RUBEN N. BARRAMEDA, ELVIS L. ESPIRITU, MERARDO G. ENERO, JR., MARCELITO B. ABBAS AND REYNALDO V. ABUNDO, PETITIONERS, VS. ROMEO ATIENZA, EDGARDO DASCO, BERNARDO DIEZMO, JESUS FE...

G.R. No. 129175. November 19, 2001

Ponente: PARDO, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-129175/

PARDO, J.:

The key issue is whether or not petitioners are the rightful directors of Camarines Norte Electric Cooperative (CANORECO) as against respondents, who were elected in a general assembly of members called by a presidential ad hoc committee.

CANORECO is an electric cooperative organized under the provisions of P. D. No. 269, otherwise known as the National Electrification Administration Decree, as amended by P. D. No. 1645. On July 10, 1996, the Cooperative Development Authority (CDA) certified that CANORECO is registered as a full-fledged cooperative under R. A. No. 6938.

On March 1, 1988, the National Electrification Administration (NEA) and CANORECO entered into a Contract of Loan[1] and First Mortgage[2] of CANORECO properties for the improvement of the cooperative's electrification program. One provision in the loan agreement is embodied in Article VI, Section 2, which provides:

> "Section 2. In the event of default, the NEA may, in addition to the rights, privileges, powers and remedies granted to it under Presidential Decree No. 269 and other pertinent laws, exercise any or all of the following remedies.
>
> "a. xxx
>
> "b. xxx
>
> "c. Assign or appoint a Project Supervisor and/or General Manager
>
> "d. Take over the construction, operation, management and control of the SYSTEM
>
> "e. Take any other lawful remedial measure"

On March 10, 1990, Congress enacted into law Republic Act No. 6938 (the Cooperative Code of the Philippines) and Republic Act No. 6939 (creating the Cooperative Development Authority [CDA]). The latter act vested the power to register cooperatives solely on CDA.

One of the signatories to the loan contract was petitioner Reynaldo V. Abundo, the general manager of CANORECO at that time.

During Abundo's incumbency, he failed to pay the loan obligations as they fell due. Thus, as of March 31, 1995,

CANORECO's outstanding loan with NEA amounted to seventy four (74) million pesos.[3]

In 1995, NEA enforced the provisions of the mortgage contract by designating an acting general manager of CANORECO to protect state funds invested therein.

On May 28, 1995, during the annual general membership assembly of CANORECO, the members elected a new set of members of the board of directors.[4] Thereafter, NEA appointed a new general manager, Felix Rolando G. Zaldua, and declared former manager Reynaldo V. Abundo as pesona non grata.

Shortly, the group of Reynaldo V. Abundo contested the authority of NEA to supervise and control CANORECO, filing with CDA several cases, including CDA-CO Case No. 95-910.

On February 15, 1996, CDA declared the board meeting of May 28, 1995, void ab initio because there was no quorum considering that there were only three (3) incumbent board members who were present. Thus, the resolutions issued during the meeting were all declared null and void. The CDA ruled:

> "WHEREFORE, premises considered, the Board Meeting of May 28, 1995, participated by respondents, and all the Resolutions issued on such occasions, are hereby declared NULL AND VOID AB INITIO.
>
> "Likewise, the election of respondents Norberto Ochoa, Antonio Obias, Felicito Ilan, and Luis Pascua, as President, Vice-President, Secretary, and Treasurer, respectively, of CANORECO is hereby declared NULL AND VOID AB INITIO.
>
> "Hence, respondents Norberto Ochoa, Antonio Obias, Felicito Ilan, and Luis Pascua are hereby ordered to refrain from representing themselves as President, Vice-President, Secretary, and Treasurer, respectively, of CANORECO. The same respondents are further ordered to refrain from acting as authorized signatories to the bank accounts of CANORECO.
>
> "Further respondent Felicito Ilan is hereby ordered to refrain from exercising the duties and functions of a member of the Board of CANORECO until the election protest is resolved in a proper forum. In the meantime, the incumbency of petitioner Merardo Enero, Jr. as Director of CANORECO Board is hereby recognized.
>
> "A status quo is hereby ordered as regards the position of General Manager, being held by Mr. Reynaldo Abundo, considering that the recall of his appointment was done under a void Resolution, and that the designation of Mr. Oscar Acodera as Officer-In-Charge, under the same void Resolution, has no force and effect.
>
> "Finally, respondents Antonio Obias, Norberto Ochoa, Luisito Pascua, and petitioners Ruben Barrameda, Elvis Espiritu, Marcelito Abas and Merardo Enero, Jr. are hereby ordered to work together as Board of Directors, for the common good of CANORECO and its consumer-members, and to maintain an atmosphere of sincere cooperation among the officers and members of CANORECO."[5]

On February 27, 1996, petitioner Abundo resigned as general manager of CANORECO.[6]

In turn, NEA recognized the appointment of acting general manager Felix Rolando G. Zaldua. On September 23, 1996, Juanito M. Irabon replaced Rolando G. Zaldua.[7]

On September 26, 1996, CDA issued a writ of execution and order to vacate thereby enabling petitioners to resume control of CANORECO.

On December 3, 1996, President Fidel V. Ramos issued Memorandum Order No. 409,[8] in response to letters from the Governor of Camarines Norte and the Office of the Sangguniang Panlalawigan regarding the conflict between the NEA group and the CDA group.[9]

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

The order constituted an ad hoc committee to temporarily take over and manage the affairs of CANORECO. NEA and CDA are both under the supervision and control of the Office of the President.

The ad hoc committee was composed of:

Rex Tantiongco

Chairman Presidential Assistant on Energy Affairs

(Member)

Honesto de Jesus

Cooperative Development Authority Nominee

(Member)

Andres Ibasco

Cooperative Development Authority Nominee

(Member)

Teodulo M. Mea

National Electrification Administration Nominee

(Member)

Vicente Lukban

National Electrification Administration Nominee

(Member)

On February 16, 1997, the ad hoc committee presided over by Chairman Rex Tantiongco called for a special general membership meeting of CANORECO. The purpose of the meeting was to determine whether there was a need to change the composition of CANORECO's board of directors. An overwhelming majority voted in favor of replacing the board of directors of CANORECO.[10]

Accordingly, CANORECO conducted a general election for directors.

On March 23, 1997, CANORECO elected as new board members the following:

- Milagros Estrellado

- Jesus Thomas Fernandez

- Bernardo Diezmo

- Raul Carranceja

- Romeo Atienza

- Edgar Dasco

- Artemio Indias[11]

On April 19, 1997, the board passed Resolution No. 01, series of 1997, declaring the position of general manager vacant,[12] and Resolution No. 02, series of 1997, appointing Mary Ann C. Asor general manager.[13]

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

Hence, this petition for quo warranto.[14]

On February 27, 1998, we declared invalid Memorandum Order No. 409 of the President.[15]

We said:

> "Having registered itself with the CDA pursuant to Section 128 of R.A. No. 6938 and Section 17 of R.A. No. 6939, CANORECO was brought under the coverage of said laws. Article 38 of R.A. No. 6938 vests upon the board of directors the conduct and management of the affairs of cooperatives, and Article 39 provides for the powers of the board of directors. These sections read:
>
> "Article 38. Composition of the Board of Directors. -- The conduct and management of the affairs of a cooperative shall be vested in a board of directors which shall be composed of not less than five (5) nor more than fifteen (15) members elected by the general assembly for a term fixed in the by-laws but not exceeding a term of two (2) years and shall hold office until their successors are duly elected and qualified, or until duly removed. However, no director shall serve for more than three (3) consecutive terms.
>
> "Article 39. Powers of the Board of Directors. -- The board of directors shall direct and supervise the business, manage the property of the cooperative and may, by resolution, exercise all such powers of the cooperative as are not reserved for the general assembly under this Code and the by-laws.
>
> "As to the officers of cooperatives, Article 43 of the Code provides:
>
> "ART. 43. Officers of the Cooperatives. - The board of directors shall elect from among themselves only the chairman and vice-chairman, and elect or appoint other officers of the cooperative from outside of the board in accordance with their by-laws. All officers shall serve during good behavior and shall not be removed except for cause and after due hearing. Loss of confidence shall not be a valid ground for removal unless evidenced by acts or omissions causing loss of confidence in the honesty and integrity of such officer. No two (2) or more persons with relationship up to the third degree of consanguinity or affinity shall serve as elective or appointive officers in the same board.
>
> "Under Article 34 of the Code, the general assembly of cooperatives has the exclusive power, which cannot be delegated, to elect or appoint the members of the board of directors and to remove them for cause. Article 51 thereof provides for removal of directors and officers as follows:
> "ART. 51. Removal. -- An elective officer, director, or committee member may be removed by a vote of two-thirds (2/3) of the voting members present and constituting a quorum, in a regular or special general assembly meeting called for the purpose. The person involved shall be given an opportunity to be heard at said assembly.

"Memorandum Order No. 409 clearly removed from the Board of Directors of CANORECO the power to manage the affairs of CANORECO and transferred such power to the Ad Hoc Committee, albeit temporarily. Considering that (1) the take-over will be "until such time that a general membership meeting can be called to decide the serious issues affecting the said cooperative and normalcy in operations is restored, and (2) the date such meeting shall be called and the determination of whether there is a need to change the composition of the membership of CANORECO's Board of Directors are exclusively left to the Ad Hoc Committee, it necessarily follows that the incumbent directors were, for all intents and purposes, suspended at the least, and removed, at the most, from their office. The said Memorandum did no less to the lawfully appointed General Manager by directing that upon the settlement of the issue concerning the composition of the board of directors the Committee shall decide on the appointment of a general manager. In the meantime, it authorized the Committee to designate upon the recommendation of the Chairman an Acting Manager, with the lawfully appointed Manager considered on leave, but who is, however, entitled to the payment of his salaries.

"Nothing in law supported the take-over of the management of the affairs of CANORECO, and the "suspension," if not "removal," of the Board of Directors and the officers thereof.

"It must be pointed out that the controversy which resulted in the issuance of the Memorandum Order stemmed from a struggle between two groups vying for control of the management of CANORECO. One faction was led by the group of Norberto Ochoa, while the other was petitioners' group whose members were, at that time, the incumbent directors and officers. It was the action of Ochoa and his cohorts in holding a special meeting on 28 May 1995 and then declaring vacant the positions of cooperative officers and thereafter electing themselves to the positions of president, vice-president, treasurer, and secretary of CANORECO which compelled the petitioners to file a petition with the CDA. The CDA thereafter came out with a decision favorable to the petitioners.

"Obviously there was a clear case of intra-cooperative dispute. Article 121 of the Cooperative Code is explicit on how the dispute should be resolved; thus:

> "ART. 121. Settlement of Disputes. -- Disputes among members, officers, directors, and committee members, and intra-cooperative disputes shall, as far as practicable, be settled amicably in accordance with the conciliation or mediation mechanisms embodied in the by-laws of the cooperative, and in applicable laws.
>
> "Should such a conciliation/mediation proceeding fail, the matter shall be settled in a court of competent jurisdiction.

"Complementing this Article is Section 8 of R. A. No. 6939, which provides:

> "SEC. 8. Mediation and Conciliation. - Upon request of either or both or both parties, the [CDA] shall mediate and conciliate disputes with the cooperative or between cooperatives: Provided, That if no mediation or conciliation succeeds within three (3) months from request thereof, a certificate of non-resolution shall be issued by the commission prior to the filing of appropriate action before the proper courts.

"Even granting for the sake of argument that the party aggrieved by a decision of the CDA could pursue an administrative appeal to the Office of the President on the theory that the CDA is an agency under its direct supervision and control, still the Office of the President could not in this case, motu proprio or upon request of a party, supplant or overturn the decision of the CDA. The record does not disclose that the group of Norberto Ochoa appealed from the decision of the CDA in CDA-CO Case No. 95-010 to the Office of the President as the head of the Executive Department exercising supervision and control over said agency. In fact the CDA had already issued a Cease and Desist Order dated 14 August 1996 ordering Antonio Obias, Norberto Ochoa, Luis Pascua, Felicito Ilan and their followers "to cease and desist from acting as the Board of Directors and Officers of Camarines Norte Electric Cooperative (CANORECO) and to refrain from implementing their Resolution calling for the District V Election on August 17 and 24, 1996." Consequently, the said decision of the CDA had long become final and executory when Memorandum Order No. 409 was issued on 3 December 1996. That Memorandum cannot then be considered as one reversing the decision of the CDA which had attained finality.

"Under Section 15, Chapter III of Book VII of the Administrative Code of 1987 (Executive Order No. 292), decisions of administrative agencies become final and executory fifteen days after receipt of a copy thereof by the party adversely affected unless within that period an administrative appeal or judicial review, if proper, has been perfected. One motion for reconsideration is allowed. A final resolution or decision of an administrative agency also binds the Office of the President even if such agency is under the administrative supervision and control of the latter.

xxx xxx xxx

"Neither can police power be invoked to clothe with validity the assailed Memorandum Order No. 409. Police

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

power is the power inherent in a government to enact laws, within constitutional limits, to promote the order, safety, health, morals, and general welfare of society. It is lodged primarily in the legislature. By virtue of a valid delegation of legislative power, it may also be exercised by the President and administrative boards, as well as the lawmaking bodies on all municipal levels, including the barangay. Delegation of legislative powers to the President is permitted in Sections 23(2) and 28(2) of Article VI of the Constitution. The pertinent laws on cooperatives, namely, R. A. No. 6938, R. A. No. 6939, and P. D. No. 269 as amended by P. D. No. 1645 do not provide for the President or any other administrative body to take over the internal management of a cooperative. Article 98 of R. A. No. 6938 instead provides:

> "ART. 98. Regulation of Public Service Cooperatives. -- (1) The internal affairs of public service cooperatives such as the rights and privileges of members, the rules and procedures for meetings of the general assembly, board of directors and committees; for the election and qualification of officers, directors, and committee members; allocation and distribution of surpluses, and all other matters relating to their internal affairs shall be governed by this Code.

"We do not then hesitate to rule that Memorandum Order No. 409 has no constitutional and statutory basis. It violates the basic underlying principle enshrined in Article 4(2) of R.A. No. 6938 that cooperatives are democratic organizations and that their affairs shall be administered by persons elected or appointed in a manner agreed upon by the members. Likewise, it runs counter to the policy set forth in Section 1 of R.A. No. 6939 that the State shall, except as provided in said Act, maintain a policy of non-interference in the management and operation of cooperatives." (Italics ours)

In our resolution dated November 16, 1998, we said that the decision in G. R. No. 127249 declared invalid Memorandum Order No. 409, but did not delve on the issue of who are the rightful directors of the cooperative.[16]

Until the merits of the quo warranto proceedings have been decided, petitioners cannot unilaterally assume their former positions in the cooperative.[17]

On November 16, 1998, we issued a temporary restraining order[18] enjoining the Cooperative Development Authority, its agents and representatives from executing the alias writ of execution dated July 27, 1998, issued in CDA-CO Case No. 95-010.

As said at the outset, the question is whether petitioners are entitled to their positions in the cooperative.

Memorandum Order No. 409

M. O. No. 409 caused the interruption of petitioner's functions.

In Akbayan v. Philippine National Bank, citing a US Supreme Court decision, we said:

> "The actual existence of a statute, prior to such a determination [of unconstitutionality], is an operative fact and may have consequences which cannot justly be ignored. The past cannot always be erased by a new judicial declaration. The effect of the subsequent ruling as to invalidity may have to be considered in various aspects, -- with respect to particular relations, individual and corporate, and particular conduct private and official."[19]

This has been quoted with approval in a resolution in Araneta v. Hill, 93 Phil. 1002 (1953), in Manila Motor Co., Inc. v. Flores, 99 Phil. 738 (1956), and in Fernandez v. Cuerva and Co., 129 Phil. 332 (1967).[20]

In the case of Municipality of Malabang v. Benito,[21] we said:

> "An unconstitutional act is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is, in legal contemplation, as inoperative as though it had never been passed."[22]

In that case, Executive Order No. 386, creating the Municipality of Balabagan was declared unconstitutional.

In the same wise, M. O. No. 409 "created no office." The existence of M. O. No. 409 is "an operative fact which cannot justly be ignored."[23] Therefore, M. O. No. 409 conferred no rights. The board of directors, elected through the ad hoc committee's exercise of its functions while the law was in force, did not exist, as if no election was held.

In Malabag, the court declared Executive Order 386 void, and permanently restrained the respondents from performing the duties and functions of their respective offices.

In this case, however, the situation was complicated by certain events. While we declared M. O. No. 409 unconstitutional, the election of respondents before such event is presumed valid until nullified.

The law expressly confers on the board of directors the power to manage the affairs of the cooperative, according to the Cooperative Code.

However, CANORECO entered into a contract of loan with NEA.

The National Electrification Administration

As far as NEA is concerned, Article VI, Section 2 of the loan agreement was clear that in the event of default in the payment of the loan, NEA may assign or appoint a project supervisor or a general manager. This provision finds support in Section 10, Chapter II, P. D. No. 269, as amended by P. D. No. 1645.

A contract is the law between the parties.[24] Obligations arising from contracts have the force of law between the contracting parties and shall be complied with in good faith.[25]

At the time NEA took over the management of CANORECO, it exercised its rights under the law and the loan agreement entered into by CANORECO and NEA.

The Cooperative Development Authority

However, as we said,[26] having registered itself with the CDA, pursuant to Section 128 of R. A. No. 6938 and Section 17 of R. A. No. 6939, CANORECO was under the coverage of said laws. Article 38 of R. A. No. 6938 vests upon the board of directors the conduct and management of the affairs of cooperatives, and Article 39 prescribes the powers of the board of directors.

> Article 38. Composition of the Board of Directors. -- The conduct and management of the affairs of a cooperative shall be vested in a board of directors which shall be composed of not less than five (5) nor more than fifteen (15) members elected by the general assembly for a term fixed in the by-laws but not exceeding a term of two (2) years and shall hold office until their successors are duly elected and qualified, or until duly removed. However, no director shall serve for more than three (3) consecutive terms.
>
> "Article 39. Powers of the Board of Directors. -- The board of directors shall direct and supervise the business, manage the property of the cooperative and may, by resolution, exercise all such powers of the cooperative as are not reserved for the general assembly under this Code and the by-laws.

As to the officers of cooperatives, Article 43 of the Code provides:

> ART. 43. Officers of the Cooperatives. - The board of directors shall elect from among themselves only the chairman and vice-chairman, and elect or appoint other officers of the cooperative from outside of the board in accordance with their by-laws. All officers shall serve during good behavior and shall not be removed except for cause and after due hearing. Loss of confidence shall not be a valid ground for removal unless evidenced by acts or omissions causing loss of confidence in the honesty and integrity of such officer. No two (2) or more

> persons with relationship up to the third degree of consanguinity or affinity shall serve as elective or appointive officers in the same board.

Under Article 34 of the Code, the general assembly of cooperatives has the exclusive power, which cannot be delegated, to elect or appoint the members of the board of directors and to remove them for cause. Article 51 provides for removal of directors and officers as follows:

> "ART. 51. Removal. -- An elective officer, director, or committee member may be removed by a vote of two-thirds (2/3) of the voting members present and constituting a quorum, in a regular or special general assembly meeting called for the purpose. The person involved shall be given an opportunity to be heard at said assembly."

Nevertheless, this is without prejudice to the holding of a general assembly for the purpose of conducting another election of directors since the term of office of the directors expired sometime in 1996. In the meantime, respondents shall hold office until their successors shall have been elected and qualified.

WHEREFORE, the petition is hereby DENIED. Respondents are allowed to continue occupying their positions pending the holding of a general assembly for the purpose of electing directors.

No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

---

[1] Rollo, pp. 80-83.

[2] Rollo, pp. 84-88, 102-108.

[3] Answer in Opposition, Mary Ann Asor, Annex "5", Rollo, pp. 55-79, at p. 114; Respondents' Comment/Opposition, Rollo, pp. 150-187, at p. 153.

[4] Answer in Opposition, Supra, Note 3, at pp. 55-79, at 58.

[5] In CDA-CO Case No. 95-010, Rollo, pp. 23-32.

[6] Respondents' Comment/Opposition, Annex "21", Letter of Resignation, supra, Note 3, at p. 246.

[7] Ibid, Annex "6", Rollo, p. 223.

[8] Answer in Opposition, Annex "9", supra, Note 3, at pp. 119-123.

[9] Respondents' Comment/Opposition, supra, Note 3, at pp. 156-157.

[10] Answer in Opposition, Annex "11", Minutes of the Meeting, Rollo pp.127-131, at 130.

[11] Respondents' Comment/Opposition, supra, Note 3, at p. 159.

[12] Answer in Opposition, Annex "12", supra, Note 3, at p. 132.

[13] Ibid., Annex "13", at p. 133.

[14] Filed on June 2, 1997, Rollo, pp. 7-18. On July 7, 1997, we resolved, without giving due course to the petition to require respondents to comment thereon, within ten (10) days from notice. (Rollo, p. 142).

[15] In CANORECO v. Torres, 350 Phil. 315 [1998].

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

[16] Rollo, pp. 995-999.

[17] Ibid.

[18] Ibid., at pp. 1000-1004.

[19] Agbayani v. Philippine National Bank, 148 Phil. 443 [1971], citing Chicot County Drainage Dist. v. Baxter States Bank, 308 US 371, 374 [1940].

[20] Agbayani v. Philippine National Bank, Supra, Note 19.

[21] 137 Phil. 358 [1969].

[22] Citing in Norton v. Shelby County, 118 U. S. 425, 442 [1886] by Mr. Justice Field.

[23] As Chief Justice Hughes explained in Chicot County Drainage District v. Baxter State Bank, 308 U. S. 371, 374 [1940]; accord: Rutter v. Esteban, 93 Phil. 68 [1953]; Manila Motor Co., Inc. v. Flores, 99 Phil. 739 [1956]; Fernandez v. Cuerva & Co., 129 Phil. 332 (1967).

[24] Tuazon v. Court of Appeals, 341 SCRA 707 [2000].

[25] Article 1159, Civil Code.

[26] CANORECO v. Torres, supra, Note 15.

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

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.