

DEAN JOSE JOYA, CARMEN GUERRERO NAKPIL, ARMIDA SIGUION REYNA, PROF. RICARTE M. PURUGANAN, IRMA POTENCIANO, ADRIAN CRISTOBAL, INGRID SANTAMARIA, CORAZON FIEL, AMBASSADOR E. AGUIL...

G.R. No. 96541. August 24, 1993

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

All thirty-five (35) petitioners in this Special Civil Action for Prohibition and Mandamus with Prayer for Preliminary Injunction and/or Restraining Order seek to enjoin the Presidential Commission on Good Government (PCGG) from proceeding with the auction sale scheduled on 11 January 1991 by Christie's of New York of the Old Masters Paintings and 18th and 19th century silverware seized from Malacañang and the Metropolitan Museum of Manila and placed in the custody of the Central Bank.

The antecedents: On 9 August 1990, Mateo A.T. Caparas, then Chairman of PCGG, wrote then President Corazon C. Aquino, requesting her for authority to sign the proposed Consignment Agreement between the Republic of the Philippines through PCGG and Christie, Manson and Woods International, Inc. (Christie's of New York, or CHRISTIE'S) concerning the scheduled sale on 11 January 1991 of eighty-two (82) Old Masters Paintings and antique silverware seized from Malacañang and the Metropolitan Museum of Manila alleged to be part of the ill-gotten wealth of the late President Marcos, his relatives and cronies.

On 14 August 1990, then President Aquino, through former Executive Secretary Catalino Macaraig, Jr., authorized Chairman Caparas to sign the Consignment Agreement allowing Christie's of New York to auction off the subject art pieces for and in behalf of the Republic of the Philippines.

On 15 August 1990, PCGG through Chairman Caparas, representing the Government of the Republic of the Philippines, signed the Consignment Agreement with Christie's of New York. According to the agreement, PCGG shall consign to CHRISTIE'S for sale at public auction the eighty-two (82) Old Masters Paintings then found at the Metropolitan Museum of Manila as well as the silverware contained in seventy-one (71) cartons in the custody of the Central Bank of the Philippines, and such other property as may subsequently be identified by PCGG and accepted by CHRISTIE'S to be subject to the provisions of the agreement.[1]

On 26 October 1990, the Commission on Audit (COA) through then Chairman Eufemio C. Domingo submitted to President Aquino the audit findings and observations of COA on the Consignment Agreement of 15 August 1990 to the effect that: (a) the authority of former PCGG Chairman Caparas to enter into the Consignment Agreement was of doubtful legality; (b) the contract was highly disadvantageous to the government; (c) PCGG had a poor track record in asset disposal by auction in the U.S.; and, (d) the assets subject of auction were historical relics and had cultural significance, hence, their disposal was prohibited by law.[2]

On 15 November 1990, PCGG through its new Chairman David M. Castro, wrote President Aquino defending the

Consignment Agreement and refuting the allegations of COA Chairman Domingo.[3] On the same date, Director of National Museum Gabriel S. Casal issued a certification that the items subject of the Consignment Agreement did not fall within the classification of protected cultural properties and did not specifically qualify as part of the Filipino cultural heritage.[4] Hence, this petition originally filed on 7 January 1991 by Dean Jose Joya, Carmen Guerrero Nakpil, Armida Siguion Reyna, Prof. Ricarte M. Puruganan, Irma Potenciano, Adrian Cristobal, Ingrid Santamaria, Corazon Fiel, Ambassador E. Aguilar Cruz, Florencio R. Jacela, Jr., Mauro Malang, Federico Aguilar Alcuaz, Lucrecia R. Urtula, Susano Gonzales, Steve Santos, Ephraim Samson, Soler Santos, Ang Kiu Kok, Kerima Polotan, Lucrecia Kasilag, Ligaya David Perez, Virgilio Almarino and Liwayway A. Arceo.

After the oral arguments of the parties on 9 January 1991, we issued immediately our resolution denying the application for preliminary injunction to restrain the scheduled sale of the artworks on the ground that petitioners had not presented a clear legal right to a restraining order and that proper parties had not been impleaded.

On 11 January 1991, the sale at public auction proceeded as scheduled and the proceeds of \$13,302,604.86 were turned over to the Bureau of Treasury.[5]

On 5 February 1991, on motion of petitioners, the following were joined as additional petitioners: Charito Planas, Helena Benitez, Ana Maria L. Harper, Rosalinda Orosa, Susan Calo Medina, Patricia Ruiz, Bonnie Ruiz, Nelson Navarro, Mandy Navasero, Romeo Salvador, Josephine Darang and Paz Veto Planas.

On the other hand, Catalino Macaraig, Jr., in his capacity as former Executive Secretary, the incumbent Executive Secretary, and Chairman Mateo A. T. Caparas were impleaded as additional respondents.

Petitioners raise the following issues: (a) whether petitioners have legal standing to file the instant petition; (b) whether the Old Masters Paintings and antique silverware are embraced in the phrase "cultural treasure of the nation" which is under the protection of the state pursuant to the 1987 Constitution and/or "cultural properties" contemplated under R.A. 4846, otherwise known as "The Cultural Properties Preservation and Protection Act;" (c) whether the paintings and silverware are properties of public dominion which can be disposed of through the joint concurrence of the President and Congress; (d) whether respondent PCGG has the jurisdiction and authority to enter into an agreement with Christie's of New York for the sale of the artworks; (e) whether PCGG has complied with the due process clause and other statutory requirements for the exportation and sale of the subject items; and, (f) whether the petition has become moot and academic, and if so, whether the above issues warrant resolution from this Court.

The issues being interrelated, they will be discussed jointly hereunder. However, before proceeding, we wish to emphasize that we admire and commend petitioners' zealous concern to keep and preserve within the country great works of art by well-known old masters. Indeed, the value of art cannot be gainsaid. For, by serving as a creative medium through which man can express his innermost thoughts and unbridled emotions while, at the same time, reflecting his deep-seated ideals, art has become a true expression of beauty, joy, and life itself. Such artistic creations give us insights into the artists' cultural heritage - the historic past of the nation and the era to which they belong - in their triumphant, glorious, as well as troubled and turbulent years. It must be for this reason that the framers of the 1987 Constitution mandated in Art. XIV, Sec. 14, that it is the solemn duty of the state to "foster the preservation, enrichment, and dynamic evolution of a Filipino national culture based on the principle of unity in diversity in a climate of free artistic and intellectual expression." And, in urging this Court to grant their petition, petitioners invoke this policy of the state on the protection of the arts.

But, the altruistic and noble purpose of the petition notwithstanding, there is that basic legal question which must first be resolved: whether the instant petition complies with the legal requisites for this Court to exercise its power of judicial review over this case.

The rule is settled that no question involving the constitutionality or validity of a law or governmental act may be heard and decided by the court unless there is compliance with the legal requisites for judicial inquiry namely: that the question must be raised by the proper party; that there must be an actual case or controversy; that the question must be raised at the earliest possible opportunity; and, that the decision on the constitutional or legal question must be necessary to the determination of the case itself.[6] But the most important are the first two (2) requisites.

On the first requisite, we have held that one having no right or interest to protect cannot invoke the jurisdiction of the court as party-plaintiff in an action.[7] This is premised on Sec. 2, Rule 3, of the Rules of Court which provides that every action must be prosecuted and defended in the name of the real party-in-interest, and that all persons having interest in the subject of the action and in obtaining the relief demanded shall be joined as plaintiffs. The Court will exercise its power of judicial review only if the case is brought before it by a party who has the legal standing to raise the constitutional or legal question. "Legal standing" means a personal and substantial interest in the case such that the party has sustained or will sustain direct injury as a result of the governmental act that is being challenged. The term "interest" is material interest, an interest in issue and to be affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest.[8] Moreover, the interest of the party plaintiff must be personal and not one based on a desire to vindicate the constitutional right of some third and unrelated party.[9]

There are certain instances however when this Court has allowed exceptions to the rule on legal standing, as when a citizen brings a case for mandamus to procure the enforcement of a public duty for the fulfillment of a public right recognized by the Constitution,[10] and when a taxpayer questions the validity of a governmental act authorizing the disbursement of public funds.[11]

Petitioners claim that as Filipino citizens, taxpayers and artists deeply concerned with the preservation and protection of the country's artistic wealth, they have the legal personality to restrain respondents Executive Secretary and PCGG from acting contrary to their public duty to conserve the artistic creations as mandated by the 1987 Constitution, particularly Art. XIV, Secs. 14 to 18, on Arts and Culture, and R.A. 4846 known as "The Cultural Properties Preservation and Protection Act," governing the preservation and disposition of national and important cultural properties. Petitioners also anchor their case on the premise that the paintings and silverware are public properties collectively owned by them and by the people in general to view and enjoy as great works of art. They allege that with the unauthorized act of PCGG in selling the art pieces, petitioners have been deprived of their right to public property without due process of law in violation of the Constitution.[12]

Petitioners' arguments are devoid of merit. They lack basis in fact and in law. They themselves allege that the paintings were donated by private persons from different parts of the world to the Metropolitan Museum of Manila Foundation, which is a non-profit and non-stock corporation established to promote non-Philippine arts. The foundation's chairman was former First Lady Imelda R. Marcos, while its president was Bienvenido R. Tantoco. On this basis, the ownership of these paintings legally belongs to the foundation or corporation or the members thereof, although the public has been given the opportunity to view and appreciate these paintings when they were placed on exhibit.

Similarly, as alleged in the petition, the pieces of antique silverware were given to the Marcos couple as gifts from friends and dignitaries from foreign countries on their silver wedding anniversary, an occasion personal to them. When the Marcos administration was toppled by the revolutionary government, these paintings and silverware were taken from Malacañang and the Metropolitan Museum of Manila and transferred to the Central Bank Museum. The confiscation of these properties by the Aquino administration however should not be understood to mean that the ownership of these paintings has automatically passed on to the government without complying

with constitutional and statutory requirements of due process and just compensation. If these properties were already acquired by the government, any constitutional or statutory defect in their acquisition and their subsequent disposition must be raised only by the proper parties - the true owners thereof - whose authority to recover emanates from their proprietary rights which are protected by statutes and the Constitution. Having failed to show that they are the legal owners of the artworks or that the valued pieces have become publicly owned, petitioners do not possess any clear legal right whatsoever to question their alleged unauthorized disposition.

Further, although this action is also one of mandamus filed by concerned citizens, it does not fulfill the criteria for a mandamus suit. In *Legaspi v. Civil Service Commission*,^[13] this Court laid down the rule that a writ of mandamus may be issued to a citizen only when the public right to be enforced and the concomitant duty of the state are unequivocally set forth in the Constitution. In the case at bar, petitioners are not after the fulfillment of a positive duty required of respondent officials under the 1987 Constitution. What they seek is the enjoining of an official act because it is constitutionally infirmed. Moreover, petitioners' claim for the continued enjoyment and appreciation by the public of the artworks is at most a privilege and is unenforceable as a constitutional right in this action for mandamus.

Neither can this petition be allowed as a taxpayer's suit. Not every action filed by a taxpayer can qualify to challenge the legality of official acts done by the government. A taxpayer's suit can prosper only if the governmental acts being questioned involve disbursement of public funds upon the theory that the expenditure of public funds by an officer of the state for the purpose of administering an unconstitutional act constitutes a misapplication of such funds, which may be enjoined at the request of a taxpayer.^[14] Obviously, petitioners are not challenging any expenditure involving public funds but the disposition of what they allege to be public properties. It is worthy to note that petitioners admit that the paintings and antique silverware were acquired from private sources and not with public money.

Anent the second requisite of actual controversy, petitioners argue that this case should be resolved by this Court as an exception to the rule on moot and academic cases; that although the sale of the paintings and silver has long been consummated and the possibility of retrieving the treasure trove is nil, yet the novelty and importance of the issues raised by the petition deserve this Court's attention. They submit that the resolution by the Court of the issues in this case will establish future guiding principles and doctrines on the preservation of the nation's priceless artistic and cultural possessions for the benefit of the public as a whole.^[15]

For a court to exercise its power of adjudication, there must be an actual case or controversy - one which involves a conflict of legal rights, an assertion of opposite legal claims susceptible of judicial resolution; the case must not be moot or academic or based on extra-legal or other similar considerations not cognizable by a court of justice.^[16] A case becomes moot and academic when its purpose has become stale,^[17] such as the case before us. Since the purpose of this petition for prohibition is to enjoin respondent public officials from holding the auction sale of the artworks on a particular date - 11 January 1991 - which is long past, the issues raised in the petition have become moot and academic.

At this point, however, we need to emphasize that this Court has the discretion to take cognizance of a suit which does not satisfy the requirements of an actual case or legal standing when paramount public interest is involved.^[18] We find however that there is no such justification in the petition at bar to warrant the relaxation of the rule.

Section 2 of R.A. 4846, as amended by P.D. 374, declares it to be the policy of the state to preserve and protect the important cultural properties and national cultural treasures of the nation and to safeguard their intrinsic value. As to what kind of artistic and cultural properties are considered by the State as involving public interest which

should therefore be protected, the answer can be gleaned from a reading of the reasons behind the enactment of R.A. 4846:

"WHEREAS, the National Museum has the difficult task, under existing laws and regulations, of preserving and protecting the cultural properties of the nation;

"WHEREAS, innumerable sites all over the country have since been excavated for cultural relics, which have passed on to private hands, representing priceless cultural treasure that properly belongs to the Filipino people as their heritage;

"WHEREAS, it is perhaps impossible now to find an area in the Philippines, whether government or private property, which has not been disturbed by commercially-minded diggers and collectors, literally destroying part of our historic past;

"WHEREAS, because of this the Philippines has been charged as incapable of preserving and protecting her cultural legacies;

"WHEREAS, the commercialization of Philippine relics from the contact period, the Neolithic Age, and the Paleolithic Age, has reached a point perilously placing beyond reach of savants the study and reconstruction of Philippine prehistory; and

"WHEREAS, it is believed that more stringent regulation on movement and a limited form of registration of important cultural properties and of designated national cultural treasures is necessary, and that regardless of the item, any cultural property exported or sold locally must be registered with the National Museum to control the deplorable situation regarding our national cultural properties and to implement the Cultural Properties Law" (Emphasis ours).

Clearly, the cultural properties of the nation which shall be under the protection of the state are classified as the "important cultural properties" and the "national cultural treasures." "Important cultural properties" are cultural properties which have been singled out from among the innumerable cultural properties as having exceptional historical and cultural significance to the Philippines but are not sufficiently outstanding to merit the classification of national cultural treasures.[19] On the other hand, a "national cultural treasure" is a unique object found locally, possessing outstanding historical, cultural, artistic and/or scientific value which is highly significant and important to this country and nation.[20] This Court takes note of the certification issued by the Director of the Museum that the Italian paintings and silverware subject of this petition do not constitute protected cultural properties and are not among those listed in the Cultural Properties Register of the National Museum.

We agree with the certification of the Director of the Museum. Under the law, it is the Director of the Museum who is authorized to undertake the inventory, registration, designation or classification, with the aid of competent experts, of important cultural properties and national cultural treasures.[21] Findings of administrative officials and agencies who have acquired expertise because their jurisdiction is confined to specific matters are generally accorded not only respect but at times even finality if such findings are supported by substantial evidence and are controlling on the reviewing authorities because of their acknowledged expertise in the fields of specialization to which they are assigned.[22]

In view of the foregoing, this Court finds no compelling reason to grant the petition. Petitioners have failed to show that respondents Executive Secretary and PCGG exercised their functions with grave abuse of discretion or in excess of their jurisdiction.

WHEREFORE, for lack of merit, the petition for prohibition and mandamus is DISMISSED.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Griño-Aquino, Regalado, Davide, Jr., Romero, Nocon, Melo, Quiason, Puno, and Vitug, JJ., concur.

[1] Rollo, pp. 55-66.

[2] Rollo, pp. 37-39.

[3] Rollo, pp. 48-53.

[4] Rollo, p. 186.

[5] Ibid.

[6] Cruz, Isagani A., Philippine Political Law, 1991 ed., p. 235; Dumlao v. Commission on Elections, G.R.No. 50245, 22 January 1980, 95 SCRA 392.

[7] Sustiguer v. Tamayo, G.R. No. L-29341, 21 August 1989, 176 SCRA 579.

[8] House International Building Tenants Association, Inc. v. Intermediate Appellate Court, G.R. No. 75287, 30 June 1987, 151 SCRA 703.

[9] Bernas, Joaquin B., The Constitution of the Republic of the Philippines, Vol. II, 1988 Ed., p. 279.

[10] Tañada v. Tuvera, G.R. No. 63915, 24 April 1985, 136 SCRA 27; Legaspi v. Civil Service Commission, G.R. No. 72119, 29 May 1987, 150 SCRA 530.

[11] Pascual v. Secretary of Public Works, 110 Phil 331 (1960).

[12] Rollo, pp. 156-157.

[13] G.R. No. 72119, 29 May 1987, 150 SCRA 530.

[14] Pascual v. Secretary of Public Works, 110 Phil 331 (1960).

[15] Rollo, pp. 174-175.

[16] See Note 6.

[17] Manila Jockey Club, Inc. v Montano Jr., G.R. No. L-24465, 28 February 1977, 75 SCRA 264.

[18] Dumlao v. Comelec, G. R. No. 50245, 22 January 1980, 95 SCRA 392.

[19] Sec. 2, par. b, R.A. 4846, as amended.

[20] Sec. 3, par. c, R.A. 4846, as amended.

[21] Id., Secs. 5-7.

[22] Biak-na-Bato Mining Company v. Tanco, Jr., G.R. Nos. L-34267-68, 25 January 1991, 193 SCRA 323.

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