

THIRD DIVISION

[G.R. NO. 171901, December 19, 2006]

**FIRST UNITED CONSTRUCTORS CORPORATION, PETITIONER,
VS. THE HON. COURT OF APPEALS, HON. ALEXANDER S. BALUT,
PRESIDING JUDGE OF BRANCH 76 OF THE REGIONAL TRIAL
COURT (NCRJ, QUEZON CITY), THE SHERIFF OF RTC, BRANCH
76, ENGR. ERNESTO G. BAUTISTA/ DYNAMIC BLASTING
SPECIALIST OF THE PHILIPPINES AND NATIONAL POWER
CORPORATION, RESPONDENTS**

D E C I S I O N

TINGA, J.:

We resolve the Petition^[1] dated March 30, 2006 filed by First United Constructors Corporation (FUCC), seeking the issuance of a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction annulling the Court of Appeals' Resolution^[2] of even date, which directed respondents to file their comment on FUCC's petition in CA-G.R. SP. No. 93586 but denied the latter's prayer for the issuance of a TRO.

The factual antecedents are as follows:

In *National Power Corporation v. Alonzo-Legasto*,^[3] the Court awarded the amount of Seventy Four Million Thirty-Five Thousand Five Hundred Three Pesos and Fifty Centavos (P74,035,503.50) plus interest to FUCC in relation to its claim against National Power Corporation (NPC). The amount represented the just compensation payable to FUCC for the blasting work it undertook in connection with its contract with NPC for the construction of power facilities. The decision became final and executory on January 4, 2005.

FUCC filed a motion with the Regional Trial Court (RTC), Branch 99, Quezon City, for the appointment of a new implementing sheriff to complete the implementation of a previously issued Writ of Execution in accordance with *National Power Corporation v. Alonzo-Legasto*. Subsequently, a certain Engr. Ernesto Bautista (Bautista) of Dynamic Blasting Specialist of the Philippines filed a motion with the trial court asking the court to direct the branch sheriff to turn over to him the sum of Thirty Seven Million Seven Hundred Twenty Three Thousand Eight Hundred Twenty Three Pesos (P37,723,823.00), plus interest, allegedly belonging to him. The motion was set for hearing.

During the hearing, FUCC manifested that it does not recognize the personality of Bautista to file the motion since Bautista was not a party to the case. It reiterated its manifestation in its Ex-Parte Comment Ad Cautelam praying that Bautista's motion be expunged as he does not have personality to file a motion with the court not having been a party to the proceedings in the case. NPC also filed a comment.

The trial court issued an Order^[4] dated July 18, 2005, holding that it has jurisdiction to determine Bautista's claim. Citing *Paman, et al. v. Hon. Seneris, et al.*^[5] and *Yap v. Hon. Tañada, etc., et al.*,^[6] the trial court ruled that it has the power to determine all issues of fact and law which may be involved in the execution of a case and that in the interest of substantial justice, one who is not a party to a case is entitled to enter the same to get his claim. The trial court found that both FUCC and NPC recognize Bautista as the sub-contractor for the blasting works. Being a privy to the case was bound by the decision in *National Power Corporation v. Alonzo-Legasto* is binding on Bautista. Accordingly, the trial court granted Bautista's motion and directed that the respective money claims of FUCC and Bautista shall be satisfied through the release of the funds of NPC deposited with the Land Bank of the Philippines (Land Bank). It then ordered that the amount of P37,723,823.00 due Bautista shall be deducted from the amount of P74,035,503.50 adjudged to FUCC in *National Power Corporation v. Alonzo-Legasto*. An Alias Writ of Execution^[7] dated July 29, 2005 was issued pursuant to this *Order* of the trial court.

In a Resolution^[8] dated August 8, 2005, the Court, upon FUCC's filing of an Urgent Motion for the Issuance of a Temporary Restraining Order, directed the trial court to maintain the *status quo* as of August 3, 2005 until further orders from it. Subsequently, the Court granted FUCC's *Motion for Leave to Withdraw Urgent Motion for Issuance of a Temporary Restraining Order*.

FUCC then sought the annulment of the July 18, 2005 Order of the trial court. Its motion was denied in the Order^[9] dated March 8, 2006 issued by Hon. Alexander S. Balut of the RTC, Branch 76, Quezon City, on the grounds that the trial court cannot interfere with an order of a judge of another branch of the same court and that the questioned order had already attained finality.

FUCC questioned the Orders dated July 18, 2005^[10] and March 8, 2006,^[11] as well as the Alias Writ of Execution^[12] dated July 29, 2005, before the Court of Appeals via a petition for certiorari and prohibition with prayer for the issuance of a TRO and/or Writ of Preliminary Injunction but the appellate court refused the issuance of a TRO for failure of FUCC to show facts that would entitle it to the relief demanded.

In this Petition, FUCC alleges that the Order dated July 18, 2005 is a patent nullity and therefore never attained finality. FUCC argues that the Order dated July 18, 2005 altered the final decision of the Court in *National Power Corporation v. Alonzo-Legasto*. The trial court had the opportunity to correct this grievous error but the judge to whom the case was re-raffled refused to annul the order on the ground that it cannot annul an order of a judge of another branch of the same court. FUCC contends that the doctrine against intra-court interference is not violated when the judge of a branch who annuls or modifies the order issued by a judge of another branch acts in the same case and belongs to the same court. It points out that Civil Case No. Q-94-20062 was merely re-raffled to RTC, Branch 76, Quezon City upon the inhibition of the Presiding Judge of RTC, Branch 99, Quezon City.

In the Resolution^[13] dated April 17, 2006, the Court required respondents to comment on the petition and directed the issuance of a TRO enjoining the trial court and the Branch Sheriff of the Regional Trial Court, Branch 76, from implementing the Order dated March 8, 2006 and the Alias Writ of Execution dated July 29, 2005

until further orders from the Court.

A Comment^[14] dated April 27, 2006 was filed by Atty. Amador F. Brioso, Jr. supposedly on behalf of Bautista. However, in a Manifestation^[15] dated May 2, 2006, Bautista himself informed the Court that he had already discharged his counsel and that he intends to hire a new counsel to review the procedure adopted by his former counsel. Bautista subsequently filed a *Manifestation/Motion*^[16] dated May 10, 2006, informing the Court that he filed Civil Case No. Q-06-57869 for specific performance with damages against FUCC, NPC and Land Bank upon the advise of his new counsel, and praying that the Court exclude the amount of P37,723,823.00 from the decision in *National Power Corporation v. Alonzo-Legasto* pending the resolution of the case which he filed.

In his Comment^[17] dated August 28, 2006, Bautista again states that he has filed the appropriate collection case with the trial court and reiterates the prayer in his Manifestation/Motion.

The Office of the Solicitor General (OSG) filed a Comment^[18] dated August 24, 2006 on behalf of the NPC, averring that the petition should be dismissed on the ground of forum-shopping. Moreover, there is allegedly no basis for the issuance of an injunctive writ because the procedure laid down in Presidential Decree No. 1445 directing that all money claims against the government must first be filed with the Commission on Audit was not complied with.

The main question for resolution is whether the Court of Appeals committed grave abuse of discretion in refusing to issue the TRO prayed for by FUCC in C.A.-G.R. SP. No. 93586. However, in order to finally settle the present controversy, and in view of the fact that this case is fundamentally just an offshoot of our decision in *National Power Corporation v. Alonzo-Legasto*, we shall also resolve the collateral issues pertaining to the validity of the Orders of the trial court dated July 18, 2005 and March 8, 2006, and the Alias Writ of Execution dated July 29, 2005.

In denying the TRO, the appellate court held that the dissolution of this Court's *status quo* order dated August 8, 2005 rendered the trial court's Order dated July 18, 2005 and its Alias Writ of Execution dated July 29, 2005 enforceable. Hence, FUCC is no longer entitled to a TRO.

A reading of the Resolution dated August 8, 2005 readily reveals that the Court categorically enjoined the RTC, Branch 99, Quezon City, "from taking any further action relative to the implementation of its Order dated July 18, 2005 x x x x until further orders from this Court."^[19] The *status quo* order was predicated on FUCC's allegation, which the Court deemed meritorious, that in issuing the *Order* dated July 18, 2005, "the trial court effectively allowed the intervention of Bautista without any motion to intervene having been filed by the latter, re-opened the case, admitted alleged new evidence, and rendered a new decision altering the Decision of this Court."^[20]

The subsequent withdrawal of FUCC's Urgent Motion for the Issuance of a Temporary Restraining Order^[21] upon its manifestation that it shall assail the *Order* dated July 18, 2005 in the Court of Appeals did not affect the basis for the issuance of the