NATIONAL IRRIGATION ADMINISTRATION, PETITIONER, VS. LEONCIO C. ENCISO, RESPONDENT.

G.R. NO. 142571. May 05, 2006

Ponente: GARCIA, J.

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GARCIA, J.:

The instant petition for review on certiorari under Rule 45 of the Rules of Court seeks to nullify and set aside the Decision dated March 20, 2000[1] of the Court of Appeals (CA) in CA-G.R. CV No. 59681 affirming an earlier decision of the Regional Trial Court (RTC) of Makati City, Branch 141, in its Civil Case No. 94-005, an action for a sum of money with damages thereat commenced by the respondent against the herein petitioner, its Administrator and its Assistant Administrator for Systems and Operations and Equipment Management.

Succinctly summarized by the Court of Appeals in the assailed decision are the following undisputed facts:

> Records show that in 1984, defendant-appellant [petitioner] National Irrigation Administration (NIA) commenced the widening of the Binahaan River in Brgy. Cansamada, Dagami, Leyte. This project was divided into small sections costing not more than P50,000.00 each so as not to require public bidding. However, pre-bidding was nevertheless conducted by NIA and participated in by different contractors to determine the possible lowest bid which shall serve as the cost of the project. With this arrangement, contractors are assigned to work on specific sections without formal contracts. When the works for the assigned sections are completed to NIA's satisfaction, NIA will then prepare the requisite contract and other pertinent documents so that the contractor can collect payment.
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> Plaintiff-appellant [respondent] Enciso, doing business as a contractor under the name LCE Construction, worked on a portion of the river from "station 16 + 400 to station 16 + 900". His first billing of P227,165.90 was paid by NIA. However, his second and final billing of P259,154.01 was denied on the ground that the work done on the right side of the river was not accomplished. [Words in bracket supplied.]

Respondent finally instituted a complaint for collection of a sum of money with damages and attorney's fees with the RTC of Makati City, thereat docketed as Civil Case No. 94-005 and eventually raffled to Branch 141 thereof. Petitioner and co-defendants filed a motion to dismiss on grounds of non-exhaustion of administrative remedies and lack of cause of action. The RTC denied the motion and proceeded to trial.

In a decision dated February 27, 1998, the RTC rendered judgment for respondent, as plaintiff, holding petitioner, as defendant, liable, thus:

> WHEREFORE, judgment is hereby rendered ordering defendant National Irrigation Administration to pay plaintiff the sum of P259,154.01 with legal rate of interest of 12% per annum effective on 1 August 1985 until fully paid; P50,000.00, as and for attorney's fees; and the costs of suit.
>
> SO ORDERED.

Both parties went up to the Court of Appeals (CA). For its part, petitioner contended that the trial court erred in

denying its motion to dismiss and thereafter holding it liable to respondent. On the other hand, respondent interposed that the trial court erred in failing to hold petitioner's co-defendants personally liable for damages and in adjudging petitioner NIA solely liable based on the face value of the work accomplished in 1985. The CA, however, found no reversible error in the appealed decision and affirmed it as follows:

> WHEREFORE, finding no reversible error in the appealed decision which is in accord with the evidence and jurisprudential principle on the matter, the same is hereby AFFIRMED.
>
> SO ORDERED.

Only petitioner NIA came to this Court via this petition for review raising the following issues for resolution:

> THE COURT OF APPEALS ERRED IN AFFIRMING THE RULING OF THE REGIONAL TRIAL COURT DENYING PETITIONER'S MOTION TO DISMISS (ANNEX "C" HEREOF) WHICH AVERRED, AMONG OTHER THINGS, THAT RESPONDENT FAILED TO EXHAUST ADMINISTRATIVE REMEDIES AVAILABLE TO HIM UNDER THE LAW.
>
> THE COURT OF APPEALS ERRED IN DECLARING THAT PETITIONER IS LIABLE TO RESPONDENT FOR THE ALLEGED WORK AT PETITIONER'S PROJECT THOUGH THE ALLEGED ASSIGNMENT WAS DONE IN VIOLATION OF EXISTING RULES AND REGULATIONS.

The Court finds the petition meritorious.

Petitioner raised the issue of non-exhaustion of administrative remedies in its appeal before the CA, on account of respondent's failure to file his claim before the Commission on Audit (COA) prior to instituting a complaint for collection of sum of money with the RTC. Instead of addressing the question, however, the CA discussed NIA's separate and distinct corporate personality from the government or the State, which is a non-issue. What the CA failed to rule upon is, given the fact that NIA is a government entity vested with a separate corporate personality from the State, whether NIA, being a government entity disbursing public funds or tax-payers' money is subject to the jurisdiction of COA such that any claim for collection of sum of money against it, specially in this instance where it is not covered by any written contract, must be initially lodged before the COA.

The issue should have been resolved in the affirmative.

Among the powers vested upon COA as provided for in Section 26, Presidential Decree No. 1445, are the following:

> SECTION 26. General jurisdiction. - The authority and powers of the Commission shall extend to and comprehend all matters relating to auditing procedures, systems and controls, the keeping of the general accounts of the Government, the preservation of vouchers pertaining thereto for a period of ten years, the examination and inspection of the books, records, and papers relating to those accounts; and the audit and settlement of the accounts of all persons respecting funds or property received or held by them in an accountable capacity, as well as the examination, audit, and settlement of all claims of any sort due from or owing to the Government or any of its subdivisions, agencies and instrumentalities. The said jurisdiction extends to all government-owned or controlled corporations, including their subsidiaries, and other self-governing boards, commissions, agencies of the Government, and as herein prescribed, including non-governmental entities subsidized by the government, those funded by donations through the government, those required to pay levies or government share, and those for which the government has put up a counterpart fund or those partly funded by the government. [Emphasis supplied.]

COA, as one of the three (3) independent constitutional commissions, is specifically vested with the power, authority and duty to examine, audit and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property owned or held in trust by the government, or any of its subdivisions,

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agencies or instrumentalities. To ensure the effective discharge of its functions, COA has been empowered, subject to the limitations imposed by Article IX(D) of the 1987 Constitution, to define the scope of its audit and examination and establish the techniques and methods required therefor, and promulgate accounting and auditing rules and regulations, including those for the prevention and disallowance of irregular, unnecessary, excessive, extravagant or unconscionable expenditures or uses of government funds and properties.[2]

In the instant case, when determining the regularity of disbursement of public funds by the petitioner NIA for the alleged services rendered by respondent in the widening project involving a portion of Binahaan River in Barangay Cansamada, Dagami, Leyte more specifically, from station 16 + 400 to station 16 + 900 thereof, the accounting and auditing principles, rules and regulations set by COA must be taken into consideration. In this light, it is highly doubtful whether respondent may compel petitioner NIA's officers to release payment of his claims without any previously approved contract for the supposed river-widening project in violation of existing COA rules and regulations, without subjecting said official to administrative and/or personal liabilities and/or accountabilities.

Be that as it may, for the supposed refusal or failure by the concerned public officials to act over respondent's money claim or even the mere inaction for an unreasonable period, the proper and immediate remedy of the respondent was to file his claim with the COA, such inaction or refusal to pay being tantamount to disallowance of the claim. Only after COA has ruled on the claim, may the injured party invoke judicial intervention by bringing the matter to this Court on petition for certiorari.

Exhaustion of administrative remedies is a doctrine of long standing and courts have clear guidelines on the matter. Paat vs. Court of Appeals[3] wrote:

> This Court in a long line of cases has consistently held that before a party is allowed to seek the intervention of the court, it is a pre-condition that he should have availed of all the means of administrative processes afforded him. Hence, 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 court's judicial power can be sought. The premature invocation of court's intervention is fatal to one's cause of action. Accordingly, absent any finding of waiver or estoppel the case is susceptible of dismissal for lack of cause of action. This doctrine of exhaustion of administrative remedies was not without its practical and legal reasons, for one thing, availment of administrative remedy entails lesser expenses and provides for a speedier disposition of controversies. It is no less true to state that the courts of justice for reasons of comity and convenience will shy away from a dispute until the system of administrative redress has been completed and complied with so as to give the administrative agency concerned every opportunity to correct its error and to dispose of the case. However, we are not amiss to reiterate that the principle of exhaustion of administrative remedies as tested by a battery of cases is not an ironclad rule. This doctrine is a relative one and its flexibility is called upon by the peculiarity and uniqueness of the factual and circumstantial settings of a case. Hence, it is disregarded (1) when there is a violation of due process, (2) when the issue involved is purely a legal question, (3) when the administrative action is patently illegal amounting to lack or excess of jurisdiction, (4) when there is estoppel on the part of the administrative agency concerned, (5) when there is irreparable injury, (6) when the respondent is a department secretary whose acts as an alter ego of the President bears the implied and assumed approval of the latter, (7) when to require exhaustion of administrative remedies would be unreasonable, (8) when it would amount to a nullification of a claim, (9) when the subject matter is a private land in land case proceedings, (10) when the rule does not provide a plain, speedy and adequate remedy, and (11) when there are circumstances indicating the urgency of judicial intervention.

Petitioner had timely raised this ground to dismiss the action before the RTC, and since there is no showing that respondent's case falls under any one of the accepted exceptions, petitioner's motion to dismiss should have been

granted, forthwith dismissing the case for lack of cause of action.

Anent the second issue, the legality or regularity of petitioner's payment of respondent's claim may be best addressed in a proper case before the COA, considering that there might be factual matters involved therein, which is definitely not within the province of the present petition for review on certiorari.

WHEREFORE, the petition is hereby GRANTED. The appealed decision is hereby REVERSED and SET ASIDE, and respondent's Complaint before the RTC is DISMISSED for lack of cause of action, with costs against respondent.

SO ORDERED.

Sandoval-Gutierrez, Corona, and Azcuna, JJ., concur.
Puno, (Chairperson), J. on leave.

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[1] Penned by Associate Justice Elvi John S. Asuncion with Associate Corona Ibay-Somera (ret.) and Associate Justice Portia Aliño-Hormachuelos, concurring; Rollo, pp. 18-22.

[2] Commissioner of Internal Revenue vs. Commission on Audit, G.R. No. 101976, January 29, 1993; 218 SCRA 203, pp. 211-212.

[3] G.R. No. 111107, January 10, 1997; 266 SCRA 167, pp. 175-177.

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