

FIRST DIVISION

[G.R. NO. 162124, October 18, 2007]

POLOMOLOK WATER DISTRICT, PETITIONER, VS. POLOMOLOK GENERAL CONSUMERS ASSOCIATION, INC., RESPONDENT.

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

For the Court's resolution is the instant Petition for Review on *Certiorari* seeking to reverse the Decision^[1] of the Court of Appeals (Third Division) dated August 29, 2003 in CA-G.R. SP No. 66037.

Polomolok Water District (PWD), petitioner, is a government-owned and controlled corporation engaged in producing and supplying potable water to the residents of the Municipality of Polomolok, South Cotabato.

Polomolok General Consumers Association, Inc., respondent, is a non-stock, non-profit corporation organized and existing under Philippine laws.

In October 1994, petitioner passed PWD Resolution No. 94-023, S. 1994 imposing new and higher water rates upon its customers.

Respondent and its members vigorously opposed petitioner's Resolution, hence, they filed an administrative complaint with the National Water Resources Board (NWRB). But in an Order dated October 13, 1999, the NWRB dismissed the complaint for having been filed out of time.

On November 3, 1999, respondent filed with the Regional Trial Court, Branch 39, Polomolok, South Cotabato, a class suit for declaration of nullity of PWD Resolution No. 94-023, with prayer for a temporary restraining order and preliminary injunction, docketed as Civil Case No. 281. Respondent alleged that the Resolution was passed without due notice to its members and hearing as required by Presidential Decree (P.D.) No. 198, as amended.

In its answer, petitioner claimed that it posted notices at various conspicuous public places at least one week before the public hearing; that it conducted two public hearings on March 2 and June 22, 1994; and that during the second hearing, 187 residents of Polomolok were present.

On December 3, 1999, the trial court issued a writ of preliminary injunction enjoining petitioner from disconnecting the water supply of respondent's members.

Meanwhile, on June 23, 2000, through the earnest efforts of the Mayor of Polomolok, the parties entered into a "Memorandum of Agreement." Respondent agreed to submit a list of all its members, the amounts of dues and the dates of

payments. Petitioner, in turn, committed to accept the payments of respondent's members at the rate of P60.00 for the first 10 cubic meters of water consumption or any amount as may be decreed by the trial court in Civil Case No. 281. The parties also agreed that payments of water dues would be made directly to petitioner rather than coursed through respondent; and that the "Memorandum of Agreement" would be without prejudice to the final outcome of Civil Case No. 281.

However, both parties violated their stipulations.

Meanwhile, on January 18, 2001, the trial court rendered an Order^[2] which reads:

In view of the foregoing, the Court finds that plaintiff has established sufficient proof of violation of its rights to justify the issuance of a writ of preliminary injunction in its favor during the pendency of the main suit for declaration of nullity of defendant's Resolution No. 94-023.

Correspondingly, let therefore a writ of preliminary injunction be issued restraining the defendant from disconnecting the water meter/connection of the plaintiff and its members.

The injunction bond is hereby fixed at P200,000.00 which the plaintiff will pay to such defendant all damages that it may sustain by reason of the injunction if the Court should finally decide that the said plaintiff was not entitled thereto.

The Court Sheriff is hereby directed to serve this Order and the Writ of Preliminary Injunction to the defendant Polomolok Water District immediately upon receipt thereof and to make his return with proceeding thereon.

SO ORDERED.

Petitioner filed a motion for reconsideration, but this was denied by the trial court in its Order dated May 10, 2001.

Thereupon, petitioner filed with the Court of Appeals a petition for *certiorari*, contending that the trial court committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the Orders dated January 18 and May 10, 2001 directing the issuance of a writ of preliminary injunction; that respondent failed to exhaust all administrative remedies before seeking judicial relief; and that, therefore, the trial court has no jurisdiction over Civil Case No. 281.

In its Decision of August 29, 2003, the Court of Appeals dismissed petitioner's petition for *certiorari* and affirmed the trial court's questioned Orders, thus:

WHEREFORE, the assailed orders dated January 18, 2001 and May 10, 2001 are AFFIRMED. The case is remanded to the Regional Trial Court of Polomolok, South Cotabato, Branch 39. The said court is ordered to resolve with deliberate dispatch the class suit for declaration of nullity of Polomolok Water District Resolution No. 94-023. Accordingly, the instant petition is DISMISSED.