

THIRD DIVISION

[G.R. No. 202515, September 28, 2015]

**LUCENA B. RALLOS, PETITIONER, VS. HONORABLE JUSTICES
GABRIEL T. INGLES, PAMELA ANN ABELLA MAXINO AND
CARMELITA SALANDANAN MANAHAN, RESPONDENTS.**

D E C I S I O N

PERALTA, J.:

This is a petition for indirect contempt under Rule 71 of the Rules of Court (*Rules*) filed by petitioner Lucena B. Rallos against respondents Gabriel T. Ingles, Pamela Ann Abella Maxino and Carmelita Salandanan Manahan, who are incumbent justices of the Court of Appeals (*CA*), for issuing a writ of preliminary injunction to restrain final and executory judgments and orders of the Regional Trial Court (*RTC*), Branch 9, Cebu City.

The facts are as follows:

Sometime in 1997, the heirs of Rev. Fir. Vicente Rallos (*Fr. Rallos*), which include petitioner herein, together with the heirs of Ramon Rallos and Socorro Sy, Lourdes Rallos and Magdaleno Sy, and Remedios Rallos and Porferio Adarna filed a Complaint, docketed as Civil Case No. CEB-20388, against the City Government of Cebu (*Cebu City*) for forfeiture of improvements on or payment of fair market value of Lot Nos. 485-D and 485-E, which are situated at M.H. Aznar Street, Cebu City. After trial, the RTC ruled that the subject lots are not road lots but are privately-owned lots which were appropriated by the city government for public use without the benefit of expropriation and without payment of just compensation. The dispositive portion of the January 14, 2000 Decision^[1] ordered:

WHEREFORE, foregoing premises considered, this Court finds the defendant liable to pay plaintiffs just compensation for Lot No. 485-D and Lot No. 485-E which were appropriated by defendant for public use without the benefit of expropriation.

For the purpose of determining the amount of just compensation payable by defendant to plaintiffs for Lot No. 485-D and Lot No. 485-E, a board of commissioners to be composed of three (3) persons, one to be designated by defendant, one to be designated by the [plaintiffs] and one, who shall act as chairman of the board of commissioners, to be appointed by this Court, is hereby created pursuant to the Order dated September 17, 1998.

Plaintiffs and defendant are hereby directed to designate within fifteen (15) days from receipt hereof their respective commissioners who must be persons proficient in real estate appraisal and knowledgeable about

market values of real estate properties in Cebu City. This Court shall appoint the 3rd commissioner after the commissioners designated by the parties shall have been submitted.

The commissioners are specifically required to determine the amount of just compensation payable by defendant to plaintiffs for Lot No. 485-D and Lot No. 485-E on the basis of fair market values as of 1963, the year when defendant appropriated the said lots for public use, and as of 1997, the year when the complaint was filed by plaintiffs. Plaintiffs and defendants are further directed to see to it that their respective commissioners take oath of office and to submit their respective reports to the chairman of the board of commissioners and to this Court within fifty (50) days from receipt of this order. Failure on the part of any party to see to it that the designated commissioner take oath and submit the required report to the chairman of the board of commissioners and to this Court within the period aforesated shall be taken as a waiver of the right to participate.

The chairman of the board of commissioners shall submit to this Court, copy furnished the plaintiffs and defendant, within fifty (50) days from receipt of appointment, a report on the amount of just compensation payable by defendant to plaintiffs for Lot No. 485-D and Lot No. 485-E on the basis of fair market values of real properties in Cebu City as of 1963 and as of 1997. The chairman of the board of commissioners at his option may render a separate report or a consolidated report based upon the reports which the other commissioners shall submit to him pursuant to this Order.

The commissioners are directed to take, independently of each other, whatever legal proceedings each of them may deem necessary or expedient so as to enable them to accomplish the mandated responsibilities within the given time frame. The parties are hereby directed to cooperate with the commissioners and assist them fulfill their ordained tasks expeditiously.

The matter of whether or not just compensation shall be reckoned as of 1963, when defendant first occupied the lots in question or as of 1997 when plaintiffs filed their complaint will be decided by this Court when it acts upon the reports of commissioners.

SO ORDERED.^[2]

Cebu City filed a motion for reconsideration, but it was denied on February 5, 2001.

^[3] No appeal was further taken by any of the parties.

After considering the report of the board of commissioners, the RTC rendered a Decision^[4] on July 24, 2001, the *fallo* of which states:

WHEREFORE, the Court hereby renders judgment, ordering defendant to pay plaintiffs as just compensation for Lots 485-D and 485-E the amount of Php34,905,000.00 plus interest at 12% per annum to start 40 days from date of this decision and to continue until the whole amount shall

have been fully paid. Defendant is further ordered to pay plaintiffs the following amounts:

1. Php50,000.00 as reimbursement for attorney's fees;
2. Php50,000.00 as reimbursement for litigation expenses.

PLUS COSTS.

SO ORDERED.^[5]

Both parties filed a motion for reconsideration. On March 21, 2002, the RTC issued a Consolidated Order,^[6] which reads:

WHEREFORE, in the light of the foregoing, the motion for reconsideration of defendant is hereby denied.

With respect to plaintiffs' motion for reconsideration, the decision of July 24, 2001 is hereby modified in that defendant Cebu City is directed to pay plaintiffs just compensation not at P7,500.00 per square meter but at P9,500.00 per square meter. The rest of the dispositive portion of the said decision [remains] as is.

For the guidance of all concerned and so as to erase any doubt about it, this Court makes it very clear that the directive for defendant to pay plaintiffs just compensation and other amounts carries with it the implied directive that defendant promptly performs whatever is legally necessary so that payment to plaintiffs is expeditiously made as directed. Without it being expressly stated, it is understood that the order for defendant to pay plaintiffs just compensation and other amounts imposes upon defendant the duty to initiate and conclude all the steps required, if any, so that the mandated payment can be effected without delay. If there is delay in complying with the directive to pay, necessary proceedings may be taken to confiscate patrimonial properties and cash savings of defendant to satisfy the judgment in favor of plaintiffs.

Furnish copies of this Order to counsel for defendant and counsel for plaintiffs.

SO ORDERED.^[7]

Cebu City elevated to the appellate court the Decisions dated January 14, 2000 and July 24, 2001 as well as the February 5, 2001 Order and March 21, 2002 Consolidated Order. On May 29, 2007, the CA denied the appeal and affirmed the assailed decisions and orders of the RTC.^[8] Cebu City's motion for reconsideration suffered the same fate.^[9]

A petition for review, docketed as G.R. No. 179662, was then filed by Cebu City before this Court, but it was also denied in a Resolution^[10] dated December 5, 2007. Per Entry of Judgment,^[11] the decision became final and executory on April 21, 2008.

During the implementation of the RTC Decisions and Orders, the parties were again involved in a dispute, this time over the payment of interest and the amount on which it should be based. In CA-G.R. SP No. 04418, the CA nullified and set aside the assailed orders of the trial court and directed the execution of the Decision dated July 24, 2001, as modified by the March 21, 2002 Consolidated Order, strictly in accordance with its tenor.^[12] Cebu City moved to reconsider the CA decision, but it was denied.^[13] In G.R. No. 194111, We likewise denied Cebu City's petition for review and motion for reconsideration.^[14] Our resolution became final and executory on June 16, 2011.^[15]

On March 26, 2012, Cebu City filed a Rule 47 Petition^[16] with prayer for temporary restraining order (TRO) and/or writ of preliminary injunction (WPI), docketed as CA-G.R. SP No. 06676, in order to annul the RTC Decision dated January 14, 2000 and July 24, 2001 as well as the February 5, 2001 Order and March 21, 2002 Consolidated Order. Cebu City asserted that the complainants in Civil Case No. CEB-20388 committed extrinsic fraud for deliberately suppressing a document denominated as *Convenio*, which contained a stipulation *pour autrui* whereby Lot Nos. 485-D and 485-E were supposed to be donated by Fr. Rallos or his heirs and assigns in favor of Cebu City. It claimed that it was only in July 2011 that Cebu City learned of the existence of the *Convenio*, which was duly approved by a Court of First Instance in a Decision dated October 18, 1940, and of the testate proceeding of Fr. Rallos in Special Proceeding No. 1017-R, which did not include the subject lots among the distributable assets of the decedent. Relevant portions of the petition alleged as follows:

52. In the present case, the City of Cebu, through former COUNCILOR JOCELYN PESQUERA came to know of the so-called CONVENIO only [in] July 2011 after the latter was informed and furnished a copy of the said document and other related records by some heirs of Rev. Fr. Vicente Rallos. x x x;

53. Under the "CONVENIO" dated September 22, 1940 duly approved by the Honorable Court in [a] Decision dated October 18, 1940, the Testate Estate of Vicente Rallos and his heirs and assigns have the responsibility to transfer ownership of Lot No. 485-D and Lot No. 485-E by way of DONATION to the City of Cebu of which the latter is willing to accept the same[;]

54. The CONVENIO and the DECISION dated **October 18, 1940** (as translated from Spanish) were already in the possession of the Heirs of Vicente Rallos, such that, before the filing of the [case] docketed as Civil Case No. CEB-20388, and as plaintiffs, have responsibility, as it owes candor to the court, to disclose such facts, evidence, and such issuances of a co-equal branch;

55. Coming to Court with unclean hand and without being truthful, the plaintiffs, Heirs of Vicente Rallos, purposely suppressed the said CONVENIO AND DECISION DATED October 18, 1940, thereby claiming payment, by way of just compensation, for two lots ([Lots] 485-D and 485-E) which, SHOULD HAVE BEEN DONATED to the City of Cebu to be used as road lot as early as 1940;