



Republic of the Philippines
Department of Environment and Natural Resources
POLLUTION ADJUDICATION BOARD
DENR Compound, EMB Building, Visayas Avenue
Diliman, Quezon City

ENVIRONMENTAL MANAGEMENT BUREAU 8
RELEASED BY: _____
DATE: 1-28-22
TIME: 2:41

**IN THE MATTER OF THE
WATER POLLUTION CONTROL
AND ABATEMENT CASE**

DENR-PAB Case No. 08-000098-21-W

-versus-

FOR: Violation of R.A 9275 and its
Implementing Rules and
Regulations

LINA'S CRYSTAL RESORT

Brgy. Rizal, Kananga, Leyte

Respondent

X- - - - - X

RESOLUTION

Under consideration is the letter-explanation, filed by respondent **LINA'S CRYSTAL RESORT** last **29 November 2021**, and herein treated as a Motion for Reconsideration to the Order dated **15 November 2021** rendered by the Board, thru the EMB Regional Office No. VIII, upon the Notice of Violation dated **25 August 2021** issued against herein Respondent for the following violation:

- (a) Operating without a valid Wastewater Discharge Permit since **03 June 2021**, in violation of **Paragraph (c), Section 27 of R.A 9275**, otherwise known as the **Philippine Clean Water Act of 2004**

ANTECEDENT FACTS

The Motion for Reconsideration is anchored on the following factual antecedents:

On **15 November 2021**, the Pollution Adjudication Board, thru this Office issued an Order on the above-mentioned violation against herein respondent. In the said Order, the Board affirmed the violation and has ordered the Respondent to pay a fine amounting to **NINETEEN THOUSAND FIVE HUNDRED PESOS (Php 19, 500.00)** for a one (1) year violation. In addition, the Board ordered the Respondent to temporarily cease and desist from discharging wastewater absent or pending issuance of the wastewater discharge permit.

Aggrieved, the Respondent filed the instant Motion for Reconsideration. In essence, the movant- respondent claims that the last time personnel of this Office visited the respondent on 03 June 2021, it was seen that the respondent were cleaning the surroundings as it was preparing for its operation to resume upon granting

permission from the LGU. The movant-respondent offered in evidence several documents, one of which is a Barangay Certification issued by the Punong Barangay of Brgy. Rizal, Kananga Leyte, stating that the respondent Lina's Crystal Resort was temporarily closed from **March 2021 until July 2021**.

RULING

Paragraph (c), Section 27 of R.A 9275 prohibits the act of:

“xxx

(c) Operating facilities that discharge regulated water pollutants without the valid required permits or after the permit was revoked for any violation of any condition therein;

xxx”

As cited in the issued Order, only two (2) elements must concur in order to establish the liability of the violator to the above-quoted prohibition. The following are the elements:

- (1) Operating a facility that discharges regulated water pollutants.
- (2) Without a valid wastewater discharge permit or after the permit was revoked for any violation of any condition therein.

Here, one of the elements is missing as the barangay certification submitted by the respondent disclosed that the respondent was temporarily closed from **March 2021 until July 2021**, which connotes that at the time of the inspection on **03 June 2021**, the respondent was not in operation. Hence, while it was without a valid wastewater discharge permit, it cannot be said to have committed the violation for it was not operating a facility that discharges regulated water pollutants by virtue of the temporary closure.

On the other hand, one of the findings of the inspection revealed that the respondent was in normal operation at the time of the inspection. Other than bare assertion, however, the inspecting personnel did not offer further evidence to corroborate the findings. The Barangay Certification, meanwhile, is substantial evidence to prove that the respondent's was temporarily closed from March 2020 until July 2021. It is given weight in evidence especially since issued by a public official.

WHEREFORE, the foregoing premises considered, the Motion for Reconsideration is **GRANTED**. Accordingly, the alleged violation is hereby **DISMISSED**, and the respondent is relieved from any liability arising therefrom.

Nonetheless, the respondent is hereby directed to secure a Temporary Wastewater Discharge Permit. Pending issuance of the same, the respondent is expected to **CEASE AND DESIST** from discharging wastewater

The Legal Officer and/or his duly authorized representative is directed to serve this Order within seventy-two (72) hours from receipt hereof.

SO ORDERED.

Tacloban City, Philippines. JAN 27 2022.

By authority of the Secretary:


ENGR. REYNALDO B. BARRA
OIC- Regional Director