

PACIFIC STEAM LAUNDRY, INC., PETITIONER, VS. LAGUNA LAKE DEVELOPMENT AUTHORITY, RESPONDENT.

G.R. No. 165299. December 18, 2009

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is a petition for review[1] of the Decision[2] dated 30 June 2004 and the Resolution dated 8 September 2004 of the Court of Appeals in CA-G.R. SP No. 75238.

The Facts

Petitioner Pacific Steam Laundry, Inc. (petitioner) is a company engaged in the business of laundry services. On 6 June 2001, the Environmental Management Bureau of the Department of Environment and Natural Resources (DENR) endorsed to respondent Laguna Lake Development Authority (LLDA) the inspection report on the complaint of black smoke emission from petitioner's plant located at 114 Roosevelt Avenue, Quezon City.[3] On 22 June 2001, LLDA conducted an investigation and found that untreated wastewater generated from petitioner's laundry washing activities was discharged directly to the San Francisco Del Monte River. Furthermore, the Investigation Report[4] stated that petitioner's plant was operating without LLDA clearance, AC/PO-ESI, and Discharge Permit from LLDA. On 5 September 2001, the Environmental Quality Management Division of LLDA conducted wastewater sampling of petitioner's effluent.[5] The result of the laboratory analysis showed non-compliance with effluent standards particularly Total Suspended Solids (TSS), Biochemical Oxygen Demand (BOD), Oil/Grease Concentration and Color Units.[6] Consequently, LLDA issued to petitioner a Notice of Violation[7] dated 30 October 2001 which states:

THE GENERAL MANAGER
PACIFIC STEAM LAUNDRY, INC.
114 Roosevelt Avenue, Brgy. Paraiso
Quezon City

Subject: Notice of Violation

PH-01-10-303

Gentlemen:

This refers to the findings of the inspection and result of laboratory analysis of the wastewater collected from your firm last 5 September 2001. Evaluation of the results of laboratory analysis showed that your plant's effluent failed to conform with the 1990 Revised Effluent Standard for Inland Water Class "C" specifically in terms of TSS, BOD, Oil/Grease and Color. (Please see attached laboratory analysis)

In view thereof, you are hereby directed to submit corrective measures to abate/control the water pollution caused by your firm, within fifteen (15) days from receipt of this letter.

Furthermore, pursuant to Section 9 of Presidential Decree No. 984, PACIFIC STEAM LAUNDRY, INC. is hereby ordered to pay a penalty of One Thousand Pesos (P1,000.00) per day of discharging pollutive wastewater to be computed from 5 September 2001, the date of inspection until full cessation of discharging pollutive wastewater and a fine of Five Thousand Pesos (P5,000.00) per year for operating without the necessary clearance/permits from the Authority.

Very truly yours,

(signed)

CALIXTO R. CATAQUIZ

General Manager

Petitioner submitted its application for LLDA Clearance and Discharge Permit and informed LLDA that it would undertake the necessary measures to abate the water pollution.[8] On 1 March 2002, a compliance monitoring was conducted and the result of the laboratory analysis[9] still showed non-compliance with effluent standards in terms of TSS, BOD, Chemical Oxygen Demand (COD), and Oil/Grease Concentration. It was reported that petitioner's wastewater treatment facility was under construction. Subsequently, another wastewater sampling was conducted on 25 April 2002 but the results[10] still failed to conform with the effluent standards in terms of Oil/Grease Concentration.

Meanwhile, on 15 April 2002, a Pollution Control and Abatement case was filed against petitioner before the LLDA. During the public hearing on 30 April 2002, LLDA informed petitioner of its continuous non-compliance with the effluent standards. Petitioner requested for another wastewater sampling which was conducted on 5 June 2002. The laboratory results[11] of the wastewater sampling finally showed compliance with the effluent standard in all parameters. On 9 August 2002, another public hearing was held to discuss the dismissal of the water pollution case and the payment of the accumulated daily penalty. According to LLDA, the penalty should be reckoned from 5 September 2001, the date of initial sampling, to 17 May 2002, the date LLDA received the request for re-sampling. Petitioner manifested that its wastewater discharge was not on a daily basis. In its position paper[12] dated 25 August 2002, petitioner prayed that the Notice of Violation dated 30 October 2001 be set aside and the penalty and fine imposed be reckoned from the date of actual hearing on 15 April 2002.

On 16 September 2002, LLDA issued an Order to Pay,[13] the pertinent portion of which reads:

Respondent prayed that the Notice of Violation issued on 30 October 2001 and its corresponding daily penalty be set aside and that the imposable penalty be reckoned from the date of actual hearing and not on 5 September 2001. It is respondent's position that the Notice of Violation and the imposition of the penalty had no legal and factual basis because it had already installed the necessary wastewater treatment to abate the water pollution.

This Public Hearing Committee finds respondent's arguments devoid of merit. Presidential Decree No. 984 prohibits the discharge of pollutive wastewater and any person found in violation thereof shall pay a fine not exceeding five thousand pesos (PhP5,000.00) [sic] for every day during which such violation continues. The mere discharge of wastewater not conforming with the effluent standard is the violation referred to in PD No. 984. Sample of respondent's effluent was collected on 5 September 2001 and the results of laboratory analysis confirmed the quality thereof. Thus, a notice of violation was issued against the respondent after it was established that its discharge was pollutive. The fact that the subsequent re-sampling reported compliance with the effluent standard does not negate the 5 September 2001 initial sampling. Respondent passed the standard because it already implemented remedial measures to abate the water pollution. It is therefore but just and proper that the penalty should be imposed from the date of initial sampling, 5 September 2001, to 17 May 2002, the date the request for re-sampling was received by the Authority. The 5 June 2002 sampling confirmed that respondent's effluent already complied with the standard showing that its water pollution has ceased. Respondent did not

submit any proof of its actual operation hence, the penalty shall be computed for five (5) working days per week, excluding Saturdays and Sundays as well as legal holidays from 5 September 2001 to 17 May 2002, for a total of one hundred seventy-two (172) days.

WHEREFORE, premises considered, respondent Pacific steam Laundry, Inc. is hereby ordered to pay the accumulated daily penalty amounting to ONE HUNDRED SEVENTY-TWO THOUSAND (PhP172,000.00) PESOS within fifteen(15) days from receipt hereof as a condition sine qua non for the dismissal of the above-captioned case.

SO ORDERED.[14]

Petitioner filed a motion for reconsideration, which the LLDA denied in its Order[15] dated 27 November 2002.

Petitioner then filed with the Court of Appeals a petition for review under Rule 43 of the Rules of Court. The Court of Appeals denied the petition, as well as the motion for reconsideration filed by petitioner. Hence, this petition.

The Court of Appeals' Ruling

The Court of Appeals held that LLDA has the power to impose fines, thus:

Concededly, the power to impose administrative fines in pollution abatement cases was expressly granted under Section 9 of P.D. 984 to the now defunct National Pollution Control Commission (NPCC), thus:

"Section 9. Penalties. - (a) Any person found violating or failing to comply with any order, decision or regulation of the Commission for the control or abatement of pollution shall pay a fine not exceeding five thousand pesos per day for every day during which such violation or default continues; and the Commission is hereby authorized and empowered to impose the fine after due notice and hearing."

Nonetheless, it may be well to recall that the LLDA was created under R.A. 4850 with the end view of promoting and accelerating the development and balanced growth of the Laguna Lake area and the surrounding provinces, and carrying out the development of the Laguna Lake Region with due regard and adequate provisions for environmental management and control, preservation of the quality of human life and ecological systems, and the preservation of undue ecological disturbances, deterioration and pollution. To correct deficiencies and clarify ambiguities that "impede the accomplishment of the Authorities' goal," Former President Ferdinand E. Marcos promulgated P.D. 813. Finally, to enable the LLDA to effectively perform its role, Former President Marcos further issued E.O. 927, which granted the LLDA additional powers and functions, viz:

"Section 4. Additional Powers and Functions. - The authority shall have the following powers and functions:

x x x

(d) Make, alter or modify orders requiring the discontinuance of pollution specifying the conditions and time within which such continuance must be accomplished.

x x x

(i) Exercise such powers and perform such other functions as may be necessary to carry out its duties and responsibilities under this Executive order."

Indeed, the express grant of power to impose administrative fines as couched in the language of P.D. 984 was not reproduced in E.O. 927, however, it can be logically implied from LLDA's authority to exercise the power to "make, alter or modify orders requiring the discontinuance of pollution." In addition, the clear intendment of E.O.

927 to clothe LLDA not only with the express powers granted to it, but also those implied, incidental and necessary for the exercise of its express powers can be easily discerned from the grant of the general power to "exercise (such) powers and perform such other functions as may be necessary to carry out its duties and responsibilities."

This finds support in the wealth of authorities in American Jurisprudence, citing adherence of other courts to the principle that the authority given to an agency should be liberally construed in order to permit the agency to carry out its statutory responsibilities. This is especially true where the agency is concerned with protecting the public health and welfare, the delegation of authority to the agency is liberally construed.

The LLDA, as an agency implementing pollution laws, rules and regulations, should be given some measures of flexibility in its operations in order not to hamper it unduly in the fulfillment of its objectives. How could it effectively perform its role if in every act of violation, it must resort to other venue for the appropriate remedy, because it is impotent by itself to punish or deal with it?[16] (Emphasis in the original)

The Issues

Petitioner raises two issues:

- Does the respondent LLDA have the implied power to impose fines as set forth in PD 984?
- Does the grant of implied power to LLDA to impose penalties violate the rule on non-delegation of legislative powers?[17]

The Ruling of the Court

We find the petition without merit.

Power of LLDA to Impose Fines

Petitioner asserts that LLDA has no power to impose fines since such power to impose penal sanctions, which was once lodged with the National Pollution Control Commission (NPCC), is now assumed by the Pollution Adjudication Board pursuant to Executive Order No. 192 (EO 192).[18]

We disagree with petitioner.

Presidential Decree No. 984 (PD 984)[19] created and established the NPCC under the Office of the President. EO 192, which reorganized the DENR, created the Pollution Adjudication Board under the Office of the DENR Secretary which assumed the powers and functions of the NPCC with respect to adjudication of pollution cases.

Section 19 of EO 192 provides:

SEC. 19. Pollution Adjudication Board. - There is hereby created a Pollution Adjudication Board under the Office of the Secretary. The Board shall be composed of the Secretary as Chairman, two (2) Undersecretaries as may be designated by the Secretary, the Director of Environmental Management, and three (3) others to be designated by the Secretary as members. The Board shall assume the powers and functions of the Commission/Commissioners of the National Pollution Control Commission with respect to the adjudication of pollution cases under Republic Act 3931 and Presidential Decree 984, particularly with respect to Section 6 letters e, f, g, j, k, and p of P.D. 984. The Environmental Management Bureau shall serve as the Secretariat of the Board. These powers and functions may be delegated to the regional officers of the Department in accordance with rules and regulations to be promulgated by the Board. (Emphasis supplied)

Section 6, paragraphs (e), (f), (g), (j), (k), and (p) of PD 984 referred to above states:

SEC. 6. Powers and Functions. - The Commission shall have the following powers and functions:

x x x

(e) Issue orders or decisions to compel compliance with the provisions of this Decree and its implementing rules and regulations only after proper notice and hearing.

(f) Make, alter or modify orders requiring the discontinuance of pollution specifying the conditions and the time within which such discontinuance must be accomplished.

(g) Issue, renew, or deny permits, under such conditions as it may determine to be reasonable, for the prevention and abatement of pollution, for the discharge of sewage, industrial waste, or for the installation or operation of sewage works and industrial disposal system or parts thereof: Provided, however, the Commission, by rules and regulations, may require subdivisions, condominium, hospitals, public buildings and other similar human settlements to put up appropriate central sewerage system and sewage treatment works, except that no permits shall be required of any new sewage works or changes to or extensions of existing works that discharge only domestic or sanitary wastes from a single residential building provided with septic tanks or their equivalent. The Commission may impose reasonable fees and charges for the issuance or renewal of all permits herein required.

x x x

(j) Serve as arbitrator for the determination of reparations, or restitution of the damages and losses resulting from pollution.

(k) Deputize in writing or request assistance of appropriate government agencies or instrumentalities for the purpose of enforcing this Decree and its implementing rules and regulations and the orders and decisions of the Commission.

x x x

(p) Exercise such powers and perform such other functions as may be necessary to carry out its duties and responsibilities under this Decree.

On the other hand, LLDA is a special agency created under Republic Act No. 4850 (RA 4850)[20] to manage and develop the Laguna Lake region, comprising of the provinces of Rizal and Laguna and the cities of San Pablo, Manila, Pasay, Quezon and Caloocan. RA 4850, as amended by Presidential Decree No. 813 (PD 813),[21] mandates LLDA to carry out the development of the Laguna Lake region, with due regard and adequate provisions for environmental management and control, preservation of the quality of human life and ecological systems, and the prevention of undue ecological disturbances, deterioration and pollution.[22]

Under Executive Order No. 927 (EO 927),[23] LLDA is granted additional powers and functions to effectively perform its role and to enlarge its prerogatives of monitoring, licensing and enforcement, thus:

SECTION 4. Additional Powers and Functions. The Authority [LLDA] shall have the following powers and functions:

a) Issue standards, rules and regulations to govern the approval of plans and specifications for sewage works and industrial waste disposal systems and the issuance of permits in accordance with the provisions of this Executive Order; inspect the construction and maintenance of sewage works and industrial waste disposal systems for compliance to plans.

b) Adopt, prescribe, and promulgate rules and regulations governing the Procedures of the Authority with respect to hearings, plans, specifications, designs, and other data for sewage works and industrial waste disposal system, the filing of reports, the issuance of permits, and other rules and regulations for the proper

implementation and enforcement of this Executive Order.

c) Issue orders or decisions to compel compliance with the provisions of this Executive Order and its implementing rules and regulations only after proper notice and hearing.

d) Make, alter or modify orders requiring the discontinuance of pollution specifying the conditions and the time within which such discontinuance must be accomplished.

e) Issue, renew or deny permits, under such conditions as it may determine to be reasonable, for the prevention and abatement of pollution, for the discharge of sewage, industrial waste, or for the installation or operation of sewage works and industrial disposal system or parts thereof: Provided, however, that the Authority, by rules and regulations, may require subdivisions, condominiums, hospitals, public buildings and other similar human settlements to put up appropriate central sewerage system and sewage treatment works, except that no permits shall be required of any new sewage works or changes to or extensions of existing works that discharge only domestic or sanitary wastes from a single residential building provided with septic tanks or their equivalent. The Authority may impose reasonable fees and charges for the issuance or renewal of all permits herein required.

f) After due notice and hearing, the Authority may also revoke, suspend or modify any permit issued under this Order whenever the same is necessary to prevent or abate pollution.

g) Deputize in writing or request assistance of appropriate government agencies or instrumentalities for the purpose of enforcing this executive Order and its implementing rules and regulations and the orders and decision of the Authority.

(h) Authorize its representative to enter at all reasonable times any property of the public dominion and private property devoted to industrial, manufacturing processing or commercial use without doing damage, for the purpose of inspecting and investigating conditions relating to pollution or possible or imminent pollution.

(i) Exercise such powers and perform such other functions as may be necessary to carry out its duties and responsibilities under this Executive Order. (Emphasis supplied)

A comparison of the powers and functions of the Pollution Adjudication Board and the LLDA reveals substantial similarity. Both the Pollution Adjudication Board and the LLDA are empowered, among others, to: (1) make, alter or modify orders requiring the discontinuance of pollution; (2) issue, renew, or deny permits for the prevention and abatement of pollution, for the discharge of sewage, industrial waste, or for the installation or operation of sewage works and industrial disposal system; and (3) exercise such powers and perform such other functions necessary to carry out their duties and responsibilities. The difference is that while Section 19 of EO 192 vested the Pollution Adjudication Board with the specific power to adjudicate pollution cases in general,[24] the scope of authority of LLDA to adjudicate pollution cases is limited to the Laguna Lake region as defined by RA 4850, as amended.

Thus, in *Laguna Lake Development Authority v. Court of Appeals*,[25] the Court held that the adjudication of pollution cases generally pertains to the Pollution Adjudication Board, except where a special law, such as the LLDA Charter, provides for another forum. Indeed, even PD 984 authorizes the LLDA to undertake pollution control activities within LLDA's development area. Section 10 of PD 984 provides:

SEC. 10. Jurisdiction. - The Commission [NPCC] shall have no jurisdiction over waterworks or sewage system operated by the Metropolitan Waterworks Sewerage System, but the rules and regulations issued by the Commission for the protection and prevention of pollution under the authority herein granted shall supersede and prevail over any rules or regulations as may heretofore have been issued by other government agencies or instrumentalities on the same subject.

In case of development projects involving specific human settlement sites or integrated regional or subregional projects, such as the Tondo Foreshore Development Authority and the Laguna Lake Development Authority, the Commission shall consult with the authorities charged with the planning and execution of such projects to ensure that their pollution control standards comply with those of the Commission. Once minimum pollution standards are established and agreed upon, the development authorities concerned may, by mutual agreement and prior consultation with the Commission, undertake the pollution control activities themselves. (Boldfacing and underscoring supplied)

In this case, the DENR's Environmental Management Bureau endorsed to LLDA the pollution complaint against petitioner. Under Section 16 of EO 192, the Environmental Management Bureau assumed the powers and functions of the NPCC except with respect to adjudication of pollution cases, thus:

SEC. 16. Environmental Management Bureau. - There is hereby created an Environmental Management Bureau. The National Environmental Protection Council (NEPC), the National Pollution Control Commission (NPCC) and the Environmental Center of the Philippines (ECP), are hereby abolished and their powers and functions are hereby integrated into the Environmental Management Bureau in accordance with Section 24(c) hereof, subject to Section 19 hereof. x x x (Emphasis supplied)

The Environmental Management Bureau also serves as the Secretariat of the Pollution Adjudication Board, and its Director is one of the members of the Pollution Adjudication Board. Clearly, by endorsing to LLDA the pollution complaint against petitioner, the Environmental Management Bureau deferred to LLDA's jurisdiction over the pollution complaint against petitioner.

Although the Pollution Adjudication Board assumed the powers and functions of the NPCC with respect to adjudication of pollution cases, this does not preclude LLDA from assuming jurisdiction of pollution cases within its area of responsibility and to impose fines as penalty.

Thus, in the recent case of *The Alexandra Condominium Corporation v. Laguna Lake Development Authority*,^[26] the Court affirmed the ruling of the Court of Appeals which sustained LLDA's Order, requiring petitioner therein to pay a fine of P1,062,000 representing penalty for pollutive wastewater discharge. Although petitioner in that case did not challenge LLDA's authority to impose fine, the Court acknowledged the power of LLDA to impose fines, holding that under Section 4-A of RA 4850, as amended, LLDA is entitled to compensation for damages resulting from failure to meet established water and effluent standards. Section 4-A of RA 4850, as amended, reads:

SEC. 4-A. Compensation for damages to the water and aquatic resources of Laguna de Bay and its tributaries resulting from failure to meet established water and effluent quality standards or from such other wrongful act or omission of a person, private or public, juridical or otherwise, punishable under the law shall be awarded to the Authority to be earmarked for water quality control and management.

Under Section 4(h) of EO 927, LLDA may "exercise such powers and perform such other functions as may be necessary to carry out its duties and responsibilities." In *Laguna Lake Development Authority v. Court of Appeals*,^[27] the Court upheld the power of LLDA to issue an ex-parte cease and desist order even if such power is not expressly conferred by law, holding that an administrative agency has also such powers as are necessarily implied in the exercise of its express powers. The Court ruled that LLDA, in the exercise of its express powers under its charter, as a regulatory and quasi-judicial body with respect to pollution cases in the Laguna Lake region, has the implied authority to issue a "cease and desist order." In the same manner, we hold that the LLDA has the power to impose fines in the exercise of its function as a regulatory and quasi-judicial body with respect to pollution cases in the Laguna Lake region.

No Undue Delegation of Legislative Power

Petitioner contends that if LLDA is deemed to have implied power to impose penalties, then LLDA will have unfettered discretion to determine for itself the penalties it may impose, which will amount to undue delegation of legislative power.

We do not agree. Contrary to petitioner's contention, LLDA's power to impose fines is not unrestricted. In this case, LLDA investigated the pollution complaint against petitioner and conducted wastewater sampling of petitioner's effluent. It was only after the investigation result showing petitioner's failure to meet the established water and effluent quality standards that LLDA imposed a fine against petitioner. LLDA then imposed upon petitioner a penalty of P1,000 per day of discharging pollutive wastewater. The P1,000 penalty per day is in accordance with the amount of penalty prescribed under PD 984:

SEC. 8. Prohibitions. - No person shall throw, run, drain, or otherwise dispose into any of the water, air and/or land resources of the Philippines, or cause, permit, suffer to be thrown, run, drain, allow to seep or otherwise dispose thereto any organic or inorganic matter or any substance in gaseous or liquid form that shall cause pollution thereof.

x x x

SEC 9. Penalties. - x x x

(b) Any person who shall violate any of the previous provisions of Section Eight of this Decree or its implementing rules and regulations, or any Order or Decision of the Commission, shall be liable to a penalty of not to exceed one thousand pesos each day during which the violation continues, or by imprisonment of from two years to six years, or by both fine and imprisonment, and in addition such person may be required or enjoined from continuing such violation as hereinafter provided.

x x x (Emphasis supplied)

Clearly, there are adequate statutory limitations on LLDA's power to impose fines which obviates unbridled discretion in the exercise of such power.

WHEREFORE, we DENY the petition. We AFFIRM the Decision dated 30 June 2004 and the Resolution dated 8 September 2004 of the Court of Appeals in CA-G.R. SP No. 75238.

SO ORDERED.

Leonardo-De Castro[*], Brion, Del Castillo and Abad, JJ., concur.

[*] Designated additional member per Special Order No. 776.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Penned by Associate Justice Japar B. Dimaampao with Associate Justices Josefina Guevara-Salonga and Eduardo F. Sundiam, concurring.

[3] Rollo , p. 74; Indorsement dated 6 June 2001.

[4] Id. at 77-78.

[5] Under Section 3(d) of the Effluent Regulations, DENR Administrative Order No. 35, Series of 1990, "effluent" is defined as any wastewater, partially or completely treated, or in its natural state, flowing out a manufacturing plant, industrial plant or treatment plant.

[6] Rollo, p. 79; Result of Analysis dated 18 September 2001.

[7] Id. at 33.

[8] Id. at 81. See petitioner's letter dated 15 November 2001 addressed to General Manager Cataquiz of LLDA.

[9] Id. at 82-83.

[10] Id. at 84-85.

[11] CA rollo, p. 23.

[12] Id. at 24-33.

[13] Rollo, pp. 45-46.

[14] Id. at 46. Although the LLDA mistakenly stated in its Order that the imposable fine is P5,000 per day instead of P1,000 per day, the dispositive portion of the Order imposing a total penalty of P172,000 is based on the correct daily penalty of P1,000 multiplied by 172 days during which the pollutive wastewater discharge occurred.

[15] Id. at 50-51.

[16] Id. at 24-26.

[17] Id. at 103.

[18] PROVIDING FOR THE REORGANIZATION OF THE DEPARTMENT OF ENVIRONMENT, ENERGY AND NATURAL RESOURCES; RENAMING IT AS THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, AND FOR OTHER PURPOSES.

[19] Otherwise known as the "National Pollution Control Decree of 1976."

[20] AN ACT CREATING THE LAGUNA LAKE DEVELOPMENT AUTHORITY, PRESCRIBING ITS POWERS, FUNCTIONS AND DUTIES, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES.

[21] AMENDING CERTAIN SECTIONS OF REPUBLIC ACT NUMBERED FORTY EIGHT HUNDRED FIFTY, OTHERWISE KNOWN AS THE "LAGUNA LAKE DEVELOPMENT AUTHORITY ACT OF 1966."

[22] Section 1 of RA 4850, as amended by PD 813.

[23] FURTHER DEFINING CERTAIN FUNCTIONS AND POWERS OF THE LAGUNA LAKE DEVELOPMENT AUTHORITY.

[24] Republic of the Phils. v. Marcopper Mining Corp., 390 Phil. 708 (2000).

[25] G.R. No. 110120, 16 March 1994, 231 SCRA 292.

[26] G.R. No. 169228, 11 September 2009.

[27] Supra note 25.

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