

## ELEVENTH DIVISION

[ CA-G.R. CV NO. 96221, January 23, 2015 ]

**HON. PHILIP M. CASTILLO, VICE-MAYOR AND PRESIDING OFFICER, SANGGUNIANG PANLUNGSOD, LUCENA CITY, PETITIONER-APPELLANT, VS. HON. RAMON Y. TALAGA, JR., MAYOR AND CHIEF EXECUTIVE, LUCENA CITY, HON. RAMIL C. TALAGA, HON. CLARINDA S. CABANA, HON. BENITO J. BRIZUELA, HON. MICHAEL C. DALIDA, HON. FELIX F. AVILLO, HON. AMERICO F. LACERNA, HON. WILFREDO F. ASILO, HON. MARCELO C. MAGADIA, AND HON. MIKAEL SANDINO T. ANDREY, ALL MEMBERS, SANGGUNIANG PANLUNGSOD, LUCENA CITY, AMELIA F. PASUMBAL, CITY TREASURER, ESTER Y. MATIBAG, CITY BUDGET OFFICER, BERNADETTE B. VALENZUELA, CITY ACCOUNTANT, LUCENA CITY, NICETAS B. GAVIÑO, JR., AVP, HEAD-LUCENA BRANCH, AND ALEX A. HINOJOSA, HEAD, QUEZON LENDING CENTER, LAND BANK OF THE PHILIPPINES, RESPONDENTS-APPELLEES.**

### DECISION

#### SADANG, J.:

Before the Court is an appeal from the Order<sup>[1]</sup> dated August 27, 2010 of the Regional Trial Court of Lucena City, Branch 55, in Special Civil Action No. 2009-08, dismissing the petition for declaratory relief, and of the Order<sup>[2]</sup> dated October 8, 2010 denying the motion for reconsideration.

#### *Antecedents of the Appeal*

On April 20, 2009, respondents-appellees Ramil C. Talaga, Clarinda S. Cabana, Benito J. Brizuela, Michael C. Dalida, Felix F. Avillo, Americo F. Lacerna, Wilfredo F. Asilo, Marcelo C. Magadia, and Mikael Sandino T. Andrey (hereafter, appellees), as members of the Sangguniang Panlungsod (SP, for short) of Lucena City passed Resolution No. 14-470, Series of 2009 entitled:

“A RESOLUTION AUTHORIZING THE HONORABLE CITY MAYOR TO NEGOTIATE/ENTER INTO AN OMNIBUS TERM LOAN AGREEMENT, FOR AN AMOUNT NOT EXCEEDING TWO HUNDRED MILLION PESOS (PHP 200,000,000.00) WITH THE LAND BANK OF THE PHILIPPINES, SUBJECT TO THE RATIFICATION OF THE SANGGUNIANG PANLUNGSOD, ALL LAWS, AND EXISTING LEGAL RULES AND REGULATIONS” (the Resolution, for brevity).

The Resolution was approved by respondent-appellee Mayor Ramon Talaga but it was not signed by petitioner-appellant Philip Castillo (hereafter, appellant), vice-mayor and presiding officer of the SP of Lucena City.<sup>[3]</sup>

On June 4, 2009, appellant filed a Petition for declaratory relief<sup>[4]</sup> before the RTC claiming that the Resolution violates the 1987 Constitution and the Local Government Code (LGC). Specifically, appellant alleged that: 1) the Resolution is defective because there is no existing ordinance that specifies in detail the various projects that would be funded by the loan; 2) there were no public hearings before the passage of the Resolution; 3) the

Annual Budget for Calendar Year 2009 does not provide for the principal and interest payments of the loan; and 4) the city government will surpass the twenty-percent (20%) ceiling on debt servicing.

Appellant filed an Amended Petition which was admitted by the lower court in its Order dated January 22, 2010.<sup>[5]</sup> The Amended Petition impleaded as additional respondents City Treasurer Amelia F. Pasumbal, City Budget Officer Ester Y. Matibag, and City Account Bernadette B. Valenzuela, as well as Nicetas B. Gaviño Jr., Lucena City Branch Head of the Land Bank of the Philippines (LBP), and Alex A. Hinojosa, Head of the Quezon Lending Center of LBP. It was further prayed that a temporary restraining order (TRO) and/or writ of preliminary injunction be issued against appellees to prevent them from processing and releasing the P200M loan until the final consideration of the Resolution.<sup>[6]</sup> On January 26, 2010, the lower court issued a TRO,<sup>[7]</sup> however, on February 12, 2010, the lower court denied appellant's prayer for injunctive relief.<sup>[8]</sup>

Appellees filed their Answer alleging that there is no law that requires an ordinance specifying programs before they can pass the Resolution; public hearings were conducted and a committee report was prepared; the 2009 budget has no provision for interest payments because there is yet no such obligation to be paid and the Resolution is just the first step for securing a loan; and the city government will never surpass the 20% ceiling on debt servicing because the LBP requires a certification from the Department of Finance on the actual debt service capacity of the local government unit (LGU). Appellees averred that the petition does not state a cause of action because appellant did not state his right that may be affected by the Resolution. They also argued that a mere resolution can not be the proper subject of declaratory relief.<sup>[9]</sup>

On August 27, 2010, the RTC issued an Order dismissing the petition. Citing *Heirs of Alberto Suguitan v. City of Mandaluyong*<sup>[10]</sup> and *Municipality of Parañaque v. V.M. Realty Corporation*,<sup>[11]</sup> the RTC sustained appellees' position that unlike an ordinance which is a law, a resolution is merely a declaration of the sentiment or opinion of the lawmaking body. The RTC also ruled that the petition states no cause of action because it does not allege an act or omission of appellees that violated appellant's right or the provisions of the Constitution or LGC. Finally, the RTC ruled that because the issues raised would not terminate the uncertainty or controversy, it may refuse its power to declare rights and to construe the Resolution pursuant to Section 5, Rule 63 of the Rules of Court.<sup>[12]</sup>

Appellant's motion for reconsideration was denied; hence, this appeal raising the following alleged errors:<sup>[13]</sup>

THE LOWER COURT ERRED WHEN IT RULED TO DISMISS THE INSTANT PETITION FOR DECLARATORY RELIEF ON THE FOLLOWING GROUNDS, TO WIT:

- A. THAT THE SUBJECT MATTER OF THE CONTROVERSY IS A RESOLUTION AND NOT AN ORDINANCE IN VIOLATION OF THE REQUISITES OF AN ACTION FOR DECLARATORY RELIEF;
- B. THAT THE PETITION STATES NO CAUSE OF ACTION BECAUSE IT DID NOT STATE ANY ACT OR MISSION BY RESPONDENTS THAT VIOLATED THE PRIMARY RIGHT OF PETITIONER NOR ALLEGED WITH CLARITY PETITIONER'S RIGHT THAT MAY BE VIOLATED IN RELATION TO THE ISSUANCE OF SANGGUNIANG PANLUNGSOD NO. 14-473 [*sic*], SERIES OF 2009;
- C. THAT THE COURT IS REFUSING TO EXERCISE THE POWER TO DECLARE THE ALLEGED RIGHTS AND TO CONSTRUE THE SUBJECT RESOLUTION INVOKING SECTION 5, RULE 63 OF THE RULES OF COURT, CONSIDERING THAT THE ISSUES RAISED BY PETITIONER WOULD NOT TERMINATE THE UNCERTAINTY OR CONTROVERSY.

#### *Arguments*

Appellant contends that the distinction between an ordinance and a resolution as stated in *Heirs of Suguitan and Parañaque* applies only to eminent domain cases. He argues that in various provisions of the LGC "resolution" is interchangeably used with "ordinance." He also avers that while Section 1, Rule 63 of the Rules of Court does not mention resolution, it is nonetheless included in the phrase "other governmental regulation."

Appellant also maintains that he has the capacity to bring the suit because as a taxpayer he is affected by the use of public funds and therefore he can question contracts entered into by the LGU, particularly the loan to be borrowed from LBP.<sup>[14]</sup>

On the other hand, appellees maintain that a "resolution" is not a "regulation" within the context of Rule 63 and that the petition failed to state a cause of action.<sup>[15]</sup>

#### **RULING**

There is no merit in the appeal.

Simply put, the issue is whether the petition for declaratory relief may prosper against the Resolution.

Declaratory relief is defined as an action by any person interested in a deed, will, contract or other written instrument, executive order or resolution, to determine any question of construction or validity arising from the instrument, executive order or regulation, or statute; and for a declaration of his rights and duties thereunder.<sup>[16]</sup> The only issue that may be raised in such a petition is the question of construction or validity of provisions in an instrument or statute.<sup>[17]</sup>

Accordingly, the following requisites must be present in order that the remedy of