

FIRST LEPANTO CERAMICS, INC., PETITIONER, VS. THE COURT OF APPEALS, AND MARIWASA MANUFACTURING, INC., RESPONDENTS.

G.R. No. 110571. October 07, 1994

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a motion for the reconsideration of the decision of the Second Division^[1] sustaining the jurisdiction of the Court of Appeals over appeals from the decisions of the Board of Investments and, consequently, dismissing the petition for certiorari and prohibition filed by petitioner First Lepanto Ceramics, Inc. Because of the importance of the question raised, the Court en banc agreed to accept the matter for consideration.

Petitioner's contention is that Circular No. 1-91 cannot be deemed to have superseded art. 82 of the Omnibus Investments Code of 1987 (E.O. No. 226) because the Code, which President Aquino promulgated in the exercise of legislative authority, is in the nature of a substantive act of Congress defining the jurisdiction of courts pursuant to Art. VIII, § 2 of the Constitution, while the circular is a rule of procedure which this Court promulgated pursuant to its rule-making power under Art. VIII, § 5(5). Petitioner questions the holding of the Second Division that although the right to appeal granted by art. 82 of the Code is a substantive right which cannot be modified by a rule of procedure, nonetheless, questions concerning where and in what manner the appeal can be brought are only matters of procedure which this Court has the power to regulate.

Even assuming that there is merit in petitioner's contention, however, the result reached in the main decision is nonetheless correct from another point of view.

Judicial review of the decisions and final orders of the BOI was originally provided for in the Omnibus Investments Code of 1981 (P.D. No. 1789),^[2] art. 78 of which stated:

ART. 78. Judicial Relief. - All orders or decisions of the Board in cases involving the provisions of this Code shall immediately be executory. No appeal from the order or decision of the Board by the party adversely affected shall stay such order or decision: Provided, That all appeals shall be filed directly with the Supreme Court within thirty (30) days from receipt of the order or decision.

Art. 78 was thereafter amended by B.P. Blg. 129,^[3] by granting in § 9 thereof exclusive appellate jurisdiction to the then Intermediate Appellate Court (now the Court of Appeals) over the decisions and final orders of quasi-judicial agencies. When the Omnibus Investments Code of 1987 (E.O. No. 226) was promulgated on July 17, 1987, the right to appeal from the decisions and final orders of the BOI to the Supreme Court was again granted. Thus, the present Code provides:

ART. 82. Judicial Relief. - All orders or decisions of the Board in cases involving the provisions of this Code shall immediately be executory. No appeal from the order or decision of the Board by the party adversely affected shall stay such order or decision: Provided, That all appeals shall be filed directly with the Supreme Court within thirty (30) days from receipt of the order or decision.

By then, however, the present Constitution had taken effect.[4] The Constitution now provides in Art. VI, § 30 that "No law shall be passed increasing the appellate jurisdiction of the Supreme Court as provided in this Constitution without its advice and concurrence." This provision is intended to give the Supreme Court a measure of control over cases placed under its appellate jurisdiction. For the indiscriminate enactment of legislation enlarging its appellate jurisdiction can unnecessarily burden the Court and thereby undermine its essential function of expounding the law in its most profound national aspects.

Now, art. 82 of the 1987 Omnibus Investments Code, by providing for direct appeals to the Supreme Court from the decisions and final orders of the BOI, increases the appellate jurisdiction of this Court. Since it was enacted without the advice and concurrence of this Court, this provision never became effective, with the result that it can never be deemed to have amended BP Blg. 129, § 9. Consequently, the authority of the Court of Appeals to decide cases appealed to it from the BOI must be deemed to have been conferred by B.P. Blg. 129, § 9, to be exercised by it in accordance with the procedure prescribed by Circular No. 1-91.

Indeed, there is no reason why decisions and final orders of the BOI must be directly appealed to this Court. As already noted in the main decision in this case, the purpose of § 9 of B.P. Blg. 129 is to provide uniform appeals to the Court of Appeals from the decisions and final orders of all quasi-judicial agencies, with the exception only of those issued under the Labor Code and those rendered by the Central Board of Assessment Appeals. It is, therefore, regrettable that in the adoption of the Omnibus Investments Code of 1987 the advice and concurrence of the Supreme Court, as required by the Constitution, had not been obtained in providing for the appeal of the decisions and final orders of the BOI directly to the Supreme Court.

WHEREFORE, the motion for reconsideration is DENIED.

SO ORDERED.

Narvasa, C.J., Cruz, Padilla, Bidin, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Quiason, Puno, Vitug, and Kapunan, JJ., concur.

Feliciano, J., on leave.

[1] Per Nocon, J. (now retired) and concurred in by Narvasa, C.J., Padilla, Regalado, and Puno, JJ.

[2] Effective Jan. 16, 1981.

[3] Effective Aug. 14, 1981.

[4] Effective Feb. 2, 1987.

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