

NATIONAL POWER CORPORATION, PETITIONER, VS. HONORABLE ABRAHAM P. VERA, PRESIDING JUDGE, REGIONAL TRIAL COURT, NATIONAL CAPITAL JUDICIAL REGION, BRANCH 90, QUEZON CITY AND SEA LI...

G.R. No. 83558. February 27, 1989

Ponente: CORTES, J.

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CORTES, J.:

Petitioner, National Power Corporation (NPC), seeks to annul the order of respondent judge dated June 8, 1988 issuing a writ of preliminary injunction which enjoined NPC from further undertaking stevedoring and arrastre services in its pier located at the Batangas Coal-Fired Thermal Power Plant at Calaca, Batangas and directing it either to enter into a contract for stevedoring and arrastre services or to conduct a public bidding therefor. Private respondent was also allowed to continue stevedoring and arrastre services at the pier.

The instant petition arose from a complaint for prohibition and mandamus with damages filed by private respondent against NPC and Philippine Ports Authority (PPA), wherein private respondent alleged that NPC had acted in bad faith and with grave abuse of discretion in not renewing its Contract for Stevedoring Services for Coal-Handling Operations at NPC's plant, and in taking over its stevedoring services.

Soon after the filing of private respondent's complaint, respondent judge issued a restraining order against NPC enjoining the latter from undertaking stevedoring services at its pier. Consequently, NPC filed an "Urgent Motion" to dissolve the restraining order, asserting, inter alia: (1) that by virtue of Presidential Decree No. 1818, respondent judge had no jurisdiction to issue the order; and (2) that private respondent, whose contract with NPC had expired prior to the commencement of the suit, failed to establish a cause of action for a writ of preliminary injunction.

Respondent judge issued the assailed Order denying NPC's motion and issuing a writ of preliminary injunction, after finding that NPC was not empowered by its Charter, Republic Act No. 6395, as amended, to engage in stevedoring and arrastre services. Hence, the instant petition.

On June 15, 1988, the Court issued a temporary restraining order. After private respondent filed its comment to the petition, and petitioner filed its reply, the Court considered the issues joined and the case submitted for decision.

After a careful study of the various allegations and issues raised in the pleadings, the Court finds merit in the petition. Indeed, the assailed Order suffers from infirmities which must be rectified by the grant of a writ of certiorari in favor of the petitioner.

A. Firstly, respondent judge acted without jurisdiction when he issued the writ of preliminary injunction against NPC.

Presidential Decree No. 1818 explicitly provides:

SECTION 1. No court in the Philippines shall have jurisdiction to issue any restraining order, preliminary injunction, or preliminary mandatory injunction in any case, dispute, or controversy involving an infrastructure project, or a mining, fishery, forest or other natural resource development project of the government, or any public utility operated by the government, including among others public utilities for the transport of the goods or commodities, stevedoring and arrastre contracts, to prohibit any person or persons, entity or government official from proceeding with, or continuing the execution or implementation of any such project, or the operation of such public utility, or pursuing any lawful activity necessary for such execution, implementation or operation.

Undeniably, NPC is a public utility, created under special legislation, engaged in the generation and distribution of electric power and energy. It, therefore, enjoys the protective mantle of the above decree.

Moreover, respondent judge's finding that NPC is not empowered by its Charter to undertake stevedoring services in its pier is erroneous.

To carry out the national policy of total electrification of the country, specifically the development of hydroelectric generation of power and the production of electricity from nuclear, geothermal and other sources to meet the needs of industrial development and dispersal and the needs of rural electrification [Secs. 1 and 2, Rep. Act No. 6395, as amended], the NPC was created and empowered not only to construct, operate and maintain power plants, reservoirs, transmission lines, and other works, but also:

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. . . To exercise such powers and do such things as may be reasonably necessary to carry out the business and purposes for which it was organized, or which, from time to time, may be declared by the Board to be necessary, useful, incidental or auxiliary to accomplish said purpose, . . . [Sec. 3 (1) of Rep. Act No. 6395, as amended.]

In determining whether or not an NPC act falls within the purview of the above provision, the Court must decide whether or not a logical and necessary relation exists between the act questioned and the corporate purpose expressed in the NPC charter. For if that act is one which is lawful in itself and not otherwise prohibited, and is done for the purpose of serving corporate ends, and reasonably contributes to the promotion of those ends in a substantial and not in a remote and fanciful sense, it may be fairly considered within the corporation's charter powers [Montelibano v. Bacolod-Murcia Milling Co., Inc., G.R. No. L-15092, May 18, 1962, 5 SCRA 36.]

This Court is guided by jurisprudence in the application of the above standard. In the 1963 case of Republic of the Philippines v. Acoje Mining Company Inc. [G.R. No. L-18062, February 28, 1963, 7 SCRA 361] the Court affirmed the rule that a corporation is not restricted to the exercise of powers expressly conferred upon it by its charter, but has the power to do what is reasonably necessary or proper to promote the interest or welfare of the corporation. Thus, the Court, finding that a "post office is a vital improvement in the living condition of its employees and laborers who came to settle in its mining camp which is far removed from the postal facilities or means of communication accorded to people living in a city or municipality" [Id., at p. 365], held that respondent mining corporation was empowered to operate and maintain postal facilities servicing its employees and their families at its mining camp in Sta. Cruz, Zambales despite absence of a provision in the company's charter authorizing the former to do so.

The Court in the case of Teresa Electric & Power Co., Inc. v. Public Service Commission and Filipinas Cement Corporation [G.R. No. L-21804, September 25, 1967, 21 SCRA 198] in interpreting a provision found in respondent corporation's articles of incorporation authorizing the corporation to perform any and all acts connected with the business of manufacturing portland cement or arising therefrom or incidental thereto,

concluded that the corporation must be deemed authorized to operate and maintain an electric power plant exclusively for its own use in connection with the operation of its cement factory in a remote barrio. The Court found that the operation of such plant was necessarily connected with the business of manufacturing cement.

In the instant case, it is an undisputed fact that the pier located at Calaca, Batangas, which is owned by NPC, receives the various shipments of coal which is used exclusively to fuel the Batangas Coal-Fired Thermal Power Plant of the NPC for the generation of electric power. The stevedoring services which involve the unloading of the coal shipments onto the NPC pier for its eventual conveyance to the power plant are incidental and indispensable to the operation of the plant. The Court holds that NPC is empowered under its Charter to undertake such services, it being reasonably necessary to the operation and maintenance of the power plant.

B. Secondly, the assailed Order was issued in grave abuse of discretion, considering: (1) that private respondent had failed to establish a right to the issuance of a writ of preliminary injunction; and (2) that the court cannot direct the exercise of a corporate prerogative.

Before a writ of preliminary injunction may be issued, there must be a clear showing by the complainant that there exists a right to be protected and that the acts against which the writ is to be directed are violative of the said right [Araneta v. Gatmaitan, 101 Phil. 328 (1957); Buayan Cattle Co., Inc. v. Quintillan, G.R. No. L-26970, March 19, 1984, 128 SCRA 276.]

In the instant case, it is an undisputed fact that private respondent's contract for stevedoring services with NPC had already expired. Admittedly, there is no existing contractual relationship between the parties. Moreover, private respondent's PPA permit for cargo handling services at the NPC Calaca pier had expired as well. On the other hand, NPC, which was under no legal obligation to renew the contract for stevedoring services with private respondent, was granted authority by the PPA to provide cargo handling services in its pier. Consequently, there was no right of private respondent that needed to be protected or preserved by a writ of preliminary injunction.

Furthermore, respondent judge's directive ordering NPC to enter into a contract for stevedoring and arrastre services or to conduct a public bidding therefor amounted to a writ of mandamus. But it is a settled rule that mandamus will lie only to compel the performance of a ministerial duty; it does not lie to require anyone to fulfill contractual obligations or compel a course of conduct, nor to control or review the exercise of discretion [Sy Ha v. Galang, G.R. No. L-18513, April 27, 1963, 7 SCRA 797; Aprueba, et al. v. Ganzon, G. R. No. L-20867, September 3, 1966, 18 SCRA 8; Avenue Arrastre & Stevedoring Corporation v. Commissioner of Customs, et al., G.R. No. L-44674, February 28, 1983, 120 SCRA 878; Tangonan v. Pano, G.R. No. L-45157, June 27, 1985, 137 SCRA 245.] As for back as 1910, in the case of Tabigue v. Duvall [16 Phil. 324], the Court laid the fundamental principle governing the issuance of a writ of mandamus that the duties to be enforced thereby must be such as are clearly and peremptorily enjoined by law or by reason of official station.

Whether NPC will enter into a contract for stevedoring and arrastre services to handle its coal shipments to its pier, or undertake the services itself, is entirely and exclusively within its corporate discretion. It does not involve a duty the performance of which is enjoined by law. Thus, the courts cannot direct the NPC in the exercise of this prerogative.

WHEREFORE, in view of the foregoing, the Court having considered the Petition, private respondent's Comment, and the Reply thereto, Resolved to GRANT the petition. The respondent Judge's Order dated June 8, 1988 is SET ASIDE and the temporary restraining order issued by the Court on June 15, 1988 is made PERMANENT.

SO ORDERED.

Fernan, C.J., Gutierrez, Jr., Feliciano, and Bidin, JJ., concur.

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