

## SECOND DIVISION

**[ G.R. No. 157494, December 10, 2004 ]**

**BACOLOD CITY WATER DISTRICT, PETITIONER, VS. THE HON. EMMA C. LABAYEN, PRESIDING JUDGE, RTC OF BACOLOD CITY, BR. 46 AND THE CITY OF BACOLOD, RESPONDENTS.**

### DECISION

**PUNO, J.:**

First, the chronology of facts. Petitioner Bacolod City Water District (BACIWA) is a water district established pursuant to Presidential Decree No. 198 as a government-owned and controlled corporation with original charter. It is in the business of providing safe and potable water to Bacolod City.

Public respondent City of Bacolod is a municipal corporation created by Commonwealth Act No. 326, otherwise known as the Charter of Bacolod.

On March 26, 1999, respondent City filed a case for Injunction With a Prayer for Temporary Restraining Order And/Or Preliminary Mandatory Injunction against petitioner in the sala of public respondent judge. The petition stated that on January 15, 1999, BACIWA published in the Visayan Daily Star,<sup>[1]</sup> a local paper of general circulation, a Schedule of Automatic Water Rates Adjustments for the years 1999, 2000 and 2001. The rates were supposed to take effect seven (7) days after its posting in the local papers or on January 22, 1999. The increase was aborted after petitioner unilaterally suspended the January 22, 1999 scheduled implementation. On March 15, 1999, however, petitioner announced that the rate hike will be implemented on April 1, 1999.<sup>[2]</sup>

Respondent City opposed. It alleged that the proposed water rates would violate due process as they were to be imposed without the public hearing required under Letter of Instructions No. 700<sup>[3]</sup> and Presidential Decree No. 1479.<sup>[4]</sup> Hence, it prayed that before the hearing of the main case, a temporary restraining order or a preliminary injunction be issued.<sup>[5]</sup>

On March 30, 1999, the court *a quo* issued an Order<sup>[6]</sup> summoning the parties with their counsels to attend the preliminary hearing for the issuance of a temporary restraining order or preliminary mandatory injunction. On April 8, 1999, it required the parties to simultaneously submit their respective memoranda on whether it had jurisdiction over the case and whether a public hearing was conducted re the proposed increase in water rates.<sup>[7]</sup>

Petitioner filed its Position Paper dated April 15, 1999. It attached documents evidencing the conduct of extensive and lengthy public hearings in fifty-eight (58) of the sixty-one (61) barangays of Bacolod City. It opined that original jurisdiction over

cases on rate review is vested in the Local Water Utilities Administration (LWUA); appellate jurisdiction is vested in the National Water Resources [Board] (NWRB) whose decisions shall be appealable to the Office of the President.<sup>[8]</sup>

On May 5, 1999, petitioner also filed a Motion to Dismiss. In an Order<sup>[9]</sup> dated May 7, 1999, the court directed respondent City to file its Opposition to petitioner's Motion to Dismiss within fifteen (15) days.

On June 17, 1999, respondent City filed a Motion to Set [for] Hearing<sup>[10]</sup> its application for a temporary restraining order or preliminary mandatory injunction. It alleged that the parties had already submitted their respective memoranda and it has already submitted its Opposition to petitioner's Motion to Dismiss. It also alleged that petitioner had already effected the water rates increase and collection, hence, causing irreparable injury to the public.

Petitioner opposed the Motion. On July 20, 1999, respondent City filed its Reply to Opposition and reiterated that the application for the issuance of a temporary restraining order or preliminary mandatory injunction be heard since petitioner continued to violate the right of the public to due process and it might take time before the case would be finally resolved.<sup>[11]</sup> On the same date, petitioner filed a Manifestation and Motion<sup>[12]</sup> stating that the hearing may no longer be necessary as the respective positions of both parties have already been presented and amplified in their pleadings and memoranda.

On July 22, 1999, respondent trial court issued an Order<sup>[13]</sup> stating that there was no more need to hear the case **on the merits**<sup>[14]</sup> as both parties have already submitted their position papers and documents to prove their respective allegations.

On July 23, 1999, petitioner filed its Reply<sup>[15]</sup> to respondent City's Opposition to the Motion to Dismiss reiterating that petitioner failed to exhaust administrative remedies provided by law hence the petition be dismissed for utter lack of merit.

After a hiatus of nearly seven (7) months, or on February 18, 2000, respondent City filed an Urgent Motion for the Issuance of Temporary Restraining Order And[/]Or Writ of Preliminary Injunction<sup>[16]</sup> praying that the case be set for hearing on February 24, 2000. On the same date requested, respondent court heard respondent's application for temporary restraining order and issued an Order<sup>[17]</sup> commanding petitioner to stop, desist and refrain from implementing the proposed water rates for the year 2000 which were then supposed to take effect on March 1, 2000.

On March 7, 2000, petitioner filed an Urgent Motion for Reconsideration and Dissolution of the Temporary Restraining Order.<sup>[18]</sup> Respondent court *a quo* issued on March 10, 2000 an Order<sup>[19]</sup> directing respondent City to file an Opposition to the Urgent Motion. In its Opposition, respondent City<sup>[20]</sup> contended that the temporary restraining order issued was not infirmed with procedural and substantive defects. It also averred that respondent court has jurisdiction over the case since the sole question of the lack of public hearing does not require the special knowledge or expertise of an administrative agency and may be resolved by

respondent court, hence the doctrine of primary jurisdiction does not apply.

Respondent court continued with the proceedings by receiving the evidence of petitioner in support of its Motion for Reconsideration and Dissolution of Temporary Restraining Order. It further issued Orders dated March 17, 2000<sup>[21]</sup> and March 20, 2000.<sup>[22]</sup>

On April 6, 2000, respondent court issued an Order<sup>[23]</sup> finding petitioner's Urgent Motion for Reconsideration and Dissolution of Temporary Restraining Order moot and academic considering petitioner's compliance of said temporary restraining order.

Four (4) days after, in an Order<sup>[24]</sup> dated April 10, 2000, it denied petitioner's Motion to Dismiss for lack of merit.

On April 19, 2000, respondent City filed a Manifestation praying that respondent trial court issue a writ of preliminary injunction against petitioner, stating thus:

A Temporary Restraining Order was issued against the respondents which, however, expired before the parties were able to finish the presentation of their respective witnesses and evidences;

The instant case was submitted for resolution and decision of this Honorable Court during the last week of March but while awaiting the decision of this Honorable Court, several complaints had reached the petitioner that the respondents had already reflected in the water billings for the month of April the new water rates for the year 2000;

x x x <sup>[25]</sup>

Petitioner, for its part, filed a Motion for Reconsideration<sup>[26]</sup> of respondent trial court's Order denying its Motion to Dismiss. Respondent City filed an Opposition to [the] Motion for Reconsideration<sup>[27]</sup> on June 1, 2000.

Respondent court did not act upon petitioner's Motion for Reconsideration until respondent City filed an [Ex Parte] Motion for Speedy Resolution<sup>[28]</sup> of the case on October 6, 2000 praying that the case be resolved before the year 2000 ends in order to prevent the implementation of the water rates increase for the year 2001 which was to be imposed allegedly without the benefit of a public hearing.

On December 21, 2000, respondent court issued the assailed Decision<sup>[29]</sup> granting the final injunction which allegedly confirmed the previous preliminary injunction.

Petitioner filed its Motion for Reconsideration<sup>[30]</sup> of the assailed Decision on January 11, 2001 asserting, among others, that the case was not yet ripe for decision when the court granted the final injunction, the petitioner having had no opportunity to file its answer, avail of the mandatory pre-trial conference and have the case tried on the merits.

Respondent court denied the Motion for Reconsideration for lack of merit in an Order<sup>[31]</sup> dated January 24, 2001. Petitioner then filed a special civil action for

certiorari under Rule 65 in the Court of Appeals. It alleged that public respondent judge acted without or in excess of jurisdiction and/or with grave and patent abuse of discretion amounting to lack or excess of jurisdiction when she issued the final injunction in disregard of petitioner's basic right to due process.<sup>[32]</sup>

The Court of Appeals dismissed the petition for review on certiorari, ratiocinating thus:

In the case at bar, the [O]rder of public respondent dated 24 February 2000, though termed by BACIWA as a temporary restraining order, is in fact a preliminary injunction. The period of the restraint was not limited. By its wordings, it can be safely inferred that the increased water rates must not be effected until final disposition of the main case. This note of semi-permanence simply cannot issue from a mere temporary restraining order. It must be further noted that the temporary restraining order has been elevated to the same level as the preliminary injunction in the procedure, grounds and requirements of its obtention by S[ection] 4, Rule 58. Thus, to set [a] distinction, the present practice is to categorically refer to it as a temporary restraining order. In which case, the omission by the public respondent in referring to the 24 February 2000 order as a temporary restraining order could not have been a mere oversight but deliberate.<sup>[33]</sup>

Resorting to this Court, petitioner raises the following issues:

## **I**

**THE COURT OF APPEALS GRAVELY ERRED WHEN IT FAILED AND REFUSED TO RULE THAT RESPONDENT COURT HAD ACTED WITHOUT OR IN EXCESS OF JURISDICTION AND/OR WITH GRAVE ABUSE OF DISCRETION FOR ARBITRARILY AND CAPRICIOUSLY RENDERING A DECISION PURPORTING TO ISSUE A FINAL INJUNCTION AND CONFIRMING ITS ALLEGED PRELIMINARY INJUNCTION, DESPITE THE FACT THAT:**

- A. NO PRELIMINARY INJUNCTION HAD BEEN ISSUED;**
- B. THE RESPONDENT LOWER COURT DID NOT RESOLVE HEREIN PETITIONER'S MOTION FOR RECONSIDERATION OF THE ORDER DENYING PETITIONER'S MOTION TO DISMISS;**
- C. THE HEREIN PETITIONER HAD NOT YET FILED ITS ANSWER TO THE PETITION;**
- D. THERE WAS STILL NO JOINDER OF THE ISSUES SINCE NO ANSWER HAD YET BEEN FILED;**
- E. THE MANDATORY PRE-TRIAL CONFERENCE WAS NOT YET CONDUCTED;**
- F. THERE WAS NO TRIAL ON THE MERITS FOR THE MAIN CASE.**

## **II**

**THE COURT OF APPEALS GRAVELY ERRED WHEN IT INSISTED THAT THE 24 FEBRUARY 2000 ORDER (ANNEX R) ISSUED BY THE TRIAL COURT WAS A PRELIMINARY INJUNCTION WHEN THE RECORDS CLEARLY AND INDUBITABLY SHOW THAT IT WAS A TEMPORARY RESTRAINING ORDER (TRO).**

### **III**

**BY DISMISSING THE PETITION FOR CERTIORARI, THE COURT OF APPEALS GRAVELY ERRED WHEN IT EFFECTIVELY PREVENTED PETITIONER FROM FULLY VENTILATING ITS CASE IN THE MAIN ACTION DUE TO THE IRREGULAR AND CONFUSED PROCEEDINGS CONDUCTED BY THE RESPONDENT COURT.**<sup>[34]</sup>

We rule in favor of petitioner.

The initial issue is the proper characterization of the Order dated February 24, 2000.

The sequence of events and the proceedings that transpired in the trial court make a clear conclusion that the Order issued was a temporary restraining order and not a preliminary injunction.

**First.** We quote the pertinent parts of the questioned Order:

x x x

When this motion was called for hearing wherein both parties have argued exhaustively their respective sides, this court denied the ten (10) days extension for further amplification of the arguments of the respondent to oppose the said motion for issuance of a **temporary restraining order**.

It appearing therefore, that the acts of the defendant will actually affect the plaintiff before the decision of this court can be rendered and in order to afford the court to pass on the issues without the same becoming moot and academic and considering the urgency of the matter that immediate action should be taken, and pursuant to Administrative Circular No. 6, Paragraph 4 and sub-paragraph 15 and The Interim Rules and Guidelines [set forth] by the Rules of Court, **this court hereby orders the respondent[,]** **its agents, representatives or any person acting in his behalf to stop, desist and refrain from implementing in their billings the new water rate increase which will start on March 1, 2000.** The Deputy Provincial Sheriff of this court is hereby ordered to furnish copy of this order to the respondent Bacolod City Water District as well as to its agents or representatives acting [o]n his behalf.

x x x <sup>[35]</sup> (*emphases supplied*)

It can be gleaned from the afore-quoted Order that what the trial court issued was a temporary restraining order and not a preliminary injunction. The trial court has