



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE

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EN BANC

RE: LETTER DATED MARCH 9, 2020 OF DEPARTMENT OF HEALTH SECRETARY FRANCISCO T. DUQUE III, MD, MSc, re: Special Proceedings Case No. R-MNL-19-12843-SP (JBROS Construction Corporation/Fujian¹ Zhongma Construction Engineering Co., Ltd. Consortium and/or JBROS Construction Corporation, both represented by Engr. Jesusito B. Legaspi, Jr. v. Department of Health, Hon. Francisco T. Duque III, in his official capacity as Secretary of the Department of Health, and the Government Procurement Policy Board).

A.M. No. 20-08-05-SC

Present:

- PERALTA, C.J.,
- PERLAS-BERNABE,
- LEONEN,
- CAGUIOA,
- GESMUNDO,
- HERNANDO,
- CARANDANG,
- LAZARO-JAVIER,
- INTING,
- ZALAMEDA,
- LOPEZ, M.,
- DELOS SANTOS,
- GAERLAN,
- ROSARIO, and
- LOPEZ, J., JJ.

Promulgated:

February 16, 2021

done: Fe. Legaspi - Gombur

X - - - - - X

RESOLUTION

GESMUNDO, J.:

The instant administrative matter stems from a Letter² dated March 9, 2020 of the Honorable Secretary of the Department of Health, Hon. Francisco T. Duque III, addressed to the Honorable Chief Justice Diosdado M. Peralta, calling the attention of the Court on the alleged improper

¹ Also referred to as "Fujian" in some parts of the *rollo*.

² *Rollo*, pp. 17-19.

issuance of a preliminary injunction by the Regional Trial Court (*RTC*), Manila, Branch 27 in Spec. Pro. Case No. R-MNL-19-12843-SP presided by Judge Teresa Patrimonio-Soriano (*Judge Soriano*) despite the denial of the same application in an earlier case filed before RTC Manila, Branch 12, docketed as Civil Case No. 19-09240-SC, presided by Judge Renato Z. Enciso (*Judge Enciso*).

The Court referred the matter to the Office of the Court Administrator (*OCA*) for Investigation, Report and Recommendation.

In a Memorandum³ dated January 7, 2021, the *OCA* submitted its report and recommendation to the Court. The *OCA* summarized the controversy in this manner:

The instant administrative matter stemmed from the Blacklisting Order dated 20 May 2019 issued by the Department of Health (*DOH*) against *JBROS Construction Corporation (JBROS)* for alleged irregularities and failure to deliver on Phase II of its “*Barangay Health Stations Project*.” *JBROS* contested the blacklisting order by filing separate petitions in two (2) Regional Trial Courts, with said courts issuing contrasting orders.


As culled from the 9 March 2020 Letter (with attachments) of *DOH Secretary Francisco T. Duque III*, the “*Barangay Health Stations Project*” was launched to make quality health care accessible to the poor. The project was supposed to provide a functional *Barangay Health Station* in every *barangay*, using public elementary schools as the sites.

Through competitive public bidding, *JBROS* entered into two (2) contracts with the *DOH*. The contracts were made in accordance with Section 59, Article XVIII of Republic Act No. 9184 (*Government Procurement Reform Act*) which provides that any dispute arising from the implementation of the contract entered into under said Act shall be submitted to arbitration in the Philippines. The process of arbitration was incorporated in the contracts pursuant to the provisions of the Act.

The first contract was for the construction of the *Barangay Health Stations*. The contract of Phase I of the project was executed on 22 January 2016. Phase I of the project actually became the subject of an arbitration case between the parties.

The second contract, Phase II of the project, was executed between *JBROS* and *DOH* on 23 March 2016. Supposedly, the *DOH* had until 30 March 2016 to give possession of all 2,500 sites to *JBROS*. It was the

³ Id. at 78-89.



contention of JBROS that the completion of Phase II was contingent on the DOH completely delivering the identified sites. In a Letter dated 16 May 2016, addressed to then DOH Secretary Janette Garin, JBROS pointed to various reasons for the delay in Phase II, including the undue delay in the determination of the replacement school sites. Apparently, the Regional Directors of the DOH had not been informed of the project, preventing JBROS from commencing work on the identified sites.

The second contract was suspended on 31 May 2016 by the DOH, but JBROS claimed that it had accomplished at least 14.37% of the works. JBROS requested the DOH to lift the suspension of Phase II, but the request fell on deaf ears.

With Phase II of the project suspended for almost three (3) years starting in May 2016, JBROS sent a Notice of Termination dated 25 January 2019 pursuant to R.A. [No.] 9184 which grants JBROS the right to terminate the contract that had been suspended for at least sixty (60) days. Under R.A. No. 9184, the DOH had another thirty (30) days from receipt of notice to resolve the grounds for suspension and/or lift the same, otherwise the contract shall be deemed terminated by operation of law. When the DOH failed to do its part, the contract was deemed terminated by operation of law on 24 February 2019.

Following JBROS' early termination, it was taken by surprise when it received a Notice of Termination from the DOH dated 1 March 2019. Attached to the notice was a verified report dated 21 February 2019 detailing the alleged irregularities committed by JBROS relative to Phase II of the project.

In the interim, JBROS countered with a letter demanding payment of its claims arising out of the termination of the contract. The DOH issued an Amended Notice of Termination on 4 April 2019, along with a Supplemental Verified Report alleging the same grounds for termination cited in the first notice. JBROS, in a Letter dated 23 April 2019, insisted that Phase II of the project was terminated due to the DOH's fault.

On 20 May 2019, some three (3) months after JBROS terminated the contract, the DOH issued a decision declaring the contract as terminated. The dispositive portion of the decision reads:

“WHEREFORE, premises considered this Office resolves to:

1. DECLARE the subject Contract as TERMINATED;
2. DENY the demand for payment for failure to prove Respondent's claim;
3. BLACKLIST the Contractor for engaging in unlawful acts relative to the contract acquisition and implementation, pursuant to GPPB Guidelines for Blacklisting[;] and

4. DEMAND the return of the mobilization fee in the amount of Five Hundred Fifty-One Million Two Hundred [Thirty]-Three Thousand Three Hundred Thirty-Three and 33/100 Pesos (₱551,233,333.33).["]

A motion for reconsideration of the decision was denied by the DOH in a Resolution dated 15 July 2019.

On July 24, 2019, the DOH issued the formal Blacklisting Order disqualifying JBROS from participating in the procurement of all governmental projects from 28 August 2019 to 28 August 2020. In its letter dated 30 August 2019, the Government Procurement Policy Board (GPPB) confirmed the inclusion of JBROS in the Consolidated Blacklist Report.

As aforementioned, the Blacklisting Order dated 20 May 2019 of the DOH became the point of dispute between JBROS and DOH and the GPPB.

Questioning the blacklisting order, JBROS filed a Petition for *Certiorari* with application for Temporary Restraining Order (TRO) or *Status Quo Ante* Order and a Writ of Preliminary Injunction. The petition was raffled to Branch 12, RTC, Manila, and docketed as Civil Case No. 19-09240-SC.

In an Order dated 26 September 2019, Presiding Judge Renato Z. Enciso, Branch 12, RTC, Manila, denied the prayer of JBROS for the issuance of a writ of preliminary injunction. Judge Enciso's main argument was that the acts sought to be enjoined by JBROS were already performed or completed prior to the filing of the petition, hence there was nothing more to be enjoined or restrained. Instead, Judge Enciso directed the parties to file their respective memoranda. However, JBROS withdrew the case. In its Motion to Dismiss dated 3 October 2019, JBROS claimed that the case may still be dismissed as a matter of right considering that the respondents had yet to file any responsive pleading. The motion sought the dismissal of the case without prejudice. Judge Enciso granted the motion in his Order dated 14 October 2019.

JBROS refiled the case designating it as a "Petition for Interim Measure of Protection in Aid of Arbitration under the Alternative Dispute Resolution Act (R.A. No. 9285)" with an urgent motion for *ex parte* issuance of a 20-day Temporary Restraining Order of Protection (TROP). The case was raffled to Branch 27, RTC, Manila, and docketed as Special Proceeding Case No. R-MNL-19-12843-SP.

In an Order dated 19 December 2019, Judge Lily Joy Labayo-Patria, in her capacity as Pairing Judge of Branch 27, RTC, Manila, issued the 20-day TROP prayed for by JBROS. The DOH filed a motion for reconsideration but in an Order dated 20 January 2020, Judge Teresa

Patrimonio-Soriasco, Presiding Judge, Branch 27, RTC, Manila denied the motion for being moot and academic, the 20-day TROP having already expired.

Judge Patrimonio-Soriasco proceeded to hear the application for a writ of preliminary injunction. In an Order dated 20 January 2020, she issued a writ of preliminary injunction directing the DOH to desist from implementing the termination of the contract, recall the blacklisting order and submit a Delisting Order to the GPPB notifying it of the delisting of JBROS. The reliefs granted by Judge Patrimonio-Soriasco removed JBROS from the GPPB's list of blacklisted entities. The DOH, through the Office of the Solicitor General, has since filed a Motion for Inhibition and a Motion for Reconsideration."⁴ (emphases omitted)

Eventually, the OCA found sufficient grounds to make Judge Soriasco administratively liable when she issued a writ of preliminary injunction against the earlier dismissal order of Judge Enciso in violation of the doctrine of judicial stability. It also noted that the issuance of the writ of preliminary injunction is erroneous as the acts sought to be restrained had already been executed prior to any judicial intercession. Lastly, the OCA noticed that Judge Soriasco failed to recognize that JBROS had committed forum shopping when it nonchalantly moved for the dismissal of the case pending before Judge Enciso after receiving an unfavorable judgment by thereafter filing a similar petition hoping for a more favorable outcome.

Thus, the OCA recommended that: (1) the DOH letter be considered as a formal complaint against Judge Soriasco, (2) she be furnished a copy of the letter, and (3) she be required to comment.

In response, Judge Soriasco disavowed any liability to the charge of violation of forum shopping claiming that the two petitions, the one filed before the *sala* of Judge Enciso and the other in her *sala*, were two different cases that do not preclude one another, thereby concluding that no violation was made. Also, Judge Soriasco avers she did not violate the doctrine of judicial stability when she took cognizance of the special proceeding, the civil case before Judge Enciso being already dismissed; thus no outstanding order was contradicted by her grant of the writ of preliminary injunction. Lastly, she raises good faith and argues that she did not know of the existence of the case filed before the *sala* of Judge Enciso and the issuance of the writ of preliminary injunction was based on the facts presented during the hearing.

⁴ Id. at 78-81.

Considering the answer of Judge Soriaso, the OCA maintained that she be made administratively liable for violating the doctrine of judicial stability as well as the rule on forum shopping. The OCA found that her actions were not justified. First, the OCA pointed out that while captioned differently, the two cases seek the same remedy — to thwart the blacklisting of JBROS. Second, it found that Judge Soriaso cannot feign ignorance of the earlier ruling of Judge Enciso since she was informed by the DOH of the same. For this, the OCA recommended that Judge Soriaso be found guilty of: (i) a serious charge of Gross Ignorance of the Law or Procedure and fined in the amount of ₱20,000.00, and (ii) the less serious charge of violation of Supreme Court rules, directives and circulars relating to the issuance of writs of preliminary injunction and fined the additional amount of ₱10,000.00.⁵

The Court's Ruling

The Court adopts the recommendation of the OCA save for the recommended penalty.

It is doctrinal that though not every judicial error bespeaks ignorance of the law and that, if committed in good faith, does not warrant administrative sanction, the same applies only in cases within the parameters of tolerable misjudgment. Where the law is straightforward and the facts so evident, not to know it or to act as if one does not know it constitutes gross ignorance of the law. One who accepts the exalted position of a judge owes the public and the court the ability to be proficient in the law and the duty to maintain professional competence at all times. When a judge displays an utter lack of familiarity with the rules, he erodes the confidence of the public in the courts. A judge owes the public and the court the duty to be proficient in the law and is expected to keep abreast of laws and prevailing jurisprudence. Ignorance of the law by a judge can easily be the mainspring of injustice.⁶

In this regard, the doctrine of judicial stability or the doctrine of non-interference states that the judgment of a court of competent jurisdiction may not be interfered with by any court of concurrent jurisdiction. The rationale for the same is founded on the concept of jurisdiction – verily, a court that acquires jurisdiction over the case and renders judgment therein has jurisdiction over its judgment, to the exclusion of all other coordinate courts,

⁵ Id. at 89.

⁶ *Atty. Amante-Descallar v. Judge Ramas*, 601 Phil. 21, 39 (2009).

for its execution and over all its incidents, and to control, in furtherance of justice, the conduct of ministerial officers acting in connection with this judgment.⁷ It is an elementary principle in the administration of justice: no court can interfere by injunction with the judgments or orders of another court of concurrent jurisdiction having the power to grant the relief sought by the injunction.⁸

Here, if Judge Soriaso had just heeded the information provided by the DOH regarding the existence of the earlier decision of Judge Enciso, she would have been more circumspect in the eventual issuance of the writ of preliminary injunction realizing the ruse propagated by JBROS to get a favorable judgment. Surely, as the OCA correctly pointed out, Judge Soriaso's eventual issuance of the writ of preliminary injunction causes confusion as to which order the parties should follow: the initial decision of Judge Enciso denying the application of the writ or the subsequent decision of Judge Soriaso? This could have easily been avoided if only Judge Soriaso observed the aforementioned doctrine.

Further, the circumstance above is a textbook example of forum shopping. Jurisprudentially, the test for determining forum shopping is whether in the two (or more) cases pending, there is identity of parties, rights or causes of action, and reliefs sought.⁹ Here, while the nomenclature used was different, both cases seek the same outcome. Also, both cases involve the same parties. Lastly, the same evidence is required to prove both cases. The OCA is, therefore, correct in finding Judge Soriaso guilty of gross ignorance of the law for violating the rule on forum shopping and the doctrine of judicial stability.

Likewise, the Court is convinced that Judge Soriaso failed to comply with Administrative Circular No. 7-99.¹⁰ She utterly failed to notice that the contract between JBROS and the DOH had long been extinguished. As such, the same cannot be the source of any right to be protected by injunction. Also, as correctly ruled upon by Judge Enciso, the acts sought to be enjoined have already been accomplished. The settled rule is that

⁷ *First Gas Power Corporation v. Republic of the Philippines*, 717 Phil. 44, 52 (2013); citations omitted.

⁸ See *Atty. Cabili v. Judge Balindong*, 672 Phil. 398, 406-407 (2011); citation omitted.

⁹ *Dy v. Yu*, 763 Phil. 491, 511 (2015); citation omitted.

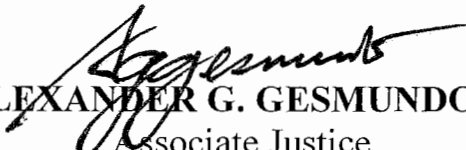
¹⁰ Re: Exercise of Utmost Caution, Prudence and Judiciousness in the Issuance of Temporary Restraining Orders and the grant of Writs of Preliminary Injunction, June 25, 1999.

an injunction would not lie where the acts sought to be enjoined had become *fait accompli* – an accomplished or consummated act.¹¹ It is thus undeniable that Judge Soriaso erroneously issued the writ of preliminary injunction despite two glaring warning signs – signs she would have surely taken into consideration had she not taken a nonchalant attitude towards Judge Enciso’s earlier decision.

Due to the gravity of the infractions committed by Judge Soriaso, the Court cannot accept the penalty recommended by the OCA. Instead, the Court resolves to impose a fine amounting to Forty Thousand Pesos (₱40,000.00) for gross ignorance of the rules of procedure and another Ten Thousand Pesos (₱10,000.00) for violating Administrative Circular No. 7-99.

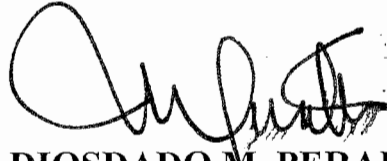
WHEREFORE, premises considered, the Court finds Judge Teresa Patrimonio-Soriaso **GUILTY** of Gross Ignorance of the Law and Procedure and **IMPOSES** a **FINE** in the amount of Forty Thousand Pesos (₱40,000.00). The Court, likewise, finds Judge Soriaso **GUILTY** of the less grave offense of violation of Administrative Circular No. 7-99 and is **IMPOSED** an additional **FINE** in the amount of Ten Thousand Pesos (₱10,000.00). Judge Soriaso is hereby **WARNED** that a repetition of the same or similar act in the future shall merit a more severe sanction from the Court.

SO ORDERED.

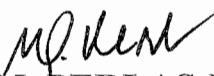

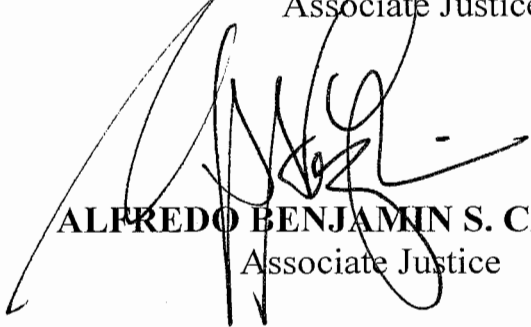

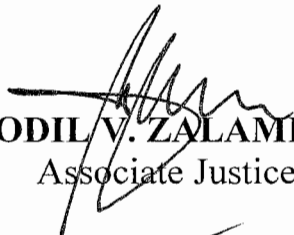
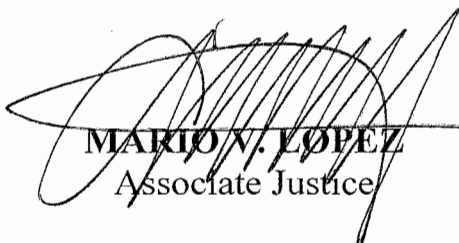


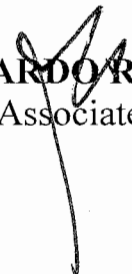

ALEXANDER G. GESMUNDO
Associate Justice

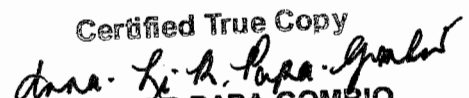
¹¹ *Belongilot v. Cua*, 650 Phil. 392, 409 (2010); citation omitted.

WE CONCUR:



DIOSDADO M. PERALTA
Chief Justice


ESTELA M. PERLAS-BERNABE
Associate Justice
MARVIC M.V.F. LEONEN
Associate Justice
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
RAMON PAUL L. HERNANDO
Associate Justice
ROSMARIE D. CARANDANG
Associate Justice
AMY C. LAZARO-JAVIER
Associate Justice
HENRI JEAN PAUL B. INTING
Associate Justice
RODIL V. ZALAMEDA
Associate Justice
MARIO N. LOPEZ
Associate Justice
EDGARDO L. DELOS SANTOS
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Associate Justice
RICARDO R. ROSARIO
Associate Justice
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