

**NEMESIO C. VIDAD, EXUPERIO BANTOTO, CRISTITO TEVES AND
LLOYD SIEGFRIED SIA, PETITIONERS, VS. REGIONAL TRIAL COURT
OF NEGROS ORIENTAL, BRANCH 42, SOLICITOR GENERAL & S
OFFICE, MARC...**

G.R. No. 98084. October 18, 1993

Ponente: VITUG, J.

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VITUG, J.:

A group of public school teachers in Negros Oriental held, starting 19 September 1990 and lasting until 21 September 1990, a mass action, or a strike from their school classes, to demand the release of their salaries by the Department of Budget. The teachers also assailed alleged corruption in the Department of Education, Culture and Sports (DECS).[1]

A return-to work order was promptly issued by DECS Regional Director Teofilo Gomez with a warning that if the "striking" school teachers were not to resume their classes within twenty-four hours, administrative charges would be filed.[2] The order not having been heeded, administrative complaints against the teachers concerned were thereupon filed. The teachers were each given five days from receipt of said complaints within which to submit their respective answers and supporting documents. Constituted to look into the cases was an investigation panel composed of three DECS lawyers, namely, Marcelo Baclaso, Nieva Montes and Generoso Capuyan.[3]

On 13 November 1990, a group of school teachers, who were administratively charged, filed with the Regional Trial Court of Dumaguete a complaint for injunction, prohibition and damages, with a prayer for preliminary injunction, against the aforementioned DECS officials. A temporary restraining order, prohibiting the defendants from continuing with the administrative investigation, was forthwith granted by the court.[4]

The defendants filed their answer, later followed by a motion to dismiss. The school teachers, on their part, moved to strike out the appearance of the Office of the Solicitor General and to accordingly declare the defendants in default. Both motions of the plaintiffs and the defendants were denied by the court in its Order of 10 April 1991, viz:

In the light of the foregoing, plaintiffs' motion to declare defendants in default, dated January 7, 1991, motion for reconsideration dated February 18, 1991 and defendants' motion to dismiss dated January 23, 1991, are all denied for lack of merit.

SO ORDERED.[5]

From this denial, both parties filed with this Court their respective petitions for Certiorari, Prohibition and Mandamus under Rule 65 of the Rules of Court. The teachers' petition, that likewise impleaded as respondent, along with the DECS officials, the Office of the Solicitor General, was docketed as G.R. No. 98084 and that of the DECS officials as G.R. No. 98922. These cases were consolidated in this Court's resolution of 28 May 1991.[6]

Four other cases, raising like issues, were later also filed with the court below by other public school teachers concerned. The DECS officials, again represented by the Solicitor General, filed motions to dismiss, which the court similarly denied. A joint petition for certiorari, prohibition and mandamus was thence filed with this Court, docketed as G.R. No. 100300-03. This Court later resolved the petition to be likewise consolidated with G.R. No. 98084 and G.R. No. 98922 in its Resolution of 04 July 1991.[7]

The issues raised in these consolidated cases are?

(1) Whether or not the Office of the Solicitor General may properly represent the defendants in the Regional Trial Court cases;[8] and

(2) Whether or not the Regional Trial Court should have dismissed outright the said cases.[9]

It should be conceded that the various complaints against the DECS officials have prescinded from the administrative actions taken, and contemplated to be yet taken, against the public school teachers, the plaintiffs in the cases pending with the court a quo. The said complaints charge the defendants, all government officials, with having illegally withheld their salaries, having wrongfully filed administrative charges against the plaintiffs, having unjustifiably refused to inform the latter of the nature and cause of accusation upon which the charges were initiated, having inexcusably violated elemental due process, and having erroneously applied the law. The school teachers pray for actual and moral damages, plus attorney's fees, as well as for an order restraining the defendants from further proceeding with the administrative investigations.

The contention of the school teachers that the DECS officials are being sued solely in their private capacity certainly is not borne out by their above allegations and prayers. The root of the cases filed below deals, in fact, on the performance of official functions by the DECS officials. Whether the actions they have taken were proper or improper, or whether they have acted in good faith or bad faith, cannot, pending a full hearing that would aptly afford all parties an opportunity to ventilate their respective contentions, be yet determined. Until then, we must presume that official duties have been regularly performed.[10]

Presidential Decree 478, in part, provides:

"1) 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 a lawyer. When authorized by the President or head of office concerned, it shall also represent government-owned or 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 a lawyer. It shall have the following specific powers and functions:

"a) Represent the Government in the Supreme Court and the Court of Appeals in all criminal proceedings represent the Government and its officers in the Supreme Court, the Court of Appeals, and all other courts or tribunals in all civil actions and special proceedings in which the Government or any officer thereof in his official capacity is a party" (stress supplied).

x x x x x x x x

The above provisions are basically reiterated in the Administrative Code of 1987.[11]

We accordingly hold that the Solicitor General did not act improperly in deciding to represent the DECS officials in the above cases.

The defendants' motions to dismiss the complaints have likewise been precipitately sought, and we see no reversible error in the denial thereof by the lower court. The various complaints filed by the public school teachers

allege bad faith on the part of the DECS officials. It cannot be pretended this early that the same could be impossible of proof. On the assumption that the plaintiffs are able to establish their allegations of bad faith, a judgment for damages can be warranted. Public officials are certainly not immune from damages in their personal capacities arising from acts done in bad faith; in these and similar cases, the public officials may not be said to have acted within the scope of their official authority, and no longer are they protected by the mantle of immunity for official actions.[12]

It was, nonetheless, inopportune for the lower court to issue the restraining orders. The authority of the DECS Regional Director to issue the return to work memorandum, to initiate the administrative charges and to constitute the investigating panel can hardly be disputed.[13]

We see the court cases and the administrative matters to be closely interrelated, if not, indeed, interlinked. While no prejudicial question strictly arises where one is a civil case and the other is an administrative proceeding, in the interest of good order, it behooves the court to suspend its action on the cases before it pending the final outcome of the administrative proceedings. The doctrine of primary jurisdiction does not warrant a court to arrogate unto itself the authority to resolve a controversy the jurisdiction over which is initially lodged with an administrative body of special competence. We see, in these petitions before us, no cogent reason to deviate from the rule.

WHEREFORE -

(1) The Petition in G.R. No. 98084 is DISMISSED;

(2) In G.R. No. 98922 (a) the Order of 10 April 1991, appealed from is AFFIRMED; (b) the writ of preliminary injunction issued by the lower court is DISSOLVED; and (c) the lower court is DIRECTED to suspend further hearings in its Civil Case No. 9789, until after a final determination on the administrative proceedings would have been made;

(3) In G.R. No. 100300- No. 100303, inclusive, (a) the Joint Order of 28 May 1991, denying the motions to dismiss Civil Case No. 9877, No. 9879, No. 9882 and No. 9883 is AFFIRMED; (b) the writ of preliminary injunction issued by the lower court in said civil cases is DISSOLVED; and (c) the lower court is DIRECTED to suspend further hearings in the abovenumbered civil cases, until after a final determination would have been made on the administrative proceedings.

No costs.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Bidin, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, Melo, Quiason, and Puno, JJ., concur.

Padilla and Griño-Aquino, JJ., on leave.

[1] G.R. No. 98084, Rollo 3, 81.

[2] G.R. No. 98084, Annex "1" Comment, 82.

[3] Ibid., Memorandum for Petitioners in G.R. No. 98084 and Respondents in G.R. No. 98912 and 100300-03, 146.

[4] G.R. No. 98084, Annex "3," Comment, 96.

[5] Ibid., Annex "K," Petition, 54-60.

[6] G.R. No. 98922, Rollo, 48.

[7] G.R. Nos. 100300-03, Rollo, 133.

[8] G.R. No. 98084.

[9] G.R. No. 98922 and G.R. No. 100300-03.

[10] Section 5 (m), Rule 131, Rules of Court.

[11] Section 35 (i), Chapter 12, Title III, Book IV, Executive Order No. 292, as amended by Republic Act No. 6733.

[12] Rama v. Court of Appeals, G.R. No. L-44484, 14 March 1987; Correa v. GFI; L-46096, 30 July 1979.

[13] See Section 38, Presidential Decree No. 807.

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