

**ALICIA S. GONZALES, REPRESENTED BY HER ATTORNEY-IN-FACT,
HUMBERTO DE LOS SANTOS, PETITIONER AND APPELLANT, VS.
SECRETARY OF PUBLIC WORKS AND COMMUNICATIONS, DISTRICT
ENGINEER, P...**

G.R. No. 21988. September 30, 1966

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Appeal by petitioner Alicia S. Gonzales from an order of the Court of First Instance of Davao dismissing Civil Case No. 3689 thereof.

The records show that, acting upon a letter-complaint filed by Lucia O. Tolentino, and after hearing Alicia S. Gonzales, among others, the Undersecretary of Public Works and Communications rendered, on July 11, 1961, a decision ordering the demolition of certain dams constructed by Gonzales and three other persons across Cabatan River and seemingly enclosing Gonzales fishponds in Magbongcogon, Lupon, Davao. On subsequent motion of Gonzales, this decision was reconsidered by the Head of said Department on September 7. However, on appeal taken by Tolentino, the last action thus taken by said Department Head was, on December 1, 1961, reversed by the Office of the President, which ordered the dams aforementioned demolished. Accordingly, said Department directed the District Engineer of Davao to proceed with the demolition of the dams. A reconsideration of the decision of the Executive having been, subsequently, denied, on January 16, 1962, the District Engineer of Davao advised Gonzales that the former's representatives would execute said decision.

Hence, on January 17, 1962, Gonzales commenced against the Secretary of Public Works and Communications, the District Engineer of Davao and Lucia O. Tolentino, said Civil Case No. 3689, which is an action for certiorari, prohibition with preliminary injunction and/or preliminary mandatory injunction, to prevent the demolition of petitioner's dams in compliance with the departmental order aforementioned. Acting upon a motion to dismiss filed by respondent Tolentino and upon the authority of *Samar Mining Co. vs. Arnaldo*, G. R. No. L-17709 (June 30, 1961) and *Acosta vs. Alvendia*, 109 Phil, 1017, the lower court dismissed the case. A reconsideration of the order to this effect having been denied, Gonzalez interposed the present appeal.

The only question raised therein is whether the Court of First Instance of Davao had jurisdiction to entertain said Case No. 3689, considering that its main purpose was to prevent the enforcement of a decision of the Secretary of Public Works and Communications, who is in Manila. The cases relied upon in the order appealed from do not justify the conclusion reached therein.

The *Acosta* case referred to a writ of preliminary injunction issued by the Court of First Instance of Manila restraining the Sheriff of Nueva Ecija from enforcing or executing the decision of the Court of Agrarian Relations in a tenancy case involving lands situated in Nueva Ecija. The Supreme Court held that the said Court of First Instance had overstepped its authority in issuing said writ.

The Samar Mining case involved a petition for certiorari and prohibition with preliminary injunction, filed with the Court of First Instance of Manila, to restrain the Regional Administrator and the Labor Attorney of the Department of Labor in its Regional Office No. VI, established in the City of Cebu, from further proceedings in a given Workmen's Compensation case in that City. Applying Section 44(h) of the Judiciary Act of 1948 (R. A. No. 296) and Rule 67, Sec. 4, of the Rules of Court, we held that said Court had no authority to issue the writ prayed for.

This view was reiterated in *Alhambra Cigar and Cigarette Co. vs. The National Administrator of Regional Office No. 2*, G.R. No. L-20491 (August 31, 1965), which was a case of certiorari and prohibition, with preliminary injunction, filed with the Court of First Instance of Manila to restrain and prohibit the hearing officer and the Administrator of Labor Regional Office No. 2 established in Tuguegarao, Cagayan, from hearing, deciding and otherwise taking further action on a given claim for compensation under the Workmen's Compensation Act.

These cases have the following things in common, namely: 1) they were filed in Manila; 2) they sought to restrain the performance of certain acts outside Manila; and 3) it was held that the court of first instance of Manila had no jurisdiction to grant the relief prayed for, because "the authority of courts of first instance to control or restrain acts by means of the writ of injunction is limited to acts which are being committed or about to be committed within the territorial boundaries of their respective provinces or districts."

In the case at bar, the acts sought to be restrained were about to be performed within the territorial boundaries of the province of Davao, in which the lower court is sitting. Hence, the above cases uphold the jurisdiction of the said court to hear this case and decide whether or not the relief prayed for by petitioner-appellant may or should be granted.

WHEREFORE, the order appealed from is reversed and the record remanded to the lower court for further proceedings, with the costs of this instance against respondent-appellee, Lucia O. Tolentino.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Regala, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, and Ruiz Castro, JJ., concur.
Barrera, J., on leave.

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