

EN BANC

[G.R. No. 180771, April 21, 2015]

RESIDENT MARINE MAMMALS OF THE PROTECTED SEASCAPE TANON STRAIT, E.G., TOOTHED WHALES, DOLPHINS, PORPOISES, AND OTHER CETACEAN SPECIES, JOINED IN AND REPRESENTED HEREIN BY HUMAN BEINGS GLORIA ESTENZO RAMOS AND ROSE-LIZA EISMA-OSORIO, IN THEIR CAPACITY AS LEGAL GUARDIANS OF THE LESSER LIFE-FORMS AND AS RESPONSIBLE STEWARDS OF GOD'S CREATIONS, PETITIONERS, VS. SECRETARY ANGELO REYES, IN HIS CAPACITY AS SECRETARY OF THE DEPARTMENT OF ENERGY (DOE), SECRETARY JOSE L. ATIENZA, IN HIS CAPACITY AS SECRETARY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (DENR), LEONARDO R. SIBBALUCA, DENR REGIONAL DIRECTOR-REGION VII AND IN HIS CAPACITY AS CHAIRPERSON OF THE TANON STRAIT PROTECTED SEASCAPE MANAGEMENT BOARD, BUREAU OF FISHERIES AND AQUATIC RESOURCES (BFAR), DIRECTOR MALCOLM I. SARMIENTO, JR., BFAR REGIONAL DIRECTOR FOR REGION VII ANDRES M. BOJOS, JAPAN PETROLEUM EXPLORATION CO., LTD. (JAPEX), AS REPRESENTED BY ITS PHILIPPINE AGENT, SUPPLY OILFIELD SERVICES, INC. RESPONDENTS.

[G.R. No. 181527]

CENTRAL VISAYAS FISHERFOLK DEVELOPMENT CENTER (FIDEC), CERILO D. ENGARCIAL, RAMON YANONG, FRANCISCO LABID, IN THEIR PERSONAL CAPACITY AND AS REPRESENTATIVES OF THE SUBSISTENCE FISHERFOLKS OF THE MUNICIPALITIES OF ALOGUINSAN AND PINAMUNGAJAN, CEBU, AND THEIR FAMILIES, AND THE PRESENT AND FUTURE GENERATIONS OF FILIPINOS WHOSE RIGHTS ARE SIMILARLY AFFECTED, PETITIONERS, VS. SECRETARY ANGELO REYES, IN HIS CAPACITY AS SECRETARY OF THE DEPARTMENT OF ENERGY (DOE), JOSE L. ATIENZA, IN HIS CAPACITY AS SECRETARY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (DENR), LEONARDO R. SIBBALUCA, IN HIS CAPACITY AS DENR REGIONAL DIRECTOR-REGION VII AND AS CHAIRPERSON OF THE TAÑON STRAIT PROTECTED SEASCAPE MANAGEMENT BOARD, ALAN ARRANGUEZ, IN HIS CAPACITY AS DIRECTOR ENVIRONMENTAL MANAGEMENT BUREAU-REGION VII, DOE REGIONAL DIRECTOR FOR REGION VIII^[1] ANTONIO LABIOS, JAPAN PETROLEUM EXPLORATION CO., LTD. (JAPEX), AS REPRESENTED BY ITS PHILIPPINE AGENT, SUPPLY OILFIELD SERVICES, INC., RESPONDENTS.

DECISION

LEONARDO-DE CASTRO, J.:

Before Us are two consolidated Petitions filed under Rule 65 of the 1997 Rules of Court, concerning **Service Contract No. 46 (SC-46)**, which allowed the exploration, development, and exploitation of petroleum resources within Tañon Strait, a narrow passage of water situated between the islands of Negros and Cebu.

[2]

The Petition docketed as **G.R. No. 180771** is an original Petition for *Certiorari*, *Mandamus*, and Injunction, which seeks to enjoin respondents from implementing SC-46 and to have it nullified for willful and gross violation of the 1987 Constitution and certain international and municipal laws.[3]

Likewise, the Petition docketed as **G.R. No. 181527** is an original Petition for *Certiorari*, Prohibition, and *Mandamus*, which seeks to nullify the Environmental Compliance Certificate (ECC) issued by the Environmental Management Bureau (EMB) of the Department of Environment and Natural Resources (DENR), Region VII in connection with SC-46; to prohibit respondents from implementing SC-46; and to compel public respondents to provide petitioners access to the pertinent documents involving the Tañon Strait Oil Exploration Project.[4]

ANTECEDENT FACTS AND PROCEEDINGS

Petitioners in G.R. No. 180771, collectively referred to as the "Resident Marine Mammals" in the petition, are the toothed whales, dolphins, porpoises, and other cetacean species, which inhabit the waters in and around the Tañon Strait. They are joined by Gloria Estenzo Ramos (Ramos) and Rose-Liza Eisma-Osorio (Eisma-Osorio) as their legal guardians and as friends (to be collectively known as "the Stewards") who allegedly empathize with, and seek the protection of, the aforementioned marine species. Also impleaded as an unwilling co-petitioner is former President Gloria Macapagal-Arroyo, for her express declaration and undertaking in the ASEAN Charter to protect the Tañon Strait, among others.[5]

Petitioners in G.R. No. 181527 are the Central Visayas Fisherfolk Development Center (FIDEC), a non-stock, non-profit, non-governmental organization, established for the welfare of the marginal fisherfolk in Region VII; and Cerilo D. Engarcial (Engarcial), Ramon Yanong (Yanong) and Francisco Labid (Labid), in their personal capacities and as representatives of the subsistence fisherfolk of the municipalities of Aloguinsan and Pinamungajan, Cebu.

Named as respondents in both petitions are the late Angelo T. Reyes, as then Secretary of the Department of Energy (DOE); Jose L. Atienza, as then Secretary of the DENR; Leonardo R. Sibbaluca, as then DENR-Regional Director for Region VII and Chairman of the Tañon Strait Protected Seascape Management Board; Japan Petroleum Exploration Co., Ltd. (JAPEX), a company organized and existing under the laws of Japan with a Philippine branch office; and Supply Oilfield Services, Inc. (SOS), as the alleged Philippine agent of JAPEX.

In G.R. No. 181527, the following were impleaded as additional public respondents:

Alan C. Arranguez (Arranguez) and Antonio Labios (Labios), in their capacities as then Director of the EMB, Region VII and then Regional Director of the DOE, Region VII, respectively.^[6]

On June 13, 2002, the Government of the Philippines, acting through the DOE, entered into a Geophysical Survey and Exploration Contract-102 (GSEC-102) with JAPEX. This contract involved geological and geophysical studies of the Tañon Strait. The studies included surface geology, sample analysis, and reprocessing of seismic and magnetic data. JAPEX, assisted by DOE, also conducted geophysical and satellite surveys, as well as oil and gas sampling in Tañon Strait.^[7]

On December 21, 2004, DOE and JAPEX formally converted GSEC-102 into SC-46 for the exploration, development, and production of petroleum resources in a block covering approximately 2,850 square kilometers offshore the Tañon Strait.^[8]

From May 9 to 18, 2005, JAPEX conducted seismic surveys in and around the Tañon Strait. A multi-channel sub-bottom profiling covering approximately 751 kilometers was also done to determine the area's underwater composition.^[9]

JAPEX committed to drill one exploration well during the second sub-phase of the project. Since the well was to be drilled in the marine waters of Aloguinsan and Pinamungajan, where the Tañon Strait was declared a protected seascape in 1988,^[10] JAPEX agreed to comply with the Environmental Impact Assessment requirements pursuant to Presidential Decree No. 1586, entitled "Establishing An Environmental Impact Statement System, Including Other Environmental Management Related Measures And For Other Purposes."^[11]

On January 31, 2007, the Protected Area Management Board^[12] of the Tañon Strait (PAMB-Tañon Strait) issued Resolution No. 2007-001,^[13] wherein it adopted the Initial Environmental Examination (IEE) commissioned by JAPEX, and favorably recommended the approval of JAPEX's application for an ECC.

On March 6, 2007, the EMB of DENR Region VII granted an ECC to the DOE and JAPEX for the offshore oil and gas exploration project in Tañon Strait.^[14] Months later, on November 16, 2007, JAPEX began to drill an exploratory well, with a depth of 3,150 meters, near Pinamungajan town in the western Cebu Province.^[15] This drilling lasted until February 8, 2008.^[16]

It was in view of the foregoing state of affairs that petitioners applied to this Court for redress, via two separate original petitions both dated December 17, 2007, wherein they commonly seek that respondents be enjoined from implementing SC-46 for, among others, violation of the 1987 Constitution.

On March 31, 2008, SOS filed a Motion to Strike^[17] its name as a respondent on the ground that it is not the Philippine agent of JAPEX. In support of its motion, it submitted the branch office application of JAPEX,^[18] wherein the latter's resident agent was clearly identified. SOS claimed that it had acted as a mere logistics contractor for JAPEX in its oil and gas exploration activities in the Philippines.

Petitioners Resident Marine Mammals and Stewards opposed SOS's motion on the ground that it was premature, it was pro-forma, and it was patently dilatory. They claimed that SOS admitted that "it is in law a (*sic*) privy to JAPEX" since it did the drilling and other exploration activities in Tañon Strait under the instructions of its principal, JAPEX. They argued that it would be premature to drop SOS as a party as JAPEX had not yet been joined in the case; and that it was "convenient" for SOS to ask the Court to simply drop its name from the parties when what it should have done was to either notify or ask JAPEX to join it in its motion to enable proper substitution. At this juncture, petitioners Resident Marine Mammals and Stewards also asked the Court to implead JAPEX Philippines as a corespondent or as a substitute for its parent company, JAPEX.^[19]

On April 8, 2008, the Court resolved to consolidate G.R. No. 180771 and G.R. No. 181527.

On May 26, 2008, the FIDEC manifested^[20] that they were adopting *in toto* the Opposition to Strike with Motion to Implead filed by petitioners Resident Marine Mammals and Stewards in G.R. No. 180771.

On June 19, 2008, public respondents filed their Manifestation^[21] that they were not objecting to SOS's Motion to Strike as it was not JAPEX's resident agent. JAPEX during all this time, did not file any comment at all.

Thus, on February 7, 2012, this Court, in an effort to ensure that all the parties were given ample chance and opportunity to answer the issues herein, issued a Resolution directing the Court's process servicing unit to again serve the parties with a copy of the September 23, 2008 Resolution of the Court, which gave due course to the petitions in G.R. Nos. 180771 and 181527, and which required the parties to submit their respective memoranda. The February 7, 2012 Resolution^[22] reads as follows:

G.R. No. 180771 (Resident Marine Mammals of the Protected Seascape Tañon Strait, *e.g.*, Toothed Whales, Dolphins, Porpoises and Other Cetacean Species, et al. vs. Hon. Angelo Reyes, in his capacity as Secretary of the Department of Energy, et al.) and **G.R. No. 181527** (Central Visayas Fisherfolk Development Center, et al. vs. Hon. Angelo Reyes, et al.). - The Court Resolved to direct the Process Servicing Unit to **RE-SEND** the resolution dated September 23, 2008 to the following parties and counsel, together with this resolution:

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Resident

Agent of Ortigas Center, Pasig City

JAPEX

Philippines

Ltd.

This Resolution was personally served to the above parties, at the above addresses on February 23, 2012. On March 20, 2012, JAPEX Philippines, Ltd. (JAPEX PH), by way of special appearance, filed a Motion to Admit^[23] its Motion for Clarification,^[24] wherein JAPEX PH requested to be clarified as to whether or not it should deem the February 7, 2012 Resolution as this Court's Order of its inclusion in the case, as it has not been implemented. It also alleged that JAPEX PH had already stopped exploration activities in the Tañon Strait way back in 2008, rendering this case moot.

On March 22, 2012, JAPEX PH, also by special appearance, filed a Motion for Extension of Time^[25] to file its Memorandum. It stated that since it received the February 7, 2012 Resolution on February 23, 2012, it had until March 22, 2012 to file its Memorandum. JAPEX PH then asked for an additional thirty days, supposedly to give this Court some time to consider its Motion for Clarification.

On April 24, 2012, this Court issued a Resolution^[26] granting JAPEX PH's Motion to Admit its Motion for Clarification. This Court, addressing JAPEX PH's Motion for Clarification, held:

With regard to its Motion for Clarification (By Special Appearance) dated March 19, 2012, this Court considers JAPEX Philippines, Ltd. as a real party-in-interest in these cases. Under Section 2, Rule 3 of the 1997 Rules of Court, a real party-in-interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Contrary to JAPEX Philippines, Ltd.'s allegation that it is a completely distinct corporation, which should not be confused with JAPEX Company, Ltd., JAPEX Philippines, Ltd. is a mere branch office, established by JAPEX Company, Ltd. for the purpose of carrying out the latter's business transactions here in the Philippines. Thus, JAPEX Philippines, Ltd., has no separate personality from its mother foreign