

SECOND DIVISION

[G.R. No. 191442, July 27, 2016]

THE MUNICIPALITY OF ALFONSO LISTA, IFUGAO, REPRESENTED BY CHARLES L. CATTILING, IN HIS CAPACITY AS MUNICIPAL MAYOR AND ESTRELLA S. ALIGUYON, IN HER CAPACITY AS MUNICIPAL TREASURER, PETITIONER, VS. THE COURT OF APPEALS, SPECIAL FORMER SIXTH DIVISION AND SN ABOITIZ POWER-MAGAT, INC., RESPONDENTS.

RESOLUTION

BRION, J.:

We resolve the municipality of Alfonso Lista, Ifugao's (*the municipality*) petition for *certiorari* challenging the Court of Appeals' (CA) decision^[1] and resolution^[2] in **CA-G.R. SP No. 107926**. The CA granted SN Aboitiz Power-Magat, Inc.'s (SNAPM) petition for *certiorari* of the Regional Trial Court's (RTC) refusal to issue a temporary restraining order during the pendency of **Special Civil Action Case No. 17-09**.^[3]

ANTECEDENTS

SNAPM is a corporation engaged in the financing and acquisition of hydropower generating facilities privatized by the Power Sector Assets and Liabilities Management Corporation (PSALM).

On December 31, 2006, SNAPM entered into an agreement with PSALM to acquire the Magat Power Plant located along the boundary of Alfonso Lista, Ifugao, and Ramon, Isabela.

SNAPM registered its power plant operation as a pioneer enterprise with the Board of Investments (BOI). BOI approved the application on July 12, 2007.

The Local Government Code^[4] exempts BOI-registered pioneer enterprises from the payment of local business taxes (LBTs) **for a period of 6 years from the date of registration**. SNAPM however, overlooked this exemption and paid its LBTs for the year 2007.

On January 20, 2009, SNAPM realized its mistake and notified the officials of Alfonso Lista, Ifugao, of its exemption from paying LBTs until July 11, 2013.

However, the mayor of Alfonso Lista refused to recognize the exemption. He threatened to withhold the issuance of a mayor's Permit should SNAPM refuse to pay its LBTs.

On January 29, 2009, SNAPM paid its LBTs for the first quarter of 2009 *under protest*. In return, the mayor of Alfonso Lista issued a temporary mayor's permit

effective only until March 15, 2009.

On February 16, 2009, SNAPM presented the Municipality with a letter from the BOI that confirmed its exemption from paying LBTs for a period of six (6) years from July 12, 2007. Nevertheless, the municipality refused to recognize SNAPM's exemption.

On March 4, 2009, SNAPM filed an administrative claim with the Municipal Treasurer for a tax refund or tax credit of its paid LBTs.

On March 6, 2009, SNAPM also filed a complaint for injunction (with an application for a Temporary Restraining Order [TRO] and/or a writ of preliminary injunction) before the RTC against the municipality, its Mayor, and its Municipal Treasurer. SNAPM sought to restrain: the collection of LBTs, the mayor's refusal to issue a mayor's permit, the closure of the power plant, and any other acts that would prevent it from operating its Alfonso Lista power plant. The complaint was docketed as **Special Civil Action Case No. 17-09**.

SNAPM's temporary mayor's permit expired on March 15, 2009.

On March 18, 2009, the RTC denied SNAPM's application for a TRO.^[5] The RTC ruled that at that early stage of the proceedings, SNAPM's entitlement to a tax exemption under the Local Government Code was still "cloudy" and "vague." It pointed out that SNAPM could avail of a tax credit or refund later on if its complaint is found meritorious.

SNAPM filed a petition for *certiorari* before the CA questioning the RTC's March 18, 2009 order. Its petition was docketed as **CA-G.R. SP No. 107926**.

On June 9, 2009, the CA issued a temporary restraining order prohibiting the municipality from: (1) assessing and collecting local business taxes from SNAPM; (2) refusing to issue a Mayor's permit; and (3) distraining or levying on SNAPM's properties, closing the power plant, or committing any other acts that would obstruct SNAPM's operation of the power plant.^[6]

On August 7, 2009, the CA granted the petition for *certiorari* and set aside the RTC's order denying SNAPM's TRO application.^[7] It also made its July 9, 2009 TRO permanent, subject to the RTC's final determination of **Special Civil Action Case No. 17-09**.

The CA reasoned that the RTC gravely abused its discretion because SNAPM's entitlement to an injunctive writ is clear; Section 133 of the Local Government Code evidently limits the municipality's power to impose LBTs on BOI-registered enterprises.

The municipality moved for reconsideration, arguing: (1) that no supervening events took place between June 5, 2009 and August 7, 2009, that warranted the permanent extension of the TRO; and (2) that SNAPM's one million-peso bond was insufficient considering it expected to assess SNAPM with an annual 84 million pesos in LBTs.

On January 20, 2010, the CA clarified that it did not extend the TRO indefinitely.^[8]