

ANTONIO DIAZ AND KOSUMO DABAW, PETITIONERS, VS. COURT OF APPEALS, ENERGY REGULATORY BOARD AND DAVAO LIGHT AND POWER CO., INC., RESPONDENTS.

G.R. No. 109698. December 05, 1994

Ponente: BELLOSILLO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-109698/>

BELLOSILLO, J.:

On 23 January 1991, Davao Light and Power Company, Inc. (DLPC) filed with the Energy Regulatory Board (ERB) an application for the approval of the sound value appraisal of its property in service.

The Asian Appraisal Company valued the property and equipment of DLPC as of 12 March 1990 at One Billion One Hundred Forty One Million Seven Hundred Seventy Four Thousand Pesos (P1,141,774,000.00).

On 6 December 1992, ERB approved the application of DLPC after deducting Fourteen Million Eight Hundred Thousand Pesos (P14,800,000.00) worth of property and equipment which were not used by DLPC in its operation.

On 6 July 1992, petitioners filed a petition for review on certiorari before this Court assailing the decision of ERB on the ground of lack of jurisdiction and/or grave abuse of discretion amounting to lack of jurisdiction.

In our resolution of 8 September 1992, we referred the case for proper disposition to the Court of Appeals which subsequently dismissed the petition on the ground that (1) the filing of the petition for review with the Supreme Court was a wrong mode of appeal, and (2) the petition did not comply with the provisions of Supreme Court Circular 1-88 in that (a) it did not state the date when the petitioners received notice of the ERB decision, (b) it did not state the date when the petitioners filed a motion for reconsideration, and (c) it inconsistently alleged different dates when petitioners supposedly received the denial of their motion by ERB.

On 18 December 1992, petitioners filed a motion for reconsideration contending that our resolution of 8 September 1992 was a directive for the Court of Appeals to disregard the above circular.

In its resolution of 24 March 1993, the Court of Appeals denied the motion for reconsideration for lack of merit. Hence, the instant recourse.

We deny the petition. The predecessor of the Energy Regulatory Board was the Board of Energy created under P.D. No. 1206. Thereunder, appeals from the decisions of the Board of Energy were appealable to the Office of the President. However, under the Interim Rules Implementing the Judiciary Reorganization Act of 1980, final decisions, orders, awards or resolutions of the Board of Energy were made appealable to the Intermediate Appellate Court (Sec. 9).

On 2 February 1987, the New Constitution took effect. Sec. 30, Art. VI, thereof provides: "No law shall be passed increasing the appellate jurisdiction of the Supreme Court as provided in this Constitution without its advice and concurrence."

On 8 May 1987, the President promulgated E.O. No. 172 creating the Energy Regulatory Board to replace the Board of Energy. Under Sec. 10 thereof, "[a] party adversely affected by a decision, order or ruling of the Board x x x may file a petition to be known as petition for review with the Supreme Court."

On 27 February 1991, the Supreme Court promulgated Circular No. 1-91, par. (1) of which specifically provides that the proper mode of appeal from any quasi-judicial agency, including ERB, is by way of a petition for review with the Court of Appeals.

It is very patent that since Sec. 10 of E.O. No. 172 was enacted without the advice and concurrence of this Court, this provision never became effective, with the result that it cannot be deemed to have amended the Judiciary Reorganization Act of 1980. Consequently, the authority of the Court of Appeals to decide cases from the Board of Energy, now ERB, remains (Cf. *First Lepanto Ceramics, Inc. v. Court of Appeals*, G.R. No. 110571, 7 October 1994).

If the appeal is brought to either Court (Supreme Court or Court of Appeals) by the wrong procedure, the only course of action open to it is to dismiss the appeal. There is no longer any justification for allowing transfers of erroneous appeals from one court to another (*Quesada v. Court of Appeals*, G.R. No. 93869, 12 November 1990).

Prior to Circular No. 1-91, the Supreme Court promulgated Circular No. 2-90 dated 9 March 1990, Item No. 4 of which states that "[a]n appeal taken to either the Supreme Court or the Court of Appeals by the wrong or inappropriate mode shall be dismissed".

Paragraph (d) of said Circular No. 2-90 also provides that "[n]o transfer of appeals erroneously taken to the Supreme Court or to the Court of Appeals to whichever of these Tribunals has appropriate appellate jurisdiction will be allowed; continued ignorance or willful disregard of the law on appeals will not be tolerated."

Consequently, the Court of Appeals was correct when it held -

Contrary to petitioners' stand, the Supreme Court's Resolution dated September 8, 1992, referring 'this case to the Court of Appeals for further disposition' was not a directive for this court to disregard the above circulars and precedents. Rather the said SC resolution could mean only that this court should dispose of the subject petition in conformity with, and not in violation of, those circulars and precedents (*Rollo*, p. 26).

Both Circulars Nos. 1-88 and 2-90 were duly published in newspapers of general circulation in the Philippines. Hence, lawyers are expected to keep themselves abreast with the decisions of this Court and with its Circulars and other issuances relating to procedure or affecting their duties and responsibilities as officers of the court (*Teehankee, Jr. v. Hon. Madayag*, G.R. No. 102717, 12 December 1992).

SC Circular No. 1-88, which took effect on 1 January 1989, was not adopted and approved by this Court for childish, flimsy or petty reasons, nor for pure love of technicalities, but to compel the strict observance of the Revised Rules of Court in order that proceedings before this Court may not be needlessly delayed (*Gallardo v. Quintus*, A.M. No. RTJ-90-577, 18 April 1991).

WHEREFORE, the instant petition is DISMISSED.

Padilla, (Chairman), Davide, Jr., Quiason, and Kapunan, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.