at 101.

[20] Id. at 104.

[21] Id. at 15.

[22] Id. at 17.

[23] Id. at 19.

[24] G.R. Nos. 89898-99, October 1, 1990, 190 SCRA 206, 212-213.

[25] 509 Phil. 442, 466 (2005).

[26] G.R. No. 181562-63, October 2, 2009, 602 SCRA 601, 608-610.

[27] G.R. No. 176831, January 15, 2010, 610 SCRA 211, 216-220.

[28] Rollo, pp. 68-70.

[29] Id. at 95-100.

[30] Id. at 101.

[31] Id. at 102-103.

[32] Id. at 104.

[33] 555 Phil. 74 (2007).

[34] National Electrification Administration v. Morales, 555 Phil. 74, 84-87 (2007).

[35] G.R. No. 181792, August 23, 2012, 679 SCRA 54, 79-81.

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