

STA. CLARA SHIPPING CORPORATION, PETITIONER, VS. EUGENIA T. SAN PABLO, RESPONDENT.

G.R. No. 169493. March 14, 2010

Ponente: CORONA, J.

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CORONA, J.:

Sta. Clara Shipping Corporation (Sta. Clara) assails the May 31, 2005 decision[1] and July 27, 2005 resolutions[2] of the Court of Appeals (CA) which annulled its certificate of convenience (CPC) to operate MV King Frederick.

The facts are undisputed.

Sta. Clara filed an application, docketed as Case No. 2001-033, with Maritime Industry Authority (MARINA) for a CPC to operate MV King Frederick along the route Matnog, Sorsogon-Allen, Northern Samar and vice versa.[3] The application was opposed by the pioneering operators Bicolandia Lines, Inc. and Eugenia T. San Pablo/E Tabinas Enterprises (San Pablo) on the ground that, with five vessels[4] already plying the route, the entry of a sixth vessel would cause grievous problems in berthing space and time schedule.[5]

MARINA granted the application of Sta. Clara in a decision dated January 26, 2004, the dispositive portion of which read:

WHEREFORE, for all foregoing considerations and finding that the Applicant is a domestic corporation, legally and financially capable to operate and maintain the existing service; that the approval of the instant application will promote public interest and convenience in a proper and suitable manner, this Authority hereby grants Applicant, Sta. Clara Shipping Corporation, a Certificate of Public Convenience (CPC) to operate the ship, MV KING FREDERICK, in the route: Matnog, Sorsogon - Allen, Northern Samar and vice-versa, for the carriage of passengers and cargoes, for a period of FIVE (5) YEARS from date hereof, subject to the following conditions:

- That the terms and conditions set forth in the attached Certificate of Public Convenience and its Rider thereto shall remain in full force and effect;
- That the Applicant shall submit the ship's renewed Certificate of Inspection (CI), Coastwise License (CWL), Radio/Ship Station License, Class Certificate and Safety Management Certificate prior to every expiration thereof, and the ship's Passenger Insurance Coverage fifteen (15) days prior to every expiration thereof, otherwise, this Certificate of Public Convenience (CPC) shall be deemed suspended until compliance/submission thereof;
- That the Applicant shall at all times carry on board its ship a copy of the latest authority to operate (CPC/PA/SP), the PMMRR 1997, relevant MARINA/PCG/PPA Circulars/Issuances, the SOLAS 74 as amended, Collision Regulations 1972, STCW Convention 1978/95, among other IMO Conventions;
- That the Applicant shall comply with the provisions of MARINA Memorandum Circular No. 154 dated 23 February 2000 on "Reiteration of Safety-Related Policies/Guidelines/Rules and Regulations For Guidance and Strict Compliance"; and

- That any violation of the terms and conditions of this Certificate of Public Convenience shall result to the suspension/cancellation and/or revocation thereof.

(Approved during the 99[th] Quasi-Judicial Board Meeting held on 22 December 2003.)

SO ORDERED.[6]

Accordingly, a CPC[7] was issued to Sta. Clara to operate MV King Frederick for a period of five (5) years beginning January 26, 2004.

Counsel for San Pablo received copy of the decision on February 26, 2004.[8] Her authorized representative received another copy on February 27, 2004.[9] However, it was only on May 14, 2004 that San Pablo filed with MARINA a motion for reconsideration.[10] Consequently, MARINA denied the motion for reconsideration for having been filed out of time, citing Rule 17 of Memorandum Circular No. 74-A which provides that a decision becomes final unless a motion for reconsideration or appeal is filed within 15 days from receipt thereof.[11]

San Pablo filed a petition for review with the CA.[12]

The CA granted the petition in a decision dated May 31, 2005, the dispositive portion of which read:

UPON THE VIEW WE TAKE OF THIS CASE, THUS, the petition at bench must be, as it is hereby GRANTED. The decision of the MARINA in Maritime Industry Case No. 2001-033 dated January 26, 2004 and its Resolution dated September 16, 2004 denying petitioner's Motion for Reconsideration are hereby VACATED and SET ASIDE. Without costs in this instance.

SO ORDERED.[13]

Meanwhile, two events transpired which altered the state of facts in this case.

First, Republic Act (RA) 9295[14] and its implementing rules and regulations[15] were issued requiring existing operators to apply for CPCs under the new law.[16] Thus, on May 4, 2005, Sta. Clara filed with the Legaspi Maritime Regional Office (LMRO) an application, docketed as Case No. LMRO 05-056, for a new CPC to operate MV King Frederick and two other vessels in several routes including Matnog, Sorsogon-Allen, Northern Samar and vice versa.[17]

Second, on June 6, 2005, LMRO granted the application of Sta. Clara for a new CPC:

WHEREFORE, upon the foregoing holdings, and finding that applicant corporation is legally and financially capable to operate and maintain the proposed service; that the approval of the instant application will promote public interest and convenience in proper and suitable manner, this Authority hereby grants applicant corporation STA. CLARA SHIPPING CORPORATION a CERTIFICATE OF PUBLIC CONVENIENCE (CPC) to operate the vessels MV KING FREDERICK, MV NELVIN JULES and MV HANSEL JOBETT for conveyance of passengers and cargoes in the applied route valid for a period of FIFTEEN (15) YEARS from date hereof, subject to the terms and conditions set forth in the attached Certificate of Public Convenience.

This decision takes effect immediately and shall become final, unless an appeal or a timely motion for reconsideration has been filed within fifteen (15) days from receipt hereof.

SO ORDERED.[18]

Yet, on June 24, 2005, Sta. Clara filed a motion for reconsideration[19] of the CA decision without disclosing that it had obtained a new CPC for MV King Frederick. It was San Pablo who reported this development to the CA when she filed a motion to hold Sta. Clara in contempt of court and to cancel its new CPC.[20]

On July 27, 2005, the CA issued two resolutions, one denying Sta. Clara's motion for reconsideration,[21] and

another granting the motion of San Pablo to cancel the new CPC issued to Sta. Clara by the LMRO:

WHEREFORE, public respondent Marina's Decision dated June 6, 2005, in so far as it grants private respondent Sta. Clara Shipping Corporation a Certificate of Public Convenience (CPC) to operate the vessel KING FREDERICK is hereby RESCINDED, NULLIFIED and SET ASIDE. The public respondent Legaspi Maritime Regional Office (LMRO), through its Regional Director, Mr. Lucita T. Madarang, is thus ordered to explain why she should not be cited for contempt for rendering the assailed decision in LMRO 05-056.

SO ORDERED.[22]

Hence, Santa Clara took the present recourse on the following grounds:

- I. The honorable Court of Appeals gravely and seriously erred in failing to consider and take judicial notice of the passage of RA 9295 in the resolution of the petition filed before it.
- II. The honorable Court of Appeals gravely and seriously erred in reversing the decision of the honorable MARINA [despite] the fact that it has become final and executory.
- III. The honorable Court of Appeals gravely and seriously erred in reversing the decision of the honorable MARINA despite the fact that the decision is in perfect accord with law and jurisprudence.
- IV. The honorable Court of Appeals gravely and seriously erred in nullifying the CPC issued to petitioner pursuant to RA 9295.[23]

The petition has merit outside of its arguments.

The Court notes that Sta. Clara repeatedly argued in its pleadings that the January 26, 2004 MARINA decision was superseded by the June 6, 2005 LMRO decision, and that the old CPC of MV King Frederick was replaced by a new CPC issued in accordance with RA 9295 and its implementing rules.[24] San Pablo herself agreed that the January 26, 2004 MARINA decision was deemed abandoned when Sta. Clara applied for and obtained a new CPC.[25]

There is no dispute then that the January 26, 2004 MARINA decision and the old CPC are now defunct.

The January 26, 2004 MARINA decision and the old CPC were the subject matter of the petition of San Pablo before the CA. The reversal of the decision and the revocation of the CPC were the reliefs sought in that petition. However, the passage of RA 9295 and the filing by Sta. Clara of an application for a new CPC under the new law supervened and rendered the January 26, 2004 MARINA decision and old CPC of no consequence. There was no more justiciable controversy for the CA to decide, no remedy to grant or deny. The petition before the CA had become purely hypothetical, there being nothing left to act upon.[26]

Although Sta. Clara filed with the CA a motion for reconsideration of its May 31, 2005 decision without disclosing the foregoing developments, by the time the CA resolved the motion for reconsideration, it was already aware of the changes in the situation of the parties: specifically, that Sta. Clara had filed a new application under RA 9295 and that the LMRO had issued Sta. Clara a new CPC.[27] More significantly, the new CPC issued to Sta. Clara was now subject to the rules implementing RA 9295. Under Rule XV, Sec. 1 thereof, a peculiar process of administrative remedy provides that the MARINA Administrator, and not the CA, is vested with primary jurisdiction over matters relating to the issuance of a CPC.[28]

Under the altered state of facts, the CA should have refrained from resolving the pending motions before it and should have declared the case mooted by supervening events.[29] Besides, questions on the validity of the new CPC are cognizable by the MARINA Administrator and, consonant with the doctrine of primary administrative jurisdiction, the CA should have referred San Pablo to MARINA for the resolution of her challenge to the validity

of the new CPC of Sta. Clara. The CA ought to have given due deference to the exercise by MARINA of its sound administrative discretion in applying its special knowledge, experience and expertise to determine the technical and intricate factual matters relating to the new CPC of Sta. Clara.[30]

The Court finds no need to resolve the other issues raised by San Pablo for they deal with the merits of the very controversy which supervening events have rendered merely theoretical. The Court must refrain from even expressing an opinion on the remaining issues as the determination thereof would be of no practical use or value, there being no more justiciable controversy to speak of.[31]

WHEREFORE, the decision dated May 31, 2005 and resolutions dated July 27, 2005 of the Court of Appeals are hereby ANNULLED and SET ASIDE on the ground of mootness.

No costs.

SO ORDERED.

Velasco, Jr., Nachura, Peralta, and Mendoza, JJ., concur.

[1] Penned by Associate Justice Renato C. Dacudao and concurred in by Associate Justices Edgardo F. Sundiam and Rosalinda Asuncion-Vicente; rollo, p. 94. The decision annulled the January 26, 2004 decision of the Maritime Industry Authority in Case No. 2001-033 and cancelled the old CPC of MV King Frederick.

[2] Id., pp. 130 and 157. The first July 27, 2005 resolution denied the motion for reconsideration of Sta. Clara. The second July 27, 2005 resolution annulled the June 6, 2005 decision of the Legaspi Maritime Regional Office in Case No. LMRO-05-056 and cancelled the new CPC of MV King Frederick.

[3] Originally docketed as Case No. 20-072 (rollo, p. 33), the application was amended and docketed as Case No. 2001-033 (rollo, p. 54).

[4] Namely, MV Northern Samar, MV Princess Bicolandia and MV Princess of Mayon (all owned by Bicolandia, et al.) and MV Maharlika I and MV Maharlika II owned by St. Bernard Service Corp.

[5] Motion to Dismiss, rollo, p. 35.

[6] Rollo, pp. 74-75.

[7] Id., p. 77.

[8] Id., p. 75.

[9] Id.

[10] Rollo, p. 79.

[11] Id., p. 85.

[12] CA rollo, p. 2.

[13] Supra at 1, p. 114.

[14] RA 9295, also known as the Domestic Shipping Development Act of 2004, approved May 3, 2004.

[15] Dated November 30, 2004.

[16] Rule XVII, Sec. 1 provides: "Within six (6) months upon the effectivity of the IRR, existing liner and tramp

operators shall be required to file appropriate application for issuance of CPC under the Act and this IRR."

[17] As cited in the Decision dated June 6, 2005 of the LMRO, rollo, p. 300.

[18] Id.

[19] Rollo, p. 117.

[20] Id., pp. 140-141.

[21] Supra at 2.

[22] Rollo, p. 154.

[23] Id., p. 12.

[24] Petition, rollo, pp. 25-26; Reply, rollo, pp. 328-329; Memorandum, rollo, pp. 360-361.

[25] Memorandum, rollo, p. 456.

[26] Rogelio Antalan v. Hon. Aniano Desierto, G.R. No. 152258, 30 November 2006, 509 SCRA 176.

[28] The new CPC is fundamentally different from the old CPC in that the new expires in 15 years while the old in 5 years; and the new is issued to the operator or owner while the old was issued to the vessel. Hence, the new CPC cannot be considered the mere extension of the old CPC.

[29] Mattel, Inc. v. Emma Francisco, G.R. No. 166886, 30 July 2008, 560 SCRA 504. See Felipe Magbanua, et al. v. Rizalino Uy, G.R. No. 161003, 6 May 2005, 458 SCRA 184.

[30] Spouses Edmundo Osea and Ligaya Osea v. Antonio Ambrosio and Rodolfo Perez, G.R. No. 162774, 7 April 2006, 486 SCRA 599.

[31] Josue Engano v. Honorable Court of Appeals, et al., G.R. No. 156959, 27 June 2006, 493 SCRA 323.

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