

## FIRST DIVISION

[ G.R. No. 171873, July 09, 2010 ]

**MUNICIPALITY OF TIWI, REPRESENTED BY HON. MAYOR JAIME C. VILLANUEVA AND THE SANGGUNIANG BAYAN OF TIWI, PETITIONERS, VS. ANTONIO B. BETITO, RESPONDENT.**

### D E C I S I O N

**DEL CASTILLO, J.:**

A judgment on the pleadings is proper when the answer admits all the material averments of the complaint. But where several issues are properly tendered by the answer, a trial on the merits must be resorted to in order to afford each party his day in court.

This Petition for Review on *Certiorari* seeks to reverse and set aside the Court of Appeal's (CA) October 19, 2005 Decision<sup>[1]</sup> in CA G.R. CV No. 79057, which affirmed the March 3, 2001 Partial Decision<sup>[2]</sup> of the Regional Trial Court (RTC) of Quezon City, Branch 96 in Civil Case No. Q-99-39370, and the March 10, 2006 Resolution<sup>[3]</sup> denying petitioner's motion for reconsideration.

#### ***Factual Antecedents***

The instant case is an offshoot of *National Power Corporation v. Province of Albay*<sup>[4]</sup> and *Salalima v. Guingona, Jr.*<sup>[5]</sup> It is, thus, necessary to revisit some pertinent facts from these cases in order to provide an adequate backdrop for the present controversy.

On June 4, 1990, this Court issued a Decision in the case of *National Power Corporation v. Province of Albay* finding, among others, the National Power Corporation (NPC) liable for unpaid real estate taxes from June 11, 1984 to March 10, 1987 on its properties located in the Province of Albay (Albay). These properties consisted of geothermal plants in the Municipality of Tiwi (Tiwi) and substations in the Municipality of Daraga. Previously, the said properties were sold at an auction sale conducted by Albay to satisfy NPC's tax liabilities. As the sole bidder at the auction, Albay acquired ownership over said properties.

On July 29, 1992, the NPC, through its then President Pablo Malixi (President Malixi), and Albay, represented by then Governor Romeo R. Salalima (Governor Salalima), entered into a Memorandum of Agreement (MOA) where the former agreed to settle its tax liabilities estimated at P214,845,104.76. The MOA provided, among others, that: (1) the actual amount collectible from NPC will have to be recomputed/revalidated; (2) NPC shall make an initial payment of P17,763,000.00 upon signing of the agreement; (3) the balance of the recomputed/ revalidated amount (less the aforesaid initial payment), shall be paid in 24 equal monthly

installments to commence in September 1992; and (4) ownership over the auctioned properties shall revert to NPC upon satisfaction of the tax liabilities.

On August 3, 1992, then Mayor Naomi C. Corral (Mayor Corral) of Tiwi formally requested Governor Salalima to remit the rightful tax shares of Tiwi and its *barangays* where the NPC's properties were located relative to the payments already made by NPC to Albay. On even date, the *Sangguniang Bayan* of Tiwi passed Resolution No. 12-92 requesting the *Sangguniang Panlalawigan* of Albay to hold a joint session for the purpose of discussing the distribution of the NPC payments.

On August 10, 1992, Governor Salalima replied that the request cannot be granted as the initial payment amounting to P17,763,000.00 was only an "earnest money" and that the total amount to be collected from the NPC was still being validated.

Due to the brewing misunderstanding between Tiwi and the concerned *barangays* on the one hand, and Albay on the other, and so as not to be caught in the middle of the controversy, NPC requested a clarification from the Office of the President as to the scope and extent of the shares of the local government units in the real estate tax collections.

On August 30, 1992, the *Sangguniang Bayan* of Tiwi passed Resolution No. 15-92 authorizing Mayor Corral to hire a lawyer to represent Tiwi and its *barangays* in the recovery of their rightful share in the aforesaid realty taxes. Thereafter, Mayor Corral sought the services of respondent Atty. Antonio B. Betito (respondent) and Atty. Alberto Lawenko (Atty. Lawenko). As a result, on January 25, 1993, Mayor Corral, representing Tiwi, and respondent and Atty. Lawenko entered into a Contract of Legal Services (subject contract). The subject contract provided, among others, that respondent and Atty. Lawenko would receive a 10% contingent fee on whatever amount of realty taxes that would be recovered by Tiwi through their efforts.

On December 3, 1992, the Office of the President, through then Chief Presidential Legal Counsel Antonio T. Carpio,<sup>[6]</sup> opined that the MOA entered into by NPC and Albay merely recognized and established NPC's realty taxes. He further clarified that the sharing scheme and those entitled to the payments to be made by NPC under the MOA should be that provided under the law, and since Tiwi is entitled to share in said realty taxes, NPC may remit such share directly to Tiwi, *viz*:

x x x x

The Memorandum of Agreement entered into by the Province of Albay and NPC merely enunciates the tax liability of NPC. The Memorandum of Agreement does not provide for the manner of payment of NPC's liability. Thus, the manner of payment as provided for by law shall govern. In any event, the Memorandum of Agreement cannot amend the law allowing the payment of said taxes to the Municipality of Tiwi.

The decision in the case of *NPC v. Province of Albay* (186 SCRA 198), likewise, only established the liability of NPC for real property taxes but does not specifically provide that said back taxes be paid exclusively to Albay province.

Therefore, it is our opinion that the NPC may pay directly to the municipality of Tiwi the real property taxes accruing to the same.

Please be guided accordingly.

Very truly yours,

(Sgd.)  
ANTONIO T. CARPIO  
Chief Presidential Legal  
Counsel<sup>[7]</sup>

Because of this opinion, NPC President Malixi, through a letter dated December 9, 1992, informed Mayor Corral and Governor Salalima that starting with the January 1993 installment, NPC will directly pay Tiwi its share in the payments under the MOA. As of December 9, 1992, payments made by NPC to Albay reached P40,724,471.74.

On December 19, 1992, in an apparent reaction to NPC's Decision to directly remit to Tiwi its share in the payments made and still to be made pursuant to the MOA, the *Sangguniang Panlalawigan* of Albay passed Ordinance No. 09-92, which, among others: (1) authorized the Provincial Treasurer upon the direction of the Provincial Governor to sell the real properties (acquired by Albay at the auction sale) at a public auction, and to cause the immediate transfer thereof to the winning bidder; and (2) declared as forfeited in favor of Albay, all the payments already made by NPC under the MOA.

From Albay's refusal to remit Tiwi's share in the aforementioned P40,724,471.74 stemmed several administrative complaints and court cases that respondent allegedly handled on behalf of Tiwi to recover the latter's rightful share in the unpaid realty taxes, including the case of *Salalima v. Guingona, Jr.* In this case, the Court held, among others, that the elective officials of Albay are administratively liable for abuse of authority due to their unjustified refusal to remit the rightful share of Tiwi in the subject realty taxes.

The present controversy arose when respondent sought to enforce the Contract of Legal Services after rendering the aforementioned legal services which allegedly benefited Tiwi. In his Complaint<sup>[8]</sup> for sum of money against Tiwi, represented by then Mayor Patricia Gutierrez, Vice Mayor Vicente Tomas Vera III, *Sangguniang Bayan* Members Rosana Parcia, Nerissa Cotara, Raul Corral, Orlando Lew Velasco, Liberato Ulysses Pacis, Lorenzo Carlet, Bernardo Costo, Jaime Villanueva, Benneth Templado and Municipal Treasurer Emma Cordovales (collectively petitioners), respondent claims that he handled numerous cases which resulted to the recovery of Tiwi's share in the realty taxes. As a result of these efforts, Tiwi was able to collect the amount of P110,985,181.83 and another P35,594,480.00 from the NPC as well as other amounts which will be proven during the trial. Under the Contract of Legal Services, respondent is entitled to 10% of whatever amount that would be collected from the NPC. However, despite repeated demands for the *Sangguniang Bayan* of Tiwi to pass an appropriate ordinance for the payment of his attorney's fees, the former refused to pass the ordinance and to pay what is justly owed him. Respondent prayed that Tiwi be ordered to pay P11,000,000.00 in attorney's fees

and 10% of the other amounts to be determined during trial plus interest and damages; that the *Sangguniang Bayan* be ordered to pass the necessary appropriation ordinance; that the municipal treasurer surrender all the receipts of payments made by the NPC to Tiwi from January 1993 to December 1996 for the examination of the court; and that Tiwi pay P500,000.00 as attorney's fees.

In their Answer,<sup>[9]</sup> petitioners admitted that the *Sangguniang Bayan* of Tiwi passed Resolution No. 15-92 but denied that said resolution authorized then Mayor Corral to enter into the subject contract. In particular, Mayor Corral exceeded her authority when she bound Tiwi to a gargantuan amount equivalent to 10% of the amount of realty taxes recovered from NPC. Further, the legal services under the subject contract should have been limited to the execution of the decision in *National Power Corporation v. Province of Albay* as per Resolution No. 15-92. For these reasons, the subject contract is void, unenforceable, unconscionable and unreasonable. Petitioners further claim that they are not aware of the cases which respondent allegedly handled on behalf of Tiwi since these cases involved officials of the previous administration; that some of these cases were actually handled by the Office of the Solicitor General; and that these were personal cases of said officials. In addition, the Contract of Legal Services was not ratified by the *Sangguniang Bayan* of Tiwi in order to become effective. Petitioners also raise the defense that the realty taxes were recovered by virtue of the opinion rendered by then Chief Presidential Legal Counsel Antonio T. Carpio and not through the efforts of respondent.

As to the amount of P110,985,181.83 in realty taxes, the same was received by Albay and not Tiwi while the amount of P35,594,480.00 is part of the share of Tiwi in the utilization of the national wealth. Furthermore, in a Commission on Audit (COA) Memorandum dated January 15, 1996, the COA ruled that the authority to pass upon the reasonableness of the attorney's fees claimed by respondent lies with the *Sangguniang Bayan* of Tiwi. Pursuant to this memorandum, the *Sangguniang Bayan* of Tiwi passed Resolution No. 27-98 which declared the subject contract invalid. Petitioners also allege that the contract is grossly disadvantageous to Tiwi and that respondent is guilty of laches because he lodged the present complaint long after the death of Mayor Corral; and that the amount collected from NPC has already been spent by Tiwi.

On November 7, 2000, respondent filed a motion<sup>[10]</sup> for partial judgment on the pleadings and/or partial summary judgment.

### ***Regional Trial Court's Ruling***

On March 3, 2001, the trial court rendered a partial judgment on the pleadings in favor of respondent:

WHEREFORE, partial judgment on the pleadings is rendered ordering the defendant Municipality of Tiwi, Albay to pay the plaintiff the sum of P14,657,966.18 plus interest at the legal rate from the filing of the complaint until payment is fully delivered to the plaintiff; and, for this purpose, the defendant *Sangguniang Bayan* of Tiwi, represented by the co-defendants officials, shall adopt and approve the necessary appropriation ordinance.

Trial to receive evidence on the remaining amounts due and payable to the plaintiff pursuant to the contract of legal services shall hereafter continue, with notice to all the parties.

SO ORDERED.<sup>[11]</sup>

The trial court held that petitioners' answer to the complaint failed to tender an issue, thus, partial judgment on the pleadings is proper. It noted that petitioners did not specifically deny under oath the actionable documents in this case, particularly, the Contract of Legal Services and Resolution No. 15-92. Consequently, the genuineness and due execution of these documents are deemed admitted pursuant to Section 8, Rule 8 of the Rules of Court. Thus, the authority of Mayor Corral to enter into the subject contract was deemed established.

It added that the authority given to Mayor Corral to hire a lawyer was not only for the purpose of executing the decision in *National Power Corporation v. Province of Albay* but extended to representing the interest of Tiwi in other cases as well. Further, the said resolution did not impose as a condition precedent the ratification of the subject contract by the *Sangguniang Bayan* in order to render it effective. Lastly, the trial court ruled that the answer admitted, through a negative pregnant, that Tiwi was paid the amounts of P110,985,181.83 and P35,594,480.00, hence, respondent is entitled to 10% thereof as attorney's fees under the terms of the subject contract.

### ***Court of Appeal's Ruling***

In its assailed October 19, 2005 Decision, the CA affirmed the Decision of the trial court:

**WHEREFORE**, premises considered, the Partial Decision of the Regional Trial Court of Quezon City, Branch 96, dated March 3, 2001, is **AFFIRMED**.

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

The appellate court agreed with the trial court that the genuineness and due execution of the Contract of Legal Services and Resolution No. 15-92 was impliedly admitted by petitioners because of their failure to make a verified specific denial thereof. Further, the answer filed by the petitioners admitted the material averments of the complaint concerning Tiwi's liability under the subject contract and its receipt from the NPC of a total of P146,579,661.84 as realty taxes. Petitioners cannot claim that the subject contract required ratification because this

is not a requisite for the enforceability of a contract against a local government unit under the express terms of the contract and the provisions of the Local Government Code (LGC). Also, petitioners are estopped from questioning the enforceability of the contract after having collected and enjoyed the benefits derived therefrom.