

SUNVILLE TIMBER PRODUCTS, INC., PETITIONER, VS. HON. ALFONSO G. ABAD AS JUDGE RTC, BR. 22 OF PAGADIAN CITY, COURT OF APPEALS, ISIDRO GILBOLINGO AND ROBUSTIANO BUGTAI, RESPONDENTS.

G.R. No. 85502. February 24, 1992

Ponente: CRUZ, J.

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CRUZ, J.:

The Court will focus its attention only on one of the issues raised in this petition - the correct application of the doctrine of exhaustion of administrative remedies.

The petitioner was granted a Timber License Agreement (TLA), authorizing it to cut, remove and utilize timber within the concession area covering 29,500 hectares of forest land in Zamboanga del Sur, for a period of ten years expiring on September 31, 1992.

On July 31, 1987, the herein private respondents filed a petition with the Department of Environment and Natural Resources for the cancellation of the TLA on the ground of serious violations of its conditions and the provisions of forestry laws and regulations.

The same charges were subsequently made, also by the herein private respondents, in a complaint for injunction with damages against the petitioner, which was docketed as Civil Case No. 2732 in the Regional Trial Court of Pagadian City.

The petitioner moved to dismiss this case on three grounds, to wit: 1) the court had no jurisdiction over the complaint; 2) the plaintiffs had not yet exhausted administrative remedies; and 3) the injunction sought was expressly prohibited by Section 1 of PD 605.

Judge Alfonso G. Abad denied the motion to dismiss on December 11, 1987,[1] and the motion for reconsideration on February 15, 1988.[2] The petitioner then elevated the matter to the respondent Court of Appeals, which sustained the trial court in a decision dated July 4, 1988,[3] and in its resolution of September 27, 1988, denying the motion for reconsideration.[4]

The Court of Appeals held that the doctrine of exhaustion of administrative remedies was not without exception and pointed to the several instances approved by this Court where it could be dispensed with. The respondent court found that in the case before it, the applicable exception was the urgent need for judicial intervention, which it explained thus:

The lower court found out that sometime on July 1981, the City Council of Pagadian in its Resolution No. 111 requested the Bureau of Forest Development to reserve 1,000 hectares in Lison Valley. This request remained unacted upon. Instead in 1982, a TLA covering 29,500 hectares, including the area requested, was given to petitioner.

Then, the fear expressed by the City Council of Pagadian in its resolution became reality.

"As averred in the complaint, the erosion caused by the logging operations of the defendant has caused heavy siltation not only in the Labangan River (as predicted by the City Council of Pagadian City in 1981) but also in the Tukuran River, Salug River, Sindangan River, and Sibuguey River. In other words, the adverse effects of the logging operations of the defendant have already covered a wider area than that feared to lie adversely affected by the City Council of Pagadian City.

"Floods are unknown phenomena in heavily forested areas years back, particularly in the Island of Mindanao. When the grant of logging concessions started, so was the denudation of forests. x x x It is common knowledge that heavy floods have occurred in areas/places adjoining logging concessions." (Resolution dated December 11, 1987, p. 5)

Thus, it is urgent that indiscriminate logging be stopped. Irreparable damage would ensue unless the court intervenes. Reliance on the DENR may not be enough, judging from its inaction on the council's request seven years back.

The respondent court cited in support of this conclusion the case of *De Lara v. Cloribel*,^[5] where "irreparable damage and injury" was allowed as an exceptional ground, and *Arrow Transportation Corporation v. Board of Transportation*,^[6] where the doctrine was waived because of "the strong public interest in having the matter settled" as soon as possible.

The decision also declared invalid Section 1 of PD 605, which provides:

Section 1. No court of the Philippines shall have jurisdiction to issue any restraining order, preliminary injunction or preliminary mandatory injunction in any case involving or growing out of the issuance, approval or disapproval, revocation or suspension of, or any action whatsoever by the proper administrative official or body on concessions, licenses, permits, patents, or public grants of any kind in connection with the disposition, exploitation, utilization, exploration and/or development of the natural resources of the Philippines.

This was held to be an encroachment on the judicial power vested in the Supreme Court and the lower courts by Article VIII, Section 1, of the Constitution. The respondent court cited *Export Processing Zone Authority v. Dulay*,^[7] where several presidential decrees were declared unconstitutional for divesting this courts of the judicial power to determine just compensation in expropriation cases.

The petitioner is now before this Court, contending that the doctrine of exhaustion of administrative remedies was not correctly applied and that the declaration of the unconstitutionality of Section 1 of PD 605 was improper.

The doctrine of exhaustion of administrative remedies calls for resort first to the appropriate administrative authorities in the resolution of a controversy falling under their jurisdiction before the same may be elevated to the courts of justice for review. Non-observance of the doctrine results in lack of a cause of action,^[8] which is one of the grounds allowed in the Rules of Court for the dismissal of the complaint. The deficiency is not jurisdictional. Failure to invoke it operates as a waiver of the objection as a ground for a motion to dismiss and the court may then proceed with the case as if the doctrine had been observed.

One of the reasons for the doctrine of exhaustion is the separation of powers, which enjoins upon the Judiciary a becoming policy of non-interference with matters coming primarily (albeit not exclusively) within the competence of the other departments. The theory is that the administrative authorities are in a better position to resolve questions addressed to their particular expertise and that errors committed by subordinates in their resolution may be rectified by their superiors if given a chance to do so. A no less important consideration is that administrative decisions are usually questioned in the special civil actions of certiorari, prohibition and

mandamus, which are allowed only when there is no other plain, speedy and adequate remedy available to the petitioner. It may be added that strict enforcement of the rule could also relieve the courts of a considerable number of avoidable cases which otherwise would burden their heavily loaded dockets.[9]

As correctly suggested by the respondent court, however, there are a number of instances when the doctrine may be dispensed with and judicial action validly resorted to immediately. Among these exceptional cases are: 1) when the question raised is purely legal;[10] 2) when the administrative body is in estoppel;[11] 3) when the act complained of is patently illegal;[12] 4) when there is urgent need for judicial intervention;[13] 5) when the claim involved is small;[14] 6) when irreparable damage will be suffered;[15] 7) when there is no other plain, speedy and adequate remedy;[16] 8) when strong public interest is involved;[17] 9) when the subject of the controversy is private land;[18] and 10) in quo warranto proceedings.[19]

The private respondents now submit that their complaint comes under the exceptions because forestry laws do not require observance of the doctrine as a condition precedent to judicial action; the question they are raising is purely legal; application of the doctrine will cause great and irreparable damage; and public interest is involved.

We rule for the petitioner.

Even if it be assumed that the forestry laws do not expressly require prior resort to administrative remedies, the reasons for the doctrine above given, if nothing else, would suffice to still require its observance. Even if such reasons were disregarded, there would still be the explicit language of pertinent laws vesting in the DENR the power and function "to regulate the development, disposition, extraction, exploration and use of the country's forests" and "to exercise exclusive jurisdiction" in the "management and disposition of all lands of the public domain,"[20] and in the Forest Management Bureau (formerly the Bureau of Forest Development) the responsibility for the enforcement of the forestry laws and regulations[21] here claimed to have been violated. This comprehensive conferment clearly implies at the very least that the DENR should be allowed to rule in the first instance on any controversy coming under its express powers before the courts of justice may intervene.

The argument that the questions raised in the petition are purely legal is also not acceptable. The private respondents have charged, both in the administrative case before the DENR and in the civil case before the Regional Trial Court of Pagadian City, that the petitioner has violated the terms and conditions of the TLA and the provisions of forestry laws and regulations. The charge involves factual issues calling for the presentation of supporting evidence. Such evidence is best evaluated first by the administrative authorities, employing their specialized knowledge of the agreement and the rules allegedly violated, before the courts may step in to exercise their powers of review.

As for the alleged urgent necessity for judicial action and the claimed adverse impact of the case on the national interest, the record does not show that the petitioners have satisfactorily established these extraordinary circumstances to justify deviation from the doctrine of exhaustion of administrative remedies and immediate resort to the courts of justice. In fact, this particular submission must fall flat against the petitioner's uncontested contention that it has since 1988 stopped its operations under the TLA in compliance with the order of the DENR.

In the petition for prohibition filed with the respondent court, the petitioner alleged that its logging operations had been suspended pursuant to a telegram[22] received on February 23, 1988, by the District Forester from the Regional Executive Director of the DENR, Zamboanga City, reading as follows:

DISTRICT FORESTER

PAGADIAN CITY

QUOTED HEREUNDER IS RADIO MESSAGE DATED FEBRUARY 22, 1988 FROM SECRETARY

FULGENCIO S. FACTORAN, JR. QUOTE EFFECTIVE IMMEDIATELY CMA SUSPEND ALL LOGGING OPERATIONS OF SUNVILLE IN VIEW OF SERIOUS VIOLATIONS OF FOREST PROTECTION AND REFORESTATION UNQUOTE SUBMIT REPORT ASAP.

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The petition now before us contains the allegation that the "petition for cancellation of petitioner's TLA is still pending up to this date and that petitioner's logging operations (were) ordered suspended by the Secretary of the DENR pending further investigation." [23]

In the memorandum filed by the petitioner with this Court, it is informed that "the Secretary of the DENR suspended petitioner's logging operations until further investigation. The suspension is still in force up to this date after the lapse of almost 3 years." [24]

These statements have not been disputed by the private respondents in their pleadings before the respondent court and this Court and are therefore deemed admitted.

There is no question that Civil Case No. 2732 comes within the jurisdiction of the respondent court. Nevertheless, as the wrong alleged in the complaint was supposedly committed as a result of the unlawful logging activities of the petitioner, it will be necessary first to determine whether or not the TLA and the forestry laws and regulations had indeed been violated. To repeat for emphasis, determination of this question is the primary responsibility of the Forest Management Bureau of the DENR. The application of the expertise of the administrative agency in the resolution of the issue raised is a condition precedent for the eventual examination, if still necessary, of the same question by a court of justice.

In view of the above observations, we find that there was no need for the respondent court to declare the unconstitutionality of Section 1 of PD 605. The rule is that a question of constitutionality must be avoided where the case can be decided on some other available ground, [25] as we have done in the case before us. The resolution of this same question must await another case, where all the indispensable requisites of a judicial inquiry into a constitutional question are satisfactorily established. In such an event, it will be time for the Court "to make the hammer fall, and heavily," in the words of Justice Laurel, if such action is warranted.

WHEREFORE, the petition is GRANTED. The decision of the respondent court dated July 4, 1988, and its resolution dated September 27, 1988, as well as the resolutions of the trial court dated December 11, 1987 and February 15, 1988, are all REVERSED and SET ASIDE. Civil Case No. 2732 in the Regional Trial Court of Pagadian City is hereby DISMISSED.

SO ORDERED.

Narvasa, (Chairman), Griño-Aquino, and Medialdea, JJ., concur.

[1] CA Rollo, p. 35.

[2] Ibid., p. 48.

[3] Rollo, p. 23; Penned by Melo, J. with Herrera M. and Imperial, JJ., concurring.

[4] Ibid., p. 29.

[5] 14 SCRA 269.

[6] 63 SCRA 193.

[7] 149 SCRA 305.

[8] Pineda v. Court of First Instance of Davao, 1 SCRA 1020; Atlas Consolidated Mining and Development Corporation v. Mendoza, 2 SCRA 1064; Pestanas v. Dyogi, 81 SCRA 574; Aboitiz and Co. Inc. v. The Collector of Customs, 83 SCRA 265; Abe-Abe v. Manta, 90 SCRA 524.

[9] Cruz, Carlo L., Philippine Administrative Law, 1991 ed., op. cit., pp. 85-96.

[10] Valmonte v. Belmonte, 170 SCRA 256.

[11] Tan v. Veterans Backpay Commission, 105 Phil. 377.

[12] Laganapan v. Asedillo, 154 SCRA 377.

[13] Aquino v. Luntok, 184 SCRA 177.

[14] Cipriano v. Marcelino, 43 SCRA 291.

[15] De Lara v. Cloribel, supra.

[16] National Development Company v. Collector of Customs, 9 SCRA 429.

[17] Arrow Transportation Corporation v. Board of Transportation, supra.

[18] Soto v. Jareno, 144 SCRA 116.

[19] Corpus v. Cuaderno, 4 SCRA 749.

[20] Paragraphs 12 and 15, Section 4, Chapter I, Title XIV of Executive Order No. 292.

[21] Section 5 of P.D. 705.

[22] CA Rollo, p. 7.

[23] Rollo, p. 17.

[24] Ibid., pp. 60-61.

[25] Zanduetta v. de la Costa, 66 Phil. 615.

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