

FOURTH DIVISION

[CA-G.R. SP No. 127046, November 19, 2014]

**STEEL CORPORATION OF THE PHILIPPINES, PETITIONER, VS.
BUREAU OF CUSTOMS (BOC), BUREAU OF INTERNAL REVENUE
(BIR), DEPARTMENT OF FINANCE (DOF), OFFICE OF THE
PRESIDENT (OP) AND THE MUNICIPALITY OF BALAYAN,
BATANGAS, RESPONDENTS**

D E C I S I O N

CARANDANG, J.:

This is an appeal under Rule 41 of the Rules of Court to the Order dated June 6, 2012^[1] rendered by the Regional Trial Court of Balayan, Batangas, Branch 10 in Civil Case No. 5042 which (1) granted the motion for reconsideration of the Office of the Solicitor General and the Omnibus Motion of the Bureau of Internal Revenue, (2) ordered the dismissal of the case, and (3) dissolved the writ of preliminary injunction previously issued. The subsequent motion for reconsideration of the said order was also denied by the said court in an order^[2] dated September 17, 2012.

Antecedents:

Culled from the records of this case, it would show that Steel Corporation of the Philippines (hereinafter Steel Corp.), a domestic corporation engaged in the steel business with principal office at Km. 105 Barangay Munting Tubig, Balayan, Batangas was put under corporate rehabilitation on September 12, 2006. While the proceedings for rehabilitation were pending, Republic Act No. 10142, otherwise known as the Financial Rehabilitation and Insolvency Act (FRIA) was passed into law on July 18, 2010. Section 19 of the said Act provides:

“Waiver of Taxes and Fees Due to the National Government and to Local Government Units (LGU's).- Upon issuance of the Commencement Order by the court, and until the approval of the Rehabilitation Plan or dismissal of the petition, whichever is earlier, the imposition of all taxes and fees, including penalties, interests and charges thereof, due to the national government or to LGUs shall be considered waived, in furtherance of the objectives of rehabilitation.”

Also, during this period, Steel Corp. imported raw materials for use in the manufacture of steel products which importations were assessed with taxes totalling P41,206,120.^[3] In a letter dated October 1, 2010 addressed to the Bureau of Customs, Steel Corp. signified its intention to avail of the relief granted under Section 19 of the FRIA (RA 10142). Another letter addressed to Mayor Fronda dated

December 22, 2010 signified Steel Corp.'s desire to avail of the relief under Section 19 of the FRIA.^[4] Steel Corp.'s request for waiver was initially granted by the Bureau of Customs only to be reversed by the Department of Finance (DOF) later on, prompting Steel Corp. to elevate the matter to the Office of the President (OP).^[5] The case was docketed as O.P Case No. 11-F-211.^[6]

On September 14, 2011, Steel Corp. filed a complaint for Injunction with application for the Immediate Issuance of a Temporary Restraining Order (TRO) and a Writ of Preliminary Injunction praying that defendants be enjoined from collecting taxes, duties and fees against plaintiff. Said case was docketed as Civil Case No. 5042 before the Regional Trial Court of Balayan, Batangas, Branch 10.^[7]

The Office of the President (OP) deferred the resolution of Civil Case No. 11-F-211 in an order dated November 9, 2011 and ruled that:

"The issues regarding the application and interpretation of Section 146 of the FRIA Law is principally a legal question involved in Civil Case No. 5042 and may affect the issue on the jurisdiction of the Office of the President raised in the instant appeal. As agreed by the parties during the clarificatory hearing, the resolution of the appeal is deferred until the final resolution of the issue. xxx"^[8]

Records show that on September 15, 2011, the RTC granted a 72-hour Temporary Restraining Order (TRO) in favor of Steel Corp. Said TRO was extended to twenty (20) days in an order dated November 9, 2011.^[9] The RTC eventually granted plaintiff's motion for the issuance of a Status Quo order further extending the life of the TRO until such time that the defendants could be heard on the issue of injunction. On January 12, 2012, defendants filed a Motion to Dismiss alleging that the RTC had no jurisdiction to hear and determine the petition citing par. G, Section 602 of the Tariff and Customs Code of the Philippines which vests the Bureau of Customs with the primary or exclusive jurisdiction over imported goods for the purpose of enforcing customs laws, subject to appeal to the Court of Tax Appeals. In opposing the motion to dismiss, plaintiff asserted that the matter in question is purely legal which even the OP recognized in its order dated November 9, 2011. Moreover, plaintiff claimed that the "commencement order" under Section 19 of RA 10142 is issued in rehabilitation cases filed under said law which does not apply to cases like the present case which was filed under PD 902-A as implemented by the Interim Rules of Procedure on Corporate Rehabilitation. Plaintiff also sought to strike out the answer filed by the BIR dated January 30, 2012 on the ground that the OSG has already appeared for all the defendants except the Municipality of Balayan. The motion to dismiss was denied in the order dated March 5, 2012.^[10]

On June 6, 2012, the RTC resolved all the pending motions in the case, to wit: a) motion to strike answer filed by plaintiff; b) Urgent ex-parte motion for execution filed by plaintiff; c) Motion for reconsideration filed by the OSG; d) Omnibus Motion 1) Motion for Reconsideration, 2) Motion to Dissolve writ of preliminary injunction filed by the BIR; e) Motion for Reconsideration filed by the OSG and f) Motion to strike filed by plaintiff.^[11]

In the said order of June 6, 2012, the RTC denied plaintiff's motion to strike the answer filed by the BIR. Plaintiff alleged that the BIR was already represented by the OSG hence the Answer filed by the BIR lawyer should be stricken from the records as it was in violation of Memorandum Circular No. 152 which states that:

"a) all litigation proceedings or matters involving the Government and its officials, employees, those likely to give rise to litigation and those which under existing laws are required to be referred to the Office of the Solicitor General should be referred to the said Office for representation or counsel."

The RTC ruled that there exists a Memorandum of Agreement between the OSG and the BIR dated March 17, 2012 which gives the BIR lawyers authority to be the lead counsel in cases of first instance filed before the CTA, MTC, MCTC, RTC, DOJ and other administrative agencies.^[12]

As regards the plaintiff's motion for execution, the RTC also denied the same in view of the fact that the case is not yet final and executory. There was a pending motion to dismiss and a motion for reconsideration filed by the OSG. The RTC resolved to grant the motion to dismiss and the motion for reconsideration of the OSG on the rationale that the case should have followed its rightful course and plaintiff should have raised the matter before the Court of Tax Appeals.^[13]

Aggrieved by the RTC decision, plaintiff filed a motion for reconsideration which was denied by the RTC in the order dated September 17, 2012.^[14] Hence the present appeal.

In this appeal, plaintiff-appellant raises two issues, to wit:

I. Whether or not the trial court erred when it allowed and gave due course to the separate motions of the BOC and the BIR despite their procedural and jurisdictional infirmities; and

II. Whether or not the trial court erred in lifting the preliminary injunction and ordering the dismissal of the complaint.

On the first assignment of error, plaintiff-appellant asseverates that the separate motions of the BIR and the BOC should not have been considered by the trial court because the OSG already entered its appearance on behalf of the Government. Moreover, the notice of hearing on the motion for reconsideration filed by the OSG stated that: "*xx the undersigned counsel will submit this motion for the consideration and approval of the Honorable Court on April 6, 2012 at 1:30 in the afternoon, without further oral argument*". However, April 16, 2012 was a national holiday, being Good Friday. With regard to the BIR's Omnibus Motion, the notice of hearing was dated March 28, 2012, but it was submitted for hearing on April 12,

2012 which was beyond the ten day period required under Section 5 of Rule 15, Rules of Court which provides:

“Section 5. Notice of Hearing.- The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten days after the filing of the motion.”

Moreover, it was scheduled on a Monday in violation of Section 7, Rule 15 of the Rules of Court which provides that all motions shall be scheduled for hearing on Friday afternoons, or if Friday is a non-working day, in the afternoon of the next working day.^[15]

On the second assignment of error, plaintiff-appellant points out that the trial court failed to consider the existence of Exhibit “M” which is the order of the Office of the President dated November 9, 2011 wherein the OP recognized that the issue involved in the case is a legal question which is the interpretation of Sections 146 and 19 of the FRIA Law. Plaintiff-appellant also insists that the parties already agreed to refer the instant case to the jurisdiction of the trial court. Plaintiff-appellant also points out that the trial court, being one of general jurisdiction had sufficient authority to assume jurisdiction over the case when the issue raised is whether a certain law is applicable to prevent imposition of taxes and duties thereon citing the case of Commissioner of Customs vs. Court of Appeals,^[16] where the Supreme Court held that the Court of First Instance had jurisdiction to take cognizance of the petition for injunction before it. The implementation, interpretation and enforcement of Section 19, RA 10142 are parts of corporate rehabilitation, hence the trial court had jurisdiction and it was error on its part when it dismissed the case.^[17]

Is the contention of the plaintiff-appellant correct?

Our Ruling:

With regard to the issue of the alleged infirmity of the notice of hearing in the BIR and BOC's motions, We take judicial notice that April 5 and 6, 2012 were Holy Thursday and Good Friday.

Rule 15 of the Rules of Court provides:

“Section 7. Motion day.- Except for motions requiring immediate action, all motions shall be scheduled for hearing on Friday afternoons, or if Friday is a non-working day, in the afternoon of the next working day.”

Since the scheduled hearing for the motion was a non-working holiday, the trial court could simply set the motion for hearing on the next motion day.^[18]