

FIRST DIVISION

[G.R. No. 188913, February 19, 2014]

**CITY GOVERNMENT OF BAGUIO, HEREIN REPRESENTED BY CITY
MAYOR REINALDO A. BAUTISTA, JR., PETITIONER, VS. ATTY.
BRAIN S. MASWENG, RESPONDENT.**

DECISION

VILLARAMA, JR., J.:

Before this Court is a petition for contempt^[1] against respondent Atty. Brain S. Masweng who issued the following orders in his capacity as the Regional Hearing Officer of the National Commission on Indigenous Peoples, Cordillera Administrative Region (NCIP-CAR):

- (1) 72-Hour Temporary Restraining Order^[2] dated July 27, 2009, Order^[3] dated July 31, 2009 and Writ of Preliminary Injunction^[4] in NCIP Case No. 31-CAR-09 and
- (2) 72-Hour Temporary Restraining Order^[5] dated July 27, 2009, Order^[6] dated July 31, 2009 and Writ of Preliminary Injunction^[7] in NCIP Case No. 29-CAR-09.

The factual antecedents:

Petitioner City Government of Baguio, through its then Mayor, issued Demolition Order No. 33, Series of 2005 and Demolition Order Nos. 25 and 28, Series of 2004, ordering the demolition of illegal structures that had been constructed on a portion of the Busol Watershed Reservation located at Aurora Hill, Baguio City, without the required building permits and in violation of Section 69^[8] of the Revised Forestry Code, as amended, the National Building Code^[9] and the Urban Development and Housing Act.^[10] Pursuant to said demolition orders, demolition advices dated September 19, 2006 were issued by the city government informing the occupants of the intended demolition of the structures on October 17 to 20, 2006.

On October 13, 2006, a petition for injunction with prayer for temporary restraining order and writ of preliminary injunction was filed by Elvin Gumangan, Narciso Basatan and Lazaro Bawas before the NCIP-CAR against the City of Baguio, The Anti-Squatting Committee, City Building and Architecture Office, and Public Order and Safety Office. The case was docketed as NCIP Case No. 31-CAR-06.

On October 16 and 19, 2006, herein respondent, Atty. Brain Masweng, the Regional Hearing Officer of the NCIP-CAR, issued two temporary restraining orders directing petitioner and all persons acting in its behalf from enforcing the demolition orders and demolition advices for a total period of 20 days. Subsequently, the NCIP-CAR, through respondent, granted the application for preliminary injunction.

On appeal, the Court of Appeals (CA) affirmed the injunctive writ issued by the NCIP-CAR against the demolition orders. The case was then elevated to this Court in **G.R. No. 180206** entitled, "*City Government of Baguio City v. Masweng*."^[11]

On February 4, 2009, this Court rendered a Decision reversing and setting aside the ruling of the CA and dismissed NCIP Case No. 31-CAR-06. This Court held that although the NCIP had the authority to issue temporary restraining orders and writs of injunction, Elvin Gumangan, et al., were not entitled to the relief granted by the NCIP-CAR. On April 22, 2009, this Court denied with finality the motion for reconsideration filed by Elvin Gumangan, et al. The decision thus became final and executory on June 9, 2009.^[12]

Thereafter, petitioner, through the Office of the Mayor, issued Demolition Advices dated May 20, 2009^[13] and July 20, 2009^[14] against Alexander Ampaguey, Sr.,^[15] a certain Mr. Basatan, Julio Daluyen, Sr.,^[16] Carmen Panayo, and Concepcion Padang. Said Demolition Advices notified them that Demolition Order No. 33, Series of 2005 and Demolition Order No. 83, Series of 1999 will be enforced in July 2009 and advised them to voluntarily dismantle their structures built on the Busol Watershed.

On July 23, 2009, Magdalena Gumangan, Marion Pool, Lourdes Hermogeno, Bernardo Simon, Joseph Legaspi, Joseph Basatan, Marcelino Basatan, Josephine Legaspi and Lansigan Bawas filed a petition^[17] for the identification, delineation and recognition of their ancestral land and enforcement of their rights as indigenous cultural communities/indigenous peoples, with prayer for the issuance of a TRO and writ of preliminary injunction. The case was docketed as **NCIP Case No. 29-CAR-09**.

On July 27, 2009, Alexander Ampaguey, Sr., Julio Daluyen, Sr., Carmen Panayo and Concepcion Padang filed a petition^[18] for injunction with urgent prayer for issuance of a temporary restraining order and writ of preliminary injunction before the NCIP against petitioner and the City Building and Architecture Office. The case was docketed as **NCIP Case No. 31-CAR-09**. They averred that they are all indigenous people particularly of the Ibaloi and Kankanaey Tribes, who are possessors of residential houses and other improvements at Bayan Park and Ambiong, Aurora Hill, Baguio City by virtue of transfers effected in accordance with traditions and customary laws from the ancestral land claimants namely, the Heirs of Molintas and the Heirs of Gumangan. They sought to enjoin the enforcement of the demolition orders.

On the same day, July 27, 2009, respondent issued two separate 72-hour temporary restraining orders in NCIP Case Nos. 31-CAR-09^[19] and 29-CAR-09.^[20] The order in NCIP Case No. 31-CAR-09 restraining the implementation of the demolition advices and demolition orders reads:

WHEREFORE, premises considered, a Temporary Restraining Order pursuant to Section 69 (d) of R.A. [No.] 8371 in relation to Section 83 of NCIP Administrative Circular No. 1, series of 2003 is hereby issued against the respondents namely, CITY OF BAGUIO represented by City Mayor REINALDO BAUTISTA JR., CITY BUILDING AND ARCHITECTURE

OFFICE represented by OSCAR FLORES and all persons under their instructions and acting for and in their behalves are hereby ordered to stay and refrain from implementing Demolition Advice dated May 20, 2009, Demolition Order No. 33 series of 2005, Demolition Advice dated July 20, 2009 and Demolition Order No. 69 series of 2002 within Seventy Two (72) Hours upon receipt of this order on the residential houses/structures of Alexander Ampaguey Sr., Julio Daluyen Sr., Concep[c]ion Padang and Carmen Panayo all located at Busol Water Reservation, Baguio City.^[21]

In NCIP Case No. 29-CAR-09, petitioner and the City Building and Architecture Office, represented by Oscar Flores; Public Safety and Order Division, represented by Gregorio Deligero; the Baguio Demolition Team, represented by Engr. Nazeta Banez; and all persons under their instructions were ordered to refrain from demolishing the residential structures of Magdalena Gumangan, Marion Pool, Lourdes Hermogeno, Bernardo Simon, Joseph Legaspi, Joseph Basatan, Marcelino Basatan, Josephine Legaspi and Lansigan Bawas located at Busol Water Reservation.

Subsequently, respondent issued two separate Orders^[22] both dated July 31, 2009 in NCIP Case Nos. 29-CAR-09 and 31-CAR-09 extending the 72-hour temporary restraining orders for another 17 days.

On August 14, 2009, respondent issued a Writ of Preliminary Injunction^[23] in NCIP Case No. 31-CAR-09, followed by a Writ of Preliminary Injunction^[24] in NCIP Case No. 29-CAR-09.

Hence, this petition asserting that the restraining orders and writs of preliminary injunction were issued in willful disregard, disobedience, defiance and resistance of this Court's Decision in G.R. No. 180206 which dismissed the previous injunction case. Petitioner contends that respondent's act of enjoining the execution of the demolition orders and demolition advices is tantamount to allowing forum shopping since the implementation of the demolition orders over the structures in the Busol Forest Reservation had already been adjudicated and affirmed by this Court.

In his Comment,^[25] respondent claims that he issued the restraining orders and writs of preliminary injunction in NCIP Case Nos. 31-CAR-09 and 29-CAR-09 because his jurisdiction was called upon to protect and preserve the rights of the petitioners (in the NCIP cases) who were undoubtedly members of the indigenous cultural communities/indigenous peoples. He avers that his personal judgment and assessment of the allegations of the parties in their pleadings, as supported by their attachments, convinced him that the petitioners therein were entitled to such restraining orders and writs of injunction.

Respondent maintains that the orders and writs he issued did not disregard the earlier ruling of this Court in G.R. No. 180206. He points out that the Court has in fact affirmed the power of the NCIP to issue temporary restraining orders and writs of injunction without any prohibition against the issuance of said writs when the main action is for injunction. He adds that he was aware of the said pronouncement and had to rule on the matter so he extensively explained and laid out his legal basis for issuing the assailed orders and writs.

Respondent further posits that if petitioner believes that he committed an error in issuing his orders and resolutions, there are judicial remedies provided by law. Thus, petitioner could have filed a motion for reconsideration of the assailed orders and resolutions or a petition for review if such motion for reconsideration is denied. Petitioner likewise could have filed a motion for inhibition or a request for change of venue if it feels that valid ground exists to warrant the same.

The sole issue to be resolved is whether the respondent should be cited in contempt of court for issuing the subject temporary restraining orders and writs of preliminary injunction.

We rule in the affirmative.

The applicable provision is Section 3 of Rule 71 of the 1997 Rules of Civil Procedure, as amended, which states:

SEC. 3. *Indirect contempt to be punished after charge and hearing.* – After a charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as may be fixed by the court and to be heard by himself or counsel, a person guilty of any of the following acts may be punished for indirect contempt:

x x x x

b) **Disobedience of or resistance to a lawful writ, process, order, or judgment of a court**, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto;

x x x x (Emphasis supplied.)

Contempt of court is defined as a disobedience to the Court by acting in opposition to its authority, justice and dignity. It signifies not only a willful disregard or disobedience of the court's orders, but such conduct which tends to bring the authority of the court and the administration of law into disrepute or in some manner to impede the due administration of justice. Contempt of court is a defiance of the authority, justice or dignity of the court; such conduct as tends to bring the authority and administration of the law into disrespect or to interfere with or prejudice party litigants or their witnesses during litigation.^[26]

The power to punish for contempt is inherent in all courts and is essential to the preservation of order in judicial proceedings and to the enforcement of judgments, orders, and mandates of the court, and consequently, to the due administration of justice.^[27] Only in cases of clear and contumacious refusal to obey should the power be exercised, however, such power, being drastic and extraordinary in its nature, should not be resorted to unless necessary in the interest of justice.^[28] The court must exercise the power of contempt judiciously and sparingly, with utmost self-restraint, with the end in view of utilizing the same for correction and preservation of the dignity of the court, not for retaliation or vindication.^[29]

In this case, respondent was charged with indirect contempt for issuing the subject orders enjoining the implementation of demolition orders against illegal structures constructed on a portion of the Busol Watershed Reservation located at Aurora Hill, Baguio City.

In the Decision dated February 4, 2009 rendered in G.R. No. 180206, the Court indeed upheld the authority of the NCIP to issue temporary restraining orders and writs of injunction to preserve the rights of parties to a dispute who are members of indigenous cultural communities or indigenous peoples. However, the Court categorically ruled that Elvin Gumangan, et al., whose houses and structures are the subject of demolition orders issued by petitioner, are not entitled to the injunctive relief granted by herein respondent in his capacity as Regional Hearing Officer of the NCIP, thus:

The crucial question to be asked then is whether private respondents' ancestral land claim was indeed recognized by Proclamation No. 15, in which case, their right thereto may be protected by an injunctive writ. After all, before a writ of preliminary injunction may be issued, petitioners must show that there exists a right to be protected and that the acts against which injunction is directed are violative of said right.

Proclamation No. 15, however, does not appear to be a definitive recognition of private respondents' ancestral land claim. The proclamation merely identifies the Molintas and Gumangan families, the predecessors-in-interest of private respondents, as claimants of a portion of the Busol Forest Reservation but does not acknowledge vested rights over the same. In fact, Proclamation No. 15 explicitly withdraws the Busol Forest Reservation from sale or settlement. It provides:

"Pursuant to the provisions of section eighteen hundred and twenty-six of Act Numbered Twenty-seven Hundred and eleven[,] I hereby establish the Busol Forest Reservation to be administered by the Bureau of Forestry for the purpose of conserving and protecting water and timber, the protection of the water supply being of primary importance and all other uses of the forest are to be subordinated to that purpose. I therefore withdraw from sale or settlement the following described parcels of the public domain situated in the Township of La Trinidad, City of Baguio, Mountain Province, Island of Luzon, to wit:"

The fact remains, too, that the Busol Forest Reservation was declared by the Court as inalienable in *Heirs of Gumangan v. Court of Appeals*. The declaration of the Busol Forest Reservation as such precludes its conversion into private property. Relatedly, the courts are not endowed with jurisdictional competence to adjudicate forest lands.

All told, **although the NCIP has the authority to issue temporary restraining orders and writs of injunction, we are not convinced that private respondents are entitled to the relief granted by the Commission.**^[30] (Emphasis supplied.)