



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated August 3, 2022, which reads as follows:

“G.R. No. 221295 (*Republic of the Philippines and Ricardo S. Martinez, Sr., v. Spouses Andersen L. Tuana and Wilma Tuana*). – This is a Petition for Review¹ filed by the Republic of the Philippines (Republic) and Department of Labor and Employment (DOLE) Regional Director Ricardo S. Martinez, Sr. (RD Martinez) against Spouses Andersen L. Tuana and Wilma Tuana (Spouses Tuana). The Republic and RD Martinez are assailing the Decision² dated 23 October 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 131236.

The CA denied the Petition for *Certiorari*³ filed by the Republic and RD Martinez, and affirmed the Orders dated 27 April 2011⁴ and 04 June 2013⁵ of Branch 263, Regional Trial Court (RTC) of Marikina City in Civil Case No. 10-1413-MK. The Order dated 27 April 2011 denied the Motion to Dismiss filed by RD Martinez and granted the Motion to Disqualify the Office of the Solicitor General (OSG) from representing RD Martinez. The Order dated 04 June 2013 denied RD Martinez’s motion for reconsideration of the Order dated 27 April 2011.

Antecedents

Spouses Tuana filed with RTC Marikina a civil case for damages against RD Martinez, his spouse Risa Doe Martinez (Mrs.

¹Under Rule 45 of the 1997 Rules of Civil Procedure.

²*Rollo*, pp. 40-50; penned by Associate Justice Edwin D. Sorongon and concurred in by Chairperson Ricardo R. Rosario (now a Member of this Court) and Acting Junior Member Nina G. Antonio-Valenzuela of the Court of Appeals, Manila.

³*Id.* at 49.

⁴*Id.* at 113-116; penned by RTC Presiding Judge Armando C. Velasco.

⁵*CA rollo*, pp. 42-43; penned by RTC Presiding Judge Armando C. Velasco.

Martinez), and Sheriff Faustino C. Gonzalvo (Sheriff Gonzalvo) on 28 October 2010. The complaint was docketed as Civil Case No. 10-1413-MK.⁶

The complaint prayed for the following:

- a) Ordering [RD Martinez, Mrs. Martinez, and Sheriff Gonzalvo] to jointly and severally pay [the Spouses Tuaña] the amount of P700,000.00 representing the actual expenses in the form of payments of workers wage, and salaries as well as the rentals paid to commission the backhoes and ten (10) wheeler trucks, and interest payment for the borrowed capital.
- b) Ordering [RD Martinez, Mrs. Martinez, and Sheriff Gonzalvo] to jointly and severally pay [the Spouses Tuaña] the amount of P600,000.00 representing the unrealized income from the transaction as well as the interest payment on the loan.
- c) Ordering [RD Martinez, Mrs. Martinez, and Sheriff Gonzalvo] to jointly and severally pay [the Spouses Tuaña] the amount of P200,000.00 representing the payment for attorney's fees and other legal expenses.
- d) Ordering [RD Martinez, Mrs. Martinez, and Sheriff Gonzalvo] to jointly and severally pay [the Spouses Tuaña] the cost of litigation.

Other relief and remedies just and reasonable under the premises are prayed for by [the Spouses Tuaña].⁷

Civil Case No. 10-1413-MK arose from the Orders issued by RD Martinez in his capacity as Regional Director of DOLE Region IV-A in Case No. RO400-0803-CI-005-009 (labor case).

Employees of Puerto Azul Golf and Country Club (PAGCC) filed a complaint for inspection before DOLE Region IV-A. This complaint was the labor case docketed as Case No. RO400-0803-CI-005-009. RD Martinez found PAGCC liable to its employees for underpayment of wages, overtime pay, and non-payment of regular holiday pay in the amount of ₱1,755,726.75. PAGCC did not file an appeal, and RD Martinez subsequently issued a Writ of Execution on 27 January 2009. PAGCC entered into a compromise agreement with its affected employees, but the records do not show that RD Martinez

⁶Rollo, pp. 86-99.

⁷Id. at 96-97.

acted upon the compromise agreement.⁸ Sheriff Gonzalvo's report stated that PAGCC failed to abide by the compromise agreement.⁹ On 12 May 2009, RD Martinez issued an Alias Writ of Execution¹⁰ dated 12 May 2009 against PAGCC. The Alias Writ of Execution required PAGCC to pay an aggregate amount of ₱2,589,322.40 representing its underpayment of wages, overtime pay, and nonpayment of holiday pay through Manager's or Cashier's crossed checks, and to deposit the checks to the cashier of the DOLE Regional Office.

On 26 May 2009, Sheriff Gonzalvo, as Sheriff acting under the authority of RD Martinez, levied upon the properties of PAGCC.¹¹ Sheriff Gonzalvo then scheduled an auction sale of the levied properties on 11 June 2009.¹² PAGCC did not participate in the auction sale. Andersen L. Tuana (Andersen) and Kristine Anne Cahambing were the winning bidders in the respective amounts of ₱900,000.00 and ₱1,000,012.00 for PAGCC'S clubhouse and twelve cottages. On 23 July 2009, Sheriff Gonzalvo issued a Certificate of Sale in favor of Andersen. The Certificate of Sale was dated 23 July 2009 but was indicated to be effective since 11 June 2009.¹³ On 13 July 2009, a Break Open Order was issued on the instance of Andersen, after PAGCC's security guards had prevented him from hauling away his purchased items.¹⁴

On 19 August 2009, PAGCC tendered a check worth ₱2,589,322.40, postdated 28 August 2009, to satisfy the amount subject of the 12 May 2009 Alias Writ of Execution.¹⁵ PAGCC also filed a case against RD Martinez and Sheriff Gonzalvo before Branch 15, RTC of Cavite for damages and permanent injunction with prayer for preliminary injunction with temporary restraining order. The case was docketed as Civil Case No. NC-2009-1921. On 24 August 2009, the RTC Cavite issued a 72-hour temporary restraining order on the dismantling and hauling of items. The RTC Cavite subsequently dismissed the case for lack of jurisdiction when it found that the matter being questioned was a final and executory decision of the

⁸Id. at 66-67. *Spouses Tuaña v. Martinez*, CA-G.R. SP No. 111061, 11 March 2010; penned by Associate Justice Mario V. Lopez (now a Member of the Court) and concurred in by Associate Justices Portia Aliño-Hormachuelos and Apolinario D. Brusclas, Jr. of the Court of Appeals, Manila.

⁹*Rollo*, p. 55.

¹⁰CA *rollo*, pp. 66-69.

¹¹Id. at 70-71.

¹²Id. at 72-74.

¹³Id. at 75.

¹⁴*Rollo*, p. 68.

¹⁵CA *rollo*, p. 76.

DOLE.¹⁶ Spouses Tuana continued to dismantle and haul items.

Meanwhile, on 28 August 2009, RD Martinez issued an Order¹⁷ declaring that the judgment award had been satisfied with the clearance of PAGCC's check. He also ordered Andersen or his agents to cease from carrying out the reported demolition of the PAGCC's properties until further orders from his office. Spouses Tuana filed before RD Martinez a Motion to Recall *Ad Cautelam* the Order dated 28 August 2009. On 21 October 2009, RD Martinez issued a Resolution¹⁸ on the Motion to Recall *Ad Cautelam*,¹⁹ and set aside his Order dated 28 August 2009.

Spouses Tuana subsequently filed before the CA a Petition for *Certiorari* under Rule 65 with prayer for the issuance of a temporary restraining order.²⁰ On 11 March 2010, the CA Special Second Division promulgated its Decision in CA-G.R. SP No. 111061.²¹ The CA dismissed Spouses Tuana's petition for being moot and denied the prayer for the issuance of a temporary restraining order and writ of preliminary injunction. The CA stated that since the 28 August 2009 cease and desist order is no longer effective, having been set aside by the 21 October 2009 Order, Spouses Tuana may resume the demolition/hauling away of the items purchased.²²

On 12 October 2010, DOLE Undersecretary Lourdes M. Trasmonte (Undersecretary Trasmonte) issued a Resolution in the labor case.²³ She resolved the appeal filed by PAGCC²⁴ from RD Martinez's Order dated 05 January 2010²⁵ and recognized, among others, the payment tendered by Spouses Tuana: "[f]urther, upon the release of the said amount paid by the winning bidders, their respective rights over the levied properties are hereby sustained."²⁶

In a Resolution dated 22 July 2011, Undersecretary Trasmonte

¹⁶See CA rollo, p. 47.

¹⁷CA rollo, pp. 76-78.

¹⁸Id. at 85-90.

¹⁹Id. at 85.

²⁰See id. at 49. The petition was titled *Spouses Andersen L. Tuaña & Wilma A. Tuaña vs. Atty. Ricardo S. Martinez, Sr., Regional Director, Department of Labor and Employment, Region IV-A, CALABARZON, Faustino C. Gonzalvo, Sheriff, Department of Labor and Employment, Region IV-A, and Puerto Azul Golf and Country Club/Jose Marcel Panlilio*, and docketed as CA-G.R. SP No. 111061.

²¹Id. at 41-52

²²Id. at 50.

²³Id. at 54-65; under the DOLE, the case was docketed as OS-LS-0007-0204-2010.

²⁴Copy of the original pleading is not found in the rollo.

²⁵Copy of the Order dated 05 January 2010 is not found in the rollo.

²⁶CA rollo, p. 65.

corrected the amount of PAGCC's monetary liability to its employees. Even as she recognized the amount rendered by Spouses Tuana, Undersecretary Trasmonte declared that PAGCC's motion to declare null and void the levy and auction sale involves the determination of factual issues and should be properly ventilated before RD Martinez's office.

Spouses Tuana filed the present civil case before the RTC Marikina on 28 October 2010. On 17 December 2010, through the Solicitor General, RD Martinez moved for the dismissal of the Civil case for lack of jurisdiction of RTC Marikina, and for being a suit against the State.²⁷ On 26 January 2011, Spouses Tuana filed a motion to disqualify the OSG from representing RD Martinez, Mrs. Martinez, and Sheriff Gonzalvo. Spouses Tuana argued that since RD Martinez, Mrs. Martinez, and Sheriff Gonzalvo's personal liabilities arose from tortious acts committed in the performance of duties, they should be represented by a private lawyer.²⁸

Ruling of the RTC

In an Order dated 27 April 2011, the RTC Marikina denied the motion to dismiss for lack of merit and granted the motion to disqualify the OSG from representing RD Martinez, Mrs. Martinez, and Sheriff Gonzalvo. It held that the alias writ of execution and the levy of the properties became *functus officio* after the properties were sold in a public auction and the winning bidder fully paid the bid price. RD Martinez's act of preventing Spouses Tuana from taking the auctioned scrap materials is tantamount to a curtailment and invasion of right, which the State cannot legally do. The RTC Marikina concluded:

Based on the pleading submitted, the subject matter of the case is the alleged wrongful and unjustified act committed by the defendants in refusing the release of the scrap materials won by the plaintiffs in the public auction conducted by the sheriff despite full payment of the bid price. That being so, defendant Martinez is being sued for his ultra vires act and the suit is personal upon defendant and cannot be considered as a suit against the state where the appearance of the Office of the Solicitor General is called for. Furthermore, this Court is of the standpoint that the government has no interest to protect in the outcome of the present suit.

²⁷Rollo, pp. 100-108.

²⁸Id. at 109-112.

WHEREFORE, foregoing premises considered, the motion to dismiss dated December 15, 2010 is hereby DENIED for lack of merit and the motions to disqualify the Office of the Solicitor General from representing the defendants dated January 21, 2011 is hereby GRANTED.

SO ORDERED.²⁹

The RTC denied RD Martinez's Motion for Reconsideration in an Order dated 4 June 2013.

The Republic and RD Martinez filed a special civil action for *certiorari* under Rule 65 before the CA seeking the reversal of the RTC's Orders dated 27 April 2011 and 4 June 2013.

Ruling of the CA

In its assailed Decision, the CA ruled in favor Spouses Tuana and affirmed the Orders dated 27 April 2011 and 04 June 2013 of the RTC Marikina in Civil Case No. 10-1413-MK. The CA declared that the OSG is disqualified from representing RD Martinez, and that the RTC Marikina had jurisdiction over the civil case.³⁰

The CA ruled that the allegations of the complaint determine the nature of the cause of action. The recovery of damages sought by Spouses Tuana are directed against RD Martinez in his personal capacity. Any liability of RD Martinez is for his own account, and not of the State's. The OSG thus has no authority to represent RD Martinez in the present civil suit for damages.³¹

The CA also ruled that the RTC Marikina had jurisdiction over the civil case filed by Spouses Tuana against RD Martinez because the jurisdiction of the court is determined by the allegations appearing in the complaint. The CA reasoned that the RTC Marikina had jurisdiction over the case because the complaint seeks damages in excess of ₱400,000.00.³²

Issues

The Republic and RD Martinez raised the following grounds for the allowance of the petition:

²⁹Id. at 115-116.

³⁰ Id. at 43.

³¹ Id. at 43-47.

³² Id. at 47-49.

I. The Court of Appeals erred on a question of law when it disqualified the Office of the Solicitor General from representing DOLE Director Ricardo Martinez, Sr. in the damage suit arising out of the cease and desist order he issued in a labor case.

II. The Court of Appeals erred on a question of law when it sustained the jurisdiction of the trial court over the damage suit arising out of the cease and desist order of Director Martinez, Sr.³³

Ruling of the Court

The petition is meritorious. The two issues are interrelated. The determination of whether the RTC Marikina had jurisdiction over the civil case also determines whether the OSG may represent RD Martinez.

The remedy of Spouses Tuana remains with the labor case

Spouses Tuana justify the filing of a civil case for damages against RD Martinez because they are not parties to the labor case. Both the RTC Marikina and the CA committed reversible error when they ruled in favor of Spouses Tuana. The allegations in the petition filed by Spouses Tuana are mere incidents of a labor dispute. The complaint for damages is predicated on the propriety of the Order dated 28 August 2009 issued by RD Martinez in a labor case.

Spouses Tuana had remedies available within the administrative machinery that they did not exercise. The powers in the Labor Code³⁴

³³ Id. at 24.

³⁴ Articles 217, 218, and 224 of the Labor Code provide:

Art. 217. Jurisdiction of the Labor Arbiters and the Commission.

a. Except as otherwise provided under this Code, the Labor Arbiters shall have original and exclusive jurisdiction to hear and decide, within thirty (30) calendar days after the submission of the case by the parties for decision without extension, even in the absence of stenographic notes, the following cases involving all workers, whether agricultural or non-agricultural:

1. Unfair labor practice cases;
2. Termination disputes;
3. If accompanied with a claim for reinstatement, those cases that workers may file involving wages, rates of pay, hours of work and other terms and conditions



of employment;

4. Claims for actual, moral, exemplary and other forms of damages arising from the employer-employee relations;

5. Cases arising from any violation of Article 264 of this Code, including questions involving the legality of strikes and lockouts; and

6. Except claims for Employees Compensation, Social Security, Medicare and maternity benefits, all other claims arising from employer-employee relations, including those of persons in domestic or household service, involving an amount exceeding five thousand pesos (P5,000.00) regardless of whether accompanied with a claim for reinstatement.

b. The Commission shall have exclusive appellate jurisdiction over all cases decided by Labor Arbiters.

c. Cases arising from the interpretation or implementation of collective bargaining agreements and those arising from the interpretation or enforcement of company personnel policies shall be disposed of by the Labor Arbiter by referring the same to the grievance machinery and voluntary arbitration as may be provided in said agreements. (As amended by Section 9, Republic Act No. 6715, March 21, 1989)

Art. 218. Powers of the Commission. The Commission shall have the power and authority:

a. To promulgate rules and regulations governing the hearing and disposition of cases before it and its regional branches, as well as those pertaining to its internal functions and such rules and regulations as may be necessary to carry out the purposes of this Code; (As amended by Section 10, Republic Act No. 6715, March 21, 1989)

b. To administer oaths, summon the parties to a controversy, issue subpoenas requiring the attendance and testimony of witnesses or the production of such books, papers, contracts, records, statement of accounts, agreements, and others as may be material to a just determination of the matter under investigation, and to testify in any investigation or hearing conducted in pursuance of this Code;

c. To conduct investigation for the determination of a question, matter or controversy within its jurisdiction, proceed to hear and determine the disputes in the absence of any party thereto who has been summoned or served with notice to appear, conduct its proceedings or any part thereof in public or in private, adjourn its hearings to any time and place, refer technical matters or accounts to an expert and to accept his report as evidence after hearing of the parties upon due notice, direct parties to be joined in or excluded from the proceedings, correct, amend, or waive any error, defect or irregularity whether in substance or in form, give all such directions as it may deem necessary or expedient in the determination of the dispute before it, and dismiss any matter or refrain from further hearing or from determining the dispute or part thereof, where it is trivial or where further proceedings by the Commission are not necessary or desirable; and

d. To hold any person in contempt directly or indirectly and impose appropriate penalties therefor in accordance with law.

A person guilty of misbehavior in the presence of or so near the Chairman or any member of the Commission or any Labor Arbiter as to obstruct or interrupt the proceedings before the same, including disrespect toward said officials, offensive personalities toward others, or refusal to be sworn, or to answer as a witness or to subscribe an affidavit or deposition when lawfully required to do so, may be summarily adjudged in direct contempt by said officials and punished by fine not exceeding five hundred pesos (P500) or imprisonment not exceeding five (5) days, or both, if it be the Commission, or a member thereof, or by a fine not exceeding one hundred pesos (P100) or imprisonment not exceeding one (1) day, or both, if it be a Labor Arbiter.

The person adjudged in direct contempt by a Labor Arbiter may appeal to the Commission and the execution of the judgment shall be suspended pending the resolution of the appeal upon the filing by such person of a bond on condition that he will abide by and perform the judgment of the Commission should the appeal be decided against him. Judgment of the Commission on direct contempt is immediately executory and unappealable. Indirect contempt shall be dealt with by the

Commission or Labor Arbiter in the manner prescribed under Rule 71 of the Revised Rules of Court; and (As amended by Section 10, Republic Act No. 6715, March 21, 1989)

e. To enjoin or restrain any actual or threatened commission of any or all prohibited or unlawful acts or to require the performance of a particular act in any labor dispute which, if not restrained or performed forthwith, may cause grave or irreparable damage to any party or render ineffectual any decision in favor of such party: Provided, That no temporary or permanent injunction in any case involving or growing out of a labor dispute as defined in this Code shall be issued except after hearing the testimony of witnesses, with opportunity for cross-examination, in support of the allegations of a complaint made under oath, and testimony in opposition thereto, if offered, and only after a finding of fact by the Commission, to the effect:

1. That prohibited or unlawful acts have been threatened and will be committed and will be continued unless restrained, but no injunction or temporary restraining order shall be issued on account of any threat, prohibited or unlawful act, except against the person or persons, association or organization making the threat or committing the prohibited or unlawful act or actually authorizing or ratifying the same after actual knowledge thereof;

2. That substantial and irreparable injury to complainant's property will follow;

3. That as to each item of relief to be granted, greater injury will be inflicted upon complainant by the denial of relief than will be inflicted upon defendants by the granting of relief;

4. That complainant has no adequate remedy at law; and

5. That the public officers charged with the duty to protect complainant's property are unable or unwilling to furnish adequate protection.

Such hearing shall be held after due and personal notice thereof has been served, in such manner as the Commission shall direct, to all known persons against whom relief is sought, and also to the Chief Executive and other public officials of the province or city within which the unlawful acts have been threatened or committed, charged with the duty to protect complainant's property: Provided, however, that if a complainant shall also allege that, unless a temporary restraining order shall be issued without notice, a substantial and irreparable injury to complainant's property will be unavoidable, such a temporary restraining order may be issued upon testimony under oath, sufficient, if sustained, to justify the Commission in issuing a temporary injunction upon hearing after notice. Such a temporary restraining order shall be effective for no longer than twenty (20) days and shall become void at the expiration of said twenty (20) days. No such temporary restraining order or temporary injunction shall be issued except on condition that complainant shall first file an undertaking with adequate security in an amount to be fixed by the Commission sufficient to recompense those enjoined for any loss, expense or damage caused by the improvident or erroneous issuance of such order or injunction, including all reasonable costs, together with a reasonable attorney's fee, and expense of defense against the order or against the granting of any injunctive relief sought in the same proceeding and subsequently denied by the Commission.

The undertaking herein mentioned shall be understood to constitute an agreement entered into by the complainant and the surety upon which an order may be rendered in the same suit or proceeding against said complainant and surety, upon a hearing to assess damages, of which hearing, complainant and surety shall have reasonable notice, the said complainant and surety submitting themselves to the jurisdiction of the Commission for that purpose. But nothing herein contained shall deprive any party having a claim or cause of action under or upon such undertaking from electing to pursue his ordinary remedy by suit at law or in equity: Provided, further, That the reception of evidence for the application of a writ of injunction may be delegated by the Commission to any of its Labor Arbiters who shall conduct such hearings in such places as he may determine to be accessible to the parties and their witnesses and shall submit thereafter his recommendation to the Commission. (As amended by Section 10, Republic Act No. 6715, March 21, 1989)

Art. 224. Execution of decisions, orders or awards.

in connection with, or relating to labor disputes granted to government officials, such as RD Martinez, vests jurisdiction upon them to the exclusion of the regular courts. The subject matter of Spouses Tuana's complaint is the manner of execution of RD Martinez's decision. Execution is an essential part of the proceedings before the DOLE. Jurisdiction, once acquired, continues until the case is finally terminated, and there can be no end to the controversy without the full and proper implementation of the department's directives.³⁵

The Court has long recognized that regular courts have no jurisdiction to hear and decide questions that arise from, and are incidental to, the enforcement of decisions, orders, or awards rendered in labor cases by appropriate officers and tribunals of the DOLE. To hold otherwise is to sanction splitting of jurisdiction, which is obnoxious to the orderly administration of justice.³⁶

The lack of jurisdiction of the RTC Marikina is underscored by Article 128(d) of the Labor Code, which provides that "[i]t shall be unlawful for any person or entity to obstruct, impede, delay or otherwise render ineffective the orders of the Secretary of Labor and Employment or his duly authorized representatives issued pursuant to the authority granted under this Article, and no inferior court or entity shall issue temporary or permanent injunction or restraining order or otherwise assume jurisdiction over any case involving the enforcement orders issued in accordance with this Article."

The remedy of Spouses Tuana remains with the labor case. The continuing jurisdiction of the DOLE is evident in RD Martinez's

a. The Secretary of Labor and Employment or any Regional Director, the Commission or any Labor Arbiter, or Med-Arbiter or Voluntary Arbitrator may, *motu proprio* or on motion of any interested party, issue a writ of execution on a judgment within five (5) years from the date it becomes final and executory, requiring a sheriff or a duly deputized officer to execute or enforce final decisions, orders or awards of the Secretary of Labor and Employment or regional director, the Commission, the Labor Arbiter or med-arbiter, or voluntary arbitrators. In any case, it shall be the duty of the responsible officer to separately furnish immediately the counsels of record and the parties with copies of said decisions, orders or awards. Failure to comply with the duty prescribed herein shall subject such responsible officer to appropriate administrative sanctions.

b. The Secretary of Labor and Employment, and the Chairman of the Commission may designate special sheriffs and take any measure under existing laws to ensure compliance with their decisions, orders or awards and those of the Labor Arbiters and voluntary arbitrators, including the imposition of administrative fines which shall not be less than P500.00 nor more than P10,000.00. (As amended by Section 13, Republic Act No. 6715, March 21, 1989)

³⁵See *Pucan v. Bengzon*, 239 Phil. 660, 668 (1987).

³⁶*Ando v. Campo*, 658 Phil. 636, 642 (2011).

issuance of the Order dated 21 October 2009 which set aside the Order dated 28 August 2009, as well as in Undersecretary Trasmonte's issuance of the 22 July 2011 Resolution, which recognized Spouses Tuana's payment.

As the winning bidders in the auction sale, the remedy of Spouses Tuana lies in the filing of a third-party complaint. This remedy is covered by Rule VI on Third Party Claim in the Manual of Instructions for Sheriffs of the National Labor Relations Commission.³⁷

Furthermore, both the RTC Marikina and the CA ignored the doctrine of primary jurisdiction. When jurisdiction is initially lodged with an administrative body of special competence, the regular courts are justified to refuse to take cognizance and to dismiss an action filed before them for lack of cause of action. In *Catipon Jr. v. Japson*,³⁸ the Court ruled:

The doctrine of exhaustion of administrative remedies requires that "before a party is allowed to seek the intervention of the court, he or she should have availed himself or herself of all the means of administrative processes afforded him or her. Hence, if resort to a remedy within the administrative machinery can still be

³⁷At the time of the filing of the complaint in the civil case, Rule VI of the Manual of the Instructions for Sheriffs provided:

SECTION 1. Definition — A third party claim is a claim whereby a person, not a party to the case, asserts title to or right to the possession of the property levied upon.

SECTION 2. Proceedings — If property levied upon be claimed by any person other than the losing party or his agent, such person shall make an affidavit of his title thereto or right to the possession thereof, stating the grounds of such right or title and shall file the same with the sheriff and copies thereof served upon the Labor Arbiter or proper officer issuing the writ and upon the prevailing party. Upon receipt of the third party claim, all proceedings with respect to the execution of the property subject of the third party claim shall automatically be suspended and the Labor Arbiter or proper officer issuing the writ shall conduct a hearing with due notice to all parties concerned and resolved the validity of the claim within ten (10) working days from receipt thereof and his decision is appealable to the Commission within ten (10) working days from notice, and the Commission shall likewise resolved the appeal within the same period.

However, should the prevailing party put up an indemnity bond in a sum not less than the value of the property levied, the execution shall proceed. In case of disagreement as to such value, the same shall be determined by the Labor Arbiter, National Labor Relations Commission or the Philippine Overseas Employment Administration issuing the writ, as the case may be.

SECTION 3. Resolution of the Third Party Claim, Effect — In the event the third party claim is declared to be valid, the sheriff shall immediately release the property to the third party claimant, his agent or representative and the levy on execution shall immediately be lifted or discharged. However, should the third party claim be found to be without factual or legal basis, the sheriff must proceed with the execution of the property levied upon as if no third party claim had been filed.

³⁸*Catipon Jr. v. Japson*, 761 Phil. 205 (2015); citations omitted.

made by giving the administrative officer concerned every opportunity to decide on a matter that comes within his or her jurisdiction, then such remedy should be exhausted first before the court's judicial power can be sought. The premature invocation of the intervention of the court is fatal to one's cause of action. The doctrine of exhaustion of administrative remedies is based on practical and legal reasons. The availment of administrative remedy entails lesser expenses and provides for a speedier disposition of controversies. Furthermore, the courts of justice, for reasons of comity and convenience, will shy away from a dispute until the system of administrative redress has been completed and complied with, so as to give the administrative agency concerned every opportunity to correct its error and dispose of the case." Indeed, the administrative agency concerned — in this case the Commission Proper — is in the "best position to correct any previous error committed in its forum."³⁹

The OSG is authorized to represent RD Martinez

Section 35(1), Chapter 12, Title III, Book IV of the Administrative Code of the Philippines mandates the OSG to represent the Government and its officers in all civil actions in which the Government or any officer thereof in his official capacity is a party.⁴⁰

When a public officer goes outside the scope of his duty, particularly when acting tortiously, he is not entitled to protection on account of his office, but is liable for his acts like any private individual.⁴¹ However, since there is no finding that RD Martinez acted outside of the scope of his duty, there is no legal justification to file a suit against RD Martinez, his wife Mrs. Martinez, and Sheriff Gonzalvo in their personal capacities. The root of the civil case for

³⁹ Id. at 219-220.

⁴⁰Section 35 provides: Powers and Functions. - The Office of the Solicitor General shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of a lawyer. When authorized by the President or head of the office concerned, it shall also represent government-owned or controlled corporations. The Office of the Solicitor General shall constitute the law office of the Government and, as such, shall discharge duties requiring the services of a lawyer. It shall have the following specific powers and functions:

(1) Represent the Government in the Supreme Court and the Court of Appeals in all criminal proceedings; represent the Government and its officers in the Supreme Court, the Court of Appeals, and all other courts or tribunals in all civil actions and special proceedings in which the Government or any officer thereof in his official capacity is a party.

⁴¹*Palma v. Graciano*, 99 Phil. 72, 75 (1956); citations omitted.

damages deals with the performance of the official functions of RD Martinez in the labor case. Whether the actions taken were improper, or in bad faith, cannot be determined without a full hearing. The presumption of regular performance of official duties remains.⁴²

Spouses Tuana failed to overcome the presumption that RD Martinez and Sheriff Gonzalvo were regularly performing their official duties. Hence, there is nothing to prevent the OSG from representing them in the regular courts.

In view of Our ruling that at the time of the filing of the civil case, the remedy of Spouses Tuana remained with the DOLE, the OSG may represent RD Martinez in the present civil case for damages.

WHEREFORE, the petition is hereby **GRANTED**. The Decision dated 23 October 2015 of the Court of Appeals in CA-G.R. SP No. 131236 is **REVERSED and SET ASIDE**.

SO ORDERED.” *ROSARIO, J., took no part; LOPEZ, M. J., designated additional Member per Raffle dated June 22, 2022.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

k/A 26 8/22

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

116

SEP 06 2022

The Solicitor General
Amorsolo St., Legaspi Village
1229 Makati City

Court of Appeals (x)
Manila
(CA-G.R. SP No. 131236)

Public Information Office (x)
Library Services (x)
Supreme Court
(For uploading pursuant to A.M. No. 12-
7-1-SC)

Atty. Eufemio G. Romero, Jr.
Counsel for Respondents
2/F, R-Square Building
New Marikina Subdivision
Jacamar St., 1804 Marikina City

⁴²See *Vidad v. RTC*, 298 Phil. 29 (1993).

Philippine Judicial Academy (x)
Supreme Court

and/or

Judgment Division (x)
Supreme Court

90 Justice Sabson Street
1600 Pasig City

The Presiding Judge
Regional Trial Court, Br. 263
1804 Marikina City
(Civil Case No. 10-1413-MK)

Sps. Anderson and Wilma Tuana
Respondents
Eagle St., Marikina Subdivision
1804 Marikina City



UR

116

MRC