

453 Phil. 479

FIRST DIVISION**[G.R. No. 131442, July 10, 2003]**

BANGUS FRY FISHERFOLK DIWATA MAGBUHOS, ANGELITA BINAY, ELMA GARCIA, VIRGILIO PANGUIO, ARSENIO CASTILLO, ARIEL PANGUIO, ANTONIO PANGUIO, ANTONIO BUNQUIN, GENEROSO BUNQUIN, CHARLIE DIMAYACYAC, RENATO PANGUIO, ATILANO BUNQUIN, CARLOS CHAVEZ, JUAN DIMAYACYAC, FILEMON BUNQUIN, MARIO MAGBUHOS, MAURO MAGBUHOS, NORA MAGBUHOS, JEOVILYN, GENALYN AND JORVAN QUIMUEL, MINORS, REPRESENTED BY THEIR PARENTS FELICIANA AND SABINO QUIMUEL, MARICAR MAGBUHOS, MINOR, REPRESENTED BY HER PARENTS CARMELITA AND ANTONIO MAGBUHOS, MARLO BINAY, MINOR, REPRESENTED BY HIS PARENTS EFRENITA AND CHARLITO BINAY, AND THE BANGUS, BANGUS FRY AND OTHER MARINE LIFE OF MINOLO COVE, PETITIONERS, VS. THE HONORABLE ENRICO LANZANAS AS JUDGE OF THE REGIONAL TRIAL COURT OF MANILA, BRANCH VII, THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES – REGION IV, REPRESENTED BY ITS REGIONAL EXECUTIVE DIRECTOR AND ITS REGIONAL DIRECTOR FOR ENVIRONMENT, THE NATIONAL POWER CORPORATION, ORIENTAL MINDORO ELECTRIC COOPERATIVE, PROVINCIAL GOVERNMENT OF ORIENTAL MINDORO, HEREIN REPRESENTED BY GOVERNOR RODOLFO VALENCIA, PUERTO GALERA MAYOR GREGORIO DELGADO, VICE MAYOR ARISTEO ATIENZA, AND MEMBERS OF THE SANGGUNIANG BAYAN OF PUERTO GALERA, JUAN ASCAN, JR., RAFAEL ROMEY, CENON SALCEDO, JERRY DALISAY, SIMON BALITAAN, RENATO CATAQUIS, MARCELINO BANAAG, DANIEL ENRIQUEZ, AMELYN MARCO, GABRIEL ILAGAN, MUNICIPAL ENGINEER RODEL RUBIO, AND MUNICIPAL PLANNING AND DEVELOPMENT COORDINATOR WILHELMINA LINESES, RESPONDENTS.

CARPIO, J.:

This is a petition for review^[1] of the Order^[2] dated 7 November 1997 of the Regional Trial Court of Manila, Branch 7 (“Manila RTC”), dismissing petitioners’ complaint for lack of cause of action and lack of jurisdiction.

The Facts

On 30 June 1997, Regional Executive Director Antonio G. Principe (“RED Principe”) of Region IV, Department of Environment and Natural Resources (“DENR”), issued an Environmental Clearance Certificate (“ECC”) in favor of respondent National Power Corporation (“NAPOCOR”). The ECC authorized NAPOCOR to construct a temporary mooring facility in Minolo Cove, Sitio Minolo, Barangay San Isidro, Puerto Galera, Oriental Mindoro. The Sangguniang Bayan of Puerto Galera has declared Minolo Cove, a mangrove area and breeding ground for *bangus* fry, an eco-tourist zone.^[3]

The mooring facility would serve as the temporary docking site of NAPOCOR’s power barge, which, due to turbulent waters at its former mooring site in Calapan, Oriental Mindoro, required relocation to a safer site like Minolo Cove. The 14.4 megawatts power barge would provide the main source of power for the entire province of Oriental Mindoro pending the construction of a land-based power plant in Calapan, Oriental Mindoro. The ECC for the mooring facility was valid for two years counted from its date of issuance or until 30 June 1999.^[4]

Petitioners, claiming to be fisherfolks from Minolo, San Isidro, Puerto Galera,^[5] sought reconsideration of the ECC issuance. RED Principe, however, denied petitioners’ plea on 15 July 1997. On 21 July 1997, petitioners filed a complaint with the Regional Trial Court of Manila, Branch 7, for the cancellation of the ECC and for the issuance of a writ of injunction to stop the construction of the mooring facility. Impleaded as defendants were the following: (1) NAPOCOR, (2) RED Principe, (3) DENR Region IV Technical Director for Environment Oscar Dominguez, (4) Oriental Mindoro Electric Cooperative (“ORMECO”), which is engaged in the distribution of electricity in Oriental Mindoro, and (5) certain officials of Puerto Galera.^[6] Petitioners subsequently amended their complaint to include as additional defendants the elective officials of Oriental Mindoro represented by then Governor Rodolfo G. Valencia. Petitioners further prayed for the demolition of mooring structures that respondents had already built.

On 28 July 1997, prior to the filing of the amended complaint, the trial court issued a 20-day temporary restraining order enjoining the construction of the mooring facility. However, the trial court lifted the same on 6 August 1997 on NAPOCOR’s manifestation that the provincial government of Oriental Mindoro was the one undertaking the construction of the mooring facility.^[7]

On 28 August 1997, before filing their answers, respondents ORMECO and the

provincial officials of Oriental Mindoro moved to dismiss the complaint. These respondents claimed that petitioners failed to exhaust administrative remedies, rendering the complaint without cause of action. They also asserted that the Manila RTC has no jurisdiction to enjoin the construction of the mooring facility in Oriental Mindoro, which lies outside the Manila RTC's territorial jurisdiction.

Petitioners opposed the motion on the ground that there was no need to exhaust administrative remedies. They argued that the issuance of the ECC was in patent violation of Presidential Decree No. 1605,^[8] Sections 26 and 27 of Republic Act No. 7160,^[9] and the provisions of DENR Department Administrative Order No. 96-37 ("DAO 96-37") on the documentation of ECC applications. Petitioners also claimed that the implementation of the ECC was in patent violation of its terms.

In its order of 7 November 1997, the trial court granted the motion and dismissed petitioners' complaint.

Hence, this petition.

The Ruling of the Trial Court

The trial court's order dismissing the complaint reads in part:

After careful evaluation and analysis, this Court finds the Motion to Dismiss tenable and meritorious.

Petitioners have clearly failed to exhaust all administrative remedies before taking this legal action in Court x x x.

It is x x x worth mentioning that the decision of the Regional Director may still be x x x elevated to the Office of the Secretary of the DENR to fully comply with the process of exhaustion of administrative remedies. And well settled is the rule in our jurisdiction that before bringing an action in or resorting to the Courts of Justice, all remedies of administrative character affecting or determinative of the controversy at that level should first be exhausted by the aggrieved party (*Pestanas vs. Dyogi*, L-25786, February 27, 1978). And petitioners' failure to exhaust administrative remedies renders his [sic] petition dismissible (*Chia vs. Acting Collector of Customs*, 177 SCRA 755). And a dismissal on the ground of failure to exhaust administrative remedies is tantamount to a dismissal based on lack of cause of action (*Baguiro vs. Basa, Jr.*, 214 SCRA 437; *Pineda vs. CFI of Davao*, 111 Phil. 643; *Sarabia vs. Secretary of Agriculture & Natural Resources*, L-16002, May 23, 1961; *Gone, et al. vs. District Engineer, et. al.*, L-22782, August 29, 1975; *Abe-Abe, et al. vs. Manta, et. al.*, L-4827, May 31, 1979) although it does not affect the jurisdiction of the court over the subject matter (*Mun. of La Trinidad, et al. vs. CFI of Baguio-Benguet, et al.*, L-33889, June 28,

1983).

Moreover, this Court finds the Opposition of the Petitioners highly untenable and bereft of merits that the controverted act in question is patently illegal and there was an immediate need for judicial intervention.

The ECC in question was issued by the Regional Office of the DENR which has jurisdiction and authority over the same x x x. And corollary to this, the issue as to whether or not the Minolo Cove is within the enclosed coves and waters embraced by Puerto Galera bay and protected by Medio island is a clear question of fact which the DENR may appropriately resolve before resorting to [the] Court[s].

This Court is likewise aware and cognizant of its territorial jurisdiction in the enforcement of Writ of Injunction. That truly, [a] writ of injunction can only be enforced within [the] territorial jurisdiction of this Court but not for acts which are being or about to be committed outside its territorial jurisdiction. Thus, in *Philippine National Bank vs. Pineda*, 197 SCRA 1, the Honorable Supreme Court ruled: “Regional Trial Courts can only enforce their writs of injunction within their respective designated territories. Furthermore, we find the issuance of the preliminary injunction directed against the Provincial Sheriff of Negros Occidental a jurisdictional *paux* [sic] *pas* (from Black Dictionary means jurisdictional falsity) as the Courts of First Instance now Regional Trial Court[s], can only enforce their writs of injunction within their respective designated territories.

And finally, this Court is not unmindful of the relevant and square application in the case at bar of Presidential Decree No. 1818, Executive Order No. 380 dated November 27, 1989, and Circular No. 2-91 of the Supreme Court that the National Power Corporation (NPC) is a public utility, created under special legislation, engaged in the generation and distribution of electric power and energy. The mooring site of NPC in Puerto Galera, Oriental Mindoro is one of its infrastructure projects falling within the mantle of Executive Order No. 380, November 27, 1989 x x x.

And as held by the Supreme Court in the case of *National Power Corporation vs. Honorable Abraham P. Vera, et al.*, 170 SCRA 721, courts are without jurisdiction to issue injunctive writs against [the] National Power Corporation. The latter enjoys the protective mantle of P.D. 1818, (Circular No. 2-91).

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Injunction in this case is not a mere ancillary [sic] writ but the main action itself together with the Annulment of the Environmental Clearance Certificate (ECC). Even assuming *arguendo* that the court [can] annul the ECC how can the latter enforce the same against the Provincial Government of Oriental Mindoro which was impleaded by the petitioners as a necessary party together with the Oriental Mindoro Electric Cooperative and the government officials of Puerto Galera, Oriental Mindoro, whose acts and functions are being performed outside the territorial jurisdiction of this court? x x x Indisputably, the injunction and annulment of ECC as prayed for in the petition are inseparable x x x.

The conclusion, therefore, is inescapable that petitioners have failed to exhaust all the available administrative remedies and this Court has no jurisdiction to issue the injunctive writ prayed for in the Amended [Complaint].^[10]

The Issue

The issue is whether the trial court erred in dismissing petitioners' complaint for lack of cause of action and lack of jurisdiction.

The Ruling of the Court

The petition has no merit.

Jurisdiction of the Manila RTC over the Case

Jurisdiction over the subject matter of a case is conferred by law. Such jurisdiction is determined by the allegations in the complaint, irrespective of whether the plaintiff is entitled to all or some of the reliefs sought.^[11]

A perusal of the allegations in the complaint shows that petitioners' principal cause of action is the alleged illegality of the issuance of the ECC. The violation of laws on environmental protection and on local government participation in the implementation of environmentally critical projects is an issue that involves the validity of NAPOCOR's ECC. If the ECC is void, then as a necessary consequence, NAPOCOR or the provincial government of Oriental Mindoro could not construct the mooring facility. The subsidiary issue of non-compliance with pertinent local ordinances in the construction of the mooring facility becomes immaterial for purposes of granting petitioners' main prayer, which is the annulment of the ECC. Thus, if the court has jurisdiction to determine the validity of the issuance of the ECC, then it has jurisdiction to hear and decide petitioners' complaint.

Petitioners' complaint is one that is not capable of pecuniary estimation. It falls within the exclusive and original jurisdiction of the Regional Trial Courts under

Section 19(1) of Batas Pambansa Blg. 129, as amended by Republic Act No. 7691. The question of whether petitioners should file their complaint in the Regional Trial Court of Manila or Oriental Mindoro then becomes a matter of venue, to be determined by the residence of the parties.^[12]

Petitioners' main prayer is the annulment of the ECC. The principal respondent, DENR Region IV, has its main office at the L & S Building, Roxas Boulevard, Manila. Regional Executive Director Principe of the DENR Region IV, who issued the ECC, holds office there. Plainly, the principal respondent resides in Manila, which is within the territorial jurisdiction of the Manila RTC. Thus, petitioners filed their complaint in the proper venue.

On the other hand, the jurisdiction of Regional Trial Courts to issue injunctive writs is limited to acts committed or about to be committed within their judicial region.^[13] Moreover, Presidential Decree No. 1818 ("PD No. 1818") prohibited^[14] courts from issuing injunctive writs against government infrastructure projects like the mooring facility in the present case. Republic Act No. 8975 ("RA No. 8975"), which took effect on 26 November 2000, superseded PD No. 1818 and delineates more clearly the coverage of the prohibition, reserves the power to issue such writs exclusively with this Court, and provides penalties for its violation.^[15] Obviously, neither the Manila RTC nor the Oriental Mindoro RTC can issue an injunctive writ to stop the construction of the mooring facility. Only this Court can do so under PD No. 1818 and later under RA No. 8975. Thus, the question of whether the Manila RTC has jurisdiction over the complaint considering that its injunctive writ is not enforceable in Oriental Mindoro is academic.

Clearly, the Manila RTC has jurisdiction to determine the validity of the issuance of the ECC, although it could not issue an injunctive writ against the DENR or NAPOCOR. However, since the construction of the mooring facility could not proceed without a valid ECC, the validity of the ECC remains the determinative issue in resolving petitioners' complaint.

Exhaustion of Administrative Remedies

The settled rule is before a party may seek the intervention of the courts, he should first avail of all the means afforded by administrative processes. Hence, if a remedy within the administrative machinery is still available, with a procedure prescribed pursuant to law for an administrative officer to decide the controversy, a party should first exhaust such remedy before resorting to the courts. The premature invocation of a court's intervention renders the complaint without cause of action and dismissible on such ground.^[16]

RED Principe of the DENR Region IV Office issued the ECC based on (1) Presidential Decree No. 1586 ("PD No. 1586") and its implementing rules establishing the Environmental Impact Statement System, (2) DAO 96-37^[17] and

(3) the Procedural Manual of DAO 96-37. Section 4^[18] of PD No. 1586 requires a proponent of an environmentally critical project, or a project located within an environmentally critical area as declared by the President, to secure an ECC prior to the project's operation.^[19] NAPOCOR thus secured the ECC because the mooring facility in Minolo Cove, while not an environmentally critical project, is located within an environmentally critical area under Presidential Proclamation No. 2146, issued on 14 December 1981.^[20]

The rules on administrative appeals from rulings of the DENR Regional Directors on the implementation of PD No. 1586 are found in Article VI of DAO 96-37, which provides:

SECTION 1.0. *Appeal to the Office of the Secretary.*— Any party aggrieved by the final decision of the RED may, within 15 days from receipt of such decision, file an appeal with the Office of the Secretary. The decision of the Secretary shall be immediately executory.

SECTION 2.0. *Grounds for Appeal.*— The grounds for appeal shall be limited to grave abuse of discretion and serious errors in the findings of fact which would cause grave or irreparable injury to the aggrieved party. Frivolous appeals shall not be countenanced.

SECTION 3.0. *Who May Appeal.* —The proponent or any stakeholder, including but not limited to, the LGUs concerned and affected communities, may file an appeal.

The DENR Procedural Manual for DAO 96-37 explains these provisions thus:

Final decisions of the RED may be appealed. *These decisions include those relating to the issuance or non-issuance of an ECC, and the imposition of fines and penalties. By inference, the decision of the Secretary on the issuance or non-issuance of the ECC may also be appealed based on this provision. Resort to courts prior to availing of this remedy would make the appellant's action dismissible on the ground of non-exhaustion of administrative remedies.*

The right to appeal must be exercised within 15 days from receipt by the aggrieved party of such decision. Failure to file such appeal within the requisite period will result in the finality of the RED's or Secretary's decision(s), which can no longer be disturbed.

An appeal shall not stay the effectivity of the RED's decision, unless the Secretary directs otherwise.

The right to appeal does not prevent the aggrieved party from first resorting to the filing of a motion for reconsideration with the RED, to

give the RED an opportunity to re-evaluate his decision. (Emphasis added)

Instead of following the foregoing procedure, petitioners bypassed the DENR Secretary and immediately filed their complaint with the Manila RTC, depriving the DENR Secretary the opportunity to review the decision of his subordinate, RED Principe. Under the Procedural Manual for DAO 96-37 and applicable jurisprudence, petitioners' omission renders their complaint dismissible for lack of cause of action.^[21] Consequently, the Manila RTC did not err in dismissing petitioners' complaint for lack of cause of action.

On the Alleged Patent Illegality of the ECC

Petitioners nevertheless contend that they are exempt from filing an appeal with the DENR Secretary because the issuance of the ECC was in patent violation of existing laws and regulations. These are (1) Section 1 of Presidential Decree No. 1605, as amended, (2) Sections 26 and 27 of Republic Act No. 7160 (Local Government Code of 1991), and (3) the provisions of DAO 96-37 on the documentary requirements for the zoning permit and social acceptability of the mooring facility.

Petitioners' contention is without merit. While the patent illegality of an act exempts a party from complying with the rule on exhaustion of administrative remedies,^[22] this does not apply in the present case.

Presidential Decree No. 1605

Presidential Decree No. 1605 ("PD No. 1605"),^[23] as amended by Presidential Decrees Nos. 1605-A and 1805, declares as ecologically threatened zone "the coves and waters embraced by Puerto Galera Bay as protected by Medio Island." This decree provides in part:

Section 1. Any provision of law to the contrary notwithstanding, *the construction of marinas, hotels, restaurants, other commercial structures; commercial or semi-commercial wharfs [sic]; commercial docking within the enclosed coves of Puerto Galera; the destruction of its mangrove stands; the devastation of its corals and coastline by large barges, motorboats, tugboat propellers, and any form of destruction by other human activities are hereby prohibited.*

Section 2.
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No permit for the construction of any wharf, marina, hotel, restaurants and other commercial structures in Puerto Galera shall be issued without prior approval of the Office of the President upon the recommendation of the Philippine Tourism Authority. (Emphasis supplied)

NAPOCOR claims that since Minolo Cove lies outside of “Puerto Galera Bay as protected by Medio Island”,^[24] PD No. 1605 does not apply to this case. However, petitioners assert that Minolo Cove is one of the “enclosed coves of Puerto Galera”^[25] and thus protected under PD No. 1605. This is a question of fact that the DENR Secretary should have first resolved. In any event, there is no dispute that NAPOCOR will use the mooring facility for its power barge that will supply 14.4 megawatts of electricity to the entire province of Oriental Mindoro, including Puerto Galera. The mooring facility is obviously a government-owned public infrastructure intended to serve a basic need of the people of Oriental Mindoro. The mooring facility is not a “commercial structure; commercial or semi-commercial wharf or commercial docking” as contemplated in Section 1 of PD No. 1605. Therefore, the issuance of the ECC does not violate PD No. 1605 which applies only to commercial structures like wharves, marinas, hotels and restaurants.

Sections 26 and 27 of RA No. 7160

Congress introduced Sections 26 and 27 in the Local Government Code to emphasize the legislative concern “for the maintenance of a sound ecology and clean environment.”^[26] These provisions require every national government agency or government-owned and controlled corporation to hold prior consultations with the local government unit concerned and to secure the prior approval of its sanggunian before implementing “any project or program that may cause pollution, climatic change, depletion of non-renewable resources, loss of cropland, rangeland, or forest cover and extinction of animal or plant species.” Sections 26 and 27 respectively provide:

Section 26. Duty of National Government Agencies in the Maintenance of Ecological Balance. — It shall be the duty of every national agency or government-owned or controlled corporation authorized or involved in the planning and implementation of any project or program that may cause pollution, climatic change, depletion of non-renewable resources, loss of crop land, rangeland, or forest cover and extinction of animal or plant species, to consult with the local government units, non-governmental organizations, and other sectors concerned and explain the goals and objectives of the project or program, its impact upon the people and the community in terms of environmental or ecological balance, and the measures that will be undertaken to prevent or minimize the adverse effects thereof.

Section 27. Prior Consultations Required. — No project or program shall be implemented by government authorities unless the consultations mentioned in Section x x x 26 hereof are complied with, and prior approval of the sanggunian concerned is obtained: *Provided*, That occupants in areas where such projects are to be implemented shall not be evicted unless appropriate relocation sites have been provided, in

accordance with the provisions of the Constitution.

In *Lina, Jr. v. Paño*,^[27] the Court interpreted these provisions in this manner:

Section 27 of the Code should be read in conjunction with Section 26 thereof x x x.

Thus, the projects and programs mentioned in Section 27 should be interpreted to mean projects and programs whose effects are among those enumerated in Sections 26 and 27, to wit, those that: (1) may cause pollution; (2) may bring about climatic change; (3) may cause the depletion of non-renewable resources; (4) may result in loss of crop land, rangeland, or forest cover; (5) may eradicate certain animal or plant species; and (6) other projects or programs that may call for the eviction of a particular group of people residing in the locality where these will be implemented.

Again, Sections 26 and 27 do not apply to this case because as petitioners admit,^[28] the mooring facility itself is not environmentally critical and hence does not belong to any of the six types of projects mentioned in the law. There is no statutory requirement for the concerned *sanggunian* to approve the construction of the mooring facility. It is another matter if the operation of the power barge is at issue. As an environmentally critical project that causes pollution, the operation of the power barge needs the prior approval of the concerned *sanggunian*. However, what is before this Court is only the construction of the mooring facility, not the operation of the power barge. Thus, the issuance of the ECC does not violate Sections 26 and 27 of RA No. 7160.

Documentary Requirements for ECC Applications

Under DAO 96-37, an ECC applicant for a project located within an environmentally critical area is required to submit an Initial Environment Examination, which must contain a brief description of the environmental setting and a documentation of the consultative process undertaken, when appropriate.^[29] As part of the description of the environmental setting, the ECC applicant must submit a certificate of locational clearance or zoning certificate.

Petitioners further contend that NAPOCOR, in applying for the ECC, did not submit to the DENR Region IV Office the documents proving the holding of consultations and the issuance of a locational clearance or zoning certificate. Petitioners assert that this omission renders the issuance of the ECC patently illegal.

The contention is also without merit. While such documents are part of the

submissions required from a project proponent, their mere absence does not render the issuance of the ECC patently illegal. To justify non-exhaustion of administrative remedies due to the patent illegality of the ECC, the public officer must have issued the ECC “[without any] semblance of compliance, or even an attempt to comply, with the pertinent laws; when manifestly, the officer has acted without jurisdiction or has exceeded his jurisdiction, or has committed a grave abuse of discretion; or when his act is clearly and obviously devoid of any color of authority.”^[30]

RED Principe, as chief of DENR Region IV, is the officer duly authorized under DAO 96-37^[31] to issue ECCs for projects located within environmentally critical areas. RED Principe issued the ECC on the recommendation of Amelia Supetran, the Director of the Environmental Management Bureau. Thus, RED Principe acted with full authority pursuant to DENR regulations. Moreover, the legal presumption is that he acted with the requisite authority.^[32] This clothes RED Principe’s acts with presumptive validity and negates any claim that his actions are patently illegal or that he gravely abused his discretion. While petitioners may present proof to the contrary, they must do so before the proper administrative forum before resorting to judicial remedies.

On the Alleged Non-Compliance with the Terms of the ECC

Lastly, petitioners claim that they are justified in immediately seeking judicial recourse because NAPOCOR is guilty of violating the conditions of the ECC, which requires it to secure a separate ECC for the operation of the power barge. The ECC also mandates NAPOCOR to secure the usual local government permits, like zoning and building permits, from the municipal government of Puerto Galera.

The contention is similarly without merit. The fact that NAPOCOR’s ECC is subject to cancellation for non-compliance with its conditions does not justify petitioners’ conduct in ignoring the procedure prescribed in DAO 96-37 on appeals from the decision of the DENR Executive Director. Petitioners vigorously insist that NAPOCOR should comply with the requirements of consultation and locational clearance prescribed in DAO 96-37. Ironically, petitioners themselves refuse to abide with the procedure for filing complaints and appealing decisions laid down in DAO 96-37.

DAO 96-37 provides for a separate administrative proceeding to address complaints for the cancellation of an ECC. Under Article IX of DAO 96-37, complaints to nullify an ECC must undergo an administrative investigation, after which the hearing officer will submit his report to the EMB Director or the Regional Executive Director, who will then render his decision. The aggrieved party may file an appeal to the DENR Secretary, who has authority to issue cease and desist orders. Article IX also classifies the types of violations covered under DAO 96-37, including projects operating without an ECC or violating the conditions of the ECC. This is the applicable procedure to address petitioners’ complaint on NAPOCOR’s alleged

violations and not the filing of the instant case in court.

A Final Word

The Court commends petitioners for their courageous efforts to safeguard and maintain the ecological balance of Minolo Cove. This Court recognizes the utmost importance of protecting the environment.^[33] Indeed, we have called for the vigorous prosecution of violators of environmental laws.^[34] Legal actions to achieve this end, however, must be done in accordance with established rules of procedure that were intended, in the first place, to achieve orderly and efficient administration of justice.

WHEREFORE, we *DENY* the petition for lack of merit.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, Ynares-Santiago, and Azcuna, JJ., concur.

[1] While petitioners refer to the petition in this case as a “petition for *certiorari*” under Rule 65 of the 1997 Rules of Civil Procedure, the Court will treat it as a petition for review under Rule 45 as petitioners themselves had intended in their Motion, dated 3 December 1997, for a 30-day extension within which to file a petition for review of the ruling in question on pure questions of law.

[2] Penned by Judge Enrico A. Lanzanas.

[3] Municipal Ordinance No. 12, dated 13 December 1991.

[4] On 7 May 1999, respondent NAPOCOR sought an extension of the ECC for another 18 months from 1 July 1999 or until 31 December 2000 (*Rollo*, p. 200). However, there is nothing in the records to indicate the DENR’s response on the request.

[5] Joined by some minor residents and by the “*bangus, bangus fry*, and other marine life of Minolo Cove” as co-petitioners.

[6] Mayor Gregorio Delgado, Vice-mayor Aristeo Atienza, the members of the Sangguniang Bayan, Municipal Health Engineer Rodel Rubio, and Municipal Planning and Development Officer Wilhelmina Lineses.

[7] In view of this development, petitioners wrote respondents RED Principe and Oscar Dominguez on 6 August 1997 requesting the issuance of a cease and desist

order to enjoin the provincial government of Oriental Mindoro from proceeding with the construction of the mooring facility (*Rollo*, p. 123). In his letter of 7 August 1997, respondent RED Principe informed petitioners that his office will conduct an investigation on the matter (*Rollo*, p. 124).

[8] As amended by Presidential Decree No. 1605-A.

[9] The Local Government Code of 1991.

[10] *Rollo*, pp. 45-50.

[11] *Garcia v. Court of Appeals*, 339 Phil. 433 (1997).

[12] 1997 Rules of civil procedure, Rule 4, Sec. 2.

[13] See *Hacbang v. The Leyte Autobus Co., Inc.*, G.R No. L-17907, 30 May 1963, 8 SCRA 103, in relation to par. 3(a), Resolution, dated 11 January 1983, providing for the interim or transitional rules and guidelines relative to the implementation of the Judiciary Act of 1981 (BP Blg. 129).

[14] Section 1 of PD No. 1818 provides as follows:

“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 governmental 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.”

[15] Section 3 of RA No. 8975 prohibits courts, except the Supreme Court, from issuing temporary restraining orders, preliminary injunctions, or preliminary mandatory injunctions against the government, its agencies, or any person or entity whether public or private, involving national government projects, defined in Section 2 of the law as follows:

“National government projects’ shall refer to all current and future national government infrastructure, engineering works and service contracts, including projects undertaken by government-owned and controlled corporations, all projects covered by Republic Act No. 6957,

as amended by Republic Act No. 7718, otherwise known as the Build-Operate-and-Transfer Law, and other related and necessary activities such as site acquisition, supply and/or installation of equipment and materials, implementation, construction, completion, operation, maintenance, improvement, repair and rehabilitation, regardless of the source of funding.”

See also SC Administrative Circular No. 11-2000, dated 13 November 2000.

[16] *Dy v. Court of Appeals*, 363 Phil. 676 (1999); *Pestanas v. Dyogi*, G.R. No. L-25786, 27 February 1978, 81 SCRA 574.

[17] Dated 2 December 1996 but effective 5 January 1997.

[18] “*Presidential Proclamation of Environmentally Critical Areas and Projects*. — The President of the Philippines may, on his own initiative or upon recommendation of the National Environmental Protection Council, by proclamation declare certain projects, undertakings or areas in the country as environmentally critical. No person, partnership or corporation shall undertake or operate any such declared environmentally critical project or area without first securing an Environmental Compliance Certificate issued by the President or his duly authorized representative. For the proper management of the said critical project or area, the President may by his proclamation reorganize such government offices, agencies, institutions, corporations or instrumentalities including the re-alignment of government personnel, and their specific functions and responsibilities.”

[19] See *Republic v. City of Davao*, G.R. No. 148622, 12 September 2002.

[20] “PROCLAIMING CERTAIN AREAS AND TYPES OF PROJECTS AS ENVIRONMENTALLY CRITICAL AND WITHIN THE SCOPE OF THE ENVIRONMENTAL IMPACT STATEMENT SYSTEM ESTABLISHED UNDER PRESIDENTIAL DECREE NO. 1586.

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B. Environmentally Critical Areas

1. All areas declared by law as national parks, watershed reserves, wildlife preserves and sanctuaries;
2. *Areas set aside as aesthetic potential tourist spots;*

3. Areas which constitute the habitat for any endangered or threatened species of indigenous Philippine Wildlife (flora and fauna);
4. Areas of unique historic, archaeological, or scientific interests;
5. Areas which are traditionally occupied by cultural communities or tribes;
6. Areas frequently visited and/or hard-hit by natural calamities (geologic hazards, floods, typhoons, volcanic activity, etc.);
7. Areas with critical slopes;
8. Areas classified as prime agricultural lands;
9. Recharged areas of aquifers;
10. Water bodies characterized by one or any combination of the following conditions:
 - a. tapped for domestic purposes;
 - b. within the controlled and/or protected areas declared by appropriate authorities;
 - c. which support wildlife and fishery activities.
11. *Mangrove areas characterized by one or any combination of the following conditions:*
 - a. with primary pristine and dense young growth;

- b. adjoining mouth of major river systems;
- c. *near or adjacent to traditional productive fry or fishing grounds;*
- d. which act as natural buffers against shore erosion, strong winds and storm floods;
- e. *on which people are dependent for their livelihood.*

12. Coral reefs, characterized by one or any of the following conditions:

- a. with 50% and above live coralline cover;
- b. spawning and nursery grounds for fish;
- c. which act as natural breakwater of coastlines.”

(Emphasis supplied)

[21] *Pestanas v. Dyogi*, supra, note 16.

[22] *Mangubat v. Osmeña, Jr.*, G.R No. L-12837, 30 April 1959 (unreported).

[23] “DECLARING THE ENCLOSED COVES AND WATERS EMBRACED BY PUERTO GALERA BAY AND PROTECTED BY MEDIO ISLAND, AN ECOLOGICALLY THREATENED ZONE AND FORBIDDING THEREIN THE CONSTRUCTION OF MARINAS, HOTELS, RESTAURANTS OR ANY STRUCTURES ALONG ITS COASTLINE DRAINING INTO THE ENDANGERED ZONE AND CAUSING FURTHER POLLUTION; AND FURTHER FORBIDDING UNWARRANTED SHIP DOCKING, SHIP REPAIR EXCEPT IN DULURUAN; AND APPOINTING A SPECIAL COMMITTEE TO STUDY THE ECOLOGICALLY ENDANGERED ZONE’S REHABILITATION

AND PRESERVATION.”

[24] As described in the title of PD No. 1605.

[25] As described in the whereas clause and text of PD No. 1605.

[26] A. PIMENTEL, JR., *LOCAL GOVERNMENT CODE OF 1991: THE KEY TO NATIONAL DEVELOPMENT* 124 (1993).

[27] 416 Phil. 438 (2001).

[28] *Rollo*, p. 17.

[29] Section 19, paragraphs (a) and (e).

[30] *Mangubat v. Osmeña, Jr., supra*, note 22.

[31] DAO 96-37, Article III, Sec. 23.

[32] Revised Rules of Evidence, Rule 131, Sec. 3(m).

[33] *Oposa v. Factoran, Jr.*, G.R. No. 101083, 30 July 1993, 224 SCRA 792.

[34] *Mustang Lumber, Inc. v. Court of Appeals*, 327 Phil. 214 (1996).



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