

SECOND DIVISION

[G.R. No. 198860, July 23, 2012]

ABRAHAM RIMANDO, PETITIONER, VS. NAGUILIAN EMISSION TESTING CENTER, INC., REPRESENTED BY ITS PRESIDENT, ROSEMARIE LLARENAS AND HON. COURT OF APPEALS, RESPONDENTS.

R E S O L U T I O N

REYES, J.:

Before us is a petition for review on *certiorari*^[1] under Rule 45 of the Rules of Court seeking to annul and set aside Decision^[2] dated March 30, 2011 of the Court of Appeals (CA) in CA-G.R. SP NO. 112152.

The Facts

The present controversy stemmed from a petition for mandamus and damages filed before Branch 67 of the Regional Trial Court (RTC) of Bauang, La Union, by Naguilian Emission Testing Center, Inc., represented by its President, Rosemarie Llarenas (respondent) against Abraham P. Rimando (petitioner), who, at the time material to the case, was the sitting mayor of the Municipality of Naguilian, La Union.

The petition prayed for the issuance of a writ of mandamus to compel the petitioner to issue a business permit in favor of the respondent.

In support of its plea, the respondent claimed that its business is being conducted on a parcel of land which formerly belonged to the national government but later on certified by the Department of Environment and Natural Resources (DENR) as an alienable and disposable land of the public domain. The respondent had operated its business of emission testing on the land from 2005 to 2007. On January 18, 2008, the respondent filed an application for the renewal of its business permit and paid the corresponding fees therefor.

The petitioner, however, refused to issue a business permit unless and until the respondent executes a contract of lease with the Municipality of Naguilian. The respondent was amenable to signing such contract subject to some proposed revisions, which, however, were not acceptable to the petitioner. The parties did not reach a common ground hence, the petition for mandamus.

The Ruling of the RTC

On May 26, 2009, the RTC denied the petition^[3] for lack of merit based on the ratiocinations that: (a) the Municipality of Naguilian is the declared owner of the subject parcel of land by virtue of Tax Declaration No. 002-01197; (b) under Section 6A.01 of the Revenue Code of the Municipality of Naguilian, the municipality has the

right to require the petitioner to sign a contract of lease because its business operation is being conducted on a real property owned by the municipality; and (c) a mayor's duty to issue business permits is discretionary in nature which may not be enforced by a mandamus writ. The decretal portion of the decision reads:

WHEREFORE, premises considered, the petition is **DENIED** for lack of merit.

SO ORDERED.^[4]

The Ruling of the CA

Unwaivering, the respondent appealed to the CA. In its Decision^[5] dated March 30, 2011, the CA held that the appeal was dismissible on the ground of mootness considering that the period for which the business period was being sought had already lapsed. As such, any ruling on the matter would bring no practical relief. Nonetheless, the CA proceeded to resolve the issues involved in the appeal for academic purposes.

The CA disagreed with the RTC and found that the factual milieu of the case justifies the issuance of a writ of mandamus. The CA reasoned that the tax declaration in the name of the municipality was insufficient basis to require the execution of a contract of lease as a condition *sine qua non* for the renewal of a business permit. The CA further observed that *Sangguniang Bayan* Resolution No. 2007-81, upon which the municipality anchored its imposition of rental fees, was void because it failed to comply with the requirements of the Local Government Code and its Implementing Rules and Regulations.

The CA held that the petitioner may not be held liable for damages since his action or inaction, for that matter, was done in the performance of official duties that are legally protected by the presumption of good faith. The CA likewise stressed that the civil action filed against the petitioner had already become moot and academic upon the expiration of his term as the mayor of Naguilian, La Union.

Despite its incessant declarations on the mootness of the case, the CA disposed of the appeal in this wise:

WHEREFORE, the *Decision* dated 26 May 2009 of the Regional Trial Court, First Judicial Region, Bauang, La Union, Branch 67, in Special Civil Action Case No. 72-BG, is hereby **REVERSED** and **SET ASIDE**.

SO ORDERED.^[6]

The petitioner moved for reconsideration^[7] questioning the pronouncement of the CA that *Sangguniang Bayan* Resolution No. 2007-81 was void and arguing that a petition for mandamus is not the proper vehicle to determine the issue on the ownership of the subject land. The motion was denied in the CA Resolution^[8] dated September 30, 2011.

The petitioner is now before this Court reiterating the arguments raised in his motion for reconsideration.

Our Ruling

We agree with the CA that the petition for mandamus has already become moot and academic owing to the expiration of the period intended to be covered by the business permit.

An issue or a case becomes moot and academic when it ceases to present a justiciable controversy so that a determination thereof would be without practical use and value^[9] or in the nature of things, cannot be enforced.^[10] In such cases, there is no actual substantial relief to which the applicant would be entitled to and which would be negated by the dismissal of the petition.^[11] As a rule, courts decline jurisdiction over such case, or dismiss it on ground of mootness.^[12]

The objective of the petition for mandamus to compel the petitioner to grant a business permit in favor of respondent corporation for the period 2008 to 2009 has already been superseded by the passage of time and the expiration of the petitioner's term as mayor. Verily then, the issue as to whether or not the petitioner, in his capacity as mayor, may be compelled by a writ of mandamus to release the respondent's business permit ceased to present a justiciable controversy such that any ruling thereon would serve no practical value. Should the writ be issued, the petitioner can no longer abide thereby; also, the effectivity date of the business permit no longer subsists.

While the CA is not precluded from proceeding to resolve the otherwise moot appeal of the respondent, we find that the decretal portion of its decision was erroneously couched.

The CA's conclusions on the issue of ownership over the subject land and the invalidity of *Sangguniang Bayan* Resolution No. 2007-81, aside from being unsubstantiated by convincing evidence, can no longer be practically utilized in favor of the petitioner. Thus, the overriding and decisive factor in the final disposition of the appeal was its mootness and the CA should have dismissed the same along with the petition for mandamus that spawned it.

More importantly, a mayor cannot be compelled by mandamus to issue a business permit since the exercise of the same is a delegated police power hence, discretionary in nature. This was the pronouncement of this Court in *Roble Arrastre, Inc. v. Hon. Villaflor*^[13] where a determination was made on the nature of the power of a mayor to grant business permits under the Local Government Code,^[14] viz:

Central to the resolution of the case at bar is a reading of Section 444(b) (3)(iv) of the Local Government Code of 1991, which provides, thus: