



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 23, 2023, which reads as follows:

“G.R. No. 194902 (Rhema International Livelihood, Foundation, Inc., represented by Mr. Manuelito D. Traya and/or Robert Apduhan, Sr. v. Honorable Court of Appeals, Retired AFP Col. Raul Narciso R. Esmeralda, Chief Admin./Adjudication of Batas ng Ciudad Enforcement Office [BCEO], Pasig City, Ricardo C. Saltorre [Action Line], Dennis G. Briones, BCEO, Norwina F. Guevarra, Ma. Melinda S. Obispo, Cesar Paragas, PO3 Norman M. Barcellano, Jose S. Ogbac, Jr., in his capacity as POI Chief, SIDMB Eastern Police District of Pasig City, City Mayor of Pasig City and Brgy. Captain of Rosario, Pasig City).—This is a Petition for Certiorari, Prohibition and Mandamus¹ under Sections 2 and 3, Rule 65 of the Rules of Civil Procedure with Automatic Stay of Execution or Status Quo under Sec. 3 of Republic Act No. (RA) 5440² and for Damages amounting to ₱500,000.00 including the cost of suit.³

The Antecedents

Petitioner Rhema International Livelihood Foundation, Inc. is a domestic, non-stock corporation duly organized and existing under Philippine laws. Manuelito D. Traya is its Executive Vice-President (EVP).⁴

The case started from the overlapping and encroaching of titles between petitioner and the Dela Paz family⁵ over a property located in Pasig City

¹ Rollo, pp. 3-41.

² Entitled “AN ACT AMENDING SECTIONS NINE AND SEVENTEEN OF THE JUDICIARY ACT OF 1948.” Approved: September 9, 1968.

³ Rollo, pp. 3-14.

⁴ Id. at 4.

⁵ Id. at 16. Andrew Dela Paz, Anthony Dela Paz, and Minerva Dela Paz.

measuring about 6,000 square meters.⁶ Petitioner claimed that sometime in June 2008, one Marylou Bhalwart donated the subject property to them, thereby, making the latter a beneficial owner of the properties covered by Original Certificate of Title No. (OCT) 201.⁷ On the other hand, the Dela Paz family claimed ownership over the same property as predicated by a derivative title, Transfer Certificate of Title No. (TCT) PT-96217, and as covered by a tax declaration under Property Index No. 19-00-018-14-015.⁸

On April 22, 2010, petitioner filed a Petition before the Commission on the Settlement of Land Problem (COSLAP), seeking an investigation on the overlapping claims.⁹

Acting on the Petition, COSLAP issued Orders of Dismissal dated July 8, 2010 and September 17, 2010 in COSLAP Case No. 2010-04-412, adopting *in toto* the ruling it made to nine other similar petitions of petitioner, for lack of jurisdiction over the issues raised and the subject matters of the controversies and the reliefs prayed for.¹⁰

On December 3, 2010, petitioner filed a Petition for *Certiorari*¹¹ before the Court of Appeals (CA) against Hon. Perla Y. Duque, Hon. Lina M. Aguilar-General, and Hon. Jorge N. Bernardo, Commissioner and Associate Commissioners, respectively, of the COSLAP, asserting, among others, that the latter has jurisdiction over the cases. It also prayed that the CA issue the mandatory temporary restraining order (TRO) / injunction without need for a hearing;¹² that the COSLAP Orders be vacated and set aside;¹³ and to remand the records of the case to COSLAP for the latter to conduct a full-blown trial or hearing on the merits and further investigate the rights of the parties.¹⁴

On January 12, 2010 at 9:45 a.m., a demolition operation of the subject property was led by Ma. Melinda Obispo, operation officer of Pasig City Hall.¹⁵ Petitioner claimed that respondents, in this case, “were not able to provide court orders, including the police [officers],”¹⁶ thus, petitioner defended its right “to retaliate [against] the use of power and violence”¹⁷ of respondents. Petitioner averred that respondents, headed by the Batas ng Ciudad Enforcement Office (BCEO) and the police officers, illegally implemented the demolition without

⁶ Id. at 19.

⁷ Id. at 20-21.

⁸ Id. at 21.

⁹ Id.

¹⁰ Id.

¹¹ Id. at 15-41.

¹² Id. at 36.

¹³ Id. at 37.

¹⁴ Id.

¹⁵ Id. at 8.

¹⁶ Id.

¹⁷ Id.

proper court order. Furthermore, the incumbent *Barangay* Captain and City Mayor then did not take any action to investigate the facts.¹⁸

Petitioner also alleged that four members of its foundation, namely Joebert D. Borre, Jocelyn D. Duran, Alejandro A. Jomilla, and Almojel B. Prejosa, were arrested and detained because they protected the land subject of the case.¹⁹

Ruling of the Court of Appeals

In its February 21, 2011 Resolution,²⁰ the CA in CA-G.R. SP No. 117030 dismissed the case outright for having been filed out of time or beyond the 60-day period within which to file a petition for *certiorari*.²¹

On June 19, 2011, the appellate court's ruling became final and executory. The same was recorded in the Book of Entries of Judgment.²²

Our Ruling

The Petition is denied outright on the ground of forum-shopping.

Below is the timeline of the case after petitioner filed its Petition:

Petitioner filed its Petition for *Certiorari*, Prohibition and Mandamus with Automatic Stay of Execution or Status Quo and for Damages amounting to ₱500,000.00 including the cost of suit before this Court on January 18, 2011.²³

A month after or on February 21, 2011, the CA rendered its Resolution on the December 3, 2010 Petition for *Certiorari* filed by petitioner, holding that:

Since the petitioner alleged that it received the 17 September 2010 Order on 01 October 2010, it had only until 30 November 2010 within which to file said petition. Thus, the petition, filed only on 03 December 2010, was already three (3) days late.

WHEREFORE, the instant petition is DISMISSED outright for having been filed late.

IT IS SO ORDERED.²⁴

¹⁸ Id.

¹⁹ Id. at 8-9.

²⁰ Temporary CA *rollo*, unpaginated. CA Resolution, pp. 1-2. Penned by Associate Justice Apolinario D. Bruselas, Jr. and concurred in by Associate Justices Mario L. Guarina III and Rodil V. Zalameda (now a Member of this Court).

²¹ Id.

²² Id. Entry of Judgment.

²³ *Rollo*, p. 3.

²⁴ Temporary CA *rollo*, unpaginated. CA Resolution, p. 2.

On May 4, 2011, petitioner filed an Urgent Manifestation and Motion for Status Quo under RA 5440²⁵ to counter the notice it received from Pasig Action Line to clear the rebuilt houses within petitioner's titled property, which property is also under litigation before the CA in CA-G.R. SP No. 117030.

Two days later or on May 6, 2011 the Court issued a Notice of Resolution,²⁶ denying petitioner's Urgent Manifestation and Motion for Status Quo as petitioner failed "to demonstrate such right in *esse* as would warrant the issuance of a status quo order/temporary restraining order or a writ of preliminary injunction."²⁷

On June 19, 2011, the February 21, 2011 CA Resolution became final and executory. The same was recorded in the Book of Entries of Judgment.²⁸

After quite some time and numerous division transfers, this Court issued a Resolution²⁹ dated January 16, 2023 which reiterated, among others, its requirement to the CA Clerk of Court to elevate the complete records of CA-G.R. SP No. 117030.³⁰

On March 20, 2023, the CA Clerk of Court forwarded the temporary *rollo*³¹ which included the February 21, 2011 Resolution dismissing the petitioner's petition for *certiorari* outright for having been filed out of time and the Resolution's corresponding June 19, 2011 Entry of Judgment.³²

The Petition is denied on the ground of forum-shopping. Jurisprudence is replete with pronouncements as to the elements of forum-shopping.³³

First, there must be identity of parties. Second, there must be similarity of rights asserted and reliefs prayed for, where the relief is anchored on the same facts. Third, the judgment rendered in any of the actions would amount to *res judicata* as to the other.³⁴

Here, the three elements are attendant. Based on the timeline, the Petition for *Certiorari*, Prohibition and Mandamus with Automatic Stay of Execution or Status Quo and for Damages dated January 17, 2011 was filed with this Court even as another Petition for *Certiorari* dated December 3, 2011 was still pending before the CA. As there was yet no ruling by the CA when petitioner

²⁵ *Rollo*, pp. 107-113.

²⁶ *Id.* at 114-115.

²⁷ *Id.* at 115.

²⁸ Temporary CA *rollo*, unpaginated. Entry of Judgment.

²⁹ *Rollo*, p. 257.

³⁰ *Id.*

³¹ Temporary CA *rollo*, unpaginated.

³² *Id.*

³³ *Asis v. Heirs of Calignawan*, G.R. No. 242127, September 15, 2021, citing *Dela Rosa Liner, Inc. v. Borela*, 765 Phil. 251, 258 (2015).

³⁴ *Id.*

filed the *Certiorari* Petition before this Court, it is safe to presume that the subject of both *certiorari* petitions would be the July 8, 2010 and September 17, 2010 Orders of Dismissal by the COSLAP in COSLAP Case No. 2010-04-412, ruling that it had no jurisdiction over the issues raised by petitioner. This double-filing clearly constitutes forum-shopping which calls for the outright dismissal of the petitions.

Moreover, in filing a Petition for *Certiorari* before this Court assailing the COSLAP Orders, petitioner violated the rules of procedure by directly seeking recourse from this Court even before the CA has rendered its resolution. This is in disregard of the doctrine of hierarchy of courts, a principle more clearly discussed in *Candelaria v. Regional Trial Court, Branch 42, City of San Fernando*.³⁵

This Court's original jurisdiction to issue writs of *certiorari* is not exclusive. It is shared by this Court with Regional Trial Courts and with the Court of Appeals. This concurrence of jurisdiction is not, however, to be taken as according to parties seeking any of the writs an absolute, unrestrained freedom of choice of the court to which application therefor will be directed. There is after all a hierarchy of courts. That hierarchy is determinative of the venue of appeals, and also serves as a general determinant of the appropriate forum for petitions for the extraordinary writs. A becoming regard for that judicial hierarchy most certainly indicates that petitions for the issuance of extraordinary writs against first level ("inferior") courts should be filed with the Regional Trial Court, and those against the latter, with the Court of Appeals. A direct invocation of the Supreme Court's original jurisdiction to issue these writs should be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition. This is [an] established policy. It is a policy necessary to prevent inordinate demands upon the Court's time and attention which are better devoted to those matters within its exclusive jurisdiction, and to prevent further over-crowding of the Court's docket.³⁶

Although this Court has concurrent jurisdiction with the CA in *certiorari* petitions, a direct resort is allowed only when there are special or compelling reasons that justify the same, to wit: (1) when dictated by the public welfare and the advancement of public policy; (2) when demanded by the broader interest of justice; (3) when the challenged orders were patent nullities; or (4) when analogous exceptional and compelling circumstances called for and justified the immediate and direct handling of the case.³⁷

Petitioner's case does not fall under any of these exceptions. Thus, there is no valid reason for it to take the available remedial shortcut. This Court is a court of last resort, and must so remain if it is to satisfactorily perform the functions assigned to it by the Constitution and immemorial tradition.³⁸

³⁵ 739 Phil. 1 (2014).

³⁶ *Id.* at 10-11, citing *Rayos v. City of Manila*, 678 Phil. 952, 957 (2011).

³⁷ *Dy v. Bibat-Palamos*, 717 Phil. 776, 783 (2013).

³⁸ *Cruz v. Gingoyon*, 674 Phil. 42, 58 (2011).

Lastly, it must be stressed that not only has this case dragged on for 12 years to date, the case has already reached the execution stage, when on June 19, 2011, the February 21, 2011 CA Resolution became final and executory, and was recorded in the Book of Entries of Judgment.

Thus, based on the foregoing, the Court dismisses the petition.

WHEREFORE, the Petition for *Certiorari*, Prohibition and Mandamus under Sections 2 and 3, Rule 65 of the Rules of Civil Procedure with Automatic Stay of Execution or Status Quo under Section 3 of Republic Act No. 5440 and for Damages amounting to P500,000.00 including the cost of suit is **DISMISSED**. The Resolution dated February 21, 2011 of the Court of Appeals in CA-G.R. SP No. 117030 is **AFFIRMED**.

SO ORDERED.” *Inting, J., designated additional Member per Raffle dated July 5, 2023 vice Zalameda, J., who participated in the CA Decision.*

By authority of the Court:



MARIA TERESA B. SIBULO
Deputy Division Clerk of Court and
Acting Division Clerk of Court *at 9/8*

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