

## EN BANC

[ G.R. Nos. 171947-48, February 15, 2011 ]

**METROPOLITAN MANILA DEVELOPMENT AUTHORITY, DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, DEPARTMENT OF EDUCATION, CULTURE AND SPORTS,<sup>[1]</sup> DEPARTMENT OF HEALTH, DEPARTMENT OF AGRICULTURE, DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS, DEPARTMENT OF BUDGET AND MANAGEMENT, PHILIPPINE COAST GUARD, PHILIPPINE NATIONAL POLICE MARITIME GROUP, AND DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT, PETITIONERS, VS. CONCERNED RESIDENTS OF MANILA BAY, REPRESENTED AND JOINED BY DIVINA V. ILAS, SABINIANO ALBARRACIN, MANUEL SANTOS, JR., DINAH DELA PEÑA, PAUL DENNIS QUINTERO, MA. VICTORIA LLENOS, DONNA CALOZA, FATIMA QUITAIN, VENICE SEGARRA, FRITZIE TANGKIA, SARAH JOELLE LINTAG, HANNIBAL AUGUSTUS BOBIS, FELIMON SANTIAGUEL, AND JAIME AGUSTIN R. OPOSA, RESPONDENTS.**

### RESOLUTION

**VELASCO JR., J.:**

On December 18, 2008, this Court rendered a Decision in G.R. Nos. 171947-48 ordering petitioners to clean up, rehabilitate and preserve Manila Bay in their different capacities. The *fallo* reads:

WHEREFORE, the petition is DENIED. The September 28, 2005 Decision of the CA in CA-G.R. CV No. 76528 and SP No. 74944 and the September 13, 2002 Decision of the RTC in Civil Case No. 1851-99 are AFFIRMED but with MODIFICATIONS in view of subsequent developments or supervening events in the case. The *fallo* of the RTC Decision shall now read:

WHEREFORE, judgment is hereby rendered ordering the abovenamed defendant-government agencies to clean up, rehabilitate, and preserve Manila Bay, and restore and maintain its waters to SB level (Class B sea waters per Water Classification Tables under DENR Administrative Order No. 34 [1990]) to make them fit for swimming, skin-diving, and other forms of contact recreation.

In particular:

(1) Pursuant to Sec. 4 of EO 192, assigning the DENR as the primary agency responsible for the conservation, management, development, and proper use of the country's environment and natural resources, and Sec. 19 of RA 9275, designating the DENR as the primary government agency responsible for its enforcement and implementation, the DENR is directed to fully implement its Operational Plan for the Manila Bay Coastal Strategy for the rehabilitation, restoration, and conservation of the Manila Bay at the earliest possible time. It is ordered to call regular coordination meetings with concerned government departments and agencies to ensure the successful implementation of the aforesaid plan of action in accordance with its indicated completion schedules.

(2) Pursuant to Title XII (Local Government) of the Administrative Code of 1987 and Sec. 25 of the Local Government Code of 1991, the DILG, in exercising the President's power of general supervision and its duty to promulgate guidelines in establishing waste management programs under Sec. 43 of the Philippine Environment Code (PD 1152), shall direct all LGUs in Metro Manila, Rizal, Laguna, Cavite, Bulacan, Pampanga, and Bataan to inspect all factories, commercial establishments, and private homes along the banks of the major river systems in their respective areas of jurisdiction, such as but not limited to the Pasig-Marikina-San Juan Rivers, the NCR (Parañaque-Zapote, Las Piñas) Rivers, the Navotas-Malabon-Tullahan-Tenejeros Rivers, the Meycauayan-Marilao-Obando (Bulacan) Rivers, the Talisay (Bataan) River, the Imus (Cavite) River, the Laguna De Bay, and other minor rivers and waterways that eventually discharge water into the Manila Bay; and the lands abutting the bay, to determine whether they have wastewater treatment facilities or hygienic septic tanks as prescribed by existing laws, ordinances, and rules and regulations. If none be found, these LGUs shall be ordered to require non-complying establishments and homes to set up said facilities or septic tanks within a reasonable time to prevent industrial wastes, sewage water, and human wastes from flowing into these rivers, waterways, esteros, and the Manila Bay, under pain of closure or imposition of fines and other sanctions.

(3) As mandated by Sec. 8 of RA 9275, the MWSS is directed to provide, install, operate, and maintain the necessary adequate waste water treatment facilities in Metro Manila, Rizal, and Cavite where needed at the earliest possible time.

(4) Pursuant to RA 9275, the LWUA, through the local water districts and in coordination with the DENR, is ordered to provide, install, operate, and maintain sewerage and sanitation facilities and the efficient and safe collection, treatment, and disposal of sewage in the provinces of Laguna, Cavite, Bulacan, Pampanga, and Bataan where needed at the earliest possible time.

(5) Pursuant to Sec. 65 of RA 8550, the DA, through the BFAR, is ordered to improve and restore the marine life of the Manila Bay. It is also directed to assist the LGUs in Metro Manila, Rizal, Cavite, Laguna, Bulacan, Pampanga, and Bataan in developing, using recognized methods, the fisheries and aquatic resources in the Manila Bay.

(6) The PCG, pursuant to Secs. 4 and 6 of PD 979, and the PNP Maritime Group, in accordance with Sec. 124 of RA 8550, in coordination with each other, shall apprehend violators of PD 979, RA 8550, and other existing laws and regulations designed to prevent marine pollution in the Manila Bay.

(7) Pursuant to Secs. 2 and 6-c of EO 513 and the International Convention for the Prevention of Pollution from Ships, the PPA is ordered to immediately adopt such measures to prevent the discharge and dumping of solid and liquid wastes and other ship-generated wastes into the Manila Bay waters from vessels docked at ports and apprehend the violators.

(8) The MMDA, as the lead agency and implementor of programs and projects for flood control projects and drainage services in Metro Manila, in coordination with the DPWH, DILG, affected LGUs, PNP Maritime Group, Housing and Urban Development Coordinating Council (HUDCC), and other agencies, shall dismantle and remove all structures, constructions, and other encroachments established or built in violation of RA 7279, and other applicable laws along the Pasig-Marikina-San Juan Rivers, the NCR (Parañaque-Zapote, Las Piñas) Rivers,

the Navotas-Malabon-Tullahan-Tenejeros Rivers, and connecting waterways and esteros in Metro Manila. The DPWH, as the principal implementor of programs and projects for flood control services in the rest of the country more particularly in Bulacan, Bataan, Pampanga, Cavite, and Laguna, in coordination with the DILG, affected LGUs, PNP Maritime Group, HUDCC, and other concerned government agencies, shall remove and demolish all structures, constructions, and other encroachments built in breach of RA 7279 and other applicable laws along the Meycauayan-Marilao-Obando (Bulacan) Rivers, the Talisay (Bataan) River, the Imus (Cavite) River, the Laguna De Bay, and other rivers, connecting waterways, and esteros that discharge wastewater into the Manila Bay.

In addition, the MMDA is ordered to establish, operate, and maintain a sanitary landfill, as prescribed by RA 9003, within a period of one (1) year from finality of this Decision. On matters within its territorial jurisdiction and in connection with the discharge of its duties on the maintenance of sanitary landfills and like undertakings, it is also ordered to cause the apprehension and filing of the appropriate criminal cases against violators of the respective penal provisions of RA 9003, Sec. 27 of RA 9275 (the Clean Water Act), and other existing laws on pollution.

(9) The DOH shall, as directed by Art. 76 of PD 1067 and Sec. 8 of RA 9275, within one (1) year from finality of this Decision, determine if all licensed septic and sludge companies have the proper facilities for the treatment and disposal of fecal sludge and sewage coming from septic tanks. The DOH shall give the companies, if found to be non-complying, a reasonable time within which to set up the necessary facilities under pain of cancellation of its environmental sanitation clearance.

(10) Pursuant to Sec. 53 of PD 1152, Sec. 118 of RA 8550, and Sec. 56 of RA 9003, the DepEd shall integrate lessons on pollution prevention, waste management, environmental protection, and like subjects in the school curricula of all levels to inculcate in the minds and hearts of students and, through them, their parents and friends, the importance of their duty toward achieving and maintaining a balanced and healthful ecosystem in the Manila Bay and the entire Philippine archipelago.

(11) The DBM shall consider incorporating an adequate budget in the General Appropriations Act of 2010 and succeeding years to cover the expenses relating to the cleanup, restoration, and preservation of the water quality of the Manila Bay, in line with the country's development objective to attain economic growth in a manner consistent with the protection, preservation, and revival of our marine waters.

(12) The heads of petitioners-agencies MMDA, DENR, DepEd, DOH, DA, DPWH, DBM, PCG, PNP Maritime Group, DILG, and also of MWSS, LWUA, and PPA, in line with the principle of "continuing mandamus," shall, from finality of this Decision, each submit to the Court a quarterly progressive report of the activities undertaken in accordance with this Decision.

SO ORDERED.

The government agencies did not file any motion for reconsideration and the Decision became final in January 2009.

The case is now in the execution phase of the final and executory December 18, 2008 Decision. The Manila Bay Advisory Committee was created to receive and evaluate the quarterly progressive reports on the activities undertaken by the agencies in accordance with said decision and to monitor the execution phase.

In the absence of specific completion periods, the Committee recommended that time frames be set for the agencies to perform their assigned tasks. This may be viewed as an encroachment over the powers and functions of the Executive Branch headed by the President of the Philippines.

This view is misplaced.

The issuance of subsequent resolutions by the Court is simply an exercise of judicial power under Art. VIII of the Constitution, because the execution of the Decision is but an integral part of the adjudicative function of the Court. None of the agencies ever questioned the power of the Court to implement the December 18, 2008 Decision nor has any of them raised the alleged encroachment by the Court over executive functions.

While additional activities are required of the agencies like submission of plans of action, data or status reports, these directives are but part and parcel of the execution stage of a final decision under Rule 39 of the Rules of Court. Section 47 of Rule 39 reads:

Section 47. Effect of judgments or final orders.--The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:

x x x x

(c) In any other litigation between the same parties or their successors in interest, **that only is deemed to have been adjudged in a former judgment or final order which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto.** (Emphasis supplied.)

It is clear that the final judgment includes not only what appears upon its face to have been so adjudged but also those matters "actually and necessarily included therein or necessary thereto." Certainly, any activity that is needed to fully implement a final judgment is necessarily encompassed by said judgment.

Moreover, the submission of periodic reports is sanctioned by Secs. 7 and 8, Rule 8 of the Rules of Procedure for Environmental cases:

Sec. 7. Judgment.--If warranted, the court shall grant the privilege of the writ of continuing mandamus requiring respondent to perform an act or series of acts until the judgment is fully satisfied and to grant such other reliefs as may be warranted resulting from the wrongful or illegal acts of the respondent. **The court shall require the respondent to submit periodic reports detailing the progress and execution of the judgment, and the court may, by itself or through a commissioner or the appropriate government agency, evaluate and monitor compliance.** The petitioner may submit its comments or observations on the execution of the judgment.

Sec. 8. Return of the writ.--The periodic reports submitted by the respondent

detailing compliance with the judgment shall be contained in partial returns of the writ. Upon full satisfaction of the judgment, a final return of the writ shall be made to the court by the respondent. If the court finds that the judgment has been fully implemented, the satisfaction of judgment shall be entered in the court docket. (Emphasis supplied.)

With the final and executory judgment in *MMDA*, the writ of continuing mandamus issued in *MMDA* means that until petitioner-agencies have shown full compliance with the Court's orders, the Court exercises continuing jurisdiction over them until full execution of the judgment.

There being no encroachment over executive functions to speak of, We shall now proceed to the recommendation of the Manila Bay Advisory Committee.

Several problems were encountered by the Manila Bay Advisory Committee.<sup>[2]</sup> An evaluation of the quarterly progressive reports has shown that (1) there are voluminous quarterly progressive reports that are being submitted; (2) petitioner-agencies do not have a uniform manner of reporting their cleanup, rehabilitation and preservation activities; (3) as yet no definite deadlines have been set by petitioner DENR as to petitioner-agencies' timeframe for their respective duties; (4) as of June 2010 there has been a change in leadership in both the national and local levels; and (5) some agencies have encountered difficulties in complying with the Court's directives.

In order to implement the afore-quoted Decision, certain directives have to be issued by the Court to address the said concerns.

Acting on the recommendation of the Manila Bay Advisory Committee, the Court hereby resolves to **ORDER** the following:

(1) The Department of Environment and Natural Resources (DENR), as lead agency in the *Philippine Clean Water Act of 2004*, shall submit to the Court on or before June 30, 2011 the updated *Operational Plan for the Manila Bay Coastal Strategy*.

The DENR is ordered to submit summarized data on the overall quality of Manila Bay waters for all four quarters of 2010 on or before June 30, 2011.

The DENR is further ordered to submit the names and addresses of persons and companies in Metro Manila, Rizal, Laguna, Cavite, Bulacan, Pampanga and Bataan that generate toxic and hazardous waste on or before September 30, 2011.

(2) On or before June 30, 2011, the Department of the Interior and Local Government (DILG) shall order the Mayors of all cities in Metro Manila; the Governors of Rizal, Laguna, Cavite, Bulacan, Pampanga and Bataan; and the Mayors of all the cities and towns in said provinces to inspect all factories, commercial establishments and private homes along the banks of the major river systems--such as but not limited to the Pasig-Marikina-San Juan Rivers, the National Capital Region (Paranaque-Zapote, Las Pinas) Rivers, the Navotas-Malabon-Tullahan-Tenejeros Rivers, the Meycauayan-Marilao-Obando (Bulacan) Rivers, the Talisay (Bataan) River, the Imus (Cavite) River, and the Laguna De Bay--and other minor rivers and waterways within their jurisdiction that eventually discharge water into the Manila Bay and the lands abutting it, to determine if they have wastewater treatment facilities and/or hygienic septic tanks, as prescribed by existing laws, ordinances, rules and regulations. Said local government unit (LGU) officials are given up to September 30, 2011 to finish the inspection of said establishments and houses.

In case of non-compliance, the LGU officials shall take appropriate action to ensure