

## FIRST DIVISION

[ G.R. No. 215547, February 03, 2020 ]

**SPOUSES PRUDENTE D. SOLLER AND PRECIOSA M. SOLLER, RAFFY TELOSA, AND GAVINO MANIBO, JR. PETITIONERS, VS. HON. ROGELIO SINGSON, IN HIS CAPACITY AS SECRETARY OF DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS, ENGR. MAGTANGGOL ROLDAN, IN HIS CAPACITY AS DISTRICT ENGINEER OF THE DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS-ORIENTAL MINDORO, SECOND DISTRICT OFFICE, KING'S BUILDERS AND DEVELOPMENT CORPORATION, AND ITS PRESIDENT, ENGR. ELEGIO MALALUAN, RESPONDENTS.**

### D E C I S I O N

**REYES, J. JR., J.:**

Before this Court is an appeal by *certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court, assailing the Resolution<sup>[2]</sup> dated July 10, 2014 and Resolution<sup>[3]</sup> dated November 18, 2014 of the Regional Trial Court (RTC) of Pinamalayan, Oriental Mindoro, Branch 41 which dismissed the petition for the issuance of Permanent Injunction and damages with prayer for Temporary Restraining Order (TRO)/Preliminary Injunction filed by the Spouses Prudente D. Soller and Preciosa M. Soller, Raffy Telosa, and Gavino Manibo, Jr. (petitioners).

#### **The Relevant Antecedents**

In their Complaint, petitioners averred that they are the owners of parcels of land located near the Strong Republic Nautical Highway at Poblacion, Bansud, Oriental Mindoro.<sup>[4]</sup>

As a result, however, of the commencement of the elevation project between kilometer 90 and 92 of the national highway near the Bansud River Bridge by King's Builder and Development Corporation, their safety was placed in imminent danger.<sup>[5]</sup>

Further bolstering their claim, petitioners alleged that the respondents initiated the elevation of the national highway to around one meter, thereby blocking and retaining floodwaters naturally coming from the nearby Bansud River and farm lands from the direction of the mountains of Conrazon; and submerging houses and lands on the left side of the road including their properties.<sup>[6]</sup>

Aside from safety issues, petitioners maintained that the elevation of the highway impaired their use and enjoyment of their houses and properties as pedestrians and vehicles alike will have to negotiate a steep climb and descent in going to and from their properties.<sup>[7]</sup>

Instead of filing their Answer, Secretary Rogelio Singson and Engr. Magtanggol Roldan filed a Motion to Dismiss<sup>[8]</sup> alleging that the issuance of injunctive writs is prohibited by Presidential Decree No. 1818<sup>[9]</sup>; and that the doctrine of State's immunity from suit applies in this case.

In a Resolution<sup>[10]</sup> dated July 10, 2014, the RTC granted the Motion to Dismiss, finding that it has no jurisdiction over the case as stated in Republic Act (R.A.) No. 8975,<sup>[11]</sup> thus:

**WHEREFORE**, in light of all the foregoing, the Motion to Dismiss filed by defendants Secretary Rogelio Singson, Department of Public Works and Highways (DPWH) and District Engineer Magtanggol Roldan, DPWH Oriental Mindoro is **GRANTED** and the above-entitled case is hereby ordered **DISMISSED** as a consequence thereof.

**SO ORDERED.**<sup>[12]</sup>

Petitioners filed a Motion for Reconsideration, which was denied in a Resolution<sup>[13]</sup> dated November 18, 2014.

Aggrieved, petitioners elevated the matter before this Court.

In its Comment,<sup>[14]</sup> the Office of the Solicitor General (OSG) essentially avers that the petition must be dismissed outright as it raises factual issues; and that the dismissal of the case was proper as petitioners prayed for the issuance of a TRO in its complaint.

Petitioners, in their Reply,<sup>[15]</sup> insist that their petition involves a pure question of law as the issue raised therein delves into the jurisdiction of the RTC over the case.

### **The Issues**

Ultimately, petitioners insist on the jurisdiction of the RTC over the subject matter.

### **The Court's Ruling**

Preliminarily, a motion to dismiss which has been granted on the ground of lack of jurisdiction over the subject matter operates as a dismissal without prejudice.<sup>[16]</sup> Relevantly, such order is not subject to an appeal under Section 1 of Rule 41<sup>[17]</sup> of the Rules of Court. Under the same provision, the remedy of the aggrieved party is to file a petition for *certiorari* under Rule 65.<sup>[18]</sup>

In this case, not only did petitioners avail of the wrong remedy by filing an appeal by *certiorari* under Rule 45, but they likewise violated the doctrine of hierarchy of courts in assailing the twin Resolutions of the RTC, directly before us.<sup>[19]</sup>

Nevertheless, in a plethora of cases, the Court relaxed the application of procedural rules. The Court has noted that a strict application of the rules should not amount to straight-jacketing the administration of justice and that the principles of justice and equity must not be sacrificed for a stem application of the rules of procedure.<sup>[20]</sup> Thus, when the strict and rigid application of procedural rules would result in technicalities that tend to frustrate rather than promote substantial justice, they must always be eschewed.<sup>[21]</sup>

In the exercise of its equity jurisdiction, the Court finds it proper to resolve the case on the merits.

Section 3 of R.A. No. 8975 expressly vests jurisdiction upon the Supreme Court to issue any TRO, preliminary injunction or preliminary mandatory injunction against the government, or any of its subdivisions, officials or any person or entity, whether public or private acting under the government's direction, to restrain, prohibit or compel specified acts. To be specific:

**Section 3. *Prohibition on the Issuance of Temporary Restraining Orders, Preliminary Mandatory Injunctions.*** - No court, except the Supreme Court, shall issue any temporary restraining order, preliminary injunction or preliminary mandatory injunction against the government, or any of its subdivisions, officials or any person or entity, whether public or private acting under the government direction, to restrain, prohibit or compel the following acts:

- (a) Acquisition, clearance and development of the right-of-way and/or site or location of any national government project;
- (b) Bidding or awarding of contract/project of the national government as defined under Section 2 hereof;
- (c) Commencement prosecution, execution, implementation, operation of any such contract or project;
- (d) Termination or rescission of any such contract/project; and
- (e) The undertaking or authorization of any other lawful activity necessary for such contract/project.

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In the case of *Philco Aero, Inc. v. Secretary Tugade*,<sup>[22]</sup> this Court recognized the remedy of resorting directly before this Court in cases covered under R.A. No. 8975. Section 3 of R.A. No. 8975 was explicit in excluding other courts in the issuance of injunctive writs. However, in the case of *Bases Conversion and Development Authority v. Uy*,<sup>[23]</sup> this Court clarified that the prohibition applies only to TRO and preliminary injunction, viz.:

A perusal of these aforequoted provisions readily reveals that all courts, except this Court, are proscribed from issuing TROs and writs of preliminary injunction against the implementation or execution of specified government projects. **Thus, the ambit of the prohibition covers only temporary or preliminary restraining orders or writs but NOT decisions on the merits granting permanent injunctions.** Considering that these laws trench on judicial power, they should be strictly construed. Therefore, while courts below this Court are prohibited by these laws from issuing temporary or preliminary restraining orders pending the adjudication of the case, said statutes however do not explicitly proscribe the issuance of a permanent injunction granted by a court of law arising from an adjudication of a case on the merits. (Emphasis supplied)

As conferred by Section 19<sup>[24]</sup> of Batas Pambansa Blg. 129, the RTC has jurisdiction over all civil cases in which the subject matter under litigation is incapable of