

THIRD DIVISION

[G.R. No. 219340, April 28, 2021]

COMMISSIONER OF INTERNAL REVENUE, PETITIONER, VS. STANDARD INSURANCE CO., INC., RESPONDENT.

R E S O L U T I O N

Hernando, J.:

For Our Resolution is the Motion for Reconsideration^[1] of the November 7, 2018 Decision^[2] which granted the Petition for Review on *Certiorari*^[3] of petitioner Commissioner of Internal Revenue (CIR), which sought the reversal of the May 8, 2015 Decision^[4] and the July 10, 2015 Order^[5] in Civil Case No. 14-1330 by the Regional Trial Court (RTC), Branch 66 of Makati City.

The RTC Decision and RTC Order granted respondent Standard Insurance Co. Inc.'s (Standard Insurance) Petition for Declaratory Relief and permanently enjoined the CIR and its agents from implementing Sections 108 and 184 of the National Internal Revenue Code (NIRC) against Standard Insurance until Congress enacts House Bill No. 3235 (HB 3235) entitled *An Act Rationalizing the Taxes Imposed on Non-Life Insurance Policies* into law.^[6]

The Antecedent Facts:

Petitioner CIR is the head of the Bureau of Internal Revenue (BIR), a government agency tasked with the power and duty of assessing and collecting all national internal revenue taxes, fees, and charges among others.^[7] Respondent Standard Insurance is a domestic corporation duly organized and existing under Philippine laws and engaged in the business of non-life insurance.^[8]

On February 13, 2014, respondent received from the BIR a Preliminary Assessment Notice (PAN) regarding its liability amounting to P377,038,679.55 arising from a deficiency in the payment of documentary stamp taxes (DST) for taxable year 2011.^[9] Standard Insurance contested the PAN^[10] but the CIR nonetheless sent it a formal letter of demand.^[11] Although respondent requested reconsideration,^[12] it received on December 4, 2014 the Final Decision on Disputed Assessment (FDDA) dated November 25, 2014, declaring its liability for the DST deficiency, including interest and compromise penalty, totaling P418,830,567.46.^[13] On December 11, 2014, it sought reconsideration of the FDDA, and objected to the tax imposed pursuant to Section 184 of the NIRC as violative of the constitutional limitations on taxation.^[14]

Meanwhile, respondent also received a demand for the payment of its deficiency income tax, value-added tax (VAT), premium tax, DST, expanded withholding tax, and fringe benefit tax for taxable year 2012 which respondent protested in its letter dated December 10, 2014 on the ground that the VAT rate and DST rate imposed on

premiums charged on non-life property insurance pursuant to Sections 108 and 184 of the NIRC are violative of the constitutional limitations on taxation.^[15] Respondent also received a demand for payment of deficiency DST for taxable year 2013.^[16]

On December 19, 2014, Standard Insurance commenced Civil Case No. 14-1330 in the RTC with prayer for issuance of a temporary restraining order (TRO) and a writ of preliminary injunction (WPI) for the judicial determination of the constitutionality of Sections 108 and 184 of the NIRC with respect to the taxes charged against the non-life insurance companies.^[17]

In its Petition, the respondent contended that the facts of the case must be appreciated in light of the effectivity of Republic Act No. 10001 (RA 10001) entitled *An Act Reducing the Taxes on Life Insurance Policies*, whereby the tax rate for life insurance premiums was reduced from 5% to 2%; and the pendency of deliberations on House Bill 3235, whereby an equal treatment for both life and non-life companies was being sought as a response to the supposed inequality generated by the enactment of RA 10001.^[18]

Ruling of the Regional Trial Court:

On December 23, 2014, the RTC issued a TRO enjoining the BIR, its agents, representatives, assignees, or any persons acting for and in its behalf from implementing the provisions of the NIRC adverted to with respect to the FDDA for the respondent's taxable year 2011, and to the pending assessments for taxable years 2012 and 2013.^[19]

On January 13, 2015, the RTC issued an Order granting the application for WPI of respondent and thereby ordering the CIR and his/her representatives to refrain from further proceeding with the implementation or enforcement of Sections 108 and 184 of the NIRC *until further orders*, upon posting by respondent of the requisite bond.^[20]

Thereafter, the RTC issued the WPI on January 14, 2015 and an Order on February 18, 2015: (a) dismissing the CIR's motion to set hearing for dismissal of the case on the ground that the issues contained therein can be resolved simultaneously with the main case; (b) denying the CIR's motion for reconsideration to the RTC's issuance of the WPI on January 13, 2015; and (c) denying Standard Insurance's motion to declare petitioner in default.^[21] The RTC Orders dated January 13, 2015 and February 18, 2015 thereafter became the subject of a Petition for *Certiorari* filed with the Court of Appeals (CA).

On May 8, 2015, the RTC rendered its Decision holding that although taxes were self-assessing, the tax system merely created liability on the part of the taxpayers who still retained the right to contest the particular application of the tax laws; and holding that the exercise of such right to contest was not considered a breach of the provision itself as to deter the action for declaratory relief, and decreed thusly.^[22] The dispositive portion of the RTC Decision reads:

WHEREFORE, premises considered, the respondent, its agents, representatives, or any persons acting on its behalf is hereby permanently enjoined from proceeding with the implementation or enforcement of Sections 108 and 184 of the National Internal Revenue Code against petitioner Standard Insurance Co., Inc. until the Congress

shall have enacted and passed into law House Bill No. 3235 in conformity with the provisions of the Constitution.

SO ORDERED.^[23]

The CIR moved for reconsideration which the trial court denied for lack of merit in its July 10, 2015 Order.^[24]

Ruling of the Court of Appeals:

On April 27, 2014, petitioner filed a Petition for *Certiorari* before the CA pursuant to Rule 65 of the Rules of Court to (a) set aside the Orders dated January 13, 2015 and February 18, 2015 of the RTC granting respondent's application for issuance of a WPI and subsequent denial of the MR; and (b) dissolve the WPI dated 14 January 2015.^[25] The Petition, which was docketed as CA-G.R. SP No. 140403, was later dismissed by the appellate court in its October 30, 2015 Resolution for failure of the petitioner to comply with the CA's August 19, 2015 Resolution to submit copies of pertinent pleadings.^[26]

Assailed Decision of the Court:

On September 7, 2015, petitioner filed a Petition for Review on *Certiorari* before Us praying for the reversal and setting aside of the RTC Decision and RTC Order on the following grounds: (a) The RTC erred in taking cognizance of the case because a Petition for Declaratory Relief is not applicable to contest tax assessments and the petition is fatally defective for failing to satisfy the basic requisites under Rule 63 of the Rules of Court; (b) The RTC erred in adjudging Sections 108 and 184 of the NIRC as violative of the equal protection clause; (c) The RTC gravely erred in granting injunctive relief in favor of respondent, the same being specifically prohibited by Section 218 of the NIRC and for having been issued despite the absence of a clear legal right; and (d) The RTC erred in granting the relief provided in the RTC Decision since the resultant remedy falls outside the purview of an action for declaratory relief and it is violative of the rule that judicial decisions must finally determine the rights, obligations, and responsibilities of parties.^[27]

On November 7, 2018, We rendered the assailed Decision granting the Petition for Review on *Certiorari*.^[28] We ruled that the RTC grossly erred and acted without jurisdiction in giving due course to the petition for declaratory relief and permanently enjoining the enforcement of Sections 108 and 184 of the NIRC, in violation of Section 218 of the NIRC and Section 11 of Republic Act No. 1125. The dispositive portion of the assailed Decision reads:

WHEREFORE, the Court **GRANTS** the petition for review on *certiorari*; **ANNULS** and **SETS ASIDE** the decision rendered in Civil Case No. 14-1330 on May 8, 2015 by the Regional Trial Court, Branch 66, in Makati City; **DISMISSES** Civil Case No. 14-1330 on the ground of lack of jurisdiction; **QUASHES** the writ of preliminary injunction issued against the Commissioner of Internal Revenue in Civil Case No. 14-1330 for being issued without jurisdiction; and **ORDERS** the respondent to pay the costs of suit.^[29]

We opined that respondent's Petition for Declaratory Relief failed to comply with the requisites for the said action, since the subject provisions, *i.e.*, Sections 108 and

184 of the NIRC have been infringed by respondent prior to the institution of the action. Moreover, respondent's allegation that it could be rendered insolvent through the imposition of taxes imposed by Sections 108 and 184 of the NIRC did not result in the action for declaratory relief becoming an actual controversy ripe for judicial determination.

Hence, this Motion for Reconsideration.

Respondent argues that the Court erred in not dismissing the Petition outright on the ground that petitioner committed deliberate and willful commission of forum shopping, and that the issues raised in the Petition are factual in nature and are barred under Rule 45 of the Rules of Court. Moreover, respondent alleges that the RTC has jurisdiction to take cognizance of respondent's action for declaratory relief and that the latter has fully satisfied the essential requisites of a petition for declaratory relief under Rule 63 of the Rules of the Court.^[30]

Lastly, the respondent argues that the Court erred in disregarding its clear and unmistakable right to equal protection to uniformity and equitability of taxation, in relying in Section 218 of the NIRC and in not finding that the RTC has jurisdiction to issue injunctive writs and the latter lie against the implementation of unconstitutional statutes, and in finding that the RTC violated the rule that judicial decisions must finally determine the rights, obligations and responsibilities of the parties.^[31]

Issues

To dispose of the instant case, the following issues must be resolved:

First, whether the Petition must be dismissed on the ground of forum shopping and/or non-compliance with the certification against forum shopping requirement;

Second, whether the Petition must be dismissed on the ground of raising issues of fact, which are barred under a Rule 45 petition;

Third, whether the RTC had the jurisdiction to take cognizance of respondent's petition for declaratory relief and issue injunctive relief against the implementation of Sections 108 and 184 of the NIRC; and

Fourth, whether the RTC should have dismissed respondent's petition for declaratory relief for failure to comply with the essential requisites of a petition for declaratory relief under Rule 63 of the Rules of Court.

We resolve to deny the motion for reconsideration for lack of merit.

Petitioner is not guilty of forum shopping and has complied with the certification against non forum shopping requirement under Section 4, Rule 45 of the Rules of Court.

Forum shopping exists when, as a result of an adverse decision in one forum, or in anticipation thereof, a party seeks a favorable opinion in another forum through

means other than appeal or *certiorari*. There is forum shopping when the elements of *litis pendencia* are present or where a final judgment in one case will amount to *res judicata* in another. They are as follows: (a) identity of parties, or at least such parties that represent the same interests in both actions, (b) identity of rights or causes of action, and (c) identity of reliefs sought.^[32]

In sum, both actions must involve the same transaction, same essential facts and circumstances and must raise identical causes of action, subject matter, and issues. Clearly, forum shopping does not exist where different orders were questioned, two distinct causes of action and issues were raised, and two objectives were sought.^[33]

Under the foregoing test, we find that petitioner did not commit forum shopping in filing the instant Petition during the pendency of CA-G.R. SP No. 140403 with the CA.

A careful reading of the allegations of the instant Petition with the Court and the Petition for *Certiorari* filed with the CA indicate that the elements of *litis pendencia* are not present. At the outset, petitioner assailed different orders of the RTC – the first pertaining to interlocutory orders of the RTC in connection with the grant of the WPI and the other which decided the main action. Moreover, a comparison of the allegations and reliefs sought in the instant Petition and the Petition for *Certiorari* undoubtedly shows that petitioner prayed for different reliefs and ultimately, sought different objectives.

Being interlocutory in nature, the RTC orders assailed in CA-G.R. SP No. 140403 dealt with the preliminary matter of whether the implementation of Sections 108 and 184 of the NIRC against respondent should be held in abeyance at a stage when the trial on the merits has yet to be held and the judgment rendered. Thus, petitioner, in assailing the RTC orders which granted and upheld the WPI in favor of respondent, merely sought the dissolution of the said writ which prevented petitioner from implementing Sections 108 and 184 against respondent *until further orders and while the main case had yet to be decided on the merits*.

On the other hand, the RTC Order and RTC Decision assailed in the instant Petition were in the nature of a final judgment or order which disposed of the main case on the merits. This is so since the Petition for Declaratory Relief was granted, thereby permanently enjoining petitioner from enforcing Sections 108 and 184 of the NIRC against respondent until the Congress shall have enacted and passed into law HB 3235 in conformity with the provisions of the Constitution. Being in the nature of a final judgment, petitioner merely pursued his correct remedy, which was to file a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court.

In any event, we note that the issue on forum shopping may be considered moot once the proliferation of contradictory decisions, which is precisely what the prohibition on forum shopping seeks to avoid, is no longer possible.^[34] In connection thereto, CA-G.R. SP No. 140403 has already been dismissed by the appellate court on technical grounds; hence, the danger which the rules on forum shopping seeks to prevent will no longer materialize in the instant case.

Respondent's claim that petitioner failed to comply with the requirement for a certification against forum shopping must likewise fail. Section 4, Rule 45 of the Rules of Court provides that the sworn certification against forum shopping must be attached to the petition for review on *certiorari*.^[35] In contrast, there is no