



Republic of the Philippines
 Supreme Court
 Manila

FIRST DIVISION

SUPREME COURT OF THE PHILIPPINES
 PUBLIC INFORMATION OFFICE

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SPOUSES PRUDENTE D.
 SOLLER and PRECIOSA M.
 SOLLER, RAFFY TELOSA,
 and GAVINO MANIBO, JR.

G.R. No. 215547

Present:

Petitioners,

PERALTA, C.J., Chairperson,
 CAGUIOA, Working Chairperson,
 REYES, J. JR.,
 LAZARO-JAVIER, and
 LOPEZ, JJ.

- versus -

HON. ROGELIO SINGSON, in
 his capacity as Secretary of
 Department of Public Works
 and Highways, ENGR.
 MAGTANGGOL ROLDAN, in
 his capacity as District Engineer
 of the Department of Public
 Works and Highways-Oriental
 Mindoro, Second District Office,
 KING'S BUILDERS and
 DEVELOPMENT
 CORPORATION, and its
 President, ENGR. ELEGIO
 MALALUAN,

Promulgated:

Respondents.

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DECISION

REYES, J. JR. J.:

Before this Court is an appeal by *certiorari*¹ under Rule 45 of the Rules of Court, assailing the Resolution² dated July 10, 2014 and

¹ Rollo, pp. 21-47.

² Penned by Judge Recto A. Calabocal; id. at 46-53.

✓

Resolution³ dated November 18, 2014 of the Regional Trial Court (RTC) of Pinamalayan, Oriental Mindoro, Branch 41 which dismissed the petition for the issuance of Permanent Injunction and damages with prayer for Temporary Restraining Order (TRO)/Preliminary Injunction filed by the Spouses Prudente D. Soller and Preciosa M. Soller, Raffy Telosa, and Gavino Manibo, Jr. (petitioners).

The Relevant Antecedents

In their Complaint, petitioners averred that they are the owners of parcels of land located near the Strong Republic Nautical Highway at Poblacion, Bansud, Oriental Mindoro.⁴

As a result, however, of the commencement of the elevation project between kilometer 90 and 92 of the national highway near the Bansud River Bridge by King's Builder and Development Corporation, their safety was placed in imminent danger.⁵

Further bolstering their claim, petitioners alleged that the respondents initiated the elevation of the national highway to around one meter, thereby blocking and retaining floodwaters naturally coming from the nearby Bansud River and farm lands from the direction of the mountains of Conrazon; and submerging houses and lands on the left side of the road including their properties.⁶

Aside from safety issues, petitioners maintained that the elevation of the highway impaired their use and enjoyment of their houses and properties as pedestrians and vehicles alike will have to negotiate a steep climb and descent in going to and from their properties.⁷

Instead of filing their Answer, Secretary Rogelio Singson and Engr. Magtanggol Roldan filed a Motion to Dismiss⁸ alleging that the issuance of injunctive writs is prohibited by Presidential Decree No. 1818⁹; and that the doctrine of State's immunity from suit applies in this case.

In a Resolution¹⁰ dated July 10, 2014, the RTC granted the Motion to Dismiss, finding that it has no jurisdiction over the case as stated in Republic Act (R.A.) No. 8975,¹¹ thus:

³ Id. at 54-56.

⁴ Id. at 59.

⁵ Id. at 60.

⁶ Id.

⁷ Id.

⁸ Id. at 101-124.

⁹ Prohibiting Courts from Issuing Restraining Order or Preliminary Injunctions in Cases Involving Infrastructure and Natural Resources Development Projects of, and Public Utilities Operated by the Government.

¹⁰ Penned by Judge Recto A. Calabocal; id. at 48-53.

¹¹ AN ACT TO ENSURE THE EXPEDITIOUS IMPLEMENTATION AND COMPLETION OF GOVERNMENT INFRASTRUCTURE PROJECTS BY PROHIBITING LOWER COURTS FROM ISSUING TEMPORARY RESTRAINING

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WHEREFORE, in light of all the foregoing, the Motion to Dismiss filed by defendants Secretary Rogelio Singson, Department of Public Works and Highways (DPWH) and District Engineer Magtanggol Roldan, DPWH Oriental Mindoro is **GRANTED** and the above-entitled case is hereby ordered **DISMISSED** as a consequence thereof.

SO ORDERED.¹²

Petitioners filed a Motion for Reconsideration, which was denied in a Resolution¹³ dated November 18, 2014.

Aggrieved, petitioners elevated the matter before this Court.

In its Comment,¹⁴ the Office of the Solicitor General (OSG) essentially avers that the petition must be dismissed outright as it raises factual issues; and that the dismissal of the case was proper as petitioners prayed for the issuance of a TRO in its complaint.

Petitioners, in their Reply,¹⁵ insist that their petition involves a pure question of law as the issue raised therein delves into the jurisdiction of the RTC over the case.

The Issues

Ultimately, petitioners insist on the jurisdiction of the RTC over the subject matter.

The Court's Ruling

Preliminarily, a motion to dismiss which has been granted on the ground of lack of jurisdiction over the subject matter operates as a dismissal without prejudice.¹⁶ Relevantly, such order is not subject to an appeal under Section 1 of Rule 41¹⁷ of the Rules of Court. Under the same provision, the remedy of the aggrieved party is to file a petition for *certiorari* under Rule 65.¹⁸

ORDERS. PRELIMINARY INJUNCTIONS OR PRELIMINARY MANDATORY INJUNCTIONS, PROVIDING PENALTIES FOR VIOLATIONS THEREOF, AND FOR OTHER PURPOSES

¹² Id. at 53.

¹³ Id. at 54-56.

¹⁴ Id. at 149-181.

¹⁵ Id. at 215-223.

¹⁶ *Development Bank of the Philippines v. Judge Carpio*, 805 Phil. 99, 109-110 (2017).

¹⁷ Section 1. *Subject of appeal*. An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

No appeal may be taken from:

x x x x

(h) An order dismissing an action without prejudice.

In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65.

¹⁸ Id.

In this case, not only did petitioners avail of the wrong remedy by filing an appeal by *certiorari* under Rule 45, but they likewise violated the doctrine of hierarchy of courts in assailing the twin Resolutions of the RTC, directly before us.¹⁹

Nevertheless, in a plethora of cases, the Court relaxed the application of procedural rules. The Court has noted that a strict application of the rules should not amount to straight-jacketing the administration of justice and that the principles of justice and equity must not be sacrificed for a stern application of the rules of procedure.²⁰ Thus, when the strict and rigid application of procedural rules would result in technicalities that tend to frustrate rather than promote substantial justice, they must always be eschewed.²¹

In the exercise of its equity jurisdiction, the Court finds it proper to resolve the case on the merits.

Section 3 of R.A. No. 8975 expressly vests jurisdiction upon the Supreme Court to issue any TRO, preliminary injunction or preliminary mandatory injunction against the government, or any of its subdivisions, officials or any person or entity, whether public or private acting under the government's direction, to restrain, prohibit or compel specified acts. To be specific:

Section 3. Prohibition on the Issuance of Temporary Restraining Orders, Preliminary Mandatory Injunctions. – No court, except the Supreme Court, shall issue any temporary restraining order, preliminary injunction or preliminary mandatory injunction against the government, or any of its subdivisions, officials or any person or entity, whether public or private acting under the government direction, to restrain, prohibit or compel the following acts:

- (a) Acquisition, clearance and development of the right-of-way and/or site or location of any national government project;
- (b) Bidding or awarding of contract/project of the national government as defined under Section 2 hereof;
- (c) Commencement prosecution, execution, implementation, operation of any such contract or project;
- (d) Termination or rescission of any such contract/project; and
- (e) The undertaking or authorization of any other lawful activity necessary for such contract/project.

x x x x

¹⁹ *Quilo v. Bajao*, 445 Phil. 453 (2016).

²⁰ *Cortal v. Larrazabal*, 817 Phil. 464, 476-477 (2017).

²¹ *Republic of the Philippines v. Dimarucot*, G.R. No. 202069, March 7, 2018.

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In the case of *Philco Aero, Inc. v. Secretary Tugade*,²² this Court recognized the remedy of resorting directly before this Court in cases covered under R.A. No. 8975. Section 3 of R.A. No. 8975 was explicit in excluding other courts in the issuance of injunctive writs. However, in the case of *Bases Conversion and Development Authority v. Uy*,²³ this Court clarified that the prohibition applies only to TRO and preliminary injunction, viz.:

A perusal of these aforequoted provisions readily reveals that all courts, except this Court, are proscribed from issuing TROs and writs of preliminary injunction against the implementation or execution of specified government projects. **Thus, the ambit of the prohibition covers only temporary or preliminary restraining orders or writs but NOT decisions on the merits granting permanent injunctions.** Considering that these laws trench on judicial power, they should be strictly construed. Therefore, while courts below this Court are prohibited by these laws from issuing temporary or preliminary restraining orders pending the adjudication of the case, said statutes however do not explicitly proscribe the issuance of a permanent injunction granted by a court of law arising from an adjudication of a case on the merits. (Emphasis supplied)

As conferred by Section 19²⁴ of Batas Pambansa Blg. 129, the RTC has jurisdiction over all civil cases in which the subject matter under litigation is incapable of pecuniary estimation. One of which, as established by jurisprudence, is a complaint for injunction.²⁵

It is a well-settled rule that jurisdiction of the court is determined by the allegations in the complaint and the character of the relief sought.²⁶

In this case, the allegations and the reliefs prayed for in the complaint reveal that petitioner, as landowners of the surrounding estate of the highway elevation project, sought to enjoin such construction; or if completed, to restore the affected portion thereof, to their original state. Clearly, the principal action is one for injunction, which is within the jurisdiction of the RTC.

To emphasize, the principal action for injunction is distinct from the provisional or ancillary remedy of preliminary injunction which cannot exist except only as part or an incident of an independent action or proceeding.²⁷ Contrary to the OSG's stance, herein complaint is one for injunction with a prayer for issuance of a TRO and/or preliminary injunction. In determining

²² G.R. No. 237486, July 3, 2019.

²³ 537 Phil. 18, 33 (2006).

²⁴ Sec. 19. *Jurisdiction in civil cases.* - Regional Trial Courts shall exercise exclusive original jurisdiction:

(1) In all civil actions in which the subject of the litigation is incapable of pecuniary estimation;

²⁵ Id.

²⁶ *Surviving Heirs of Alfredo R. Bautista v. Lindo*, 728 Phil. 630, 637 (2014).

²⁷ *Evy Construction and Development Corporation v. Valiant Roll Forming Sales Corporation*, G.R. No. 207938, October 11, 2017, 842 SCRA 464, 474.

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the jurisdiction of the RTC, what is controlling is the principal action, and not the ancillary remedy which is merely an incident thereto.


WHEREFORE, the instant petition is hereby **GRANTED**. The Resolutions dated July 10, 2014 and November 18, 2014 of the Regional Trial Court of Pinamalayan, Oriental Mindoro, Branch 41 are **REVERSED and SET ASIDE**. The case is **REMANDED** to the Regional Trial Court of Pinamalayan, Oriental Mindoro, Branch 41 for further proceedings with deliberate dispatch.

SO ORDERED.




JOSE C. REYES, JR.
Associate Justice

WE CONCUR:




DIOSDADO M. PERALTA
Chief Justice
Chairperson



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice



MARIO V. LOPEZ
Associate Justice

CERTIFICATION

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



DIOSDADO M. PERALTA
Chief Justice

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