



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

GENERAL MARIANO ALVAREZ **G.R. No. 175417**
SERVICES COOPERATIVE, INC.
(GEMASCO),
Petitioner,

- versus -

NATIONAL HOUSING
AUTHORITY (NHA) and
GENERAL MARIANO ALVAREZ
WATER DISTRICT (GMAWD),
Respondents.

X-----X
GENERAL MARIANO ALVAREZ **G.R. No. 198923**
WATER DISTRICT (GMAWD),
Petitioner,

- versus -

AMINA CATANGAY, ELESITA
MIRANDA, ROSITA RICARTE,
ROSA FETIZANAN, ABSALON
AGA, ELPIDIO SARMIENTO,
FRANCISCO RICARDE, ROMEO
CATACUTAN, RASALIO
LORENZO, ARTEMIO RAFAEL,
MYRN CEA, and NORMA ESTIL;
NATIONAL HOUSING
AUTHORITY (NHA) and
GENERAL MARIANO ALVAREZ
SERVICES COOPERATIVE,
INC., represented by ERNESTO
FLORES,

Present:

VELASCO, JR., J., *Chairperson,*
PERALTA,
VILLARAMA, JR.,
REYES, and
JARDELEZA, JJ.

Promulgated:

February 9, 2015

Respondents.

[Signature]

X-----X

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DECISION**PERALTA, J.:**

Before the Court are the consolidated cases of G.R. No. 175417 and G.R. No. 198923. In G.R. No. 175417, General Mariano Alvarez Services Cooperative, Inc. (*GEMASCO*), through a Petition for Review under Rule 45 of the Rules of Court, questions the Decision¹ dated March 23, 2006 and Resolution² dated September 1, 2006 of the Court of Appeals (*CA*), Seventh Division, in CA-G.R. CV No. 64237, affirming the June 15, 1999 Decision³ of the Quezon City Regional Trial Court (*RTC*), Branch 216. On the other hand, General Mariano Alvarez Water District (*GMAWD*), in G.R. No. 198923, filed a Petition for Review on *Certiorari* with an application for a Temporary Restraining Order (*TRO*), assailing the February 17, 2011 *CA* Decision⁴ and its Resolution⁵ dated August 31, 2011 in CA-G.R. SP No. 112073, which held that the case filed before it was merely a guise to prevent the execution of a final and executory judgment.

The antecedents, as culled from the records, are as follows:

On May 9, 1979, the Director of the Bureau of Public Works (*BPW*) turned over to the National Housing Authority (*NHA*) a completed water works system in San Gabriel, Carmona, Cavite (now General Mariano Alvarez, Cavite). The *NHA* must, thereafter, turn over the same water works system to a cooperative water company. Accordingly, in a Memorandum of Agreement dated July 17, 1979, the *NHA* turned over the water works system to San Gabriel Water Services Cooperative (*SAGAWESECO*), now *GEMASCO*.

In 1983, *GEMASCO* experienced internal problems. Two (2) Boards of Directors, the Gabumpa group and the Catangay group, were simultaneously administering its affairs. On September 18, 1986, as the management of the water system was characterized with instability and continued conflict, the *NHA* temporarily intervened and took over through its Interim Water Services Management. On March 16, 1988, the Gabumpa group again took over the management.

¹ Penned by Associate Justice Vicente Q. Roxas, with Associate Justices Godardo A. Jacinto and Juan Q. Enriquez, Jr., concurring; *rollo* (G.R. No. 175417), pp. 6-18.

² Penned by Associate Justice Vicente Q. Roxas, with Associate Justices Juan Q. Enriquez, Jr. and Jose C. Mendoza (now a member of this Court), concurring; *id.* at 27.

³ Penned by Judge Marciano I. Bacalla; *id.* at 20-25.

⁴ Penned by Associate Justice Mario V. Lopez, with Associate Justices Magdangal M. De Leon and Franchito N. Diamante, concurring; *rollo* (G.R. No. 198923), pp. 42-48.

⁵ *Id.* at 51-52.

On January 10, 1992, the NHA entered into a Deed of Transfer and Acceptance with GMAWD and transferred to the latter the operations and management of the water system in General Mariano Alvarez, Cavite from GEMASCO, which comprised of six (6) artesian deep wells with pumping facilities, five (5) water tanks, pipe mainline and distribution system. On February 17, 1992, GEMASCO filed a Complaint for Damages with Prayer for Preliminary Injunction and TRO against the NHA, GMAWD, and the Local Water Utility Administration before the Quezon City RTC, assailing the Deed of Transfer and Acceptance executed between the NHA and GMAWD. On June 15, 1999, the RTC rendered a Decision upholding the validity of the contested Deed of Transfer and Acceptance. GEMASCO thus brought the case to the CA, which was docketed as CA-G.R. CV No. 64237. Thereafter, the CA dismissed GEMASCO's appeal and affirmed the RTC Decision. A subsequent motion for reconsideration having been denied, GEMASCO filed the instant petition before the Court, which was docketed as G.R. No. 175417.

In the meantime, on September 27, 1999, a labor case for illegal dismissal was filed against GEMASCO. On January 31, 2001, the Labor Arbiter (*LA*) ruled that the complainants have been illegally dismissed. It then ordered GEMASCO to pay their separation pay and backwages. The ruling became final and executory after it was affirmed by the National Labor Relations Commission, the CA, and eventually by the Court. As a result, on August 17, 2007, the LA issued a Writ of Execution. Pursuant to this writ, the sheriff issued a Notice of Garnishment as well as a Notice of Sale/Levy on Execution of Personal Property. Thus, GEMASCO instituted a petition before the CA, contending that among the properties to be sold at the public auction were three (3) water tanks, the ownership of which is the very subject of G.R. No. 175417. It then prayed that until a final judgment is rendered in G.R. No. 175417, the LA and the sheriff should be prohibited from auctioning said water tanks. GMAWD agreed with GEMASCO and prayed that the petition be granted. It claimed that the contemplated auction sale of the subject water tanks will be prejudicial to it considering that its right over them had been consistently upheld in the courts below. The CA dismissed GEMASCO's petition, prompting both GEMASCO and GMAWD to move for a reconsideration, which were subsequently denied. Hence, GMAWD filed the present petition before the Court, docketed as G.R. No. 198923.

In G.R. No. 175417, GEMASCO attacks the validity of the Deed of Transfer and Acceptance entered into by the NHA and GMAWD. In G.R. No. 198923, on the other hand, GMAWD contends that the CA erred in affirming the issuance of the LA's August 17, 2007 Writ of Execution as well as its Notice of Sale/Levy on Execution despite the pendency of G.R. No. 175417 before the Court. It argues that said issuances will cause it great

injustice because the same are against properties the right of ownership over which has been consistently upheld in its favor. Since the issues are substantially interrelated, the Court shall make a joint discussion.

The Disaster Recovery Project of the BPW was undertaken for the benefit of the NHA General Mariano Alvarez resettlement area. The construction of the water system in said area was necessitated by the need to alleviate the recurrence of problems during the flood disaster in 1972, wherein water availability and its distribution in relocation and resettlement areas were lacking. In 1979, the BPW Director turned over a completed water works system in Cavite to the NHA which must, thereafter, be turned over to a cooperative water company. Subsequently, the NHA turned over said water system to SAGAWESECO, now GEMASCO, by virtue of a Memorandum of Agreement providing, among others, that at the end of six (6) months, if the cooperative's management proves unsatisfactory as evaluated by the Bureau of Cooperative Development (*BCOD*)/Ministry of Local Government and Community Development, it would again be under the direct supervision and guidance of the NHA, in accordance with the rules and regulations of the *BCOD*.

When the operation and management of GEMASCO suffered conflicts, the NHA properly intervened and took over, and subsequently, replaced GEMASCO with GMAWD. GEMASCO failed to comply with the requirements and conditions imposed upon it when it failed to satisfactorily manage and maintain the water works system entrusted to it. Being the government agency with the authority to award water system management and administration, verily, the NHA also has the power to revoke such award and look for another qualified entity to operate the system. GEMASCO cannot now assail the legality of the transfer of administration and management of the water works system to GMAWD, the latter being a legitimate and qualified water system cooperative.

Well-entrenched is the rule in our jurisprudence that administrative decisions are entitled to great weight and respect and will not be interfered with by the courts.⁶ Courts will not interfere in matters which are addressed to the sound discretion of the government agency entrusted with regulation of activities coming under its special and technical training and knowledge, for the exercise of administrative discretion is a policy decision and a matter that is best discharged by the concerned government agency and not by the courts.⁷ More so where, as in the present case, the prime consideration is the interest of the public at large on the issue of basic water need. Certainly, the

⁶ *Jaculina v. National Police Commission*, G.R. No. L-68491, August 12, 1991.

⁷ *Yazaki Torres Manufacturing, Inc. v. CA*, 526 Phil. 79, 88 (2006).

Deed of Transfer and Acceptance entered into by the NHA and GMAWD was the result of a valid exercise of the NHA's management prerogative.

In any case, GEMASCO raises issues that are factual in nature. As a general rule, the Court's jurisdiction in a Rule 45 petition is limited to the review of pure questions of law. Negatively put, Rule 45 does not allow the review of questions of fact because the Court is not a trier of facts. A question of law arises when the doubt or difference exists as to what the law is on a certain state of facts, while a question of fact exists when the doubt or difference arises as to the truth or falsity of the alleged facts. The test in determining whether a question is one of law or of fact is whether the appellate court can resolve the issue raised without reviewing or evaluating the evidence, in which case, it is a question of law. Any question that invites calibration of the whole evidence, as well as their relation to each other and to the whole, is a question of fact and thus proscribed in a Rule 45 petition.⁸

The CA ruled in CA-G.R. SP No. 112073 that GEMASCO failed to establish any justification for the issuance of a writ of prohibition against the auction sale. It held that what it sought to prevent was the sale in execution of the subject properties on the ground of uncertain ownership that was yet to be settled by the Court. But GEMASCO does not stand to benefit from the resolution of the case. If the Court eventually rules in its favor, the propriety of the attachment is merely reinforced. It cannot, therefore, properly institute a petition to enjoin the execution of the judgment. On the other hand, the appellate court further held, if GMAWD turns out to be victorious, it will acquire the right to take the proper course of action, being the party that may be affected by the attachment.

It is interesting to note that the water works system in General Mariano Alvarez, Cavite, including the three (3) water tanks subject of the assailed Writ of Execution in G.R. No. 198923, is devoted to public use and thus, property of public dominion, which GMAWD has the right to operate, maintain, and manage. Properties of public dominion, being for public use, are not subject to levy, encumbrance or disposition through public or private sale. Any encumbrance, levy on execution or auction sale of any property of public dominion is void for being contrary to public policy. Otherwise, essential public services would stop if properties of public dominion would be subject to encumbrances, foreclosures and auction sale.⁹ Since it is GEMASCO which is liable for the payment of the separation pay and backwages to its illegally dismissed employees, any contemplated sale must

⁸ *Land Bank of the Philippines v. Yatco Agricultural Enterprises*, G.R. No.172551, January 15, 2014, 713 SCRA 370, 379.

⁹ *Manila International Airport Authority v. CA*, 528 Phil. 181, 219 (2006).

be confined only to those properties absolutely owned by it and the subject water tanks must corollarily be excluded from the same.


WHEREFORE, premises considered, the petition in G.R. No. 175417 is **DENIED** for lack of merit. The Decision dated March 23, 2006 and Resolution dated September 1, 2006 of the Court of Appeals in CA-G.R. CV No. 64237 are hereby **AFFIRMED**. The petition in G.R. No. 198923, however, is **GRANTED**. The February 17, 2011 CA Decision and its Resolution dated August 31, 2011 in CA-G.R. SP No. 112073 are hereby **REVERSED AND SET ASIDE**. The three (3) water tanks and other facilities which may form part of the water works system in General Mariano Alvarez, Cavite must, therefore, be **EXCLUDED** from the Labor Arbiter's Writ of Execution and subsequent attachment.

SO ORDERED.

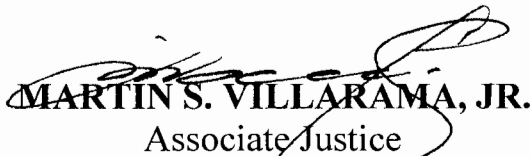


DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:



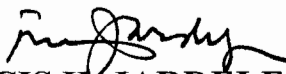
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



MARTIN S. VILLARAMA, JR.
Associate Justice



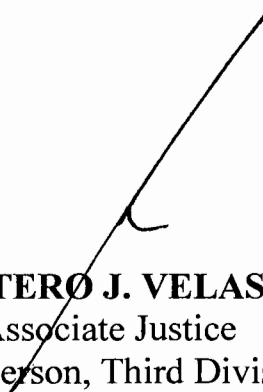
BIENVENIDO L. REYES
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice

ATTESTATION


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



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision 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