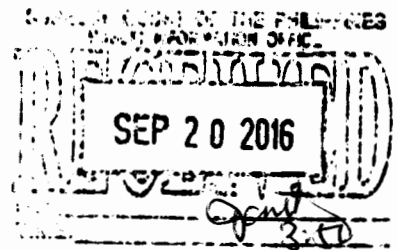




Republic of the Philippines
Supreme Court
 Manila



FIRST DIVISION

**THE CHAIRMAN and EXECUTIVE
 DIRECTOR, PALAWAN COUNCIL
 FOR SUSTAINABLE
 DEVELOPMENT, and THE
 PALAWAN COUNCIL FOR
 SUSTAINABLE DEVELOPMENT,**

Petitioners,

- versus -

**EJERCITO LIM, DOING
 BUSINESS AS BONANZA AIR
 SERVICES, AS REPRESENTED
 BY HIS ATTORNEY-IN-FACT,
 CAPT. ERNESTO LIM,**

Respondent.

G.R. No. 183173

Present:

SERENO, *C.J.*,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 PERLAS-BERNABE, and
 CAGUIOA, *J.J.*

Promulgated:

AUG 24 2016

X-----X

DECISION

BERSAMIN, J.:

This appeal seeks the reversal of the decision promulgated on May 28, 2008,¹ whereby the Court of Appeals (CA) granted the petition for prohibition of the respondent,² and enjoined the petitioners from enforcing Administrative Order (A.O.) No. 00-05, Series of 2002; Resolution No. 03-211; any and all of their revisions; and the Notice of Violation and Show Cause Order for being null and void.

Antecedents

Petitioners Executive Director and Chairman of the Palawan Council for Sustainable Development (PCSD), Messrs. Winston G. Arzaga and Vicente A. Sandoval, respectively, were the public officials tasked with the

¹ *Rollo*, pp. 42-60; penned by Associate Justice Normandie B. Pizarro, and concurred in by Associate Justice Josefina Guevara-Salonga (retired), and Associate Justice Magdangal M. De Leon.

² *Id.* at 201-222.

duty of executing and implementing A.O. No. 00-05 and the Notice of Violation and Show Cause Order, while the PCSD was the government agency responsible for the governance, implementation, and policy direction of the Strategic Environment Plan (SEP) for Palawan. On the other hand, the respondent was the operator of a domestic air carrier doing business under the name and style Bonanza Air Services, with authority to engage in non-scheduled air taxi transportation of passengers and cargo for the public. His business operation was primarily that of transporting live fish from Palawan to fish traders.³

The PCSD issued A.O. No. 00-05 on February 25, 2002 to ordain that the transport of live fish from Palawan would be allowed only through traders and carriers who had sought and secured accreditation from the PCSD. On September 4, 2002, the Air Transportation Office (ATO) sent to the PCSD its communication to the effect that ATO-authorized carriers were considered common carriers, and, as such, should be exempt from the PCSD accreditation requirement. It attached to the communication a list of its authorized carriers, which included the respondent's air transport service.⁴

The respondent asserted that he had continued his trade without securing the PCSD-required accreditation; that the PCSD Chairman had started harassing his clients by issuing Memorandum Circular No. 02, Series of 2002, which contained a penal clause imposing sanctions on the availment of transfer services by unaccredited aircraft carriers such as cancellation of the PCSD accreditation and perpetual disqualification from engaging in live fish trading in Palawan; that due to the serious effects of the memorandum, the respondent had sent a grievance letter to the Office of the President; and that the PCSD Chairman had nonetheless maintained that the respondent's business was not a common carrier, and should comply with the requirement for PCSD accreditation.

In disregard of the prohibition, the respondent continued his business operation in Palawan until a customer showed him the Notice of Violation and Show Cause Order issued by the PCSD to the effect that he had still made 19 flights in October 2002 despite his failure to secure accreditation from the PCSD; and that he should explain his actuations within 15 days, otherwise, he would be sanctioned with a fine of ₱50,000.00.⁵

According to the respondent, he had not received the Notice of Violation and Show Cause Order.⁶

³ Id. at 43-44.

⁴ Id. at 44.

⁵ Id. at 45.

⁶ Id.

The respondent filed a petition for prohibition in the CA, which issued a temporary restraining order (TRO) upon his application after finding that there were sufficient grounds to issue the TRO.⁷ After the petitioners did not file their comment despite notice, the CA issued the writ of preliminary injunction upon his posting of the injunction bond for ₱50,000.00.⁸

The petitioners countered that the petition for prohibition should have been dismissed because A.O. No. 00-05 was in accord with the mandate of the Constitution and of Republic Act No. 7611 (*Strategic Environmental Plan for Palawan Act*);⁹ that Resolution No. 03-211 had meanwhile amended or repealed portions of A.O. No. 00-05, thereby rendering the issues raised by the petition for prohibition moot and academic;¹⁰ that by virtue of such developments, the PCSD accreditation was now required for all carriers, except those belonging to the Government; that on August 18, 2003, the respondent had received another notice regarding the enactment of Resolution No. 03-211; and that they had subsequently dispatched to the respondent on September 9, 2003 another show cause order in view of his continued non-compliance with Resolution No. 03-211.¹¹

The salient portions of Resolution No 03-211 read:

SECTION 3. A new *Paragraph 1.5* is hereby added to *Section 1* of Administrative Order No. 00-05, as amended, as follows:

“**CARRIER** – any natural or juridical person or entity, except the Government, that is engaged or involved in the transportation of live fish or any other aquatic fresh or saltwater products, whether or not on a daily or regular manner or schedule and whether or not for compensation, from any point within or out of the Province of Palawan under a contract or transportation, whether or not in writing, through the use of aircrafts, seacrafts, land vehicles or any other mode of transportation, whether or not registered, mechanical or motorized in nature, and whether or not such persons or entities are common carriers or not as defined by law and regardless of the place of registration of such persons or entities as well as the crafts and vehicles used or employed by them.”

x x x x

SECTION 5. The *new section 2* for Administrative Order No. 00-05, as amended, shall **read as follows**:

⁷ Id. at 47.

⁸ Id.

⁹ Approved on June 19, 1992.

¹⁰ *Rollo*, p. 47.

¹¹ Id. at 49.

5.

“Section 2. Accreditation. Before it can proceed with the transport or carriage of live fish or any other aquatic fresh or saltwater products within or out of the Province of Palawan, a CARRIER must secure a CERTIFICATE OF ACCREDITATION from the PCSD.”¹²

The respondent then filed a supplemental petition alleging that due to the implementation of Resolution No. 03-211, his carriers were forbidden to transport or deliver fish from Palawan to his clients resulting in loss of income amounting to ₱132,000.00; and that such supervening event was a mere scheme to circumvent the TRO and the writ of preliminary injunction issued by the CA.

As stated, the CA promulgated its assailed decision on May 28, 2008, disposing as follows:

WHEREFORE, the instant petition is **GRANTED. Administrative Order No. 00-05, Series of 2002, Resolution No. 03-211**, and any and all of its revisions, and the *Notice of Violation* and *Show-Cause Order* are declared **NULL and VOID**. The injunctive writ previously issued by this Court prohibiting the Respondents from implementing or enforcing the said issuance(s) is declared **PERMANENT**. Costs against the Respondents.

SO ORDERED.¹³

Hence, this appeal by the petitioners.

Issues

The sole issue for determination is whether or not the CA erred in declaring A.O. No. 00-05, Series of 2002; Resolution No. 03-211; and the the Notice of Violation and Show Cause Order null and void for having been issued in excess of the PCSD’s authority.

The petitioners submit the following grounds for consideration, to wit:

I.

THE COURT OF APPEALS ERRED IN INTERPRETING SECTIONS 4, 6, 16, AND 19 OF RA 7611 AS LIMITATIONS TO THE POWER OF THE PCSD TO PROMULGATE ADMINISTRATIVE ORDER NO 00-05.

¹² Id. at 245.

¹³ Id. at 60.

II.

THE COURT OF APPEALS ERRED IN HOLDING THAT THE PCSD'S ISSUANCE OF ADMINISTRATIVE ORDER NO. 05 (sic) IS AN ENCROACHMENT OF THE LEGISLATIVE FUNCTION OF THE SANGGUNIANG PANLALAWIGAN OF PALAWAN.

- A. ADMINISTRATIVE ORDER NO. 00-05 AND ITS REVISIONS WERE PROMULGATED PURSUANT TO THE RULE-MAKING POWER OF THE PCSD.
- B. ADMINISTRATIVE ORDER NO. 00-05 AND ITS REVISIONS POSSESS ALL THE REQUISITES OF A VALID ADMINISTRATIVE REGULATION.

III

THE COURT OF APPEALS ERRED IN RULING THAT THE PROMULGATION OF ADMINISTRATIVE ORDER NO. 00-05 AND ITS REVISIONS IS VESTED SOLELY IN THE SANGGUNIANG PANLALAWIGAN OF PALAWAN.¹⁴

Ruling of the Court

We grant the petition for review on *certiorari*, and reverse the decision of the CA.

1.

Procedural Matters

We first deal with the propriety of the petition for prohibition for the purpose of annulling the challenged administrative issuances.

Administrative agencies possess two kinds of powers, the quasi-legislative or rule-making power, and the quasi-judicial or administrative adjudicatory power. The first is the power to make rules and regulations that results in delegated legislation that is within the confines of the granting statute and the doctrine of non-delegability and separability of powers.¹⁵ The issuance of the assailed A.O. No. 00-05, Resolution No. 03-211 and the other issuances by the PCSD was in the exercise of the agency's quasi-legislative powers. The second is the power to hear and determine questions of fact to which the legislative policy is to apply and to decide in accordance with the standards laid down by the law itself in enforcing and administering the same law. The administrative body exercises its quasi-judicial power when it performs in a judicial manner an act that is essentially of an executive or administrative nature, where the power to act in such manner is

¹⁴ Id. at 21-22.

¹⁵ *Smart Communications, Inc. (SMART) v. National Telecommunications Commission (NTC)*, G.R. No. 151908 and G.R. No. 152063, August 12, 2003, 408 SCRA 678, 686.

incidental to or reasonably necessary for the performance of the executive or administrative duty entrusted to it.¹⁶

The challenge being brought by the petitioners rests mainly on the theory that the CA should not have interpreted the functions of the PCSD, particularly those provided for in Sections 4, 6, 16, and 19 of R.A. No. 7611, as limitations on the power of the PCSD to promulgate A.O. No. 00-05. Clearly, what was assailed before the CA was the validity or constitutionality of a rule or regulation issued by the PCSD as an administrative agency in the performance of its quasi-legislative function. The question thus presented was a matter incapable of pecuniary estimation, and exclusively and originally pertained to the proper Regional Trial Court pursuant to Section 19(1) of *Batas Pambansa Blg. 129*. Indeed, Section 1, Rule 63 of the *Rules of Court* expressly states that any person “whose rights are affected by a statute, executive order or regulation, ordinance, or any other governmental regulation” may bring an action in the appropriate Regional Trial Court “to determine any question of construction or validity arising, and for a declaration of his rights or duties, thereunder.” The judicial course to raise the issue against such validity should have adhered to the doctrine of hierarchy of courts except only if the respondent had sufficient justification to do otherwise. Yet, he utterly failed to show justification to merit the exception of bypassing the Regional Trial Court. Moreover, by virtue of Section 5, Article VIII of the Constitution,¹⁷ the Court’s power to evaluate the validity of an implementing rule or regulation is generally appellate in nature.

In this regard, the Court has categorically observed in *Smart Communications, Inc. v. National Telecommunications Commission*¹⁸ that if what is being assailed is the validity or constitutionality of a rule or regulation issued by an administrative agency in the performance of its quasi-legislative functions, then the Regional Trial Court has jurisdiction to pass upon the same. The determination of whether a specific rule or set of rules issued by an administrative agency contravenes the law or the Constitution is within the jurisdiction of the Regional Trial Court.¹⁹

To accord with the doctrine of hierarchy of courts, therefore, the petition for prohibition should have been originally brought in the proper Regional Trial Court as a petition for declaratory relief.

¹⁶ Id. at 687.

¹⁷ The Supreme Court shall have the following powers:

x x x x

(2) Review, revise, reverse, modify, or affirm on appeal or *certiorari*, as the law or the Rules of Court may provide, final judgments and orders of lower courts in:

(a) All cases in which the constitutionality or validity of any treaty, international or executive agreement, law, presidential decrees, proclamation, order, instruction, ordinance, or regulation is in question. x x x

¹⁸ Supra note 15.

¹⁹ Id. at 689.

We also need to remind that a petition for prohibition is not the proper remedy to assail an administrative order issued in the exercise of a quasi-legislative function. Prohibition is an extraordinary writ directed against any tribunal, corporation, board, officer or person, whether exercising judicial, quasi-judicial or ministerial functions, ordering said entity or person to desist from further proceedings when said proceedings are without or in excess of said entity's or person's jurisdiction, or are accompanied with grave abuse of discretion, and there is no appeal or any other plain, speedy and adequate remedy in the ordinary course of law.²⁰ Its lies against the exercise of judicial or ministerial functions, not against the exercise of legislative or quasi-legislative functions. Generally, the purpose of the writ of prohibition is to keep a lower court within the limits of its jurisdiction in order to maintain the administration of justice in orderly channels.²¹ In other words, prohibition is the proper remedy to afford relief against usurpation of jurisdiction or power by an inferior court, or when, in the exercise of jurisdiction in handling matters clearly within its cognizance the inferior court transgresses the bounds prescribed to it by the law, or where there is no adequate remedy available in the ordinary course of law by which such relief can be obtained.²²

Nevertheless, the Court will not shirk from its duty to rule on this case on the merits if only to facilitate its speedy resolution. In proper cases, indeed, the rigidity of procedural rules may be relaxed or suspended in the interest of substantial justice. The power of the Court to except a particular case from its rules whenever the purposes of justice so require cannot be questioned.²³

2.

Substantive Matters

Were A.O. No. 00-05, Series of 2002; Resolution No. 03-211; and the the Notice of Violation and Show Cause Order null and void for having been issued in excess of the PCSD's authority?

We answer the query in the negative.

R.A. No. No. 7611 has adopted the Strategic Environmental Plan (SEP) for Palawan consistent with the declared policy of the State to protect, develop, and conserve its natural resources. The SEP is a comprehensive

²⁰ Section 2, Rule 65 of the *Rules of Court*.

²¹ *Holy Spirit Homeowners Association, Inc. v. Defensor*, G.R. No. 163980, August 3, 2006, 497 SCRA 581, 595.

²² *Id.*, citing *David v. Rivera*, G.R. Nos. 129913 and 140159, January 16, 2004, 420 SCRA 90, 100.

²³ *Id.* at 596.

framework for the sustainable development of Palawan to protect and enhance the Province's natural resources and endangered environment.

Towards this end, the PCSD was established as the administrative machinery for the SEP's implementation. The creation of the PCSD has been set forth in Section 16 of R.A. No. 7611, to wit:

SEC. 16. Palawan Council for Sustainable Development. — The governance, implementation and policy direction of the Strategic Environmental Plan shall be exercised by the herein created Palawan Council for Sustainable Development (PCSD), hereinafter referred to as the Council, which shall be under the Office of the President. x x x

The functions of the PCSD are specifically enumerated in Section 19 of R.A. No. 7611, which relevantly provides:

SEC. 19. Powers and Functions. — In order to successfully implement the provisions of this Act, the Council is hereby vested with the following powers and functions:

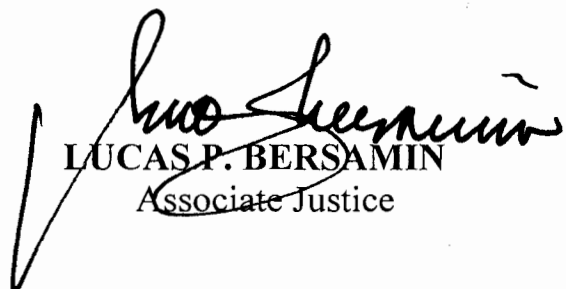
1. Formulate plans and policies as may be necessary to carry out the provisions of this Act;
2. Coordinate with the local governments to ensure that the latter's plans, programs and projects are aligned with the plans, programs and policies of the SEP;
3. Call on any department, bureau, office, agency or instrumentality of the Government, and on private entities and organizations for cooperation and assistance in the performance of its functions;
4. Arrange, negotiate for, and accept donations, grants, gifts, loans, and other funding from domestic and foreign sources to carry out the activities and purposes of the SEP;
5. Recommend to the Congress of the Philippines such matters that may require legislation in support of the objectives of the SEP;
6. Delegate any or all of its powers and functions to its support staffs, as hereinafter provided, except those which by provisions of law cannot be delegated;
7. Establish policies and guidelines for employment on the basis of merit, technical competence and moral character and prescribe a compensation and staffing pattern;

8. **Adopt, amend and rescind such rules and regulations and impose penalties** therefor for the effective implementation of the SEP and the other provisions of this Act;
9. Enforce the provisions of this Act and other existing laws, rules and regulations similar to or complementary with this Act;
10. Perform related functions which shall promote the development, conservation, management, protection, and utilization of the natural resources of Palawan; and
11. Perform such other powers and functions as may be necessary in carrying out its functions, powers, and the provisions of this Act. (Emphasis supplied)


Accordingly, the PCSD had the explicit authority to fill in the details as to how to carry out the objectives of R.A. No. 7611 in protecting and enhancing Palawan's natural resources consistent with the SEP. In that task, the PCSD could establish a methodology for the effective implementation of the SEP. Moreover, the PCSD was expressly given the authority to impose penalties and sanctions in relation to the implementation of the SEP and the other provisions of R.A. No. 7611. As such, the PCSD's issuance of A.O. No. 00-95 and Resolution No. 03-211 was well within its statutory authority.

WHEREFORE, the Court **GRANTS** the petition for review on *certiorari*; **ANNULS** and **SETS ASIDE** the decision promulgated on May 28, 2008; **DECLARES VALID** and **EFFECTIVE** Administrative Order No. 00-05, Series of 2002; Resolution No. 03-211; and all their revisions, as well as the Notice of Violation and Show Cause Order issued to the respondent; **LIFTS** the permanent injunction issued by the Court of Appeals enjoining petitioner Palawan Council for Sustainable Development from enforcing Administrative Order No. 00-05, Series of 2002; Resolution No. 03-211; and all their revisions, as well as the Notice of Violation and Show Cause Order issued to the respondent; and **ORDERS** the respondent to pay the costs of suit.

SO ORDERED.


LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

Ms. Perlas
ESTELA M. PERLAS-BERNABE
Associate Justice

[Signature]
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.

[Signature]
MARIA LOURDES P. A. SERENO
Chief Justice