

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**LAND BANK OF THE PHILIPPINES,
*Petitioner,***

-versus-

**G.R. No. 152611
August 5, 2003**

**SEVERINO LISTANA, SR.,
*Respondent.***

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DECISION

YNARES-SANTIAGO, J.:

This is a Petition for Review of the Decision of the Court of Appeals in CA-G.R. SP No. 65276 dated December 11, 2001,^[1] which annulled the Orders dated January 29, 2001 and April 2, 2001 of the Regional Trial Court of Sorsogon, Sorsogon, Branch 51.^[2]

Respondent Severino Listana is the owner of a parcel of land containing an area of 246.0561 hectares, located in Inlagadian, Casiguran, Sorsogon, covered by Transfer Certificate of Title No. T-20193. He voluntarily offered to sell the said land to the government, through the Department of Agrarian Reform (DAR),^[3] under Section 20 of R.A. 6657, also known as the Comprehensive Agrarian Reform Law of 1988 (CARL). The DAR valued the property at P5,871,689.03, which was however rejected by the respondent. Hence, the

Department of Agrarian Reform Adjudication Board (DARAB) of Sorsogon commenced summary administrative proceedings to determine the just compensation of the land.

On October 14, 1998, the DARAB rendered a Decision, the dispositive portion of which reads as follows:

WHEREFORE, taking into consideration the foregoing computation, the prior valuation made by the Land Bank of the Philippines is hereby set aside and a new valuation in the amount of TEN MILLION NINE HUNDRED FIFTY SIX THOUSAND NINE HUNDRED SIXTY THREE PESOS AND 25 CENTAVOS (P10,956,963.25) for the acquired area of 240.9066 hectares. The Land Bank of the Philippines is hereby ordered to pay the same to the landowner in the manner provided for by law.

SO ORDERED.^[4]

Thereafter, a Writ of Execution was issued by the PARAD directing the manager of Land Bank to pay the respondent the aforesaid amount as just compensation in the manner provided by law.^[5]

On September 2, 1999, respondent filed a Motion for Contempt with the PARAD, alleging that petitioner Land Bank failed to comply with the Writ of Execution issued on June 18, 1999. He argued that such failure of the petitioner to comply with the writ of execution constitutes contempt of the DARAB.

Meanwhile, on September 6, 1999, petitioner Land Bank filed a petition with the Regional Trial Court of Sorsogon, Branch 52, sitting as a Special Agrarian Court (SAC), for the determination of just compensation, as provided for in Section 16 (f) of the CARL.^[6]

On August 20, 2000, the PARAD issued an Order granting the Motion for Contempt, as follows:

WHEREFORE, premises considered, the motion for contempt is hereby GRANTED, thus ALEX A. LORAYES, as Manager of respondent LAND BANK, is cited for indirect contempt and

hereby ordered to be imprisoned until he complies with the Decision of the case dated October 14, 1998.

SO ORDERED.^[7]

Petitioner Land Bank filed a Motion for Reconsideration of the aforementioned Order,^[8] which was however denied by the PARAD on September 20, 2000.^[9] Thus, petitioner filed a Notice of Appeal with the PARAD, manifesting its intention to appeal the decision to the DARAB Central, pursuant to Rule XI, Section 3 of the 1994 DARAB New Rules of Procedure.^[10]

On the other hand, the Special Agrarian Court dismissed the petition for the determination of just compensation filed by petitioner Land Bank in an Order dated October 25, 2000. Petitioner's Motion for Reconsideration of said dismissal was likewise denied.

In a Resolution dated November 27, 2000, PARAD Capellan denied due course to petitioner's Notice of Appeal and ordered the issuance of an Alias Writ of Execution for the payment of the adjudged amount of just compensation to respondent.^[11] On January 3, 2001, he directed the issuance of an arrest order against Manager Alex A. Lorayes.^[12]

Petitioner Land Bank filed a petition for injunction before the Regional Trial Court of Sorsogon, Sorsogon, with application for the issuance of a writ of preliminary injunction to restrain PARAD Capellan from issuing the order of arrest.^[13] The case was raffled to Branch 51 of said court. On January 29, 2001, the trial court issued an Order, the dispositive portion of which reads:

WHEREFORE, premises considered, the respondent Provincial Adjudicator of the DARAB or anyone acting in its stead is enjoined as it is hereby enjoined from enforcing its order of arrest against Mr. Alex A. Lorayes pending the final termination of the case before RTC Branch 52, Sorsogon upon the posting of a cash bond by the Land Bank.

SO ORDERED.^[14]

Respondent filed a Motion for Reconsideration of the trial court's order, which was denied in an Order dated April 2, 2001.^[15]

Thus, respondent filed a special civil action for certiorari with the Court of Appeals,^[16] docketed as CA-G.R. SP No. 65276. On December 11, 2001, the Court of Appeals rendered the assailed decision which nullified the Orders of the Regional Trial Court of Sorsogon, Sorsogon, Branch 51.

Hence, the instant petition for review on the following issues:

- I. WHETHER OR NOT THE CA DEPARTED FROM THE ACCEPTED COURSE OF JUDICIAL PROCEEDINGS IN ENTERTAINING THE RESPONDENT'S SPECIAL CIVIL ACTION FOR CERTIORARI TO QUESTION THE FINAL ORDER OF THE RTC WHICH, HOWEVER, WAS SUBJECT TO APPEAL UNDER THE 1997 RULES OF CIVIL PROCEDURE.
- II. WHETHER OR NOT THE CA DECIDED IN A WAY NOT IN ACCORD WITH LAW AND SUBSTANTIAL JUSTICE, IN ANNULING AND SETTING ASIDE THE RTC FINAL ORDER OF INJUNCTION, CONSIDERING THAT:
 - A. THE PARAD DID NOT ACQUIRE COMPETENT JURISDICTION OVER THE CONTEMPT PROCEEDINGS INASMUCH AS IT WAS INITIATED BY MERE MOTION FOR CONTEMPT AND NOT BY VERIFIED PETITION, IN VIOLATION OF SECTION 2, RULE XI OF THE NEW DARAB RULES OF PROCEDURE AND OF RULE 71 OF THE REVISED RULES OF COURT.
 - B. THE PARAD CONTEMPT ORDER CANNOT BE CONSIDERED FINAL AND EXECUTORY, BECAUSE THE PARAD ITSELF DISALLOWED THE PETITIONER'S APPEAL TO THE DARAB CENTRAL OFFICE, IN DISREGARD OF THE BASIC RULE

THAT THE APPELLATE TRIBUNAL DETERMINES THE MERITS OF THE APPEAL.

- C. THE PARAD ORDER OF ARREST AGAINST LBP MANAGER ALEX LORAYES WAS IN GROSS AND PATENT VIOLATION OF HIS PERSONAL, CONSTITUTIONAL AND CIVIL RIGHTS AGAINST UNJUST ARREST AND IMPRISONMENT, INASMUCH AS, UNDER THE 1987 CONSTITUTION, ONLY JUDGES CAN ISSUE WARRANTS OF ARREST AGAINST CITIZENS, AND THE PROPER SUBJECT OF THE CONTEMPT PROCEEDING WAS THE PETITIONER ITSELF AND NOT THE LBP MANAGER, AND YET THE CONTEMPT ORDER WAS AGAINST THE LBP MANAGER.
- D. THE PARAD ORDER OF CONTEMPT WAS PATENTLY NULL AND VOID, AS IT ATTEMPTED TO ENFORCE COMPLIANCE WITH THE PARAD DECISION THAT WAS ADMITTEDLY NOT FINAL AND EXECUTORY, AS THE MATTER OF JUST COMPENSATION BEFORE THE SPECIAL AGRARIAN COURT WAS ON APPEAL WITH THE COURT OF APPEALS.^[17]

As regards the first issue, petitioner submits that the special civil action for certiorari filed by respondent before the Court of Appeals to nullify the injunction issued by the trial court was improper, considering that the preliminary injunction issued by the trial court was a final order which is appealable to the Court of Appeals via a notice of appeal.^[18]

Petitioner's submission is untenable. Generally, injunction is a preservative remedy for the protection of one's substantive right or interest. It is not a cause of action in itself but merely a provisional remedy, an adjunct to a main suit. Thus, it has been held that an order granting a writ of preliminary injunction is an interlocutory order. As distinguished from a final order which disposes of the subject matter in its entirety or terminates a particular proceeding or

action, leaving nothing else to be done but to enforce by execution what has been determined by the court, an interlocutory order does not dispose of a case completely, but leaves something more to be adjudicated upon.^[19]

Clearly, the grant of a writ of preliminary injunction is in the nature of an interlocutory order, hence, unappealable. Therefore, respondent's special civil action for certiorari before the Court of Appeals was the correct remedy under the circumstances. Certiorari is available where there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law.^[20]

The order granting a writ of preliminary injunction is an interlocutory order; as such, it cannot by itself be subject of an appeal or a petition for review on certiorari. The proper remedy of a party aggrieved by such an order is to bring an ordinary appeal from an adverse judgment in the main case, citing therein the grounds for assailing the interlocutory order. However, the party concerned may file a petition for certiorari where the assailed order is patently erroneous and appeal would not afford adequate and expeditious relief.^[21]

On the substantive issue of whether the order for the arrest of petitioner's manager, Mr. Alex Lorayes by the PARAD, was valid, Rule XVIII of the 2003 DARAB Rules reads, in pertinent part:

SECTION 2. Indirect Contempt. — The Board or any of its members or its Adjudicator may also cite and punish any person for indirect contempt on any of the grounds and in the manner prescribed under Rule 71 of the Revised Rules of Court.

In this connection, Rule 71, Section 4 of the 1997 Rules of Civil Procedure, which deals with the commencement of indirect contempt proceedings, provides:

Sec. 4. How proceedings commenced. — Proceedings for indirect contempt may be initiated motu proprio by the court against which the contempt was committed by an order or any other formal charge requiring the respondent to show cause why he should not be punished for contempt.

In all other cases, charges for indirect contempt shall be commenced by a verified petition with supporting particulars and certified true copies of documents or papers involved therein, and upon full compliance with the requirements for filing initiatory pleadings for civil actions in the court concerned. If the contempt charges arose out of or are related to a principal action pending in the court, the petition for contempt shall allege that fact but said petition shall be docketed, heard and decided separately, unless the court in its discretion orders the consolidation of the contempt charge and the principal action for joint hearing and decision.

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The requirement of a verified petition is mandatory. Justice Florenz D. Regalado, Vice-Chairman of the Revision of the Rules of Court Committee that drafted the 1997 Rules of Civil Procedure explains this requirement:

1. This new provision clarifies with a regulatory norm the proper procedure for commencing contempt proceedings. While such proceeding has been classified as a special civil action under the former Rules, the heterogeneous practice, tolerated by the courts, has been for any party to file a mere motion without paying any docket or lawful fees therefor and without complying with the requirements for initiatory pleadings, which is now required in the second paragraph of this amended section.

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Henceforth, except for indirect contempt proceedings initiated *motu proprio* by order of or a formal charge by the offended court, all charges shall be commenced by a verified petition with full compliance with the requirements therefor and shall be

disposed of in accordance with the second paragraph of this section.^[22]

Therefore, there are only two ways a person can be charged with indirect contempt, namely, (1) through a verified petition; and (2) by order or formal charge initiated by the court motu proprio.

In the case at bar, neither of these modes was adopted in charging Mr. Lorayes with indirect contempt.

More specifically, Rule 71, Section 12 of the 1997 Rules of Civil Procedure, referring to indirect contempt against quasi-judicial entities, provides:

Sec. 12. Contempt against quasi-judicial entities. — Unless otherwise provided by law, this Rule shall apply to contempt committed against persons, entities, bodies or agencies exercising quasi-judicial functions, or shall have suppletory effect to such rules as they may have adopted pursuant to authority granted to them by law to punish for contempt. The Regional Trial Court of the place wherein the contempt has been committed shall have jurisdiction over such charges as may be filed therefore. (Emphasis supplied)

The foregoing amended provision puts to rest once and for all the questions regarding the applicability of these rules to quasi-judicial bodies, to wit:

1. This new section was necessitated by the holdings that the former Rule 71 applied only to superior and inferior courts and did not comprehend contempt committed against administrative or quasi judicial officials or bodies, unless said contempt is clearly considered and expressly defined as contempt of court, as is done in the second paragraph of Sec. 580, Revised Administrative Code. The provision referred to contemplates the situation where a person, without lawful excuse, fails to appear, make oath, give testimony or produce documents when required to do so by the official or body exercising such powers. For such

violation, said person shall be subject to discipline, as in the case of contempt of court, upon application of the official or body with the Regional Trial Court for the corresponding sanctions.^[23] (emphasis in the original)

Evidently, quasi-judicial agencies that have the power to cite persons for indirect contempt pursuant to Rule 71 of the Rules of Court can only do so by initiating them in the proper Regional Trial Court. It is not within their jurisdiction and competence to decide the indirect contempt cases. These matters are still within the province of the Regional Trial Courts. In the present case, the indirect contempt charge was filed, not with the Regional Trial Court, but with the PARAD, and it was the PARAD that cited Mr. Lorayes with indirect contempt.

Hence, the contempt proceedings initiated through an unverified “Motion for Contempt” filed by the respondent with the PARAD were invalid for the following reasons:^[24] First, the Rules of Court clearly require the filing of a verified petition with the Regional Trial Court, which was not complied with in this case. The charge was not initiated by the PARAD *motu proprio*; rather, it was by a motion filed by respondent. Second, neither the PARAD nor the DARAB have jurisdiction to decide the contempt charge filed by the respondent. The issuance of a warrant of arrest was beyond the power of the PARAD and the DARAB. Consequently, all the proceedings that stemmed from respondent’s “Motion for Contempt,” specifically the Orders of the PARAD dated August 20, 2000 and January 3, 2001 for the arrest of Alex A. Lorayes, are null and void.

WHEREFORE, in view of the foregoing, the petition for review is **GRANTED**. The Decision of the Court of Appeals in CA-G.R. SP No. 65276, dated December 11, 2001, is **REVERSED** and **SET ASIDE**. The Order of the Regional Trial Court of Sorsogon, Sorsogon, Branch 51, dated January 29, 2001, which enjoined the Provincial Adjudicator of the DARAB or anyone acting in its stead from enforcing its order of arrest against Mr. Alex A. Lorayes pending the final termination of the case before Regional Trial Court of Sorsogon, Sorsogon, Branch 52, is **REINSTATED**.

SO ORDERED.

Daive, Jr., C.J., Vitug, Carpio and Azcuna, JJ., concur.

- [1] CA Rollo, pp. 166-178; penned by Associate Justice Martin S. Villarama, Jr., concurred in by Associate Justices Conchita Carpio Morales and Sergio L. Pestaño.
- [2] Rollo, pp. 297-300, 302; penned by Judge Jose L. Madrid.
- [3] Id., pp. 210-211.
- [4] Records, p. 100.
- [5] Id., p. 121.
- [6] Records, p. 10.
- [7] Id., p. 68.
- [8] Id., p. 106.
- [9] Rollo, p. 329.
- [10] Records, p. 65.
- [11] Id., p. 72.
- [12] Id., p. 33.
- [13] Id., p. 5.
- [14] Id., p. 126.
- [15] Id., p. 138.
- [16] CA Rollo, p. 10.
- [17] Rollo, pp. 217-218.
- [18] Id., pp. 219-220.
- [19] Concepcion vs. CA, G.R. No. 137936, 10 August 2001. (citations omitted)
- [20] 1997 RULES OF CIVIL PROCEDURE, Rule 65, Section 1.
- [21] Oro Cam Enterprises vs. CA, 377 Phil. 469 (1999). (citations omitted)
- [22] I REGALADO, REMEDIAL LAW COMPENDIUM 808 (7th revised ed. 1999).
- [23] Id., at 813.
- [24] Rollo, p. 309.