

**MERIDA WATER DISTRICT; ITS BOARD OF DIRECTORS, NAMELY:
SUSANO TOREJAS JR., LOURDES QUINTE, ROMULO PALES,
CARMELITA DE LOS ANGELES, VILLAFRANCA ROSAL; AND MWD
GENERAL MANAGER NIL...**

G.R. No. 165993. September 30, 2008

Ponente: PUNO, C.J.

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PUNO, C.J.:

This Petition for Review on Certiorari seeks to set aside the Decision[1] and Resolution[2] of the Court of Appeals (CA), dated January 30, 2004 and September 16, 2004, respectively, in CA-G.R. SP No.77141, which affirmed the Orders[3] of the Regional Trial Court (RTC) in favor of respondents.

Petitioners are Merida Water District, a government-owned and controlled corporation[4] that operates the water utility services in the municipality of Merida, Leyte; its Chairman, Susano Torejas, Jr.; members of the Board of Directors, Lourdes Quinte, Romulo Pales, Carmelita De Los Angeles, and Villafranca Rosal; and General Manager, Nilo C. Lucero. On October 10, 2001, Merida Water District conducted a public hearing for the purpose of increasing the water rate.[5]

On March 7, 2002, Merida Water District received a letter from the Local Water Utilities Administration (LWUA).[6] The letter stated that on March 5, 2002, the LWUA Board of Trustees, per Board Resolution No. 63, series of 2002, confirmed Merida Water District's proposed water rates.[7] Attached to the letter was the Rate Schedule of Approved Water Rates containing a progressive increase of water rates over a certain period.[8]

On September 3, 2002, Merida Water District approved Resolution No. 006-02, implementing a water rate increase of P90 for the first ten cubic meters of water consumption.[9] Thereafter, petitioners issued notices of disconnection to concessionaires who refused to pay the water rate increase and did not render service to those who opted to pay the increased rate on installment basis.[10]

On February 13, 2003, respondents, consumers of Merida Water District, filed a Petition for Injunction, etc.[11] against petitioners before the RTC. Respondents sought to enjoin the petitioners from collecting payment of P90 for the first ten cubic meters of water consumption. Respondents alleged that this imposed rate was contrary to the rate increase agreed upon during the public hearing. Respondents claimed that petitioners violated Letter of Instructions (LOI) No. 700 by: (1) implementing a water rate increase exceeding 60% of the current rate; and (2) failing to conduct a public hearing for the imposed rate of P90.[12]

On February 26, 2003, petitioners filed a Motion to Dismiss, alleging that respondents' petition lacked a cause of action as they failed to exhaust administrative remedies under Presidential Decree (P.D.) No. 198, the Provincial Water Utilities Act of 1973, as amended by P.D. Nos. 768 and 1479.[13] On the same date, respondents questioned the legality of the water rate increase before the National Water Resources Board (NWRB).[14]

In its Order[15] dated March 3, 2003, the RTC denied petitioners' motion to dismiss. The RTC held that there was

no need to exhaust administrative remedies, because petitioners: (1) failed to comply with the legal requisites of hearing and notice; and (2) violated LOI No. 700 for prescribing a water rate increase of almost 100% from the previous rate. Petitioners' Motion for Reconsideration[16] was denied on dated March 31, 2003.[17]

On April 15, 2003, petitioners filed a Petition for Certiorari[18] with the CA, assailing the trial court orders for lack of jurisdiction. The CA affirmed the orders, upholding the RTC jurisdiction and the propriety of respondents' recourse to the trial court notwithstanding the rule on the exhaustion of administrative remedies. Petitioners filed a Motion for Reconsideration,[19] which the CA denied .

Petitioners reiterate their arguments before this Court, alleging the impropriety of the respondents' recourse to the trial court considering their failure to exhaust administrative remedies. Thus, sole issue for resolution is whether respondent's recourse to the trial court is proper despite their failure to exhaust remedies.

At the outset, it must be clarified that the case at bar concerns a local water district's establishment of a rate increase. As can be gleaned from the material averments in the complaint below, respondent's allegations, that petitioners committed a patently illegal act by implementing a water rate increase beyond that prescribed by LOI No. 700 and that petitioners violated due process in implementing a rate not agreed upon during the public hearing, point to the conclusion that this controversy arose from the determination of the rate itself.

P.D. No. 198 as amended by P.D. No. 1479 provides for the administrative remedies regarding a review of water rates, to determine whether a local water district had complied with the legal requirements in establishing such rates:

SEC. 11. The last paragraph of Section 63 of the same decree is hereby amended to read as follows:

The rates or charges established by such local district, after hearing shall have been conducted for the purpose, shall be subject to review by the Administration to establish compliance with the abovestated provisions. Said review of rates or charges shall be executory and enforceable after the lapse of seven calendar days from posting thereof in a public place in the locality of the water district, without prejudice to an appeal being taken therefrom by a water concessionaire to the [NWRB] whose decision thereon shall be appealable to the Office of the President. An appeal to the [NWRB] shall be perfected within thirty days after the expiration of the seven-day period of posting. The [NWRB] shall decide on appeal within thirty days from perfection.[20]

After LWUA reviews the rates established by a local district, a water concessionaire may appeal the same to the NWRB. The NWRB's decision may then be appealed to the Office of the President.

Respondents failed to exhaust administrative remedies by their failure to the NWRB. Non-exhaustion of administrative remedies only renders the action premature.[21] The court has consistently reiterated the rationale behind the doctrine of exhaustion of administrative remedies:

One of the reasons for the doctrine of exhaustion is the separation of powers, which enjoins upon the Judiciary a becoming policy of non-interference with matters coming primarily (albeit not exclusively) within the competence of the other departments. The theory is that the administrative authorities are in a better position to resolve questions addressed to their particular expertise and that errors committed by subordinates in their resolution may be rectified by their superiors if given a chance to do so... It may be added that strict enforcement of the rule could also relieve the courts of a considerable number of avoidable cases which otherwise would burden their heavily loaded dockets.[22]

Respondents justify their failure to observe the administrative process due to the following grounds: (1) that petitioner's increase of the water rate is patently illegal; and (2) a denial of due process.

We are not convinced.

The argument of patent illegality is without merit. The first paragraph of LOI NO. 700 provides that the LWUA shall:

(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.[23]

The non-observance of the doctrine of exhaustion has been in cases when the patent illegality of the assailed act is clear, undisputed, and more importantly, evident outright.[24] In these cases, the assailed act did not require the consideration of the existence and relevancy of specific surrounding circumstances and their relation to each other for the Court to conclude that the act was indeed patently illegal. In the case at bar, certain facts need to be resolved first, to determine whether petitioners' increase of the water rate is a patently illegal act.

The determination of the current rate from which to compute the allowable increase of 60% is a question of fact that cannot be properly threshed out before this Court. The NWRB must be given an opportunity to make a factual finding with respect to this question. This Court accords the factual findings of administrative agencies with utmost consideration because of the special knowledge and expertise gained by these quasi-judicial tribunals from handling specific matters falling under their jurisdiction.[25] Considering that the LWUA confirmed the Rate Schedule of Approved Water Rates for Merida Water District, a schedule that contains different rates that gradually increase, the determination of whether the computation of the percentage increase complies with the 60% limitation is a factual matter best left to the competence of the NWRB.

The argument of denial of due process deserves scant consideration. The non-observance of the doctrine of exhaustion has been recognized in cases where the party seeking outright judicial intervention was denied the opportunity to be heard in administrative proceedings.[26] In the case at bar, respondents were not denied the opportunity to be heard, as Merida Water District conducted a public hearing on October 10, 2001 regarding the increase of water rates.

The allegation of denial of due process actually involves the question of whether the public hearing on October 10, 2001 complied with the legal requirement of conducting a public hearing prior to increasing water rates. The fifth paragraph of LOI No. 700 requires the water district concerned to conduct a public hearing prior to any increase in water rates.[27] The third paragraph of LOI NO. 744 requires the LWUA and water districts to prepare a system of public consultation through hearings when considering increases in water rates.[28] Furthermore, Section 63 of P.D. No. 198, as amended by P.D. No. 1479 requires the following:

The rates or charges established by such local district, after hearing shall have been conducted for the purpose, shall be subject to review by the Administration to establish compliance with the abovementioned provisions. Said review of rates or charges shall be executory and enforceable after the lapse of seven calendar days from posting thereof in a public place in the locality of the water district xxx.

When a local water district increases water rates, the law requires the district concerned to conduct a public hearing regarding these rates. The same rates are subject to review by the LWUA, which is tasked to determine whether the establishment of the rates complies with the law.[29] Thus, compliance with the public hearing requirements means that the rates presented in the hearing should be the same rates submitted to the LWUA for review and approval. Considering that there was no finding with regard to this question of fact, whether the rates presented in the hearing were the same rates approved by the LWUA, the NWRB must be given the opportunity to resolve this matter.

IN VIEW WHEREOF, the petition is GRANTED. The Decision and Resolution of the Court of Appeals in CA-G.R. SP No. 77141 dated January 30, 2004 and September 16, 2004, respectively, are REVERSED and SET ASIDE.

SO ORDERED.

Carpio, Azcuna, Reyes[*], and Leonardo-De Castro, JJ., concur.

[*] Per Special Order No. 520, dated September 19, 2008, signed by Chief Justice Reynato S. Puno, designating Associated Justice Ruben T. Reyes to replace Associate Justice Renato C. Corona, who is on official leave.

[1] Rollo, pp. 26-36.

[2] Id. at 55.

[3] Id. at 156-157, 174-175.

[4] Id. at 27.

[5] Id. at 32.

[6] Id. at 10.

[7] Id. at 124.

[8] Id. at 124-125.

[9] Id. at 126.

[10] Id. at 32.

[11] Id. at 127-132.

[12] Id. at 128-130.

[13] Id. at 28.

[14] Id. at 31-32.

[15] Rollo, pp. 156-157.

[16] Id. at 158-161.

[17] Id. at 174-175.

[18] CA rollo, pp. 3-13.

[19] Id. at 163-169.

[20] Executive Order No. 124-A, dated July 22, 1987, renamed the National Water Resources Council to the NWRB.

[21] Carale v. Abarintos, G.R. No. 120704, March 3, 1997, 269 SCRA 132, 141.

[22] Sunville Timber Products, Inc. v. Abad, G.R. No. 85502, February 24, 1992, 206 SCRA 482, 486-487.

[23] Letter of Instructions No. 700 (1978), Par. 1(f).

[24] Celestial v. Cachopero, 459 Phil. 903 (2003); China Banking Corporation v. Members of the Board of Trustees, Home Development Mutual Fund, G.R. No. 131787, May 19, 1999, 307 SCRA 443.

[25] Villanueva v. Court of Appeals, G.R. No. 99357, January 27, 1992, 205 SCRA 537, 544-545.

[26] Pagara v. Court of Appeals, 325 Phil. 66 (1996); Samahang Magbubukid ng Kapdula, Inc. v. Court of Appeals, G.R. No. 103953, March 25, 1999, 305 SCRA 147.

[27] This provision states:

5. The water district concerned shall conduct public hearings prior to any proposed increase in water rates

[28] This provision states:

3. The Local Water Utilities Administration and each Water District shall prepare a public education program which shall concentrate on the need and methods for water conservations, water rates, water facilities requirements and need for financing, and other related aspects of Water District operations. They shall, in addition, prepare a comprehensive program and system of public consultation, both formally in hearings and informally through an education program, when considering increases in water rates, particularly at the time when Water Districts initiate operation.

[29] Marilao Water Consumers Association, inc. v. Intermediate appellate Court, G.R. No. 72807, September 9, 1991, 201 SCRA 437, 449-450.

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