ORLANDO A. RAYOS, FE A. RAYOS-DELA PAZ, REPRESENTED BY DR. ANTONIO A. RAYOS, AND ENGR. MANUEL A. RAYOS, PETITIONERS, VS. THE CITY OF MANILA, RESPONDENT.

G.R. No. 196063. December 14, 2011

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This petition, captioned as a petition for review on certiorari and declaratory relief,[1] assails the Order of 6 January 2011[2] of the Regional Trial Court of Manila, Branch 49, denying reconsideration of the trial court's Order of 11 March 2010[3] which denied the motion to dismiss filed by petitioners Orlando A. Rayos, Fe A. Rayos Dela Paz, and Engr. Manuel A. Rayos.[4]

The Facts

The present case originated from a complaint for eminent domain filed by respondent City of Manila against Remedios V. De Caronongan, Patria R. Serrano, Laureano M. Reyes, Paz B. Sison, Teofila B. Sison, Leticia R. Ventanilla, Rosalinda R. Barrozo (defendants), docketed as Civil Case No. 03108154.

In its Complaint,[5] the City of Manila alleged that it passed Ordinance No. 7949 authorizing the City Mayor to acquire "by expropriation, negotiation or by any other legal means" the parcel of land co-owned by defendants, which is covered by TCT No. 227512 and with an area of 1,182.20 square meters. The City of Manila offered to purchase the property at P1,000.00 per square meter.

In their Answer,[6] defendants conveyed their willingness to sell the property to the City of Manila, but at the price of P50,000.00 per square meter which they claimed was the fair market value of the land at the time.

In the course of the proceedings, Laureano, one of the defendants, died on 1 December 2003 and was substituted by his son petitioner Manuel A. Rayos. Meanwhile, petitioner Orlando A. Rayos intervened while petitioner Fe A. Rayos Dela Paz was added as a defendant.

On 7 December 2009, petitioners Orlando A. Rayos, Fe A. Rayos Dela Paz, and Engr. Manuel A. Rayos filed a Motion to Dismiss on the grounds that (1) Ordinance No. 7949 is unconstitutional and (2) the cases of Lagcao v. Labra[7] and Jesus Is Lord Christian School Foundation, Inc. v. Municipality (now City) of Pasig, Metro Manila[8] apply squarely to the present case.

On 11 March 2010, the trial court denied the motion to dismiss. The trial court ruled that the motion to dismiss did not show any compelling reason to convince the court that the doctrine of stare decisis applies. Petitioners failed to demonstrate how or why the facts in this case are similar with the cited cases in order that the issue in this case be resolved in the same manner. The trial court disposed of the motion to dismiss in this wise:

> In view of the foregoing, and after intense evaluation of the records on hand, the Motion to Dismiss cannot be

> granted.
>
> In order to prevent further delay to the prejudice of all the proper parties in this case, continue with the trial for the determination of just compensation on July 7, 2010 at one o'clock in the afternoon.
>
> SO ORDERED.[9]

On 6 January 2011, the trial court denied the motion for reconsideration.

Petitioners filed with this Court the present petition reiterating the arguments in their motion to dismiss, namely, (1) Ordinance No. 7949 is unconstitutional, and (2) the cases of Lacgao v. Labra[10] and Jesus Is Lord Christian School Foundation, Inc. v. Municipality (now City) of Pasig, Metro Manila[11] apply squarely to this case.

The Ruling of the Court

We deny the petition.

An order denying a motion to dismiss is interlocutory and not appealable.[12] An order denying a motion to dismiss does not finally dispose of the case, and in effect, allows the case to proceed until the final adjudication thereof by the court. As such, it is merely interlocutory in nature and thus, not appealable.[13] Section 1(c), Rule 41 of the Rules of Court provides:

> SECTION 1. Subject of appeal. - An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.
>
> No appeal may be taken from:
>
> x x x
>
> (c) An interlocutory order;
>
> x x x
>
> In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65.

Clearly, no appeal, under Rule 45 of the Rules of Court, may be taken from an interlocutory order. In case of denial of an interlocutory order, the immediate remedy available to the aggrieved party is to file a special civil action for certiorari under Rule 65 of the Rules of Court.

In this case, since the trial court's order denying the motion to dismiss is not appealable, petitioners should have filed a petition for certiorari under Rule 65 to assail such order, and not a petition for review on certiorari under Rule 45 of the Rules of Court. For being a wrong remedy, the present petition deserves outright dismissal.

Even if the Court treats the present petition as a petition for certiorari under Rule 65, which is the proper remedy to challenge the order denying the motion to dismiss, the same must be dismissed for violation of the principle of hierarchy of courts. This well-settled principle dictates that petitioners should file the petition for certiorari with the Court of Appeals, and not directly with this Court.

Indeed, this Court, the Court of Appeals and the Regional Trial Courts exercise concurrent jurisdiction to issue writs of certiorari, prohibition, mandamus, quo warranto, habeas corpus and injunction.[14] However, such concurrence in jurisdiction does not give petitioners unbridled freedom of choice of court forum.[15] In [Heirs of Bertuldo Hinog v. Melicor],[16] citing People v. Cuaresma,[17] the Court held:

> This Court's original jurisdiction to issue writs of certiorari is not exclusive. It is shared by this Court with

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> Regional Trial Courts and with the Court of Appeals. This concurrence of jurisdiction is not, however, to be taken as according to parties seeking any of the writs an absolute, unrestrained freedom of choice of the court to which application therefor will be directed. There is after all a hierarchy of courts. That hierarchy is determinative of the venue of appeals, and also serves as a general determinant of the appropriate forum for petitions for the extraordinary writs. A becoming regard for that judicial hierarchy most certainly indicates that petitions for the issuance of extraordinary writs against first level ("inferior") courts should be filed with the Regional Trial Court, and those against the latter, with the Court of Appeals. A direct invocation of the Supreme Court's original jurisdiction to issue these writs should be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition. This is [an] established policy. It is a policy necessary to prevent inordinate demands upon the Court's time and attention which are better devoted to those matters within its exclusive jurisdiction, and to prevent further over-crowding of the Court's docket. (Emphasis supplied.)

In short, to warrant a direct recourse to this Court, petitioners must show exceptional and compelling reasons therefor, clearly and specifically set out in the petition. This petitioners failed to do.

Petitioners merely rehashed the arguments in their motion to dismiss, which consist mainly of unsubstantiated allegations. Petitioners invoke the cases of Lagcao v. Labra[18] and Jesus Is Lord Christian School Foundation, Inc. v. Municipality (now City) of Pasig, Metro Manila[19] in challenging the constitutionality of Ordinance No. 7949 without, however, showing clearly the applicability and similarity of those cases to the present controversy. Neither did petitioners explain why Ordinance No. 7949 is repugnant to the Constitution. Nor did petitioners specifically and sufficiently set forth any extraordinary and important reason to justify direct recourse to this Court.[20]

Likewise, assuming the present petition is one for declaratory relief,[21] as can be gleaned from the caption of the petition, this Court has only appellate, not original, jurisdiction over such a petition. While this Court may treat a petition for declaratory relief as one for prohibition[22] or mandamus, over which this Court exercises original jurisdiction,[23] it must be stressed that this special treatment is undertaken only in cases with far reaching implications and transcendental issues that need to be resolved.[24]

In the present case, there is absolutely nothing which shows that it has far-reaching implications and involves transcendental questions deserving of this Court's treatment of the petition as one for prohibition or mandamus.

WHEREFORE, we DENY the petition.

SO ORDERED.

Brion,Perez, Sereno, and Reyes, JJ., concur.

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[1] Rollo, p. 16.

[2] Id. at 24. Penned by Pairing Judge William Simon P. Peralta.

[3] Id. at 25-26.

[4] Petitioners included Remedios V. De Caronongan, Patria R. Serrano, Paz B. Sison (represented by Engr. Reynaldo B. Sison), Teofila B. Sison, Leticia R. Ventanilla, and Rosalinda R. Barrozo as co-petitioners in the title of the petition; however, only petitioners signed the Verification and Certification against Forum-Shopping (id. at 21).

[5] Id. at 41-45.

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[6] Id. at 58-62.

[7] 483 Phil. 303 (2004).

[8]503 Phil. 845 (2005).

[9] Rollo, p. 26.

[10] Supra note 7.

[11] Supra note 8.

[12] Fil-Estate Golf and Development, Inc. v. Navarro, G.R. No. 152575, 29 June 2007, 526 SCRA 51, 55, citing Lu Ym v. Nabua, G.R. No. 161309, 23 February 2005, 452 SCRA 298.

[13] United Overseas Bank v. Ros, G.R. No. 171532, 7 August 2007, 529 SCRA 334, 344.

[14] Chong v. Dela Cruz, G.R. No. 184948, 21 July 2009, 593 SCRA 311, citing Talento v. Escalada, Jr., G.R. No. 180884, 27 June 2008, 556 SCRA 491.

[15] Chamber of Real Estate and Builders Associations, Inc. (CREBA) v. Secretary of Agrarian Reform, G.R. No. 183409, 18 June 2010, 621 SCRA 295, 309-310.

[16] 495 Phil. 422, 432 (2005).

[17] 254 Phil. 418, 426-427 (1989).

[18] Supra note 7.

[19] Supra note 8.

[20] See Chong v. Dela Cruz, G.R. No. 184948, 21 July 2009, 593 SCRA 311.

[21] Governed by Rule 63 of the Rules of Court. Section 1, Rule 63 of the Rules of Court states:

> RULE 63
>
> Declaratory Relief and Similar Remedies
>
> Section 1. Who may file petition. — Any person interested under a deed, will, contract or other written instrument, or whose rights are affected by a statute, executive order or regulation, ordinance, or any other governmental regulation may, before breach or violation thereof bring an action in the appropriate Regional Trial Court to determine any question of construction or validity arising, and for a declaration of his rights or duties, thereunder.

[22] Macasiano v. National Housing Authority, G.R. No. 107921, 1 July 1993, 224 SCRA 236, citing De la Llana v. Alba, No. L-57883, 12 March 1982, 112 SCRA 294.

[23] Section 5, Article VIII of the Constitution expressly provides:

> Sec. 5. The Supreme Court shall have the following powers:
>
> (1) Exercise original jurisdiction over cases affecting ambassadors, other public ministers and consuls, and over petitions for certiorari, prohibition, mandamus, quo warranto, and habeas corpus.
>
> (2) Review, revise, reverse, modify, or affirm on appeal or certiorari as the law or the Rules of Court may provide, final judgments and orders of lower courts in:

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> (a) All cases in which the constitutionality or validity of any treaty, international or executive agreement, law, presidential decree, proclamation, order, instruction, ordinance, or regulation is in question. (Emphasis supplied.)

[24] Salvacion v. Central Bank of the Philippines, 343 Phil. 539 (1997); Alliance of Government Workers v. Minister of Labor, 209 Phil. 1 (1983), citing Nacionalista Party v. Bautista, 85 Phil. 101, and Aquino, Jr. v. Commission on Elections, No. L-40004, 31 January 1975, 62 SCRA 275.

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