518 Phil. 801

FIRST DIVISION

[G.R. NO. 168696, February 28, 2006]

MA. LUTGARDA P. CALLEJA, JOAQUIN M. CALLEJA, JR., JADELSON PETER P. CALLEJA, MA. JESSICA T. FLORES, MERCIE C. TIPONES AND PERFECTO NIXON C. TABORA, PETITIONERS, VS. JOSE PIERRE A. PANDAY, AUGUSTO R. PANDAY AND MA. THELNA P. MALLARI, RESPONDENTS.

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

This resolves the petition for review on *certiorari* assailing the Order[1] of the Regional Trial Court of San Jose, Camarines Sur, Branch 58 (RTC-Br. 58) issued on July 13, 2005.

The antecedent facts are as follows.

On May 16, 2005, respondents filed a petition with the Regional Trial Court of San Jose, Camarines Sur for *quo warranto* with Damages and Prayer for Mandatory and Prohibitory Injunction, Damages and Issuance of Temporary Restraining Order against herein petitioners. Respondents alleged that from 1985 up to the filing of the petition with the trial court, they had been members of the board of directors and officers of St. John Hospital, Incorporated, but sometime in May 2005, petitioners, who are also among the incorporators and stockholders of said corporation, forcibly and with the aid of armed men usurped the powers which supposedly belonged to respondents.

On May 24, 2005, RTC-Br. 58 issued an Order transferring the case to the Regional Trial Court in Naga City. According to RTC-Br. 58, since the verified petition showed petitioners therein (herein respondents) to be residents of Naga City, then pursuant to Section 7, Rule 66 of the 1997 Rules of Civil Procedure, the action for *quo warranto* should be brought in the Regional Trial Court exercising jurisdiction over the territorial area where the respondents or any of the respondents resides. However, the Executive Judge of RTC, Naga City refused to receive the case folder of the subject case for *quo warranto,* stating that improper venue is not a ground for transferring a *quo warranto* case to another administrative jurisdiction.

The RTC-Br. 58 then proceeded to issue and serve summons on herein petitioners (respondents below). Petitioner Tabora filed his Answer dated June 8, 2005, raising therein the affirmative defenses of (1) improper venue, (2) lack of jurisdiction, and (3) wrong remedy of *quo warranto*. Thereafter, the other petitioners also filed their Answer, also raising the same affirmative defenses. All the parties were then required to submit their respective memoranda.

On July 13, 2005, RTC-Br. 58 issued the assailed Order, the pertinent portions of which read as follows:

> It is undisputed that the plaintiffs' cause of action involves controversies arising out of intra-corporate relations, between and among stockholders, members or associates of the St. John Hospital Inc. which originally under PD 902-A approved on **March 11, 1976** is within the original and exclusive jurisdiction of the Securities and Exchange Commission to try and decide in addition to its regulatory and adjudicated functions (Section 5, PD 902-A). Upon the advent of RA 8799 approved on July 19, 2000, otherwise known as the Securities and Regulation Code, the Commission's jurisdiction over all cases enumerated in Section 5, Presidential Decree 902-A were transferred ["]to the Court of general jurisdiction or the appropriate Regional Trial Court with a proviso that the "Supreme Court in the exercise of its authority may designate the Regional Trial Court branches that shall exercise jurisdiction over these cases." Pursuant to this mandate of RA 8799, the Supreme Court in the exercise of said mandated authority, promulgated on November 21, 2000, A.M. No. 00-11-03-SC which took effect 15 December 2000 designated certain branches of the Regional Trial Court to try and decide Securities and Exchange Commission Cases arising within their respective territorial jurisdiction with respect to the National Capital Region and within the respective *provinces* in the First to Twelve Judicial Region. Accordingly, in the Province of Camarines Sur, (Naga City) RTC Branch 23 presided by the Hon. Pablo M. Paqueo, Jr. was designated as "special court" (Section 1, A.M. No. 00-11-03-SC).
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> Subsequently, on January 23, 2001, supplemental Administrative Circular No. 8-01 which took effect on March 1, 2001 was issued by the Supreme Court which directed that "all SEC cases originally assigned or transmitted to the regular Regional Trial Court shall be transferred to branches of the Regional Trial Court specially designated to hear such cases in accordance with A.M. No. 00-11-03-SC.
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> On March 13, 2001, A.M. No. 01-2-04 SC was promulgated and took effect on April 1, 2001.
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> From the foregoing discussion and historical background relative to the venue and jurisdiction to try and decide cases originally enumerated in Section 5 of PD 902-A and later under Section 5.2 of RA 8799, it is evident that the clear intent of the circular is to bestow the juridiction "to try and decide these cases to the "special courts" created under A.M. No. 00-11-03-SC. . . .
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> Under Section 8, of the Interim Rules, [a] Motion to Dismiss is among the prohibited pleadings. On the otherhand, the Supreme Court under Administrative Order 8-01 has directed the transfer from the regular courts to the branches of the Regional Trial Courts specially designated to try and decide intra-corporate dispute.
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> In the light of the above-noted observations and discussion, the *Motion to Dismiss* is **DENIED** pursuant to the Interim Rules of Procedure for

> Intra-Corporate Controversies (A.M. No. 01-2-04-SC) which mandates that motion to dismiss is a prohibited pleading (Section 8) and in consonance with Administrative Order 8-01 of the Supreme Court dated March 1, 2001, this case is hereby ordered ***remanded*** to the Regional Trial Court Branch 23, Naga City which under A.M. No. 00-11-03-SC has been designated as special court to try and decide intra-corporate controversies under R.A. 8799.
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> The scheduled hearing on the prayer for temporary restraining order and preliminary injunction set on July 18, 2005 is hereby cancelled.
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> For reasons of comity the issue of whether Quo Warranto is the proper remedy is better left to the court of competent jurisdiction to rule upon.
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> SO ORDERED. [2]

Petitioners no longer moved for reconsideration of the foregoing Order and, instead, immediately elevated the case to this Court via a petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure.

The petition raises the following issues:

> I
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> WHETHER A BRANCH OF THE REGIONAL TRIAL COURT WHICH HAS NO JURISDICTION TO TRY AND DECIDE A CASE HAS AUTHORITY TO REMAND THE SAME TO ANOTHER CO-EQUAL COURT IN ORDER TO CURE THE DEFECTS ON VENUE AND JURISDICTION
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> II
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> WHETHER OR NOT ADMINISTRATIVE CIRCULAR NO. 8-01 DATED JANUARY 23, 2001 WHICH TOOK EFFECT ON MARCH 1, 2001 MAY BE APPLIED IN THE PRESENT CASE WHICH WAS FILED ON MAY 16, 2005. [3]

In their Comment, respondents argue that the present petition should be denied due course and dismissed on the grounds that (1) an appeal under Rule 45 is inappropriate in this case because the Order dated July 13, 2005 is merely an interlocutory order and not a final order as contemplated under Rule 45 of the 1997 Rules of Civil Procedure; (2) a petition for review on *certiorari* under Rule 45 is the wrong remedy under A.M. No. 04-9-07-SC, which provides that "all decisions and final orders in cases falling under the Interim Rules of Corporate Rehabilitation and the Interim Rules of Procedure Governing Intra-Corporate Controversies under Republic Act No. 8799 shall be appealable to the Court of Appeals through a petition for review under Rule 43 of the Rules of Court;" and (3) the petition was intended merely to delay the proceedings in the trial court because when the case was transferred to Branch 21 of the Regional Trial Court, said court granted petitioners' motion to hold the proceedings in view of the present petition pending before this Court.

Subsequently, petitioners also filed an Urgent Motion to Restore Status Quo Ante, alleging that on January 12, 2006, respondent Jose Pierre Panday, with the aid of 14 armed men, assaulted the premises of St. John Hospital in Naga City, taking away the daily hospital collections estimated at P400,000.00.

The Court notes that, indeed, petitioners chose the wrong remedy to assail the Order of July 13, 2005. It is hornbook principle that Rule 45 of the 1997 Rules of Civil Procedure governs appeals from judgments or final orders.[4] The Order dated July 13, 2005 is basically a denial of herein petitioners' prayer in their Answer for the dismissal of respondents' case against them. As a consequence of the trial court's refusal to dismiss the case, it then directed the transfer of the case to another branch of the Regional Trial Court that had been designated as a special court to hear cases formerly cognizable by the SEC. Verily, the order was merely interlocutory as it does not dispose of the case completely, but leaves something more to be done on its merits. Such being the case, the assailed Order cannot ordinarily be reviewed through a petition under Rule 45. As we held in *Tolentino v. Natanauan*, [5] to wit:

> In the case of *Bangko Silangan Development Bank vs. Court of Appeals,* the Court reiterated the well-settled rule that:
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> . . . an order denying a motion to dismiss is merely interlocutory and therefore not appealable, nor can it be the subject of a petition for review on certiorari. Such order may only be reviewed in the ordinary course of law by an appeal from the judgment after trial. The ordinary procedure to be followed in that event is to file an answer, go to trial, and if the decision is adverse, reiterate the issue on appeal from the final judgment.[6]

It appears, however, that the longer this case remains unresolved, the greater chance there is for more violence between the parties to erupt. In *Philippine Airlines v. Spouses Kurangking*,[7] the Court proceeded to give due course to a case despite the wrong remedy resorted to by the petitioner therein, stating thus:

> While a petition for review on certiorari under Rule 45 would ordinarily be inappropriate to assail an interlocutory order, in the interest, however, of arresting the perpetuation of an apparent error committed below that could only serve to unnecessarily burden the parties, the Court has resolved to ignore the technical flaw and, also, to treat the petition, there being no other plain, speedy and adequate remedy, as a special civil action for certiorari. Not much, after all, can be gained if the Court were to refrain from now making a pronouncement on an issue so basic as that submitted by the parties.[8]

In this case, the basic issue of which court has jurisdiction over cases previously cognizable by the SEC under Section 5, Presidential Decree No. 902-A (P.D. No. 902-A), and the propensity of the parties to resort to violence behoove the Court to look beyond petitioners' technical lapse of filing a petition for review on certiorari instead of filing a petition for *certiorari* under Rule 65 with the proper court. Thus, the Court shall proceed to resolve the case on its merits.

It should be noted that allegations in a complaint for *quo warranto* that certain