FIFTH DIVISION

[CA-G.R. SP NO. 82964, September 22, 2006]

UNITED TAYABAS MULTI-PURPOSE COOPERATIVE REPRESENTED BY ITS VICE- CHAIRMAN, MIGDONIO C. CAILING, PETITIONER-APPELLANT, VS. QUEZON METROPOLITAN WATER DISTRICT REPRESENTED BY ITS CHAIRMAN OF THE BOARD OF DIRECTORS, JOSE S. LAURELES, RESPONDENT-APPELLEE.

D E C I S I O N

DIMAAMPAO, J.:

For Our review through this appeal is the *Decision*[1] dated 25 June 2003 of the Regional Trial Court (RTC), Fourth Judicial Region, Lucena City, Branch 59 in Special Civil Action No. 99-136 for *Certiorari and Prohibition with Prayer for Temporary Restraining Order.*

In its *Petition*,[2] the appellant alleged that on 23 April 1999, the appellee passed and approved Board Resolution No. 99-42,[3] increasing the water rates to be paid by all water concessionaires of Tayabas, Quezon, without conducting a public hearing for that purpose. It contended that this is a clear violation of Letter of Instruction (LOI) No. 700 dated 1 June 1978[4] and of the Compromise Agreement dated 7 March 1991.[5] Appellant asserted that since the appellee acted without, or in excess of its authority, or with grave abuse of discretion amounting to lack of jurisdiction in issuing Resolution No. 99-42, the same should be declared null and void.

Traversing the allegations of the appellant, the appellee maintained that a public hearing was held on 16 October 1998[6], which, as shown by an attendance sheet[7], was attended by appellant himself, Migdonio Cailing, along with the chairman and members of the United Tayabas Multi-Purpose Cooperative. It averred that prior to the implementation of the subject water increase, it posted the required notices in conspicuous places of Tayabas, Quezon[8] and attached the same to the monthly billings of each concessionaire.[9] It pointed out that the appellant's claim that the increase in water rate being implemented under Board Resolution No. 99-42 was void for being sixty percent (60%) more than which is allowed by law, was not alleged in the subject petition. At any rate, the appellee asserted that Board Resolution No. 99-42 was in accord with all the pertinent laws specifically LOI No. 700 and the rate increase was accordingly approved by the Local Water Utilities Administration (LWUA) after thorough evaluation. Consequently, the appellee argued that should there have been any question relative to the LWUA's decision, an appeal should have been lodged with the National Water Resources Board (NWRB)[10] pursuant to Presidential Decree (P.D.) 424,[11] in relation to P.D. Nos. 1067[12] and 1026.[13] The appellant having failed to exhaust the administrative remedies before coming to court, the petition should therefore be dismissed.

On 25 June 2003, the court *a quo* dismissed the subject petition for lack of merit.

Finding the foregoing *Decision* unacceptable, the appellant interposed the instant appeal raising this single issue, thus:

> **THE COURT *A QUO* ERRED IN NOT REGARDING THE INSTANT PETITION AS FALLING UNDER THE EXCEPTIONS TO THE PRINCIPLE OF EXHAUSTION OF ADMINISTRATIVE REMEDIES.**

The *Appeal* is devoid of merit.

Under the doctrine of exhaustion of administrative remedies, an administrative decision must first be appealed to the administrative superiors at the highest level before it may be elevated to a court of justice for review.[14] The rationale of this rule rests upon the presumption that the administrative body, if given the chance to correct its mistake or error, may amend its decision on a given matter and decide it properly.[15] It allows said administrative body to carry out its functions and discharge its responsibilities within the specialized area of its competence.[16] The strict application of the doctrine of exhaustion of administrative remedies will also prevent unnecessary and premature resort to the court.[17] This rule however, is not absolute. There are instances when the application of this doctrine may be dispensed with and judicial action may be resorted to immediately. Among the established exceptions are:

1. when the question raised is purely legal;
2. when the administrative body is in estoppel;
3. when the act complained of is patently illegal;
4. when there is urgent need for judicial intervention;
5. when the claim involved is small;
6. when irreparable damage will be suffered;
7. when there is no other plain, speedy and adequate remedy;
8. when strong public interest is involved;
9. when the subject of the controversy is private land; and
10. in *quo warranto* proceedings."[18]

In the case at bench, the appellant posits that Resolution No 99-42 runs counter to the provisions of paragraphs 1(f) and 5 of LOI No. 700 dated 1 June 1978, *viz*:

> "1. xxx xxx
>
> (f) Ensure that the water rates are not abruptly increased beyond the water users' ability to pay, seeing to it that each increase if warranted, does not exceed 60% of the current rate.
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> 2. The water district concerned shall conduct public hearings prior to any proposed increase in water rates."

Appellant asseverates that a computation of the rate increases provided in the subject Resolution eventually shows that, based on a monthly consumption of 50 cu. m. of water of an ordinary water concessionaire, there is a 91.35% increase in excess of the present rates. Moreover, the water rates provided in the said

Resolution covered a period of seven (7) years from August 1999 to 2006. Appellant claims that the series of increases enumerated therein should not have been embodied in one resolution alone since the water concessionaires of Tayabas, Quezon would ultimately be deprived of the opportunity to voice their opposition thereto. Furthermore, the appellant insists that the public hearing conducted on 16 October 1998 was not for the purpose of increasing the water rates but for submitting the Total Rehabilitation Plan of the Water System of Tayabas, Quezon. Said public hearing made no mention about the multiple increases of water rates to be imposed for the period from 1999 to 2006. Appellant insists that since it was not questioning the rates *per se* as stated in the subject Resolution but rather, whether or not the Resolution conforms with the requisite and mandate of the aforequoted provisions of law, the dispute now becomes a question of law and should not fall within the jurisdiction of LWUA and NWRB. This being so, appellant maintains that the doctrine of exhaustion of administrative remedies is inapplicable.

We are not persuaded.

A careful perusal of the appellant's petition shows that aside from its claim that no public hearing was held, it also assails the increase in water rates. Paragraphs 7 and 8 of the petition are quoted hereunder:

> "7. That said Resolution No. 99-42 of the QMWD, unless effectively restrained, will entail additional expenses on the part of water concessionaires of Tayabas, Quezon, especially the low-income groups who consume more or less 50 cu. m. of water every month, that would amount to P100.00 more or less for year 1999, P215.00 more or less for 2000, P524 more or less for year 2001, P548.00 more or less for year 2002, and P600.00 more or less for the years 2003 up to 2006; thus, a water concessionaire consuming 100 cu. m. of water a month will cost P1,200.00, more or less, which amount will even be greater than the monthly electric bill and will be beyond the water users' ability to pay, especially the poor and/or marginally subsistent families and, as a result, would cause grave and irreparable financial injuries to the petitioner as well as to all the other water concessionaires of Tayabas, Quezon;
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> 8. That the respondent increased the water rates being questioned in this petition without any legal basis and without any urgent necessity or justification, to the detriment of the water concessionaires of Tayabas, Quezon;"[19]

From the foregoing allegations, appellant obviously questions the increases in the water rates. Besides, it is evident that before a determination could be made on whether or not the appellee violated paragraph 1(f) of LOI No. 700, a resolution stating that said increases exceed 60% of the current rate should first be passed. This act clearly calls for the competence of an administrative agency concerned, which in this case, is the NWRB, the water rate increases having been approved by LWUA already.[20] The petition having raised the propriety of increases in the water rates, We hold and so rule that the doctrine of exhaustion of administrative remedies is still applicable.

Anent the appellant's claim that the increase in the water rates was approved