

## **SECOND DIVISION**

**[ G.R. No. 147861, November 18, 2005 ]**

**PHILIPPINE PORTS AUTHORITY, PETITIONER, VS. PIER 8  
ARRASTRE & STEVE- CHICO-NAZARIO, JJ. DORING SERVICES,  
INC., RESPONDENTS.**

**[G.R. NO. 155252]**

**PHILIPPINE PORTS AUTHORITY, PETITIONER, VS. THE COURT  
OF APPEALS (FORMER NINTH DIVISION) AND PIER 8 ARRASTRE  
& STEVEDORING SERVICES, INC., RESPONDENTS.**

### **D E C I S I O N**

**TINGA, J.:**

These consolidated cases stem from the purported exercise of police power by the Philippine Ports Authority ("PPA") in ousting operators of several arrastre and stevedoring services from their respective piers in the Manila North Harbor. Matters were complicated on account of procedural fiascos that occurred at the Court of Appeals level in both cases.

After distilling peripheral procedural infirmities, two issues remain for resolution. G.R. No. 147861, brought to this Court via a Petition for Review under Rule 45 of the Revised Rules on Civil Procedure, necessitates a determination of the legality of the issuance of a writ of preliminary injunction against PPA's takeover of port services. On the other hand, at issue in the Petition for Certiorari under Rule 65 of the Revised Rules on Civil Procedure docketed as G.R. No 155252 is the correctness of the Court of Appeals' taking cognizance in contempt proceedings of a matter pertaining to the parties' possessory rights already subject of the aforementioned appeal under Rule 45.

The following facts are culled from the records.

In the late 1990's, then President Joseph E. Estrada issued a directive for the modernization of the North Harbor towards unification and rationalization of all facility operators and service providers.<sup>[1]</sup> As the government agency vested with the authority "to coordinate, streamline, improve, and optimize the planning, development, financing, construction, maintenance and operation of ports, port facilities, port physical plants, all equipment used in connection with the operation of a port"<sup>[2]</sup> and "[t]o supervise, control, regulate, construct, maintain, operate, and provide such facilities or services as are necessary in the ports vested in, or belonging to the Authority,"<sup>[3]</sup> it fell upon the PPA to implement the presidential edict. However, the plan for modernization, which required the North Harbor to be run by a single entity, encountered strong opposition including resistance from North Harbor port workers.

On 13 April 2000, PPA received information from a press release by the *Asosasyon ng mga Mangagawa sa Pantalan*, comprising 95% of the North Harbor work force, that it would stage a strike starting 19 April 2000 which would sufficiently paralyze the whole of the North Harbor.<sup>[4]</sup> PPA recounts that several days prior to this announcement, port workers carried out a publicized strike plan by performing a protest march towards Malacañan Palace.<sup>[5]</sup>

According to PPA, these circumstances prompted it to issue on 14 April 2000 Memorandum Order No. 07-2000 creating the PPA North Harbor Services ("PPA-NHPS") to take over cargo handling operations and obviate an interruption of port operations.

On the eve of the planned strike, PPA, aided by a team of SWAT members of the Western Police District, began forcibly occupying several ports in the North Harbor. By around 1:00 a.m. on 16 April 2000, PPA had taken over operations at Piers 6, 8, 12, 14, Terminal 16 and Marine Slipway, and later that morning, Isla Puting Bato.

On 19 April 2000, respondent Pier 8 Arrastre and Stevedoring Services, Inc., ("PASSI")—the service provider dispossessed of Pier 8—filed a complaint for *Injunction with Damages* with prayer for temporary restraining order (TRO) and writ of preliminary injunction docketed as Civil Case No. 00-97157 and raffled to the sala of Judge Zenaida R. Daguna, Regional Trial Court ("RTC") of Manila, Branch 19.

For its part, PASSI had been rendering arrastre and stevedoring services at Pier 8 since 1974. Its latest contract expired on 14 April 1997,<sup>[6]</sup> three years before PPA took over Pier 8. PASSI filed a request for the renewal of its contract which was never formally acted upon by PPA. Thus, PASSI was operating at Pier 8 in a holdover capacity up until PPA's takeover.

On 24 April 2000, the RTC granted PASSI's application for a TRO. However, in a subsequent order<sup>[7]</sup> dated 3 May 2000, the lower court set aside the TRO and denied the preliminary injunction prayed for by PASSI. The RTC applied Section 1, Presidential Decree (P.D.) No. 1818, which provides that "[n]o court shall have jurisdiction to issue any restraining order, preliminary injunction, or preliminary mandatory injunction in any case, dispute, or controversy involving...any public utility operated by the government, including among others public utilities for the transport of the goods or commodities, stevedoring and arrastre contracts...."<sup>[8]</sup> A *Motion for Reconsideration* was denied for lack of merit in an *Order*<sup>[9]</sup> dated 20 June 2000.

This prompted PASSI to file on 5 July 2000 with the Court of Appeals a *Petition for Certiorari* under Rule 65 of the Revised Rules of Civil Procedure asking that a TRO/temporary mandatory order be issued against PPA and its representatives and that the RTC's interlocutory orders dated 3 May 2000 and 20 June 2000 annulled and set aside.<sup>[10]</sup> The case was docketed as CA-G.R. SP No. 59548.

On 6 September 2000, the Court of Appeals issued the TRO prayed for by PASSI. It directed PPA "to cease and desist from continuing its takeover of the operations of [PASSI] at Pier 8 and, from molesting, disturbing and/or interfering PASSI's

operations thereof."<sup>[11]</sup>

On 11 September 2000, PASSI filed before the Court of Appeals a *Petition to Cite in Contempt* certain PPA officials. The petition, docketed as CA-G.R. SP No. 60670, <sup>[12]</sup> alleged that named PPA officials had committed and were continuing to commit acts to molest, disturb and interfere with the operation of PASSI at Pier 8 despite their receipt of the TRO dated 6 September 2000.

Returning to the certiorari petition assailing the RTC's interlocutory order, on 7 November 2000, the Court of Appeals granted PASSI's application for the issuance of a writ of preliminary injunction.<sup>[13]</sup>

On 9 January 2001, the Court of Appeals rendered a *Decision*<sup>[14]</sup> in CA-G.R. SP No. 59548 which not only set aside the orders of the RTC in Civil Case No. 00-97157 but further made permanent its own writ of preliminary injunction issued on 7 November 2000. PPA filed a *Motion for Reconsideration*<sup>[15]</sup> on 30 January 2001.

The Court of Appeals *motu proprio* consolidated CA G.R. SP No. 60670 with CA-G.R. SP No. 59548 through a Resolution dated 16 January 2001.<sup>[16]</sup> It denied PPA's *Motion for Reconsideration* via a *Resolution* on 6 April 2001.<sup>[17]</sup>

On 4 June 2001, PPA filed with this Court a Petition for Review under Rule 45 of the Revised Rules on Civil Procedure, assailing the Court of Appeals' *Decision* dated 9 January 2001 and its *Resolution* dated 6 April 2001. The petition contained an urgent plea for the issuance of a TRO and/or preliminary mandatory injunction to restrain the Court of Appeals from implementing the questioned decision. The case was docketed as G.R. No. 147861.

Meanwhile, the proceedings in the contempt case continued before the Court of Appeals. PASSI filed therein an *Urgent Motion*<sup>[18]</sup> dated 22 August 2002 informing the appellate court that Solid Shipping Lines Corporation, which normally docked its vessels at Pier 8, had written to PPA requesting permission to berth four of its vessels at Pier 6. Portraying the request as a concoction of PPA and its officers in cooperation with Solid Shipping Lines Corporation to molest, interfere or disturb PASSI's operations at Pier 8, PASSI urged the Court of Appeals to require PPA and its respondent officers in the contempt case to strictly abide with the TRO and writ of injunction and to maintain the *status quo* by denying the request of Solid Shipping Lines Corporation to berth four of its vessels at Pier 6. The Court of Appeals granted PASSI's motion in a *Resolution*<sup>[19]</sup> dated 4 September 2002.

On 2 October 2002, PPA filed with this Court a *Petition for Certiorari and Prohibition with Urgent Plea for Temporary Restraining Order and/or Writ of Preliminary Injunction* assailing the Court of Appeals' Resolution in the contempt case. The case was docketed as G.R. No. 155252.

This Court did not act on the prayer for TRO/preliminary injunction. On 31 August 2004, we *motu proprio* consolidated G.R. No 155252 with G.R. No. 147861.

Before moving on to the main issues of the consolidated cases, it is important that we first tackle the procedural mishap that occurred at the Court of Appeals' level.

G.R. No. 147861 originated from PASSI's petition for certiorari before the Court of Appeals under Rule 65 of the Revised Rules on Civil Procedure. Said petition assailed the validity of the RTC's *Order* dated 3 May 2000 denying petitioner's prayer for preliminary injunction<sup>[20]</sup> based on the court's application of P.D. No. 1818. The Petition for Certiorari before the Court of Appeals sought the following reliefs:

- a. This petition be given due course and a Temporary Restraining Order/Temporary Mandatory Order be issued forthwith by this honorable Court ordering respondent PPA, its representatives and agents to cease and desist from continuing its takeover of the operations of petitioner PASSI at Pier 8 and ordering PPA to immediately surrender the operations of the same to PASSI.
- b. **After proceedings, judgment be rendered ANNULING and SETTING ASIDE the Orders of respondent judge dated May 3, 2000 and June 20, 2000.**

Petitioner likewise prays for such other reliefs just and equitable under the premises.<sup>[21]</sup> (Emphasis supplied.)

In its *Decision*, the Court of Appeals explained the parameters of the original action before it in this wise, *viz.*:

Assailed before Us is the Order dated 3 May 2000 of the RTC of Manila in Civil Case No. 00-97157, denying petitioner's prayer for a writ of preliminary injunction, as well as the order dated 20 June 2000 denying petitioner's motion for reconsideration. Citing grave abuse of discretion as the main ground of their petition, Pier 8 Arrastre & Stevedoring Services, Inc., comes and prays for the setting aside and the annulment of the said orders.<sup>[22]</sup>

However, after setting aside the RTC's orders, the Court of Appeals proceeded to rule on the issue of which party has the better possessory right over Pier 8—a matter which is beyond its jurisdiction to resolve given the nature of the action before it and the issues raised therein. The *Decision* is void to that extent.

Moreover, we cannot sustain the grant of preliminary injunction as ordered by the Court of Appeals. As a rule, an application for preliminary injunction entails a determination of whether the requisites provided in Rule 58 of the Revised Rules on Civil Procedure for the issuance of the provisional remedy are extant. In the instant case, however, the impact of P.D. No. 1818—the law which proscribes court injunctions on government projects—must also be taken into account as said law specifically excludes arrastre and stevedoring contracts along with other activities from the sphere of the injunctive power of the courts.<sup>[23]</sup> Consequently, both issues are determinants of the sustainability of the Court of Appeal's decision and the parameters of its jurisdiction in the original action on certiorari.

The requisites to justify an injunctive relief are: (a) the existence of a right in esse or the existence of a right to be protected; and (b) the act against which injunction is to be directed as a violation of such right.<sup>[24]</sup> A preliminary injunction is proper only when the plaintiff appears to be entitled to the relief demanded in his

complaint.<sup>[25]</sup>

PASSI admits that its contract has expired and that it is merely occupying and operating at Pier 8 in a holdover capacity.<sup>[26]</sup> Thus, PASSI's rights over Pier 8 arise not from contractual relations with the PPA, or a statutory grant of authority, but merely by the tolerance of the PPA. Tolerance is not the surest footing on which a right in esse can be established.

In fact, we have already held in *Pernito Arrastre Services v. Mendoza*<sup>[27]</sup> that PPA may legally oust arrastre and stevedoring operators even when the latter had been

conferred with "holdover permits" should the exigencies of public interest so require. Taking off from the earlier ruling in *Anglo-Fil Trading Corporation v. Lazaro*,<sup>[28]</sup> the Court elucidated, thus:

In the case of *Anglo-Fil Trading Corporation v. Lazaro* (124 SCRA 494, 512, 513 and 519), we have already underscored the fact that the arrastre operations in the various ports in the Philippines are affected with public interest. We ruled:

. . . .

"The Manila South Harbor is public property owned by the State. The operations of the premiere port of the country, including stevedoring work, are affected with public interest. Stevedoring services are subject to regulation and control for the public good and in the interest of general welfare."

Undoubtedly, therefore, the State in the exercise of its police power through its agency, the PPA, has the power to revoke the temporary permits of petitioners, assuming the existence of valid temporary permits, and take over the operations of the port of Tacloban whenever the need to promote the public interest and welfare both of the stevedoring industry and the workers therein justifies such take over. This Court has already ruled that the statute which gives PPA the authority to implement the take over cannot be assailed on the constitutional grounds raised by the petitioners. Thus, whatever right, if any, that the petitioners may have acquired on the basis of the temporary permits earlier given them must yield to the State's valid exercise of police power.

. . . .

Furthermore, the records will bear out the fact that only petitioner LIPSI has a temporary permit issued by PPA. **The rest of the petitioners were either merely allowed or tolerated to operate in the port of Tacloban. However, even on the assumption that all of them were able to secure temporary permits from PPA, still, this does not vest any property right on them and hence, petitioners cannot allege a violation of their right to non-deprivation of property without due process of law.**