

[SYLLABUS]

[G.R. No. 119193, March 29, 1996]

HEIRS OF MAYOR NEMENCIO GALVEZ, PETITIONERS, VS. COURT OF APPEALS, RTC OF BULACAN, BR. 9, THE PROVINCIAL SHERIFF FOR BULACAN, AMPARO SAN GABRIEL MENDOZA AND THE REGISTER OF DEEDS OF BULACAN (GUIGUINTO) AND ANDRES MANUEL, RESPONDENTS.

D E C I S I O N

HERMOSISIMA, JR., J.:

At least two primordial issues are posed by the herein petition for review on certiorari: (1) Whether a money judgment rendered by a Court in a case for Mandamus and Prohibition is valid or not, the defendant, a Municipal Mayor, (a) having died during trial and before judgment could be rendered, and (b) after the defendant mayor and all the other respondents ceased to hold office, without the substitution of parties provided for in Section 18, Rule 3, of the Rules of Court; and (2) Whether the said money judgment against the said deceased defendant mayor, assuming that the case has survived against him, can be enforced in the very same case or in the proper estate proceedings.

This petition for review on certiorari seeks a reversal of: (1) the Court of Appeals' decision, dated December 23, 1994, which dismissed the petitioners' certiorari petition on mere technicalities and (2) the Court of Appeals' resolution, dated February 17, 1995, which denied the petitioners' motion for reconsideration for lack of merit.

Specifically, the petitioners pray, among others, for the nullification of the writ of execution and the execution sale of the "pro-indiviso" share and interest of the deceased mayor, Dr. Nemencio G. Galvez, in the land covered by TCT No. T-307783 to satisfy the money judgment contained in the decision of the Regional Trial Court, Branch 9, Malolos, Bulacan, dated May 6, 1988, which awarded moral and exemplary damages, as well as attorney's fees, in favor of the then petitioner, now one of the private respondents, Amparo San Gabriel-Mendoza.^[1]

The antecedent facts as culled from the records of this case and as gathered by the lower court from the ex-parte proceedings appear to be that:

The late Dr. Nemencio G. Galvez served as Mayor of the Municipality of Balagtas, Province of Bulacan, from 1980 to May 1986.^[2]

The deceased private respondent, Amparo San Gabriel-Mendoza, during her lifetime, was the registered owner and operator of a cockpit, located at San Juan, Balagtas, Bulacan popularly known as the "Balagtas Sports Arena."^[3]

The business operations of the Balagtas Sports Arena commenced in 1975 and had remained uninterrupted until 1984, with ex-Mayor Arcadio Gonzales as cockpit manager.^[4]

Sometime in December, 1984, private respondent Mendoza filed a written application for the renewal of the cockpit's business license and permit for the succeeding year, 1985, with then Municipal Mayor of Balagtas, Bulacan, Dr. Nemencio Galvez. In connection with the said application, the amount of P4,625.00 was remitted to the Municipal Treasurer of Balagtas, Bulacan, who acknowledged receipt thereof for "deposit only" without the corresponding official receipt because the Balagtas Sports Arena had allegedly failed to pay the correct amount of municipal taxes and had, thus, incurred unpaid taxes in the amount of P400,000.00.^[5]

Having failed to secure a renewal of the cockpit's license and permit outrightly, private respondent Mendoza, through counsel, made a written demand asking Mayor Nemencio Galvez to issue the necessary license and permit applied for. Still, no favorable action came from the said Mayor Galvez.^[6]

On January 29, 1985, a petition was filed with the Philippine Gamefowl Commission (PGC) by private respondent Mendoza against Mayor Galvez praying, among others, for the issuance of an interlocutory order so that the cockpit may operate temporarily while awaiting the approval of its renewal papers. The then PGC Acting Chairman Luis A. Tabuena wired Mayor Galvez, the Bulacan Provincial PC Commander, and the PC-INP Station Commander of Balagtas, Bulacan, stating that the cockpit was allowed temporary operation pending hearing of the aforesaid petition inasmuch as the refusal to issue a business permit was without any valid ground.^[7]

On February 23, 1985, Mayor Nemencio Galvez filed a Motion to Dismiss the petition with the Philippine Gamefowl Commission for lack of jurisdiction.^[8]

On April 18, 1985, the Philippine Gamefowl Commission issued an Order allowing the temporary operation of the Balagtas Sports Arena "until further orders."^[9]

On April 19, 1985, the Sangguniang Bayan of Balagtas passed and unanimously approved a Resolution^[10] which ordered the closure and cessation of operations of private respondent Mendoza's cockpit until payment of the proper municipal taxes from 1980 to 1984 shall have been effected.^[11]

On May 15, 1995, the above Resolution No. 08-85, after submission to and consideration by the Governor and the Sangguniang Panlalawigan of Bulacan, was approved by virtue of Resolution No. 256^[12] of the Bulacan Provincial Board.

On August 19, 1985, Mayor Nemencio Galvez wrote private respondent Mendoza informing her of the impending closure of her cockpit as per Resolution No. 08-85 of the Balagtas Sangguniang Bayan.^[13]

On August 22, 1995, Mayor Nemencio Galvez ordered that the cockpit's gate be padlocked to effect cessation of its operations, pursuant to Resolution No. 08-85 of

the Municipal Council of Balagtas, Bulacan and Resolution No. 256 of the Provincial Board of Bulacan.^[14]

Consequently, the scheduled special "pintakasi"^[15] on August 22, 23 and 24, 1985, at the Balagtas Sports Arena to raise funds for the Boy Scouts of the Philippines, which was reset for August 29, 30 and 31, did not materialize on account of the mayor's closure order.^[16]

On August 27, 1985, upon recourse to the Philippine Gamefowl Commission by private respondent Mendoza, separate telegrams were sent anew to Mayor Galvez and the same Provincial Commander and the same Police Station Commander to whom the Interlocutory Order, dated April 18, 1985, was addressed, reminding them to respect the said Order allowing temporary operations of the Balagtas Sports Arena (cockpit).^[17]

On September 3, 1985, private respondent Mendoza filed a Petition^[18] for Mandamus and Prohibition, with Damages and Prayer for a Preliminary Mandatory and Prohibitory Injunctions, against Mayor Nemencio Galvez and the Sangguniang Bayan of Balagtas, Bulacan. Principally, the petition sought to compel the respondent officials to issue a municipal license and permit in favor of the Balagtas Sports Arena and to enjoin them from enforcing or implementing their Resolution No. 08-85 until further orders from the court.^[19]

On September 4, 1985, a Temporary Restraining Order was issued by the Regional Trial Court of Bulacan, Branch 9.^[20] Hence, business operations of the Balagtas Sports Arena were resumed.

On September 11, 1985, a Motion to Quash Restraining Order was filed by the public officials in the petition for mandamus and prohibition, with damages. Private respondent Mendoza, then petitioner, opposed the said motion.^[21]

On September 26, 1985, the lower court ordered the issuance of a writ of preliminary injunction with the same tenor as the TRO earlier issued. The lower court further ordered: (1) the Revenue Collection Agent of Balagtas, Bulacan, to submit a statement or schedule of the local taxes allegedly due from private respondent Mendoza; (2) the Municipal Treasurer of Balagtas, Bulacan, to submit his reply to the letter of cockpit manager, ex-Mayor Gonzales, requesting for a copy of the pertinent municipal tax ordinance relating to the cockpit's unpaid taxes; and (3) the Balagtas public-officials involved to submit a certified true copy of the case^[22] cited in their Motion to Quash Restraining Order.^[23]

On October 7, 1985, a motion praying that the public officials in Civil Case No. 8385-M be declared in default was filed by private respondent Mendoza.^[24]

On October 10, 1985, the said public officials duly represented by the Office of the Solicitor General, through the Provincial Fiscal's (now Prosecutor's) Office of Bulacan, filed a Motion to Admit Answer which was opposed by private respondent Mendoza.^[25] Said Answer prayed for a dismissal of the petition alleging: (1) that the mayor, under the Local Government Code (BP Blg. 337) has the discretionary

power to grant or revoke permits relating to the operation of cockpit arenas; (2) that the municipal council has the inherent power to pass resolutions or ordinances prohibiting or ordering the closure of cockpit arenas; and (3) that the local public officials have the inherent power to effect collection of taxes due the local government as provided under the Local Tax Code (PD 321, as amended).^[26]

On December 5, 1985, the lower court issued a default order against Mayor Nemencio Galvez and the Sangguniang Bayan of Balagtas, Bulacan, thereby allowing the reception of evidence ex-parte from private respondent Mendoza on December 11, 1985.^[27]

On January 9, 1986, Mayor Galvez and the Sangguniang Bayan of Balagtas, Bulacan filed a motion for reconsideration and/or to set aside order of default and/or judgment which was again opposed by private respondent Mendoza.^[28]

On March 18, 1986, the lower court denied the above motion. Hence, the case was deemed submitted for decision.^[29]

At this point in time, the EDSA Revolution had taken place which consequently resulted in the replacement "en masse" of the incumbent local public officials by officers-in-charge (OIC's) sometime in May 1986. Mayor Galvez and the entire Sangguniang Bayan of Balagtas, Bulacan, were not spared.^[30] Even the Presiding Judge of RTC, Branch 9, Malolos, Bulacan, to whom the Petition for Mandamus and Prohibition, with Damages, was raffled, was replaced.^[31]

On May 6, 1988, the lower court decided Civil Case No. 8385-M in favor of private respondent Mendoza. The dispositive portion of the said decision reads:

"WHEREFORE, premises considered, judgment is hereby rendered:

(a) Making permanent in its legal effects the writ of preliminary injunction dated September 26, 1985 enjoining the enforcement or implementation of Resolution No. 08-85 dated April 19, 1985 of the Sangguniang Bayan of Balagtas, Bulacan;

(b) Directing respondent Nemencio (sic) G. Galvez or his successor-in-office to cause the issuance of the corresponding municipal's license and mayor's permit for the operation of the Balagtas Sports Arena cockpit for the year 1985 and for the ensuing years, provided the corresponding fees therefor shall have been paid and unless otherwise rendered impracticable by some other legal cause(s); and

(c) Directing respondents Nemencio (sic) G. Galvez and the Sangguniang Bayan of Balagtas to pay unto petitioner Amparo San Gabriel-Mendoza the amounts of P75,000.00 as moral damages, and P25,000.00 as exemplary damages, and P25,000.00 as attorney's fees, and to pay the costs of the suit."^[32]

On May 26, 1988, a Manifestation with Motion was filed by the Provincial Fiscal of Bulacan^[33] apprising the lower court of the fact that Mayor Galvez had died on September 14, 1986 and that the terms of office of the local public officials

concerned had already expired. The Provincial Fiscal's office requested that it be relieved as counsel for the said public officials considering that the award of damages by the lower court affected the officials in their personal capacities and that, with respect to Mayor Galvez, the money judgment maybe enforced only against his estate.^[34]

On May 30, 1988, the lower court issued an Order granting the relief sought by the Provincial Fiscal with instructions to serve copies of the May 6, 1988 decision to the deceased mayor through his lawyer-son, Atty. Enrique Galvez,^[35] and to the Sangguniang Bayan of Balagtas, Bulacan.^[36]

On June 20, 1988, Atty. Enrique Galvez, by way of special appearance, filed a Manifestation informing the lower court of his receipt of a copy of its Order, dated May 30, 1988, and a copy of the Manifestation with Motion of the Provincial Fiscal and notifying the lower court that he had neither authority nor personality to receive its decision, dated May 6, 1988, for or in behalf of the Office of the Mayor, Municipality of Balagtas, Bulacan. Valid service thereof, he said, should be made upon a Government lawyer or office empowered to represent a Government entity.^[37]

On November 11, 1988, Atty. Galvez, again, by way of special appearance, filed a Motion for Recall of Decision reiterating his position that he could not be compelled to receive the lower court's decision and praying that the said decision be withdrawn and Civil Case No. 8385-M be dismissed for failure to effect substitution of parties in accordance with Rule 3, Section 18 of the Rules of Court.^[38]

On April 6, 1989, the lower court denied Atty. Galvez' motion for recall of decision on the ground that the decision was already final and executory considering that no appeal nor any motion for reconsideration within the reglementary period was filed by any of the public officials concerned after service was made pursuant to the lower court's Order, dated May 30, 1988.^[39]

On June 28, 1989, a motion for execution was filed by private respondent Mendoza. This motion was granted by the lower court in its Order, dated November 12, 1990.^[40]

On March 18, 1991, a writ of execution was issued.^[41] Consequently, on April 16, 1991, a notice of levy on execution on the real properties of the then deceased Mayor Nemencio Galvez, covered by TCT Nos. T-307783, T-307784 and T-307785 was registered with the respondent Register of Deeds of Bulacan. Hence, annotations were accordingly made at the back of the said titles.^[42] The aforestated real properties were still registered in the names of the late Mayor Galvez and other co-owners at the time the notice of levy on execution was registered.^[43]

On May 8, 1991, the sheriff^[44] returned the writ of execution unsatisfied indicating in his return that after the notice of levy on execution was registered, the subsequent notice of sale of the aforestated real properties was held in abeyance upon the request of private respondent Mendoza.^[45]

On April 13, 1993, a public auction was held wherein the real property covered by