

## THIRD DIVISION

[ G.R. No. 200538, August 13, 2014 ]

### CITY OF DAVAO, PETITIONER, VS. COURT OF APPEALS AND BENJAMIN C. DE GUZMAN, RESPONDENTS.

#### DECISION

##### MENDOZA, J.:

This is a petition for *certiorari* under Rule 65 of the Rules of Court seeking to nullify and set aside the August 5, 2011 Resolution<sup>[1]</sup> and December 6, 2011 Resolution<sup>[2]</sup> of the Court of Appeals (CA). in CA-G.R. SP No. 03951-MIN. The first resolution granted the motion for partial reconsideration of private respondent Benjamin C. De Guzman (*De Guzman*), praying for the imposition of treble costs against petitioner City of Davao (*Davao City*). The second resolution denied the motion for reconsideration of Davao City.

##### *The Factual and Procedural Antecedents*

Davao City was the registered owner of a parcel of land located in Daliao, Toril, Davao City, covered by **TCT No. T-29856**. Claiming that this same parcel of land was earlier donated by the late Engracia Tagalplace (*Tagalplace*) and Juan dela Cruz (*dela Cruz*), to be used as a public market but was not used as such, their heirs wrote De Guzman, then Davao City Mayor, seeking reconveyance of the said land.<sup>[3]</sup>

Subsequently, the Sangguniang Panlungsod issued Resolution No. 2398-01 granting De Guzman the authority to sign for, and on behalf of, Davao City a deed of reconveyance in favor of the said heirs.<sup>[4]</sup>

A few months later, under its new mayor, Mayor Rodrigo R. Duterte (*Mayor Duterte*), it was discovered that the subject property was sold, not donated, to Davao City, based on the annotation found at the back of TCT No. 1417.

From the documents discovered, it appeared that TCT No. T-9856 was a portion of a bigger parcel of land covered by TCT No. 1417; that on December 29, 1936, TCT No. 1417 was cancelled, caused by the execution of a deed of sale transferring the rights over Lot 134-A-2-B in favor of then Municipality of Davao (now Davao City); that in lieu of TCT No. 1417, two (2) titles were issued by the Register of Deeds; TCT No. 1588, issued in the name of the Municipality of Davao, covering Lot 134-A-2-B-1, with an area of 10,009 square meters, and TCT 1589, issued in the name of Tagalplace and dela Cruz, covering Lot 134-A-2-B-2, comprising 93,126 square meters; and that on February 1971, TCT No. 1588 was further cancelled when the Municipality of Davao purchased it from Tagalplace and dela Cruz, resulting in the issuance of **TCT No. 29856**.

Based on this documented discovery, Davao City, through Mayor Duterte, filed a

complaint to annul the reconveyance, impleading not only the heirs of Tagalplace and dela Cruz (*the Heirs*) but also De Guzman.<sup>[5]</sup> The case was docketed as Civil Case No. 28,908-2002 and was raffled to Regional Trial Court, Branch 17 Davao City (*RTC-Br. 17*), presided by Judge Renato A. Fuentes (*Judge Fuentes*).

Claiming that he was not a real party-in-interest, De Guzman filed a motion to dismiss. Judge Fuentes denied the motion. Upon denial of his motion for reconsideration, De Guzman filed a petition for *certiorari* before the CA, docketed as **G.R. No. 75168 (De Guzman's Motion to Dismiss)**.

Meanwhile, there being no injunction issued by the CA, Judge Fuentes proceeded with Civil Case No. 28,908-02 and eventually rendered a summary judgment voiding the reconveyance and ordering the said parcel of land restored to Davao City.<sup>[6]</sup> As can be gleaned from the decretal portion of the RTC-Br. 17 Decision, De Guzman was included in the judgment. Said portion reads:

WHEREFORE, on the basis of the evidence of parties through counsels, as a result of their admissions and stipulations submitted through the filing of their respective memorandum (sic), except the heirs of the late Juan dela Cruz and Engracia Tagalplace, whose submission of their memorandum was delayed but nonetheless admitted, finding the evidence of plaintiff through counsel, sufficient by preponderance, to support and uphold the cause of action of plaintiff against defendant, Decision is rendered in favor of plaintiff City of Davao, represented by its City Mayor Hon. Rodrigo R. Duterte, and against defendants **Benjamin C. de Guzman**, and Heirs of the late Juan dela Cruz and Engracia Tagalplace, declaring the Deed of Reconveyance dated May 11, 2001, covered by TCT No. T-29856, containing an area of Ten Thousand (10,000) square meters more or less, in favor of the Heirs of Juan dela Cruz and Engracia Tagalplace executed by then City Mayor Davao City Benjamin C. de Guzman, null and void and without legal effect, restoring and reconveying full and complete ownership over said above mentioned property, back to the City of Davao, with cost *de officio*.

SO ORDERED.

[Emphasis supplied]

The Heirs and De Guzman filed an appeal to the CA, docketed as **CA G.R. CV No. 00108 (Appeal on the Merits Case)**. The CA (22<sup>nd</sup> Division), in its Decision, elated June 5, 2008, expressed the view that the application of the rules on summary procedure was not proper because there were genuine issues which necessitated the presentation of evidence. For said reason, it set aside the RTC-Br. 17 decision and ordered the remand of the case to the said court for further proceedings.

On January 31, 2008, the CA (Special 21<sup>st</sup> Division), in **G.R. No. 75168 (De Guzman's Motion to Dismiss)**, dismissed De Guzman's petition for being (*i*) an improper remedy in questioning an interlocutory order: and (*ii*) moot because of the

RTC-Br. 17 decision on the merits of the main case.<sup>[7]</sup>

When the case was returned to RTC-Br. 17, the Heirs and De Guzman moved for the inhibition of Judge Fuentes, who granted the motion. The case was thereafter re-raffled to RTC-Branch 11 presided by Judge Virginia Hofilenia-Europa (*Judge Hofilenia-Europa*). As the records would show, Davao City asked for the inhibition of Judge Hotilenia-Europa, as her son was the lawyer of De Guzman. Eventually, the case was finally re-raffled to RTC-Br. 14 presided by Judge George Omelio<sup>[8]</sup> (*Judge Omelio*).

During the proceedings, De Guzman reiterated his position that he should not be impleaded because he merely signed the reconveyance in his official capacity as then mayor of Davao City. This led to an exchange or oral arguments between the opposing parties. Thereafter, Judge Omelio ordered in open court that De Guzman be dropped as co-defendant.<sup>[9]</sup> The RTC-Br. 14 Order,<sup>[10]</sup> dated October 11, 2010, reads:

#### ORDER

The Court is allowed to drop a party **on its own initiative** and this is granted under Section 11, Rule 3 of the 1997 Rules of Civil Procedure.

Accordingly, the Motion for Reconsideration is hereby Denied.

Set the next hearing of this case on November 10, 2010 at 8:30 in the morning.

SO ORDERED.

[Emphasis supplied]

This prompted Davao City to move for the inhibition of Judge Omelio, alleging bias and partiality as there was no motion filed by De Guzman. Judge Omelio, however, denied the motion.

The matter of exclusion of De Guzman as a party was elevated to the CA by Davao City, through a petition for *certiorari*, ascribing grave abuse of discretion on the part of Judge Omelio for dropping him as co-defendant despite the absence of a motion to that effect. The case was docketed as **CA G.R. SP No. 03951-MIN**. This time, the CA (Special 23<sup>rd</sup> Division) upheld Judge Omelio by dismissing Davao City's petition.<sup>[11]</sup> The CA found no abuse of discretion on the part of Judge Omelia because the assailed order was well within the authority of the Court pursuant to Section 11, Rule 3<sup>[12]</sup> of the Rules of Court. The CA stated that De Guzman could neither benefit nor be injured by the affirmation or annulment of the deed or reconveyance. Thus, the CA dismissed Davao City's petition for being "patently without merit."<sup>[13]</sup>

While the petition was dismissed in his favor, De Guzman still filed a motion for partial reconsideration asking for the imposition of treble costs and, award of

attorney's fees.<sup>[14]</sup>

On August 5, 2011, the CA (Special 23<sup>rd</sup> Division) issued the first assailed Resolution.

WHEREFORE, finding merit to the motion for partial reconsideration, the same is hereby GRANTED. Consequently, our April 15, 2011 Resolution is MAINTAINED with modification such that petitioner and its counsel are hereby DIRECTED within ten (10) days from notice to pay solidarily private respondent the amount of Five Thousand Pesos (P5,000.00) as **treble costs**. conformably with *Section 8, Rule 65* of the Rules of Court.  
<sup>[15]</sup>

[Emphasis supplied]

Davao City moved for reconsideration, but the CA denied the motion in its second assailed Resolution, elated December 6, 2011.

Hence, this petition for *certiorari* under Rule 65.

#### **ISSUE:**

**WHETHER OR NOT PUBLIC RESPONDENT COURT OF APPEALS HAS ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ISSUING RESOLUTIONS DATED 05 AUGUST 2011 AND 06 DECEMBER 2011, DIRECTING PETITIONER AND ITS COUNSEL TO PAY SOLIDARILY PRIVATE RESPONDENT BENJAMIN C. DE GUZMAN TREBLE COSTS IN THE AMOUNT OF FIVE THOUSAND PESOS (P5,000.00)**<sup>[16]</sup>

Davao City charges that the CA committed grave abuse of discretion in issuing the August 5, 2011 Resolution directing it and its counsel to pay solidarily De Guzman the amount of P5,000.00 as treble costs. It argues that it was entirely improper and had no factual and legal basis. Davao City claims that it filed the said petition based on "a firm and honest belief, primarily anchored on no less than the honorable respondent Court's dismissal of De Guzman's petition for *certiorari* seeking for the dropping of his name as party defendant, that de Guzman was a real party in-interest in the case below and that Judge Omelio's act of dropping him as such, contrary to the honorable respondent Court's decision of not dropping him as party defendant in its Decision dated 27 August 2008. Without the slightest iota of doubt, it constitutes grave abuse of discretion amounting to lack or excess of jurisdiction."<sup>[17]</sup> It stresses that it submitted pieces of evidence to prove their position. In praying for the deletion of the award of treble costs, Davao City explains the following reasons:<sup>[18]</sup>

1] There is no showing that Davao City was guilty of bad faith in filing the petition. No amount of evidence is in sight to that effect. It did not even

opt to file a motion for reconsideration of the resolution dismissing its petition.

2] The petition cannot even be said to be dilatory considering that it was Davao City who was the plaintiff in the case below, and it would be absurd for it to cause the delay of the prosecution of its own case.

3] Had it filed the said petition maliciously and in bad faith, the CA would have seen that and would have included in its judgment the award of treble cost in its earlier decision.

4] Davao City also believed and was of the strong conviction that De Guzman was a real party-in-interest. This is so because without his signature, the deed of reconveyance, dated May 11, 2011, could not have been made as basis of the transfer of the title over TCT No. 1417 in the name of the Heirs.

5] Judge Omelia could not just conveniently give a flimsy reason that De Guzman was just acting in his official capacity as City Mayor and under the color of authority by the *Sangguniang Panlungsod* of Davao City (*Sanggunian*) when he signed the Deed of Reconveyance. The annotation at the back of the title bearing number TCT No. 1417 stated that the City of Davao acquired the same by way of a deed of sale, and not by way of donation. For said reason, De Guzman could have aptly refused to sign the deed of reconveyance notwithstanding his authority to reconvey the subject parcel of land to the Heirs.

6] De Guzman could have exercised his veto powers under the Local Government Code in striking down the ordinance authorizing him to sign the reconveyance to forestall the suffering by Davao City of a great proprietary loss. Yet, De Guzman utterly and deliberately failed to veto such an *ultra vires* act. Or, in the alternative, he could just have refused to use the authority conferred upon him by the *Sanggunian* because mere authority, as opposed to a command, does not necessarily mean that its execution is compulsory. Such deliberate failure on the part of De Guzman makes him liable for civil damages. That is why Davao City, in good faith and in honest belief strongly argued that De Guzman was a proper party-defendant and should not have been dropped as such from the case.

7] This firm and honest belief of Davao City, entertained in good faith, is bolstered by the fact that the motion to dismiss of De Guzman was earlier denied by Judge Fuentes and his motion for reconsideration of the order denying his motion to dismiss was likewise denied.

8] That on January 3 I, 2008, the CA, in G.R. No. 75168, dismissed the petition for *certiorari* tiled by De Guzman questioning the denial of his motion to dismiss. It likewise denied his motion for reconsideration for being bereft of merit.

Davao City then goes on to cite examples of cases, wherein treble costs were