

FIRST DIVISION

[G.R. No. 148622, September 12, 2002]

REPUBLIC OF THE PHILIPPINES, REPRESENTED BY HON. HEHERSON T. ALVAREZ, IN HIS CAPACITY AS SECRETARY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (DENR), CLARENCE L. BAGUILAT, IN HIS CAPACITY AS THE REGIONAL EXECUTIVE DIRECTOR OF DENR-REGION XI AND ENGR. BIENVENIDO L. LIPAYON, IN HIS CAPACITY AS THE REGIONAL DIRECTOR OF THE DENR-ENVIRONMENTAL MANAGEMENT BUREAU (DENR-EMB), REGION XI, PETITIONERS, VS. THE CITY OF DAVAO, REPRESENTED BY BENJAMIN C. DE GUZMAN, CITY MAYOR, RESPONDENT.

D E C I S I O N

YNARES-SANTIAGO, J.:

Before us is a petition for review^[1] on certiorari assailing the decision^[2] dated May 28, 2001 of the Regional Trial Court of Davao City, Branch 33, which granted the writ of mandamus and injunction in favor of respondent, the City of Davao, and against petitioner, the Republic, represented by the Department of Environment and Natural Resources (DENR). The trial court also directed petitioner to issue a Certificate of Non-Coverage in favor of respondent.

The antecedent facts of the case are as follows:

On August 11, 2000, respondent filed an application for a Certificate of Non-Coverage (CNC) for its proposed project, the Davao City Artica Sports Dome, with the Environmental Management Bureau (EMB), Region XI. Attached to the application were the required documents for its issuance, namely, a) detailed location map of the project site; b) brief project description; and c) a certification from the City Planning and Development Office that the project is not located in an environmentally critical area (ECA). The EMB Region XI denied the application after finding that the proposed project was within an environmentally critical area and ruled that, pursuant to Section 2, Presidential Decree No. 1586, otherwise known as the Environmental Impact Statement System, in relation to Section 4 of Presidential Decree No. 1151, also known as the Philippine Environment Policy, the City of Davao must undergo the environmental impact assessment (EIA) process to secure an Environmental Compliance Certificate (ECC), before it can proceed with the construction of its project.

Believing that it was entitled to a Certificate of Non-Coverage, respondent filed a petition for mandamus and injunction with the Regional Trial Court of Davao, docketed as Civil Case No. 28,133-2000. It alleged that its proposed project was neither an environmentally critical project nor within an environmentally critical area; thus it was outside the scope of the EIS system. Hence, it was the ministerial

duty of the DENR, through the EMB-Region XI, to issue a CNC in favor of respondent upon submission of the required documents.

The Regional Trial Court rendered judgment in favor of respondent, the dispositive portion of which reads as follows:

WHEREFORE, finding the petition to be meritorious, judgment granting the writ of mandamus and injunction is hereby rendered in favor of the petitioner City of Davao and against respondents Department of Environment and Natural Resources and the other respondents by:

- 1) directing the respondents to issue in favor of the petitioner City of Davao a Certificate of Non-Coverage, pursuant to Presidential Decree No. 1586 and related laws, in connection with the construction by the City of Davao of the Artica Sports Dome;
- 2) making the preliminary injunction issued on December 12, 2000 permanent.

Costs de officio.

SO ORDERED.^[3]

The trial court ratiocinated that there is nothing in PD 1586, in relation to PD 1151 and Letter of Instruction No. 1179 (prescribing guidelines for compliance with the EIA system), which requires local government units (LGUs) to comply with the EIS law. Only agencies and instrumentalities of the national government, including government owned or controlled corporations, as well as private corporations, firms and entities are mandated to go through the EIA process for their proposed projects which have significant effect on the quality of the environment. A local government unit, not being an agency or instrumentality of the National Government, is deemed excluded under the principle of *expressio unius est exclusio alterius*.

The trial court also declared, based on the certifications of the DENR-Community Environment and Natural Resources Office (CENRO)-West, and the data gathered from the Philippine Institute of Volcanology and Seismology (PHIVOLCS), that the site for the Artica Sports Dome was not within an environmentally critical area. Neither was the project an environmentally critical one. It therefore becomes mandatory for the DENR, through the EMB Region XI, to approve respondent's application for CNC after it has satisfied all the requirements for its issuance. Accordingly, petitioner can be compelled by a writ of mandamus to issue the CNC, if it refuses to do so.

Petitioner filed a motion for reconsideration, however, the same was denied. Hence, the instant petition for review.

With the supervening change of administration, respondent, in lieu of a comment, filed a manifestation expressing its agreement with petitioner that, indeed, it needs to secure an ECC for its proposed project. It thus rendered the instant petition moot and academic. However, for the guidance of the implementors of the EIS law and pursuant to our symbolic function to educate the bench and bar,^[4] we are inclined to address the issue raised in this petition.

Section 15 of Republic Act 7160,^[5] otherwise known as the Local Government Code, defines a local government unit as a body politic and corporate endowed with powers to be exercised by it in conformity with law. As such, it performs dual functions, governmental and proprietary. Governmental functions are those that concern the health, safety and the advancement of the public good or welfare as affecting the public generally.^[6] Proprietary functions are those that seek to obtain special corporate benefits or earn pecuniary profit and intended for private advantage and benefit.^[7] When exercising governmental powers and performing governmental duties, an LGU is an agency of the national government.^[8] When engaged in corporate activities, it acts as an agent of the community in the administration of local affairs.^[9]

Found in Section 16 of the Local Government Code is the duty of the LGUs to promote the people's right to a balanced ecology.^[10] Pursuant to this, an LGU, like the City of Davao, can not claim exemption from the coverage of PD 1586. As a body politic endowed with governmental functions, an LGU has the duty to ensure the quality of the environment, which is the very same objective of PD 1586.

Further, it is a rule of statutory construction that every part of a statute must be interpreted with reference to the context, *i.e.*, that every part must be considered with other parts, and kept subservient to the general intent of the enactment.^[11] The trial court, in declaring local government units as exempt from the coverage of the EIS law, failed to relate Section 2 of PD 1586^[12] to the following provisions of the same law:

WHEREAS, the pursuit of a comprehensive and integrated environmental protection program necessitates the establishment and institutionalization of a system whereby the exigencies of socio-economic undertakings can be reconciled with the requirements of environmental quality; x x x.

Section 1. *Policy.* – It is hereby declared the policy of the State to attain and maintain a rational and orderly balance between socio-economic growth and environmental protection.

x x x

x x x

x x x

Section 4. – *Presidential Proclamation of Environmentally Critical Areas and Projects.* – The President of the Philippines may, on his own initiative or upon recommendation of the National Environmental Protection Council, by proclamation declare certain projects, undertakings or areas in the country as environmentally critical. No person, partnership or corporation shall undertake or operate any such declared environmentally critical project or area without first securing an Environmental Compliance Certificate issued by the President or his duly authorized representative. For the proper management of said critical project or area, the President may by his proclamation reorganize such government offices, agencies, institutions, corporations or instrumentalities including the realignment of government personnel, and their specific functions and responsibilities.

Section 4 of PD 1586 clearly states that “no person, partnership or corporation shall undertake or operate any such declared environmentally critical project or area without first securing an Environmental Compliance Certificate issued by the President or his duly authorized representative.”^[13] The Civil Code defines a person as either natural or juridical. The state and its political subdivisions, *i.e.*, the local government units^[14] are juridical persons.^[15] Undoubtedly therefore, local government units are not excluded from the coverage of PD 1586.

Lastly, very clear in Section 1 of PD 1586 that said law intends to implement the policy of the state to achieve a balance between socio-economic development and environmental protection, which are the twin goals of sustainable development. The above-quoted first paragraph of the Whereas clause stresses that this can only be possible if we adopt a comprehensive and integrated environmental protection program where all the sectors of the community are involved, *i.e.*, the government and the private sectors. The local government units, as part of the machinery of the government, cannot therefore be deemed as outside the scope of the EIS system.^[16]

The foregoing arguments, however, presuppose that a project, for which an Environmental Compliance Certificate is necessary, is environmentally critical or within an environmentally critical area. In the case at bar, respondent has sufficiently shown that the Artica Sports Dome will not have a significant negative environmental impact because it is not an environmentally critical project and it is not located in an environmentally critical area. In support of this contention, respondent submitted the following:

1. Certification from the City Planning and Development Office that the project is not located in an environmentally critical area;
2. Certification from the Community Environment and Natural Resources Office (CENRO-West) that the project area is within the 18-30% slope, is outside the scope of the NIPAS (R.A. 7586), and not within a declared watershed area; and
3. Certification from PHILVOCS that the project site is thirty-seven (37) kilometers southeast of the southernmost extension of the Davao River Fault and forty-five (45) kilometers west of the Eastern Mindanao Fault; and is outside the required minimum buffer zone of five (5) meters from a fault zone.

The trial court, after a consideration of the evidence, found that the Artica Sports Dome is not within an environmentally critical area. Neither is it an environmentally critical project. It is axiomatic that factual findings of the trial court, when fully supported by the evidence on record, are binding upon this Court and will not be disturbed on appeal.^[17] This Court is not a trier of facts.^[18]

There are exceptional instances when this Court may disregard factual findings of the trial court, namely: a) when the conclusion is a finding grounded entirely on speculations, surmises, or conjectures; b) when the inference made is manifestly mistaken, absurd, or impossible; c) where there is a grave abuse of discretion; d) when the judgment is based on a misapprehension of facts; e) when the findings of fact are conflicting; f) when the Court of Appeals, in making its findings, went beyond the issues of the case and the same are contrary to the admissions of both