

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
EN BANC**

**ASSET PRIVATIZATION TRUST, as  
Trustee of the Government of the  
Republic of the Philippines,  
*Petitioner,***

***-versus-***

**G.R. No. 101344  
October 1, 1992**

**COURT OF APPEALS, JOB C.  
MADAYAG Presiding Judge of the  
Regional Trial Court of Makati, Br. 145,  
and JOHANNESBURG PACKAGING  
CORP,  
*Respondents.***

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**DECISION**

**BELLOSILLO, J.:**

This is a petition for review on certiorari of the Decision<sup>[1]</sup> of the Court of Appeals in CA-G.R. No. 24632, promulgated 11 July 1991, dismissing the Petition for *Certiorari* and Prohibition which assailed the Order<sup>[2]</sup> of April 1991 of the Regional Trial Court of Makati, Br. 145, in Civil Case No. 16960, and its Resolution of 20 August 1991 denying petitioner's motion for reconsideration.

The Order of 1 April 1991 of the trial court states:

“Finding the grounds stated in plaintiffs’ URGENT MOTION FOR ISSUANCE OF RESTRAINING ORDER (AND LATER WRIT OF INJUNCTION AGAINST DEFENDANT ASSET PRIVATIZATION TRUST [APT], dated March 29, 1991 . . . to be meritorious, the same is hereby granted. Therefore the Court resolved to issue this Temporary Restraining Order restraining and prohibiting (a) defendant APT from repossessing from the plaintiff JPC of Paragon Paper Mills, its facilities and plant site at Orani, Bataan, either through a physical takeover and/or enforcement of the Summary decision in Civil Case No. 585 for unlawful detainer . . . or through the military assistance; and (b) defendant APT from pursuing/or continuing Civil Case No. 585 on appeal or at any stage before any court until (1) Civil Case No. 16960 of this Court, (2) CA-G.R. SP No. 20042 before the Court of Appeals, and (c) G.R. No. 95509 before the Supreme Court, are finally decided.

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“This temporary restraining order is valid for a period of twenty (20) days from receipt of this order by the parties.”

In dismissing the petition for certiorari and prohibition, respondent Court of Appeals explained —

“Indeed, a cursory reading of the questioned order shows that it was issued merely to restrain the defendants in Civil Case No. 16960 from doing the acts complained of in the motion until after hearing on the incident for issuance of writ of preliminary injunction which was set for April 12, 1991. In no way did it determine the issues raised in the respondent’s motion. And by this time, the twenty-day lifespan of the temporary restraining order has already expired, to be precise, since April 21, 1991. The respondent Court, therefore, should be allowed to hear the incident for issuance of writ of preliminary injunction and thereafter resolve it.”<sup>[3]</sup>

Petitioner APT now comes to Us on a petition for review of the Order of 1 April 1991 on the ground that the respondent court (1) committed a reversible error of law in upholding the validity of the restraining order of 1 April 1991; (2) gravely abused its discretion in dismissing the petition for certiorari and allowing the trial court to hear the pending incident for injunction and thereafter resolving it; and, (3) erred in remanding the contempt charge against the APT lawyers to the lower court for rendition of judgment despite the protestations of petitioner that the trial court was devoid of jurisdiction to hear and decide it.

A word on the background of the case: On 1 August 1986, the Paragon Paper Plant was put up for cash sale in a public auction as a consequence of the foreclosure by the Development Bank of the Philippines (DBP) of the mortgage constituted in its favor by the Paragon Paper Industries, Inc., over the latter's parcels of land situated in Orani, Bataan, including the improvements, machinery and equipment thereon.<sup>[4]</sup> Private respondent Johannesburg Packaging Corporation (JPC) with its cash bid of P120,579,000.00 won in the bidding, subject to the terms and conditions set forth in DBP Resolution No. 1319 of 20 August 1986.<sup>[5]</sup> While awaiting Presidential approval of the sale, private respondent was allowed to enter the premises of the Paragon, Paper Plant to "clean, repair and test-run the mill and equipment." Eventually the sale was approved by the President as attested by the Notice of Approval sent to private respondent.<sup>[6]</sup>

On 22 May 1987, by reason of the failure of private respondent to pay the full amount of its cash bid within the stipulated period, including the extensions it obtained, DBP rescinded the sale.<sup>[7]</sup> To avoid the rescission, private respondent filed an action before the Regional Trial Court of Makati, docketed as Civil Case No. 16960, captioned "Johannesburg, Packaging Corporation and Romeo Cabalanan vs. Development Bank of the Philippines, et al."<sup>[8]</sup>

On 10 June 1987, the trial court issued a restraining order directing defendants therein and all persons acting under them to desist from implementing the Order of 22 May 1987 rescinding the Award of Sale in favor of plaintiffs therein and the repossession/take-over from

plaintiffs of the Paragon Paper Mill/Plant and facilities at Orani, Bataan, scheduled on 15 June 1987.<sup>[9]</sup>

On 29 June 1987, private respondent filed an amended complaint 10 impleading petitioner to whom Paragon Paper Industries, Inc., and Paragon Paper Plant have been conveyed on 27 February 1987 pursuant to Proclamation No. 50.

On 11 August 1987, the trial court directed defendants therein to maintain the status quo ante litem until further orders.<sup>[11]</sup>

On 21 November 1988, petitioner prayed for the lifting of the status quo litem order on the ground that private respondent failed to make good its offer to pay its outstanding balance to petitioner despite the extended period. Petitioner also prayed for leave to file answer.<sup>[12]</sup>

On 15 September 1989, the trial court through respondent Judge issued an order —

“WHEREFORE, the Court hereby resolves: (1) To deny defendant APT’s motion to set aside status quo order and for reconsideration, respectively dated November 21, 1988 and April 19, 1989; (2) To dismiss or drop defendant APT from this action for not being a real party in interest; and (3) To order plaintiffs to pay their obligation with defendant DBP, subject to whatever compromise agreement they may arrive at with respect to the payment of the unpaid principal, interests and/or extension fees.”<sup>[13]</sup>

The Order of 15 September 1989 was elevated by DBP on certiorari to the Court of Appeals, docketed as CA-G.R. SP No. 20042. On 27 July 1990, respondent Court of Appeals (First Division) rendered a decision the dispositive portion of which reads —

“Premises considered, judgment is hereby rendered granting the Petition. (1) The orders dated September 15, 1989 and December 28, 1989 are hereby declared null and void; (2) The APT is reinstated as a party defendant; (3) The orders dated August 11, 1987 . . . suspending the period within which to maintain the status quo, are ordered lifted and net aside. The

petitioner and the other defendants in Civil Case No. 16960 may file their responsive pleadings within fifteen (15) days from notice hereof.”<sup>[14]</sup>

This decision of the Court of Appeals in CA-G.R. SP No. 20042 is now the subject of G.R. No. 95509 pending before the Court.

On 14 December 1990, petitioner sent a letter to private respondent with a demand to vacate the premises of the Paragon Paper Plant in Orani, Bataan, within fifteen (15) days from receipt thereof. The demand unheeded, petitioner filed an action for unlawful detainer with the Municipal Circuit Trial Court of Orani-Samal, Bataan, which rendered judgment in favor of petitioner.<sup>[15]</sup> The decision was affirmed on appeal by the RTC of Bataan. Private respondent then appealed to the Court of Appeals, docketed as CA-G.R. SP No. 25013, which reversed the appealed judgment; consequently, the complaint for unlawful detainer was dismissed, the writ of preliminary mandatory injunction was annulled and set aside, and the possession of the questioned premises was restored to private respondent.<sup>[16]</sup> This is now the subject of the petition in G.R. No. 103277.<sup>[17]</sup>

On 1 April 1991, the trial court issued the questioned Order directing the issuance of a restraining order and setting the hearing of the motion for a writ of preliminary injunction on 12 April 1991. To stop the issuance of the writ, petitioner went on certiorari to the Court of Appeals, docketed as CA-G.R. SP No. 24632, assailing the validity of the Order of the April 1991.

On 11 July 1991, the Court of Appeals dismissed the petition. Hence, the instant recourse.

The three (3) points raised by petitioner may be simplified into whether the trial court has the authority to issue a restraining order or a writ of injunction against APT in Civil Case No. 16960.

The law authorizing the issuance of a restraining order is Sec. 5, Rule 85, of the Rules of Court, as amended by B.P. 224 on 16 April 1982, which states —

“SECTION 5. Preliminary injunction not granted without notice, issuance of restraining order. — No preliminary injunction shall be granted without notice to the defendant. If it shall appear from the facts shown by affidavits or by the verified complaint that great or irreparable injury would result to the applicant before the matter can be heard on notice, the judge to whom the application for preliminary injunction was made, may issue a restraining order to be effective only for a period of twenty days from date of its issuance. Within the said twenty-day period, the judge must cause an order to be served on the defendant, requiring him to show cause, at a specified time and place, why the injunction should not be granted, and determine within the same period whether or not preliminary injunction should be granted, and shall accordingly issue the corresponding order. In the event that the application for preliminary injunction is denied, the restraining order is deemed automatically vacated.”

Apparently, the basic purpose of a restraining order is to preserve the status quo until the hearing of the application for preliminary injunction, and that insofar as lower courts are concerned, its 20-day effectivity period is non-extendible. It automatically terminates at the end of such period without the need of any judicial declaration to that effect and the lower courts, including the Court of Appeals, have no discretion to extend the same.<sup>[18]</sup> Only this Court can. It is settled that, generally, the exercise of sound discretion in issuing a restraining order by the lower court will not be interfered with.<sup>[19]</sup>

In the case before Us, however, We agree with petitioner that no restraining order lies against it in view of Sec. 31 of Proclamation No 50-A dated 15 December 1986 which provides —

“No court or administrative agency shall issue any restraining order or injunction against the Trust in connection with the acquisition, sale or disposition of assets transferred to it . . . Nor shall such order or injunction be issued against any purchaser of assets sold by the Trust to prevent such purchaser from taking possession of any assets purchased by him.”

The respondent Court of Appeals after noting that the restraining order had already expired, went on to hold that the trial court should be allowed to hear the incident on the issuance of a writ of preliminary injunction.

Indeed, this is not the first time that the propriety of the issuance of the writ by the lower court against APT was raised. In *Mantruste Systems, Inc. vs. Court of Appeals*,<sup>[20]</sup> this Court through Mme. Justice Carolina Griño-Aquino, ruled that —

“Courts may not substitute their judgment for that of APT, nor block, by an injunction the discharge of its functions and the implementation of its decision in connection with the acquisition, sale or disposition of assets transferred to it.”

We have expressly ruled therein, in addition, that Proclamation No. 50-A does not infringe any provision of the Constitution. Thus —

“The President, in the exercise of her legislative power under the Freedom Constitution, issued Proclamation No. 50-A prohibiting the courts from issuing restraining orders and writs of injunction against the APT and the purchasers of any assets sold by it, to prevent courts from interfering in the discharge, by this instrumentality of the executive branch of the Government, of its task of carrying out the expeditious disposition and privatization of certain government corporations and/or the assets thereof (Proc. No. 50), absent any grave abuse of discretion amounting to excess or lack of jurisdiction on its part. This proclamation, not being inconsistent with the Constitution and not having been repealed or revoked by Congress, has remained operative (Sec. 3, Art. XVIII, 1987 Constitution).”<sup>[21]</sup>

Quite significantly, the records do not disclose any grave abuse of discretion committed by petitioner amounting to excess or lack of jurisdiction in its effort to take possession of the assets transferred to it by DBP. As We view it, petitioner simply availed of judicial processes to recover the transferred assets formerly owned by private respondent.

Private respondent also argues that petitioner has never questioned the “no-injunction” rule in its original petition for certiorari before respondent Court of Appeals and that this is the first time that petitioner invokes Proclamation No. 50-A. Private respondent further states that it acquired the property through public auction as early as 1 August 1986 while the transfer of assets of DBP to petitioner was made on 27 February 1989.

We have opted to consider the “no-injunction” rule even if the issue is raised only for the first time in this appeal because the acts of APT are vested with public interest and that under Proclamation No. 50 it is mandated to carry out “the expeditious disposition and/or privatization of certain government corporations and/or assets thereof.” Besides, this Court is invested with authority to review such matters as may be necessary to serve best the interest of justice, even if they are not assigned as errors in the appeal.<sup>[22]</sup>

As regards the contention of private respondent that its transaction over the subject property antedated the creation of petitioner on 8 December 1986 and that the transfer of the property from DBP to petitioner was made on 27 February 1987, We quote with approval the observations of petitioner —

“While the statistical dates cited by private respondent *vis-a-vis* the petitioner APT’s creation and the execution of the Deed of Transfer between DBP and APT may be accurate, the private respondent conveniently ignored the fact that the DBP rescinded and cancelled the award of sale made in its favor on May 22, 1987 for repeated violation of the terms thereof which consisted in its failure to pay in cash the balance of its bid price in the amount of P110,579.00. Moreover, the effective date of transfer of DBP’s claims, securities, and assets was made retroactive to June 30, 1986 as provided in said Deed of Transfer. Consequently, the DBP made a valid transfer of its financial claims and assets to the petitioner under Proclamation No. 50 dated December 8, 1986.”<sup>[23]</sup>

It may be worth emphasizing, as correctly observed by respondent Court of Appeals, that the temporary restraining order issued by the trial court already expired on 21 April 1991. There is therefore no

more temporary restraining order to be struck down. Nonetheless, this Court resolves this petition consistent with its function of formulating guiding precepts, doctrines or rules for the proper guidance of bench and bar, especially as the matter at issue concerns public interest.<sup>[24]</sup>

In fine, We hold that respondent Judge Job B. Madayag, or any court of administrative agency for that matter, is devoid of authority to issue any restraining order or injunction against petitioner as regards the acquisition, sale or disposition of assets transferred to it nor against any purchaser of assets sold by petitioner to prevent such purchaser of assets sold by petitioner to prevent such purchaser from taking possession thereof, pursuant to Proclamation No. 50-A, absent any grave abuse of discretion on the part of petitioner amounting to excess or lack of jurisdiction.

As regards the contempt charge against the APT lawyers, considering that it was not touched upon in the questioned order of the trial court, We prefer to refrain from treating the matter. As correctly noted by respondent court, “even if there is such charge of contempt against the petitioner, the matter must, perforce, be heard by the respondent [trial] Court and the petitioner has the remedy of appeal available to it in the rules, in case of an adverse decision.”<sup>[25]</sup>

**PREMISES CONSIDERED**, the judgment under review is **MODIFIED** by sustaining the respondent Court of Appeals to the extent that it dismissed the petition in CA-G.R. No. 24632 on the ground that anyway the temporary restraining order in question had already expired, and in refraining from resolving the contempt charge against the lawyers of petitioner; however, its ruling allowing the trial court to proceed with the hearing on the preliminary injunction is **REVERSED** and **SET ASIDE**, consistent with the mandate of Proclamation No. 50-A. No costs.

**SO ORDERED.**

**Bidin, Griño-Aquino, Medialdea, Regalado, Davide, Jr., Romero and Nocon, JJ., concur.**  
**Gutierrez, Jr. and Feliciano, JJ., are on leave.**  
**Padilla, J., concurs in the result.**

**Melo and Campos, Jr., JJ., took no part.**

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## **SEPARATE OPINIONS**

***CRUZ, J., concurring:***

I concur, subject to the reservation in *Datiles & Co. vs. Sucaldito*, 186 SCRA 704, that while the administrative agency may not be enjoined from the exercise of its sound discretion or the ascertainment of facts on the technical matters coming under its jurisdiction, a writ of injunction may still issue in cases where a question of law is involved. Any limitation of the judicial power by the legislature should be strictly construed by this Court and allowed only upon the most urgent and valid justification lest we ourselves unwittingly abet our own enfeeblement.

***Narvasa, C.J., concurs.***

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- [1] Rollo, pp. 47-52, Decision penned by Ramirez, J., concurred in by Santiago and Fermin, Jr., JJ.
- [2] Annex “P”, Rollo, p. 143, Order penned by Presiding Judge Job B. Madayag.
- [3] Decision, p. 4; Rollo, p. 50.
- [4] Petition, Rollo, p. 10.
- [5] Annex “C”, Rollo, p. 53.
- [6] *Ibid.*
- [7] Petition, p. 5; Rollo, p. 11.
- [8] *Ibid.*
- [9] Annex “E”, Rollo, p. 57.
- [10] Annex “F”, Rollo, p. 58.
- [11] Annex “G”, Rollo, p. 80.
- [12] Petition, Rollo, p. 13.
- [13] Annex “H”, Rollo, p. 88.
- [14] Annex “I”, Rollo, p. 97.
- [15] Annex “O”, Rollo, pp. 137-142.
- [16] Annex “I”, Comment; Rollo, pp. 236-246.
- [17] Reply, Rollo, p. 263.
- [18] *Golden Gate Realty Corp. vs. IAC*, G.R. No. 74289, 31 July 1987; 152 SCRA 685.

- [19] Rodulfa vs. Alfonso, 76 Phil. 225, 232.
- [20] G.R. Nos. 86540-41, 6 November 1989; 179 SCRA 136, 145.
- [21] Id., p. 144.
- [22] See Maritime Agencies & Services, Inc. vs. Court of Appeals, G.R. No. 77638, and Union Insurance Society of Canton, Ltd. vs. Court of Appeals, G.R. No. 77674, 12 July 1990, 187 SCRA 346, 356, citing Baquiran vs. Court of Appeals, G.R. No. L-14551, 31 July 1961, 2 SCRA 873; Vda. de Javellana vs. Court of Appeals, G.R. No. 60129, 29 July 1983, 123 SCRA 799.
- [23] Reply, p. 14; Rollo, p. 269.
- [24] See Salonga vs. Paño, G.R. No. 59524, 18 February 1985; 134 SCRA 438, 463.
- [25] Decision, p. 5; Rollo, pp. 47-51.