

## **SPECIAL THIRTEENTH DIVISION**

**[ SP NO. 107658, December 20, 2010 ]**

**SECURITY AND SAFETY CORPORATION OF THE PHILIPPINES,  
PETITIONER, VS. HON. JESUS B. MUPAS, AS THE PRESIDING  
JUDGE OF THE REGIONAL TRIAL COURT OF PASAY CITY,  
BRANCH 112, MANILA INTERNATIONAL AIRPORT AUTHORITY,  
ALFONSO CUSI, ANGEL G. ATUTUBO AND MELVIN A. MATIBAG,  
RESPONDENTS.**

### **DECISION**

## **Court of Appeals**

Assailed in the instant petition filed under Rule 65 of the 1997 Rules of Civil Procedure is the Order (Rollo, pp. 34-36) dated February 12, 2009 of the Regional Trial Court, Pasay City, Branch 12 denying the Application for Issuance of a Temporary Restraining Order and Writ of Preliminary Injunction filed by petitioner Security and Safety Corporation of the Philippines.

The facts are as follows:

On December 18, 2008, petitioner Security and Safety

Corporation of the Philippines (SSCP) filed a special civil action for Prohibition and Mandamus with Application for Issuance of a Temporary Restraining Order and Writ of Preliminary Injunction against private respondents: a) Manila International Airport Authority (MIAA); b) Alfonso Cusi, General Manager of MIAA; c) Angel Atutubo, Asst. General Manager for Security and Emergency Services of MIAA; d) Melvin Matibag, Head Executive Assistant of Alfonso Cusi.

SSCP alleged that since 1977, it has been a security provider in Manila International Airport (MIA) complex which eventually become Ninoy Aquino International Airport (NAIA). In 1982, MIA (now NAIA) instituted a system of accreditation of private security providers operating at MIA. The criteria for accreditation are set in Memorandum Circular No. 06, Series of 2003. Since the inception of the accreditation system, petitioner passed the criteria set in the said circular.

After providing service for thirty two (32) years, substantial investments in equipment and manpower, petitioner was taken aback when the respondents informed them of the expiration of their accreditation on December 31, 2008 but extended it until February 29, 2009. After the said date, the petitioner will be hindered from servicing its clients consisting of eleven (11) airline companies. It will also be prevented from doing business at the NAIA complex for alleged violations of airport rules and regulations.

SSCP personnel allegedly engaged in nefarious activities, such as, facilitation of undocumented OFW's and baggage fixing to the detriment of airline revenue and

safety of its aircraft. The petitioner was not fully aware of such violations until further accreditation was denied. Furthermore, the petitioner was not given a chance to be heard and disprove the allegations of the respondents.

Petitioner claimed that the respondents instigated the eleven (11) airline companies to abandon them in favor of a new security service provider. Petitioner believed that it is entitled to the protection of the due process clause of the constitution and it should be allowed to continue doing business at the NAIA complex during the pendency of this case.

On the other hand, Respondents contended that petitioner provides service directly to airline clients operating in NAIA premises which is owned and operated by respondent MIAA. MIAA has the full power to regulate petitioner's services in accordance with the Police Authority under par. D and E of Sec 6 of Executive Order No. 903 as amended. Providing security service is a privilege conditioned upon satisfaction and compliance instead of a right, thus the requirement for accreditation. Accredited companies are given a Certificate of Accreditation which is the contract between petitioner and MIAA. Its rules and regulations should be observed and failure to conform with them will result in the termination of the said certificate. Even if the petitioner has paid the accreditation fees and had provided service for a long time, this does not give them the right to provide security service as long as they prefer and do things as they please. The renewal of their accreditation is the sole option of MIAA. It also dependent on the condition that petitioner abides by the rules and regulations.

Respondents stated that the employees of the petitioner were caught violating rules which posed a threat to the security not only of the passengers and their clientele but also the entire airport as well. Regardless of the violations it committed, the accreditation of the petitioner was not terminated immediately. The contract of the petitioner ended on December 31, 2008 but they were given an extension of 90 days for winding up, not a renewal. Based on the evidence at hand, it showed that December 31, 2008 was the termination date of the accreditation. The petitioner was given due process and the equal protection of the law was observed. They were given the chance to be heard but failed to comply with their commitment and to act accordingly. The rules and regulations were equally implemented to all security providers inside the MIAA complex without preference or special treatment to anybody.

The public respondent issued the appealed Order dated February 12, 2009, the dispositive portion of which states:

"WHEREFORE, premises considered, the Application for the Issuance of a Temporary Restraining Order and Writ of Preliminary Injunction is hereby Denied for Lack of merit.

It appearing that respondent has already filed its Answer, let the Pre-Trial of this case be set on March 17, 2009 at 8:30 a.m.

SO ORDERED." (Rollo p. 36)

On March 5, 2009, SSCP filed this petition with the following assigned errors.

PUBLIC RESPONDENT COMMITTED SERIOUS AND REVERSIBLE ERROR OF LAW AND ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN RULING THAT PETITIONER'S ACCREDITATION AS SECURITY PROVIDER IS A MERE PRIVILEGE AND NOT A RIGHT.

II

PUBLIC RESPONDENT COMMITTED SERIOUS AND REVERSIBLE ERROR OF LAW AND ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN HOLDING, WITHOUT PROOF, THAT PETITIONER WAS AFFORDED DUE PROCESS AND GIVEN ALL OPPORTUNITY TO BE HEARD.

III

PUBLIC RESPONDENT COMMITTED SERIOUS AND REVERSIBLE ERROR OF LAW AND ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN RULING, THAT PETITIONER WAS AFFORDED EQUAL PROTECTION OF THE LAW.

IV

PUBLIC RESPONDENT COMMITTED SERIOUS AND REVERSIBLE ERROR OF LAW AND ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN RULING, WITHOUT PROOF, THAT PETITIONER VIOLATED MIAA RULES AND REGULATIONS AND FAILED TO STAND BY ITS COMMITMENTS.

V

PUBLIC RESPONDENT COMMITTED SERIOUS AND REVERSIBLE ERROR OF LAW AND ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN FAILING TO CONSIDER AND RULE THAT THE SUPPOSED "DECISION" OF PRIVATE RESPONDENT INTERDICTING PETITIONER, VIOLATED THE PROVISIONS OF THE ADMINISTRATIVE CODE OF 1987. (Rollo, pp. 16-17)

The petition is without merit.

In a special civil action for certiorari, the petitioner carries the burden of proving not merely reversible error, but grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the public respondent for its issuance of the impugned decision. (*Suliguin v. Commission on Elections*, 485 SCRA 219, 233 [2006]) The term grave abuse of discretion, in its juridical sense, connotes capricious, despotic, oppressive or whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse must be of such degree as to amount to an evasion of positive duty or a virtual refusal to perform a duty enjoined by law, as where the power is exercised in an arbitrary and capricious manner by reason of passion and hostility. The word capricious, usually used in tandem with the term arbitrary, conveys the notion of willful and unreasoning action. Thus, when seeking the corrective hand of certiorari,