

BF NORTHWEST HOMEOWNERS ASSOCIATION, INC., PETITIONER, VS. INTERMEDIATE APPELLATE COURT AND BF HOMES, INC., RESPONDENTS.

G.R. No. 72370, May 29, 1987

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

The core issue for resolution is: which Court has jurisdiction over actions to annul Orders, Resolutions and/or Decisions of the National Water Resources Council (NWRC) relative to water rates -- the Regional Trial Court or the Court of Appeals?

The antecedent facts have been succinctly stated in the Solicitor General's Comment as follows:

"Respondent BF Homes, Inc. is a subdivision owner and developer in Paranaque, Metro, Manila. In 1973, BF Homes, Inc. filed a petition for a certificate of public convenience and for authority to charge water rates before the then Board of Power and Waterworks (See records of Civil Case No. 6307, RTC, Makati, Branch 143). In 1977, the Board of Power and Waterworks was abolished and its powers and functions relative to waterworks were transferred to the National Water Resources Council (NWRC) (Sec. 11 [e], PD No. 1206).

"On October 24, 1983, NWRC in its Resolution No. 22-A, series of 1983, granted a Certificate of Public Convenience to respondent BF Homes, Inc., for the operation and maintenance of waterworks system at the BF Homes Subdivision in Paranaque, Metro Manila. In the same resolution, NWRC approved the Compromise Agreement dated May 24, 1983 entered into between BF Homes, Inc. and BF Paranaque Homeowners Association, Inc., in NWRC Case No. 78-037, embodying the water rates chargeable to customers.

On November 21, 1983 and December 16, 1983, NWRC issued two other orders increasing the water rates in view of the increase in the costs of electricity. x x x " (Solicitor General's Comment, pp. 84-85, Rollo).

It is the foregoing Resolution, Orders and Compromise Agreement that triggered the institution of three separate cases set out herein below mainly by petitioner BF Northwest Homeowners Association, Inc.

The First Suit

BF Northwest Homeowners Association

Inc. vs. BF Homes, Inc.

Civil Case No. 6307 below

AC-G. R. No. 02778

On February 1, 1984, petitioner BF Northwest Homeowners Association, Inc., (the ASSOCIATION, for brevity), filed a Petition for Certiorari, Prohibition and Mandamus before the Regional Trial Court in Makati, Rizal, Branch 143 (docketed as Civil Case No. 6307), to enjoin BF Homes, Inc. (HOMES, for short) from collecting from

ASSOCIATION members the adjusted water rates for being arbitrary and unreasonable and praying that HOMES be ordered to refund monies it had collected from consumers over and above the old water rates.

Regional Trial Court Judge Zoilo Aguinaldo denied the Motion to Dismiss filed by HOMES and upheld his jurisdiction to entertain the suit. However, on Certiorari, Prohibition and Mandamus filed by HOMES before respondent Appellate Court (BF HOMES, Inc. & NWRC vs. Hon. Zoilo Aguinaldo, etc., Northwest BF Homeowners Association, Executive Villager's Society and 5-H Club, Inc., AC-G.R. No. SP-02778),[1] the latter Court, on March 27, 1984, reversed and held that the Regional Trial Court was without jurisdiction to entertain the case since NWRC, which took over the functions of the Public Service Commission, has the rank of a Regional Trial Court, hence, an NWRC decision on water rates may only be reviewed by the Supreme Court (as then provided by CA No. 146, [section 35] as amended),[2] and now by the Court of Appeals, pursuant to BP 129, Section 9 (3).[3] Said Appellate Court Decision shall hereinafter be referred to as the "SP 02778 Decision".

The Second Case

Antonio Pedro vs. B.F. Homes, Inc.

Civil Case No. 7546 below

G.R. No. 68387

On June 13, 1984, suit was filed by one Antonio Pedro, President of the ASSOCIATION, before the Regional Trial Court of Makati, Branch 148 (Civil Case No. 7546) against HOMES "to declare the Decision of the NWRC (increasing the rates chargeable by HOMES) null and void because it was rendered without hearing and, therefore, without due process of law", and to enjoin the enforcement by HOMES of those "exorbitant, confiscatory and discriminatory water rates".

On August 6, 1984, Trial Judge Jesus F. Guerrero dismissed the Complaint on the ground of lack of jurisdiction guided by the "persuasive force and effect" of the pronouncement of the Appellate Court in the "SP 02778 Decision".

Antonio Pedro challenged the Order of dismissal in a Petition for Review with Mandamus & Preliminary Writ of Injunction filed before this Court on August 23, 1984. Originally, the case was referred by this Court (Second Division) to the Appellate Court on September 3, 1984, but the latter Court, in AC-G.R. No. SP 04197[4] on September 27, 1985, returned the case to this Court, on the ground that what is involved is a "purely legal question, particularly, the issue of jurisdiction."

On July 7, 1986, this Court (Second Division), dismissed the petition for lack of merit. Antonio Pedro's Motion for Reconsideration was also denied, with the denial being declared final on August 25, 1986.

The Third Suit and Present Petition

BF Northwest Homeowners' Association Inc.

vs. BF Homes, Inc.

Civil Case No. 7584 below

AC-G.R. CV No. 04912

On June 18, 1984, or five (5) days after the Second Case was filed, petitioner ASSOCIATION instituted another ordinary civil suit (Civil Case No. 7584) with the Regional Trial Court (RTC), National Capital Region, in Makati, Branch 143, against private respondent HOMES geared towards the same objective of annulling the

Decision/Orders of the NWRC which granted HOMES authority to charge the increased water rates on the ground that it was rendered without procedural due process and without or in excess of jurisdiction and with grave abuse of discretion; and that it is not bound by the Compromise Agreement since it was not a party thereto.

The Trial Court, with Judge Zoilo Aguinaldo again presiding, dismissed the suit, on the ground of lack of jurisdiction. On appeal, respondent Appellate Court, in its Decision promulgated on August 16, 1985 in AC-G.R. CV No. 04912,[5] sustained the dismissal (1) because of the non-inclusion of the NWRC as an indispensable party defendant, and (2) on the ground of res judicata, the same issues raised having been previously litigated and decided by the Appellate Court in the "SP 02778 Decision".

Hence, this Petition, with the ASSOCIATION assailing the foregoing grounds of dismissal and seeking a re-examination of the pronouncement in the "SP 02778 Decision" that:

"since the National Water Resources Council was invested with the same powers and functions of the former Public Service Commission in so far as waterworks is concerned it is reasonable to conclude that the Commission and the Council that substituted it are identical, hence, the Council is on equal footing with the Regional Trial Court."

The re-examination sought is impressed with merit.

The National Water Resources Council (NWRC) was created by P.D. No. 424 on March 28, 1974 and was vested with the general power to coordinate and integrate water resources development, and among others, to formulate and promulgate rules and regulations for the exploitation and optimum utilization of water resources, including the imposition on water appropriators of such fees or charges as may be deemed necessary by the Council for water resources development.

P.D. No. 1067, which enacted the Water Code of the Philippines, identified the NWRC as the administrative agency for the enforcement of its provisions and was "authorized to impose and collect reasonable fees or charges for water resources development from water appropriators" (Art. 83). The provisions of said statute pertinent to this case read:

"Art. 87. The Council or its duly authorized representatives, in the exercise of its power to investigate and decide cases brought to its cognizance, shall have the power to administer oaths, compel the attendance of witnesses by subpoena and the production of relevant documents by subpoena duces tecum.

"Non-compliance or violation of such orders of subpoena and subpoena duces tecum shall be punished in the same manner as indirect contempt of an inferior court upon application by the aggrieved party with the proper Court of First Instance in accordance with the provision of Rule 71 of the Rules of Court."

"Art. 89. The decisions of the Council on water rights controversies may be appealed to the Court of First Instance of the province where the subject matter of the controversy is situated within fifteen (15) days from the date the party appealing receives a copy of the decision, on any of the following grounds: (1) grave abuse of discretion; (2) question of law; and (3) questions of fact and law." (all underscoring ours).

Plainly, the NWRC is ranked with "inferior courts", which, under the Interim Rules and Guidelines promulgated by this Court on January 11, 1983, are listed as the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts. Explicit as well is the proviso that NWRC decisions on water rights controversies are appealable to the Court of First Instance. In the light of those specific provisions, we find no room for the pronouncement of the Appellate Court in the "SP 02778 Decision" that the NWRC is at par with the Regional Trial Court.

Nor is there basis for the conclusion in the SP "02778 Decision" that because the NWRC, which substituted the

Public Service Commission, is vested with the same powers and functions as said Commission in so far as waterworks are concerned, they are identical. The Public Service Commission was abolished and replaced by several specialized regulatory boards, namely, the Board of Transportation, the Board of Communications, and the Board of Power and Waterworks (P.D. No. 1 [Integrated Reorganization Plan; Letter of Implementation No. 11. Rulings and decisions of the Boards were appealable in the same manner as the rulings and decisions of the Public Service Commission, that is, to the Supreme Court. It is those Boards therefore, which may be considered at par with the Public Service Commission.

Pursuant to P.D. No. 1206 creating the Department of Energy, the Board of Power and Waterworks was abolished and its functions relative to waterworks were transferred to the NWRC. The NWRC was not given the stature of the Public Service Commission. On the contrary, its inferior status, vis-a-vis the Public Service Commission, is further shown by the following considerations: 1) the Commissioners of the Public Service Commission were expressly conferred the rank and privileges of Judges of Courts of First Instance (Sec. 2, CA No. 146, as amended by R.A. Nos. 178 and 2677). On the other hand, the NWRC is not composed of Commissioners. Its membership is confined to specified officials headed by the Secretary of Public Works, Transportation and Communications (Sec. 3, P.D. No. 424). 2) While the Commission may summarily punish for contempt (Sec. 29, CA No. 146), the NWRC is not empowered to do so. The aggrieved party must file an application with the proper Regional Trial Court (Art. 87, P.D. No. 1067). 3) It was the Supreme Court which was vested with jurisdiction to review, modify or set aside any order, ruling, or decision of the Commission (Sec. 35, CA No. 146). In contrast, decisions of the NWRC on water rights controversies are appealable to the proper Regional Trial Court (Art. 89, P.D. No. 1067).

The logical conclusion, therefore, is that jurisdiction over actions for annulment of NWRC decisions lies with the Regional Trial Courts, particularly, when we take note of the fact that the appellate jurisdiction of the Regional Trial Court over NWRC decisions covers such broad and all embracing grounds as grave abuse of discretion, questions of law, and questions of fact and law (Art. 89, P.D. No. 1067. This conclusion is also in keeping with the Judiciary Reorganization Act of 1980, which vests Regional Trial Courts with original jurisdiction to issue writs of certiorari, prohibition, mandamus, etc. (Sec. 21 [1], B.P. Blg. 129) relating to acts or omissions of an inferior Court (Sec. 4, Rule 65, Rules of Court).

Considering the specificity with which P.D. No. 1067, a special law, treats appeals from the NWRC there is no room to apply Section 9[3] of B.P. Blg. 129, (supra), a general law, which confers exclusive appellate jurisdiction to the Court of Appeals over decisions of quasi-judicial agencies. The fact that one is special and the other is general creates a presumption that the special (P.D. No. 1067) is to be considered as remaining an exception to the general (B.P. Blg. 129, section 9[3]), one as a general law of the land, the other as the law of a particular case.[6] Neither would Section 9[2] of the same law[7] giving the Court of Appeals exclusive original jurisdiction over actions for annulment of judgments of Regional Trial Courts find applicability since the NWRC is not on equal footing with the Regional Trial Court.

The distinction made in the "SP 02778 Decision" between "water rights controversies" which it maintains are appealable to the Regional Trial Courts, and "water rates disputes" which it says are appealable to the Court of Appeals, is not, to our minds, well taken. Where the law makes no distinction, Courts should neither make one.[8] Besides, considering that rate-fixing is merely an incident to the grant of a certificate of public convenience, it would be lopsided, indeed, if disputes over water rates, should be held appealable to the Court of Appeals while controversies over water rights, the latter being the privilege granted by the government to appropriate and use water (Art. 13, P.D. No. 1067) and, therefore, a primary right, would be appealable only to the Regional Trial Court. This would also inevitably result in "split-jurisdiction" which is not favored, and in multiplicity of suits, a situation obnoxious to the orderly administration of justice.[9]

As maintained, however, by the Solicitor General and upheld by respondent Appellate Court since Decision/Orders of the NWRC are assailed, the latter agency should be impleaded as an indispensable party defendant in order that any judgment could be effective and binding on it, and so that complete relief may be accorded to the parties.

We realize that the Second Division of this Court, in dismissing the Petition in the Second Case, had affirmed, in effect, the "SP 02778 Decision" and that, ordinarily, it is a final and executory judgment. Considering, however, that under governing laws, it is clearly the Regional Trial Court which has jurisdiction over the subject matter involved herein, and that when the question of jurisdiction is concerned there is no *res judicata* nor bar by prior judgment, and the issue can be raised at any stage of the proceedings,[10] particularly, where as in this case an indispensable party, the NWRC, has not been impleaded, weightier legal considerations and the broader interests of justice constrain us to grant the re-examination prayed for.

WHEREFORE, the Decision of respondent Appellate Court in AC-G.R. No. CV-04912 is SET ASIDE, and this case remanded to the Regional Trial Court, National Capital Region, Branch 143, for trial on the merits of Civil Case No. 7584. The National Water Resources Council shall be deemed impleaded as a party defendant in the said case. No costs.

SO ORDERED.

Teehankee, C.J., Yap, Fernan, Narvasa, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, and Cortes, JJ., concur.

[1] Justice Jose F. Racela, Jr., (ponente), concurred in by Justices Simeon M. Gopengco and Lino M. Patajo.

[2] CA No. 146 x x x

SEC. 35. The Supreme Court is hereby given jurisdiction to review any order, ruling, or decision of the Commission and to modify or set aside such order, ruling, or decision when it clearly appears that there was no evidence before the Commission to support reasonably such order, ruling, or decision, or that the same is contrary to law, or that it was without the jurisdiction of the Commission. The evidence presented to the Commission, together with the record of the proceedings before the Commission, shall be certified by the secretary of the Commission to the Supreme Court. Any order, ruling, or decision of the Commission may likewise be reviewed by the Supreme Court upon a writ of certiorari in proper cases. The procedure for review, except as herein provided, shall be prescribed by rules of the Supreme Court.

[3] "Sec. 9. Jurisdiction, - The Intermediate Appellate Court shall exercise: x x x

"(3) Exclusive appellate jurisdiction over all final judgments, decisions, resolutions, orders, or awards of Regional Trial Courts and quasi-judicial agencies, instrumentalities, boards or commissions, except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution, the provisions of this Act, and of subparagraph (1) of the third paragraph and subparagraph (4) of the fourth paragraph of Section 17 of the Judiciary Act of 1948. x x x "

[4] Third Special Cases Division, composed of Justices Milagros A. German, Jose A. R. Melo, and Alfredo M. Lazaro (ponente).

[5] Penned by Justice Jorge R. Coquia, with the concurrence of Justices Mariano A. Zosa, Florelia Castro Bartolome, and Bienvenido C. Ejercito.

[6] *Sto. Domingo vs. Delos Angeles*, 96 SCRA 139 (1980).

[7] Sec. 9. Jurisdiction. - The Intermediate Appellate Court shall exercise; x x x

(2) Exclusive original jurisdiction over actions for annulment of judgments of Regional Trial Courts; and x x x x

[8] *Colgate-Palmolive Phil. Inc. vs. Gimenez*, 1 SCRA 267 (1961).

[9] *Gonzales vs. Province of Iloilo*, 38 SCRA 209 (1971).

[10] See *Calimlim, et als., vs. Hon. Pedro A. Ramirez, et als.*, No. L-34362, November 19, 1982, 118 SCRA 399; *Florendo, Jr., vs. Coloma*, L-60544, May 19, 1984, 129 SCRA 304; *Encarnacion vs. Baltazar*, L-16883, March 27, 1961, 1 SCRA 860.

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