

REPUBLIC OF THE PHILIPPINES, ACTING THROUGH THE SUGAR REGULATORY ADMINISTRATION, AND REPUBLIC PLANTERS BANK, PETITIONERS, VS. THE HONORABLE COURT OF APPEALS, 15TH DIVISION, THE ...

G.R. No. 90482. August 05, 1991

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

This is an appeal by certiorari under Rule 45 of the Revised Rules of Court, with prayer for a temporary restraining order or writ of preliminary injunction, filed on 25 October 1989 by the Office of the Government Corporate Counsel (OGCC) in behalf of the Republic of the Philippines "acting through the Sugar Regulatory Administration" (SRA), and the Republic Planters Bank (RPB), seeking the review of the 13 October 1989 Decision of the Court of Appeals (15th Division) in C.A.-G.R. No. 17188.

The assailed decision[1] dismissed the petition for certiorari filed by Petitioners against herein public respondents Judge and deputy sheriffs and private respondents for the nullification of the Orders of respondent Judge of 13 March 1989, 21 March 1989 and 27 March 1989 in Civil Case No. 86-35880 of Branch 26 of the Regional Trial Court of Manila on the following grounds: (a) the funds upon which the attorney's fees are sought to be executed now belong to the Republic of the Philippines due to legal subrogation, (b) execution is not proper against the Republic which is not a party to the case, (c) the issuance of a writ of execution would violate the Constitution since according to it no money shall be paid out of the treasury except in pursuance to an appropriations made by law, and (d) execution for attorney's fees is unwarranted.

Respondent Court of Appeals dismissed the petition for lack of merit principally because

(a) Under the compromise agreement petitioner RPB accepted the designation/appointment as Trustee whose obligation is to pay; it received benefits by way of trustee's fees; it may not question the right of private respondents to attorney's fees;

(b) Petitioner SRA may not lawfully bring an action on behalf of the Republic of the Philippines since under Section 13 of Executive Order No. 18 dated 28 May 1986, which created it, it simply was to take over the functions of the defunct PHILSUCOM; however, the latter was to remain a juridical entity for three more years for the purpose of prosecuting and defending suits against it; hence it is PHILSUCOM, being a party to the compromise agreement, which may properly contest the right of private respondents to attorney's fees;

(c) The petition should have been filed through the Office of the Solicitor General (OSG) and not through the OGCC; neither the latter nor the SRA may lawfully represent the Government of the Philippines in any suit or proceeding such as the present petition for administrative agencies may only perform such powers and functions as may be authorized by the laws which created or gave them existence; and

(d) The respondent judge did not commit any error of jurisdiction in issuing the questioned orders; hence, the remedy should be appeal.

The facts which gave rise to said petition are summarized by the Court of Appeals as follows:

"On May 16, 1986, Republic Planters Bank (hereafter referred to as RPB), Zosimo Maravilla, Rosendo de la Rama, Bibiano Sabino, Roberto Mascuñana and Ernesto Kramer "for themselves and in representation of other sugar producers" filed a Complaint with the respondent court, RTC Branch 26, docketed as C.C. 86-35880 "For Sum of Money and/or Delivery of Personal Property with Restraining Order and/or Preliminary Injunction" against the Philippine Sugar Commission (PHILSUCOM) and the National Sugar Trading Corporation (NASUTRA) with the prayer:

'WHEREFORE PREMISES CONSIDERED, it is respectfully prayed of this Honorable Court that, after due hearing and trial, judgment be rendered in favor of Plaintiffs and against Defendants ordering them to do the following:

1. To render a correct and faithful account of whatever amount of United States dollar accounts/deposits in different banks, domestic and foreign, being held in agents and/or representatives.
2. To render a correct and faithful inventory of all the physical sugar stocks for crop year 1984-85 presently remaining in the warehouses of the different sugar mills all over the country.
3. To deliver or remit to the Plaintiffs any and all United States dollar accounts/deposits in various banks, domestic or foreign, held in the name of Defendants, their subsidiaries, conducts (sic), agents and/or representatives.
4. To deliver the entire remaining physical sugar stocks corresponding to crop year 1984-85 presently remaining in the warehouses of the different sugar mills all over the country in favor of Plaintiffs who were unlawfully deprived of their possession and control by Defendants, to be applied and deducted from Defendant's liability to Plaintiffs for the unaccounted sugar for crop year 1984-85.
5. To jointly and severally pay Plaintiffs Producers all interests and penalties imposed by Assignee-banks/creditors for accounts covered by unpaid sugar quedans for crop year 1984-85.
6. To jointly and severally pay Plaintiff's claims for moral, compensatory and exemplary damages in such accounts to be determined in the course of the trial.
7. To jointly and severally pay for the attorney's fees of twenty percent (20%) based on the total amount that may be recovered.
8. To jointly and severally pay for the costs and litigation expenses incurred by the Plaintiffs.

Plaintiffs likewise pray that, in order to prevent grave and irreparable injury, this Honorable Court shall issue a writ of preliminary injunction enjoining and/or prohibiting the Defendants, their officers and/or agents from transferring, releasing or in any manner disposing of all U.S. dollar deposits/accounts held in the name of Defendants, its subsidiaries, conduits, agents and/or representatives in the different banks, domestic and foreign, including the physical sugar corresponding to crop year 1984-85 presently remaining in the warehouses of the different sugar mills all over the country after requiring the Plaintiffs to post a bond that may be determined by the Honorable Court to answer for the damages in the event judgment will be rendered in Defendant's favor. Furthermore, Plaintiffs pray that a Restraining Order be immediately issued for the purpose of enjoining the Defendants from committing and/or proceeding with the foregoing acts, pending hearing of the application for a writ of preliminary injunction.

Plaintiffs further pray for such other reliefs and remedies, just and equitable under the premises.

Before PHILSUCOM and NASUTRA could answer, a Compromise Agreement dated May 23, 1986 was

submitted by the parties which the lower court approved and based on it, the Judgment dated June 2, 1986 (Annex "B", Petition, Id., pp. 22-36) was issued. A motion for the issuance of writ of execution was filed (Annex "C", Petition, Id., pp. 37-50). PHILSUCOM and NASUTRA filed their "Comment and Opposition (To Motion for Issuance of Writ of Execution)" (Annex "D", Petition, Id., pp. 51-62). A Reply was filed by the plaintiffs (Annex "E", Id., pp. 63-72) and a Rejoinder was also filed by the defendants (Annex "E", Petition, Id., pp. 73-78). The lower court issued the Order dated March 13, 1989 which dismissed the separate petitions for relief from judgment filed by Franklin Fuentebella, George Lacson, Fernando Ballesteros, and Antonio Lopez in one petition; Romeo Guanzon as sugar producer and president of National Federation of Sugar Cane Planters; PASSI (Iloilo) Sugar Central, Inc., represented by Romeo Villavicencio; the Independent Sugar Planters represented by Corazon Sagimalet (In a Motion for Intervention which substituted as a Petition for Relief from Judgment); and Zosimo Maravilla, Rosendo dela Rama and Bibiano Sabino (Annex "G", Petition, Id., pp. 79-98). This Order dated March 13, 1989 (which as aforesaid, dismissed the petitions for relief from judgment) is the first of the orders now being assailed.

On March 21, 1989, the lower court issued the second of the assailed orders which granted a second motion to resolve a pending motion for issuance of a writ of execution and allowed the issuance of an alias writ of execution in words, thus:

'Let an alias writ of execution be issued for the final implementation of the Judgment on Compromise Agreement, dated June 2, 1986, the only remaining provision of said judgment is the 10% attorney's fees of counsels for the plaintiffs (Paragraph 12 sub-sec. Annex "H", Petition, Id., pp. 99-100).'

Correspondingly, on that same date March 21, 1989, RTC (Manila) Deputy Sheriff Jaime K. del Rosario issued a "Notice of Delivery of Money" asking the RPB to "pay in cash the 10% of P45,293,552.60 to Attys. Roger Reyes, Ernesto Treyes, Jr. and Eutiquio Fudolin, Jr. x x x immediately upon receipt of this notice" (Annex "I", Petition, Id., p. 101).

And on March 27, 1989, the third of the questioned orders was issued by the lower court, in response to the "Ex-Parte Motion to Require Officers of Trustee Republic Planters Bank to Deliver Amount Subject of Alias Writ of Execution", requiring the officers of the RPB named therein to "appear before the Court on March 29, 1989 at 10:30 in the morning to explain why they should not be cited for contempt of court for defying x x x the alias writ of execution" (Annex "J", Petition, id., pp. 102-103)."

The instant petition was filed in this court on March 29, 1989, x x x."

Parenthetically, it may also be added that, as stated in paragraph 15 of the instant petition, the producers and producer organizations who filed various petitions for relief from the judgment based on the compromise agreement have appealed to the Court of Appeals the Order of 13 March 1989 denying their petitions.[2]

In the instant petition petitioners limit their grounds to only two errors allegedly committed by respondent Court of Appeals, namely: (a) it erred in holding that neither the OGCC nor the SRA can represent the Government of the Philippines in the action before it and (b) it deviated from the decision of the Ninth Division of said court in C.A.-G.R. SP No. 11046 (Kramer, et al. vs. Hon. Doroteo Cañeba, et al.), promulgated on 16 March 1987, which declared that there was no valid class suit and the controversial compromise agreement did not extend to the 40,000 unnamed sugar producers.[3]

In the resolution of 26 October 1989 We required respondents to comment on the petition and issued a temporary restraining order directing respondent Judge to desist and refrain from further proceeding in Civil Case No. 86-35880, entitled Republic Planters Bank, et al. vs. Philippine Sugar Commission, et al.[4]

On 23 November 1989 petitioners filed a manifestation informing this Court that at 9:30 a.m. on 26 October 1989, private respondents, accompanied by respondents sheriff and a squad of police Special Action Force, swooped

upon RPB's Bacolod Branch and divested a teller of money from her booth allegedly because the branch manager had instructed the bank personnel to close the bank vault while the enforcement of the court order was being verified with the head office in Manila; the amount taken was P179,955.31; these acts were allegedly done by virtue of, among others, the orders dated October 24 and 25, 1989 of respondent judge ordering the implementation of an alias Writ of Execution dated 21 March 1989 and the Writ of Execution dated 21 March 1986; and claiming that what was enforced was an expired writ.[5]

In Our resolution of 5 December 1989 respondents were required to comment on this manifestation.[6]

After motions for extension of time to file their Comments on the petition, separately filed by the private respondents and the Solicitor General for the public respondents, were granted, the former ultimately filed their Comment on 20 December 1989.[7] The Solicitor General filed his Comment on 4 January 1990.[8]

In his Comment the Solicitor General maintains that the SRA has no legal personality to file the instant petition in the name of the Republic of the Philippines for under its charter, Executive Order No. 18, the SRA is not vested with legal capacity to sue. He further argues that the SRA was not a party to the court-approved compromise agreement in Civil Case No. 86-35880 which provided for the questioned 10% attorney's fees; PHILSUCOM and NASUTRA, which were parties thereto, did not file any action to annul the compromise agreement; that while Executive Order No. 18 abolished the PHILSUCOM, the latter's juridical personality was to continue for three (3) years, during which period it may prosecute and defend suits against it; and that, finally, even if SRA has the capacity to sue, it cannot still bring any action on behalf of the Republic of the Philippines as this can be done only by the Office of the Solicitor General per Section 1 of P.D. No. 478.

The Solicitor General likewise stresses that the interest of the national government in this case is confined only to the amount remaining in RPB subject to legal subrogation; the judgment on the compromise agreement had long become final and executory; and that no reversible error was committed by respondent judge and respondent Court of Appeals.

Private respondents assert that the SRA and RPB do not have the legal authority to sue for and in behalf of the Republic of the Philippines. In respect to the former, their conclusion is supported by almost the same arguments as that asserted by the Solicitor General. As regards the RPB, they maintain that it "is a government-controlled corporation engaged in the banking business with corporate powers vested in a Board of Directors," hence, it is "legally untenable for such a banking institution, even assuming that it is government-controlled, to initiate suits for and in behalf of the Republic of the Philippines." (p. 171, Rollo). They further argued that petitioners have no legal personality to initiate the instant petition for (a) SRA is not a party in the case before the trial court; the only reason why it became involved was because of the contempt proceedings initiated by private respondents against SRA's Arsenio Yulo, Carlos Ledesma and Bibiano Sabino for issuing Sugar Orders No. 9 and 14; and that neither can it be presumed that SRA had substituted defendants PHILSUCOM and the NASUTRA in the case as both continue to legally exist for the purpose of prosecuting and defending suits in liquidation of its affairs; both did not file any petition for relief from judgment questioning the validity of the judgment of the trial court approving the compromise agreement; and that, moreover, RPB was a signatory to the Compromise Agreement as a Trustee and, as such, it regarded itself as only a nominal party and in a series of pleadings it recognized the final and executory nature of the decision approving the compromise agreement.

As to the second assigned error, private respondents pointed out that the Ninth Division of the Court of Appeals did not rule in C.A.-G.R No. 11046 that Civil Case No. 86-35880 before the trial court was not a class suit, and whether or not it was a class suit was not an issue therein.

On 15 January 1990 petitioners filed a motion for leave to file consolidated reply, which We granted in the

resolution of 18 January 1990.[9]

On 18 January 1990 petitioners filed a Manifestation and Motion[10] "wherein they informed the Court that despite the temporary restraining order issued on 26 October 1989, respondent Judge, to whom the Order was addressed, continued to hear the case, particularly on the whereabouts of 177,087.14 piculs of sugar for the crop year 1984-1985 allegedly stored in the different warehouses throughout the country".

In the resolution of 30 January 1990[11] We required respondent judge to show cause why no disciplinary action should be taken against her for failure to comply with the resolution of 26 October 1989 ordering her to refrain from further proceeding with Civil Case No. 86-35880 and to answer why she should not be cited for contempt of court for such failure, within ten (10) days from notice.

On 8 March 1990 petitioners filed their Consolidated Reply to the Comment with Motion to Dismiss filed by private respondents and the Comment of the Solicitor General.[12]

On 5 April 1990 private respondents filed a Rejoinder to the Consolidated Reply.[13]

On 16 April 1990 respondent judge, through the OSG, filed her Compliance as required by the Resolution of 30 January 1990.[14] She claims that she did not defy the temporary restraining order issued by this Court on 26 October 1989 because the petitioners sought for the issuance of the temporary restraining order to stop the enforcement of the decision of the respondent Court of Appeals in C.A.-G.R. No. 17188 dated October 13, 1989; hence, the temporary restraining order that this Court issued "actually orders herein respondent judge to desist from enforcing the Decision of the respondent Court of Appeals in C.A.-G.R. NO. 17188 which is the subject of the instant petition for review". Consequently, she stresses, her 15 December 1989 order was not issued in defiance of the restraining resolution; said order pertains exclusively to the whereabouts of the 177,087.14 piculs of physical sugar for the crop year 1984-1985 and did not in any way attempt to enforce the questioned decisions of the court a quo and the Court of Appeals to the prejudice of petitioner's right to appeal.

In Our resolution of 15 May 1990[15] We resolved to consider the comments of respondents as Answers to the petition, give due course to the petition, require the parties to submit their respective memoranda within thirty days from notice, and to note the compliance of respondent judge.

Petitioners filed their memorandum on 28 June 1990.[16] Private respondents sent theirs by registered mail on 22 August 1990 which this Court actually received on 8 September 1990.[17]

We shall now take up the assigned errors.

I.

The Court of Appeals correctly ruled that petitioner Sugar Regulatory Administration may not lawfully bring an action on behalf of the Republic of the Philippines and that the Office of the Government Corporate Counsel does not have the authority to represent said petitioner in this case.

Executive Order No. 18, enacted on 28 May 1986 and which took effect immediately, abolished the Philippine Sugar Commission (PHILSUCOM) and created the Sugar Regulatory Administration (SRA) which shall be under the Office of the President. However, under the third paragraph of Section 13 thereof, the PHILSUCOM was allowed to continue as a juridical entity for three (3) years for the purpose of prosecuting and defending suits by or against it and enabling it to settle and close its affairs, to dispose of and convey its property and to distribute its assets, but not for the purpose of continuing the functions for which it was established, under the supervision of the SRA.

Section 3 of said Executive Order enumerates the powers and functions of the SRA; but it does not specifically include the power to represent the Republic of the Philippines in suits filed by or against it, nor the power to sue and be sued although it has the power to "enter, make and execute routinary contracts as may be necessary for or incidental to the attainment of its purposes between any persons, firms, public or private, and the Government of the Philippines" and "[t]o do all such other things, transact such other businesses and perform such functions directly or indirectly incidental or conducive to the attainment of the purposes of the Sugar Regulatory Administration." [18]

Section 4 thereof provides for the governing board of the Administration, known as the Sugar Board, which shall exercise "[a]ll the corporate powers" of the SRA. Its specific functions are enumerated in Section 6; however, the enumeration does not include the power to represent the Republic of the Philippines, although among such functions is "[t]o enter into contracts, transactions, or undertakings of whatever nature which are necessary or incidental to its functions and objectives with any natural or juridical persons and with any foreign government institutions, private corporations, partnership or private individuals." [19]

It is apparent that its charter does not grant the SRA the power to represent the Republic of the Philippines in suits filed by or against the latter.

It is a fundamental rule that an administrative agency has only such powers as are expressly granted to it by law and those that are necessarily implied in the exercise thereof. (*Guerzon vs. Court of Appeals, et al.*, 77707, August 8, 1988, 164 SCRA 182, 189, citing *Makati Stock Exchange, Inc. vs. SEC*, 14 SCRA 620, and *Sy vs. Central Bank*, 70 SCRA 570.) [20]

The SRA, no doubt, is an administrative agency or body. An administrative agency is defined as "[a] government body charged with administering and implementing particular legislation. Examples are workers' compensation commissions, x x x and the like. x x x The term 'agency' includes any department, independent establishment, commission, administration, authority, board or bureau x x x." [21]

The power to represent the Republic of the Philippines in any suit filed by or against it having been withheld from SRA, it follows that the latter cannot institute the instant petition and the petition in C.A.-G.R. No. 17188 on behalf of the Republic of the Philippines.

This conclusion does not, however, mean that the SRA cannot sue and be sued. This power can be implied from its powers to enter, make and execute routinary contracts as may be necessary for or incidental to the attainment of its purposes between any persons, firms, public or private, and the Government of the Philippines and to do all such other things, transact such other businesses and perform such other functions directly or indirectly incidental or conducive to the attainment of the purposes of the SRA and the powers of its governing board to enter into contracts, transactions, or undertaking of whatever nature which are necessary or incidental to its functions and objectives with any natural or juridical persons and with any foreign government institutions, private corporations, partnership or private individuals.

The Court of Appeals also correctly ruled that the OGCC can represent neither the SRA nor the Republic of the Philippines. We do not, however, share the view that only the Office of the Solicitor General can represent the SRA.

The entry of appearance by the OGCC for the SRA was precipitated by the sudden turn-about of the Office of the Solicitor General. Records show that the OSG eventually represented the PHILSUCOM, NASUTRA and SRA in the trial court. However, on 29 January 1988 it filed a Manifestation dated January 27, 1988 informing the court that its appearance in the case "is limited to the issues relating only to the contempt proceedings against the public

respondents and is not concerned with the other issues raised by various parties in their petitions for relief.”[22] By reason thereof, the Chairman/Administrator of SRA, Mr. Arsenio Yulo, Jr., sent a letter[23] dated 6 April 1988 to the Solicitor General, informing him that since the appearance of the OSG is limited and that it has taken a different position, SRA's only alternative is to seek another representative and that much to its regret, it is constrained to terminate OSG's services. He further informed the Solicitor General that the case is being indorsed to the Office of the Government Corporate Counsel for appropriate legal action pursuant to P.D. No. 478. There is, however, no showing that the OSG withdrew its appearance for PHILSUCOM, NASUTRA or the SRA in the trial court. On the contrary, per its Manifestation dated 8 February 1990, and filed with this Court on 12 February 1990,[24] it "has retained its appearance" "on behalf of the Republic of the Philippines to recover whatever amount may be owing to the National Treasury by virtue of legal subrogation."

Also on April 6, 1988, SRA sent a letter[25] to OGCC to engage its legal services to represent SRA as successor agency of the PHILSUCOM in the case pending before the trial court.

The OGCC, availing of P.D. No. 1415, the law creating it, particularly Section 1 which, as quoted by it on page 16 of the Petition,[26] reads:

"SECTION 1. The Office of the Government Corporate Counsel shall be the principal law office of all government-owned and controlled corporations, including their subsidiaries except as may otherwise be provided by their respective charters or authorized by the President" (underscoring supplied).

sent a letter to the Office of the President, "in essence, requesting for authority for OGCC to represent SRA in the case before the trial court." This was favorably acted by Executive Secretary Catalino Macaraig, Jr.[27]

Indeed, under Section 35, Chapter 12, Title III of Book IV of the Administrative Code of 1987 (Executive Order No. 292) the Solicitor General is the lawyer of the government, its agencies and instrumentalities, and its officials or agents. Said Section reads as follows:

"SECTION 35. Functions and Organization. The Office of the Solicitor General shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of lawyers. When authorized by the President or head of the office concerned, it shall also represent government-owned and controlled corporations. The Office of the Solicitor General shall constitute the law office of the Government and, as such, shall discharge duties requiring the services of lawyers. x x x."

This is similar to subsection (1) of Section 1 of P.D. No. 478.

In *Republic et al. vs. Partisala, et al.* (G.R. No. 61997, 15 November 1982, 118 SCRA 370, 373), We ruled that only the Solicitor General can bring or defend actions on behalf of the Republic of the Philippines and that, henceforth, actions filed in the name of the Republic if not initiated by the Solicitor General will be summarily dismissed.

However, in *Secretary Oscar Orbos vs. Civil Service Commission, et al.*, G.R. No. 92561, 12 September 1990,[28] We stated:

"In the discharge of this task, the Solicitor General must see to it that the best interest of the government is upheld within the limits set by law. When confronted with a situation where one government office takes an adverse position against another government agency, as in this case, the Solicitor General should not refrain from performing his duty as the lawyer of the government. It is incumbent upon him to present to the court what he considers should legally uphold the best interest of the government although it may run counter to a client's position. In such an instance the government office adversely affected by the position taken by the Solicitor General, if it still believes in the merit of its case, may appear in its own behalf through its legal

personnel or representative."

Consequently, the SRA need not be represented by the Office of the Solicitor General. It may appear in its own behalf through its legal personnel or representative.

The question that logically crops up then is: May it be represented by the OGCC? Respondents hold the negative view. Petitioners maintain otherwise, for the reason that pursuant to Section 1 of the charter of the OGCC (P.D. No. 1415), as they quoted, the Office of the President, through the Executive Secretary, has authorized it to represent the SRA. The specific basis for such authority is the alleged portion of the exceptionary clause therein, reading "x x x or authorized by the President."

The words or authorized by the President are not found in the law. We are not aware of any law, decree or executive order which amended Section 1 of P.D. No. 1415 by inserting therein said words. Besides, even granting for the sake of argument that such words are written into the law, such exception cannot confer upon the OGCC authority to represent the SRA. The exception simply means that although the OGCC is the principal law office of all government-owned and controlled corporations including their subsidiaries, the President may not allow it to act as lawyer for a specified government-owned or controlled corporation or a subsidiary thereof. It will be noted that under Section 1 of P.D. No. 478 the President may authorize the OSG to represent government-owned or controlled corporations. In short, the exception limits, rather than expands, the authority of the OGCC. Thus, the so-called approval by the Executive Secretary of the request of OGCC to represent the SRA is based on an erroneous interpretation of the law.

In any case, even if we grant that there was such an exception, as well construed in the manner urged by petitioners, it must be deemed, nevertheless, to have been repealed by the Administrative Code of 1987. Section 10, Chapter 3, Title III, Book IV thereof on the Office of the Government Corporate counsel does not contain the purported exception. It reads:

SECTION 10. Office of the Government Corporate Counsel. - The Office of the Government Corporate Counsel (OGCC) shall act as the principal law office of all government-owned or controlled corporations, their subsidiaries, other corporate offsprings and government acquired asset corporations and shall exercise control and supervision over all legal departments or divisions maintained separately and such powers and functions as are now or may hereafter be provided by law. In the exercise of such control or supervision, the Government Corporate Counsel shall promulgate rules and regulations to effectively implement the objectives of the Office.
x x x."

Since the SRA is neither a government-owned or controlled corporation nor a subsidiary thereof, OGCC does not have the authority to represent it. As to who may represent it, the Orbos case^[29] provides the answer.

The case of the RPB is, however, different. It is admitted to be a government-owned corporation. The OGCC can, therefore, legally represent RPB in actions filed by or against it. Unfortunately, this issue was not categorically and expressly addressed by the Court of Appeals and has not been raised in the petition. Anyway, even if We have to rule that OGCC's appearance for the RPB in the petition before the Court of Appeals in C.A.-G.R. No. 17188 was proper, the result would be the same -- dismissal of the petition. As also correctly pointed out by the Court of Appeals, having received benefits by way of trustee's fees, the RPB may not question the right of private respondents to attorney's fees; its only obligation under the judgment based on compromise was to pay the attorney's fees from out of the funds it held in trust.

II.

The second assigned error is without merit. Petitioners have misread the decision of the Court of Appeals in C.A.-G.R. SP No. 11046 (Ernesto Kramer, et al. vs. Hon. Doroteo Cañeba, et al.), promulgated on 16 March 1987.[30] The case was a petition for certiorari and mandamus with a prayer for preliminary injunction wherein petitioners principally prayed the Court to declare null and void the order of respondent judge of 16 December 1986 and to order him to issue the writ of execution of the judgment of 2 June 1986, require respondent NASUTRA to account and turn over to petitioners any and all sales proceeds of 1984-1985 sugar from 2 June 1986 up to the present in favor of respondent Trustee Bank (RPB) for proper distribution to petitioners, issue an order requiring respondent Trustee Bank to distribute without delay all the sales proceeds of the 1984-1985 sugar in its possession in accordance with the judgment of respondent court, and issue a restraining order/preliminary injunction enjoining the SRA, its agents/representatives from implementing Sugar Order No. 9 dated 25 September 1986. Although in the body of the opinion a discussion was made on the matter of the sufficiency of representation to make Civil Case No. 86-35880 a class suit, the resolution of the petition was not in any way based thereon or influenced by it. As a matter of fact, the Court categorically stated that it was premature to rule on that issue because of the pendency of the petition for relief from judgment and interventions. The full disquisition of the Court of Appeals on this point reads:

x x x

"At the outset, let it be stated that the incidents which arose from the class suit before the respondent court are predominantly related to the ten percent (10%) attorney's fees stipulated in the compromise agreement approved by the respondent court in its June 2, 1986 judgment in favor of petitioner's counsels Atty. Roger Z. Reyes, Ernesto L. Treyes, Jr. and Eutiquio M. Fudolin, Jr.

In the said 'class suit', only the five original plaintiffs and producers Zosimo Maravilla, for himself and in representation of Rosendo dela Rama, Roberto Mascaraña and Bibiano Sabino per Special Power of Attorney, and Ernesto Kramer represented by Atty. Roger Z. Reyes per Special Power of Attorney, have authorized said Attys. Reyes, Treyes, Jr. and Fudolin, Jr. to represent them as counsel.

On page 18 of the instant petition, petitioners allege that 'there is no necessity to secure Special Powers of Attorney from the unnamed parties in a class suit, and the failure of petitioners' counsel to do so does not constitute fraud, the named parties having contest over the class suit.' By such statement, petitioners and their counsels admit their lack of authority from the rest of the alleged 40,000 sugar producers to file the class suit and enter into the compromise agreement.

Section 12, Rule 3, Revised Rules of Court provides that in order that one or more may sue for the benefit of others as a class suit, it is necessary that 'the court shall make sure that the parties actually before it are sufficiently numerous and representative so that all interests are fully protected.' (Dimayuga, et al. vs. CIR, et al., G.R. No. L-10213, May 27, 1957).

For that matter, in the case below, therein plaintiffs Zosimo Maravilla, Rosendo dela Rama and Bibiano Sabino filed with the respondent court a motion to partially annul decision and/or petition for relief against the said ten (10%) percent attorney's fees on the allegation that they were deceived into signing the compromise agreement believing, as was agreed upon during the negotiations, that the ten (10%) percent of whatever would be collected would go to a trust fund for the benefit of the sugar farmers and producers and not as attorney's fees. Also, petition for relief was filed by thirteen other alleged sugar producers principally on the ground that the compromise agreement entered into was without their express authority by way of Special Power of Attorney and that the class suit was unnecessary. Some of these sugar producers are the Asociacion de Agricultores de la Region Oesta de Batangas, Inc. (AAROB) with 742 members; the Samahang Mag-aasukal sa Kanluran Batangas (SAMAKABA) with 4,000 members and Independent Sugar Farmers, Inc. with 200 members.

Here is a situation, as pointed out by respondent NASUTRA and SRA, where petitioners in filing the class suit claim to represent 40,000 sugar producers all over the country and yet when some of these producers filed petition for relief and interventions, petitioners 'disowned' them, stating that the other sugar producers have no personality to intervene, not having been named parties to the class suit.

It should not be overlooked that the said sugar producers, although not named parties in the class suit, are the very alleged persons represented in the class suit. They certainly have interests in the subject matter of the controversy; in the contents of the compromise agreement.

The filing of petitions for relief from judgment has not been prohibited by B.P. 129. The remedy of petitions for relief from judgment is still available when a judgment is rendered by an inferior court in a case, and a party thereto, by fraud, accident, mistake or excusable negligence, has been unjustly deprived of a hearing therein, or has been prevented from taking an appeal. Section 9, paragraph 2 of B.P. 129 placing the original exclusive jurisdiction on the Court of Appeals to annul judgments of Regional Trial Courts has no relation to (sic) all to the petition for relief provided for, in Rule 38 because these two are completely different remedies.

The petitions for relief from judgment and interventions are still pending action by respondent court. In view thereof, it would be premature for this Court to resolve the issue of estoppel on the part of the said sugar producers to question the pertinent portion of the judgment of compromise, and fraud on the part of the counsels for petitioners therein." (Underscoring in this paragraph supplied for emphasis).

IV.

Having disposed of the main issues, We shall now consider the motion of petitioners of 16 January 1990 to hold in contempt respondent Judge Corona Ibay-Somera for violating/defying the Temporary Restraining Order issued by Us on 26 October 1989. She allegedly "continued to hear the case particularly on the whereabouts of 177,087.14 piculs of sugar for the crop year 1984-1985 allegedly stored in different warehouses throughout the country," and that she even further reset the hearing of the case on January 19, 1990 notwithstanding the cautionary manifestation filed by petitioners during the 15 December 1989 hearing that said continued hearing would be a violation of the TRO. In the resolution of 26 October 1989, this Court specifically ordered respondent Judge to desist and refrain from further proceeding in Civil Case No. 86-35880, entitled Republic Planters Bank, et al. vs. Philippine Sugar Commission, et al.

In her Compliance, respondent judge explained that the TRO in question actually ordered her to desist from enforcing the Decision of the respondent Court of Appeals in C.A.-G.R. No. 17188, which is the subject of the instant petition, and that her "only honest motivation" "in making the inquiry is to see to it that while the instant petition is pending x x x, whatever funds may be owing to the Republic of the Philippines is duly preserved and protected."

We find the explanation to be satisfactory. No malice attended the commission of the challenged act. We accord to respondent judge good faith in her claimed desire to preserve and protect public funds. Moreover, petitioners failed to show that the act in question caused any injury or damage to their rights or interest.

IN VIEW OF ALL THE FOREGOING, the Petition is DENIED for lack of merit.

Costs against petitioners.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

Paras, J., no part.

[1] Annex "A" of Petition; Rollo, 34-46.

[2] Rollo, 13.

[3] Id., 16.

[4] Rollo, 108.

[5] Id., 116.

[6] Id., 128-A.

[7] Id., 135-384.

[8] Rollo, 396-409.

[9] Rollo, 415-417.

[10] Id., 419-423.

[11] Id., 425.

[12] Id., 468-493.

[13] Id., 517-554.

[14] Rollo, 590-598.

[15] Id., 600.

[16] Id., 602-633.

[17] Rollo, 660-701.

[18] Paragraph H and I, Section 3.

[19] Paragraph C.

[20] See also *Filipino Bus Co. vs. Phil. Railway Co.*, 57 Phil. 860; *RCPI vs. Board of Communications*, 80 SCRA 471.

[21] *Black's Law Dictionary*, Fifth Ed., p. 42.

[22] Annex "H" of Petition; Rollo, 97-98.

[23] Annex "I" of Petition; Id., 99.

[24] Id., 429-434.

[25] Annex "J" of Petition; Rollo, 100.

[26] Id., 21.

[27] Annex "K" of Petition; Id., 101.

[28] Citing *Ramos vs. Patricia Sto. Tomas, et al.*, G.R. No. 83067, March 22, 1990 and *Tan, Jr. vs. Gallardo*, 73 SCRA 306.

[29] Supra.

[30] Rollo, 73-84.

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