

# Questions and Answers in Administrative Law

**Q — What is the essence of due process in administrative proceedings? Explain.**

**ANS:** In administrative proceedings, due process simply means an opportunity to seek a reconsideration of the order complained of; it cannot be fully equated to due process in its strict jurisprudential sense. A respondent in an administrative case is not entitled to be informed of the preliminary findings and recommendations; he is entitled only to a reasonable opportunity to be heard, and to the administrative decision based on substantial evidence. (*Vealaszquez v. CA*, G.R. No. 150732, August 31, 2004, 437 SCRA 357). Note that it is the administrative order, not the preliminary report, which is the basis of any further remedies the losing party in an administrative case may pursue. (*Viva Footwear Mfg. Corp. v. SEC, et al.*, G.R. No. 163235, April 27, 2005).

## **Exhaustion of administrative remedies.**

The general rule is that before a party may seek the intervention of the court, he should first avail of all the means afforded him by administrative processes. The issues which administrative agencies are authorized to decide should not be summarily taken from them and submitted to a court without first giving such administrative agency the opportunity to dispose of the same after due deliberation.

Corollary to the doctrine of exhaustion of administrative remedies is the doctrine of primary jurisdiction; that is, courts cannot or will not determine a controversy involving a question which is within the jurisdiction of the administrative tribunal prior to the resolution of that question by the administrative tribunal, where the question demands the exercise of sound administrative discretion requiring the special knowledge, experience and services of the administrative tribunal to determine technical and intricate matters of fact.

Nonetheless, the doctrine of exhaustion of administrative remedies and the corollary doctrine of primary jurisdiction, which are based on sound public policy and practical considerations, are not inflexible rules. There are many accepted exceptions, such as: (a) where there is estoppel on the part of the party invoking the doctrine; (b) where the challenged administrative act is patently illegal, amounting to lack of jurisdiction; (c) where there is unreasonable delay or official inaction that will irretrievably prejudice the complainant; (d) where the amount involved is relatively small so as to make the rule impractical and oppressive; (e) where the question involved is purely legal and will ultimately have to be decided by the courts of justice; (f) where judicial intervention is urgent; (g)

# Questions Answers Administrative Law

**Michal Rosen-Zvi**



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