Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

SAN FRANCISCO INN, hereto represented by its authorized representative, LEODINO M. CARANDANG,
Petitioner,

- versus -

SAN PABLO CITY WATER DISTRICT, represented by its General Manager ROGER F. BORJA and the SPCWD INVESTIGATING BOARD,
Respondents.

G.R. No. 204639

Present:

SERENO, *C.J.*, Chairperson,
LEONARDO-DE CASTRO,
DEL CASTILLO,
PERLAS-BERNABE, and
CAGUIOA, *JJ.*

Promulgated:

FEB 15 2017

x----------x

DECISION

CAGUIOA, *J.*:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the Decision dated September 14, 2011[1] of the Court of Appeals[2] (CA) in CA-G.R. CV No. 95617, modifying the Decision dated May 25, 2010[3] of the Regional Trial Court of San Pablo City, Branch 32 (RTC), declaring valid the imposition of production charges/fees by respondent San Pablo City Water District (SPCWD) on commercial and industrial users/operators of deep wells in San Pablo City and upholding the right of SPCWD to demand payment of production charges/fees in accordance with existing rates from petitioner San Francisco Inn (SFI) and for the latter to pay interest thereon from their imposition starting in 1998. The review of the Resolution dated November 13, 2012[4] of the CA, denying SFI's motion for reconsideration of the CA Decision, is also sought in the petition.

---

1 *Rollo*, pp. 31-61. Penned by Associate Justice Magdangal M. De Leon, with Associate Justices Mario V. Lopez and Socorro B. Inting concurring.
2 Fourteenth Division.
3 *Rollo*, pp. 80-96. Penned by Presiding Judge Agripino G. Morga.
4 Id. at 63-65. Rendered by the Former Fourteenth Division.

While there were several issues raised by SFI before the RTC and the CA, the singular issue it raised in the petition is whether the CA erred in upholding SPCWD's right to impose production assessment in the absence of any findings or proof that SFI's use of ground water was injuring or reducing SPCWD's financial condition and impairing its ground water source, pursuant to Section 39 of Presidential Decree No. 198 (PD 198) and Section 11 of the "Rules Governing Ground Water Pumping and Spring Development Within the Territorial Jurisdiction of San Pablo City Water District" (the Rules).[5]

SFI argues that both the law and the Rules provide the following specific conditions before any water district may adopt and levy ground water production assessment:

(1) Prior due notice to entities within the district extracting ground water for commercial and industrial uses, and hearing on the water district's plan to adopt and levy a ground water production assessment or impose special charges at fixed rate; and

(2) A finding by the Board of Directors of the water district that production of ground water by such entities is: (i) adversely affecting the water district's financial condition **and** (ii) impairing its ground water sources.[6]

The Facts and Antecedent Proceedings

The RTC, in its Decision dated May 25, 2010, made the following findings which are relevant to the issue posed above:

> The facts are not in dispute while the proceedings are of record.
>
> The petitioner [SFI] is a hotel business establishment situated at Brgy. San Francisco Calihan, San Pablo City. In 1996, petitioner caused the construction of two (2) deep-well pumps for the use of its business. The pumps, which have a production capacity of four (4) liters per second each, bear the following specification[s]: size of casing [–] 2.0"; size of column pipe – 1.5"; pump setting – 60 feet; and motor HP rating – 1.5 HP.
>
> The respondent [SPCWD] is a local water utility organized under Resolution No. 309, approved by the Municipal Board of the City of San Pablo, on December 17, 1973, absorbing the former San Pablo Waterworks System and its facilities. Its operation is under the National Water Resources Board, formerly Council (NWRB), which is the national agency vested with authority to control and regulate the utilization, exploitation, development, conservation and operation of water resources pursuant to Presidential Decree No. 1067, otherwise known as the "Water Code of the Philippines" (Water Code) and Presidential Decree No. 198,

---

5 Id. at 15-16.

6 Id. at 16-17.

the "Local Water Utilities Administration Law". The respondent [SPCWD] is managed by a Board of Directors.

In 1977, the respondent [SPCWD] promulgated the Rules Governing Groundwater Pumping and Spring Development Within the Territorial Jurisdiction of the San Pablo City Water District. These rules were approved by the NWRB in its 88th meeting held on January 23, 1978. The provisions of the Rules relevant to this case are [Sections 10[7], 11[8] and 12[9]].

x x x x

Pursuant to Section 80 of PD 1067, the NWRB in its Memorandum dated February 4, 1997, deputized the respondent to perform the following functions:

> "xxx
>
> "1. To accept, process, investigate and make recommendation on water permit applications on sources located within the territorial jurisdiction of the Water District.
>
> 2. To monitor drilling wells and other water resources development activities in your area for conformance with the provision of the Water Code and the rules and regulations of the Water District as approved by the Board.
>
> 3. To coordinate with the Offices of the DPWH-DE and NIA-PIO and other concerned agencies for the orderly and timely completion of necessary field activities related.
>
> "xxx."

x x x In a letter dated 26 January 1998, the respondent's General Manager Roger F. Borja, invited petitioner and other deep-well users in San Pablo City, to a meeting to discuss the imposition of production assessment fees. The meeting proceeded as scheduled on February 19, 1998, with several deep-well owners present, among which is the petitioner. The topic discussed during the meeting involved the legality of the imposition of production fees and the rate of production fees to be imposed. No concrete agreement was reached except that the deep-well

---

7 Section 10 – Existing Appropriators or Users of Domestic, Commercial – Industrial Wells – Appropriators or users of domestic, commercial or industrial wells already drilled and in operation at the time of the effectivity of these rules shall be required to fill up NWRC Form Nos. 2902 and 2903, which forms shall be made available upon demand, and to comply with the provision of Section 6(g), for the evaluation of the Water District and levy of production assessment or special charges. RTC Decision, *rollo*, pp. 81-82; underscoring supplied.

8 Section 11 – Production Assessment – In the event the Board of Directors of the District, finds, after notice and hearing, that production of ground water by other entities within the District for commercial or industrial uses is adversely affecting the District['s] financial condition and is impairing its ground water source, the Board may adopt and levy a ground water production assessment or impose special charges at fixed rates to compensate for such loss. In connection therewith the District may require commercial or industrial appropriators to install metering devices acceptable to the District to measure the actual abstraction or appropriation of water and which devices shall be regularly inspected by the District. Id. at 82.

9 Section 12 – Rate Assessment – The assessment of special charges to be imposed by the District shall be computed on royalty basis at a rate to be fixed by the Board subject to the review and approval of the Local Water Utilities Administration. Id.

users just agreed to submit within fifteen (15) days a position paper either individually or collectively. x x x On March 26, 1998, deep-well users, including petitioner submitted their position paper opposing the imposition of the production assessment fee on the ground that the same "is inequitable and constitutes an unjust discrimination against such users."

On September 11, 1998, petitioner [SFI] filed an application for water permit with the NWRB. In a letter dated November 14, 1998, the DPWH District Engineer requested petitioner to submit clearances from the barangay chairman, the city mayor and the respondent water district. It appears that petitioner failed to comply except the submission of a barangay clearance certificate, and a certification dated 17 November 1998, issued by the respondent's Engr. Virgilio L. Amante, respondent's Engineering and Production Division Manager, stating among others that "the extraction of water has no adverse effect on the existing water supply and system of the San Pablo City Water District," but "without prejudice to the water district implementation of production assessment charges in the future."

On June 1, 1999, the respondent sent the petitioner a copy of a draft Memorandum of Agreement, regarding the proposed imposition of production assessment fee at P0.50 per cubic meter of water drawn from the well. The petitioner [SFI], however, did not sign the MOA. The respondent [SPCWD] in a letter dated November 9, 1999, again wrote the petitioner asking the latter to approve and/or sign the MOA.

On 30 July 2001, the Board of Directors of the respondent's (sic) passed a Board Resolution No. 050, Series of 2001, creating an investigating panel to investigate, hear and decide violations of the Water Code. The panel was composed of the Legal Counsel as Chairman, and then Senior Industrial Relations Management Officer and the Commercial Division Manager, as members, of the respondent. In an Order dated August 30, 2001, the Investigating Board directed the petitioner to appear and submit evidence "WHY NO CEASE AND DESIST ORDER AND CLOSURE OF OPERATION of the water well" should be issued against the petitioner. Petitioner through counsel submitted a Manifestation and Motion on September 12, 2001, asking that the Order of August 30, 2001, be set aside and that it be furnished copy of the specific complaint against it. In an Order dated September 25, 2001, the Investigating Board resolved x x x:

> "x x x x
>
> In the interest of justice and for the reasons advanced in his motion, [petitioner SFI] is hereby ordered to appear before the Investigating Board on Tuesday, October 2, 2001 at 9:30 a.m. for continuation of the investigation and to submit [its] evidence why NO CEASE AND DESIST ORDER AND CLOSURE OF OPERATION of the water well against you and your corporation shall be issued pursuant to Board Resolution No. 045, Series of 1995 and Section 15 of the approved San Pablo City Water District Rules in Resolution No. 883, dated January 23, 1978 by the NWRB."
>
> x x x x

On November 19, 2001, prior to the issuance of the [Order dated November 20, 2001, submitting the matter for resolution due to the failure of petitioner [SFI] or counsel to appear on October 2, 2001, despite receipt of notice], the [p]etitioner instituted the instant petition seeking to enjoin the respondent water district and its General Manager, from further investigating and hearing IB No. 006, entitled "San Pablo City Water District vs. San Francisco Inn," as its continuance will work injustice and/or irreparable damage or injury to the petitioner and will mean closure of its hotel business operation. On November 28, 2001, the respondents through counsel filed a Motion to Dismiss anchored on the arguments that the Court has no jurisdiction over the subject matter, and for lack of cause of action against the respondents. The petitioner filed its opposition to the motion to dismiss, contending that the Court has jurisdiction over the subject matter of the case and that it has a valid cause of action against the petitioner (sic). The Court, in an Order dated February 1, 2002, denied the motion to dismiss, directing the respondents to file their answer x x x. On February 27, 2002, the respondents submitted their answer, maintaining its (sic) position that the NWRB, not the Court[,] has jurisdiction to hear the subject matter of the case, and that injunction is not the proper remedy there being an administrative remedy available to the petitioner.

x x x x

In the interim, the Investigating Board came out with its Report and Resolution in IB-Case No. 006, dated April 9, 2002, recommending to the respondent's Board of Directors, the following:

> "1. To issue a CEASE AND DESIST ORDER AND CLOSURE OF OPERATION of their deepwell (sic) constructed by the [petitioner] without the required water permit;
>
> "2. To demand the required payment of the appropriations of water without permit from October 1999 up to the present, the equivalent value of the consumption to be paid to the district;
>
> "3. That a CEASE AND DESIST ORDER AND CLOSURE OF OPERATION of the water supply be issued by the Board of Directors of the appropriate agency after the lapse of 15 days from the issuance of approval order by the Board. The order that may be issued by the Board based on the recommendation be enforced by the designated enforcing officer with the assistance of the Philippine National Police as provided in PD 1067.
>
> "xxx."

From the above Report and Resolution, the petitioner filed a Motion for Reconsideration on May 14, 2002, on the following grounds: a) the authority of the respondent has already been questioned in the action for injunction; b) that the respondent has not shown proof that the extraction/drawing of water by the petitioner had caused injury upon the respondent's financial condition; and c) the petitioner had already filed a water permit application which is pending before the NWRB. In a 1st Indorsement dated May 15, 2002, the Investigating Board referred the above-mentioned Motion for Reconsideration to the respondent's Board of

Directors for appropriate action. At this juncture, it may well be pointed out that the Board of Directors of the respondent has not yet taken action on the above Report and Resolution of the Investigating Board.

In addition to the above action taken by the petitioner, it also filed before this Court a Motion for Issuance of a Writ of Preliminary Mandatory Injunction, to enjoin the respondent and its Board of Directors "not to proceed in IB case No. 006 and/or from doing any further acts that could possibly disturb the status quo and will render the instant case moot and academic pending the final adjudication of the instant case in the higher interest of equity, fair play and substantial justice." The respondents through counsel filed an Opposition to the motion on May 18, 2002, contending that the matters discussed in the subject motion, "are questions to be determined on the merits of the case," such that to rule on it "would be to rule on the main case of the petition which is injunction xxx." In a Supplemental Manifestation filed on May 28, 2002, the petitioner argued that it had already filed a water permit application which remained unacted upon and that the operation of a deep-well did not affect the water supply system of the respondent.

At the hearing on June 28, 2002, petitioner and counsel appeared but respondents and counsel did not. On motion by the petitioner, the Court gave it a period of ten (10) days to file its formal offer of exhibits, and for respondents to file their comment therein. On July 17, 2002, the petitioner formally offered Exhibits "A" to "I". On July 19, 2002, the respondents opposed the admission of the petitioner's exhibits on the ground that no formal hearing was conducted as to warrant the offer of the said exhibits. In an Order dated November 19, 2002, the Court admitted Exhibits "A" to "I" of the petitioner, in support of its prayer for the issuance of prohibitory mandatory injunction.

After a series of [O]rders setting the case for pre-trial, the initial pre-trial was held on November 13, 2002. The case was transferred from one Presiding Judge to another through various reasons such as inhibition, transfer to another station and illness of one. Eventually, full-blown pre-trial was held on February 4, 2008.

At the trial, the following testified for the petitioner: Leodino M. Carandang (on May 12, 2008); Virgilio Amante, whose testimony did not proceed in view of his unfortunate death (on June 23, 2008) but that the respondents admitted the due execution and existing (sic) of a Certification dated November 19, 1998, issued by Engr. Virgilio Amante, which was marked Exhibit "G"; Josefina Agoncillo (on July 28, 2008); and Renato Amurao as an adverse witness (on August 4, 2008)[.] On October 3, 2008, the petitioner formally offered its evidence consisting of Exhibits "A" to "N". On October 15, 2008, the respondents submitted their comment on the petitioner's exhibits, objecting primarily to the purpose[s] for which they are being offered. In an Order dated October 27, 2008, this Court admitted petitioner's Exhibits "A" to "N".

For the respondents, the following testified: Engr. Roger F. Borja (on November 17, 2008, and January 26, 2009); Florante Alvero (on March 2, 2009); Renato Amurao (on July 27, 2009); Antonio Estemadura, one of the deep-well owners who is paying the production assessment fees (on November 9, 2009); and Teresita B. Rivera (on January 11, 2010). On January 28, 2010, the respondent[s] formally offered their exhibits consisting of Exhibits "1" to "34", with their respective sub-markings. On

> February 11, 2010, the petitioner through counsel filed its comments on the respondents' offer of evidence. In an Order dated February 15, 2010, this Court admitted all the respondents' Exhibits "1" to "34"; and directed the parties to submit their respective memoranda. Both the respondents and petitioner submitted their respective memoranda on March 29, 2010.[10]

On the power of the respondent local water utility [SPCWD] to impose production assessment fees on deep well owners, the RTC, citing Section 39 of PD 198 and Section 11 of the Rules, ruled that:

> Clearly, then, there can be no dispute that the respondent water utility has the power to impose production assessment fees. The authority, however, shall be subject to notice and hearing, and conditioned upon a finding that the appropriation of underground water by a person or utility, as in the case of the petitioner "is injuring or reducing the district's financial condition."
>
> This Court painstakingly reviewed the records of this case and the proceedings before the Investigating Board created by the respondent water utility. Nothing in the records will show that the respondent [SPCWD] has come up with a written finding that petitioner [SFI]'s appropriation of underground water is injuring or reducing the respondent's financial condition. What is extant from the records are the following:
>
> a. that there was an invitation to all deep-well users in San Pablo City to a meeting regarding the legality of the imposition of production assessment fees;
>
> b. the meeting was held on February 19, 1998, where deep-well users attended, including the petitioners (sic);
>
> c. no concrete agreement was reached during the meeting except for the deep-well users to submit their position paper;
>
> d. that on March 26, 1998, the deep-well users submitted their position paper opposing the imposition of the production assessment fees;
>
> e. that while other deep-well users eventually paid production assessment fees and signed the MOA on the same, petitioner did not agree and refused to sign the MOA;
>
> f. that the respondent created an Investigating Board to investigate petitioner for failure to secure water permit;
>
> g. that the Investigating Board directed petitioner to show cause why no cease and desist order be issued for operating a deep well without a permit;
>
> h. that petitioner submitted a Manifestation and Motion asking for any specific complaint against it in regard of its operation;
>
> i. that the Investigating [Board] set the incident for hearing on October 2, 2001, but the petitioner did not appear, prompting the Investigating Board to consider the matter submitted for resolution;

---

[10] RTC Decision dated May 25, 2010, *rollo*, pp. 81-89.

> j. that on April 9, 2002, the Investigating Board came out with its Report and Resolution recommending to the respondent['s] Board of Directors to issue a cease and desist order against the petitioner for operating a deep well without a permit, and to demand payment of the equivalent value of the consumption or underground water "from October 1999 up to the present"; and
>
> k. that the above Report and Resolution has not yet been acted upon by the respondent's Board of Directors up to this time.
>
> In fine, the respondent [SPCWD]'s Board of Director[s] has no final resolution or decision yet on the matter of the recommendation of the Investigating Board. The obvious reason for this, as borne by the records is the fact that petitioner [SFI] sought intervention of this Court through the instant proceedings.
>
> In short, the respondent [SPCWD]'s Board of Directors has no official action yet in the form of a board resolution fixing the rate of production assessment fees, neither does it have any conclusive finding that the appropriation by the petitioner [SFI] of their (sic) two (2) deep-well pumps is "injuring or reducing the district's financial condition." Even the Report and Resolution of the Investigating Board made no mention about the injurious effect of the petitioner [SFI]'s operation upon the financial condition of the respondent [SPCWD]. There is also no showing that the respondent [SPCWD] had required the petitioner [SFI] to conduct reports on its operation of the two (2) deep-well pumps as so provided in Section 39 of PD 198 and Section 11 of the Rules Governing Groundwater Pumping and Spring Development quoted earlier. While the respondent [SPCWD] has drafted a MOA on the imposition of production assessment fees upon deep well owners/users and provided copies thereof to the latter including the petitioner [SFI], the same is not supported by any resolution promulgated and approved by the respondent [SPCWD]'s Board of Directors. In the absence of such board resolution, the respondent [SPCWD] cannot as yet legally impose any production assessment fees upon deep-well owners/users. Let it be clarified, however, that deep-well owners/users who have signed the MOA are presumed to have voluntarily acceded to the payment of production assessment fees, and must continue to pay the same.[11]

The RTC dismissed the petition of petitioner SFI in its Decision dated May 25, 2010, the dispositive portion of which reads as follows:

> WHEREFORE, the instant petition is DISMISSED. Without pronouncement as to damages.
>
> SO ORDERED.[12]

Respondent SPWCD appealed the RTC Decision before the CA. The CA, in its Decision dated September 14, 2011,[13] declared "valid the imposition of production charges/fees by respondent x x x SPCWD on commercial and industrial users/operators of deep wells in San Pablo City, and upholds the right of [respondent] SPCWD to demand payment of

---

11 Id. at 91-93.
12 Id. at 96.
13 Supra note 1.

production charges/fees in accordance with existing rates from [SFI] and for the latter to pay interest thereon from its imposition starting in 1998."[14]

The CA made the following findings:

> At the outset, this Court finds that [respondent] SPCWD complied with the due process requirement for the effectivity and enforcement of the law and the rules sought to be implemented. It called a meeting for that purpose where even [SFI] itself stated that officials of SPCWD explained the concept and the legal basis of the production assessment fee and the purpose for which the district is imposing the said charges. [SFI] also narrated in its Appellee's Brief that the attendees at the public hearing expressed their concern with respect to the charges that will be imposed. It has been held that the importance of the first notice, that is, the notice of coverage and the letter of invitation to a conference, and its actual conduct cannot be understated. They are steps designed to comply with the requirements of administrative due process preliminary to the imposition of the production assessment rate which is an exercise of police power for the regulation of private property in accordance with the Constitution.
>
> With respect to the rate of the assessment, the trial court was of the firm view that without the express board resolution from the Board of Directors, the SPCWD is precluded from imposing and collecting the same. The trial court undermined SPCWD's compliance with the due process of prior consultation with the deep well users who were required to submit their position paper. Accordingly, from the intended production assessment fee of P6.50 was reduced to P0.80 per cubic meter for commercial users and P1.60 per cubic meters (sic) for industrial users. But upon further consultation, the Board of Directors of the SPCWD finally pegged the production assessment rate from P0.80 to P0.50 per cubic meter for commercial operator/users, and from P1.60 to P1.00 per cubic meters (sic) for industrial users.[15]

From these findings, the CA ruled that there was no need to await the Board Resolution expressly fixing the rate since the assessment as well as the agreed reduced rate to be imposed was based on a prior consultation on the rates with deep well users, which is a "form of contemporaneous or practical construction by the administrative officers charged with the implementation of the Water Code" and the signing of the MOA where the parties agreed to pay the reduced rate is a "form of implied administrative interpretation of the law or the so called interpretation by usage or practice."[16] The CA further ruled that SFI, by seeking the injunction on the assessment to be charged by SPCWD, questioned the exercise of police power by the State; and in this case, it was exercised by an administrative board by virtue of a valid delegation.[17]

On the matter of SFI's argument that for SPCWD to be able to charge production fee it should prove the impairment of ground water supply, the CA ruled that:

---

[14] Id. at 60-61.
[15] Id. at 45-46.
[16] Id. at 47-48.
[17] Id. at 48-49.

> To Our mind, it is not necessary to prove the impairment of ground water supply because the Water Code on which the rules is (sic) premised simply states that there may be assessment charges if the financial condition of the district is affected. It does not require establishment of the impairment of ground water supply. Thus, the imposition of an additional requirement exceeded the requirement in the main law. However, even assuming that proof must be made that there is injury to the ground water supply, this Court takes judicial notice that in 1997-1998 the entire world was affected by the El Niño Phenomenon. Its effect on the Philippines was explained by the Department of Science and Technology x x x.[18]

SFI filed a motion for reconsideration, which the CA denied in its Resolution dated November 13, 2012.[19] Hence, this petition for review filed by SFI.

SPCWD filed its Comment dated May 31, 2013.[20] SFI filed its Reply on March 10, 2014.[21]

The Issue Before the Court

As formulated by SFI, the sole issue to be resolved in the petition is:

> Whether the CA erred in upholding the right of SPCWD to impose production assessment in the clear absence of any findings/proof to support compliance that SFI's use of ground water is injuring or reducing SPCWD's financial condition and impairing its ground water source, pursuant to Section 39 of PD 198 and Section 11 of the Rules.[22]

The Court's Ruling

The petition has merit.

The jurisdiction of the courts over a dispute involving the right or authority of a local water utility or water district entity, like SPCWD, to impose production assessment against commercial or industrial deep well users, like SFI, pursuant to Section 39 of PD 198 is settled. The issue in such a dispute is a judicial question properly addressed to the courts.[23] Thus, the RTC correctly exercised its jurisdiction over the dispute between SFI and SPCWD.

Section 39 of PD 198, except for a minor typographical error, is unambiguous, *viz*:

---

18 Id. at 49-50.
19 Supra note 4.
20 Id. at 168-248 (with Annexes).
21 Id. at 258-270.
22 Id. at 15-16.
23 See *Dasmariñas Water District v. Monterey Foods Corp.*, 587 Phil 403, 414 (2008).

> Section 39. *Production Assessment.* - In the event the board of a district finds, after notice and hearing, that production of ground water by other entities within the district for commercial or industrial uses in (sic) injuring or reducing the district's financial condition, the board may adopt and levy a ground water production assessment to compensate for such loss. In connection therewith, the district may require necessary reports by the operator of any commercial or industrial well. Failure to pay said assessment shall constitute an invasion of the waters of the district and shall entitle this district to an injunction and damages pursuant to Section 32 of this Title.

Section 11 of the Rules is likewise without ambiguity, *viz*:

> Section 11 – Production Assessment – In the event the Board of Directors of the District, finds, after notice and hearing, that production of ground water by other entities within the District for commercial or industrial uses is adversely affecting the District['s] financial condition and is impairing its ground water source, the Board may adopt and levy a ground water production assessment or impose special charges at fixed rates to compensate for such loss. In connection therewith the District may require commercial or industrial appropriators to install metering devices acceptable to the District to measure the actual abstraction or appropriation of water and which devices shall be regularly inspected by the District.[24]

There being no ambiguity, the plain meaning of Section 39, PD 189 and Section 11 of the Rules is to be applied. A cardinal rule in statutory construction is that when the law is clear and free from any doubt or ambiguity, there is no room for interpretation. There is only room for application.[25]

Under the law and the Rules, the requirements that must be complied with before a water district entity may impose production assessment on the production of ground water by commercial or industrial operators/users are:

1. A prior notice and hearing; and

2. A resolution by the Board of Directors of the water district entity: (i) finding that the production of ground water by such operators/users within the district is injuring or reducing the water district entity's financial condition and is impairing its ground water source; and (ii) adopting and levying a ground water production assessment at fixed rates to compensate for such loss.

The Court, not being a trier of facts, must rely on the findings of the RTC set forth above.

---

[24] *Rollo*, p. 82.

[25] *Amores v. House of Representatives Electoral Tribunal*, 636 Phil. 600, 608 (2010), citing *Twin Ace Holdings Corp. v. Rufina and Company*, 523 Phil. 766, 777 (2006).

The RTC correctly applied the clear text of the law and the Rules. The RTC also correctly ruled that the preconditions for the levying of production assessment by SPCWD on SFI had not been complied with. While there had been prior notice and hearing, SPCWD's Board of Directors had not adopted the required resolution with a definitive finding that the appropriation by SFI of its two deep well pumps was injuring or reducing the SPCWD's financial condition and fixing the rate of production assessment fees to be levied against SFI that would be adequate to compensate the financial loss it stood to suffer.

It is well to note that, as astutely observed by the RTC, even the Report and Resolution of the Investigating Board created by SPCWD made no mention about the injurious effects, if any, of SFI's deep well operation upon the financial condition of SPCWD. While SPCWD had drafted a MOA on the imposition of production assessment fees upon deep well owners/users and provided copies thereof to them, including SFI, the MOA was not supported by any resolution duly promulgated and approved by SPCWD's Board of Directors or by any finding that there were injurious effects of SFI's deep well operation upon the financial condition of SPCWD. For its part, SFI did not execute the MOA.

A MOA or contract between the water district entity and the deep well operator/user is not required under the law and the Rules. However, when a MOA is voluntarily agreed upon and executed, the obligation to pay production assessment fees on the part of the deep well operator/user and the right of the water district entity to collect the fees arise from contract.[26] The parties are, therefore, legally bound to comply with their respective prestations.

Unlike a MOA, which creates contractual obligations, faithful compliance with the requirements of Section 39 of PD 198 and Section 11 of the Rules creates binding obligations arising from law.[27] Thus, in the absence of the requisite board resolution, SPCWD cannot legally impose any production assessment fees upon SFI.

The CA erred when it ruled that "there is no need to await the Board Resolution expressly fixing the rate"[28] because a board resolution, as described above, is a mandatory prerequisite under the law and the Rules. The CA's invocation of "contemporaneous or practical construction"[29] and "interpretation by usage or practice"[30] is unwarranted, Section 39 of PD 198 and Section 11 of the Rules being crystal clear and wholly unambiguous.

---

26 See CIVIL CODE, Art. 1157(2).
27 Id. at Art. 1157(1).
28 CA Decision dated September 14, 2011, *rollo*, p. 47.
29 Id.
30 Id. at 48.

Furthermore, the CA's reliance on the *El Niño* phenomenon in 1997-1998, which it took judicial notice of, to justify the imposition of production assessment fees by SPCWD on SFI does not meet the clear parameters stated in the law and the Rules. What is sought to be compensated by the production assessment fees is the financial loss that the water district entity stands to suffer due to the production of the ground water by the deep well operator/user. The law requires proof of a direct correlation between the financial loss of the water district entity and the ground water production of the deep well operator/user. In this case, with or without the *El Niño* phenomenon, such direct correlation has not been preponderantly established as found by the RTC.

WHEREFORE, the Decision dated September 14, 2011 and the Resolution dated November 13, 2012 of the of the Court of Appeals in CA-G.R. CV No. 95617 are **REVERSED** and **SET ASIDE**. The Decision dated May 25, 2010 of the Regional Trial Court of San Pablo City, Branch 32 in Civil Case No. SP-5869, dismissing the petition, is **AFFIRMED**.

SO ORDERED.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

ESTELA M. PERLAS-BERNABE
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.

MARIA LOURDES P. A. SERENO
Chief Justice