

EN BANC

[G.R. No. 200903, July 22, 2014]

KALIPUNAN NG DAMAYANG MAHIHIRAP, INC., REPRESENTED BY ITS VICE-PRESIDENT, CARLITO BADION, CORAZON DE JESUS HOMEOWNERS ASSOCIATION, REPRESENTED BY ITS PRESIDENT, ARNOLD REPIQUE, FERNANDO SEVILLA AS PRESIDENT OF SAMAHANG PAMATA SA KAPATIRANG KRISTIYANO, ESTRELIETA BAGASBAS, JOCY LOPEZ, ELVIRA VIDOL, AND DELIA FRAYRES, PETITIONERS, VS. JESSIE ROBREDO, IN HIS CAPACITY AS SECRETARY, DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT, HON. GUIA GOMEZ, IN HER CAPACITY AS MAYOR OF THE CITY OF SAN JUAN, HON. HERBERT BAUTISTA, IN HIS CAPACITY AS THE MAYOR OF QUEZON CITY, HON. JOHN REY TIANGCO, IN HIS CAPACITY AS MAYOR OF NAVOTAS CITY, AND THE GENERAL MANAGER OF THE NATIONAL HOUSING AUTHORITY, RESPONDENTS.

D E C I S I O N

BRION, J.:

This is a petition for prohibition and mandamus to enjoin the public respondents from evicting the individual petitioners as well as the petitioner-associations' members from their dwellings in the cities of San Juan, Navotas and Quezon without any court order, and to compel the respondents to afford them judicial process prior to evictions and demolitions. The petition primarily seeks to declare as unconstitutional Section 28 (a) and (b) of Republic Act No. 7279 (RA 7279), otherwise known as Urban Development Housing Act, which authorizes evictions and demolitions under certain circumstances without any court order.

The Factual Antecedents

The members of petitioners Kalipunan ng Damayang Mahihirap, Inc. and Corazon de Jesus Homeowners' Association as well as the individual petitioners, Fernando Sevilla, Estrelieta Bagasbas, Jocy Lopez, Elvira Vidol and Delia Frayres, were/are occupying parcels of land owned by and located in the cities of San Juan, Navotas and Quezon (collectively, *the LGUs*^[1]). These LGUs sent the petitioners notices of eviction and demolition pursuant to Section 28 (a) and (b) of RA 7279 in order to give way to the implementation and construction of infrastructure projects^[2] in the areas illegally occupied by the petitioners.^[3]

Section 28 (a) and (b) of RA 7279 authorize evictions and demolitions without any court order when: (1) persons or entities occupy danger areas such as esteros, railroad tracks, garbage dumps, riverbanks, shorelines, waterways, and other public places such as sidewalks, roads, parks, and playgrounds; and (2) persons or entities occupy areas where government infrastructure projects with available funding are

about to be implemented.

The Petition

On March 23, 2012, the petitioners directly filed a petition for prohibition and mandamus before the Court, seeking to compel the Secretary of Interior and Local Government, et al. (*the public respondents*) to first secure an eviction and/or demolition order from the court prior to their implementation of Section 28 (a) and (b) of RA 7279.

The petitioners justify their direct recourse before this Court by generally averring that they have no plain, speedy and adequate remedy in the ordinary course of law.

[4] They also posit that the respondents gravely abused their discretion in implementing Section 28 (a) and (b) of RA 7279 which are patently unconstitutional. They likewise insist that they stand to be directly injured by the respondents' threats of evictions and demolitions. In the alternative, they contend that the transcendental public importance of the issues raised in this case clothes them with legal standing.[5]

The petitioners argue that Section 28 (a) and (b) of RA 7279 offend their constitutional right to due process because they warrant evictions and demolitions without any court order. They point out that Section 6, Article 3 of the 1987 Constitution expressly prohibits the impairment of liberty of abode unless there is a court order. Moreover, Section 28 (a) and (b) of RA 7279 violate their right to adequate housing, a universal right recognized in Article 25 of Universal Declaration of Human Rights and Section 2 (a) of RA 7279. The petitioners further complain that the respondents had previously conducted evictions and demolitions in a violent manner, contrary to Section 10, Article 13 of the 1987 Constitution.[6]

The Respondents' Case

A. The Position of the Mayor of Navotas

The Mayor of Navotas prays for the outright dismissal of the petition for its serious procedural defects. **First**, the petitioners ignored the hierarchy of courts when they directly filed a Rule 65 petition before the Court.[7] **Second**, the petitioners incorrectly availed themselves of a petition for prohibition and mandamus in assailing the constitutionality of Section 28 (a) and (b) of RA 7279. According to the Mayor of Navotas, the office of a writ of prohibition is merely to prevent the public respondent's usurpation of power or improper assumption of jurisdiction. On the other hand, a writ of mandamus only commands the public respondent to perform his ministerial functions. **Third**, the petitioners failed to particularly state the grave abuse of discretion that the Mayor of Navotas allegedly committed. Fourth, the petition does not present any justiciable controversy since the City of Navotas had already successfully evicted the petitioners in San Roque, Navotas on November 28, 2011. **Fifth**, the petition was filed out of time since the petitioners were personally notified of the intended eviction and demolition on September 23, 2011.[8]

The Mayor argues that Section 10, Article 13 of the 1987 Constitution allows evictions and demolitions to be conducted even without a court order provided they are done in accordance with the law and in a just and humane manner. According to

him, RA 7279 is precisely the law referred to by Section 10, Article 13 of the 1987 Constitution. The Mayor also disputes the petitioners' claim that RA 7279 does not afford the informal settlers procedural due process prior to evictions and demolitions. He points out that Section 28 of RA 7279 and its implementing rules and regulations (*IRR*) mandate that the affected persons or entities shall be given notice at least thirty (30) days prior to the date of eviction or demolition. The respondents are likewise required to consult with the duly designated representatives of the affected families and communities with respect to their relocation. He further asserts that his faithful implementation of Section 28 (a) and (b) of RA 7279, which are presumed to be constitutional, cannot be equated to grave abuse of discretion. Lastly, the Mayor of Navotas insists that the petitioners' invocation of their right to freely choose their abode is misplaced since they have no vested right to occupy properties that they do not own.^[9]

B. The Position of the Mayor of San Juan

The Mayor of San Juan similarly argues that the petitioners improperly availed themselves of a petition for prohibition and mandamus before the Court. She contends that she performed neither judicial nor ministerial functions in implementing RA 7279, the enabling law of Section 10, Article 13 of the 1987 Constitution. She also maintains that the petition has been rendered moot and academic by the successful eviction of some of the petitioners in Pinaglabanan, Corazon de Jesus, San Juan. The Mayor of San Juan further stresses that Section 28 (a) and (b) of RA 7279 already lay down the procedure in evicting informal settlers in a just and humane manner.^[10]

C. The Position of the Mayor of Quezon

The Mayor of Quezon City holds that the petitioners' premature invocation of the Court's power of judicial review and their violation of the principle of hierarchy of courts are fatal to their cause of action. Moreover, the petitioners failed to substantiate the material allegations in the petition. He additionally argues that his faithful implementation of RA 7279, which the legislature enacted in the exercise of police power, does not amount to grave abuse of discretion.^[11]

D. The Position of the Secretary of Interior and Local Government and the General Manager of the National Housing Authority

The Secretary of Interior and Local Government and the National Housing Authority (*NHA*) General Manager adopt the Mayor of Navotas' position that the petition is procedurally infirm. They further argue that the liberty of abode is not illimitable and does not include the right to encroach upon other person properties. They also reiterate that Section 28 of RA 7279 provides sufficient safeguards in ensuring that evictions and demolitions are carried out in a just and humane manner.^[12]

The Issues

This case presents to us the following issues:

- (1) Whether the petition should be dismissed for serious procedural defects; and

- (a) Whether the petitioners violated the principle of hierarchy of courts;
- (b) Whether the petitioners correctly availed themselves of a petition for prohibition and mandamus;
- (2) Whether Section 28 (a) and (b) of RA 7279 are violative of Sections 1 and 6, Article 3 of the 1987 Constitution.

The Court's Ruling

We dismiss the petition.

The petitioners violated the principle of hierarchy of courts when they directly filed the petition before the Court.

The petitioners have unduly disregarded the hierarchy of courts by coming directly to the Court with their petition for prohibition and mandamus. The petitioners appear to have forgotten that the Supreme Court is a court of last resort, not a court of first instance. The hierarchy of courts should serve as a general determinant of the appropriate forum for Rule 65 petitions. The concurrence of jurisdiction among the Supreme Court, Court of Appeals and the Regional Trial Courts to issue writs of certiorari, prohibition, mandamus, quo warranto, habeas corpus and injunction does not give the petitioners the unrestricted freedom of choice of forum. By directly filing Rule 65 petitions before us, the petitioners have unduly taxed the Court's time and attention which are better devoted to matters within our exclusive jurisdiction. Worse, the petitioners only contributed to the overcrowding of the Court's docket. We also wish to emphasize that the trial court is better equipped to resolve cases of this nature since this Court is not a trier of facts and does not normally undertake an examination of the contending parties' evidence.^[13]

The petitioners wrongly availed themselves of a petition for prohibition and mandamus.

We cannot also ignore the petitioners' glaring error in using a petition for prohibition and mandamus in the current case.

The petitioners seem to have forgotten that a writ of prohibition only lies against the tribunal, corporation, board, officer or person's exercise of **judicial, quasi-judicial or ministerial functions**.^[14] We issue a writ of prohibition to afford the aggrieved party a relief against the respondent's usurpation or grave abuse of jurisdiction or power.^[15]

On the other hand, a petition for mandamus is merely directed against the tribunal, corporation, board, officer, or person who unlawfully neglects the performance of an act which the law enjoins as a duty resulting from an office, trust or station or who unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled.^[16] Thus, a writ of mandamus will only issue to compel an officer to perform a **ministerial duty**. It will not control a public officer's exercise of discretion as where the law imposes upon him the duty to exercise his judgment in reference to any manner in which he is required to act precisely because it is his judgment that is to be exercised, not that of the court.^[17]

In the present case, the petitioners seek to prohibit the respondents from implementing Section 28 (a) and (b) of RA 7279 without a prior court order of eviction and/or demolition. In relation to this, paragraph 1, Section 28 of RA 7279 provides:

Sec. 28. Eviction and Demolition. — Eviction or demolition as a practice shall be discouraged. Eviction or demolition, however, may be allowed under the following situations:

- (a) When persons or entities occupy danger areas such as esteros, railroad tracks, garbage dumps, riverbanks, shorelines, waterways, and other public places such as sidewalks, roads, parks, and playgrounds;**
- (b) When government infrastructure projects with available funding are about to be implemented; or**
- (c) When there is a court order for eviction and demolition.
(emphasis and underline ours)

A reading of this provision clearly shows that the acts complained of are beyond the scope of a petition for prohibition and mandamus. The use of the permissive word “may” implies that the public respondents have discretion when their duty to execute evictions and/or demolitions shall be performed. Where the words of a statute are clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation.^[18]

Consequently, the time when the public respondents shall carry out evictions and/or demolitions under Section 28 (a), (b), and (c) of RA 7279 is merely discretionary, and not ministerial, judicial or quasi-judicial. The duty is discretionary if the law imposes a duty upon a public officer and gives him the right to decide when the duty shall be performed.

In contrast, a ministerial duty is one which an officer or tribunal performs in a given state of facts, in a prescribed manner, in obedience to the mandate of a legal authority, without regard to or the exercise of his own judgment upon the propriety or impropriety of the act done.^[19]

On the other hand, both judicial and quasi-judicial functions involve the determination of what the law is, and what the legal rights of the contending parties are, with respect to the matter in controversy and, on the basis thereof and the facts obtaining, the adjudication of their respective rights.^[20]

The resolution of the constitutionality of Section 28 (a) and (b) of RA 7279 is not the lis mota of the case.

Even if we treat the present petition as one for *certiorari* since it assails the constitutionality of Section 28 (a) and (b) of RA 7279, the petition must necessarily fail for failure to show the essential requisites that would warrant the Court’s exercise of judicial review. It is a rule firmly entrenched in our jurisprudence that