645 Phil. 324

SECOND DIVISION

[G.R. No. 170599, September 22, 2010]

PUBLIC HEARING COMMITTEE OF THE LAGUNA LAKE DEVELOPMENT AUTHORITY AND HON. GENERAL MANAGER CALIXTO CATAQUIZ, PETITIONERS, VS. SM PRIME HOLDINGS, INC. (IN ITS CAPACITY AS OPERATOR OF SM CITY MANILA), RESPONDENT.

D E C I S I O N

PERALTA, J.:

Assailed in the present petition for review on *certiorari* are the Decision[1] and Resolution[2] of the Court of Appeals (CA) dated June 28, 2004 and November 23, 2005, respectively, in CA-G.R. SP No. 79192. The CA Decision reversed and set aside the Orders[3] dated October 2, 2002, January 10, 2003 and May 27, 2003 of petitioner Public Hearing Committee of the Laguna Lake Development Authority (LLDA), in LLDA Case No. PH-02-03-076, while the CA Resolution denied petitioners' Motion for Reconsideration.

The instant petition arose from an inspection conducted on February 4, 2002 by the Pollution Control Division of the LLDA of the wastewater collected from herein respondent's SM City Manila branch. The results of the laboratory tests showed that the sample collected from the said facility failed to conform with the effluent standards for inland water imposed in accordance with law.[4]

On March 12, 2002, the LLDA informed SM City Manila of its violation, directing the same to perform corrective measures to abate or control the pollution caused by the said company and ordering the latter to pay a penalty of "One Thousand Pesos (P1,000.00) per day of discharging pollutive wastewater to be computed from 4 February 2002, the date of inspection, until full cessation of discharging pollutive wastewater."[5]

In a letter[6] dated March 23, 2002, respondent's Pollution Control Officer requested the LLDA to conduct a re-sampling of their effluent, claiming that they already took measures to enable their sewage treatment plant to meet the standards set forth by the LLDA.

In an Order to Pay[7] dated October 2, 2002, herein petitioner required respondent to pay a fine of Fifty Thousand Pesos (P50,000.00) which represents the accumulated daily penalty computed from February 4, 2002 until March 25, 2002.

In two follow-up letters dated July 2, 2002[8] and November 29, 2002,[9] which were treated by the LLDA as a motion for reconsideration, respondent asked for a waiver of the fine assessed by the LLDA in its March 12, 2002 Notice of Violation

and Order of October 2, 2002 on the ground that they immediately undertook corrective measures and that the pH levels of its effluent were already controlled even prior to their request for re-sampling leading to a minimal damage to the environment. Respondent also contended that it is a responsible operator of malls and department stores and that it was the first time that the wastewater discharge of SM City Manila failed to meet the standards of law with respect to inland water.

On January 10, 2003, the LLDA issued an Order[10] denying respondent's request for a waiver of the fine imposed on the latter.

On April 21, 2003, respondent submitted another letter[11] to the LLDA requesting for reconsideration of its Order dated January 10, 2003.

On May 27, 2003, the LLDA issued another Order to Pay[12] denying respondent's request for reconsideration and requiring payment of the fine within ten days from respondent's receipt of a copy of the said Order.

Aggrieved, respondent filed a petition for *certiorari* with the CA praying for the nullification of the Orders of the LLDA dated October 2, 2002, January 10, 2003 and May 27, 2003.

On June 28, 2004, the CA rendered its Decision granting the petition of herein respondent and reversing and setting aside the assailed Orders of the LLDA. Ruling that an administrative agency's power to impose fines should be expressly granted and may not be implied, the CA found that under its charter, Republic Act No. 4850[13] (RA 4850), the LLDA is not expressly granted any power or authority to impose fines for violations of effluent standards set by law. Thus, the CA held that the assailed Orders of petitioner, which imposed a fine on respondent, are issued without jurisdiction and with grave abuse of discretion.

Petitioner filed a Motion for Reconsideration, but the same was denied by the CA via its Resolution dated November 23, 2005.

Hence, the instant petition based on the following grounds:

> 5.1. THE COURT OF APPEALS ERRED IN FINDING THAT THE PETITION CANNOT BE DISMISSED FOR FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES, BY WAY OF EXCEPTION TO THE GENERAL RULE.
>
> 5.2. THE COURT OF APPEALS ERRED WHEN IT TOOK COGNIZANCE OF THE PETITION OF SM PRIME.
>
> 5.3. THE COURT OF APPEALS ERRED IN RULING THAT THE LLDA WAS NOT CONFERRED BY LAW THE POWER TO IMPOSE FINES AND, THEREFORE, CANNOT COLLECT THE SAME FROM SM PRIME HOLDINGS, INC.[14]

In their first assigned error, petitioners contend that the petition for *certiorari* filed by respondent with the CA is premature. Petitioners argue that respondent did not

raise purely legal questions in its petition, but also brought to the fore factual issues which were properly within the province of the Department of Environment and Natural Resources (DENR), which is the agency having administrative supervision over the LLDA.

In the second assignment of error, petitioners aver that a reading of the provisions of Rule 43 of the Rules of Court would show that the CA has no jurisdiction over the petition for *certiorari* filed by respondent. Petitioners also assert that respondent is already barred by estoppel from questioning the LLDA's power to impose fines, because it (respondent) actively participated in the proceedings conducted by petitioners without challenging such power.

Lastly, petitioners aver that the LLDA has the power to impose fines and penalties based on the provisions of RA 4850 and Executive Order (E.O.) No. 927.

The Court rules for the petitioners.

As to the first assigned error, the Court agrees with petitioners that respondent did not exhaust administrative remedies before filing a petition for *certiorari* with the CA.

Under the doctrine of exhaustion of administrative remedies, before a party is allowed to seek the intervention of the court, he or she should have availed himself or herself of all the means of administrative processes afforded him or her.[15] Hence, if resort to a remedy within the administrative machinery can still be made by giving the administrative officer concerned every opportunity to decide on a matter that comes within his or her jurisdiction, then such remedy should be exhausted first before the court's judicial power can be sought.[16] The premature invocation of the intervention of the court is fatal to one's cause of action.[17] The doctrine of exhaustion of administrative remedies is based on practical and legal reasons.[18] The availment of administrative remedy entails lesser expenses and provides for a speedier disposition of controversies. Furthermore, the courts of justice, for reasons of comity and convenience, will shy away from a dispute until the system of administrative redress has been completed and complied with, so as to give the administrative agency concerned every opportunity to correct its error and dispose of the case.[19] While the doctrine of exhaustion of administrative remedies is subject to several exceptions,[20] the Court finds that the instant case does not fall under any of them.

It is true that one of the exceptions to the doctrine of exhaustion of administrative remedies is when the issues raised are purely legal. However, the Court is not persuaded by respondent's contention that the special civil action for *certiorari* it filed with the CA involved only purely legal questions and did not raise factual issues. A perusal of the petition for *certiorari* filed by respondent readily shows that factual matters were raised, to wit: (a) whether respondent has immediately implemented remedial measures to correct the pH level of the effluent discharges of SM City Manila; and (b) whether the third party monitoring report submitted by respondent proves that it has complied with the effluent standards for inland water set by the LLDA. Respondent insists that what has been raised in the petition filed with the CA was whether the LLDA committed grave abuse of discretion in disregarding the evidence it presented and in proceeding to impose a penalty

despite remedial measures undertaken by the latter. Logic dictates, however, that a determination of whether or not the LLDA indeed committed grave abuse of discretion in imposing fine on respondent would necessarily and inevitably touch on the factual issue of whether or not respondent in fact complied with the effluent standards set under the law. Since the matters raised by respondent involve factual issues, the questioned Orders of the LLDA should have been brought first before the DENR which has administrative supervision of the LLDA pursuant to E.O. No. 149. [21]

Neither may respondent resort to a petition for *certiorari* filed directly with the CA on the ground that the Orders issued by the LLDA are patently illegal and amount to lack or excess of jurisdiction because, as will be subsequently discussed, the assailed Orders of the LLDA are not illegal nor were they issued in excess of jurisdiction or with grave abuse of discretion.

Anent the second assigned error, the Court does not agree with petitioners' contention that the CA does not have jurisdiction to entertain the petition for *certiorari* filed by respondent questioning the subject Orders of the LLDA. Petitioners argue that Section 1,[22] Rule 43 of the Rules of Court enumerate the quasi-judicial agencies whose decisions or orders are directly appealable to the CA and that the LLDA is not among these agencies. Petitioners should have noted, however, that Rule 43 refers to appeals from judgments or orders of quasi-judicial agencies in the exercise of their quasi-judicial functions. On the other hand, Rule 65 of the Rules of Court specifically governs special civil actions for *certiorari*, Section 4 of which provides that if the petition involves acts or omissions of a quasi-judicial agency, and unless otherwise provided by law or the rules, the petition shall be filed in and cognizable only by the CA. Thus, it is clear that jurisdiction over acts or omissions of the LLDA belong to the CA.

Nonetheless, the Court agrees with petitioners that respondent is already estopped from questioning the power of the LLDA to impose fines as penalty owing to the fact that respondent actively participated during the hearing of its water pollution case before the LLDA without impugning such power of the said agency. In fact, respondent even asked for a reconsideration of the Order of the LLDA which imposed a fine upon it as evidenced by its letters dated July 2, 2002 and November 29, 2002, wherein respondent, through its pollution control officer, as well as its counsel, requested for a waiver of the fine(s) imposed by the LLDA. By asking for a reconsideration of the fine imposed by the LLDA, the Court arrives at no conclusion other than that respondent has impliedly admitted the authority of the latter to impose such penalty. Hence, contrary to respondent's claim in its Comment and Memorandum, it is already barred from assailing the LLDA's authority to impose fines.

In any case, this Court has categorically ruled in *Pacific Steam Laundry, Inc. v. Laguna Lake Development Authority*,[23] that the LLDA has the power to impose fines in the exercise of its function as a regulatory and quasi-judicial body with respect to pollution cases in the Laguna Lake region. In expounding on this issue, the Court held that the adjudication of pollution cases generally pertains to the Pollution Adjudication Board (PAB),[24] except where a special law, such as the LLDA Charter, provides for another forum. The Court further ruled that although the PAB assumed the powers and functions of the National Pollution Control Commission with