

## SECOND DIVISION

[ G.R. No. 165299, December 18, 2009 ]

**PACIFIC STEAM LAUNDRY, INC., PETITIONER, VS. LAGUNA LAKE  
DEVELOPMENT AUTHORITY, RESPONDENT.**

### D E C I S I O N

**CARPIO, J.:**

#### The Case

This is a petition for review<sup>[1]</sup> of the Decision<sup>[2]</sup> dated 30 June 2004 and the Resolution dated 8 September 2004 of the Court of Appeals in CA-G.R. SP No. 75238.

#### The Facts

Petitioner Pacific Steam Laundry, Inc. (petitioner) is a company engaged in the business of laundry services. On 6 June 2001, the Environmental Management Bureau of the Department of Environment and Natural Resources (DENR) endorsed to respondent Laguna Lake Development Authority (LLDA) the inspection report on the complaint of black smoke emission from petitioner's plant located at 114 Roosevelt Avenue, Quezon City.<sup>[3]</sup> On 22 June 2001, LLDA conducted an investigation and found that untreated wastewater generated from petitioner's laundry washing activities was discharged directly to the San Francisco Del Monte River. Furthermore, the Investigation Report<sup>[4]</sup> stated that petitioner's plant was operating without LLDA clearance, AC/PO-ESI, and Discharge Permit from LLDA. On 5 September 2001, the Environmental Quality Management Division of LLDA conducted wastewater sampling of petitioner's effluent.<sup>[5]</sup> The result of the laboratory analysis showed non-compliance with effluent standards particularly Total Suspended Solids (TSS), Biochemical Oxygen Demand (BOD), Oil/Grease Concentration and Color Units.<sup>[6]</sup> Consequently, LLDA issued to petitioner a Notice of Violation<sup>[7]</sup> dated 30 October 2001 which states:

THE GENERAL MANAGER  
PACIFIC STEAM LAUNDRY, INC.  
114 Roosevelt Avenue, Brgy. Paraiso  
Quezon City

Subject: Notice of Violation  
PH-01-10-303

Gentlemen:

This refers to the findings of the inspection and result of laboratory analysis of the wastewater collected from your firm last 5 September 2001. Evaluation of the results of laboratory analysis showed that your plant's effluent failed to conform with the 1990 Revised Effluent Standard for Inland Water Class "C" specifically in terms of TSS, BOD, Oil/Grease and Color. (Please see attached laboratory analysis)

In view thereof, you are hereby directed to submit corrective measures to abate/control the water pollution caused by your firm, within fifteen (15) days from receipt of this letter.

Furthermore, pursuant to Section 9 of Presidential Decree No. 984, PACIFIC STEAM LAUNDRY, INC. is hereby ordered to pay a penalty of One Thousand Pesos (P1,000.00) per day of discharging pollutive wastewater to be computed from 5 September 2001, the date of inspection until full cessation of discharging pollutive wastewater and a fine of Five Thousand Pesos (P5,000.00) per year for operating without the necessary clearance/permits from the Authority.

Very truly yours,

(signed)  
CALIXTO R. CATAQUIZ  
General Manager

Petitioner submitted its application for LLDA Clearance and Discharge Permit and informed LLDA that it would undertake the necessary measures to abate the water pollution.<sup>[8]</sup> On 1 March 2002, a compliance monitoring was conducted and the result of the laboratory analysis<sup>[9]</sup> still showed non-compliance with effluent standards in terms of TSS, BOD, Chemical Oxygen Demand (COD), and Oil/Grease Concentration. It was reported that petitioner's wastewater treatment facility was under construction. Subsequently, another wastewater sampling was conducted on 25 April 2002 but the results<sup>[10]</sup> still failed to conform with the effluent standards in terms of Oil/Grease Concentration.

Meanwhile, on 15 April 2002, a Pollution Control and Abatement case was filed against petitioner before the LLDA. During the public hearing on 30 April 2002, LLDA informed petitioner of its continuous non-compliance with the effluent standards. Petitioner requested for another wastewater sampling which was conducted on 5 June 2002. The laboratory results<sup>[11]</sup> of the wastewater sampling finally showed compliance with the effluent standard in all parameters. On 9 August 2002, another public hearing was held to discuss the dismissal of the water pollution case and the payment of the accumulated daily penalty. According to LLDA, the penalty should be reckoned from 5 September 2001, the date of initial sampling, to 17 May 2002, the date LLDA received the request for re-sampling. Petitioner manifested that its wastewater discharge was not on a daily basis. In its position paper<sup>[12]</sup> dated 25 August 2002, petitioner prayed that the Notice of Violation dated 30 October 2001 be set aside and the penalty and fine imposed be reckoned from the date of actual hearing on 15 April 2002.

On 16 September 2002, LLDA issued an Order to Pay,<sup>[13]</sup> the pertinent portion of which reads:

Respondent prayed that the Notice of Violation issued on 30 October 2001 and its corresponding daily penalty be set aside and that the impossible penalty be reckoned from the date of actual hearing and not on 5 September 2001. It is respondent's position that the Notice of Violation and the imposition of the penalty had no legal and factual basis because it had already installed the necessary wastewater treatment to abate the water pollution.

This Public Hearing Committee finds respondent's arguments devoid of merit. Presidential Decree No. 984 prohibits the discharge of pollutive wastewater and any person found in violation thereof shall pay a fine not exceeding five thousand pesos (PhP5,000.00) [sic] for every day during which such violation continues. The mere discharge of wastewater not conforming with the effluent standard is the violation referred to in PD No. 984. Sample of respondent's effluent was collected on 5 September 2001 and the results of laboratory analysis confirmed the quality thereof. Thus, a notice of violation was issued against the respondent after it was established that its discharge was pollutive. The fact that the subsequent re-sampling reported compliance with the effluent standard does not negate the 5 September 2001 initial sampling. Respondent passed the standard because it already implemented remedial measures to abate the water pollution. It is therefore but just and proper that the penalty should be imposed from the date of initial sampling, 5 September 2001, to 17 May 2002, the date the request for re-sampling was received by the Authority. The 5 June 2002 sampling confirmed that respondent's effluent already complied with the standard showing that its water pollution has ceased. Respondent did not submit any proof of its actual operation hence, the penalty shall be computed for five (5) working days per week, excluding Saturdays and Sundays as well as legal holidays from 5 September 2001 to 17 May 2002, for a total of one hundred seventy-two (172) days.

WHEREFORE, premises considered, respondent Pacific steam Laundry, Inc. is hereby ordered to pay the accumulated daily penalty amounting to ONE HUNDRED SEVENTY-TWO THOUSAND (PhP172,000.00) PESOS within fifteen(15) days from receipt hereof as a condition sine qua non for the dismissal of the above-captioned case.

SO ORDERED.<sup>[14]</sup>

Petitioner filed a motion for reconsideration, which the LLDA denied in its Order<sup>[15]</sup> dated 27 November 2002.

Petitioner then filed with the Court of Appeals a petition for review under Rule 43 of the Rules of Court. The Court of Appeals denied the petition, as well as the motion

for reconsideration filed by petitioner. Hence, this petition.

### **The Court of Appeals' Ruling**

The Court of Appeals held that LLDA has the power to impose fines, thus:

Concededly, the power to impose administrative fines in pollution abatement cases was expressly granted under Section 9 of P.D. 984 to the now defunct National Pollution Control Commission (NPCC), thus:

"Section 9. Penalties. - (a) Any person found violating or failing to comply with any order, decision or regulation of the Commission for the control or abatement of pollution shall pay a fine not exceeding five thousand pesos per day for every day during which such violation or default continues; **and the Commission is hereby authorized and empowered to impose the fine after due notice and hearing.**"

Nonetheless, it may be well to recall that the LLDA was created under R.A. 4850 with the end view of promoting and accelerating the development and balanced growth of the Laguna Lake area and the surrounding provinces, and carrying out the development of the Laguna Lake Region with due regard and adequate provisions for environmental management and control, preservation of the quality of human life and ecological systems, and the **preservation of undue ecological disturbances, deterioration and pollution.** To correct deficiencies and clarify ambiguities that "impede the accomplishment of the Authorities' goal," Former President Ferdinand E. Marcos promulgated P.D. 813. Finally, to enable the LLDA to effectively perform its role, Former President Marcos further issued E.O. 927, which granted the LLDA additional powers and functions, viz:

"Section 4. Additional Powers and Functions. - The authority shall have the following powers and functions:

x x x

(d) Make, alter or modify orders requiring the discontinuance of pollution specifying the conditions and time within which such continuance must be accomplished.

x x x

(i) Exercise such powers and perform such other functions as may be necessary to carry out its duties and responsibilities under this Executive order."

Indeed, the express grant of power to impose administrative fines as couched in the language of P.D. 984 was not reproduced in E.O. 927, however, it can be logically implied from LLDA's authority to exercise the power to "*make, alter or modify orders requiring the discontinuance of pollution.*" In addition, the clear intendment of E.O. 927 to clothe LLDA not only with the express powers granted to it, but also those implied, incidental and necessary for the exercise of its express powers can be easily discerned from the grant of the general power to "*exercise (such) powers and perform such other functions as may be necessary to carry out its duties and responsibilities.*"

This finds support in the wealth of authorities in American Jurisprudence, citing adherence of other courts to the principle that the authority given to an agency should be liberally construed in order to permit the agency to carry out its statutory responsibilities. This is especially true **where the agency is concerned with protecting the public health and welfare, the delegation of authority to the agency is liberally construed.**

The LLDA, as an agency implementing pollution laws, rules and regulations, should be given some measures of flexibility in its operations in order not to hamper it unduly in the fulfillment of its objectives. How could it effectively perform its role if in every act of violation, it must resort to other venue for the appropriate remedy, because it is impotent by itself to punish or deal with it?<sup>[16]</sup> (Emphasis in the original)

### **The Issues**

Petitioner raises two issues:

1. Does the respondent LLDA have the implied power to impose fines as set forth in PD 984?
2. Does the grant of implied power to LLDA to impose penalties violate the rule on non-delegation of legislative powers?<sup>[17]</sup>

### **The Ruling of the Court**

We find the petition without merit.

#### ***Power of LLDA to Impose Fines***

Petitioner asserts that LLDA has no power to impose fines since such power to impose penal sanctions, which was once lodged with the National Pollution Control Commission (NPCC), is now assumed by the Pollution Adjudication Board pursuant to Executive Order No. 192 (EO 192).<sup>[18]</sup>

We disagree with petitioner.

Presidential Decree No. 984 (PD 984)<sup>[19]</sup> created and established the NPCC under the Office of the President. EO 192, which reorganized the DENR, created the