ChanRobles Publishing Company

SUPREME COURT
THIRD DIVISION

PAUL HENDRIK P. TICZON, MICHAEL THOMAS S. PLANA, and OMNI POST,
***Petitioners*,**

-versus-

G.R. No. 136342
June 15, 2000

VIDEO POST MANILA, INC.,
***Respondent*.**
x---x

D E C I S I O N

PANGANIBAN, *J.*:

A Preliminary Injunction issued in an action to enforce a contract, which prohibits an employee from working in a competing enterprise within two years from resignation, has the same lifetime as the prohibition — two years also. Therefore, upon the expiration of the said period, a suit questioning the validity of the issuance of the writ becomes *functus oficio* and therefore moot. Courts are called upon to resolve actual cases and controversies, not to render advisory opinions. They cannot take cognizance of moot and academic questions, subject to notable exceptions involving constitutional issues.

The Case

Before us is a Petition for Review on Certiorari under Rule 45 of the Rules of Court assailing the March 9, 1998 Decision of the Court of Appeals[1] (CA), as well as its November 18, 1998 Resolution[2] denying petitioners' Motion for Reconsideration. The dispositive part of the Decision reads:

> "WHEREFORE, the foregoing considered, the Petition, for being moot and academic, is hereby DISMISSED.
>
> SO ORDERED.[3] (Emphasis ours)

The Facts

Sometime in December 1992, Respondent Video Post Manila, Inc. purchased a computerized editing equipment referred to as "Henry," which was to be used for editing and post-production.

On March 16, 1991 and October 22, 1993, Petitioners Michael Thomas S. Plana and Paul Hendrik P. Ticzon were hired by the respondent as video editor and computer graphics artist, respectively. Both of them signed an employment contract with a common clause[4] prohibiting them, within two years from the termination of their employment, from working in a business firm or corporation that was engaged in a similar business or that might compete with respondent corporation.

Sometime in November 1995, Petitioners Ticzon and Plana resigned. From December 1995 to January 1996, the two subsequently applied for employment with Petitioner Omni Post, which eventually hired them.

On May 17, 1996, respondent instituted a Complaint for Damages alleging that Plana and Ticzon had committed a breach of their contract, particularly Clause 5 thereof, when they sought employment with Omni Post.[5]

On June 18, 1996, Respondent Video Post filed a Motion for the Issuance of a Temporary Restraining Order (TRO) and Preliminary Injunction to enjoin petitioners from working with Omni Post as

video editors. The Regional Trial Court (RTC) granted the TRO on June 26, 1996. Thereafter, in an Order dated July 30, 1996 signed by Judge Teofilo L. Guadiz Jr., the trial court issued the Writ of Preliminary Injunction. The pertinent part of the Order is reproduced below:

> "At the center of the controversy involved herein is the validity of Clause 5 of the employment contract of defendant Ticzon and Plana with the plaintiff.
>
> "Contracts which prohibit an employee from engaging in business in competition with the employer [are] not necessarily void for being in restraint of trade. In the language of Ferrassini vs. Gsell 34 Phil. 697, 713, citing Gibbs vs. Consolidated Gas Co. of Baltimore 130 U.S. 396:
>
> > 'The question is whether, under the particular circumstances of the case and the nature of the particular contract involved in it, the contract is, or is not, unreasonable.'
>
> "Also, as a general rule[,] an employment contract provision barring the employee from competing with the employer after termination of the employment is enforceable if reasonable and supported by a valuable consideration. There is no inflexible formula for deciding the ubiquitous question of reasonableness. Precedents are of little value, because the question of reasonableness must be decided on an ad hoc basis. The question whether the agreement will be enforced is to be determined in view of the circumstances.
>
> "It has been held that a contract that is limited to time and trade is considered reasonable and, therefore, valid and enforceable. In del Castillo vs. Richmond 45 Phil. 679, the Supreme Court made the following observation:
>
> > 'The law concerning contracts which tend to restrain business and trade has gone through a long series of changes from time to time with the changing conditions of trade and commerce. With trifling exceptions, said

> changes have been a continuous development of a general rule. The early cases show plainly a disposition to avoid and annul all contracts which prohibited or restrained any one from using a lawful trade at any time or at any place, as being against the benefit of the state. Later cases, and we think the rule is now well-established, have held that a contract in restraint of trade is valid provided there is a limitation upon either time or place. A contract, however, which restraints a man from entering into a business or trade without either a limitation as to time or place, will be held invalid.'

"On the other hand, a contract may be limited in duration but not as to trade, rendering it unenforceable just the same for being unreasonable. In this connection, the Supreme Court in Ferrassini, supra [said] that:

> 'The contract under consideration, tested by the law, rules and principles above set forth is clearly one in undue or unreasonable restraint of trade and therefore against public policy. It is limited as to time and space but not as to trade. It is not necessary for the protection of the defendant, as this is provided for in another part of the clause. It would force the plaintiff to leave the Philippine Islands in order to obtain a livelihood in case the defendant [declined] to give him the written permission to work elsewhere in this country.'

"In view of the foregoing, the Court is of the opinion and so holds that the employment contract involved in the present case is reasonable and, therefore, valid. It appears that the effectivity of Clause 5 is limited in duration in that it prohibits an employee of plaintiff only during his employment therein and for only two years thereafter. Moreover, a cursory reading of Clause 5 reveals that it does not prohibit an employee of plaintiff from engaging in any kind of employment or business after his tenure with plaintiff. Such employee is merely prohibited from engaging in any business in competition with plaintiff or from being employed in a competing firm. Thus, Clause 5 does not prevent defendants Ticzon and Plana from

being employed as directors, production manager, post-production consultants, account executives, etc. The prohibition in Clause 5 is, therefore, limited as to trade."[6] (Citations omitted)

Through an April 2, 1997 Order issued by the RTC, the subsequent Motion for Reconsideration was denied due to lack of verification. The trial court, in upholding the validity of Clause 5, explained:

> "Based on the evidence presented in support of the application for a writ of preliminary injunction, the plaintiff appears to have made substantial investments not only on capital equipment for use in its business, but also on technical information and trade secrets to which the defendants have been exposed during their employment with the plaintiff. Viewed in this context, and subject to the defenses which the defendants may prove during the trial, the Court, for purposes of the resolution of the application for preliminary injunction, is of the opinion and so holds that Clause 5 of the employment contracts of defendants Ticzon and Plana with the plaintiff is reasonably necessary to protect the investments of the plaintiff, consistent with the ruling of the Supreme Court in Del Castillo vs. Richmond 45 Phil. 679. It is settled that the evidence to be submitted during the hearing on the application for preliminary injunction need not be conclusive or complete, the evidence needed being only a 'sampling' and intended to give the court an idea of the justification for the preliminary injunction pending the decision on the case based on the merits. The plaintiff has shown that it is entitled to the injunctive relief prayed for in its application for a writ of preliminary injunction."[7] (Some citations omitted, Emphasis ours)

We note that a contempt case was also filed by Respondent Video Post against petitioners for violating the preliminary injunction. It alleged that they continued to work for Omni Post despite the issuance of the writ.

On June 9, 1997, petitioners challenged the RTC Orders in their Petition for Certiorari under Rule 65 before the Court of Appeals. Taking into account several pleadings filed by both parties,[8] the CA

rendered its assailed Decision denying the Petition for being moot and academic. The subsequent Motion for Reconsideration[9] proved unavailing.

Ruling of the Court of Appeals

In denying the Petition before it, the CA declared that the questions raised were rendered moot by the expiration of the period prohibiting petitioners from seeking employment under Clause 5. Briefly, the CA disposed of this case thus:

> "The prohibition against employment in a competing company contained in the above-quoted Clause 5, which private respondent seeks to enforce by the assailed writ, had already expired sometime in the middle of November 1997. The parties appear to have been unmindful of the running of the time for its expiration, as they were feverishly filing pleadings well into August 1997, three (3) months before the prohibition was to have become ineffectual. As things go, it was not possible for us, due to the great number of cases awaiting disposition, to have decided the instant case earlier.
>
> "For being moot and academic, we therefore deny the petition.
>
> "Courts exist to decide actual controversies, not to give opinions upon abstract propositions. That a court will not sit for the purpose of trying moot cases and spend its time in deciding questions the resolution of which can not in any way affect the rights of the person or persons presenting them is well settled.
>
> "There is no longer any rhyme of reason for this court to decide on whether the respondent judge was in error or not in granting the questioned writ, for even with it, the petitioners are now released from any and all legal impediments which may have barred their unfettered employment with whatsoever company they so wish to become employed, and to exercise whatever skill, industry, expertise or talent they may have acquired, from wherever they may have acquired it. There is likewise no more public purpose to be served in resolving such a moot query; whatever misgivings petitioner may have had with respect to

> the actuations of the respondent judge should be satisfied by the resolution of the Honorable Supreme Court in Administrative Matter RTJ-97-1379, wherein the said respondent was admonished by the High Tribunal for acts done in connection with the impugned writ.[10] (Citations omitted, Emphasis ours)

Hence, this Petition.[11]

The Issues

These are the alleged errors presented before us:

> "I. Whether the Honorable Court of Appeals erred in dismissing the petition for certiorari dated June 3, 1997 for being moot and academic.
>
> II. Whether the Honorable Court of Appeals erred in not holding that the Orders of the Honorable Judge Teofilo Guadiz dated July 30, 1996 and April 2, 1997 granting and affirming the grant of the preliminary writ of injunction were in violation of Rule 58 of the 1997 Rules of Civil Procedure.
>
> III. Whether the Honorable Court of Appeals and the Honorable Judge Teofilo Guadiz prejudged Civil Case No. 96-703 in ruling on the reasonableness and validity of Clause 5 in the employment contracts of petitioners Mike and Paul with respondent Video Post Manila when the only issue to be resolved [was] the propriety of the issuance of the writ of preliminary injunction."[12]

In view of this Court's ruling on the issue of mootness, the second of the assigned errors need not be discussed. Thus, we shall take up only two of them: 1) whether the issue of the validity of the preliminary injunction is moot and academic and 2) whether the trial and the appellate courts "prejudged" the case.

The Court's Ruling

The Petition has no merit. The trial court is, however, ordered to hear on the merits the main case for damages.

First Issue:

Mootness

Petitioners' contention is based on the notion that the appellate court had prejudged the case before it was heard on the merits.[13] However, it is clear from the ruling of the CA that what was declared moot and academic was the issue of whether the lower court had erred in granting the questioned Writ of Preliminary Injunction. Hence, the appellate court held that there was no longer any reason to decide whether the respondent judge erred in issuing the Writ.[14] It was that question,[15] not the entire case, that its Decision declared moot. Its subsequent Resolution denying petitioners' Motion for Reconsideration was of the same tenor.

Of course, the CA Decision would have been clearer had it also ordered the remand of the case for hearing on the main claim for damages.[16] However, the fact remains: the question regarding the issuance of the Writ of Preliminary Injunction was rendered moot by the expiration of the prohibition contained in Clause 5 of the employment contracts.[17]

We thus agree with the ruling of the CA. But we stress that the mootness applies only to the issue of the trial court's grant of the provisional remedy assailed by petitioners. Having become moot, the issue was correctly ignored by the appellate court. We have said in Bacolod-Murcia Planters' Association, Inc. vs. Bacolod-Murcia Milling Co., Inc.:[18]

> "While the assertion made by appellants that a resolution of the question of law raised could indeed provide future guidance of judges and of attorneys, we are called upon to act and to decide only lawsuits wherein there still remains an actual and antagonistic assertion of rights by one party against the other in

> a controversy wherein judicial intervention is unavoidable. We are not called upon to render mere advisory opinions."

Indeed, there was no longer any purpose[19] in determining whether the trial court's issuance of the Writ amounted to grave abuse of discretion. The period within which the petitioners were prohibited from engaging in or working for an enterprise that competed with the respondent — the very purpose of the preliminary injunction — had expired. [20] Hence, any declaration upholding the propriety of the Writ would have been entirely useless. Having outlived its purpose, it had already become functus oficio. The prohibition and, necessarily, the Writ were effective only for two years. This period began in November 1995 and ended November 1997. Similarly, even if we say that the injunction was invalid, it would be in vain, as petitioners are now free to seek employment wherever they want to, the two-year prohibition period having already lapsed. Therefore, we hold that there is no actual case or controversy between the parties[21] insofar as the preliminary injunction is concerned. Indeed, courts should not take cognizance of moot and academic questions, subject to notable exceptions involving constitutional issues.[22]

Petitioners' invocation of the case of Salonga vs. Cruz-Paño[23] is misplaced and a bit strained. First, as stated above, what was declared moot was the issue of the preliminary injunction. Second, Salonga refers to the court's duty to formulate guiding and controlling constitutional principles.[24] The attempt to introduce a constitutional color[25] to this otherwise simple case of breach of contract is uncalled for.

On the argument of petitioners that the contempt case against them precludes the mootness of this case, suffice it to say that such contempt case may proceed independently of our ruling here. There is no finding on the validity of the Writ; therefore, the court a quo hearing the contempt case may make its own determination. That is a function more suitably exercised by the trial court rather than by this Court. Unquestionably, the contempt case has not even reached this Court.

Damages

As earlier adverted to, the issue of damages remains unresolved. In Philippine National Bank vs. CA,[26] we said:

> "In the instant case, aside from the principal action for damages, private respondent sought the issuance of a temporary restraining order and writ of preliminary injunction to enjoin the foreclosure sale in order to prevent an alleged irreparable injury to private respondent. It is settled that these injunctive reliefs are preservative remedies for the protection of substantive rights and interests. Injunction is not a cause of action in itself but merely a provisional remedy, an adjunct to a main suit. When the act sought to be enjoined ha[s] become fait accompli, only the prayer for provisional remedy should be denied. However, the trial court should still proceed with the determination of the principal action so that an adjudication of the rights of the parties can be had."

In a similar vein, the main case here is not moot at all. The main issue of damages being sought[27] by the respondent against petitioners should be taken up during the trial on the merits when the allegations of the parties may properly be addressed. A remand of this case for that purpose is necessary.

Second Issue:

Alleged "Prejudgment"

What confronts us now is whether there was indeed a "prejudgment" on the part of the trial and the appellate courts.

We find no basis for petitioners' claim that the CA prejudged the entire case when it applied Del Castillo vs. Richmond.[28] As far as it was concerned, the case was already moot. It referred to Del Castillo only to affirm the trial court's preliminary finding that Clause 5 was valid and could thus be the basis for the issuance of the Writ.

In the same vein, we find no prejudgment on the part of the trial court. What is abundantly clear is the provisional nature of its finding

on the validity of Clause 5 which, it clarified, was “for purposes of the resolution of the application for preliminary injunction.”[29] Moreover, even if that proviso in the employment contracts is found to be valid, the case is nor yet resolved, since Respondent Video Post must prove the following with sufficient evidence: the violation of such clause by petitioners, the fact that it suffered damages due to the petitioners’ acts, and the amount of such damages. Therefore, the declaration of the validity of Clause 5 does not dispose of the entire case. Several factual matters must be still addressed. Unfortunately, petitioners jumped the gun. They chose to question the interlocutory orders of the trial court and prematurely tried to appeal the entire case. In the interest of due process, we cannot allow them to short-circuit court processes.

In injunctive matters, even the cases cited by petitioners recognize the principle allowing lower courts judicial discretion, the exercise of which should not be interfered with except where there is manifest abuse.[30] There is no reason to disturb such exercise here.

WHEREFORE, the Petition is **DENIED**, and the appealed Decision **AFFIRMED** but we emphasize that the trial court must conduct further trial on the merits in the main case.

SO ORDERED.

Melo, Purisima and Gonzaga-Reyes, *JJ.*, concur.
Vitug, *J.*, abroad on official business.

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[1] Fifteenth Division composed of Justices Ricardo P. Galvez (Division chairman, now solicitor general), Romeo A. Brawner (ponente) and Marina L. Buzon (member). Justices Galvez and Buzon concurred with the ponencia of Justice Brawner.

[2] Rollo, pp. 212-216.

[3] CA Decision, p. 3; rollo, p. 164.

[4] Clause 5 of these employment contracts states:

“In consideration for your training, you are absolutely prohibited, during your employment with the Company and for a period of two (2) years thereafter, from being employed or engaged in any other capacity or undertaking and shall NOT be interested or concerned, directly or indirectly

in any business firm or corporation undertaking or carrying on any business of a similar nature, or which may compete with that of the Company.

[5] The case was filed before the Regional Trial Court of Makati City, Branch 147, docketed as Civil Case No. 96.

[6] Order dated July 30, 1996, pp. 2-4; rollo, pp. 60-62.

[7] Order dated April 2, 1997, pp. 1-2; rollo, 64-65.

[8] These are: respondent's Comment dated July 21, 1997; petitioners' Reply dated August 4, 1997; respondent's Rejoinder dated August 13, 1997; petitioners' Sur-Rejoinder dated August 18, 1997. Meanwhile, an independent Petition for Contempt dated September 12, 1997 was filed by Respondent Video Post against petitioners and docketed as Civil Case No. 97-2173.

[9] Dated March 26, 1998. The CA required the respondent to file a Comment on petitioners' Motion for Reconsideration; the latter complied on May 22, 1998. Petitioners filed on June 18, 1998, a Reply to respondent's Comment.

[10] CA Decision, pp. 1-2; rollo, pp. 162-163.

[11] The case was deemed submitted for resolution on February 7, 2000, upon receipt by this Court of petitioners' Memorandum signed by Attys. Benjamin Z. de Leon and Tranquil G.S. Salvador III of Romulo, Mabanta, Buenaventura, Sayoc & De los Angeles. Respondent's Memorandum, signed by Attys. Roberto S. Dio and Regina G. Pimentel of Castillo Laman Tan Pantaleon & San Jose, was received earlier on January 18, 2000.

[12] Petition for Review on Certiorari, pp. 14-15; rollo, pp. 21-22.

[13] Hence, in their Reply, petitioners assert: "The Honorable Court of Appeals by holding the petitioners' Petition dated June 3, 1997 as moot and academic practically sustained the ruling of Honorable Guadiz that the Writ of Preliminary Injunction was valid. Simply said, the Court of Appeals by refusing to resolve the merits of the Petition is deemed to have adopted the ruling of Honorable Guardiz in Civil Case No. 97-2173." (Petitioners' Reply, September 9, 1999, p. 6; rollo, p. 327).

[14] See quoted CA Decision above.

[15] Under Rule 65 alleging that the respondent court exercised grave abuse of discretion in granting a TRO and a writ of preliminary injunction.

[16] See Philippine National Bank vs. CA, 291 SCRA 271, June 26, 1998. This point is further discussed below.

[17] See Top-Weld Manufacturing, Inc. vs. ECED, S. A., 138 SCRA 118, August 9, 1985.

[18] 30 SCRA 67, 68-69, October 31, 1969, per Fernando, J. (emphasis supplied)

[19] See Phil. Sugar Institute vs. Asso. of Philsugin Employees, 115 SCRA 835, August 19, 1982; Rojas vs. CA, 39 SCRA 230, May 31, 1971.

[20] See Top-Weld Manufacturing, Inc. vs. ECED, SA, supra.

[21] See Ozaeta vs. Oil Industry Commission, 98 SCRA 417, June 30, 1980 citing several cases.

[22] See ABS-CBN Broadcasting Corporation vs. Comelec, GR No. 133486, January 28, 2000; Salonga vs. Cruz-Paño, 134 SCRA 438, February 18, 1985.

[23] Supra.

[24] Therein we said:

"The Court also has the duty to formulate guiding and controlling constitutional principles, precepts, doctrines, or rules. It has the symbolic function of educating bench and bar on the extent of protection given by constitutional guarantees." (supra, at 463, per Gutierrez, J.)

See also Republic vs. Villarama Jr., 278 SCRA 736, September 5, 1997.

[25] See Petition, pp. 27-28; rollo, pp 34-35.

[26] 291 SCRA 271, 277, June 26, 1998, per Bellosillo, J.

[27] The respondent's Complaint alleges in part:

"8. Defendant corporation was organized recently for the purpose of directly competing with plaintiff. After the resignation of defendants Plana and Ticzon and their subsequent employment with defendant corporation, plaintiff lost some of its accounts and clients to defendant corporation. Plaintiff was unable to submit bids and obtain contracts for highly technical jobs due to the loss of its trained employees. Likewise, plaintiff was compelled to hire a Hong Kong consultant to train its new Henry operator and graphic artists and shut down one of its two editing suites. The toss of business due to defendants' acts or omissions is about P6,000,000.00.

9. Furthermore, on account of the wanton and malicious manner by which defendants Ticzon and Plana have breached their contractual undertaking, they are liable to plaintiff in the amount of P1,000,000.00 each by way of exemplary damages." (Respondent's complaint dated May 16, 1996, pp. 2-3; rollo, pp. 45-46)

[28] 45 Phil. 679, February 9, 1924.

[29] Order dated April 2, 1997, p. 2; rollo, p. 65.

[30] See Government Service Insurance System vs. Florendo, 178 SCRA 76, 89, September 29, 1989; Ortigas & Company Limited Partnership vs. CA, 162 SCRA 165, 168, June 16, 1988.

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