



Mis. JDC Batt  
MISAELE ROSARIO C. BATTUNGAL  
Deputy Executive Clerk of Court  
Third Division

Republic of the Philippines  
Supreme Court  
Manila

AUG 18 2017

THIRD DIVISION

SUMMIT ONE CONDOMINIUM  
CORPORATION,

G.R. No. 215029

Petitioner,

Present:

VELASCO, JR., J.,  
Chairperson,

BERSAMIN,

REYES,

\*PERLAS-BERNABE, and  
TIJAM, JJ.

- versus -

POLLUTION ADJUDICATION  
BOARD AND ENVIRONMENTAL  
MANAGEMENT BUREAU -  
NATIONAL CAPITAL REGION,  
Respondent.

Promulgated:

July 5, 2017

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DECISION

TIJAM, J.:

Assailed in this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court is the May 29, 2014 Decision<sup>1</sup> of the Court of Appeals (CA), in CA-G.R. SP No. 132046, which dismissed the Petition for Review<sup>2</sup> filed on October 2, 2013 and affirmed the Orders dated September 20, 2012<sup>3</sup> and July 12, 2013<sup>4</sup> both issued by respondent Pollution Adjudication Board (PAB), which imposed a fine of PhP 2,790,000 on petitioner Summit One Condominium Corporation (SOCC) for its alleged violation of Republic Act

\* Designated additional Member per Raffle dated June 28, 2017 *vice* Associate Justice Francis H. Jardeleza.

<sup>1</sup> Penned by Associate Justice Japar B. Dimaampao, with Associate Justices Elihu A. Ybañez and Carmelita S. Manahan concurring; *rollo*, pp. 32-37.

<sup>2</sup> *Id.* at 321-340.

<sup>3</sup> Issued by Presiding Officer Undersecretary Demetrio L. Ignacio, Jr.; *id.* at 299-301.

<sup>4</sup> *Id.* at 317-319.

(R.A.) No. 9275,<sup>5</sup> otherwise known as the Philippine Clear Water Act of 2004.

The facts are as follows:

R.A. No. 9275 was enacted pursuant to the State's policy of pursuing economic growth in a manner consistent with the protection, preservation and revival of the quality of fresh, brackish and marine waters.<sup>6</sup> Towards this end, the Department of Environment and Natural Resources (DENR) requires owners and operators of facilities that discharge regulated effluents<sup>7</sup> to secure a permit to discharge. This permit is the legal authorization granted by the DENR to discharge wastewater into a particular body of water.<sup>8</sup>

On March 11, 2010, respondent Environmental Management Bureau (EMB) - National Capital Region (NCR) conducted an inspection of the wastewater samples gathered from the sewage treatment facility of SOCC. The authorized inspection was through a "grab sample" taken from SOCC's sewage treatment plant (STP) for the purpose of monitoring SOCC's compliance with R.A. No. 9275 and as a necessary consequence of its application for wastewater "Discharge Permit." The laboratory analysis yielded that the SOCC's wastewater failed to comply with the DENR Effluent Standards set by the Revised Effluent Regulations of 1990 on four (4) parameters, namely, color, biological oxygen demand (BOD 5 mg/L), Suspended Solids mg/L, and Total Coliform (MPN/100m/L).

On May 12, 2010, the EMB-NCR, through Engr. Roberto D. Sheen, OIC, Regional Director, sent a Notice of Violation<sup>9</sup> to SOCC, directing the latter to appear in a technical conference to be held on May 25, 2010 to thresh out the issue on the laboratory results. During the conference, SOCC agreed to introduce bio-remediation<sup>10</sup> measures and enzyme addition to lower the concentration of bacteria in its sewage water. Subsequently, SOCC hired Milestone Water Industries, Inc. (Milestone) to conduct an independent analysis of its wastewater. The results of the laboratory analysis for the months of March, April, and May 2010 revealed that the sewage water of SOCC passed the Effluent Standards.<sup>11</sup>

On December 15, 2010, EMB-NCR conducted another inspection on SOCC's STP. The results of the physical-chemical analysis disclosed that the wastewater of SOCC passed the Effluent Standards.

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<sup>5</sup>AN ACT PROVIDING FOR A COMPREHENSIVE WATER QUALITY MANAGEMENT AND FOR OTHER PURPOSES. Approved on March 22, 2004.

<sup>6</sup> R.A. No. 9275, Chapter 1, Article 1, Section 2.

<sup>7</sup> R.A. No. 9275, Chapter 1, Article 2, Section 4(m). *Effluent* - means discharges from known source which is passed into a body of water or land, or wastewater flowing out of a manufacturing plant, industrial plant including domestic, commercial and recreational facilities.

<sup>8</sup> R.A. No. 9275, Chapter 2, Article 2, Section 14.

<sup>9</sup> *Rollo*, p. 76.

<sup>10</sup> *Id.* at 78.

<sup>11</sup> *Id.* at 74.



In its September 20, 2012 Order,<sup>12</sup> the PAB adopted the recommendation of the Committee on Fines penalizing SOCC for its initial failure to comply with the Effluent Standard. A fine was imposed on SOCC in the amount of PhP 2,790,000. SOCC moved for reconsideration<sup>13</sup> but failed to obtain favorable relief as this was denied by the PAB in its July 12, 2013 Order.<sup>14</sup>

On October 2, 2013, SOCC appealed<sup>15</sup> the PAB's September 20, 2012 and July 12, 2013 Orders with the CA, which the latter denied in its May 29, 2014 Decision.<sup>16</sup> Its June 26, 2014 Motion for Reconsideration<sup>17</sup> having been denied in the October 13, 2014 Resolution,<sup>18</sup> SOCC filed the instant petition.

Petitioner contends that the CA erred when (1) it affirmed the PAB's reliance on the results of EMB-NCR's test results based on a "grab sample"; (2) it ignored the fact that EMB-NCR failed to timely conduct a "compliance test" after it was informed that SOCC successfully implemented "bio-remediation measure"; (3) it ignored EMB-NCR's failure to timely furnish SOCC of the results of the test within five (5) days from the release of the laboratory analysis; (4) it rejected the findings of Milestone because it was not an accredited laboratory; and (5) it affirmed the amount of fines imposed on SOCC, which is a violation of PAB's own rules, considering that it is arbitrary, amounting to a violation of its right to due process.

Petitioner likewise contends that its efforts to comply with DENR's Effluent Standards "should mitigate" the fines imposed upon it. In order to comply therewith, petitioner even engaged the services of Milestone to conduct monthly examinations of its wastewater as early as July 2009. Petitioner further contends that assuming EMB-NCR's test is valid, SOCC should only be liable for the following period: March 11, 2010 until March 17, 2010, or a total of seven days. This is so, considering that the subsequent test conducted by Milestone in March 17, 2010 showed that SOCC complied with the Effluent Standards.

In their Comment, PAB and EMB-NCR, through the OSG, aver that the issues raised by petitioner, *i.e.*, *the CA erred in affirming PAB's twin Orders, inclusive of the imposition of fines*, are factual issues which are not the proper subjects of a petition for review under Rule 45.

***The Appeal is bereft of merit.***

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<sup>12</sup> Id. at 299-301.

<sup>13</sup> Id. at 303-314.

<sup>14</sup> Id. at 317-319.

<sup>15</sup> Id. at 321-340.

<sup>16</sup> Id. at 32-37.

<sup>17</sup> Id. at 370-381.

<sup>18</sup> Id. at 39-40.

This appeal by *certiorari* is being taken under Rule 45, whose Section 1 expressly requires that the petition shall raise only questions of law which must be distinctly set forth. Yet, the SOCC hereby raises a question of fact which resolution is decisive in this case. That issue of fact concerns whether or not the CA committed error in affirming SOCC's non-compliance with the DENR Effluent Standards and in imposing fines thereon. For this reason, the Court is constrained to deny due course to the petition for review.

It is a settled rule that in the exercise of the Court's power of review, the Court is not a trier of facts and does not normally undertake the re-examination of the evidence presented by the contending parties during the trial of the case.<sup>19</sup> This Court relies on the findings of fact of the CA or of the trial court, and accepts such findings as conclusive and binding unless any of the exceptions<sup>20</sup> laid down by jurisprudence obtains in the factual setting of the case. However, none of these exceptions apply herein.

Likewise, it is worth stressing that the courts generally accord great respect, if not finality, to factual findings of administrative agencies because of their special knowledge and expertise over matters falling under their jurisdiction.<sup>21</sup>

Here, the PAB, which is vested under Section 19 of Executive Order 192 or the order 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,<sup>22</sup> with the specific power to adjudicate pollution cases in general; and, EMB-NCR, which serves as the Secretariat of the PAB,<sup>23</sup> found that SOCC failed to comply with the DENR Effluent Standards that caused pollution to the waters. It also found that SOCC's reliance on Milestone's water analysis showing its subsequent compliance with the DENR Effluent Standards cannot be given credence considering that Milestone is not a

<sup>19</sup> *Special People, Inc. Foundation, represented by its Chairman, Roberto P. Cericos v. Canda, et al.*, G.R. No. 160932, January 14, 2013.

<sup>20</sup> (1) When the factual findings of the appellate court and the trial court are contradictory; (2) when the findings of the trial court are grounded entirely on speculation, surmises or conjectures; (3) when the lower court's inference from its factual findings is manifestly mistaken, absurd or impossible; (4) when there is grave abuse of discretion in the appreciation of facts; (5) when the findings of the appellate court go beyond the issues of the case, or fail to notice certain relevant facts which, if properly considered, will justify a different conclusion; (6) when there is a misappreciation of facts; (7) when the findings of fact are themselves conflicting; and (8) when the findings of fact are conclusions without mention of the specific evidence on which they are based, are premised on the absence of evidence, or are contradicted by evidence on record. *Federal Builders, Inc. v. Foundation Specialists, Inc.*, G.R. No. 194507, September 8, 2014.

<sup>21</sup> *Spouses Mauricio M. Tabino And Leonila Dela Cruz-Tabino v. Lazaro M. Tabino*, G.R. No. 196219, July 30, 2014.

<sup>22</sup> 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. Approved on June 10, 1987.

<sup>23</sup> *Pacific Steam Laundry, Inc. v. Laguna Lake Development Authority*, G.R. No. 165299, December 18, 2009.

DENR-accredited laboratory. The CA accorded great weight to these findings and We find no justification to deviate therefrom.

Indeed, by reason of their special knowledge and expertise over matters falling under their jurisdiction, administrative agencies, like respondents PAB and EMB-NCR, are in a better position to pass judgment thereon, and their findings of fact are generally accorded great respect, if not finality, by the courts. Such findings must be respected as long as they are supported by substantial evidence, even if such evidence is not overwhelming or even preponderant.<sup>24</sup> It is not the task of the appellate court or this Court to once again weigh the evidence submitted before and passed upon by the administrative body and to substitute its own judgment regarding the sufficiency of the evidence.<sup>25</sup> Since SOCC failed to show that the PAB and EMB-NCR have acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, this Court cannot entertain the instant petition questioning their rulings.<sup>26</sup>

We cannot subscribe to SOCC's claim that the CA erred in affirming the arbitrary fines imposed by respondents PAB and EMB-NCR.

Records clearly show that SOCC admitted its failure to comply with the DENR's rules with respect to the Effluent Standards. In its petition, SOCC pleaded for the mitigation of fines by the mere fact that it exerted its effort in good faith in complying with the Effluent Standards by hiring Milestone to conduct the monthly examination. It even went further in informing this Court that "it has an on-going project wherein it is currently in the process of installing a state-of-the-art sewage treatment plant – the Hitachi STP-MBR", and would, among other things, "allow SOCC to recycle 80% of the water in effluent for use for drinking." Indeed, these statements indicate that SOCC was aware that it failed to comply with the DENR Effluent Standards test during the March 11, 2010 inspection conducted by EMB-NCR. At that juncture, it was incumbent on PAB to impose a penalty on SOCC, *i.e.*, a fine in the amount of PhP 2,790,000.

That SOCC subsequently complied with the DENR Effluent Standards in the months of March, April, and May 2010 is of no moment when We consider these established facts: *first*, Milestone is a "non-DENR-accredited or non-DENR-recognized environmental laboratory"; and *second*, its non-compliance with the DENR Effluent Standards, as revealed by the March 11, 2010 inspection resulted in the pollution of bodies of water. As correctly pointed out by the PAB and EMB-NCR, thus:

It is undeniable, however, that petitioner nonetheless initially failed to comply with the Effluent Standards in violation of the Revised Effluent Regulations. x x x.

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<sup>24</sup> *Paraiso-Aban v. Commission on Audit*, G.R. No. 217948, January 12, 2016.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*



x x x x

Rule 27.5 of the Implementing Rules and Regulations of the Philippine Clean Water Act of 2004 states that the continuation of the violation for which a daily fine shall be imposed shall not be construed to be a continuation of the discharge or pollutive activity *but the continuation of the existence of the pollution.*

x x x x

The submission of Self-Monitoring Reports (SMR) based on findings and certifications of Milestone, a non-DENR-Accredited or non-DENR-recognized environmental laboratory entity, is inconsequential as it cannot be considered compliance at all. Accordingly, the EMB-NCR cannot be expected to act on it. Moreover, when petitioner's SMR was not acted upon for a long period of time, it should have prompted petitioner to inquire upon its SMR before the EMB-NCR, which petitioner miserably failed to do.<sup>27</sup> (Emphasis ours)

Prescinding from the above disquisition, this Court is of the view that the CA did not err when it affirmed the PAB's September 20, 2012 and July 12, 2013 Orders.

*A final note.* The protection of the environment, like the bodies of water which are within the Metropolis, is the duty and responsibility, not only of government agencies tasked to oversee environmental preservation and restoration, but, more importantly, of the entire citizenry, including manufacturing plants and industrial plants including domestic, commercial and recreational facilities. PAB dealt with the barrage of pollution threats pouring out from the SOCC's sewerage within its vicinity when it conducted an inspection of the wastewater samples, thus, giving teeth to the policy of R.A. No. 9275 which is to pursue a policy of economic growth in a manner consistent with the protection, preservation and revival of the quality of our fresh, brackish and marine waters. The least that SOCC could do is to be more responsible, more familiar and more responsive to the call of environmental conservation.

**WHEREFORE**, the petition is **DENIED**. The May 29, 2014 Decision of the Court of Appeals in CA-G.R. SP No. 132046, which dismissed the Petition for Review filed on October 2, 2013 and affirmed the Orders dated September 20, 2012 and July 12, 2013 both issued by the Pollution Adjudication Board, which imposed a fine of PhP 2,790,000 on Summit One Condominium Corporation for its alleged violation of Republic Act No. 9275, otherwise known as the Philippine Clear Water Act of 2004, is hereby **AFFIRMED** *in toto*.

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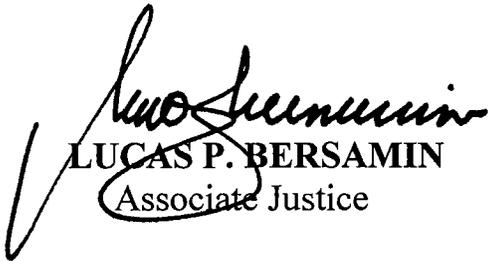
<sup>27</sup>Rollo, pp. 393, 400-401.

**SO ORDERED.**

  
**NOEL GIMENEZ TIJAM**  
 Associate Justice

**WE CONCUR:**

  
**PRESBITERO J. VELASCO, JR.**  
 Associate Justice  
 Chairperson

  
**LUCAS P. BERSAMIN**  
 Associate Justice

  
**BIENVENIDO L. REYES**  
 Associate Justice

  
**ESTELA M. PERLAS-BERNABE**  
 Associate Justice

**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**PRESBITERO J. VELASCO, JR.**  
 Associate Justice  
 Chairperson, Third Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice

**CERTIFIED TRUE COPY**

*Misael DC Batt*  
**MISAELO DOMINGO C. BATTUNG**  
Deputy Division Clerk of Court  
Third Division

AUG 18 2017