



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

**PHESCHEM INDUSTRIAL
CORPORATION,**

Complainant,

A.C. No. 8269

Present:

SERENO, C.J.,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, JJ.

- versus -

**ATTYS. LLOYD P. SURIGAO and
JESUS A. VILLARDO III,**
Respondents.

Promulgated:

DEC 11 2013

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DECISION

REYES, J.:

This is a Complaint for Disbarment¹ filed by Pheschem Industrial Corporation (Pheschem) on May 11, 2009 against lawyers Lloyd P. Surigao (Atty. Surigao) and Jesus A. Villardo III (Atty. Villardo) (respondents), for gross, malicious and oppressive violation of their duties under the Code of Professional Responsibility. On September 30, 2009, the respondents filed their comment,² and on November 23, 2009, this Court referred the complaint to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.³

¹ Rollo, pp. 1-28.

² Id. at 191-217.

³ Id. at 391.

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Factual Antecedents

Pheschem is a domestic corporation engaged in the manufacture of hydrated lime, an industrial chemical, and has been operating a limestone quarry in Palompon, Leyte on a 25-year mining permit since 1985. Toward the end of its said permit, it allegedly encountered harassment from the town officials when it tried to renew the same, although it also surmised that its troubles began after it refused passage through its quarry to the logging trucks owned by the Chairman of *Barangay Liberty*, Palompon, Leyte, Eddie Longcanaya (Chairman Longcanaya). Pheschem claims that it only wanted to avoid any suspicion from the Department of Environment and Natural Resources (DENR) that it was consenting to illegal logging activities in its quarry area. Nonetheless, in retaliation, and without a local ordinance or resolution, Chairman Longcanaya began imposing a fee of ₱100.00 for each dump truck of Pheschem that entered its quarry site, which Pheschem refused to pay. On May 12, 2008, Chairman Longcanaya led the *barangay* residents in blockading Pheschem's quarry site to prevent its trucks from hauling out limestone to its manufacturing plant in another part of town.

Pheschem sought the help of Atty. Surigao, then Vice-Mayor of Palompon, but instead of helping the former, Atty. Surigao joined the blockade. Not only that, in a dialogue he called between Pheschem and the *barangay* officials, Atty. Surigao harangued Pheschem with a litany of complaints from the *barangay* residents, while ignoring the DENR's certifications that Pheschem committed no violations, as well as DENR's explanation that Pheschem could not be denied an Environmental Compliance Certificate (ECC) as long as it substantially complied with the requirements therefor.

On June 2, 2008, the *Sangguniang Bayan* of Palompon, allegedly upon instigation of Atty. Surigao, passed Municipal Resolution No. 068-020608,⁴ entitled, "*An Omnibus Opposition to Any and all Re-application of Pheschem Industrial Corporation for Mining Permit or License, or Issuance of an Environmental Compliance Certificate, or Business License, or Mayor's Permit, Inter Alia.*" Then, on June 27, 2008 Atty. Surigao even appeared as collaborating counsel in a labor case for a dismissed employee of Pheschem named Pablito Moldez.⁵ It appears that Atty. Surigao was also the private counsel of the respondent in G.R. No. 161159, entitled "*Pheschem Industrial Corporation v. Pablito Moldez,*" decided by this Court on May 9, 2005.⁶ Pheschem now insists that Atty. Surigao should have inhibited himself from the *Sangguniang Bayan*'s deliberations on Resolution No. 068-020608 due to conflict of interest.

⁴ Id. at 37-39.

⁵ Id. at 51.

⁶ 497 Phil. 647 (2005).

Unable now to haul limestone from its quarry site in *Barangay Liberty* to its plant, despite being a holder of an ECC from the DENR and a still subsisting mining permit from the Provincial Governor, Pheschem opened a new quarry in *Barangay Cantandoy*, but again Atty. Surigao and other town officials blocked and stopped its operations. Undaunted, Pheschem opened a third quarry, this time in *Barangay San Miguel*, but again the town officials led by Palompon Mayor Eulogio S. Tupa (Mayor Tupa) and joined by Attys. Surigao and Villardo, a *Sangguniang Bayan* member, seized two (2) dump trucks belonging to Pheschem. This was pursuant to a “Cease and Desist Order for the Land Development (Leveling) Project at *Barangay San Miguel*” dated July 14, 2008, issued by Mayor Tupa to Engineer Timoteo Andales (Engr. Andales), Operations Manager of Pheschem. Engr. Andales had obtained an ECC in his name to level a property owned by Jess Tangog (Tangog) in *Barangay San Miguel*, Palompon. Mayor Tupa charged that it was actually Pheschem which was leveling the property, but instead of moving the scraped limestone within the said property to even out the ground surface to prepare the same for residential development, the limestone was hauled to its plant in *Barangay Cantandoy* to make hydrated lime. The aforesaid order reads as follows:

Without necessarily admitting the legality of the issuance of the ECC that was given to you dated 4 July 2008 by EMB Region 8, a clear provision in the said ECC (ECC-r8-0806-070-5010) states that ‘permits/clearances from other concerned agencies shall be secured prior to project implementation;’ (par. 3, p. 4, ECC)

Upon verification in the area, subject-matter of your Land Development (Leveling) Project [of] which you are the proponent located in *Barangay San Miguel*, Palompon, Leyte and [for] which you were issued the above-mentioned ECC, you have already started with your operations sans the above-mentioned condition *sine qua non*.

Moreover, because of your operations now you have already violated other conditionalities in the said ECC, to wit:

1. You have not secured a Development Permit from the LGU ([I][A][3], ECC);
2. You have failed to provide silt traps to contain silt-laden run-off from draining to the adjacent road[.]

Moreover importantly, we know that you are not doing leveling activities only. You are actually hauling raw materials (limestone) to be supplied to Pheschem Industrial Corporation for processing into lime at its Cantandoy Plant. By doing so, you have clearly violated Presidential Decree 1586 and Republic Act 7942 (because you know for a fact that Pheschem should have an approved quarry site which should have a separate ECC to be valid). Your application for a Land Development (Leveling) Project is a facade and a vivid circumvention of the aforementioned laws.

Finally, you are the Operations Manager of Pheschem Industrial Corporation and that your application as the contractor/supplier of raw materials (limestone) to your employer violates Municipal Resolution No. 068-020608. Your actions have gravely put into jeopardy the security, safety of the Palompongonans, and the environment of Palompon.

It is in this light that you are AT ONCE TO CEASE AND DESIST from continuing your operation in the area subject-matter of the ECC and/or to haul, transfer, deliver to Pheschem Industrial Corporation any raw materials which you might or will produce because of your leveling activities.

Your continued operation will be an explicit violation of this Order and shall be dealt with accordingly.

The PNP, Palompon, Leyte through P/Insp Judito N. Cinco is directed to immediately serve this Order to Engr. Timoteo Andales at his address as indicated hereinabove.⁷

On November 25, 2008, Pheschem through its plant manager, Engr. Andales, pleaded with Atty. Surigao to release its trucks, but Atty. Surigao responded by furnishing Pheschem with a copy of Municipal Resolution No. 170-211008, entitled, “*Strongly Requesting the Office of the Mayor to Cancel the Mayor’s Permit and/or Business License Issued to Pheschem Industrial Corporation and/or Tomas Y. Tan.*”⁸ According to Pheschem, it was at this time that Atty. Surigao demanded as a pre-condition for the release of its trucks that Pheschem pay its workers a cost of living allowance (COLA) and a separation pay of one month’s salary per year of service. Pheschem refused the demand.

On December 5, 2008, Pheschem represented by its Plant Manager, Engr. Andales, and Engr. Esperidion C. Pascua, Assistant Plant Manager, filed Special Civil Action (SCA) Case No. 0045-PN with the Regional Trial Court (RTC) of Palompon, Leyte, Branch 17, for “Injunction, Prohibition, Mandamus with Damages, with prayer for immediate issuance of 72-hour and 20-day Temporary Restraining Order (TRO) and Writ of Preliminary Injunction.”⁹ Named as respondents were Mayor Tupa, Vice-Mayor Atty. Surigao, the *Sangguniang Bayan* of Palompon, Leyte, represented by Atty. Surigao, Municipal Councilor Atty. Villardo, SPO1 Manolito R. Ilustre, SPO1 Joel M. Suca, Herville V. Pajaron (Pajaron) of the Municipal Environment and Natural Resources Offices (MENRO) of Palompon, HESG German Cliton, Diosdado Perales and *Barangay* Chairman Longcanaya.

⁷ *Rollo*, pp. 581-582.

⁸ *Id.* at 98-99.

⁹ *Id.* at 102-123.

On December 8, 2008, the RTC issued a 72-hour TRO as well as commanded the respondent town officials to release Pheschem's trucks and to stop obstructing its quarrying operations.¹⁰ The next day, the respondents filed a motion for reconsideration, but on December 22, 2008, the RTC went on to issue a writ of preliminary injunction against the municipal officials of Palompon, including herein respondents, to stop interfering in Pheschem's quarry operations,¹¹ to wit:

WHEREFORE, after hearing the pro's and con's of both parties in the above-entitled case on the application of petitioner for preliminary injunction, this court hereby grants the same with the following specific orders.

1. Enjoining the respondent incumbent Municipal Mayor of Palompon and all or any person under his direction, and all the other respondents herein from stopping, interfering, preventing[,] and doing acts of harassments against the herein petitioner or any of its officers, employees and laborers or its vehicles and properties in the operation [of] its quarry sites and plant site in the Municipality of Palompon[.]

2. Prohibiting the Vice-Mayor, Atty. Lloyd Surigao, and the Sangguniang Bayan of Palompon from interfering, doing acts of harassments and other acts which will hamper the legitimate operation of petitioner's quarry sites and plant.

3. Enjoining and prohibiting Barangay Chairman Eddie Longcanaya from collecting the Php100.00 peso imposition and from further setting up road blocks to prevent petitioner from using the subject road.

SO ORDERED.¹²

In apparent defiance of the above writ, on January 6, 2009 Atty. Surigao, accompanied by Pajaron, head of Palompon's MENRO, and several policemen, entered Pheschem's quarry site and seized three (3) of its dump trucks.¹³ On January 9, 2009, Mayor Tupa, Atty. Surigao, and Pajaron executed a Joint Complaint Affidavit¹⁴ seeking to cancel Pheschem's provincial quarry permit. But in a Resolution¹⁵ dated March 20, 2009, the Office of the Provincial Governor of Leyte dismissed the complaint.

On January 13, 2009, the day Pheschem was to resume its operations at the San Miguel quarry site, it obtained the release of its equipment,¹⁶ but again on January 16, 2009, the trucks were impounded for the third time in

¹⁰ Id. at 124-126.

¹¹ Id. at 127-131.

¹² Id. at 130.

¹³ Id. at 132.

¹⁴ Id. at 135-141.

¹⁵ Id. at 142-145.

¹⁶ Id. at 148.

the act of hauling limestone from Tangog's property in *Barangay* San Miguel, Palompon, allegedly for violation of Sections 53 and 55, in relation to Sections 108 and 110, of the Mining Act of 1995, as well as the Municipal Tax Code of 2004, and the conditions of the provincial quarry permit.¹⁷

On May 11, 2009, Pheschem filed the instant disbarment complaint against herein respondents, "for gross, malicious and oppressive violation of their duties under the Code of Professional Responsibility." Meanwhile, on July 22, 2009, the RTC issued a resolution in SCA Case No. 0045-PN denying therein respondents' motion to dissolve the preliminary injunction which was premised on the expiration of Pheschem's quarry permit.¹⁸ The RTC reiterated its order to lift the blockade at Pheschem's San Miguel quarry and to release the trucks and their accessories impounded by the municipal and police officers. Then on January 15, 2010, the RTC granted Pheschem's motion to enforce its December 22, 2008 and July 22, 2009 orders. On February 5, 2010, the RTC denied therein respondents' motion to inhibit as well as affirmed its Order dated January 15, 2010.¹⁹

From the above orders, three *certiorari* petitions were filed in the Court of Appeals (CA), namely: CA-G.R. SP No. 04547, seeking to lift the writ of preliminary injunction and the order to lift the *barangay* road blockade; CA-G.R. SP No. 04592, praying to dismiss SCA Case No. 0045-PN for lack of cause of action; and CA-G.R. SP No. 04901, praying to set aside the RTC order denying the motion to inhibit, ordering the release of Pheschem's trucks and batteries, and reiterating the enforcement of its orders of December 22, 2008, July 22, 2009, January 15, 2010 and February 5, 2010.²⁰

Meanwhile, on January 5, 2011, IBP Investigating Commissioner Rebecca Villanueva-Maala (Commissioner Villanueva-Maala) issued her Report and Recommendation in A.C. No. 8269,²¹ wherein she recommended that the disbarment complaint against the respondents be dismissed for lack of merit, to wit:

From the facts adduced, we find that respondents merely performed their duties as public officials. Misconduct in the discharge of official duties as government official, generally is not disciplinable unless the misconduct of the government official is of such a character as to affect his qualification as a lawyer or to show moral delinquency. In the case at bar, we find the orders issued by respondents in the regular performance of their official duties were all based on the facts, evidence and the law. There is nothing on record that shows that the assailed orders

¹⁷ Id. at 149-150.

¹⁸ Id. at 273-289.

¹⁹ Id. at 581.

²⁰ Id. at 585-589.

²¹ Id. at 535-546.

were motivated with malice, ill-intent or bad faith.

PREMISES CONSIDERED, we respectfully recommend that this administrative complaint against **ATTY. LLOYD P. SURIGAO** and **ATTY. JESUS A. VILLARDO III** be **DISMISSED** for lack of merit.

RESPECTFULLY SUBMITTED.²² (Citation omitted)

On July 21, 2012, the IBP Board of Governors issued Resolution No. XX-2012-308 adopting and approving IBP Commissioner Villanueva-Maala's report and recommendation:

RESOLUTION NO. XX-2012-308

Adm. Case No. 8269

Pheschem Industrial Corporation vs.

Atty. Lloyd P. Surigao and

Atty. Jesus A. Villardo III

*RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED[,] the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A", and finding the recommendation fully supported by the evidence on record and the applicable laws and rules, considering that the complaint lacks merit, the same is hereby DISMISSED.*²³

On October 12, 2012, Pheschem moved for reconsideration of the dismissal of its disbarment complaint,²⁴ upon the following grounds:

- I. The acts committed by the Respondents were not done in the regular performance of their official duties because they were manifestly in excess of their legal authority.*
- II. The acts committed by the Respondents were not done in the regular performance of their official duties, because the competent agencies themselves found that Complainant never committed any actual violation of law.*
- III. The acts committed by the Respondents were not done in the regular performance of their official duties, because their attack on the complainant's Environmental Compliance Certificate had been found to be without any merit by the competent agencies.*
- IV. The Respondents' assertion that the Complainant was not a valid contractor because [it] had no Mayor's Permit is self-serving because it was the municipality itself that refused to issue the same.*

²² Id. at 545-546.

²³ Id. at 534.

²⁴ Id. at 547-561.

- V. *The acts committed by the Respondents were not done in the regular performance of their official duties, because their disobedience to the injunctive writ issued by the Court was in manifest violation of law.*
- VI. *The acts committed by the Respondent Atty. Surigao were not done in the regular performance of his official duties, because he actively used his office [to] make the Sanggunian act against the Complainant on a private case.*²⁵

The respondents in their Comment-Opposition filed on November 28, 2012 maintained that the above motion is a mere rehash of Pheschem's arguments before the IBP Investigating Commissioner.²⁶ On March 21, 2013, IBP Governor Leonor L. Gerona-Romeo (IBP Governor Gerona Romeo) rendered an "extended" resolution, consisting of only one page, stating as follows:

The very comprehensive and accurate Motion for Reconsideration of Complainant is impressed with merit. Respondents' actions although apparently done in the performance of their duties constitute arbitrary acts beyond the scope even of discretionary authority which border on harassment. Such is unethical per professional standards of lawyers. Board Resolution dated July 21, 2012 is therefore **REVERSED**. Respondents are **SUSPENDED** from the practice of law for one (1) month.

SO ORDERED.²⁷

On March 21, 2013, the IBP issued Resolution No. XX-2013-327 adopting IBP Governor Gerona-Romeo's ruling to suspend the respondents for one month:

*RESOLVED to unanimously GRANT Complainant's Motion for Reconsideration. Thus, Resolution No. XX-2012-308 dated July 21, 2012 is hereby **REVERSED and SET ASIDE** [Instead,] Atty. Lloyd P. Surigao and Atty. Jesus A. Villardo III are hereby **SUSPENDED from the practice of law for one (1) month**.*²⁸

On April 29, 2013, the respondents manifested²⁹ to the IBP Board of Governors that on February 19, 2013, the CA had lifted the writ of preliminary injunction in SCA Case No. 0045-PN, having found grave abuse of discretion in the issuance of the RTC orders subject of the consolidated petitions in CA-G.R. SP Nos. 04547, 04592 and 04901:³⁰

²⁵ Id. at 547-548.

²⁶ Id. at 566-570.

²⁷ Id. at 709.

²⁸ Id. at 708.

²⁹ Id. at 574-577.

³⁰ Id. at 578-604.

We find and so rule that the RTC's Order dated 22 December 2008, granting respondent PHESCHEM'S application for writ of preliminary injunction, the Resolution dated 22 July 2009 denying the dissolution of the injunctive writ so issued, and Order dated 15 January 2009, enforcing the same injunctive writ, constituted manifestly grave abuse of discretion.³¹

It was only on July 3, 2013 that the respondents received a copy of the IBP Resolution No. XX-2013-327 suspending them for one month from the practice of law. They forthwith filed a Manifestation with Motion for Reconsideration³² on July 11, 2013 wherein they reiterated, invoking the CA decision, that they were only genuinely motivated in their actuations against Pheschem to implement the environmental laws. They pointed out in particular that Quarry Permit No. 8, which Engr. Andales had assigned to Pheschem, was not for limestone but for rock asphalt. On August 6, 2013, Pheschem filed its Comment, again insisting that the respondents employed illegal "vigilante methods" instead of legal processes in discharging their duties as town officials. Pheschem also mentioned its pending motion for reconsideration from the CA decision.

Our Ruling

We resolve to dismiss the complaint for disbarment against the respondents.

In her Report and Recommendation, Commissioner Villanueva-Maala found based on the facts, evidence and the law that the respondents were merely performing their duties as town officials; that their conduct was not of such a character as to affect their qualification as lawyers or demonstrate their moral delinquency; and that nothing in the record shows that they were motivated by malice, ill-intent or bad faith.

In its Motion for Reconsideration to the above report filed on October 15, 2012, Pheschem insisted that the respondents' acts were manifestly in excess of their legal authority; that the regulatory agencies which granted them permits did not violate any law and the respondents' attack on its ECC was without merit; that the respondents' insistence that Pheschem operated without a local permit was self-serving because it was them who refused Pheschem a permit; that the respondents acted in defiance of the injunction granted by the RTC; and, that Atty. Surigao used his office to harass Pheschem in a private case. As to the town officials' authority to stop its quarrying operations, Pheschem argued that under Section 17(b) of

³¹ Id. at 594.

³² Id. at 616-626.

Republic Act (R.A.) No. 7160, or the “Local Government Code,” municipalities are not entrusted with power over mined resources but only the DENR and the provincial and city governments. These competent agencies did not find any violations by Pheschem, thus, the respondents had no right to demand that Pheschem obtain certain permits from the municipal government, such as a Mine Processing Permit, a Development Permit, and an Ore Transport Permit.

Although IBP Governor Gerona-Romeo agreed with Commissioner Villanueva-Maala that the respondents’ actions against complainant Pheschem were done in the performance of their duties as municipal officials, she nonetheless overruled Commissioner Villanueva-Maala’s recommendation to dismiss the disbarment complaint against them. She however failed to cite any specific facts, circumstances and laws, as required under Section 1 of Rule 36 of the Rules of Court, which rendered their actions arbitrary and “beyond the scope even of discretionary authority which border on harassment,” despite her observation that “[t]he very comprehensive and accurate Motion for Reconsideration of Complainant is impressed with merit. x x x.”³³

In their Position Paper,³⁴ the respondents adamantly maintained that they were merely performing their duties as Vice-Mayor and *Sangguniang Bayan* member of Palompon, Leyte, respectively, insisting that their actuations toward Pheschem were in response to complaints from both officials and residents of the affected *barangays* seeking to stop the unabated dynamite blasting and quarrying operations of Pheschem. In fact, at a dialogue with Pheschem’s officers held on May 1, 2008, a report of the Mines and Geosciences Bureau was presented showing that *Barangay Liberty* is located in a geo-hazard area within the Palompon Forest Reserve declared under Presidential Proclamation No. 212 as a watershed area critical to the water supply of the municipality.

The respondents also pointed out that for 24 years, the Municipality of Palompon did not demand that Pheschem regularly renew its local quarrying permits. But now that Pheschem wanted to operate new quarries in new sites, but with its unrenewed mining lease now about to expire, the *Sanggunian* now insists that it must first secure new permits and licenses from the regulatory agencies. Its permit for the Cantandoy quarry had expired and was not renewed for its failure to submit the required documents, particularly a locational clearance for its kiln and hydrating plant. But despite the lack of a permit, Pheschem proceeded to open a new quarry in San Miguel, doing so by making it appear that it was merely leveling the site to prepare it for residential development, yet in reality it was hauling the limestone to its processing plant. Moreover, its quarry permit and limestone

³³ Id. at 709.

³⁴ Id. at 448-480.

processing permit from the Governor of Leyte also expired in April and May of 2009, along with its 25-year Mining Sharing Lease Agreement. The municipality also charged that Pheschem misdeclared its income in the previous years.

Since Pheschem's operations in San Miguel did not have renewal mining and quarrying permits, Mayor Tupa issued a Cease and Desist Order on July 14, 2008, charging that Pheschem violated both Palompon's municipal zoning and land use ordinance, in view of the quarry's proximity to the Manuel B. Veloso Memorial Hospital and the Doanne Baptist School, and because its new ECC from the DENR was not for mining but only for land leveling of Tangog's property in *Barangay* San Miguel. The ECC itself was issued not to Pheschem but to Engr. Andales in his personal capacity, who misled the Environment Management Bureau (EMB) that Tangog's property was being leveled for residential, not quarrying, purposes.

As to the injunctive writ issued by the RTC, the respondents insist that the writ was not final and executory in view of their timely motion for reconsideration. And although the RTC eventually denied the same, three petitions for *certiorari* had been filed in the CA in CA-G.R. SP Nos. 04547, 04592 and 04901, to dissolve the injunction. The respondents also clarify that the seizure of Pheschem's trucks was effected by the municipal officers deputized by the Provincial government in relation to Tangog's property.

Concerning the COLA which Atty. Surigao sought for Pheschem's workers, he admitted that he did urge Pheschem to pay the same, but not as a condition for the release of its impounded trucks. The respondents also denied that they singled out Pheschem, since there is no other entity operating a quarry in Palompon. As to Atty. Surigao's appearance as counsel for a former employee of Pheschem in a labor case, he pointed out that the case preceded Pheschem's injunction suit by several years.

To their manifestation to the IBP Board of Governors dated April 29, 2013,³⁵ the respondents attached a copy of the consolidated decision of the CA in CA-G.R. SP Nos. 04547, 04592 and 04901, which ordered the lifting of the injunction in SCA Case No. 0045-PN. The CA has ruled that Pheschem has no existing vested right to continue operating its quarries.

We agree.

³⁵

Id. at 574-577.

The State, through the legislature, has delegated the exercise of police power to local government units, as agencies of the State, in order to effectively accomplish and carry out the declared objects of their creation.³⁶ This delegation is embodied in the general welfare clause, Section 16,³⁷ of R.A. No. 7160. Police power is essentially regulatory in nature, and the power to issue licenses or grant business permits, if exercised for a regulatory and not revenue-raising purpose, is within the ambit of this power.³⁸ Consistent with this principle, the CA held in the aforesaid petitions that the quarry permit issued by the Governor of Leyte to Pheschem is contingent on its compliance with the terms and conditions of the ECC. Thus, the quarry permit cannot be said to have vested in Pheschem an absolute, unconditional right to quarry or to mine, such that if it fails to comply with any of the terms and conditions of the ECC, there would be no right to quarry or mine to speak of. The CA stressed that a license or permit is not a contract between the sovereign and the grantee, but a special privilege, a permission or authority to do what would be within its terms; that it is neither vested nor permanent that can at no time be withdrawn or taken back by the grantor.³⁹

The CA also cited *Boracay Foundation, Inc. v. Province of Aklan*,⁴⁰ where it was held that although the *Sangguniang Barangay* of Caticlan, Malay, Province of Aklan and the *Sangguniang Bayan* of the Municipality of Malay had passed resolutions favorably endorsing the project of the Province of Aklan to reclaim several hectares of foreshore land in Caticlan, Malay, the Province of Aklan must still comply with the terms and conditions contained in the said resolutions of the *Sangguniang Barangay* of Caticlan and *Sangguniang Bayan* of Malay. The Court invoked the duty of local governments to ensure the quality of the environment pursuant to Presidential Decree No. 1586, which established the Environmental Impact Statement System.

In *Republic of the Philippines v. The City of Davao*,⁴¹ invoked in *Boracay*, we affirmed that under Section 15 of R.A. No. 7160, a local government unit is endowed with powers to perform not just proprietary but also governmental functions which concern the health, safety and the

³⁶ *Tatel v. Municipality of Virac*, G.R. No. 40243, March 11, 1992, 207 SCRA 157, 160.

³⁷ Sec. 16. *General Welfare*.—Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants.

³⁸ *Procter & Gamble Philippine Manufacturing Corp. v. Municipality of Jagna*, 183 Phil. 453 (1979).

³⁹ *Rollo*, p. 596, citing *Acebedo Optical Company, Inc. v. CA*, 385 Phil. 956, 977 (2000).

⁴⁰ G.R. No. 196870, June 26, 2012, 674 SCRA 555.

⁴¹ 437 Phil. 525 (2002).

advancement of the public good or welfare as affecting the public generally. The local government unit exercises governmental powers and performs governmental duties as an agency of the national government. Thus, in relation to Section 16 of R.A. No. 7160, Section 447 of the Local Government Code, which enumerates the powers, duties and functions of the municipality, grants the *Sangguniang Bayan* the power to, among other things, “enact ordinances, approve resolutions and appropriate funds for the general welfare of the municipality and its inhabitants x x x,” to wit:

x x x x

- (2) Prescribing reasonable limits and restraints on the use of property within the jurisdiction of the municipality, adopting a comprehensive land use plan for the municipality, reclassifying land within the jurisdiction of the city, subject to the pertinent provisions of this Code, enacting integrated zoning ordinances in consonance with the approved comprehensive land use plan, subject to existing laws, rules and regulations; establishing fire limits or zones, particularly in populous centers; and regulating the construction, repair or modification of buildings within said fire limits or zones in accordance with the provisions of this Code;

x x x x⁴²

In the complaint before us, the *Sangguniang Bayan* of Palompon passed on June 2, 2008 Resolution No. 068-020608, wherein it manifested its opposition to any and all re-application by Pheschem for mining permit or license, or, issuance of an ECC, business permit, or mayor’s permit. Notwithstanding the same, on July 4, 2008, the DENR issued ECC No. ECC-R8-0806-070-5010 to Engr. Andales for the proposed Land Development (Leveling) Project located at *Barangay* San Miguel, Palompon. The DENR-EMB explained in a letter⁴³ dated July 7, 2008 to then Acting Mayor of Palompon, Atty. Surigao, that although Pheschem could still re-apply for an ECC as long as it substantially complied with the pertinent requirements, they “wish to emphasize that the nature of ECC is not a permit but more of a planning tool. As such, it does not exempt the proponent from securing other permits/clearances from other Government Agencies including LGUs. Instead, it may serve as guide for other GA[s] or LGUs whether or not to issue their respective permits and/or clearances. x x x.”⁴⁴ The DENR-EMB also assured Atty. Surigao that they “fully respect [his] actions in manning [his] municipality including the granting or denial of Business and/or Mayor’s permit to anyone.”⁴⁵

⁴² See *Province of Rizal v. Executive Secretary*, 513 Phil. 557, 591 (2005).

⁴³ *Rollo*, p. 40.

⁴⁴ *Id.*

⁴⁵ *Id.*


On September 10, 2008, notwithstanding Resolution No. 068-020608 of the Municipality of Palompon, the Governor of Leyte granted Quarry Permit No. 08-2008 to Engr. Andales to extract and dispose of rock asphalt resources, *not* limestone, in San Miguel, Palompon, from September 10, 2008 to March 10, 2009. Engr. Andales later assigned his quarry rights to Pheschem. On October 17, 2008, the Governor of Leyte also issued Quarry Permit No. 019 to Pheschem from October 17, 2008 to April 17, 2009. But a certification dated October 16, 2008 by Engr. Romeo N. Cartalla of the Municipal Planning and Development Council of Palompon disclosed that the site is not a mining or quarry area but a residential zone. Also, San Miguel has already been declared as within the Palompon Forest Reserve under Presidential Proclamation No. 212, and identified as such under R.A. No. 7586, otherwise known as the National Integrated Protected Areas Systems Act.

Lastly, in addition to the violations by Pheschem of the terms and conditions of the ECC and quarry permit, the respondents alleged that its Mining Lease Agreement and quarry permit have expired, and there is no showing that they have been renewed.

In conclusion, rather than this Court penalizing the respondents for their supposed abusive and arbitrary actuations not befitting the moral character required of members of the bar, there is ample showing that their conduct was pursuant to the diligent performance of their sworn duties and responsibilities as duly elected officials of the Municipality of Palompon, Leyte. They therefore deserve commendation, instead of condemnation, and not just commendation but even encouragement, for their vigilance and prompt and decisive actions in helping to protect and preserve the environment and natural resources of their Municipality.

WHEREFORE, the disbarment complaint filed by Pheschem Industrial Corporation against lawyers Lloyd P. Surigao and Jesus A. Villardo III is **DISMISSED**.

SO ORDERED.



BIENVENIDO L. REYES
Associate Justice


WE CONCUR:

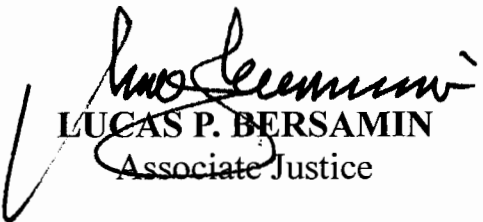


MARIA LOURDES P. A. SERENO

Chief Justice

Chairperson


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice