



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

ABRAHAM RIMANDO,
Petitioner,

- versus -

NAGUILIAN EMISSION TESTING
CENTER, INC., represented by its
President, ROSEMARIE LLARENAS
and HON. COURT OF APPEALS,
Respondents.

G.R. No. 198860

Present:

CARPIO, J.,
Chairperson,
DEL CASTILLO,*
PEREZ,
SERENO, and
REYES, JJ.

Promulgated:

JUL 23 2012

X-----X

RESOLUTION

REYES, J.:

Before us is a petition for review on *certiorari*¹ under Rule 45 of the Rules of Court seeking to annul and set aside Decision² dated March 30, 2011 of the Court of Appeals (CA) in CA-G.R. SP NO. 112152.

* Additional member per Special Order No. 1257 dated July 19, 2012, in lieu of the absence of Associate Justice Arturo D. Brion.

¹ Rollo, pp. 4-20.

² Penned by Associate Justice Japar B. Dimaampao, with Associate Justices Mariflor P. Punzalan Castillo and Jane Aurora C. Lantion, concurring; id. at 22-22.

The Facts

The present controversy stemmed from a petition for mandamus and damages filed before Branch 67 of the Regional Trial Court (RTC) of Bauang, La Union, by Naguilian Emission Testing Center, Inc., represented by its President, Rosemarie Llarenas (respondent) against Abraham P. Rimando (petitioner), who, at the time material to the case, was the sitting mayor of the Municipality of Naguilian, La Union.

The petition prayed for the issuance of a writ of mandamus to compel the petitioner to issue a business permit in favor of the respondent.

In support of its plea, the respondent claimed that its business is being conducted on a parcel of land which formerly belonged to the national government but later on certified by the Department of Environment and Natural Resources (DENR) as an alienable and disposable land of the public domain. The respondent had operated its business of emission testing on the land from 2005 to 2007. On January 18, 2008, the respondent filed an application for the renewal of its business permit and paid the corresponding fees therefor.

The petitioner, however, refused to issue a business permit unless and until the respondent executes a contract of lease with the Municipality of Naguilian. The respondent was amenable to signing such contract subject to some proposed revisions, which, however, were not acceptable to the petitioner. The parties did not reach a common ground hence, the petition for mandamus.

The Ruling of the RTC

On May 26, 2009, the RTC denied the petition³ for lack of merit based on the ratiocinations that: (a) the Municipality of Naguilian is the declared owner of the subject parcel of land by virtue of Tax Declaration No. 002-01197; (b) under Section 6A.01 of the Revenue Code of the Municipality of Naguilian, the municipality has the right to require the petitioner to sign a contract of lease because its business operation is being conducted on a real property owned by the municipality; and (c) a mayor's duty to issue business permits is discretionary in nature which may not be enforced by a mandamus writ. The decretal portion of the decision reads:

WHEREFORE, premises considered, the petition is **DENIED** for lack of merit.

SO ORDERED.⁴

The Ruling of the CA

Unwaivering, the respondent appealed to the CA. In its Decision⁵ dated March 30, 2011, the CA held that the appeal was dismissible on the ground of mootness considering that the period for which the business period was being sought had already lapsed. As such, any ruling on the matter would bring no practical relief. Nonetheless, the CA proceeded to resolve the issues involved in the appeal for academic purposes.

The CA disagreed with the RTC and found that the factual milieu of the case justifies the issuance of a writ of mandamus. The CA reasoned that the tax declaration in the name of the municipality was insufficient basis to require the execution of a contract of lease as a condition *sine qua non* for the renewal of a business permit. The CA further observed that *Sangguniang Bayan* Resolution No. 2007-81, upon which the municipality

³ Under the sala of Judge Ferdinand A. Fe; id. at 46-49.

⁴ Id. at 49.

⁵ Supra note 2.

anchored its imposition of rental fees, was void because it failed to comply with the requirements of the Local Government Code and its Implementing Rules and Regulations.

The CA held that the petitioner may not be held liable for damages since his action or inaction, for that matter, was done in the performance of official duties that are legally protected by the presumption of good faith. The CA likewise stressed that the civil action filed against the petitioner had already become moot and academic upon the expiration of his term as the mayor of Naguilian, La Union.

Despite its incessant declarations on the mootness of the case, the CA disposed of the appeal in this wise:

WHEREFORE, the *Decision* dated 26 May 2009 of the Regional Trial Court, First Judicial Region, Bauang, La Union, Branch 67, in Special Civil Action Case No. 72-BG, is hereby **REVERSED** and **SET ASIDE**.

SO ORDERED.⁶

The petitioner moved for reconsideration⁷ questioning the pronouncement of the CA that *Sangguniang Bayan* Resolution No. 2007-81 was void and arguing that a petition for mandamus is not the proper vehicle to determine the issue on the ownership of the subject land. The motion was denied in the CA Resolution⁸ dated September 30, 2011.

The petitioner is now before this Court reiterating the arguments raised in his motion for reconsideration.

⁶ *Rollo*, p. 33.

⁷ *Id.* at 34-41.

⁸ *Id.* at 42-43.

Our Ruling

We agree with the CA that the petition for mandamus has already become moot and academic owing to the expiration of the period intended to be covered by the business permit.

An issue or a case becomes moot and academic when it ceases to present a justiciable controversy so that a determination thereof would be without practical use and value⁹ or in the nature of things, cannot be enforced.¹⁰ In such cases, there is no actual substantial relief to which the applicant would be entitled to and which would be negated by the dismissal of the petition.¹¹ As a rule, courts decline jurisdiction over such case, or dismiss it on ground of mootness.¹²

The objective of the petition for mandamus to compel the petitioner to grant a business permit in favor of respondent corporation for the period 2008 to 2009 has already been superseded by the passage of time and the expiration of the petitioner's term as mayor. Verily then, the issue as to whether or not the petitioner, in his capacity as mayor, may be compelled by a writ of mandamus to release the respondent's business permit ceased to present a justiciable controversy such that any ruling thereon would serve no practical value. Should the writ be issued, the petitioner can no longer abide thereby; also, the effectivity date of the business permit no longer subsists.

While the CA is not precluded from proceeding to resolve the otherwise moot appeal of the respondent, we find that the decretal portion of its decision was erroneously couched.

⁹ *Philippine Airlines, Inc. v. Pascua*, 456 Phil. 425, 436 (2003).

¹⁰ *Lanuza, Jr. v. Yuchengco*, 494 Phil. 125, 133 (2005); See also *Gonzales v. Narvasa*, 392 Phil. 518, 522 (2000); *Villarico v. Court of Appeals*, 424 Phil. 26 (2002); *King v. Court of Appeals*, 514 Phil. 465, 470 (2005).

¹¹ *Soriano Vda. De Dabao v. Court of Appeals*, 469 Phil. 928 (2004).

¹² *Gunsi, Sr. v. Commissioners, The Commission on Elections*, G.R. No. 168792, February 23, 2009, 580 SCRA 70, 76.

The CA's conclusions on the issue of ownership over the subject land and the invalidity of *Sangguniang Bayan* Resolution No. 2007-81, aside from being unsubstantiated by convincing evidence, can no longer be practically utilized in favor of the petitioner. Thus, the overriding and decisive factor in the final disposition of the appeal was its mootness and the CA should have dismissed the same along with the petition for mandamus that spawned it.

More importantly, a mayor cannot be compelled by mandamus to issue a business permit since the exercise of the same is a delegated police power hence, discretionary in nature. This was the pronouncement of this Court in *Roble Arrastre, Inc. v. Hon. Villaflor*¹³ where a determination was made on the nature of the power of a mayor to grant business permits under the Local Government Code,¹⁴ viz:

Central to the resolution of the case at bar is a reading of Section 444(b)(3)(iv) of the Local Government Code of 1991, which provides, thus:

SEC. 444. *The Chief Executive: Powers, Duties, Functions and Compensation.*

(b) For efficient, effective and economical governance the purpose of which is the general welfare of the municipality and its inhabitants pursuant to *Section 16 of this Code*, the municipal mayor shall:

x x x x

3) Initiate and maximize the generation of resources and revenues, and apply the same to the implementation of development plans, program objectives and priorities as provided for under Section 18 of this Code, particularly those resources and revenues programmed for agro-industrial development and country-wide growth and progress, and relative thereto, shall:

x x x x

(iv) Issue licenses and permits and suspend or revoke the same for any violation of the

¹³ 531 Phil. 30 (2006).

¹⁴ Although the case involved the issuance of a business permit for arrastre service, the general power of a mayor to issue business permits is encapsulated in the same legal provision of the Local Government Code without distinguishing the nature of the business for which a permit is sought.

conditions upon which said licenses or permits had been issued, pursuant to law or ordinance.

As Section 444(b)(3)(iv) so states, the power of the municipal mayor to issue licenses is pursuant to Section 16 of the Local Government Code of 1991, which declares:

SEC. 16. *General Welfare.* – Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants.

Section 16, known as the general welfare clause, encapsulates the delegated police power to local governments. Local government units exercise police power through their respective legislative bodies. Evidently, the Local Government Code of 1991 is unequivocal that the municipal mayor has the power to issue licenses and permits and suspend or revoke the same for any violation of the conditions upon which said licenses or permits had been issued, pursuant to law or ordinance. x x x

x x x x

Section 444(b)(3)(iv) of the Local Government Code of 1991, whereby the power of the respondent mayor to issue license and permits is circumscribed, is a manifestation of the delegated police power of a municipal corporation. Necessarily, the exercise thereof cannot be deemed ministerial. As to the question of whether the power is validly exercised, the matter is within the province of a writ of *certiorari*, but certainly, not of *mandamus*.¹⁵ (Citations omitted)

Indeed, as correctly ruled by the RTC, the petition for mandamus filed by the respondent is incompetent to compel the exercise of a mayor's discretionary duty to issue business permits.

¹⁵

Supra note 13, at 43-46.


WHEREFORE, premises considered, the Decision dated March 30, 2011 of the Court of Appeals in CA-G.R. SP No. 112152 is hereby **SET ASIDE**. The Decision dated May 26, 2009 of the Regional Trial Court of Bauang, La Union is **REINSTATED**.

SO ORDERED.



BIENVENIDO L. REYES
Associate Justice

WE CONCUR:




ANTONIO T. CARPIO
Senior Associate Justice
Chairperson, Second Division



MARIANO C. DEL CASTILLO
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice



MARIA LOURDES P. A. SERENO
Associate Justice

CERTIFICATION

I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

A handwritten signature in black ink, appearing to read 'Antonio T. Carpio', with a stylized flourish at the end.

ANTONIO T. CARPIO

Senior Associate Justice

(Per Section 12, R.A. 296

The Judiciary Act of 1948, as amended)