

Case Title:

Paje v. Casiño, et al.

Facts:

In February 2006, the Subic Bay Metropolitan Authority (SBMA) and Taiwan Cogeneration Corporation (TCC) entered into a Memorandum of Understanding (MOU) expressing their intention to construct a power plant in Subic Bay to provide reliable and affordable power to the Subic Bay Industrial Park. A second MOU was entered into on July 28, 2006, specifying TCC's plan to build a coal-fired power plant on identified lands at Sitio Naglatore, Mt. Redondo. This led to the SBMA Ecology Center issuing an Environmental Compliance Certificate (ECC) for the proposed 2×150-MW Circulating Fluidized Bed (CFB) Coal-Fired Thermal Power Plant project on April 4, 2007.

Subsequently, TCC assigned all rights under the MOU to Redondo Peninsula Energy, Inc. (RP Energy) on June 6, 2008, which led to the preparation of an Environmental Impact Statement (EIS) in support of an ECC application. The Department of Environment and Natural Resources (DENR) issued an ECC on December 22, 2008. The ECC was later amended in 2010 and 2011 to account for project changes and higher capacity.

Despite amendments, the local government units (LGUs) of Olongapo City and Zambales opposed the project. On July 20, 2012, Teodoro Casiño and other petitioners filed a petition for a writ of kalikasan against the project, alleging grave environmental damage and non-compliance with statutory requirements. The Supreme Court issued a writ of kalikasan and referred the case to the Court of Appeals. The Casiño Group argued the ECC was issued unlawfully without complete LGU approval and necessary Indigenous Peoples' Rights Act (IPRA) certifications. They also questioned the amendment process under the DENR Administrative Order No. 2003-30.

On January 30, 2013, the Court of Appeals denied the writ of kalikasan but declared the ECCs invalid for procedural deficiencies and lack of required signatures. Appeals ensued from all parties involved.

Issues:

1. **Will the construction and operation of the power plant cause significant environmental damage?**

- Sub-issues included potential for thermal, air, water pollution, and acid deposition.

2. ****Is the absence of the project proponent's signature on the Statement of Accountability a valid ground to invalidate the ECC?****

3. ****Were the first and second amendments to the ECC invalid due to lack of a new Environmental Impact Assessment (EIA)?****

4. ****Is a Certificate of Non-Overlap under the IPRA Law a precondition for ECC issuance?****

5. ****Did the lack of prior issuance of the Certificate of Non-Overlap render the Lease and Development Agreement (LDA) invalid?****

6. ****Does compliance with Section 27, in relation to Section 26 of the Local Government Code, require LGU approval for project implementation?****

7. ****Can the validity of the third amendment to the ECC be resolved in this case?****

****Court's Decision:****

1. ****Environmental Damage****:

- The Casiño Group failed to substantiate with expert evidence the alleged significant negative environmental impacts. The expert testimonies presented by RP Energy suggested that proper measures and technology would mitigate potential environmental harm. The appellate court's findings on the experts' credibility and their scientific support refuted the claims of grave environmental damage.

2. ****Missing Signature on ECC****:

- Procedurally, this issue was improperly raised as it did not form part of the initial arguments. However, substantively, the signing of the Statement of Accountability forms a critical part of the EIA process. Nevertheless, in the particular circumstances, the lacking signature alone was insufficient to invalidate the ECC given substantial compliance and the DENR's discretion involved.

3. ****Amendments to ECC****:

- The amendments did not impose significant changes warranting a new EIA but only required additional documentation that RP Energy submitted. The initial EIA was still valid at the time of amendment applications.

4. **Certificate of Non-Overlap (IPRA)**:

- The absence of this certificate from NCIP procured later did not automatically invalidate the ECC, given the nature of the area not overlapping with ancestral domains.

5. **LGU Approval (LGC Requirements)**:

- Prior LGU consultation and approval were not legally necessary for ECC issuance and project execution within the Subic Special Economic Zone (SSEZ), following specialized jurisdiction statutes under RA 7227.

6. **Third ECC Amendment**:

- This issue was not discussed during the preliminary stages and thus, could not be invalidated in this decision.

Doctrine:

1. **Environmental Impact Assessments**:

- Agencies have broad discretion in determining the adequacy of mitigating measures in the issued ECCs, and project proponents must ensure substantive compliance to avoid judicial nullification.

2. **Special Civil Actions and Remedies**:

- A writ of kalikasan demands a high threshold for invoking constitutional protection against ecological damage transcending political and territorial boundaries. Mere alleged deficiencies without proof connecting to grave impacts are insufficient.

Class Notes:

1. **Writ of Kalikasan**:

- Key Elements: Actual or threatened violation of constitutional right, arising from unlawful act/omission, causing environmental damage beyond territorial limits.
- Extraordinary remedy for grave ecological damage with broad judicial reliefs.

2. **Environmental Compliance Certificate (ECC)**:

- Integral to environmental protection, requiring strict conformance to procedural and substantive requirements.
- Statements of Accountability crucial for ensuring commitment.

3. **Indigenous Peoples Rights Act (IPRA)**:

- Section 59: Certificates of Non-Overlap ensure projects do not infringe indigenous

domains.

- Not always a legal prerequisite if the locale falls outside ancestral domains.

****Historical Background:****

The case reflects growing legal frameworks to balance Philippine industrialization with environmental preservation. Post-2000s, increasing public and governmental scrutiny has shaped stringent requirements for project developments. The decision symbolizes judicial caution amidst expanding environmental stipulations, reflecting evolving legal strategies to pursue sustainable developments aligned with constitutional rights.