

**SALVACION VILLANUEVA, TEOFILO TREDEZ, DONALD BUNDAC,
DANNY CABIGUEN, GREGORIO DELGADO, AND BILLY BUNGAR,
PETITIONERS, VS. PALAWAN COUNCIL FOR SUSTAINABLE
DEVELOPMENT, REPRESENTED...**

G.R. No. 178347. February 25, 2013

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

“The writ of certiorari is an extraordinary remedy that the Court issues only under closely defined grounds and procedures that litigants and their lawyers must scrupulously observe.”[1]

This is a Petition for Review[2] on Certiorari of the May 7, 2007 Order[3] of the Regional Trial Court (RTC) of Palawan and Puerto Princesa City, Branch 47, which dismissed petitioners’ Petition for Certiorari and Mandamus[4] on the ground of lack of jurisdiction. The fallo of the assailed Order reads:

WHEREFORE, premises considered, finding merit in the motion to dismiss, the same is hereby granted. Hence, this case is hereby ordered DISMISSED on the ground of lack of jurisdiction, which dismissal is without prejudice.

SO ORDERED.[5]

Background

On June 19, 1992, Republic Act (RA) No. 7611 or the “Strategic Environment Plan (SEP) for Palawan Act” was signed into law. It called for the establishment of the Environmentally Critical Areas Network (ECAN), which is a “graded system of protection and development control over the whole of Palawan.”[6] The ECAN will categorize the terrestrial areas, coastal areas, and tribal lands in Palawan according to the degree of human disruption that these areas can tolerate. Core zones (consisting of all types of natural forest, mountain peaks, and habitats of endangered and rare species) are to be strictly protected and maintained free of human disruption,[7] controlled use areas allow controlled logging and mining,[8] while multiple use areas are open for development.[9] The law vested the task of creating and implementing the ECAN on the Palawan Council for Sustainable Development (PCSD).[10]

Pursuant to its rule-making authority under RA 7611,[11] the PCSD promulgated the SEP Clearance Guidelines,[12] which require all proposed undertakings in the Palawan province to have an SEP Clearance from PCSD before application for permits, licenses, patents, grants, or concessions with the relevant government agencies. Generally, the PCSD issues the clearance if the ECAN allows the type of proposed activity in the proposed site; it denies the clearance if the ECAN prohibits the type of proposed activity in the proposed site.

Factual Antecedents

The controversy in the instant case arose when PCSD issued an SEP Clearance to Patricia Louise Mining and

Development Corporation (PLMDC) for its proposed small-scale nickel mining project to be conducted in a controlled use area in Barangay Calategas in the Municipality of Narra, Province of Palawan.

The petitioners, who are farmers and residents of Barangay Calategas, sought the recall of the said clearance in their letter[13] to PCSD Chairman, Abraham Kahlil Mitra. The PCSD, through its Executive Director, Romeo B. Dorado, denied their request for lack of basis.[14]

On August 7, 2006, petitioners filed a Petition for Certiorari and Mandamus[15] against PCSD and PLMDC with the RTC of Palawan and Puerto Princesa City. They prayed for the nullification of the said SEP Clearance for violating various provisions of RA 7611[16] and PCSD Resolution No. 05-250.[17] They alleged that these provisions prohibit small-scale nickel mining for profit in the proposed site,[18] which, they maintain, is not even a controlled use zone, but actually a core zone.[19]

PLMDC[20] and PCSD sought the dismissal of the Petition on various grounds, including the impropriety of the remedy of certiorari. PCSD argued that it did not perform a quasi-judicial function.[21]

The trial court denied the said motions in its Order[22] dated September 20, 2006. It ruled, among others, that certiorari is proper to assail PCSD's action. PCSD Administrative Order (AO) No. 6 series of 2000 or the Guidelines in the Implementation of SEP Clearance System states that the PCSD must conduct a public hearing, and study the supporting documents for sufficiency and accuracy, before it decides whether to issue the clearance to the project proponent. The trial court concluded that this procedure is an exercise of a quasi-judicial power.

The trial court denied[23] reconsideration of the above Order.

PLMDC and PCSD again filed Motions to Dismiss but this time on the ground of lack of jurisdiction. They argued that, under Section 4 of Rule 65 of the Rules of Court, only the Court of Appeals [CA] can take cognizance of a Petition for Certiorari and Mandamus filed against a quasi-judicial body.[24]

The trial court agreed and issued the assailed Order.[25]

Petitioners appealed directly to this Court.

In their respective memoranda, all the parties submitted that PCSD is exercising quasi-judicial functions.[26] They only diverge on the issue of which court – the CA or the RTC – has the jurisdiction to review the actions of this quasi-judicial body.

Petitioners argue that the RTC has certiorari jurisdiction over PCSD because the latter is a quasi-judicial body functioning only within the RTC's territorial jurisdiction.[27] Moreover, the RTC is the proper court following the principle of judicial hierarchy.[28]

On the other hand, respondents argue that, under Section 4 of Rule 65, only the CA can take cognizance of certiorari petitions against quasi-judicial bodies.[29]

Our Ruling

The following requisites must concur for a Petition for Certiorari to prosper, namely:

- “(a) The writ is directed against a tribunal, board, or officer exercising judicial or quasi-judicial functions;
- (b) Such tribunal, board, or officer has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction; and
- (c) There is no appeal or any plain, speedy, and adequate remedy in the ordinary course of law.”[30]

In the case at bar, the parties submit that the public respondent PCSD is exercising a quasi-judicial function in its

issuance of the SEP clearance based on the procedure it follows under its own AO 6 or Guidelines in the Implementation of SEP Clearance System.[31] This procedure includes reviewing the sufficiency and accuracy of the documents submitted by the project proponent and conducting public hearings or consultations with the affected community.

The Court disagrees with the parties' reasoning and holds that PCSD did not perform a quasi-judicial function that is reviewable by petition for certiorari.

There must be an enabling statute or legislative act conferring quasi-judicial power upon the administrative body.[32] RA 7611, which created the PCSD, does not confer quasi-judicial powers on the said body:

SEC. 19. Powers and Functions. – In order to successfully implement the provisions of this Act, the Council is hereby vested with the following powers and functions:

- (1) Formulate plans and policies as may be necessary to carry out the provisions of this Act.
- (2) Coordinate with the local governments to ensure that the latter's plans, programs and projects are aligned with the plans, programs and policies of the SEP.
- (3) Call on any department, bureau, office, agency or instrumentality of the Government, and on private entities and organizations for cooperation and assistance in the performance of its functions.
- (4) Arrange, negotiate for, accept donations, grants, gifts, loans, and other fundings from domestic and foreign sources to carry out the activities and purposes of the SEP.
- (5) Recommend to the Congress of the Philippines such matters that may require legislation in support of the objectives of the SEP.
- (6) Delegate any or all of its powers and functions to its support staff, as hereinafter provided, except those which by provisions of law cannot be delegated;
- (7) Establish policies and guidelines for employment on the basis of merit, technical competence and moral character and prescribe a compensation and staffing pattern;
- (8) Adopt, amend and rescind such rules and regulations and impose penalties therefor for the effective implementation of the SEP and the other provisions of this Act.
- (9) Enforce the provisions of this Act and other existing laws, rules and regulations similar to or complementary with this Act;
- (10) Perform related functions which shall promote the development, conservation, management, protection, and utilization of the natural resources of Palawan; and
- (11) Perform such other powers and functions as may be necessary in carrying out its functions, powers, and the provisions of this Act.

Save possibly for the power to impose penalties[33] under Section 19(8) (which is not involved in PCSD's issuance of an SEP Clearance), the rest of the conferred powers, and the powers necessarily implied from them, do not include adjudication or a quasi-judicial function.

Instead of reviewing the powers granted by law to PCSD, the trial court found the following procedure outlined in PCSD's AO 6, as supposedly descriptive of an adjudicatory process:

1. The project proponent submits a brief description of the processes it seeks to undertake and the location and description of the proposed project site.[34]

2. The PCSD staff reviews the sufficiency and accuracy of these documents, and conducts a field validation.[35]
3. The PCSD staff may conduct public consultations or public hearings to determine the acceptability of the project in the community.[36]
4. The evaluation of the project shall be based on the ECAN Zoning of Palawan, ecological sustainability, social acceptability, and economic viability of the project.[37]
5. The staff makes an evaluation report, stating therein his recommended action, for the consideration of the PCSD.[38]
6. The PCSD may issue or deny the SEP clearance.[39]
7. In case of approval, the SEP clearance, together with the evaluation reports, shall be transmitted to the DENR as bases for the latter's subsequent processing of the required permits.[40]
8. In case of denial, the project proponent may seek reconsideration. PCSD's action on the reconsideration is considered final and executory.[41]
9. The DENR will undertake an independent evaluation of the project and shall not in any way be prejudiced by the PCSD's actions.[42]

The Court disagrees.

First, PCSD AO 6, cited by the trial court and the parties, cannot confer a quasi-judicial power on PCSD that its enabling statute clearly withheld. An agency's power to formulate rules for the proper discharge of its functions is always circumscribed by the enabling statute.[43] Otherwise, any agency conferred with rule-making power, may circumvent legislative intent by creating new powers for itself through an administrative order.

More importantly, the procedure outlined in PCSD AO 6 does not involve adjudication. A government agency performs adjudicatory functions when it renders decisions or awards that determine the rights of adversarial parties, which decisions or awards have the same effect as a judgment of the court.[44] These decisions are binding, such that when they attain finality, they have the effect of *res judicata* that even the courts of justice have to respect.[45] As we have held in one case,[46] "[j]udicial or quasi-judicial function involves the determination of what the law is, and what the legal rights of the contending parties are, with respect to the matter in controversy and, on the basis thereof and the facts obtaining, the adjudication of their respective rights. In other words, the tribunal, board or officer exercising judicial or quasi-judicial function must be clothed with power and authority to pass judgment or render a decision on the controversy construing and applying the laws to that end."

In issuing an SEP Clearance, the PCSD does not decide the rights and obligations of adverse parties with finality. The SEP Clearance is not even a license or permit. All it does is to allow the project proponent to proceed with its application for permits, licenses, patents, grants, or concessions with the relevant government agencies. The SEP Clearance allows the project proponent to prove the viability of their project, their capacity to prevent environmental damage, and other legal requirements, to the other concerned government agencies.[47] The SEP Clearance in favor of PLMDC does not declare that the project proponent has an enforceable mining right within the Municipality of Narra; neither does it adjudicate that the concerned citizens of the said municipality have an obligation to respect PLMDC's right to mining. In fact, as seen in Section 5 of AO 6, the PCSD bases its actions, not on the legal rights and obligations of the parties (which is necessary in adjudication), but on policy considerations, such as social acceptability, ecological sustainability, and economic viability of the project.

Further, PCSD's receipt of documents and ascertainment of their sufficiency and accuracy are not indicative of a

judicial function. It is, at most, an investigatory function to determine the truth behind the claims of the project proponent. This Court has held that the power to investigate is not the same as adjudication,[48] so long as there is no final determination of the parties' respective rights and obligations.

Lastly, the fact that the PCSD conducts public consultations or hearings does not mean that it is performing quasi-judicial functions. AO 6 defines public hearing/public consultation simply as an "activity undertaken by PCSD to gather facts and thresh out all issues, concerns and apprehensions and at the same time provide the project proponent with the opportunity to present the project to the affected community." [49] Its purpose is not to adjudicate the rights of contending parties but only to "ascertain the acceptability of the project in the community and to ensure that the interests of all stakeholders are considered," [50] pursuant to RA 7611's policy of "encourag[ing] the involvement of all sectors of society and maximiz[ing] people participation x x x in natural resource management, conservation and protection." [51] On the other hand, the purpose of hearings in judicial bodies is to ascertain the truth of the parties' claims through an adversarial process. Clearly, the purpose of PCSD's public consultations is not for adversaries to pit their claims against each other. Since the PCSD's actions cannot be considered quasi-judicial, the same cannot be reviewed via a special civil action for certiorari. Where an administrative body or officer does not exercise judicial or quasi-judicial power, certiorari does not lie.[52]

A review of the Petition for Certiorari reveals another flaw. The alleged grounds for the nullity of the SEP Clearance are its violations of certain provisions of RA 7611 and PCSD Resolution No. 05-250. Clearly, an ordinary action for the nullification of the SEP Clearance is a plain, speedy, and adequate remedy available to the petitioners, which precludes resort to a special civil action.[53] This ordinary action will allow the parties to litigate factual issues, such as petitioners' contention that PLMDC's proposed mining site is in a core zone, it being in a natural forest and a critical watershed, contrary to PCSD's claim that it is in a controlled use zone. Certiorari would not have provided the petitioners with such an opportunity because it is limited to questions of jurisdiction and does not resolve factual matters.[54] Certiorari does not involve a full-blown trial but is generally restricted to the filing of pleadings (petition, comment, reply, and memoranda), unless the court opts to hear the case.[55] Since an ordinary action is available and in fact appears to be more appropriate, petitioners were wrong to resort to the extraordinary remedy of certiorari.

The same fate befalls the Petition for Mandamus. Petitioners prayed that the PCSD be compelled to comply with the provisions of RA 7611. Clearly, the success of the Petition for Mandamus depends on a prior finding that the PCSD violated RA 7611 in issuing the SEP Clearance. There can be no such finding with the dismissal of the Petition for Certiorari.

Given the foregoing, it is no longer necessary to resolve the jurisdictional issue presented by the parties.

WHEREFORE, premises considered, the assailed May 7, 2007 Order of Branch 47 of the Regional Trial Court of Palawan and Puerto Princesa City dismissing the Petition for Certiorari and Mandamus, docketed as Civil Case No. 4218, is **AFFIRMED** but for being an **IMPROPER REMEDY**.

SO ORDERED.

Carpio, (Chairperson), Perez, Mendoza,[*] and Perlas-Bernabe, JJ., concur.

[*] Per Special Order No. 1421 dated February 20, 2013.

[1] Chamber of Real Estate and Builders' Associations, Inc. (CREBA) v. Energy Regulatory Commission (ERC),

G.R. No. 174697, July 8, 2010, 624 SCRA 556, 574.

[2] Rollo, pp. 3-26.

[3] Records, pp. 493-494; penned by Presiding Judge Jocelyn Sundiang Dilig.

[4] Id. at 1-19.

[5] Id. at 494.

[6] Republic Act No. 7611, Sec. 7.

[7] Id., Section 9(1).

[8] Id., Section 9(2)(b).

[9] Id., Section 9(3).

[10] Id., Section 16.

[11] Id., Section 19.

[12] PCSD Administrative Order No. 6, series of 2000.

[13] Records, pp. 27-30.

[14] Id. at 81.

[15] Id. at 1-19.

[16] SEC. 7. Environmentally Critical Areas Network (ECAN). – The SEP shall establish a graded system of protection and development control over the whole of Palawan, including its tribal lands, forest, mines, agricultural areas, settlement areas, small islands mangroves, coral reefs, seagrass beds and the surrounding sea. This shall be known as the Environmentally Critical Areas Network, hereinafter referred to as ECAN, and shall serve as the main strategy of the SEP.

The ECAN shall ensure the following:

x x x x

(2) Protection of watersheds; (Emphasis supplied)

SEC. 9. Terrestrial Component: Management Scheme and Zonation. – The terrestrial component may be further subdivided into smaller management components for a more efficient supervision. These management components, in turn, shall each be further subdivided into the following zones:

(1) Area of maximum protection or core zone – This zone shall be fully and strictly protected and maintained free of human disruption. Included here are all types of natural forest which include first growth forest, residual forest and edges of intact forest, areas above one thousand (1,000) meters elevation, peaks of mountains or other areas with very steep gradients, and endangered habitats and habitats of endangered and rare species. Exceptions, however, may be granted to traditional uses of tribal communities of these areas for minimal and soft impact gathering of forest species for ceremonial and medicinal purposes.

x x x x (Emphasis supplied)

[17] Section 10. Allowable Activities. Activities allowed by R.A. 7611 in the ECAN Terrestrial Zones are the following:

x x x x

(b) Buffer Zone. Certain development endeavors may be subjected to the EIA System and to other laws and rules regulating development projects under this zone, such as but not limited to the following:

x x x x

b. Controlled Use Area: Strictly controlled mining and logging, which is not for profit (i.e. communal forest, CBFM, etc.), almaciga tapping, tourism development, research, grazing and gathering of honey, rattan and other minor forest products may be allowed. (Emphasis supplied) (Resolution Adopting the Revised Guidelines in Implementing the Environmentally Critical Areas Network, The Main Strategy of the Strategic Environment Plan (SEP) for Palawan, Amending PCSD Resolution Nos. 94-44 & 99-144).

[18] Records, p. 14.

[19] Id. at 12-14.

[20] Id. at 295-301.

[21] Id. at 277-278.

[22] Id. at 400-405.

[23] Id. at 459-462.

[24] Id. at 466-468, 479-480.

[25] Id. at 493-494.

[26] Rollo, pp. 313, 332-333, 347.

[27] Id. at 335.

[28] Id. at 330-332.

[29] Id. at 297-300, 312, 347-349.

[30] Yusay v. Court of Appeals, G.R. No. 156684, April 6, 2011, 647 SCRA 269, 276-277; Rules of Court, Rule 65, Section 1.

[31] Rollo, pp. 313, 332-333.

[32] LICOMCEN, Incorporated v. Foundation Specialists, Inc., G.R. Nos. 167022 & 169678, April 4, 2011, 647 SCRA 83, 97; Biraogo v. Philippine Truth Commission of 2010, G.R. Nos. 192935 & 193036, December 7, 2010, 637 SCRA 78, 161.

[33] Pacific Steam Laundry, Inc. v. Laguna Lake Development Authority, G.R. No. 165299, December 18, 2009, 608 SCRA 442, 458-459.

[34] PCSD Administrative Order No. 6, Section 3, series of 2000.

[35] Id., Section 4.

[36] Id., Section 6.

[37] Id., Section 5.

[38] Id., Section 7.

[39] Id., Section 11.

[40] Id.

[41] Id.

[42] Id., Section 9.

[43] Smart Communications, Inc. v. National Telecommunications Commission, 456 Phil. 145, 155-156 (2003).

[44] Meralco v. Atilano, G.R. No. 166758, June 27, 2012.

[45] Gov. San Luis v. Court of Appeals, 256 Phil. 1, 14 (1989).

[46] Doran v. Judge Luczon, Jr., 534 Phil. 198, 204-205 (2006).

[47] PCSD Administrative Order No. 6, Sections 9 and 11, series of 2000.

[48] Meralco v. Atilano, supra note 44; Biraogo v. The Philippine Truth Commission of 2010, supra note 32 at 161-162; Cariño v. Commission on Human Rights, G.R. No. 96681, December 2, 1991, 204 SCRA 483, 492; Presidential Anti-Dollar Salting Task Force v. Court of Appeals, 253 Phil. 344, 358-359 (1989).

[49] PCSD Administrative Order No. 6, Section 2(23), series of 2000.

[50] Id., Section 6.

[51] Republic Act No. 7611, Sec. 2.

[52] Doran v. Judge Luczon, Jr., supra note 46 at 205.

[53] Chamber of Real Estate and Builders' Associations, Inc. (CREBA) v. Energy Regulatory Commission (ERC), supra note 1 at 572.

[54] Ong v. Philippine Deposit Insurance Corporation, G.R. No. 175116, August 18, 2010, 628 SCRA 415, 430.

[55] Rules of Court, Rule 65, Sections 6 and 8.

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