678 Phil. 952

SECOND DIVISION

[G.R. No. 196063, December 14, 2011]

ORLANDO A. RAYOS, FE A. RAYOS-DELA PAZ, REPRESENTED BY DR. ANTONIO A. RAYOS, AND ENGR. MANUEL A. RAYOS, PETITIONERS, VS. THE CITY OF MANILA, RESPONDENT.

R E S O L U T I O N

CARPIO, J.:

The Case

This petition, captioned as a petition for review on certiorari and declaratory relief, [1] assails the Order of 6 January 2011[2] of the Regional Trial Court of Manila, Branch 49, denying reconsideration of the trial court's Order of 11 March 2010[3] which denied the motion to dismiss filed by petitioners Orlando A. Rayos, Fe A. Rayos Dela Paz, and Engr. Manuel A. Rayos.[4]

The Facts

The present case originated from a complaint for eminent domain filed by respondent City of Manila against Remedios V. De Caronongan, Patria R. Serrano, Laureano M. Reyes, Paz B. Sison, Teofila B. Sison, Leticia R. Ventanilla, Rosalinda R. Barrozo (defendants), docketed as Civil Case No. 03108154.

In its Complaint,[5] the City of Manila alleged that it passed Ordinance No. 7949 authorizing the City Mayor to acquire "by expropriation, negotiation or by any other legal means" the parcel of land co-owned by defendants, which is covered by TCT No. 227512 and with an area of 1,182.20 square meters. The City of Manila offered to purchase the property at P1,000.00 per square meter.

In their Answer,[6] defendants conveyed their willingness to sell the property to the City of Manila, but at the price of P50,000.00 per square meter which they claimed was the fair market value of the land at the time.

In the course of the proceedings, Laureano, one of the defendants, died on 1 December 2003 and was substituted by his son petitioner Manuel A. Rayos. Meanwhile, petitioner Orlando A. Rayos intervened while petitioner Fe A. Rayos Dela Paz was added as a defendant.

On 7 December 2009, petitioners Orlando A. Rayos, Fe A. Rayos Dela Paz, and Engr. Manuel A. Rayos filed a Motion to Dismiss on the grounds that (1) Ordinance No. 7949 is unconstitutional and (2) the cases of *Lagcao v. Labra*[7] and *Jesus Is Lord Christian School Foundation, Inc. v. Municipality (now City) of Pasig, Metro Manila*[8] apply squarely to the present case.

On 11 March 2010, the trial court denied the motion to dismiss. The trial court ruled that the motion to dismiss did not show any compelling reason to convince the court that the doctrine of *stare decisis* applies. Petitioners failed to demonstrate how or why the facts in this case are similar with the cited cases in order that the issue in this case be resolved in the same manner. The trial court disposed of the motion to dismiss in this wise:

> In view of the foregoing, and after intense evaluation of the records on hand, the Motion to Dismiss cannot be granted.
>
> In order to prevent further delay to the prejudice of all the proper parties in this case, continue with the trial for the determination of just compensation on July 7, 2010 at one o'clock in the afternoon.
>
> SO ORDERED.[9]

On 6 January 2011, the trial court denied the motion for reconsideration.

Petitioners filed with this Court the present petition reiterating the arguments in their motion to dismiss, namely, (1) Ordinance No. 7949 is unconstitutional, and (2) the cases of *Lacgao v. Labra*[10] and *Jesus Is Lord Christian School Foundation, Inc. v. Municipality (now City) of Pasig, Metro Manila*[11] apply squarely to this case.

The Ruling of the Court

We deny the petition.

An order denying a motion to dismiss is interlocutory and not appealable.[12] An order denying a motion to dismiss does not finally dispose of the case, and in effect, allows the case to proceed until the final adjudication thereof by the court. As such, it is merely interlocutory in nature and thus, not appealable.[13] Section 1(c), Rule 41 of the Rules of Court provides:

> SECTION 1. *Subject of appeal*. - An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.
>
> No appeal may be taken from:
>
> x x x
>
> (c) An interlocutory order;
>
> x x x
>
> In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65.

Clearly, no appeal, under Rule 45 of the Rules of Court, may be taken from an interlocutory order. In case of denial of an interlocutory order, the immediate remedy available to the aggrieved party is to file a special civil action for certiorari under Rule 65 of the Rules of Court.

In this case, since the trial court's order denying the motion to dismiss is not appealable, petitioners should have filed a petition for certiorari under Rule 65 to assail such order, and not a petition for review on certiorari under Rule 45 of the Rules of Court. For being a wrong remedy, the present petition deserves outright dismissal.

Even if the Court treats the present petition as a petition for certiorari under Rule 65, which is the proper remedy to challenge the order denying the motion to dismiss, the same must be dismissed for violation of the principle of hierarchy of courts. This well-settled principle dictates that petitioners should file the petition for certiorari with the Court of Appeals, and not directly with this Court.

Indeed, this Court, the Court of Appeals and the Regional Trial Courts exercise concurrent jurisdiction to issue writs of *certiorari*, prohibition, mandamus, *quo warranto*, *habeas corpus* and injunction.[14] However, such concurrence in jurisdiction does not give petitioners unbridled freedom of choice of court forum.[15] In [Heirs of Bertuldo Hinog v. Melicor],[16] citing *People v. Cuaresma*,[17] the Court held:

> **This Court's original jurisdiction to issue writs of certiorari is not exclusive**. It is shared by this Court with Regional Trial Courts and with the Court of Appeals. This concurrence of jurisdiction is not, however, to be taken as according to parties seeking any of the writs an absolute, unrestrained freedom of choice of the court to which application therefor will be directed. **There is after all a hierarchy of courts**. That hierarchy is determinative of the venue of appeals, and also serves as a general determinant of the appropriate forum for petitions for the extraordinary writs. A becoming regard for that judicial hierarchy most certainly indicates that petitions for the issuance of extraordinary writs against first level ("inferior") courts should be filed with the Regional Trial Court, and those against the latter, with the Court of Appeals. **A direct invocation of the Supreme Court's original jurisdiction to issue these writs should be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition**. This is [an] established policy. It is a policy necessary to prevent inordinate demands upon the Court's time and attention which are better devoted to those matters within its exclusive jurisdiction, and to prevent further over-crowding of the Court's docket. (Emphasis supplied.)

In short, to warrant a direct recourse to this Court, petitioners must show exceptional and compelling reasons therefor, clearly and specifically set out in the petition. This petitioners failed to do.