

EN BANC

[G.R. NO. 166859, June 26, 2006]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. SANDIGANBAYAN (FIRST DIVISION), EDUARDO M. COJUANGCO, JR., AGRICULTURAL CONSULTANCY SERVICES, INC., ARCHIPELAGO REALTY CORP., BALENTE RANCH, INC., BLACK STALLON RANCH, INC., CHRISTENSEN PLANTATION COMPANY, DISCOVERY REALTY CORP., DREAM PASTURES, INC., ECHO RANCH, INC., FAR EAST RANCH, INC., FILSOV SHIPPING COMPANY, INC., FIRST UNITED TRANSPORT, INC., HABAGAT REALTY DEVELOPMENT, INC., KALAWAKAN RESORTS, INC., KAUNLARAN AGRICULTURAL CORP., LABAYUG AIR TERMINALS, INC., LANDAIR INTERNATIONAL MARKETING CORP., LHL CATTLE CORPORATION, LUCENA OIL FACTORY, INC., MEADOW LARK PLANTATIONS, INC., METROPLEX COMMODITIES, INC., MISTY MOUNTAIN AGRICULTURAL CORP., NORTHEAST CONTRACT TRADERS, INC., NORTHERN CARRIERS CORPORATION, OCEANSIDE MARITIME ENTERPRISES, INC., ORO VERDE SERVICES, INC., PASTORAL FARMS, INC., PCY OIL MANUFACTURING CORP., PHILIPPINE TECHNOLOGIES, INC., PRIMAVERA FARMS, INC., PUNONG-BAYAN HOUSING DEVELOPMENT CORP., PURA ELECTRIC COMPANY INC., RADIO AUDIENCE DEVELOPERS INTEGRATED ORGANIZATION, INC., RADYO PILIPINO CORPORATION, RANCHO GRANDE, INC., REDDEE DEVELOPERS, INC., SAN ESTEBAN DEVELOPMENT CORP., SILVER LEAF PLANTATIONS, INC., SOUTHERN SERVICE TRADERS, INC., SOUTHERN STAR CATTLE CORP., SPADE ONE RESORTS CORP., UNEXPLORED LAND DEVELOPERS, INC., VERDANT PLANTATATIONS, INC., VESTA AGRICULTURAL CORP. AND WINGS RESORTS CORPORATION, RESPONDENTS.

RESOLUTION

CARPIO MORALES, J.:

For resolution is the Urgent Motion for Issuance of Temporary Restraining Order and/or Writ of Preliminary Injunction which was filed by petitioner, Republic of the Philippines, during the pendency of its Petition for Certiorari before this Court challenging the denial by public respondent, the Sandiganbayan, of its Motion for Partial Summary Judgment in Civil Case No. 0033-F (the civil case).

In support of its present urgent motion, petitioner pleads that the issue it raised in its Petition for Certiorari — whether public respondent committed grave abuse of discretion in denying its Motion for Partial Summary Judgment — must first be resolved, as a continuation of the proceedings in the civil case by public respondent might be rendered unnecessary in the event that its Petition before this Court is

resolved in its favor.

The mere elevation of an interlocutory matter to this Court through a petition for Certiorari under Rule 65 of the Rules of Court, like in the present case, does not by itself merit a suspension of the proceedings before a public respondent, unless a temporary restraining order or a writ of preliminary injunction has been issued against the public respondent. Rule 65, Section 7 of the Rules of Court so provides:

SECTION 7. Expediting proceedings; injunctive relief. – The court in which the petition [for Certiorari, Prohibition and Mandamus] is filed may issue orders expediting the proceedings, and it may also grant a temporary restraining order or a writ of preliminary injunction for the preservation of the rights of the parties pending such proceedings. The petition shall **not** interrupt the course of the principal case **unless** a temporary restraining order or a writ of preliminary injunction has been issued against the public respondent from further proceeding in the case. (Emphasis and underscoring supplied)

The burden is thus on the petitioner in a petition for Certiorari, Prohibition and Mandamus to show that there is a meritorious ground for the issuance of a temporary restraining order or writ of preliminary injunction for the purpose of suspending the proceedings before the public respondent.^[1] Essential for granting injunctive relief is the existence of an urgent necessity for the writ in order to prevent serious damage.^[2]

The Court finds that petitioner has failed to discharge the burden. The ground on which it bases its urgent motion is the alleged futility of proceeding with the trial of the case. This assertion, however, is speculative, anchored on the mere supposition that the petition would be decided in its favor.

There is thus, in this case, a marked absence of any urgent necessity for the issuance of a temporary restraining order or writ of preliminary injunction.

It is gathered though that even prior to the filing of the instant motion, public respondent suspended the proceedings in the civil case, the absence of any temporary restraining order or writ of preliminary injunction from this Court notwithstanding. Thus, petitioner brought to this Court's attention private respondents' insistence to have the civil case set for trial by public respondent, citing private respondents' filing of a "Motion Reiterating Motion to Set Case for Trial" dated June 27, 2005, "Second Motion Reiterating Motion to Set Case for Trial" dated October 26, 2005, and "Manifestation and Motion Reiterating Motion to Set Case for Trial" dated December 8, 2005.^[3]

The earlier quoted Section 7 of Rule 65 provides the general rule that the mere pendency of a special civil action for Certiorari commenced in relation to a case pending before a lower court or court of origin does not stay the proceedings therein in the absence of a writ of preliminary injunction or temporary restraining order.^[4]

There are of course instances where even if there is no writ of preliminary injunction or temporary restraining order issued by a higher court, it would be proper for a lower court or court of origin to suspend its proceedings on the precept of judicial