



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

LUCENA B. RALLOS,
Petitioner,

G.R. No. 202651

Present:

SERENO, C.J.,
Chairperson,
LEONARDO-DE CASTRO
BERSAMIN,
MENDOZA,* and
REYES, JJ.

- versus -

CITY OF CEBU, HONORABLE
MICHAEL RAMA, HONORABLE
JOY AUGUSTUS YOUNG,
HONORABLE SISINIO
ANDALES, HONORABLE
RODRIGO ABELLANOSA,
HONORABLE ALVIN ARCILLA,
HONORABLE RAUL
ALCOSEBA, HONORABLE MA.
NIDA CABRERA, HONORABLE
ROBERTO CABARRUBIAS,
HONORABLE ALVIN DIZON,
HONORABLE RONALD
CUENCO, HONORABLE LEA
JAPSON, HONORABLE JOSE
DALUZ III, HONORABLE
EDGARDO LABELLA,
HONORABLE MARGARITA
OSMEÑA, HONORABLE
AUGUSTUS PE, HONORABLE
RICHARD OSMEÑA,
HONORABLE NOEL
WENCESLAO, HONORABLE
EDUARDO RAMA, JR.,

* Acting Member per Special Order No. 1502 dated August 8, 2013.

HONORABLE MICHAEL
RALOTA, HONORABLE JOHN
PHILIP ECHAVEZ-PO, ATTY.
JOSEPH BERNALDEZ, ATTY.
JUNE MARATAS, ATTY.
JERONE CASTILLO, ATTY.
MARY ANN SUSON, ATTY.
LESLIE ANN REYES, ATTY.
CARLO VINCENT GIMENA,
ATTY. FERDINAND CAÑETE,
ATTY. ISMAEL GARAYGAY III,
ATTY. LECCEL LLAMEDO and
ATTY. MARIE VELLE ABELLA,
Respondents.

Promulgated: .

AUG 28 2013

X-----X

RESOLUTION

REYES, J.:

One of the Heirs of Reverend Father Vicente Rallos (Heirs of Fr. Rallos), Lucena B. Rallos¹ (Lucena), is now before this Court with a petition² praying for the citation for indirect contempt of the City of Cebu, Mayor Michael Rama (Mayor Rama), the presiding officer and members of the *Sangguniang Panlungsod*, and lawyers from the Office of the City Attorney (respondents). The instant petition is anchored on Lucena's allegation that the respondents impede the execution of final and executory judgments rendered by this Court in G.R. Nos. 179662³ and 194111⁴. G.R. Nos. 179662 and 194111 were among a string of suits which originated from a Complaint for Forfeiture of Improvements or Payment of Fair Market Value with Moral and Exemplary Damages⁵ filed in 1997 by the Heirs of Fr. Rallos before the Regional Trial Court (RTC) of Cebu City, Branch 9, against the City of Cebu relative to two parcels of land⁶ with a total area of 4,654 square meters located in *Barangay Sambag I* which were expropriated in 1963 for road construction purposes.

¹ Sometimes appears in the records as "Lucina B. Rallos".

² *Rollo*, pp. 3-56.

³ On December 5, 2007, this Court issued a Minute Resolution (id. at 111-112) denying due to (a) lack of properly executed verification and certification of non-forum shopping, and (b) failure to show any reversible error the Petition for Review on *Certiorari* filed by the City of Cebu against the Heirs of Fr. Rallos to assail the decision rendered by the Court of Appeals in CA-G.R. CV No. 76656.

⁴ On December 6, 2010, this Court issued a Minute Resolution (id. at 129) denying due to failure to show any reversible error the Petition for Review on *Certiorari* filed by the City of Cebu against Lucina B. Rallos, et al. to assail the decision rendered by the Court of Appeals in CA-G.R. SP No. 04418.

⁵ Docketed as Civil Case No. CEB-20388.

⁶ Now parts of M.H. Aznar Street, Cebu City.

Antecedent Facts

At the root of the controversy are Lots 485-D and 485-E of the Banilad Estate, Sambag I, Cebu City, which were expropriated to be used as a public road in 1963. The Heirs of Fr. Rallos alleged that the City of Cebu occupied the lots in bad faith *sans* the authority of the former's predecessors-in-interest, who were the registered owners of the subject parcels of land.

On June 11, 1997, the Heirs of Fr. Rallos filed before the RTC a Complaint for Forfeiture of Improvements or Payment of Fair Market Value with Moral and Exemplary Damages against the City of Cebu.

In its Answer filed on October 6, 1997, the City of Cebu contended that the subject parcels of land are road lots and are not residential in character. They have been withdrawn from the commerce of men and were occupied by the City of Cebu without expropriation proceedings pursuant to Ordinance No. 416 which was enacted in 1963 or more than 35 years before the Heirs of Fr. Rallos instituted their complaint.

On January 14, 2000, the RTC rendered a Decision,⁷ which found the City of Cebu liable to pay the Heirs of Fr. Rallos just compensation in the amount still to be determined by a board of three commissioners, one each to be designated by the contending parties and the court.

To assail the Decision rendered on January 14, 2000, the City of Cebu filed a Motion for Reconsideration, which was however denied by the RTC on February 5, 2001.⁸

The members of the Board of Commissioners thereafter submitted their respective appraisal reports. On July 24, 2001, the RTC rendered a Decision,⁹ the dispositive portion of which, in part, reads:

WHEREFORE, the [RTC] hereby renders judgment, ordering [the City of Cebu] to pay [the Heirs of Fr. Rallos] as just compensation for Lots 485-D and 485-E the amount of Php34,905,000.00 plus interest at 12% per annum to start 40 days from [the] date of this decision and to continue until the whole amount shall have been fully paid. [The City of Cebu] is further ordered to pay [the Heirs of Fr. Rallos] the following amounts:

⁷ With then Presiding Judge Benigno G. Gaviola; *rollo*, pp. 57-73.

⁸ Id. at 74-76.

⁹ Id. at 77-81.

- 1. Php50,000.00 as reimbursement for attorney’s fees;
- 2. Php50,000.00 as reimbursement for litigation expenses.¹⁰

The contending parties both moved for the reconsideration of the Decision rendered on July 24, 2001. The City of Cebu argued that the reckoning period for the computation of just compensation should be at least not later than 1963 when the said lots were initially occupied. On the other hand, the Heirs of Fr. Rallos insisted that the amount of just compensation payable by the City of Cebu should be increased from Php 7,500.00 to Php 12,500.00 per sq m, the latter being the fair market value of the subject lots. They also prayed for the award of damages in the amount of Php 16,186,520.00, which was allegedly the value of the loss of usage of the properties involved from 1963 to 1997 as computed by Atty. Fidel Kwan, the commissioner appointed by the RTC.

On March 21, 2002, the RTC issued a Consolidated Order¹¹ denying the Motion for Reconsideration filed by the City of Cebu, but modifying the Decision rendered on July 24, 2001. Through the said order, the RTC increased the amount of just compensation payable to the Heirs of Fr. Rallos from Php 7,500.00 to Php 9,500.00 per sq m.

The City of Cebu filed with the RTC a Notice of Appeal, which was opposed by the Heirs of Fr. Rallos.

In the Decision¹² rendered on May 29, 2007, which resolved the appeal¹³ filed by the City of Cebu, the CA opined that the RTC erred in holding that the reckoning point for the determination of the amount of just compensation should be from 1997, the time the complaint for just compensation was filed by the Heirs of Fr. Rallos. Notwithstanding the foregoing, the CA still dismissed on procedural grounds the appeal filed by the City of Cebu. The CA pointed out that pursuant to Sections 2¹⁴ and 9,¹⁵

¹⁰ Id. at 81.
¹¹ Id. at 82-87.
¹² Penned by Associate Justice Antonio L. Villamor, with Associate Justices Isaias P. Dicedican and Stephen C. Cruz, concurring; id. at 88-106.
¹³ Docketed as CA-G.R. CV No. 76656
¹⁴ Sec. 2. Modes of appeal.
(a) Ordinary appeal.—The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party. No record on appeal shall be required except in special proceedings and other cases of multiple or separate appeals where the law or these Rules so require. In such cases, the record on appeal shall be filed and served in like manner.
x x x x
¹⁵ Sec. 9. Perfection of appeal; effect thereof. x x x
A party’s appeal by record on appeal is deemed perfected as to him with respect to the subject matter thereof upon the approval of the record on appeal filed in due time.
x x x x

Rule 41 and Section 1,¹⁶ Rule 50 of the Rules of Court, a record on appeal and not a notice of appeal should have been filed before it by the City of Cebu to assail the RTC's Decisions rendered on January 14, 2000 and July 24, 2001 and the Orders issued on February 5, 2001 and March 21, 2002.

The City of Cebu filed before this Court a Petition for Review on *Certiorari*¹⁷ to assail the Decision rendered by the CA on May 29, 2007. This Court denied the same through a Minute Resolution¹⁸ issued on December 5, 2007. The said Minute Resolution was recorded in the Book of Entries of Judgments on April 21, 2008.¹⁹

The Heirs of Fr. Rallos thereafter filed before the RTC a Motion for Execution relative to the Decision rendered on July 24, 2001. They claimed that in 2001, the City of Cebu paid them Php 34,905,000.00, but there remained a balance of Php 46,546,920.00 left to be paid, computed as of September 2, 2008. On its part, the City of Cebu admitted still owing the Heirs of Fr. Rallos but only in the amount of Php 16,893,162.08.²⁰

On December 4, 2008, the RTC issued a writ of execution in favor of the Heirs of Fr. Rallos, which in part, reads:

NOW, THEREFORE, you are hereby commanded to serve a copy hereof to judgment obligor City of Cebu and demand for the immediate payment of Php 44,213,000.00, less the partial payment of Php 34,905,000.00 plus interest at 12% per annum to start 40 days from date of the July 24, 2001 Decision and to continue until the whole amount has been fully paid; Php 50,000.00 as attorney's fees; and Php 50,000.00 as litigation expenses. x x x.²¹

Sheriff Antonio Bellones (Sheriff Bellones) then served upon the City of Cebu a demand letter, dated December 4, 2008, and which was amended on January 26, 2009, indicating that:

DEMAND is hereby made for the judgment obligor City of Cebu x x x to facilitate the prompt payment of the following: (a) just compensation of Lots 485-D and 485-E in the amount of Php 44,213,000.00 plus interest of

¹⁶ Sec. 1. Grounds for dismissal of appeal.—An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds:

x x x x

(b) Failure to file the notice of appeal or the record on the appeal within the period prescribed by these Rules;

x x x x

¹⁷ Docketed as G.R. No. 179662.

¹⁸ *Rollo*, pp. 111-112.

¹⁹ *Id.* at 113-114.

²⁰ Culled from the Decision rendered by the Court of Appeals on June 11, 2010 in CA-G.R. SP No. 04418; *id.* at 118.

²¹ *Id.*

12% per annum starting 40 days from the July 24, 2001 Decision and to continue until the whole amount has been duly paid less partial payment of Php 34,905,000.00 x x x.²²

The City of Cebu sought the reiteration of the directives stated in the Writ of Execution issued on December 4, 2008 and the setting aside of the amended demand letter served upon it by Sheriff Bellones.

On March 16, 2009, the RTC issued an Order²³ denying the City of Cebu's motion for the reiteration of the writ of execution. The RTC, however, set aside the demand letter served upon the City of Cebu by Sheriff Bellones and interpreted the directives of the writ of execution issued on December 4, 2008 as:

[T]he entire amount of Php 44,213,000.00 shall be subjected to a 12% interest per annum to start 40 days from the date the decision on July 24, 2001 [was rendered] until the amount of Php 34,905,000.00 was partially paid by the City of Cebu. After the payment by the City of Cebu of a partial amount, the balance shall again be subjected to 12% interest until the same shall have been fully paid.²⁴

The Heirs of Fr. Rallos assailed the abovementioned order on the ground that it effectively modified the final and executory Decision rendered on July 24, 2001. They likewise sought the application of Article 2212²⁵ of the New Civil Code and jurisprudence so as to entitle them to legal interest on the interest due to them pursuant to the Decision rendered on July 24, 2001. In the Order issued on May 20, 2009, the RTC did not favorably consider the preceding claims.

A Petition for *Certiorari* and *Mandamus*²⁶ was then filed by the Heirs of Fr. Rallos before the CA to challenge the Orders issued by the RTC on March 16, 2009 and May 20, 2009. The CA granted the petition after finding that the two assailed orders effectively modified the final and executory disposition made by the RTC on March 21, 2002. The CA likewise ruled that the case calls for the application of Article 2212 of the New Civil Code, hence, it directed the City of Cebu to pay interest at the rate of 12% *per annum* upon the interest due, to be computed from the date of the filing of the complaint until full satisfaction of the obligation. The CA stated:

²² Id. at 119.

²³ Issued by Honorable Geraldine Faith Econg.

²⁴ *Rollo*, p. 119.

²⁵ Art. 2212. Interest due shall earn legal interest from the time it is judicially demanded, although the obligation may be silent upon this point.

²⁶ Docketed as CA-G.R. SP No. 04418.

Note that the final and executory consolidated decision of July 24, 2001 as modified by the final and executory order of March 21, 2002, clearly directed herein respondent Cebu City to pay interest at the rate of 12% per annum based on the amount of [Php]9,500.00 per square meter starting 40 days from the date of the decision and to continue until the entire amount shall have been fully paid. Yet, the assailed orders x x x, now directed that the 12% interest per annum be paid on the declining balance contrary to the directive in the final and executory judgment x x x.

x x x x

x x x [The Heirs of Fr. Rallos] are without a doubt entitled to 12% interest per annum on the interest due from finality until its satisfaction x x x. The same is proper even if not expressly stated in the final and executory judgment x x x.²⁷

The City of Cebu assailed the Decision in CA-G.R. SP No. 04418 by way of a Petition for Review on *Certiorari*²⁸ filed before this Court. The same was denied through a Minute Resolution²⁹ issued on December 6, 2010. The said resolution was recorded in this Court's Book of Entries of Judgments on June 16, 2011.³⁰

The Heirs of Fr. Rallos then moved for execution relative to Civil Case No. CEB-20388. The RTC granted the motion through the Order³¹ issued on September 23, 2011.

The City of Cebu thereafter filed the following: (1) Urgent Omnibus Motions to Quash the Writ of Execution, and to Set Aside the Notice of Garnishment; (2) Supplemental Urgent Omnibus Motions to Quash the Writ of Execution, and to Set Aside the Notice of Garnishment; (3) Motion for Issuance of *Status Quo* Order Pending Resolution of [the City of Cebu's] Urgent Omnibus Motions to Quash the Writ of Execution and to Set Aside the Notice of Garnishment;³² and (4) Motion to Strike out or Expunge Urgent Omnibus Motion and Supplemental Urgent Omnibus Motion with Manifestation and Reservation. The RTC denied the four motions in the Order³³ issued on October 26, 2011. The RTC's Order³⁴ issued on January 26, 2012 likewise did not favorably consider the motion for reconsideration filed by the City of Cebu. The RTC emphasized that the *Convenio*³⁵ already

²⁷ *Rollo*, pp. 121-124.

²⁸ Docketed as G.R. No. 194111.

²⁹ *Rollo*, p. 129.

³⁰ *Id.* at 130.

³¹ Issued by Honorable James Stewart Ramon E. Himalaloan as Acting Presiding Judge; *id.* at 134-135.

³² In this motion, it was alleged that a 1940 *Convenio* was discovered wherein the predecessors-in-interest of the Heirs of Fr. Rallos supposedly obligated themselves to donate the two lots subject of the instant controversy to the City of Cebu.

³³ *Rollo*, pp. 136-137.

³⁴ *Id.* at 138.

³⁵ *Id.* at 298-313, 314-332.

existed way back in 1940, hence, it cannot be considered as a supervening event which transpired after the judgment in Civil Case No. CEB-20388 had become final and executory. The City of Cebu no longer filed any motion or action to assail the RTC Orders issued on October 26, 2011 and January 26, 2012.

Meanwhile, in response to Mayor Rama's query, the Commission on Audit's (COA) Regional Director Delfin P. Aguilar wrote the former a letter³⁶ dated October 27, 2011 opining that:

Under Administrative Circular No. 10-2000³⁷ issued by the Supreme Court, it was clearly stated that the prosecution, enforcement or satisfaction of state liability **must** be pursued in accordance with the rules and procedures laid down in Presidential Decree No. 1445, otherwise known as the Government Auditing Code of the Philippines, wherein it is provided that all money claims against the government must first be filed with the [COA]. x x x.

Clearly, based on the aforementioned Supreme Court issuance and in the line with the rulings of the Supreme Court in various cases against garnishment of public funds or property to satisfy money judgment against the government, we are of the view that the issuance of the writ of execution for the satisfaction of the money judgment against the City of Cebu may be considered beyond the powers of the court.

On the other hand, Section 1, Rule VIII of the 2009 Revised Rules of Procedure of the COA provides that a money judgment is considered as a money claim which is within the original jurisdiction of the Commission Proper (CP) of the COA and which shall be filed directly with the Commission Secretary x x x.³⁸

On February 27, 2012, the RTC issued another Order³⁹ directing under pain of contempt the Cebu branches of Philippine Veterans Bank and Postal Savings Bank to release to the concerned RTC sheriff certifications indicating the correct account names and numbers maintained by the City of Cebu in the said banks. The Order also directed the *Sangguniang Panlungsod* to enact an appropriation ordinance relative to the money judgment. Upon presentment of the ordinance, the above-mentioned banks were expected to release the amounts stated therein to satisfy the judgment rendered in favor of the Heirs of Fr. Rallos. The City of Cebu filed a Motion for Reconsideration⁴⁰ against the Order dated February 27, 2012.

³⁶ Id. at 333-336.

³⁷ Exercise of Utmost Caution, Prudence and Judiciousness in the Issuance of Writs of Execution to Satisfy Money Judgments Against Government Agencies and Local Government Units, issued on October 25, 2000.

³⁸ *Rollo*, pp. 334.

³⁹ No copy of the Order is attached to the *rollo*. This Court referred to the City of Cebu's Motion for Reconsideration (id. at 139; Only the first page of the motion is found in the *rollo*.) to the said order to determine the latter's contents.

⁴⁰ Id.

Even before the Motion for Reconsideration to the Order dated February 27, 2012 can be resolved by the RTC, the City of Cebu filed before the CA a Petition for Annulment of Final Decision/s and Order/s with prayer for the issuance of injunctive reliefs.⁴¹ The City of Cebu claimed that the act of the Heirs of Fr. Rallos of suppressing the existence of the *Convenio* amounted to extrinsic fraud which would justify the annulment of the RTC’s decisions and orders relative to Civil Case No. CEB-20388. In praying for the issuance of injunctive reliefs, the City of Cebu stressed that it had already paid the Heirs of Fr. Rallos Php 56,196,369.42 for a 4,654 sq m property or at a price of Php 12,074.85 per sq m. Further, the procedures prescribed in Presidential Decree (P.D.) No. 1445, this Court’s Administrative Circular (Admin. Circular) No. 10-2000 and Rule VIII of the COA’s Revised Rules of Procedure were not yet complied with, hence, public funds cannot be released notwithstanding the rendition of the decisions and issuance of the orders by the RTC relative to Civil Case No. CEB-20388.

On April 13, 2012, the CA, through a Resolution,⁴² granted the City of Cebu’s application for the issuance of a temporary restraining order (TRO) relative to CA-G.R. SP No. 06676. Subsequently, a writ of preliminary injunction was likewise issued through the Resolution⁴³ dated June 26, 2012.

Lucena then filed the following petitions for indirect contempt, all of which in relation with Civil Case No. CEB-20388:

Title	Docket Number	Date Filed	Forum
<i>Lucina B. Rallos v. Mayor Michael Rama, Eileen Mangubat and Doris Bongcac</i> ⁴⁴	SCA No. CEB-38121	October 3, 2011	RTC of Cebu City, Branch 10
<i>Lucina B. Rallos v. Nicanor Valles, Ricardo Balbido, Jr., and Mayor Michael Rama</i> ⁴⁵	SCA No. CEB-38196	October 25, 2011	RTC of Cebu City, Branch 14

⁴¹ Docketed as CA-G.R. SP No. 06676; id. at 141-163.
⁴² Penned by Associate Justice Ramon Paul L. Hernando, with Associate Justices Pampio A. Abarintos and Victoria Isabel A. Paredes, concurring; id. at 339-341.
⁴³ Penned by Associate Justice Gabriel T. Ingles, with Associate Justices Pamela Ann Abella Maxino and Carmelita S. Manahan, concurring; id. at 345-347.
⁴⁴ Id. at 256-271. The respondents are the publisher and chief of reporters of *Cebu Daily News*.
⁴⁵ Id. at 272-280. The respondents are bank officers of Philippine Veterans Bank.

<i>Lucina B. Rallos v. Philippine Veterans Bank, et al.</i>	SCA No. CEB-38212	November 4, 2011	RTC of Cebu City, Branch 7
<i>Lucina B. Rallos v. City of Cebu, Michael Rama, et al.</i> ⁴⁶	SCA No. CEB-38292	December 6, 2011	RTC of Cebu City, Branch 14
<i>Lucena B. Rallos v. Honorable Justices Gabriel T. Ingles, Pamela Ann Abella Maxino and Carmelita Salandanan Manahan</i> ⁴⁷	G.R. No. 202515	July 19, 2012	This Court
The instant petition	G.R. No. 202651	August 1, 2012	This Court

Issue and the Contending Parties’ Claims

Lucena anchors the instant petition on the sole issue of whether or not the City of Cebu, Mayor Rama, the presiding officer and members of the *Sangguniang Panlungsod* and the lawyers from the Office of the City Attorney committed several acts of indirect contempt all geared towards preventing the execution of final and executory judgments rendered by this Court in G.R. Nos. 179662 and 194111.

Lucena enumerates the allegedly contumacious acts of the respondents as the filing: (a) with the CA of a Petition for Annulment of Final Decision/s and Order/s⁴⁸ again on the basis of the *Convenio*, which was already presented and considered in the proceedings before the RTC, and despite the finality of the decisions and orders rendered or issued relative to Civil Case No. CEB-20388; and (b) of several motions⁴⁹ before the RTC in Civil Case No. CEB-20388 for the purpose of preventing or

⁴⁶ Id. at 281-297. The respondents are mostly the same ones now involved in the instant petition before this Court.
⁴⁷ Id. at 363-393. The respondents are justices from the CA Cebu Station.
⁴⁸ Id. at 141-163.
⁴⁹ (1) Urgent Omnibus Motions to Quash the Writ of Execution and to Set Aside the Notice of Garnishment; (2) Supplemental Urgent Omnibus Motions to Quash the Writ of Execution, and to Set Aside the Notice of Garnishment; and (3) Motion for Issuance of Status Quo Order Pending Resolution of [the City of Cebu’s] Urgent Omnibus Motions to Quash the Writ of Execution and to Set Aside the Notice of Garnishment.

delaying the execution of decisions and orders which had already attained finality.

The respondents, on the other hand, seek the dismissal of the instant action contending that: (a) the rules on *litis pendentia* and forum shopping bar this Court from giving due course to Lucena's petition since there are five other contempt proceedings filed involving the same issues and parties; (b) the injunctive writs granted to the City of Cebu by the CA in CA-G-R. SP No. 06676 relative to the execution of the decisions and orders in Civil Case No. CEB-20388 rendered the instant action as moot and academic; (c) the legal remedies they availed of were all pursued to protect public funds; (d) the RTC sheriff, in attempting to execute the decisions and orders in Civil Case No. CEB-20388, miserably failed to comply with the requirements provided for by law, to wit, Section 305(a)⁵⁰ of the Local Government Code, this Court's Admin. Circular No. 10-2000,⁵¹ P.D. No. 1445 and Rule VIII of COA's Revised Rules of Procedure; (e) in *Parel v. Heirs of Simeon Prudencio*,⁵² this Court declared that a writ of execution may be assailed when it varies the judgment, where there has been a change in the situation of parties making execution unjust or inequitable, or when the judgment debt has been paid or satisfied; (f) it would unduly overburden the City of Cebu to pay Php 133,469,962.55 for the subject lots the huge portions of which are now occupied by settlers and establishments claiming to be owners, practically leaving a very small and insignificant area for use; (g) in the case of *City of Caloocan v. Hon. Allarde*,⁵³ this Court ruled that government funds maintained in any official depository may not be garnished in the absence of a corresponding appropriation as required by law; and (h) the *Sangguniang Panlungsod* cannot be compelled to pass an appropriations ordinance to satisfy the claims of the Heirs of Fr. Rallos for to do otherwise would be to intrude into the exercise of a discretionary authority to decide a political question.

This Court's Disquisition

The instant petition lacks merit.

Lucena engaged in forum shopping.

"Forum shopping is the act of litigants who repetitively avail themselves of multiple judicial remedies in different *fora*, simultaneously or successively, all substantially founded on the same transactions and the same

⁵⁰ No money shall be paid out of the local treasury except in pursuance of an appropriations ordinance or law.

⁵¹ Supra note 37.

⁵² G.R. No. 192217, March 2, 2011, 644 SCRA 496.

⁵³ 457 Phil. 543 (2003).

essential facts and circumstances; and raising substantially similar issues either pending in or already resolved adversely by some other court; or for the purpose of increasing their chances of obtaining a favorable decision, if not in one court, then in another.”⁵⁴

“Forum shopping exists when the elements of *litis pendentia* are present or where a final judgment in one case will amount to *res judicata* in another. *Litis pendentia* requires the concurrence of the following requisites: (1) identity of parties, or at least such parties as those representing the same interests in both actions; (2) identity of rights asserted and reliefs prayed for, the reliefs being founded on the same facts; and (3) identity with respect to the two preceding particulars in the two cases, such that any judgment that may be rendered in the pending case, regardless of which party is successful, would amount to *res judicata* in the other case.”⁵⁵

In the Verification and Non-Forum Shopping Certification⁵⁶ attached to the instant petition and executed by Lucena, she admitted that there are five other pending actions for indirect contempt which she filed relative to Civil Case No. CEB-20388. She, however, claims that the issues in the other five petitions are different from that raised before this Court now.

Lucena’s claim cannot be sustained.

A comparison of the instant petition with SCA No. CEB-38292⁵⁷ filed before the RTC of Cebu City, Branch 14 follows:

	Instant Petition	SCA No. CEB-38292
Nature of Action	Petition for Indirect Contempt of Court	Petition for Indirect Contempt
Petitioner	Lucena B. Rallos	Lucina B. Rallos
Respondents	City of Cebu Mayor Michael Rama City Councilors Joy Augustus Young Sisinio Andales Rodrigo Abellanos Alvin Arcilla	City of Cebu Mayor Michael Rama City Councilors Joy Augustus Young Sisinio Andales Rodrigo Abellanos Alvin Arcilla

⁵⁴ Arevalo v. Planters Development Bank, G.R. No. 193415, April 18, 2012, 670 SCRA 252, 264, citing Pilipino Telephone Corp. v. Radiomarine Network, Inc., G.R. No. 152092, August 4, 2010, 626 SCRA 702, 728-729.

⁵⁵ Id. at 264-265, citing Yu v. Lim, G.R. No. 182291, September 22, 2010, 631 SCRA 172, 184.

⁵⁶ Rollo, p. 56.

⁵⁷ Id. at 281-297.

	<p>Raul Alcoseba Ma. Nida Cabrera Roberto Cabarrubias Alvin Dizon Ronald Cuenco Lea Japson Jose Daluz III Edgardo Labella Margarita Osmena Augustus Pe Richard Osmena Noel Wenceslao Eduardo Rama, Jr. Michael Ralota John Philip Echavez-Po Lawyers from the Office of the City Attorney Atty. Joseph Bernaldez Atty. Jun Maratas Atty. Jerone Castillo Atty. Mary Ann Suson Atty. Leslie Ann Reyes Atty. Carlo Vincent Gimena Atty. Ferdinand Canete Atty. Ismael Garaygay III Atty. Lecel Llamedo Atty. Marie Velle Abella</p>	<p>Raul Alcoseba Ma. Nida Cabrera Roberto Cabarrubias Alvin Dizon Ronald Cuenco Lea Japson Jose Daluz III Edgardo Labella Margarita Osmena Augustus Pe Richard Osmena Noel Wenceslao Eduardo Rama, Jr. Michael Ralota John Philip Echavez-Po</p>
<p>Prayer</p>	<p>Respondents be declared guilty of indirect contempt in relation to their non-compliance with the directives contained in the dispositive portion of the Consolidated Order issued on March 21, 2002 by the RTC in Civil Case No. CEB-20388.⁵⁸</p>	<p>Respondents, except the City of Cebu, be imprisoned until they perform the said act of complying or causing the compliance with the specific directives contained in the dispositive portion of the final and executory Consolidated Order dated March 21, 2002.⁵⁹</p>

In *Arevalo*,⁶⁰ this Court enumerated the three requisites of *litis pendentia*. There is a confluence of these requisites relative to the instant petition and SCA No. CEB-38292.

Litis pendentia does not require the exact identity of parties involved in the actions. Although the lawyers from the Office of the City Attorney are

⁵⁸ Id. at 48-50.
⁵⁹ Id. at 295.
⁶⁰ Supra note 54.

parties herein but are not made respondents in SCA No. CEB-38292, they do not in any way represent any interest distinct or separate from that of the City of Cebu and the public officers involved. Further, the instant petition superficially makes reference to the Minute Resolutions rendered by this Court in G.R. Nos. 179662 and 194111 which Lucena claims had lapsed into finality and should thus be executed. However, stripped of the unnecessary details, the reliefs saliently sought in both the instant petition and SCA No. CEB-38292 are founded on the same set of facts, to wit, the alleged non compliance by the respondents with the directives contained in the dispositive portion of the Consolidated Order issued by the RTC on March 21, 2002 relative to Civil Case No. CEB-20388. Finally, citation for indirect contempt in either the instant petition or SCA No. CEB-38292 would amount to *res judicata* in the other considering the identities of the parties and issues involved.

Since the elements of *litis pendentia* concur in the instant petition and SCA No. CEB-38292, this Court so holds Lucena guilty of forum shopping.

“[T]he grave evil sought to be avoided by the rule against forum shopping is the rendition by two competent tribunals of two separate and contradictory decisions. To avoid any confusion, this Court adheres strictly to the rules against forum shopping, and any violation of these rules results in the dismissal of a case.”⁶¹

Further, “once there is a finding of forum shopping, the penalty is summary dismissal not only of the petition pending before this Court, but also of the other case that is pending in a lower court. This is so because twin dismissal is a punitive measure to those who trifle with the orderly administration of justice.”⁶²

Even if in the higher interest of justice, this Court were to be exceptionally liberal and gloss over Lucena’s act of forum shopping, the instant petition would still be susceptible to dismissal.

While this Court does not intend to downplay the rights accruing to the owners of properties expropriated by the government, it bears stressing that the exercise and enforcement of those rights are subject to compliance with the requirements provided for by law to protect public funds.

⁶¹ Id. at 267, citing *Dy v. Mandy Commodities Co., Inc.*, G.R. No. 171842, July 22, 2009, 593 SCRA 440, 450.

⁶² *Dy v. Mandy Commodities Co., Inc.*, id at 453.

Lucena avers that the respondents willfully and maliciously defy the execution of final and executory decisions and orders rendered or issued relative to Civil Case No. CEB-20388.

Such averment is untenable.

The respondents allege and Lucena does not refute, that the City of Cebu had already paid the Heirs of Fr. Rallos Php 56,196,369.42 for a 4,654 sq m property or at a price of Php 12,074.85 per sq m. The controversy remains and the parties resort to all legal maneuverings because the Heirs of Fr. Rallos obdurately insist that they are still entitled to collect from the City of Cebu a balance of Php 133,469,962.55.

The Heirs of Fr. Rallos are bent on collecting the amount allegedly still unpaid by the City of Cebu in accordance with the computations stated in the decisions and orders in Civil Case No. CEB-20388. *However, the Heirs of Fr. Rallos are impervious to the requisites laid down by law in enforcing their claims.* The requisites are two-fold as discussed below.

An appropriation ordinance should be passed prior to the disbursement of public funds.

“Even though the rule as to immunity of a state from suit is relaxed, the power of the courts ends when the judgment is rendered. Although the liability of the state has been judicially ascertained, the state is at liberty to determine for itself whether to pay the judgment or not, and execution cannot issue on a judgment against the state. Such statutes do not authorize a seizure of state property to satisfy judgments recovered, and only convey an implication that the legislature will recognize such judgment as final and make provision for the satisfaction thereof.”⁶³

Section 4(1) of P.D. No. 1445 and Section 305(a) of the Local Government Code both categorically state that no money shall be paid out of any public treasury or depository except in pursuance of an appropriation law or other specific statutory authority. Based on considerations of public policy, government funds and properties may not be seized under writs of execution or garnishment to satisfy judgments rendered by the courts and disbursements of public funds must be covered by the corresponding

⁶³ Supra note 53, at 553, citing *Republic of the Philippines v. Hon. Palacio, et al.*, 132 Phil. 369, 375 (1968).

appropriation as required by law.⁶⁴

In the case at bar, no appropriation ordinance had yet been passed relative to the claims of the Heirs of Fr. Rallos. Such being the case, the respondents, as public officers, are acting within lawful bounds in refusing the execution of the decisions and orders in Civil Case No. CEB-20388.

Despite the rendition of a final and executory judgment validating a money claim against an agency or instrumentality of the Government, its filing with the COA is a *sine qua non* condition before payment can be effected.

Section 26 of P.D. No. 1445 states that the COA has jurisdiction to examine, audit and *settle* all debts and claims of any sort due from or owing to the Government or any of its subdivisions, agencies and instrumentalities. Under Section 5(b), Rule II of COA's Revised Rules of Procedure, local government units are expressly included as among the entities within the COA's jurisdiction. Section 2,⁶⁵ Rule VIII lays down the procedure in filing money claims against the Government. Section 4, Rule X provides that any

⁶⁴ See *University of the Philippines v. Dizon*, G.R. No. 171182, August 23, 2012, 679 SCRA 54, 81.

⁶⁵ **Sec. 2. Money claim.**—A money claim against the government shall be filed directly with the Commission Secretary in accordance with the following:

a) *Petition.*—A claimant for money against the Government, whose claim is cognizable by the Commission Proper, may file a petition. The party seeking relief shall be referred to as "Petitioner" and the government agency or instrumentality against whom a claim is directed shall be referred to as "Respondent". The petition shall also be assigned a docket number as provided in these Rules.

b) *Contents of Petition.*—The petition shall contain the personal circumstances or juridical personality of the petitioner, a concise statement of the ultimate facts constituting his cause of action, a citation of the law and jurisprudence upon which the petition is based and the relief sought. The petition shall be accompanied by certified true copies of documents referred therein and other relevant supporting papers.

c) *Filing of Petition.*—The petition shall be filed with the Commission Secretary, a copy of which shall be served on the respondent. Proof of service of the petition on the respondent together with proof of the payment of filing fee shall be attached to the petition.

d) *Order to Answer.*—Upon the receipt of the petition, the Commission Secretary shall issue an Order requiring respondent to answer the petition within fifteen (15) days from receipt thereof.

e) *Answer.*—Within fifteen (15) days from receipt of the said Order, the respondent shall file with Commission Secretary an Answer to the petition. The answer shall be accompanied by certified true copies of documents referred to therein together with other supporting papers. The answer shall (a) point out insufficiencies or inaccuracies in the petitioner's statement of facts and issues and (b) state the reasons why the petition should be denied or dismissed or granted. Copy of the answer shall be served on the petitioner and proof of service thereof shall be attached to the answer.

f) *Reply.*—Petitioner may file a Reply, copy furnished the respondent, within fifteen (15) days from receipt of the Answer.

g) *Comment by Concerned Offices.*—Money claims, except court-adjudicated claims, shall first be assigned by the Commission Secretary to the appropriate Central or Regional Office, for comment and recommendation prior to referral to the Legal Services Sector for preparation of the decision and formal deliberation by the Commission Proper.

case brought to the COA shall be decided within 60 days from the date it is submitted for decision or resolution. Section 1, Rule XII allows the aggrieved party to file a petition for *certiorari* before this Court to assail any decision, order or resolution of the COA within 30 days from receipt of a copy thereof.

This Court, in the case of *University of the Philippines v. Dizon*,⁶⁶ thus held that despite the existence of a final and executory judgment validating the claim against an agency or instrumentality of the Government, the settlement of the said claim is still subject to the primary jurisdiction of the COA. Ineluctably, the claimant has to first seek the COA's approval of the monetary claim.⁶⁷

Without compliance by Lucena and the Heirs of Fr. Rallos with the provisions of P.D. No. 1445 and the COA's Revised Rules of Procedure, their lamentations that the respondents are unjustly refusing the execution of the decisions and orders in Civil Case No. CEB-20388 do not hold any water.

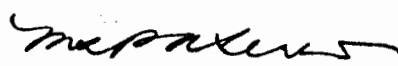
IN VIEW OF THE FOREGOING, the instant petition is **DISMISSED**. Further, on account of Lucena Rallos' act of forum shopping, the Regional Trial Court of Cebu City, Branch 14, is likewise directed to dismiss her petition for contempt, docketed as SCA No. CEB-38292, which she filed against the respondents.

SO ORDERED.




BIENVENIDO L. REYES
Associate Justice


WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

⁶⁶ G.R. No. 171182, August 23, 2012, 679 SCRA 54.
⁶⁷ Id. at 80.



TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.


MARIA LOURDES P. A. SERENO
Chief Justice