

UNIVERSAL ROBINA CORP. (CORN DIVISION), PETITIONER, VS. LAGUNA LAKE DEVELOPMENT AUTHORITY, RESPONDENT.

G.R. No. 191427. May 30, 2011

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

The present petition for review on certiorari assails the Court of Appeals Decision[1] dated October 27, 2009 and Resolution dated February 23, 2010 in CA-G. R. SP No. 107449.

Universal Robina Corp. (petitioner) is engaged in, among other things, the manufacture of animal feeds at its plant in Bagong Ilog, Pasig City.

Laguna Lake Development Authority (LLDA), respondent, through its Pollution Control Division - Monitoring and Enforcement Section, after conducting on March 14, 2000 a laboratory analysis of petitioner's corn oil refinery plant's wastewater, found that it failed to comply with government standards provided under Department of Environment and Natural Resources (DENR) Administrative Orders (DAOs) Nos. 34 and 35, series of 1990.

LLDA later issued on May 30, 2000 an Ex-Parte Order requiring petitioner to explain why no order should be issued for the cessation of its operations due to its discharge of pollutive effluents into the Pasig River and why it was operating without a clearance/permit from the LLDA.

Still later, the LLDA, after receiving a phone-in complaint conducted on August 31, 2000, another analysis of petitioner's wastewater, which showed its continued failure to conform to its effluent standard in terms of Total Suspended Solids (TSS), Biochemical Oxygen Demand (BOD), Color and Oil/Grease.

Hearings on petitioner's pollution case were thereafter commenced on March 1, 2001.

Despite subsequent compliance monitoring and inspections conducted by the LLDA, petitioner's wastewater failed to conform to the parameters set by the aforementioned DAOs.

In early 2003, petitioner notified LLDA of its plan to upgrade the wastewater treatment facility (WTF) of its corn oil refinery plant in an effort to comply with environmental laws, an upgrade that was completed only in 2007.

On May 9, 2007 on its request,[2] a re-sampling of petitioner's wastewater was conducted which showed that petitioner's plant finally complied with government standards.

Petitioner soon requested for a reduction of penalties, by Manifestation and Motion[3] filed on August 24, 2007 to which it attached copies of its Daily Operation Reports and Certifications[4] to show that accrued daily penalties should only cover a period of 560 days.

After conducting hearings, the LLDA issued its Order to Pay[5] (OP) dated January 21, 2008, the pertinent portion of which reads:

After careful evaluation of the case, respondent is found to be discharging pollutive wastewater computed in

two periods reckoned from March 14, 2000 - the date of initial sampling until November 3, 2003 - the date it requested for a re-sampling covering 932 days in consideration of the interval of time when subsequent monitoring was conducted after an interval of more than 2 years and from March 15, 2006 - the date when re-sampling was done until April 17, 2007 covering 448 days[6] for a total of 1,247 days.

WHEREFORE, premises considered, respondent is hereby ordered to pay within fifteen (15) days from receipt hereof the accumulated daily penalties amounting to a total of Pesos: One Million Two Hundred Forty-Seven (Thousand) Pesos Only (PHP 1,247,000.00) prior to dismissal of the case and without prejudice of filing another case for its subsequent violations. (emphasis and underscoring supplied)

Petitioner moved to reconsider, praying that it be ordered to pay only accumulated daily penalties in the sum of Five Hundred Sixty Thousand (P560,000) Pesos[7] on grounds that the LLDA erred in first, adopting a straight computation of the periods of violation - based on the flawed assumption that petitioner was operating on a daily basis – without excluding, among others, the period during which the LLDA Laboratory underwent rehabilitation work from December 1, 2000 to June 30, 2001 (covering 212 days); and second, in disregarding the Daily Operation Reports and Certifications which petitioner submitted to attest to the actual number of its operating days, i.e., 560 days.

By Order[8] of July 11, 2008, the LLDA denied petitioner's motion for reconsideration and reiterated its order to pay the aforestated penalties, disposing of the issues thusly:

On the first issue, while it is true that the Authority failed to state in its OP dated 21 January 2008 the basis for actual computation of the accumulated daily penalties, the Authority would like to explain that its computation was based on the following, to wit:

The computation of accumulated daily penalties was reckoned period [sic] from 14 March 2000 - the date of initial sampling to 03 November 2003 - the date when its letter request for re-sampling was received which covers 932 days computed at 6 days per week operation as reflected in the Reports of Inspection. Since subsequent inspection conducted after two (2) years and four (4) months, such period was deducted from the computation. Likewise, the period when the LLDA Laboratory was rehabilitated from December 1, 2000 to June 30, 2001 was also deducted with a total of Two Hundred Twelve (212) days.

On the second claim, the same cannot be granted for lack of legal basis since the documents submitted are self-serving. The period from 15 March 2006 to 17 April 2007 was computed from the date of re-sampling when it failed to conform to the standards set by law up to the date of receipt of its letter request for re-sampling prior to its compliance on May 9, 2007. The period covers 342 days.

Hence, respondent is found to be discharging pollutive wastewater not conforming with the standards set by law computed from March 14, 2000 - November 3, 2003 covering 932 days and from March 15, 2006 - April 17, 2007 covering 342 days for a total of 1,274 days.

Petitioner challenged by certiorari the twin orders before the Court of Appeals, attributing to LLDA grave abuse of discretion in disregarding its documentary evidence, and maintaining that the lack of any plain, speedy or adequate remedy from the enforcement of LLDA's order justified such recourse as an exception to the rule requiring exhaustion of administrative remedies prior to judicial action.

By Decision of October 27, 2009 the appellate court affirmed both LLDA orders, which it found to be amply supported by substantial evidence, the computation of the accumulated daily penalties being in accord with prevailing DENR guidelines. The appellate court held that while petitioner may have offered documentary evidence to support its assertion that the days when it did not operate must be excluded from the computation, the LLDA has the prerogative to disregard the same for being unverified, hence, unreliable.

The appellate court went on to chide petitioner's petition for certiorari as premature since the law provides for an appeal from decisions or orders of the LLDA to the DENR Secretary or the Office of the President, a remedy which should have first been exhausted before invoking judicial intervention.[9]

Petitioner's motion for reconsideration having been denied by Resolution of February 23, 2010, it filed the present petition.

Petitioner cites deprivation of due process and lack of any plain, speedy or adequate remedy as grounds which exempted it from complying with the rule on exhaustion of administrative remedies.

The petition fails.

The doctrine of exhaustion of administrative remedies is a cornerstone of our judicial system. The thrust of the rule is that courts must allow administrative agencies to carry out their functions and discharge their responsibilities within the specialized areas of their respective competence.[10] The rationale for this doctrine is obvious. It entails lesser expenses and provides for the speedier resolution of controversies. Comity and convenience also impel courts of justice to shy away from a dispute until the system of administrative redress has been completed.[11]

Executive Order No. 192[12] (EO 192) was issued on June 10, 1987 for the salutary purpose of reorganizing the DENR, charging it with the task of promulgating rules and regulations for the control of water, air and land pollution as well as of promulgating ambient and effluent standards for water and air quality including the allowable levels of other pollutants and radiations. EO 192 also created the Pollution Adjudication Board under the Office of the DENR Secretary which took over the powers and functions of the National Pollution Control Commission with respect to the adjudication of pollution cases, including the latter's role as arbitrator for determining reparation, or restitution of the damages and losses resulting from pollution.[13]

Petitioner had thus available administrative remedy of appeal to the DENR Secretary. Its contrary arguments to show that an appeal to the DENR Secretary would be an exercise in futility as the latter merely adopts the LLDA's findings is at best, speculative and presumptuous.

As for petitioner's invocation of due process, it fails too. The appellate court thus aptly brushed aside this claim, in this wise:

Due process, as a constitutional precept, does not always and in all situations require a trial-type proceeding. Due process is satisfied when a person is notified of the charge against him and given an opportunity to explain or defend himself. In administrative proceedings, the filing of charges and giving reasonable opportunity for the person so charged to answer the accusations against him constitute the minimum requirements of due process. The essence of due process is simply to be heard, or as applied to administrative proceedings, an opportunity to explain one's side, or an opportunity to seek a reconsideration of the action or ruling complained of.

. . . Administrative due process cannot be fully equated with due process in its strict judicial sense for it is enough that the party is given the chance to be heard before the case against him is decided.

Here, petitioner URC was given ample opportunities to be heard - it was given show cause orders and allowed to participate in hearing to rebut the allegation against it of discharging pollutive wastewater to the Pasig River, it was given the chance to present evidences in support of its claims, it was notified of the assailed "Order to Pay," and it was allowed to file a motion for reconsideration. Given these, we are of the view that the minimum requirements of administrative due process have been complied with in this case.[14] (emphasis in the original)

In fine, the assailed LLDA orders of January 21, 2008 and July 11, 2008 correctly reckoned the two periods

within which petitioner was found to have continued discharging pollutive wastewater and applied the penalty as provided for under Article VI, Section 32 of LLDA Resolution No. 33, Series of 1996.[15] LLDA's explanation that behind its inclusion of certain days in its computation of the impossible penalties - that it had already deducted not just the period during which the LLDA Laboratory underwent rehabilitation work from December 1, 2000 to June 30, 2001 (covering 212 days) but had also excluded from the computation the period during which no inspections or compliance monitorings were conducted (a period covering two years and four months) is well-taken.

It is noted that during the hearing on June 19, 2007, the LLDA gave petitioner the opportunity "to submit within fifteen (15) days....any valid documents to show proof of its non-operating dates that would be necessary for the possible reduction of the accumulated daily penalties,"[16] but petitioner failed to comply therewith.

As earlier noted, petitioner filed a Manifestation and Motion to which it attached Daily Operation Reports and Certifications, which voluminous documents were, however, unverified in derogation of Rule X, Section 2[17] of the 2004 Revised Rules, Regulations and Procedures Implementing Republic Act No. 4850. Absent such verification, the LLDA may not be faulted for treating such evidence to be purely self-serving.

Respecting LLDA's decision not to attach any evidentiary weight to the Daily Operation Reports or Certifications, recall that the LLDA conducted an analysis of petitioner's wastewater discharge on August 31, 2000, upon receiving a phone-in complaint. And it conducted too an analysis on May 3, 2002 in the course of periodic compliance monitoring. The Daily Operation Reports for both August 31, 2000[18] and May 3, 2002[19] submitted by petitioner clearly manifest that the plant did not operate on those dates. On the other hand, LLDA's Investigation Report and Report of Inspection[20] dated August 31, 2000 and May 3, 2002, respectively, disclose otherwise. Petitioner never disputed the factual findings reflected in these reports. Thus spawns doubts on the veracity and accuracy of the Daily Operation Reports.

Petitioner asserts that LLDA had not credited it for undertaking remedial measures to rehabilitate its wastewater treatment facility, despite the prohibitive costs and at a time when its income from the agro-industrial business was already severely affected by a poor business climate; and that the enforcement of the assailed LLDA orders amounted to a gross disincentive to its business.

Without belaboring petitioner's assertions, it must be underscored that the protection of the environment, including bodies of water, is no less urgent or vital than the pressing concerns of private enterprises, big or small. Everyone must do their share to conserve the national patrimony's meager resources for the benefit of not only this generation, but of those to follow. The length of time alone it took petitioner to upgrade its WTF (from 2003 to 2007), a move arrived at only under threat of continuing sanctions, militates against any genuine concern for the well-being of the country's waterways.

WHEREFORE, the petition is DENIED. The October 27, 2009 Decision and the February 23, 2010 Resolution, of the Court of Appeals in CA-G. R. SP No. 107449, are AFFIRMED.

SO ORDERED.

Brion, Bersamin, Villarama, Jr., and Sereno, JJ., concur.

[1] Penned by Associate Justice Marlene Gonzales-Sison with the concurrence of Associate Justices Andres B. Reyes, Jr. and Vicente S.E. Veloso, CA rollo, pp. 2147-2156.

[2] Vide Letter dated March 22, 2007 which was received by the LLDA on April 17, 2007, CA rollo, p. 51.

[3] Id. at 39-42.

[4] Annexes "1" to "23," id. at 53-2045.

[5] Rollo, pp. 43-46.

[6] Mistakenly stated as 448 days instead of only 342 days as rectified in the subsequent order denying petitioner's motion for reconsideration, *infra*.

[7] Covering a period of 560 days.

[8] Id. at 51-53.

[9] Vide note 1 at 2150-2154.

[10] *Caballes v. Perez-Sison*, G.R. No. 131759, March 23, 2004, 426 SCRA 98.

[11] *Estrada v. Court of Appeals*, G.R. No. 137862, November 11, 2004, 442 SCRA 117.

[12] 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.

[13] *The Alexandria Condominium Corporation v. Laguna Lake Development Authority*, G.R. No. 169228, September 11, 2009.

[14] Vide note 1 at 2155-2156.

[15] Section 32. Penalty for Violating the Prohibited Acts. Any person who shall violate any of the provisions of Article V of these rules and regulations or any order or decision of the Authority, shall be liable to a penalty of not to exceed one thousand pesos (P1,000) for each day during which such violation or default continues, or by imprisonment of from two (2) years to six (6) years, or both fine and imprisonment after due notice and hearing, and in addition such person maybe required or enjoined from continuing such violation.

[16] Vide note 4 at 45.

[17] Section 2. Computation of Penalties for Pollution Related Cases. The amount of penalties shall be computed in accordance with the existing guidelines of the Committee. The amount of penalties shall be computed from the date of initial sampling when the violation was discovered until the date of the actual cessation of the pollution or actual clearance of the source of pollution unless the actual number of days of discharge is proven otherwise by the respondent through verified documentary evidence.

[18] Annex "1-156," CA rollo, p. 208.

[19] Annex "9-107," id. at 654.

[20] Id. at 2104-2112.

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