

SPECIAL FIFTEENTH DIVISION

[CA – G.R. SP No. 128364, April 08, 2014]

ARMANDO G. PUASAN, PETITIONER, VS. BOARD OF MARINE DECK OFFICER, PROFESSIONAL REGULATION COMMISSION AND JULISAR S. ALMENDROS, RESPONDENTS.

D E C I S I O N

GALAPATE-LAGUILLES, J:

Before this Court is a *Petition for Certiorari*^[1] filed in accordance with Rule 65 of the Rules of Court assailing the *Order*^[2] dated November 13, 2012 of the Professional Regulation Commission Board of Marine Deck Officers in Administrative Case No. 1288, entitled "*Julisar S. Almendras, versus Armando G. Puasan,*" setting the same case for reception of private respondent's evidence ex-parte.

The following are the factual antecedents:

Private respondent Julisar S. Almendros (private respondent) was the complainant^[3] in Administrative Case No. 1288 for Unprofessional and/or Dishonorable Conduct filed before public respondent Professional Regulatory Commission Board of Marine Deck Officers (respondent PRC Board). Petitioner Armando G. Puasan (petitioner), on the other hand, was the respondent therein.

On April 12, 2012, petitioner filed a *Motion to Dismiss*^[4] the administrative case on the ground that respondent PRC Board is bereft of jurisdiction as the circumstances alleged by private respondent in his complaint happened in Japan.^[5]

On September 18, 2012, the aforementioned case was set for Pre-Trial Conference. However, petitioner failed to appear despite due notification. Consequently, respondent PRC Board issued an *Order*^[6] on the same day allowing the ex-parte presentation of private respondent's evidence, thus:

"In view of the failure of the respondent to appear before this Board in the scheduled Pre-Trial Conference, this Board hereby grants the Motion of the Complainant to present evidence ex-parte,

Let this case be set for hearing on 10 DEC 2012 at 1:30 pm for the presentation of the Complainant's Evidence.

SO ORDERED."

Aggrieved, petitioner sought reconsideration. In his *Motion for Reconsideration*,^[7] petitioner reiterated that respondent PRC Board is devoid of jurisdiction over the subject matter as the complained untoward incident involving him occurred in Japan

while on board M/V Yuso Cherry.^[8] Further, he argued that respondent PRC Board erred when it proceeded to set the case for pre-trial notwithstanding the pendency of his Motion to Dismiss.^[9]

The said *Motion for Reconsideration* was thereafter resolved in an *Order*^[10] dated November 13, 2012 in this wise, to wit:

"Before the Board is the motion of respondent praying for the reconsideration of Our Order dated September 18, 2012, the dispositive portion is hereby stated to wit:

'In view of the failure of the respondent to appear before this Board in the scheduled Pre-Trial Conference, this Board hereby grants the Motion of Complainant to present evidence ex-parte.'

The respondent alleged that he filed a motion to dismiss in view of the fact that the acts alleged to have been committed happened on Board the ship while in Japan. Thus, this Board allegedly has no jurisdiction.

The respondent's arguments deserve scant consideration of this Board. The respondent likened the jurisdiction of this Board to criminal jurisdiction which applies the territorial principle. It must be stressed that the jurisdiction of this Commission applies to all professional enumerated therein wherever he/she may be. The power to regulate attaches to the person of the professional. No limitation by territory was set forth in the said law.

The failure of the respondent to appear in the Pre-Trial Conference may be considered fatal considering that they already submitted their pre-trial brief. Further, it is more prudent to attend a hearing scheduled by the Board rather than pre-empt the decision of this Board as to the Motion to Dismiss. The setting of this case for pre-trial conference amounts to an Order of this Board which every party is required to comply.

Nonetheless, the Board is inclined to reconsider the Order dated September 18, 2012, not for the reasons cited by the respondent, but for the greater principle of giving each party utmost opportunity to be heard. An ex-parte proceeding should only be allowed when a party clearly showed his/her waiver of his presence and his/her right to present evidence. The circumstances of the case clearly show that the respondent does not intend to waive his rights.

On the other hand, the respondent is sternly warned that a repetition of the above conduct shall not be tolerated.

WHEREFORE, premises considered, this Board hereby resolves as follows:

1. To set aside the Order dated September 18, 2012;
2. To set this case for Pre-Trial Conference on February 1, 2013 at 1:30.

SO ORDERED.”

Hence, the present recourse raising the following issues^[11] for resolution, viz:

I.

WHETHER OR NOT THE PRC BOARD HAS JURISDICTION OVER THE SUBJECT MATTER OF THE COMPLAINT.

II.

WHETHER OR NOT THE SCHEDULED FEBRUARY 1, 2013 PRE-TRIAL CONFERENCE OR SUBSEQUENTLY THEREAFTER (sic) BE HELD IN ABEYANCE UNTIL FINAL DETERMINATION OF THE PETITION QUESTIONING THE JURISDICTION OF THE PRC BOARD.

The core issue to be resolved in this Petition is whether or not respondent PRC Board acted with grave abuse of discretion in issuing the challenged ruling.

The Petition must fail.

Prefatorily, there is an obvious failure on the part of the petitioner to exhaust all administrative remedies available to him. Under the doctrine of exhaustion of administrative remedies, before a party is allowed to seek the intervention of the courts, he or she should have availed himself or herself of all the means of administrative processes afforded him or her.^[12] 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. The thrust of the rule is that courts must allow administrative agencies to carry out their functions and discharge their responsibilities within the specialized areas of their respective competence.^[13]

Pursuant to Section 1^[14], Article IV of the PRC Resolution No. 06-342 (A) Series of 2006, otherwise known as “New Rules of Procedure in Administrative Investigations in the Professional Regulation Commission and the Professional Regulatory Boards” (PRC Resolution for brevity) and Section 10^[15] of Republic Act No. 8544 otherwise known as “*The Philippine Merchant Marine Officers Act of 1998*” (R.A. 8544), a party aggrieved by the decision, order or resolution may file a notice of appeal from the decision, order or resolution of the Board **to the Commission** within fifteen (15) days from receipt thereof. Thenceforth, the decision of the Commission may be appealed to the Court of Appeals in accordance with the Rules of Court.^[16] Here, petitioner immediately filed the instant Petition for Certiorari with this Court without first elevating his case to the Commission. This is a procedural *faux pas* for which warrants the dismissal of the herein Petition.

But even if We set aside the foregoing procedural blunder, the Petition still cannot prosper as hereinafter discussed.

Petitioner's vigorous insistence that respondent PRC Board is devoid of jurisdiction over the subject matter of the case as the alleged demonstration of unprofessional and dishonorable conduct transpired in Japan which is outside the Philippine territory is unmeritorious.

The authority to hear and decide administrative cases by the respondent PRC Board comes from Republic Act No. 8981, otherwise known as "*The PRC Modernization Act of 2000*", R.A. 8544, and Sections 2^[17] and 13^[18] of the aforementioned PRC Resolution. It is intended primarily to determine the moral and technical fitness of a person to be admitted in the profession or to continue to practice his profession.^[19] The Commission is vested with power to regulate the conduct of professionals registered with it (*Commission*) provided what is involved is the moral and mental fitness of the person concerned. And, provided further the procedure laid down in Section 6^[20] of the same resolution has been faithfully complied with. This is in consonance with the avowed policy of the State to produce world-class professionals by enhancing and maintaining high professional, occupational, and ethical standards.^[21]

Admittedly, petitioner is a registered Chief Mate Officer and licensed Master Captain.^[22] The fact that the act complained of occurred outside the Philippines is immaterial. What is significant, nay vital, is the petitioner's registration with the Commission. In addition, petitioner's violation of the Code of Ethics of Professional Maritime Officers was put into issue in the case below which is undeniably under the jurisdiction of the respondent Board as explicitly provided under said Section 10^[23] of R.A. 8544. For, it irrefragably involves the ascertainment of his moral fitness to continue practicing his profession.

The foregoing considered, respondent PRC Board did not commit grave abuse of discretion in denying petitioner's Motion to Dismiss.

WHEREFORE, premises considered, the instant Petition is **DISMISSED**.

SO ORDERED.

[*] Lantion, J. A., C., (Chairperson) and Lazaro-Javier, A. C., JJ., concur.

[*] Vice Justice Mariflor P. Punzalan Castillo per Office Order No. 122-14-ABR dated April 1, 2014

[1] Dated January 28, 2013; Rollo, pp. 3-16.

[2] Ibid, pp. 18-19.

[3] Complaint dated November 19, 2011; Rollo, pp. 22-24.

[4] Dated April 11, 2012; Ibid, pp. 27-31.

[5] Id., p. 28.