

**LUCENA B. RALLOS, PETITIONER, VS. HONORABLE JUSTICES
GABRIEL T. INGLES, PAMELA ANN ABELLA MAXINO AND
CARMELITA SALANDANAN MANAHAN, RESPONDENTS.**

G.R. No. 202515. September 28, 2015

Ponente: PERALTA, J.

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PERALTA, J.:

This is a petition for indirect contempt under Rule 71 of the Rules of Court (Rules) filed by petitioner Lucena B. Rallos against respondents Gabriel T. Ingles, Pamela Ann Abella Maxino and Carmelita Salandanan Manahan, who are incumbent justices of the Court of Appeals (CA), for issuing a writ of preliminary injunction to restrain final and executory judgments and orders of the Regional Trial Court (RTC), Branch 9, Cebu City.

The facts are as follows:

Sometime in 1997, the heirs of Rev. Fir. Vicente Rallos (Fr. Rallos), which include petitioner herein, together with the heirs of Ramon Rallos and Socorro Sy, Lourdes Rallos and Magdaleno Sy, and Remedios Rallos and Porferio Adarna filed a Complaint, docketed as Civil Case No. CEB-20388, against the City Government of Cebu (Cebu City) for forfeiture of improvements on or payment of fair market value of Lot Nos. 485-D and 485-E, which are situated at M.H. Aznar Street, Cebu City. After trial, the RTC ruled that the subject lots are not road lots but are privately-owned lots which were appropriated by the city government for public use without the benefit of expropriation and without payment of just compensation. The dispositive portion of the January 14, 2000 Decision[1] ordered:

WHEREFORE, foregoing premises considered, this Court finds the defendant liable to pay plaintiffs just compensation for Lot No. 485-D and Lot No. 485-E which were appropriated by defendant for public use without the benefit of expropriation.

For the purpose of determining the amount of just compensation payable by defendant to plaintiffs for Lot No. 485-D and Lot No. 485-E, a board of commissioners to be composed of three (3) persons, one to be designated by defendant, one to be designated by the [plaintiffs] and one, who shall act als chairman of the board of commissioners, to be appointed by this Court, is hereby created pursuant to the Order dated September 17, 1998.

Plaintiffs and defendant are hereby directed to designate within fifteen (15) days from receipt hereof their respective commissioners who must be persons proficient in real estate appraisal and knowledgeable about market values of real estate properties in Cebu City. This Court shall appoint the 3[rd] commissioner after the commissioners designated by the parties shall have been submitted.

The commissioners are specifically required to determine the amount of just compensation payable by defendant to plaintiffs for Lot No. 485-D and Lot No. 485-E on the basis of fair market values as of 1963, the year when defendant appropriated the said lots for public use, and as of 1997, the year when the complaint was filed by plaintiffs. Plaintiffs and defendants are further directed to see to it that their respective commissioners

take oath of office and to submit their respective reports to the chairman of the board of commissioners and to this Court within fifty (50) days from receipt of this order. Failure on the part of any party to see to it that the designated commissioner take oath and submit the required report to the chairman of the board of commissioners and to this Court within the period aforesated shall be taken as a waiver of the right to participate.

The chairman of the board of commissioners shall submit to this Court, copy furnished the plaintiffs and defendant, within fifty (50) days from receipt of appointment, a report on the amount of just compensation payable by defendant to plaintiffs for Lot No. 485-D and Lot No. 485-E on the basis of fair market values of real properties in Cebu City as of 1963 and as of 1997. The chairman of the board of commissioners at his option may render a separate report or a consolidated report based upon the reports which the other commissioners shall submit to him pursuant to this Order.

The commissioners are directed to take, independently of each other, whatever legal proceedings each of them may deem necessary or expedient so as to enable them to accomplish the mandated responsibilities within the given time frame. The parties are hereby directed to cooperate with the commissioners and assist them fulfill their ordained tasks expeditiously.

The matter of whether or not just compensation shall be reckoned as of 1963, when defendant first occupied the lots in question or as of 1997 when plaintiffs filed their complaint will be decided by this Court when it acts upon the reports of commissioners.

SO ORDERED.[2]

Cebu City filed a motion for reconsideration, but it was denied on February 5, 2001.[3] No appeal was further taken by any of the parties.

After considering the report of the board of commissioners, the RTC rendered a Decision[4] on July 24, 2001, the fallo of which states:

WHEREFORE, the Court hereby renders judgment, ordering defendant to pay plaintiffs as just compensation for Lots 485-D and 485-E the amount of Php34,905,000.00 plus interest at 12% per annum to start 40 days from date of this decision and to continue until the whole amount shall have been fully paid. Defendant is further ordered to pay plaintiffs the following amounts:

1. Php50,000.00 as reimbursement for attorney's fees;
2. Php50,000.00 as reimbursement for litigation expenses.

PLUS COSTS.

SO ORDERED.[5]

Both parties filed a motion for reconsideration. On March 21, 2002, the RTC issued a Consolidated Order,[6] which reads:

WHEREFORE, in the light of the foregoing, the motion for reconsideration of defendant is hereby denied.

With respect to plaintiffs' motion for reconsideration, the decision of July 24, 2001 is hereby modified in that defendant Cebu City is directed to pay plaintiffs just compensation not at P7,500.00 per square meter but at P9,500.00 per square meter. The rest of the dispositive portion of the said decision [remains] as is.

For the guidance of all concerned and so as to erase any doubt about it, this Court makes it very clear that the directive for defendant to pay plaintiffs just compensation and other amounts carries with it the implied directive that defendant promptly performs whatever is legally necessary so that payment to plaintiffs is expeditiously made as directed. Without it being expressly stated, it is understood that the order for defendant

to pay plaintiffs just compensation and other amounts imposes upon defendant the duty to initiate and conclude all the steps required, if any, so that the mandated payment can be effected without delay. If there is delay in complying with the directive to pay, necessary proceedings may be taken to confiscate patrimonial properties and cash savings of defendant to satisfy the judgment in favor of plaintiffs.

Furnish copies of this Order to counsel for defendant and counsel for plaintiffs.

SO ORDERED.[7]

Cebu City elevated to the appellate court the Decisions dated January 14, 2000 and July 24, 2001 as well as the February 5, 2001 Order and March 21, 2002 Consolidated Order. On May 29, 2007, the CA denied the appeal and affirmed the assailed decisions and orders of the RTC.[8] Cebu City's motion for reconsideration suffered the same fate.[9]

A petition for review, docketed as G.R. No. 179662, was then filed by Cebu City before this Court, but it was also denied in a Resolution[10] dated December 5, 2007. Per Entry of Judgment,[11] the decision became final and executory on April 21, 2008.

During the implementation of the RTC Decisions and Orders, the parties were again involved in a dispute, this time over the payment of interest and the amount on which it should be based. In CA-G.R. SP No. 04418, the CA nullified and set aside the assailed orders of the trial court and directed the execution of the Decision dated July 24, 2001, as modified by the March 21, 2002 Consolidated Order, strictly in accordance with its tenor.[12] Cebu City moved to reconsider the CA decision, but it was denied.[13] In G.R. No. 194111, We likewise denied Cebu City's petition for review and motion for reconsideration.[14] Our resolution became final and executory on June 16, 2011.[15]

On March 26, 2012, Cebu City filed a Rule 47 Petition[16] with prayer for temporary restraining order (TRO) and/or writ of preliminary injunction (WPI), docketed as CA-G.R. SP No. 06676, in order to annul the RTC Decision dated January 14, 2000 and July 24, 2001 as well as the February 5, 2001 Order and March 21, 2002 Consolidated Order. Cebu City asserted that the complainants in Civil Case No. CEB-20388 committed extrinsic fraud for deliberately suppressing a document denominated as Convenio, which contained a stipulation pour autrui whereby Lot Nos. 485-D and 485-E were supposed to be donated by Fr. Rallos or his heirs and assigns in favor of Cebu City. It claimed that it was only in July 2011 that Cebu City learned of the existence of the Convenio, which was duly approved by a Court of First Instance in a Decision dated October 18, 1940, and of the testate proceeding of Fr. Rallos in Special Proceeding No. 1017-R, which did not include the subject lots among the distributable assets of the decedent. Relevant portions of the petition alleged as follows:

52. In the present case, the City of Cebu, through former COUNCILOR JOCELYN PESQUERA came to know of the so-called CONVENIO only [in] July 2011 after the latter was informed and furnished a copy of the said document and other related records by some heirs of Rev. Fr. Vicente Rallos. x x x;

53. Under the "CONVENIO" dated September 22, 1940 duly approved by the Honorable Court in [a] Decision dated October 18, 1940, the Testate Estate of Vicente Rallos and his heirs and assigns have the responsibility to transfer ownership of Lot No. 485-D and Lot No. 485-E by way of DONATION to the City of Cebu of which the latter is willing to accept the same[;]

54. The CONVENIO and the DECISION dated October 18, 1940 (as translated from Spanish) were already in the possession of the Heirs of Vicente Rallos, such that, before the filing of the [case] docketed as Civil Case No. CEB-20388, and as plaintiffs, have responsibility, as it owes candor to the court, to disclose such facts, evidence, and such issuances of a co-equal branch;

55. Coming to Court with unclean hand and without being truthful, the plaintiffs, Heirs of Vicente Rallos,

purposely suppressed the said CONVENIO AND DECISION DATED October 18, 1940, thereby claiming payment, by way of just compensation, for two lots ([Lots] 485-D and 485-E) which, SHOULD HAVE BEEN DONATED to the City of Cebu to be used as road lot as early as 1940;

56. Worse, in the testate proceedings of Fr. Rallos in SP No. 1017-R, the original Executor of the Testate of Vicente Rallos, Atty. Vicente Gullas then submitted a report to the Regional Trial Court, Branch 5, Cebu City, pertaining to the Assets and Liabilities of the Testate Estate of Vicente Rallos, and he clearly indicated the following parcels of land:

Road Lots to be donated to City of Cebu 1/2 share of Lot No. 485-E, Fls-3008-0 433 1/2 sq. m.
1/2 share of Lot No. 485-D, Fls-3008-0 1893 1/2 sq. m.

57. Simply said, the above-stated road lots although part of the assets of the Testate Estate of Vicente Rallos are not among those that are distributable to his heirs in view of the express mandate and/or provisions of the court approved "CONVENIO" dated September 22, 1940. It must be noted as mentioned above that Atty. Januario T. Seno, counsel of the Executor, submitted a sworn statement dated March 9, 1954 that Lot No. 485-E is a subdivision road;

58. However, despite the foregoing and as previously mentioned, the newly-appointed Administratrix of the Testate Estate of Vicente Rallos, Lucena Rallos, included the two (2) parcels of land when she submitted a Supplemental Inventory of the remaining properties of Vicente Rallos on November 13, 1992 in contravention of the "CONVENIO" and in effect thereby repudiating the will of the testator Vicente Rallos[;]

59. Moreover, in her Supplemental Inventory, she misrepresented before the Honorable Court and cunningly omitted the information that the said lots are to be donated to the City of Cebu[;]

60. By submitting the Supplemental Inventory, Lucena Rallos made it appear that these two (2) parcels of lot that are to be donated to the City of Cebu are newly-discovered assets of the Testate [Estate] of Vicente Rallos when, in fact, they were already included in the previous inventories and appraisal submitted by the Executor of the Will, Vicente Gullas, more specifically, the Inventory and Appraisal dated March 10, 1953, Amended Inventory and Appraisal dated March 11, 1954, Second Amended Inventory and Appraisal dated December 8, 1954, Report to the Honorable Court pertaining to the Assets and Liabilities of the Testate Estate of Vicente Rallos dated October 12, 1958 and the Assets and Liabilities of the Testate Estate of Vicente Rallos as of March 4, 1959;

61. In all of these documents, it was clearly indicated therein that Lot No. 485-E and Lot No. 485-D Fls-3008 are road lots to be donated to [the] City of Cebu. Likewise, all of these documents are part and parcel of the Rollo of the case[;]

62. Clearly[,] therefore, Lucena Rallos deliberately misrepresented before the Regional Trial Court, Branch 5, Cebu City[,] when she submitted a Supplemental Inventory of the remaining properties of Vicente Rallos on November 13, 1992 thereby intentionally omitting the information that the said lots are to be donated to the City of Cebu[;]

63. Under the foregoing circumstances, from the deliberate suppression of the CONVENIO, the Decision dated 18 October 1940, and the misrepresentation made by the Heirs of Fr. Rallos in SP 1017-R, the City of Cebu, the extrinsic fraud committed by the Heirs of Father Rallos, was prevented from fully exhibiting his case, and at the very least, was kept ignorant of important facts and actions of the Heirs of Fr. Rallos, thereby denying the City [its] full opportunity in court. Such acts of the Heirs of Fr. Rallos, individually and/or collectively, by any legal yardstick, amounts to extrinsic fraud.[17]

In a Resolution[18] dated April 13, 2012, the CA issued a TRO. The Resolution was penned by Associate Justice

Ramon Paul L. Hernando, with Associate Justices Pampio A. Abarintos and Victoria Isabel A. Paredes concurring. Thereafter, a hearing on the prayer for a WPI was conducted.[19] On June 26, 2012, the CA, through the Special Eighteenth Division composed of respondent justices, ordered the issuance of a WPI enjoining the execution of the Decisions dated January 14, 2000 and July 24, 2001 as well as the February 5, 2001 Order and March 21, 2002 Consolidated Order;[20] hence, this petition.

Petitioner contends that respondent justices disobeyed or resisted the judgment and/or unlawfully interfered with the processes or proceedings in G.R. Nos. 179662 and 194111, and that the June 26, 2012 Resolution is an improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice. She added that the commission of the contemptuous act would render respondents administratively liable and accountable for violations of Republic Act No. 6713 (otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees).

The petition lacks basis.

This case has the same factual antecedents as Re: Letters of Lucena B. Rallos, for Alleged Acts/Incidents/Occurrences Relative to the Resolution(s) Issued in CA-G.R. SP No. 06676 by Court of Appeals Executive Justice Pampio Abarintos and Associate Justices Ramon Paul Hernando and Victoria Isabel Paredes,[21] wherein this Court dismissed the administrative cases filed by petitioner against Justices Abarintos, Hernando, and Paredes, in relation to the Resolution dated April 13, 2012 (on the TRO) and herein respondent justices as regards Resolution dated June 26, 2012 (on the WPI). In said case, We held:

A reading of them easily shows that the questioned resolutions exhaustively explained their factual and legal bases. Apparently, the respondent Justices concerned promulgated the questioned resolutions with prudence and fairness, and upon due consideration of the surrounding circumstances. Contrary to the posture of Rallos, therefore, the respondent Justices' issuance of the questioned resolutions was not tainted by bias, negligence or any improper motives.

Moreover, the respondent Justices conducted a hearing before issuing the writ of preliminary injunction in favor of Cebu City. In that hearing, the counsels of the parties attended, and were granted ample opportunity to argue for their respective sides.[22]

The Court finds no compelling reason to deviate from the foregoing conclusion. Indeed, far from being guilty of contumacious conduct, respondent justices rightfully exercised prudence and restraint when they resolved to grant the prayer for a WPI. The June 26, 2012 Resolution was issued to prevent grave injustice to Cebu City in case the disputed lots will be adjudicated in its favor. Such application of judicial discretion is consistent with the directive of Administrative Circular No. 10-2000[23] to exercise utmost caution, prudence and judiciousness in the issuance of writs of execution to satisfy money judgments against government agencies and local government units. As respondent justices stated in their Comment:

In the instant case, the stay of execution of the judgment paying just compensation to petitioner for the properties in litigation is warranted by the fact that there is still a pending case regarding the ownership of the said properties, docketed as CA-G.R. SP No. 06364 entitled City of Cebu vs. Lucena B. Rallos, et. al.. In that case, the City of Cebu seeks to nullify the 13 October 1998 Order in Spec. Proc. No. 107-R entitled "Testate Estate of Vicente Rallos, deceased, Vicente Gullas, Executor", with prayer to direct the administratrix of the testate estate of Vicente Rallos to execute a deed of donation thereby donating the disputed lots in favor of the City of Cebu, pursuant to a "convenio". x x x

It bears stressing that the cases before the respondent justices involve public funds, more specifically, city funds to be used in the delivery of basic services to constituents of the City of Cebu. As defined[,] "public funds are those moneys belonging to the State or to any political subdivision of the State; more specifically,

taxes, customs duties and moneys raised by operation of law for the support of the government or for the discharge of its obligations." For this reason alone, there is the need to protect government funds - for which the City of Cebu is accountable, and this should not be jeopardized through the supposed violation by the city government of petitioner's right to enjoy the fruits of the final judgment in her favor when government protection can be done and is being done without adverse effects to petitioner's rights should the case be eventually resolved in her favor.

Indeed, to go ahead with the execution when there are matters involving the ownership of the subject properties that need to be threshed out may prove to be detrimental to the interest of the government and public, as well. That is precisely why the courts are directed to proceed with extreme prudence and caution in satisfying judgments involving public funds. "In Administrative Circular No. 10-2000 dated 25 October 2000, all judges of lower courts were advised to exercise utmost caution, prudence and judiciousness in the issuance of writs of execution to satisfy money judgments against government agencies and local government units. Judges, thus, cannot indiscriminately issue writs of execution against the government to enforce money judgments."

x x x x

Therefore, pending determination as to who has legal right to the subject properties, there is a patent, imperative need to provisionally enjoin execution to prevent release of public funds or sale of any of the city's property for payment of just compensation, or, to restrain acts that may render moot and academic the judgment or order that may be rendered in this case.[24]

WHEREFORE, premises considered, the petition for indirect contempt against Court of Appeals Associate Justices Gabriel T. Ingles, Pamela Ann Abella Maxino, and Carmelita Salandanan Manahan is DISMISSED for lack of merit.

SO ORDERED.

Velasco, Jr., (Chairperson), Villarama, Jr., Perez,[*] and Jardeleza, JJ., concur.

October 22, 2015

NOTICE OF JUDGMENT

Sirs / Mesdames:

Please take notice that on September 28, 2015 a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on October 22, 2015 at 10:17 a.m.

Very truly yours,

(SGD)

WILFREDO V. LAPITAN

Division Clerk of Court

[*] Designated Acting Member in lieu of Associate Justice Bienvenido L. Reyes, per Special Order No. 2112 dated July 16, 2015.

[1] Rollo, pp. 34-50.

[2] Id. at 49-50.

[3] Id. at 51-53.

[4] Id. at 54-58.

[5] Id. at 58.

[6] Id. at 59-64.

[7] Id. at 63-64.

[8] Id. at 65-83.

[9] Id. at 84-87.

[10] Id. at 88-89.

[11] Id. at 88-89.

[12] Id. at 92-103.

[13] Id. at 104-105

[14] Id. at 106, 108.

[15] Id. at 107, 109.

[16] Id. at 169-190.

[17] Id. at 184-186.

[18] Id. at 207-209.

[19] Id. at 211-257.

[20] Id. at 111-114, 260-263.

[21] OCA I.P.I. No. 12-203-CA-J [formerly A.M. No. 12-8-06-CA] and A.M. No. 12-9-08-CA, December 10, 2013, 711 SCRA 673.

[22] Re: Letters of Lucena B. Rallos, for Alleged Acts/Incidents/Occurrences Relative to the Resolution(s) Issued in CA-G.R. SP No. 06676 by Court of Appeals Executive Justice Pampio Abarintos and Associate Justices Ramon Paul Hernando and Victoria Isabel Paredes, *supra*, at 695-696.

[23] Issued on October 25, 2000.

[24] Rollo, pp. 159-160.

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