

## TWELFTH DIVISION

[ CA-G.R. SP. No. 105788, March 12, 2014 ]

**DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS  
(DOTC) AND LAND TRANSPORTATION OFFICE (LTO),  
PETITIONERS, V. HON. CARLOS A. VALENZUELA, IN HIS  
CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL  
COURT, BRANCH 213, MANDALUYONG CITY, AND BELINDA  
MARTIZANO, RESPONDENTS.**

### D E C I S I O N

**ELBINIAS, J.:**

For disposition is a Petition for Certiorari<sup>[1]</sup> filed under Rule 65 of the Rules of Court. The Petition assails the Order<sup>[2]</sup> dated August 14, 2008 issued by public respondent Hon. Carlos A. Valenzuela ("respondent Judge" for brevity) of the Regional Trial Court of Mandaluyong City, Branch 213 ("respondent court" for brevity) in SCA CASE NO. MC-08-3660 for "PETITION FOR INJUNCTION [WITH PRAYER FOR ISSUANCE OF A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION]"<sup>[3]</sup>. The Petition also questions respondent court's Order<sup>[4]</sup> dated October 7, 2008, which denied petitioners' eventual Motion for Reconsideration<sup>[5]</sup>.

The antecedent facts are:

On July 18, 2008<sup>[6]</sup>, private respondent Belinda Martizano ("private respondent Martizano" or "private respondent" for brevity) filed before respondent court a "PETITION FOR INJUNCTION [WITH PRAYER FOR ISSUANCE OF A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION]"<sup>[7]</sup> ("Petition for Injunction below" for brevity) against petitioner Department of Transportation and Communications ("petitioner DOTC" for brevity), petitioner Land Transportation Office ("petitioner LTO" for brevity), the Government Service Insurance System ("GSIS" for brevity), STRADCOM Corporation ("STRADCOM" for brevity), and the Insurance Commission ("IC" for brevity).<sup>[8]</sup>

Private respondent Martizano, in her Petition for Injunction<sup>[9]</sup> below, questioned the validity and sought the nullification<sup>[10]</sup> of petitioner DOTC's Department Order No. 2007-28 ("D.O. No. 2007- 28" for brevity), otherwise known as the "Rules and Regulations on Integration of the Issuance and Payment of Compulsory Third Party Liability (CTPL) Insurance with the LTO Information Technology (IT) Project's System and Database"<sup>[11]</sup>.

On July 25, 2008, private respondent Martizano filed before respondent court, an "Urgent *Ex-Parte* Motion (For the immediate resolution of issuance of Temporary Restraining Order)"<sup>[12]</sup>, which Motion was granted by respondent court in its Order<sup>[13]</sup> of July 25, 2008.

After respondent court issued a Temporary Restraining Order ("TRO" for brevity) against D.O. No. 2007-28, STRADCOM filed a "Motion for Reconsideration of the issued TRO with a Motion for Inhibition"<sup>[14]</sup> against respondent Judge. Such "Motion for Reconsideration of the issued TRO with a Motion for Inhibition"<sup>[15]</sup> however, was denied by respondent court in an Order<sup>[16]</sup> dated August 11, 2008 for lack of merit.<sup>[17]</sup>

On August 4, 2008<sup>[18]</sup>, petitioner DOTC, petitioner LTO, and IC filed before respondent court, a "Motion to Dismiss"<sup>[19]</sup> private respondent Martizano's Petition for Injunction<sup>[20]</sup> below on grounds of "*litis pendentia*, forum shopping, absence of cause of action, and failure to exhaust administrative remedies"<sup>[21]</sup>. GSIS and STRADCOM also filed their separate Motions to Dismiss<sup>[22]</sup> private respondent's Petition.<sup>[23]</sup>

The rest of the facts are those as stated in respondent court's assailed Order<sup>[24]</sup> dated August 14, 2008, to wit:

"The petitioner (*private respondent here*) filed her opposition to the motions to dismiss filed by the public respondent GSIS and private respondent Stradcom on August 5, 2008. With respect to the motion to dismiss filed by public respondent DOTC, LTO (*petitioners here*) and the Insurance Commission, the petitioner (*private respondent*) filed a Manifestation on August 11, 2008 submitting the incident for resolution.

In sum, **the respondents moved to dismiss this petition on the grounds of *litis pendentia*, forum shopping, absence of cause of action, and failure to exhaust administrative remedies.**

In her opposition, **the petitioner (*private respondent*) countered that there is no commonality of interests between her (*private respondent*) and the plaintiffs in the other cases. She (*private respondent*) is not related to any of the other parties who are assailing the same Department Order No. 2007-28. She (*private respondent*) is a natural person who is an independent insurance agent and not an insurance company who are members of the Philippine Insurance and Reinsurance Association, nor is she (*private respondent*) a member of the ALLIANCE, BMIS, or MUNLI, who are insurance brokers, or related to the other individuals, who are parties in the other cases.** xxx"<sup>[25]</sup> (*Emphasis Supplied*)

On August 14, 2008, respondent court issued its first assailed Order<sup>[26]</sup>, which denied the respective Motions to Dismiss<sup>[27]</sup> of petitioner DOTC, petitioner LTO, IC, GSIS, and STRADCOM for lack of merit.<sup>[28]</sup>

Petitioner DOTC and petitioner LTO, together with IC, GSIS, and STRADCOM, then filed an "OMNIBUS MOTION"<sup>[29]</sup>, which included the following: (a) "Motion for Inhibition"<sup>[30]</sup> of respondent Judge, (b) "Motion for Reconsideration"<sup>[31]</sup> of the Order<sup>[32]</sup> dated August 14, 2008 and, (c) "Motion to Suspend Proceedings"<sup>[33]</sup>.

After petitioners DOTC and LTO's "Motion for Inhibition"<sup>[34]</sup> and "Motion for Reconsideration"<sup>[35]</sup> that were embodied in their "OMNIBUS MOTION"<sup>[36]</sup> were denied by respondent court in its other assailed Order<sup>[37]</sup> dated October 7, 2008, petitioners DOTC and LTO filed the Petition<sup>[38]</sup> at bench, praying as follows:

"**WHEREFORE**, it is respectfully prayed that:

1. Pending resolution of the case on the merits, a temporary restraining order and/or writ of preliminary injunction be **ISSUED** enjoining respondent Judge from implementing his assailed Orders; and
2. After due hearing, the subject Orders issued by respondent Judge in Civil Case No. MC- 08-3660 be **REVERSED** and **SET ASIDE**.

Other forms of relief just and equitable under the premises are likewise prayed for."<sup>[39]</sup> (*Emphasis was made in the original*)

Petitioners raised these grounds:

### **I**

RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ISSUING HIS ASSAILED ORDER DATED OCTOBER 7, 2008 DENYING PETITIONERS' MOTION FOR INHIBITION BECAUSE THERE EXIST LEGITIMATE AND FACTUAL BASES FOR HIS INHIBITION. IN FACT, SAID ORDER, BY ITSELF, CLEARLY SHOWS RESPONDENT JUDGE'S MANIFEST PARTIALITY.

### **II**

RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ISSUING HIS ASSAILED ORDERS AS THERE ARE CLEAR BASES FOR THE DISMISSAL OF THE PETITION FOR INJUNCTION FILED BY PRIVATE RESPONDENT."<sup>[40]</sup> (*Emphasis and underscoring were made in the original*)

Contrary to the arguments raised by petitioners DOTC and LTO in their *assigned ground I.*, the grant or denial of a Motion for Inhibition rests on the sound discretion of the Judge whose disqualification is being sought for.<sup>[41]</sup>

In insisting that respondent Judge committed grave abuse of discretion in denying their "Motion for Inhibition"<sup>[42]</sup>, petitioners DOTC and LTO had argued as follows:

"Indeed, **the manifest partiality of respondent Judge is readily apparent** in his Order. First, **respondent Judge skirted the issues raised by petitioners in their motion for reconsideration and incipiently denied said motion because of a simple error.** Undoubtedly, the Order sought to be reconsidered, erroneously denominated as August 21, 2008, should have read August 14, 2008.  
xxx

**xxx respondent Judge's outright dismissal on such basis not only demonstrated his manifest partiality but also constituted grave abuse of discretion.**

**Second, contrary to respondent Judge's sweeping declaration xxx the arguments raised by petitioners in their motion for reconsideration cannot be considered a mere reiteration of the arguments already raised elsewhere.** Distinctly, xxx petitioners expounded on the issue of *litis pendentia* and compared private respondent's petition to that of PIRA, Inc., still pending before the Regional Trial Court, Branch 145 of Makati City, docketed as SCA No. 07-673. **In fact, in said argument, petitioners raised several new and important matters to be reconsidered. Unmistakably, respondent Judge demonstrated his manifest partiality and gravely abused his discretion when he declared that the arguments in petitioners' motion for reconsideration were a reiteration of those already resolved.**

**Third, xxx [a] reading of petitioners' manifestation dated September 22, 2008 reveals no such intention of petitioners to adopt its Opposition to the application for the writ as their Comment to the main petition.**

xxx

**Truly, there was nothing in said manifestation which could serve as basis for respondent Judge to declare that petitioners are adopting their opposition to the application for the writ of injunction as their comment to the main petition. Thus, respondent Judge clearly demonstrated his manifest partiality and gravely abused his discretion when he declared such.**

Finally, petitioners reiterate their arguments in their motion for inhibition that **in granting private respondent's application for a temporary restraining order (TRO), respondent Judge openly demonstrated his partiality. Respondent judge hastily issued his Order without waiting for the comment or opposition of their co-respondent (Stradcom) therein, which he, himself ordered filed within five (5) days,** with the reason that Stradcom is merely a nominal party.

xxx

**Respondent judge's unusual haste in issuing the TRO, as shown by his unwillingness to wait for Stradcom's comment or opposition thereto, clearly demonstrates his partiality towards private respondent. xxx**

**Even more unusual was respondent Judge's ratiocination for his decision not to wait for said party's comment or opposition. In the ruling abovequoted, respondent Judge considered Stradcom a mere nominal party, an agent of 'principal' respondent DOTC which cannot argue more than its principal.**

**How respondent Judge arrived at such conclusion is baffling.** Stradcom is a private corporation, with a personality separate and distinct from petitioner DOTC. In no way is it an agent of petitioner DOTC.

xxx

**By such act of respondent Judge, petitioners had began to entertain serious doubts as to his impartiality and his ability to render a just and impartial judgment."**<sup>[43]</sup> (*Emphasis Supplied*)

Defeating the allegations of petitioners DOTC and LTO however, is that the Order<sup>[44]</sup> dated October 7, 2008, which denied petitioners' "Motion for Inhibition"<sup>[45]</sup>, enjoys the presumption of regularity and the presumption that official duty had been performed, as is in accordance with the similar pronouncement of the Supreme Court in ***Enriquita Angat and the Legal Heirs of Federico Angat vs. Republic of the Philippines, G.R. No. 175788, June 30, 2009***, to wit:

**"It is a legal presumption, borne of wisdom and experience, that official duty has been regularly performed; that the proceedings of a judicial tribunal are regular and valid, and that judicial acts and duties have been and will be duly and properly performed. The burden of proving the irregularity in official conduct, if any, is on the part of petitioners who in this case clearly failed to discharge the same."** (*Emphasis Supplied*)

Moreover, no showing was made by petitioners DOTC and LTO that respondent Judge's issuance of a TRO against D.O. No. 2007-28 was tantamount to an act or conduct that would have proven petitioners' allegations of "doubts as to [respondent Judge's] impartiality and his ability to render a just and impartial judgment"<sup>[46]</sup>.

The rule is settled that mere imputation of bias or partiality is not enough ground for inhibition. Extrinsic evidence showing arbitrariness or prejudice must also be presented by a party, which was not done so here.

All of these are pursuant to the following declaration of the Supreme Court in ***Bgen. (Ret.) Jose S. Ramiscal, Jr. vs. Hon. Jose R. Hernandez, as Justice of the Sandiganbayan; 4th Division, Sandiganbayan and the People of the Philippines, G.R. Nos. 173057- 74, September 20, 2010***:

"The Rules contemplate two kinds of inhibition: compulsory and voluntary. xxx The second paragraph, which embodies **voluntary inhibition, leaves to the sound discretion of the judges concerned whether to sit in a case for other just and valid reasons, with only their conscience as guide.**

In denying the motions for his inhibition, Justice Hernandez explained that petitioner failed to impute any act of bias or impartiality on his part, to wit:

What can reasonably be gleaned from jurisprudence on this point of law is **the necessity of proving bias and partiality under the second paragraph of the rule in question. The proof required needs to**