

SPECIAL TWENTY-SECOND DIVISION

[CA-G.R. CV NO. 02677-MIN, July 14, 2014]

**MISAMIS ORIENTAL TELEPHONE SYSTEMS, INC. (MISORTEL),
REPRESENTED BY ITS GENERAL MANAGER RELIO B. ACERO AND
PROVINCE OF MISAMIS ORIENTAL, PLAINTIFFS-APPELLANTS,
VS. DEVELOPMENT BANK OF THE PHILIPPINES (DBP), DBP
PRESIDENT AND MANAGER, AND ANTONIO P. CALINGIN,^[*]
DEFENDANTS-APPELLEES.**

D E C I S I O N

INTING, J.:

Before Us is an Appeal^[1] filed by appellants assailing the Decision^[2] of Branch 41, Regional Trial Court (RTC), Cagayan de Oro City, dismissing their complaint for Sum of Money and Damages against appellees on the ground of lack of cause of action for their failure to exhaust administrative remedies, the dispositive portion of which states:

WHEREFORE, for lack of cause of action, this case is ordered DISMISSED.

SO ORDERED.

The facts of the case are as follows:

MISORTEL is a corporation owned and controlled by the Province of Misamis Oriental.^[3] DBP is the depository bank of MISORTEL and the Province of Misamis Oriental.^[4]

On November 11, 2003, the Office of the President (OP) placed then Governor Antonio P. Calingin (Calingin) under preventive suspension for a period of sixty (60) days.^[5] The Sangguniang Panlalawigan (SP) then issued a Resolution recognizing Vice Governor J. Miguel De Jesus (De Jesus) as the Acting Governor.^[6]

On December 10, 2003, the OP rendered a decision finding Calingin guilty of dishonesty, gross negligence and grave misconduct suspending him from office for six (6) months.^[7]

On December 17, 2003, the Regional Trial Court (RTC) issued a status quo ante order in favor of Calingin.^[8]

On December 18, 2003, De Jesus sent a letter to DBP to desist from honoring financial transactions such as encashment of checks issued by Calingin.^[9] But in an

Order dated December 17, 2003, the RTC directed and ordered all the depository banks of the Province of Misamis Oriental to continue with the uninterrupted operation of the accounts under the customary signatures of the signatories set in place in the Province prior to November 14, 2003.^[10]

On December 23, 2003, Calingin issued a check in the amount of P1,100,000.00 drawn against the account of MISORTEL, which DBP honored.^[11]

On January 19, 2004, the Board of Directors of MISORTEL, presided by Calingin, passed a Resolution authorizing the president and corporate treasurer to temporarily use the MISORTEL account as conduit for the release of the General Fund to pay the Province's contractual, statutory and other obligations in the light of the prevailing political crisis.^[12]

Calingin then issued a Memorandum dated January 19, 2004 for the cash advance of P4,600,000.00 to be taken from the confidential and intelligence expense, anti-insurgency expense and extra-ordinary and miscellaneous expense.^[13] An Allotment and Obligation Slip, Disbursement Voucher, and Check in the amount of P4,600,000.00 were then prepared.^[14]

On January 20, 2004, the amount of P26,393,164.00 was transferred from the account of the Province to MISORTEL^[15], which was later on returned by DBP to the account of the Province.^[16]

Despite the return of the amount, the following were already encashed by DBP: (1) the check amounting to P1,100,000.00 and (2) the check amounting to P4,600,000.00. Consequently, appellants filed an action for sum of money to recover these amounts in addition to damages.

The RTC ruled against appellants invoking the principle of exhaustion of administrative remedies. Aggrieved, appellants filed the instant appeal and raised the following sole error:

THE LOWER COURT ERRED IN DISMISSING THE CASE BECAUSE OF LACK OF CAUSE OF ACTION.

During the pendency of the appeal, a Compromise Agreement^[17] was drawn up between appellants and some of the appellees with the assistance of the appellate court mediator. The Compromise Agreement reads in part:

- 1) The Defendant-Appellee-accountable officers who secured cash advances from the MISORTEL, INC. shall render an account and/or liquidate the amount they received as cash advance pursuant to the GAA rules of the COA and submit the same to the PLGU within five (5) days from signing of the Amicable Settlement;
- 2) The Defendant-Appellee-accountable officers shall ask for

public apology to the People of Misamis Oriental through the Governor, Yevgeny Vicente B. Emano; and

3) The case against the Former Governor and DBP stands;

The parties further agree that they will no longer pursue their case against each other and hereby pray that the following Defendants-Appellees, namely, Calvin Akut, Bernardino Balo, Jr., Elias A. Suacillo, Claudita P. Baliton and Catalino D. Salahid be dropped.

IN WITNESS WHEREOF, the parties hereto have mutually and voluntarily agreed to the above stipulations, and sign this Agreement, at the Philippine Mediation Center, Court of Appeals, on this 14th DAY OF NOVEMBER 2013 for the consideration and approval of the Honorable Court.

MISAMIS ORIENTAL
TELEPHONE
SYSTEMS, INC.
[MISORTE], ETC.,
ET. AL.,
Plaintiffs-Appellants

CALVIN AKUT,
BERNARDINO BALO, JR.,
ELIAS A. SUACILLO,
CLAUDITA P. BALITON,
CATALINO D. SALAHID,
JR.
Defendants-Appellees

by:

ENGR. RENE
GUINGGUING,
JABI BERNALDEZ,
NANCY MADJOS,

Assisted by: ATTY.
BENJAMIN E. PELAEZ

Appellate Court Mediator

Consequently, a Partial Judgment Based on a Compromise Agreement^[18] was rendered by the Court on December 11, 2013.

Our Ruling

The appeal is without merit.

The Supreme Court held^[19]:

This Court, in a long line of cases, has consistently held that if a remedy within the administrative machinery can still be resorted to by giving the administrative officer concerned every opportunity to decide on a matter that comes within his jurisdiction, then such remedy should be exhausted first before the court's judicial power can be sought. The party with an administrative remedy must not merely initiate the prescribed

administrative procedure to obtain relief but also pursue it to its appropriate conclusion before seeking judicial intervention in order to give the administrative agency an opportunity to decide the matter itself correctly and prevent unnecessary and premature resort to the court. The underlying principle of the rule rests on the presumption that the administrative agency, if afforded a complete chance to pass upon the matter will decide the same correctly.

Related to the doctrine of exhaustion of administrative remedies is the doctrine of primary jurisdiction.

"The doctrine of primary jurisdiction holds that if a case is such that its determination requires the expertise, specialized training and knowledge of an administrative body, relief must first be obtained in an administrative proceeding before resort to the courts is had even if the matter may well be within their proper jurisdiction. It applies where a claim is originally cognizable in the courts and comes into play whenever enforcement of the claim requires the resolution of issues which, under a regulatory scheme, have been placed within the special competence of an administrative agency. In such a case, the court in which the claim is sought to be enforced may suspend the judicial process pending referral of such issues to the administrative body for its view or, if the parties would not be unfairly disadvantaged, dismiss the case without prejudice."^[20]

Thus the Supreme Court once held^[21]:

We have consistently declared that the doctrine of exhaustion of administrative remedies is a cornerstone of our judicial system. 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. The rationale for this doctrine is obvious. It entails lesser expenses and provides for the speedier resolution of controversies. Comity and convenience also impel courts of justice to shy away from a dispute until the system of administrative redress has been completed.

In the case of *Republic v. Lacap*, we expounded on the doctrine of exhaustion of administrative remedies and the related doctrine of primary jurisdiction in this wise:

The general rule is that before a party may seek the intervention of the court, he should first avail of all the means afforded him by administrative processes. The issues which administrative agencies are authorized to decide should not be summarily taken from them and submitted to a court without first giving such administrative agency the opportunity to dispose of the same after due deliberation.

Corollary to the doctrine of exhaustion of administrative remedies is the doctrine of primary jurisdiction; that is, courts cannot or will not determine a controversy involving a question which is within the jurisdiction of the administrative tribunal prior to the resolution of that