

THIRD DIVISION

[G.R. No. 165641, August 25, 2010]

ENGR. RANULFO C. FELICIANO, IN HIS CAPACITY AS GENERAL MANAGER OF THE LEYTE METROPOLITAN WATER DISTRICT (LMWD), TACLOBAN CITY, PETITIONER, NAPOLEON G. ARANEZ, IN HIS CAPACITY AS PRESIDENT AND CHAIRMAN OF "NO TAX, NO IMPAIRMENT OF CONTRACTS COALITION, INC.," PETITIONER-IN-INTERVENTION, VS. HON. CORNELIO C. GISON, UNDERSECRETARY, DEPARTMENT OF FINANCE, RESPONDENT.

D E C I S I O N

BRION, J.:

Before this Court is the Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court filed by Leyte Metropolitan Water District (LMWD) through its General Manager, Engr. Ranulfo C. Feliciano, which seeks to set aside the July 14, 2004 decision of the Court of Appeals (CA)^[2] that in turn affirmed the ruling of the Court of Tax Appeals (CTA) in CTA Case No. 6165.^[3] The CTA dismissed LMWD's petition for lack of jurisdiction to try the case.

Joining the petitioner is the "No Tax, No Impairment of Contracts Coalition, Inc." (*Coalition*), a corporation represented by its President and Chairman, Napoleon G. Aranez, which filed a motion for leave to admit complaint-petition in intervention on February 17, 2005.^[4] The Court granted said motion and required the Coalition, together with LMWD, to submit their respective memoranda in a resolution dated July 5, 2006.^[5]

BACKGROUND FACTS

The present petition arose from the tax case initiated by LMWD after it filed with the Department of Finance (DOF) a petition requesting that certain water supply equipment and a motor vehicle, particularly a Toyota Hi-Lux pick-up truck, be exempted from tax. These properties were given to LMWD through a grant by the Japanese Government for the rehabilitation of its typhoon-damaged water supply system.

In an indorsement dated July 5, 1995, the DOF granted the tax exemption on the water supply equipment but assessed the corresponding tax and duty on the Toyota Hi-Lux pick-up truck.^[6] On June 9, 2000, LMWD moved to reconsider the disallowance of the tax exemption on the subject vehicle. The DOF, through then Undersecretary Cornelio C. Gison, denied LMWD's request for reconsideration because the tax exemption privileges of government agencies and government owned and controlled corporations (GOCCs) had already been withdrawn by Executive Order No. 93.^[7] This prompted LMWD, through its General Manager Engr.

Ranulfo C. Feliciano, to appeal to the CTA.

After considering the evidence presented at the hearing, the CTA found LMWD to be a GOCC with an original charter. For this reason, the CTA resolved to dismiss LMWD's appeal for lack of jurisdiction to take cognizance of the case.^[8] The CTA's resolution was without prejudice to the right of LMWD to refile the case, if it so desires, in the appropriate forum. Likewise, the CTA denied LMWD's motion to reconsider the dismissal of its appeal.^[9]

LMWD filed a petition for review^[10] with the CA raising the issues of whether the CTA decided the case in accord with the evidence presented and the applicable law, and **whether the LMWD is a GOCC with original charter.** The CA found the petition to be unmeritorious and affirmed the CTA's ruling that the LMWD is a GOCC with original charter, and not a private corporation or entity as LMWD argued. Hence, the present petition for review on *certiorari* filed by LMWD with this Court.

THE PETITION

LMWD appeals to us primarily to determine whether water districts are, by law, GOCCs with original charter. Citing the Constitution and Presidential Decree (P.D.) No. 198,^[11] LMWD claims that water districts are private corporations and as such are entitled to certain tax exemptions under the law. LMWD argues that **P.D. No. 198 is a general law, similar to the Corporation Code and other general laws, and is not a special law.** Because it is a general law, water districts constituted under its terms are private corporations, not a government-owned or controlled corporation (GOCC) with original charter.

In support of its position, LMWD points out provisions in P.D. No. 198 that it claims implements the general policy of the decree as enunciated in its Section 2, specifically, Section 5^[12] (pertaining to the purpose of water districts), Section 6 (formation of a water district), as amended by P.D. No. 1479,^[13] and Section 7 (filing of resolution forming a water district), as amended by P.D. No. 768,^[14] of Chapter II. LMWD concludes from this examination that P.D. No. 198 is not an original charter but a general act authorizing the formation of water districts on a local option basis, similar to the Corporation Code (Batas Pambansa Blg. 68).

In drawing parallelism with the Corporation Code, LMWD cites (1) the *Resolution of Formation* passed by the *sanggunian* under PD 198 for the creation of a water district as an equivalent to the *Articles of Incorporation and By-laws* under the Corporation Code, and (2) the *filing of the Resolution of Formation* of the water district with the LWUA as the counterpart of the *issuance of the Certificate of Filing of the Articles of Incorporation and By-laws* to the private corporation by the Securities and Exchange Commission (SEC). The juridical personality of a water district is acquired on the date of filing of the resolution in the same way that the juridical personality of a private corporation is acquired on the date of issuance of the certificate of filing with the SEC.

LMWD further claims that the Constitution does not limit the meaning of the term "general law" to the Corporation Code, as there are other general laws such as Republic Act (R.A.) No. 6938^[15] (including R.A. No. 6939 -- An Act Creating the

Cooperative Development Authority), and R.A. No. 6810.^[16] Under R.A. No. 6938 and R.A. No. 6810, any group of individuals can form a cooperative and a Countryside and *Barangay* Business Enterprise (*CBBE*), respectively, and acquire a juridical personality separate and distinct from their creators, members or officers provided that they comply with all the requirements under said laws. In the same manner, any group of individuals in a given local government unit can form and organize themselves into a water district provided that they comply with the requirements under P.D. No. 198.

Part of LMWD's theory is that P.D. No. 198 is not the operative act that created the local water districts; they are created through compliance with the nine separate and distinct operative acts found in the Procedural Formation of a Water District prescribed under Section 6 of P.D. No. 198 and its Implementing Rules and Regulations. The last step of these operative acts is the filing of the Resolution of Formation of the *sanggunian* concerned with the LWUA after the latter has determined that such resolution has conformed to the requirements of Section 6 and the policy objectives in Section 2 of P.D. No. 198, as amended.^[17] According to LMWD, no water district is formed by the enactment of P.D. No. 198. The decree merely authorized the formation of water districts by the *sanggunian*, in the same manner that the Corporation Code authorizes the formation of private corporations.

LMWD theorizes that what is actually chartered, formed and created under P.D. No. 198 is the Local Water Utilities Administration (*LWUA*), as provided in Section 49 of the decree. This provision establishing LWUA's charter and the policy statement in Section 2 of P.D. No. 198, are in stark contrast to the decree's failure to provide an express provision on what constitutes the water districts' charter, leading to the inference that the decree is not the charter of the water districts but merely authorizes their formation, on a local option basis.

THE PETITION-IN-INTERVENTION

On February 17, 2005, Napoleon G. Aranez (*Aranez*), acting in behalf of the "No Tax, No Impairment of Contracts Coalition, Inc." (*Coalition*) filed a motion for leave to admit complaint-petition in intervention in connection with the petition for review on *certiorari* filed by LMWD with this Court. Aranez is the Coalition's president and chairman. The Coalition claims to indirectly represent all the water district concessionaires of the entire country figuring to more or less four hundred million, aside from the 26,000 concessionaires situated in the city of Tacloban and the municipalities of Dagami, Palo, Pastrana, Sta. Fe, Tabon-Tabon, Tanauan, Tolosa -- all within the province of Leyte.

The petition in intervention raises three main arguments: (1) that the water districts are not GOCCs as they are quasi-public corporations or private corporations exercising public functions, (2) that classifying the water districts as GOCCs will result in an unjust disregard of the "non-impairment of contracts" clause in the Constitution, and (3) that the appealed CA decision, if not corrected or reversed, would result in a nationwide crisis and would create social unrest.

Interestingly, the Coalition sets forth the premise that P.D. No. 198 is not entirely a special law or a general law, but a composite law made up of both laws: Title II - Local Water District Law being the general law, and Title III - Local Water Utilities

Law being the special law or charter. For the rest of the petition in intervention, the Coalition adopts supporting arguments similar, if not exactly the same, as those of LMWD's.

THE COURT'S RULING

We find no merit in the petition and the petition in intervention, particularly in their core position that water districts are private corporations, not GOCCs. The question is a long-settled matter that LMWD and the Coalition seek to revive and to re-litigate in their respective petitions.

The present petition is not the first instance that the petitioner LMWD, through Engr. Ranulfo C. Feliciano, has raised for determination by this Court the corporate classification of local water districts.^[18] LMWD posed this exact same question in *Feliciano v. Commission on Audit (COA)*.^[19] In ruling that local water districts, such as the LMWD, are GOCCs with special charter, the Court even pointed to settled jurisprudence^[20] culminating in *Davao City Water District v. Civil Service Commission*^[21] and recently reiterated in *De Jesus v. COA*.^[22]

In *Feliciano*, LMWD likewise claimed that it is a private corporation and therefore, should not be subject to the audit jurisdiction of the COA. LMWD then argued that P.D. No. 198 is not an "original charter" that would place the water districts within the audit jurisdiction of the COA as defined in Section 2 (1), Article IX-D of the 1987 Constitution.^[23] Neither did P.D. No. 198 expressly direct the creation of the water districts. LMWD posited that the decree merely provided for their formation on an optional or voluntary basis and what actually created the water districts is the approval of the *Sanggunian* Resolution.^[24] Significantly, these are the very same positions that the LMWD and the Coalition (as petitioner-intervenor) submit in the present petition.

Our ruling in *Feliciano* squarely addressed the difference between a private corporation created under general law and a GOCC created by a special charter, and we need only to quote what *Feliciano* said:

We begin by explaining the general framework under the fundamental law. The Constitution recognizes two classes of corporations. The first refers to private corporations created under a general law. The second refers to government-owned or controlled corporations created by special charters. Section 16, Article XII of the Constitution provides:

Sec. 16. The Congress shall not, except by general law, provide for the formation, organization, or regulation of private corporations. Government-owned or controlled corporations may be created or established by special charters in the interest of the common good and subject to the test of economic viability.

The Constitution emphatically prohibits the creation of private corporations except by a general law applicable to all citizens. The purpose of this constitutional provision is to ban private corporations