

THIRD DIVISION

[G.R. No. 192943, August 12, 2015]

**UNITED DUMANGAS PORT DEVELOPMENT CORPORATION,
PETITIONER, VS. PHILIPPINE PORTS AUTHORITY, ATTY. OSMAR
M. SEVILLA, GENERAL MANAGER, ATTY. FERNANDO B.
CLAVERINA, PORT MANAGER, PORT MANAGEMENT OFFICER-
ILOILO; AND RAUL T. SANTOS, PORT DISTRICT MANAGER, PORT
DISTRICT OFFICE-VISAYAS, RESPONDENTS.**

D E C I S I O N

PERALTA, J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to reverse and set aside the Decision^[1] and Resolution,^[2] dated December 4, 2009 and July 1, 2010, respectively, of the Court Appeals (CA) in CA-G.R. SP No. 03293.

The antecedent facts are as follows:

On December 1, 2000, respondent Philippine Ports Authority (PPA) granted petitioner United Dumangas Port Development Corporation (UDPDC) a permit to operate the cargo handling services at the Port of valid for one (1) year.^[3] Thereafter, PPA issued UDPDC several holders authorities to continue its services thereon. On May 28, 2003, PPA granted UDPDC a three (3)-month extension from June 1, 2003 to August 31, 2003. UDPDC, however, continued its operations even after the extension.^[4] Meanwhile, on July 14, 2005, PPA conducted a public bidding for the cargo handling services at the port wherein UDPDC did not participate despite notice.^[5] When the winning bidder was selected, the losing bidder filed an action, docketed as CA-G.R. SP No. 92950, to set aside the result of the public bidding.

On October 27, 2005, PPA served a notice upon UDPDC through PPA Memorandum Order No. 43-2005 stating that it will be taking over the cargo handling services at the port beginning on November 15, 2005. A day before the take-over, however, UDPDC sent PPA a letter-protest assailing the termination of their services.^[6]

On November 18, 2005, UDPDC filed before the Regional Trial Court (RTC) of Dumangas, Iloilo, Branch 68, an Amended Petition^[7] for *Certiorari* and Prohibition with Prayer for the Issuance of Temporary Restraining Order and Writ of Preliminary Injunction challenging the PPA Memorandum Order No. 43-2005 and seeking an injunction against its implementation, docketed as Special Civil Action Case No. 05-024.

After granting the prayer for the issuance of a temporary restraining order, the RTC,

in its Order^[8] dated December 5, 2005, issued a writ of preliminary injunction restraining the PPA from taking over the cargo handling operations until further orders. In a Resolution^[9] dated March 17, 2005, however, the trial court lifted the writ of preliminary injunction and dismissed the petition filed by UDPDC, agreeing with PPA's stance that as far as it was concerned, UDPDC's continued operation of the port was merely by its tolerance, having no valid and existing permit, and that UDPDC's status was merely on the basis of a holdover authority, temporary in nature, which may be recalled by PPA at any time.^[10]

On March 27, 2006, UDPDC moved for the reconsideration of the dismissal of its petition.^[11] Thereafter, on March 29, 2006, the Municipality of Dumangas (MOD) filed a Petition-in-Intervention^[12] pursuant to a Memorandum of Agreement^[13] (MOA) entered into by respondent PPA, Project Management Office-Ports (PMO), Department of Transportation and Communications (DOTC), and Department of Interior and Local Government (DILG) on June 30, 1999 wherein the parties signified their commitment to strengthen the capability of Local Government Units (LGUs) to a planned and desirable sustainable feeder ports operation as well as PPA Administrative Order No. 02-98^[14] dated August 31, 1998 which provided for the devolution of port management functions from the PPA to the LGUs concerned.^[15] According to MOD, they already underwent training courses on feeder port operation and management at the PPA Training Center in preparation for the eventual transfer of the operation and management of the Dumangas Port thereto and as mandated by the Social Reform Related Feeders Port Development Project under the MOA. However, PPA, in taking over the Dumangas Port and conducting a public bidding for the management of the same, abandoned its duties arising from the MOA to support the port development project and to turn-over the operation of feeder or municipal ports to their respective LGUs.^[16] Respondent PPA countered that pursuant to Executive Order (EO) No. 171,^[17] promulgated on October 25, 1999, it rightfully had administrative jurisdiction over the expanded Dumangas Port Zone for the proper zoning, planning, development and utilization of the port.^[18]

On March 16, 2007, the RTC issued an Order^[19] agreeing with UDPDC's assertion that instead of dismissing its petition, the trial court should have conducted a hearing to determine the issue of whether UDPDC could effectively be deprived of the equipment, facilities, properties and improvements it introduced on the Dumangas Port as a result of PPA's take over without due process of law and payment of just compensation. As to MOD's intervention, the RTC found that since the MOD had a valid legal interest in the matter in litigation which may be adversely affected, its intervention is proper. Thus, the trial court ordered the parties to file their respective memoranda.

On May 18, 2007, the RTC rendered a Decision^[20] finding that UDPDC has no more right to continue its operations at the port after the expiration of the series of extensions granted to it for it was allowed to do so by mere tolerance of PPA. However, it recognized that in the process of its operations, UDPDC had purchased heavy equipment and facilities and had introduced considerable improvements necessary for the efficient and effective operations therein. Thus, as law and equity demands, UDPDC should be reimbursed therefor because to allow the take-over of operations in the port without reimbursement would result in unjust enrichment at

the expense of UDPDC.^[21] The trial court also noted the need for a hearing to determine the amount of equipment and improvements to be reimbursed and to give the parties a chance to present evidence in support of their respective claims.^[22]

As to the claims of intervenor MOD, the RTC ruled that while President Joseph Ejercito Estrada had issued EO No. 171 on October 25, 1999 declaring the Dumangas Port Zone to be under the administration of the PPA, this was effectively rescinded by DOTC Department Order No. 2002-18 issued on April 15, 2002 entitled "Effecting the Direct Turn-Over of Completed Port Projects Implemented Under the Foreign-Assisted Nationwide Feeder Ports Development Program (NFPDP) to the Local Government Units" under the new administration of President Gloria Macapagal Arroyo. This is because according to the RTC, the official act of the DOTC Secretary in issuing said Department Order was deemed as an act of the President pursuant to the principle of qualified political agency.^[23] It is presumed that the action of the Secretary bears the implied sanction of the President absent any act subsequently made setting aside, disapproving or reprobating such department order of then DOTC Secretary.^[24] Thus, the mandate of DOTC Department Order No. 2002-18 to turn-over the Dumangas Port to MOD is controlling, having effectively rescinded EO No. 171. The RTC added that under the law, MOD enjoys a privileged position in terms of enhancing the principles of decentralization which provides adequate resources to LGUs to effectively carry out their functions and discharge their power to create and broaden their own sources of revenue and right to a just share in the proceeds of the national wealth within their respective areas. Moreover, under the Rules of Interpretation under Republic Act (RA) No. 7160 of the Local Government Code (LGC) of 1991, any provision on a power of an LGU shall be liberally interpreted in its favor.^[25]

There is therefore no basis for the PPA to take over the operation of the cargo handling services at the Dumangas Port.

In view of the foregoing, the trial court ruled as follows:

WHEREFORE, finding the Amended Petition dated November 17, 2005 of the United Dumangas Port Development Corporation (UDPDC) without merit, the same is hereby dismissed. On the other hand, finding the Complaint-in-Intervention and Supplemental Complaint-in Intervention of the Intervenor Municipality with merit, the same is granted. **Thus, UDPDC is hereby ordered to deliver to the Intervenor Municipality of Dumangas, Iloilo the operation of the cargo handling services of the Port of Dumangas, after the Intervenor has reimbursed the UDPDC of the value of its development and improvements introduced in the Port and the value of its infrastructures and equipment used in the operation of the Port.**

SO ORDERED.

PPA appealed from the aforequoted Decision via Notice of Appeal^[26] dated June 15, 2007. Consequently, PPA, UDPDC and MOD were required to submit their respective

memoranda in support of their positions.

On March 4, 2009, PPA and MOD submitted a Compromise Agreement^[27] they executed on December 3, 2008, which pertinently provides:

WHEREAS, all costs of development and improvements introduced in the port of Dumangas were made by the national government and PPA;

WHEREAS, the LGU, in a letter to the PPA's General Manager dated 09 August 2007, inquired on the estimated value of the development and improvements introduced in the port of Dumangas and its estimated value of the infrastructure introduced and equipment used in its operation as outlined in the foregoing Decision;

WHEREAS, the PPA gave the total amount for the development and improvement introduced in the port of Dumangas as well as the infrastructures and equipment used in its operation at more or less PHP 111,930,282.28. (Annexes "B" & "C");

WHEREAS, in Sangguniang Bayan Resolution No. 2008-14, the LGU: (a) acknowledged that it has no financial capacity to reimburse the PPA the amount aforesated; (b) recognized that the PPA has the expertise and capacity to operate on its own, by contract or otherwise administer the port of Dumangas in line with the latter's specific mandate; and (c) authorized the Hon. Mayor Ronaldo B. Golez to enter into a compromise agreement with the PPA for the purpose of furthering the interests of the LGU and its constituents;

NOW, THEREFORE, in consideration of all the foregoing premises and of the stipulations, covenants and agreements, hereinafter set forth, the parties hereby mutually agree, as follows:

- 1. The PPA shall continue to administer the port of Dumangas in Iloilo under Presidential Decree No. 857, as amended, Executive Order No. 171, Series of 1999, its policies, rules and regulations;**
- 2. The LGU shall respect and honor any existing award, permit, contract or authority issued or to be issued by the PPA involving the operation and management of any services in the port of Dumangas;**
- 3. The LGU, under such terms and conditions as may be mutually agreed upon by the parties, may manage and operate the port of Dumangas or jointly undertake projects and/or activities for the mutual benefit of both parties, the port users and the general public, subject to PPA's existing and applicable policies, rules and regulations;**
- 4. The parties hereby waive their respective claims/counterclaims against each other and shall jointly undertake the**

approval of this Compromise Agreement by the proper court;

5. This Compromise Agreement fully settles the claims of the parties against each other to their mutual satisfaction. Said agreement may be pleaded as an absolute and final bar to suit or suits or legal proceedings that may hereafter be initiated by either party, their assigns or subrogees, or anyone claiming by, through, or under them, against each other arising or relating to the transaction subject matter of the abovementioned case; x x x^[28]

UDPDC objected to the admission of the Compromise Agreement for its failure to provide for the reimbursement of its improvements as ordered by the trial court in its May 18, 2007 Decision.^[29] It also alleged that the same was *ultra vires* for it was not approved by the Provincial Government of Iloilo and the Provincial Legal Office. The Provincial Legal Officer of Iloilo as MOD's counsel of record similarly objected to the Compromise Agreement on the ground that he was not informed nor was his permission sought before the execution of the same.^[30] He alleged that Provincial Prosecutor Bernabe D. Dusaban was unauthorized to act as counsel and represent MOD in the Urgent Joint Motion for Approval of the Compromise Agreement. He further alleged that the purported Sangguniang Bayan Resolution No. 2008-14 of the MOD did not comply with the requirements of the LGC, particularly, Sections 55^[31] and 56^[32] thereof.

In its Decision dated December 4, 2009, the CA upheld the validity of the Compromise Agreement in the following wise:

The issues before this Court anPPA's arguments on appeal as contained in its memorandum. This must be so because neither MOD not UDPDC appealed the court a quo's Decision. Hence, as to them, they can no longer assail the Decision.

PPA's memorandum argued: (a) MOD's intervention was filed late; (b) PPA was denied due process when it was not afforded an opportunity to file an answer to the MOD's petition-in-intervention; and (c) the MOD had no right to take over and manage the Port of Dumangas. **PPA asked that it be declared the "appropriate agency to take over the operation of the cargo handling services of the Port of Dumangas" and the dismissal of UDPDC's petition be reinstated *in toto*. However, these arguments against MOD became moot when the latter and PPA executed a "Compromise Agreement" between them.**

This Court sees nothing essentially wrong with the "Compromise Agreement" because it settles only the claims as between PPA and MOD. The matter of reimbursement remains outstanding in UDPDC's favor. But as agreed between PPA and MOD, the same must be settled by PPA - this must be so because MOD's principal motivation in seeking the "Compromise Agreement" was that it could not afford to pay for the facilities introduced in the Port of Dumangas, as unambiguously stated in the "Whereas" clause