

**COOPERATIVE DEVELOPMENT AUTHORITY, PETITIONER, VS.
DOLEFIL AGRARIAN REFORM BENEFICIARIES COOPERATIVE, INC.,
ESMERALDO A. DUBLIN, ALICIA SAVAREZ, EDNA URETA, ET AL.,
RESPONDENTS.**

G.R. No. 137489. May 29, 2002

Ponente: DE LEON, JR., J.

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DE LEON, JR., J.:

At the core of the instant petition for review on certiorari of the Decision[1] of the Court of Appeals, 13[th] Division, in CA-G.R. SP. No. 47933 promulgated on September 9, 1998 and its Resolution[2] dated February 9, 1999 is the issue of whether or not petitioner Cooperative Development Authority (CDA for brevity) is vested with quasi-judicial authority to adjudicate intra-cooperative disputes.

The record shows that sometime in the later part of 1997, the CDA received from certain members of the Dolefil Agrarian Reform Beneficiaries Cooperative, Inc. (DARBCI for brevity), an agrarian reform cooperative that owns 8,860 hectares of land in Polomolok, South Cotabato, several complaints alleging mismanagement and/or misappropriation of funds of DARBCI by the then incumbent officers and members of the board of directors of the cooperative, some of whom are herein private respondents.

Acting on the complaints docketed as CDA-CO Case No. 97-011, CDA Executive Director Candelario L. Verzosa, Jr. issued an order[3] dated December 8, 1997 directing the private respondents to file their answer within ten (10) days from receipt thereof.

Before the private respondents could file their answer, however, CDA Administrator Alberto P. Zingapan issued on December 15, 1997 an order[4] upon the motion of the complainants in CDA-CO Case No. 97-011, freezing the funds of DARBCI and creating a management committee to manage the affairs of the said cooperative.

On December 18, 1991, the private respondents filed a Petition for Certiorari[5] with a prayer for preliminary injunction, damages and attorney's fees against the CDA and its officers namely: Candelario L. Verzosa, Jr. and Alberto P. Zingapan, including the DOLE Philippines Inc. before the Regional Trial Court (RTC for brevity) of Polomolok, South Cotabato, Branch 39. The petition which was docketed as SP Civil Case No. 25, primarily questioned the jurisdiction of the CDA to resolve the complaints against the private respondents, specifically with respect to the authority of the CDA to issue the "freeze order" and to create a management committee that would run the affairs of DARBCI.

On February 24, 1998, CDA Chairman Jose C. Medina, Jr. issued an order[6] in CDA-CO Case No. 97-011 placing the private respondents under preventive suspension, hence, paving the way for the newly-created management committee[7] to assume office on March 10, 1998.

On March 27, 1998, the RTC of Polomolok, South Cotabato, Branch 39, issued a temporary restraining order[8] (TRO), initially for seventy-two (72) hours and subsequently extended to twenty (20) days, in an Order dated

March 31, 1998. The temporary restraining order, in effect, directed the parties to restore status quo ante, thereby enabling the private respondents to reassume the management of DARBCI.

The CDA questioned the propriety of the temporary restraining order issued by the RTC of Polomolok, South Cotabato on March 27, 1998 through a petition for certiorari before the Court of Appeals, 12th Division, which was docketed as CA-G.R. SP No. 47318.

On April 21, 1998, the Court of Appeals, 12th Division, issued a temporary restraining order^[9] in CA-G.R. SP No. 47318 enjoining the RTC of Polomolok, South Cotabato, Branch 39, from enforcing the restraining order which the latter court issued on March 27, 1998, and ordered that the proceedings in SP Civil Case No. 25 be held in abeyance.

Consequently, the CDA continued with the proceedings in CDA-CO Case No. 97-011. On May 26, 1998 CDA Administrator Arcadio S. Lozada issued a resolution^[10] which directed the holding of a special general assembly of the members of DARBCI and the creation of an ad hoc election committee to supervise the election of officers and members of the board of directors of DARBCI scheduled on June 14, 1998.

The said resolution of the CDA, issued on May 26, 1998 prompted the private respondents to file on June 8, 1998 a Petition for Prohibition^[11] with a prayer for preliminary mandatory injunction and temporary restraining order with the Court of Appeals, 13th Division, which was docketed as CA-G.R. SP No. 47933. On June 10, 1998, the appellate court issued a resolution^[12] restraining the CDA and its administrator, Arcadio S. Lozada, the three (3) members of the ad hoc election committee or any and all persons acting in their behalf from proceeding with the election of officers and members of the board of directors of DARBCI scheduled on June 14, 1998.

Incidentally, on the same date that the Court of Appeals issued a temporary restraining order in CA-G.R. SP No. 47933 on June 10, 1998, a corporation by the name of Investa Land Corporation (Investa for brevity) which allegedly executed a "Lease Agreement with Joint Venture" with DARBCI filed a petition^[13] with the RTC of Polomolok, South Cotabato, Branch 39, docketed as SP Civil Case No. 28, essentially seeking the annulment of orders and resolutions issued by the CDA in CDA-CO Case No. 97-011 with a prayer for temporary restraining order and preliminary injunction. On the following day, June 11, 1998, the trial court issued a temporary restraining order^[14] enjoining the respondents therein from proceeding with the scheduled special general assembly and the elections of officers and members of the board of directors of DARBCI on June 14, 1998. Thereafter, it also issued a writ of preliminary injunction.

With the issuance of the two (2) restraining orders by the Court of Appeals, 13th Division, and the RTC of Polomolok, South Cotabato, Branch 39, on June 10 and 11, 1998, respectively, the scheduled special general assembly and the election of officers and members of the board of directors of DARBCI on June 14, 1998 did not take place.

Nevertheless, on July 12, 1998, the majority of the 7,511 members of DARBCI, on their own initiative, convened a general assembly and held an election of the members of the board of directors and officers of the cooperative, thereby effectively replacing the private respondents. Hence, the private respondents filed a Twin Motions for Contempt of Court and to Nullify Proceedings^[15] with the Court of Appeals in CA-G.R. SP No. 47933.

On September 9, 1998 the Court of Appeals, 13th Division, promulgated its subject appealed Decision^[16] granting the petition in CA-G.R. SP No. 47933, the dispositive portion of which reads:

Wherefore, the foregoing considered, the Petition is hereby GRANTED. The Orders of the respondent Cooperative Development Authority in CDA-CO case No. 97-011 dated 08 December 1997, 15 December 1997, 26 January 1998, 24 February 1998, 03 March 1998, and the Resolution dated 26 May 1998, are hereby

declared NULL AND VOID and of no legal force and effect.

Further, the respondents are hereby ORDERED to perpetually CEASE AND DESIST from taking any further proceedings in CDA-CO Case No. 97-011.

Lastly, the respondent CDA is hereby ORDERED to REINSTATE the Board of Directors of DARBCI who were ousted by virtue of the questioned Orders, and to RESTORE the status quo prior to the filing of CDA-CO Case No. 97-011.

SO ORDERED.

The CDA filed a motion for reconsideration[17] of the Decision in CA-G.R. SP No. 47933 but it was denied by the Court of Appeals in its assailed Resolution[18] dated February 9, 1999, thus:

WHEREFORE, the Motion for Reconsideration is hereby DENIED for being patently without merit.

MOREOVER, acting on petitioners' Twin Motion, and in view of the Decision in this case dated 09, September 1998, the tenor of which gives it legal effect nunc pro tunc. We therefore hold the 12 July 1998 election of officers, the resolutions passed during the said assembly, and the subsequent oath-taking of the officers elected therein, and all actions taken during the said meeting, being in blatant defiance of a valid restraining order issued by this Court, to be NULL AND VOID AB INITIO AND OF NO LEGAL FORCE AND EFFECT.

FURTHERMORE, the private respondents are hereby given thirty (30) days from receipt of this Resolution within which to explain in writing why they should not be held in contempt of this Court for having openly defied the restraining order dated 10 July 1998. The Hon. Jose C. Medina of the CDA is given a like period to explain in writing why he should not be cited in contempt for having administered the oath of the "Board of Officers" pending the effectivity of the restraining order. The respondent Arcadio S. Lozada, Administrator of the CDA, is likewise given the same period to explain why he should not be held in contempt for issuing a resolution on 21 July 1998 validating the proceedings of the assembly, and another resolution on 28 August 1998 confirming the election of the officers thereof.

SO ORDERED.

Hence, the instant petition[19] for review which raises the following assignments of error:

I

THE HONORABLE COURT OF APPEALS, IN NULLIFYING THE ORDERS AND RESOLUTIONS OF THE COOPERATIVE DEVELOPMENT AUTHORITY IN CDA CO CASE NO. 97-011, DECIDED A QUESTION OF SUBSTANCE THAT IS NOT IN ACCORD WITH LAW AND APPLICABLE DECISIONS OF THE SUPREME COURT.

II

THE HONORABLE COURT OF APPEALS ERRED IN NOT APPLYING THE RULE ON FORUM-SHOPPING.

III

THE HONORABLE COURT OF APPEALS ERRED IN RENDERING A DECISION ON THE BASIS OF PURE CONJECTURES AND SURMISES AND HAS DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS WHICH CALL FOR AN EXERCISE OF THIS HONORABLE COURT'S SUPERVISION.

Petitioner CDA claims that it is vested with quasi-judicial authority to adjudicate cooperative disputes in view of

its powers, functions and responsibilities under Section 3 of Republic Act No. 6939.[20] The quasi-judicial nature of its powers and functions was confirmed by the Department of Justice, through the then Acting Secretary of Justice Demetrio G. Demetria, in DOJ Opinion No. 10, Series of 1995, which was issued in response to a query of the then Chairman Edna E. Aberina of the CDA, to wit:

Applying the foregoing, the express powers of the CDA to cancel certificates of registration of cooperatives for non-compliance with administrative requirements or in cases of voluntary dissolution under Section 3(g), and to mandate and conciliate disputes within a cooperative or between cooperatives under Section 8 of R.A. No. 6939, may be deemed quasi-judicial in nature.

The reason is that – in the performance of its functions such as cancellation of certificate of registration, it is necessary to establish non-compliance or violation of administrative requirement. To do so, there arises an indispensable need to hold hearings, investigate or ascertain facts that possibly constitute non-compliance or violation and, based on the facts investigated or ascertained, it becomes incumbent upon the CDA to use its official discretion whether or not to cancel a cooperative's certificate of registration, thus, clearly revealing the quasi-judicial nature of the said function. When the CDA acts as a conciliatory body pursuant to Section 8 of R.A. No. 6939, it in effect performs the functions of an arbitrator. Arbitrators are by the nature of their functions act in quasi-judicial capacity xxx.

The quasi-judicial nature of the foregoing functions is bolstered by the provisions of Sections 3(o) of R.A. No. 6939 which grants CDA on (sic) the exercise of other functions as may be necessary to implement the provisions of cooperative laws, the power to summarily punish for direct contempt any person guilty of misconduct in the presence thereof who seriously interrupts any hearing or inquiry with a fine or imprisonment prescribed therein, a power usually granted to make effective the exercise of quasi-judicial functions.[21]

Likewise, the Office of the President, through the then Deputy Executive Secretary, Hon. Leonardo A. Quisumbing, espoused the same view in the case of *Alberto Ang, et al. v. The Board of Directors, Metro Valenzuela Transport Services Cooperative, Inc.*, O.P. Case No. 51111, when it declared and ruled that:

Concededly, Section 3(o) of R.A. No. 6939 and Article 35(4) of R.A. 6938, may not be relied upon by the CDA as authority to resolve internal conflicts of cooperatives, they being general provisions. Nevertheless, this does not preclude the CDA from resolving the instant case. The assumption of jurisdiction by the CDA on matters which partake of cooperative disputes is a logical, necessary and direct consequence of its authority to register cooperatives. Before a cooperative can acquire juridical personality, registration thereof is a condition sine qua non, and until and unless the CDA issues a certificate of registration under its official seal, any cooperative for that matter cannot be considered as having been legally constituted. To our mind, the grant of this power impliedly carries with it the visatorial power to entertain cooperative conflicts, a lesser power compared to its authority to cancel registration certificates when, in its opinion, the cooperative fails to comply with some administrative requirements (Sec. 2(g), R.A. No. 6939). Evidently, respondents-appellants' claim that the CDA is limited to conciliation and mediation proceedings is bereft of legal basis. Simply stated, the CDA, in the exercise of 'such other function' and in keeping with the mandate of the law, could render the decisions and/or resolutions as long as they pertain to the internal affairs of the public service cooperative, such as the rights and privileges of its members, the rules and procedures for meetings of the general assembly, Board of Directors and committees, election and qualifications of officers, directors and committee members, and allocation and distribution of surpluses.[22]

The petitioner avers that when an administrative agency is conferred with quasi-judicial powers and functions, such as the CDA, all controversies relating to the subject matter pertaining to its specialization are deemed to be covered within the jurisdiction of said administrative agency. The courts will not interfere in matters which are addressed to the sound discretion of government agencies entrusted with the regulation of activities undertaken upon their special technical knowledge and training.

The petitioner added that the decision in the case of *CANORECO v. Hon. Ruben D. Torres*,^[23] affirmed the adjudicatory powers and functions of CDA contrary to the view held by the Court of Appeals, when the Supreme Court upheld therein the ruling of the CDA annulling the election of therein respondents Norberto Ochoa, et al. as officers of the Camarines Norte Electric Cooperative.

Petitioner CDA also claims that herein private respondents are guilty of forum-shopping by filing cases in three (3) different fora seeking the same relief. Petitioner pointed out that private respondents originally filed a petition with a prayer for preliminary injunction dated December 17, 1997 before the RTC of Polomolok, South Cotabato which was docketed as SP Civil Case No. 25. Subsequently, the same private respondents filed another petition with a prayer for preliminary injunction with the Court of Appeals, 13th Division, docketed as CA-G.R. SP No. 47933. Thereafter, Investa, also represented by the same counsel of private respondents, Atty. Reni Dublin, filed another case with the RTC of Polomolok, South Cotabato, docketed as SP Civil Case No. 28, likewise praying, among others, for the issuance of preliminary injunction and an application for a temporary restraining order. In effect, petitioner was confronted with three (3) TRO's issued in three (3) separate actions enjoining it from enforcing its orders and resolutions in CDA-CO Case No. 97-011.

In their Comment,^[24] private respondents contend that the instant petition for review on certiorari filed by CDA Administrator Alberto Zingapan should be dismissed and struck down as a mere scrap of paper for lack of authority to file the same from the Office of the Solicitor General and for having been filed without approval from the Board of Administrators of CDA.

The private respondents also contend that, contrary to the claim of the petitioner, the powers, functions and responsibilities of the CDA show that it was merely granted regulatory or supervisory powers over cooperatives in addition to its authority to mediate and conciliate between parties involving the settlement of cooperative disputes.

Private respondents denied that they are guilty of forum-shopping. They clarified that the case filed with the RTC of Polomolok, South Cotabato, Branch 39, docketed as SP Civil Case No. 25, was a petition for certiorari. On the other hand, the case that they filed with the Court of Appeals, 13th Division, docketed therein as CA-G.R. SP No. 47933, was a petition for prohibition to stop the holding of a special general assembly and the election of a new set of DARBCI officers on June 14, 1998 as ordered by the petitioner CDA on May 26, 1998, which events have not yet occurred at the time the petition for certiorari was filed by the private respondents with the RTC of Polomolok, South Cotabato, Branch 39.

Private respondents also denied that the filing by Investa of the petition for the declaration of nullity of the orders and resolutions of petitioner CDA, with a prayer for temporary restraining order with the RTC of Polomolok, South Cotabato, docketed therein as SP Civil Case No. 28, constituted forum-shopping on their part. They pointed out that Investa has a separate juridical personality from DARBCI and that, contrary to the claim of petitioner CDA, the former is not represented by the lawyer of the private respondents.

By way of reply,^[25] petitioner claims that Atty. Rogelio P. Madriaga was properly deputized, among other lawyers, as Special Attorney by the Office of the Solicitor General to represent the CDA in the instant petition pursuant to the letter^[26] of Assistant Solicitor General Carlos N. Ortega addressed to CDA Chairman Jose C. Medina, Jr. dated April 8, 1999. Likewise, the filing of the instant petition was an official act of CDA Administrator Alberto P. Zingapan who was duly appointed by the CDA Board of Administrators as chairman of the Oversight Committee on Legal Matters per Resolution No. 201, S-1998.^[27]

Meanwhile, on March 26, 1999, certain persons alleging to be incumbent officers and members of the board of directors of DARBCI filed a motion to intervene in the instant petition which was granted by this Court per its Resolution dated July 7, 1999.^[28] In the same resolution, this Court required both petitioner CDA and the private

respondents in this case to file their respective comments to the petition-in-intervention within ten (10) days from notice, but both parties failed to comply to do so up to the present.

We note that the instant petition for review on certiorari suffers from a basic infirmity for lack of the requisite imprimatur from the Office of the Solicitor General, hence, it is dismissible on that ground. The general rule is that only the Solicitor General can bring or defend actions on behalf of the Republic of the Philippines and that actions filed in the name of the Republic, or its agencies and instrumentalities for that matter, if not initiated by the Solicitor General, will be summarily dismissed.[29]

The authority of the Office of the Solicitor General to represent the Republic of the Philippines, its agencies and instrumentalities, is embodied under Section 35(1), Chapter 12, Title III, Book IV of the Administrative Code of 1987 which provides that:

SEC. 35. Powers and Functions.—The Office of the Solicitor General shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of lawyers. When authorized by the President or head of the office concerned, it shall also represent government owned or controlled corporations. The Office of the Solicitor General shall constitute the law office of the Government and, as such, shall discharge duties requiring the services of lawyers. It shall have the following specific powers and functions:

(1) Represent the Government in the Supreme Court and the Court of Appeals in all criminal proceedings; represent the Government and its officers in the Supreme Court, Court of Appeals, and all other courts or tribunals in all civil actions and special proceedings in which the Government or any officer thereof in his official capacity is a party.

The import of the above-quoted provision of the Administrative Code of 1987 is to impose upon the Office of the Solicitor General the duty to appear as counsel for the Government, its agencies and instrumentalities and its officials and agents before the Supreme Court, the Court of Appeals, and all other courts and tribunals in any litigation, proceeding, investigation or matter requiring the services of a lawyer. Its mandatory character was emphasized by this Court in the case of *Gonzales v. Chavez*,[30] thus:

It is patent that the intent of the lawmaker was to give the designated official, the Solicitor General, in this case, the unequivocal mandate to appear for the government in legal proceedings. Spread out in the laws creating the office is the discernible intent which may be gathered from the term “shall”, which is invariably employed, from Act No. 136 (1901) to the more recent Executive Order No. 292 (1987).

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The decision of this Court as early as 1910 with respect to the duties of the Attorney-General well applies to the Solicitor General under the facts of the present case. The Court then declared:

In this jurisdiction, it is the duty of the Attorney General ‘to perform the duties imposed upon him by law’ and ‘he shall prosecute all causes, civil and criminal, to which the Government of the Philippine Islands, or any officer thereof, in his official capacity, is a party’ xxx.

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The Court is firmly convinced that considering the spirit and the letter of the law, there can be no other logical interpretation of Sec. 35 of the Administrative Code than that it is, indeed, mandatory upon the OSG to “represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of a lawyer.”

As an exception to the general rule, the Solicitor General, in providing legal representation for the government, is empowered under Section 35(8), Chapter 12, Title III, Book IV of the Administrative Code of 1987 to “deputize

legal officers of government departments, bureaus, agencies and offices to assist the Solicitor General and appear or represent the Government in cases involving their respective offices, brought before the courts and exercise supervision and control over such legal officers with respect to such cases.”

Petitioner claims that its counsel of record, Atty. Rogelio P. Madriaga, was deputized by the Solicitor General to represent the CDA in the instant petition. To prove its claim, the petitioner attached to its Reply to the Comment dated January 31, 2000, a photocopy of the alleged deputation letter[31] from the Office of the Solicitor General signed by Hon. Carlos N. Ortega, Assistant Solicitor General, addressed to CDA Chairman Jose C. Medina, Jr.

A close scrutiny of the alleged deputation letter from the Office of the Solicitor General shows, however, that said counsel for the petitioner was only “authorized to appear as counsel in all civil cases in the lower courts (RTCs and MTCs) wherein the CDA is a party-litigant”. Likewise, the same letter appears to be dated April 8, 1999 while the Petition for Review on Certiorari filed by the petitioner was dated February 26, 1999. Clearly then, when the petition was filed with this Court on March 3, 1999, Atty. Rogelio P. Madriaga was not yet deputized by the Office of the Solicitor General to represent the CDA.

Even on the assumption that the alleged letter from the Office of the Solicitor General was intended to validate or ratify the authority of counsel to represent the petitioner in this case, the same contains certain conditions, one of which is that petitioner “shall submit to the Solicitor General, for review, approval and signature, all important pleadings and motions, including motions to withdraw complaints or appeals, as well as compromise agreements.” Significantly, one of the major pleadings filed subsequently by the petitioner in this case namely, the Reply to the Respondent’s Comment on the Petition dated January 31, 2000, does not have any indication that the same was previously submitted to the Office of the Solicitor General for review or approval, much less bear the requisite signature of the Solicitor General as required in the alleged deputation letter.

Nonetheless, in view of the novelty of the main issue raised in this petition concerning the nature and scope of jurisdiction of the CDA in the settlement of cooperative disputes as well as the long standing legal battle involving the management of DARBCI between two (2) opposing factions that inevitably threatens the very existence of one of the country’s major cooperatives, this Court has decided to act on and determine the merits of the instant petition.

Section 3 of R.A. No. 6939 enumerates the powers, functions and responsibilities of the CDA, thus:

SEC. 3. Powers, Functions and Responsibilities.—The Authority shall have the following powers, functions and responsibilities:

(a)

Formulate, adopt and implement integrated and comprehensive plans and programs on cooperative development consistent with the national policy on cooperatives and the overall socio-economic development plan of the Government;

(b)

Develop and conduct management and training programs upon request of cooperatives that will provide members of cooperatives with the entrepreneurial capabilities, managerial expertise, and technical skills required for the efficient operation of their cooperatives and inculcate in them the true spirit of cooperativism and provide, when necessary, technical and professional assistance to ensure the viability and growth of cooperatives with special concern for agrarian reform, fishery and economically depressed sectors;

(c)

Support the voluntary organization and consensual development of activities that promote cooperative movements and provide assistance to wards upgrading managerial and technical expertise upon request of the cooperatives concerned;

(d)

Coordinate the effects of the local government units and the private sector in the promotion, organization, and development of cooperatives;

(e)

Register all cooperatives and their federations and unions, including their division, merger, consolidation, dissolution or liquidation. It shall also register the transfer of all or substantially all of their assets and liabilities and such other matters as may be required by the Authority;

(f)

Require all cooperatives, their federations and unions to submit their annual financial statements, duly audited by certified public accountants, and general information sheets;

(g)

Order the cancellation after due notice and hearing of the cooperative's certificate of registration for non-compliance with administrative requirements and in cases of voluntary dissolution;

(h)

Assist cooperatives in arranging for financial and other forms of assistance under such terms and conditions as are calculated to strengthen their viability and autonomy;

(i)

Establish extension offices as may be necessary and financially viable to implement this Act. Initially, there shall be extension offices in the Cities of Dagupan, Manila, Naga, Iloilo, Cebu, Cagayan de Oro and Davao;

(j)

Impose and collect reasonable fees and charges in connection with the registration of cooperatives;

(k)

Administer all grants and donations coursed through the Government for cooperative development, without

prejudice to the right of cooperatives to directly receive and administer such grants and donations upon agreement with the grantors and donors thereof;

(l)

Formulate and adopt continuing policy initiatives consultation with the cooperative sector through public hearing;

(m)

Adopt rules and regulations for the conduct of its internal operations;

(n)

Submit an annual report to the President and Congress on the state of the cooperative movement;

(o)

Exercise such other functions as may be necessary to implement the provisions of the cooperative laws and, in the performance thereof, the Authority may summarily punish for direct contempt any person guilty of misconduct in the presence of the Authority which seriously interrupts any hearing or inquiry with a fine of not more than five hundred pesos (P500.00) or imprisonment of not more than ten (10) days, or both. Acts constituting indirect contempt as defined under Rule 71 of the Rules of Court shall be punished in accordance with the said Rule.

It is a fundamental rule in statutory construction that when the law speaks in clear and categorical language, there is no room for interpretation, vacillation or equivocation – there is only room for application.[32] It can be gleaned from the above-quoted provision of R.A. No. 6939 that the authority of the CDA is to discharge purely administrative functions which consist of policy-making, registration, fiscal and technical assistance to cooperatives and implementation of cooperative laws. Nowhere in the said law can it be found any express grant to the CDA of authority to adjudicate cooperative disputes. At most, Section 8 of the same law provides that “upon request of either or both parties, the Authority shall mediate and conciliate disputes with a cooperative or between cooperatives” however, with a restriction “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”. Being an administrative agency, the CDA has only such powers as are expressly granted to it by law and those which are necessarily implied in the exercise thereof.[33]

Petitioner CDA, however, insists that its authority to conduct hearings or inquiries and the express grant to it of contempt powers under Section 3, paragraphs (g) and (o) of R. A. No. 6939, respectively, necessarily vests upon the CDA quasi-judicial authority to adjudicate cooperative disputes. A review of the records of the deliberations by both chambers of Congress prior to the enactment of R.A. No. 6939 provides a definitive answer that the CDA is not vested with quasi-judicial authority to adjudicate cooperative disputes. During the house deliberations on the then House Bill No. 10787, the following exchange transpired:

MR. AQUINO (A.). The response of the sponsor is not quite clear to this humble Representation. Let me just point out other provisions under this particular section, which to the mind of this humble Representation

appear to provide this proposed Authority with certain quasi-judicial functions. Would I be correct in this interpretation of paragraphs (f) and (g) under this section which state that among the powers of the Authority are:

To administer the dissolution, disposal of assets and settlement of liabilities of any cooperative that has been found to be inoperable, inactive or defunct.

To make appropriate action on cooperatives found to be in violation of any provision...

It appears to the mind of this humble Representation that the proposed Authority may be called upon to adjudicate in these particular instances. Is it therefore vested with quasi-judicial authority?

MR. ROMUALDO. No, Mr. Speaker. We have to resort to the courts, for instance, for the dissolution of cooperatives. The Authority only administers once a cooperative is dissolved. It is also the CDA which initiates actions against any group of persons that may use the name of a cooperative to its advantage, that is, if the word “cooperative” is merely used by it in order to advance its intentions, Mr. Speaker.

MR. AQUINO (A.). So, is the sponsor telling us that the adjudication will have to be left to the courts of law?

MR. ROMUALDO. To the courts, Mr. Speaker.[34]

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MR. ADASA. One final question, Mr. Speaker. On page 4, line 33, it seems that one of the functions given to the Cooperative Development Authority is to recommend the filing of legal charges against any officer or member of a cooperative accused of violating the provisions of this Act, existing laws and cooperative by-laws and other rules and regulations set forth by the government. Would this not conflict with the function of the prosecuting fiscal?

MR. ROMUALDO. No, it will be the provincial fiscal that will file the case. The Authority only recommends the filing of legal charges, that is, of course, after preliminary investigation conducted by the provincial fiscal or the prosecuting arm of the government.

MR. ADASA. Does the Gentleman mean to say that the Cooperative Development Authority can take the place of the private complainant or the persons who are the offended party if the latter would not pursue the case?

MR. ROMUALDO. Yes, Mr. Speaker. The Authority can initiate even the filing of the charges as embraced and defined on line 33 of page 4 of this proposed bill.[35]

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MR. CHIONGBIAN. xxx. Under the same section, line 28, subparagraph (g) says that the Authority can take appropriate action on cooperatives found to be violating any provision of this Act, existing laws and cooperative by-laws, and other rules and regulations set forth by the government by way of withdrawal of Authority assistance, suspension of operation or cancellation of accreditation.

My question is: If a cooperative, whose officers are liable for wrongdoing, is found violating any of the provisions of this Act, are we going to sacrifice the existence of that cooperative just because some of the officers have taken advantage of their positions and misused some of the funds? It would be very unfair for the Authority to withdraw its assistance at the expense of the majority. It is not clear as to what the liabilities of the members of these cooperatives are.

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MR. ROMUALDO. Mr. Speaker, before this action may be taken by the Authority, there will be due process. However, this provision is applicable in cases where the cooperative as a whole violated the provisions of this Act as well as existing laws. In this case, punitive actions may be taken against the cooperative as a body.

With respect to the officials, if they themselves should be punished, then Section (h) of this chapter provides that legal charges shall be filed by the Cooperative Development Authority.[36]

In like manner, the deliberations on Senate Bill No. 485, which was the counterpart of House Bill No. 10787, yield the same legislative intent not to grant quasi-judicial authority to the CDA as shown by the following discussions during the period of amendments:

SEN. ALVAREZ. On page 3, between lines 5 and 6, if I may, insert the following as one of the powers: CONDUCT INQUIRIES, STUDIES, HEARINGS AND INVESTIGATIONS AND ISSUE ORDERS, DECISIONS AND CIRCULARS AS MAY BE NECESSARY TO IMPLEMENT ALL LAWS, RULES AND REGULATIONS RELATING TO COOPERATIVES. THE AGENCY MAY SUMMARILY PUNISH FOR CONTEMPT BY A FINE OF NOT MORE THAN TWO HUNDRED PESOS (P200.00) OR IMPRISONMENT NOT EXCEEDING TEN (10) DAYS, OR BOTH, ANY PERSONS GUILTY OF SUCH MISCONDUCT IN THE PRESENCE OF THE AGENCY WHICH SERIOUSLY INTERRUPTS ANY HEARING OR INVESTIGATION, INCLUDING WILFULL FAILURE OR REFUSAL, WITHOUT JUST CAUSE, COMPLY WITH A SUMMONS, SUBPOENA, SUBPOENA DUCES TECUM, DECISION OR ORDER, RULE OR REGULATION, OR, BEING PRESENT AT A HEARING OR INVESTIGATION, REFUSES TO BE SWORN IN AS A WITNESS OR TO ANSWER QUESTIONS OR TO FURNISH INFORMATION REQUIRED BY THE AGENCY. THE SHERIFF AND/OR POLICE AGENCIES OF THE PLACE WHERE THE HEARING OR INVESTIGATION IS CONDUCTED SHALL, UPON REQUEST OF THE AGENCY, ASSIST IT TO ENFORCE THE PENALTY.

THE PRESIDENT. That is quite a long amendment. Does the Gentleman have a written copy of his amendment, so that the Members will have an opportunity to go over it and examine its implications?

Anyway, why do we not hold in abeyance the proposed amendment? Do we have that?

xxx xxx xxx

SEN. ALVAREZ. Mr. President, this is almost an inherent power of a registering body. With the tremendous responsibility that we have assigned to the Authority or the agency—for it to be able to function and discharge its mandate—it will need this authority.

SEN. AQUINO. Yes, Mr. President, conceptually, we do not like the agency to have quasi-judicial powers. And, we are afraid that if we empower the agency to conduct inquiries, studies, hearings and investigations, it might interfere in the autonomous character of cooperatives. So, I am sorry Mr. President, we don't accept the amendment.[37]

The decision to withhold quasi-judicial powers from the CDA is in accordance with the policy of the government granting autonomy to cooperatives. It was noted that in the past 75 years cooperativism failed to flourish in the Philippines. Of the 23,000 cooperatives organized under P.D. No. 175, only 10 to 15 percent remained operational while the rest became dormant. The dismal failure of cooperativism in the Philippines was attributed mainly to the stifling attitude of the government toward cooperatives. While the government wished to help, it invariably wanted to control.[38] Also, in its anxious efforts to push cooperativism, it smothered cooperatives with so much help that they failed to develop self-reliance. As one cooperative expert put it, "The strong embrace of government ends with a kiss of death for cooperatives." [39]

But then, acknowledging the role of cooperatives as instruments of national development, the framers of the 1987

Constitution directed Congress under Article XII, Section 15 thereof to create a centralized agency that shall promote the viability and growth of cooperatives. Pursuant to this constitutional mandate, the Congress approved on March 10, 1990 Republic Act No. 6939 which is the organic law creating the Cooperative Development Authority. Apparently cognizant of the errors in the past, Congress declared in an unequivocal language that the state shall “maintain the policy of non-interference in the management and operation of cooperatives.”[40]

After ascertaining the clear legislative intent underlying R.A. No. 6939, effect should be given to it by the judiciary.[41] Consequently, we hold and rule that the CDA is devoid of any quasi-judicial authority to adjudicate intra-cooperative disputes and more particularly disputes as regards the election of the members of the Board of Directors and officers of cooperatives. The authority to conduct hearings or inquiries and the power to hold any person in contempt may be exercised by the CDA only in the performance of its administrative functions under R.A. No. 6939.

The petitioner’s reliance on the case of CANORECO is misplaced for the reason that the central issue raised therein was whether or not the Office of the President has the authority to supplant or reverse the resolution of an administrative agency, specifically the CDA, that had long become final and on which issue we ruled in the negative. In fact, this Court declared in the said case that the CDA has no jurisdiction to adjudicate intra-cooperative disputes thus:[42]

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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 request thereof, a certificate of non-resolution shall be issued by the commission prior to the filing of appropriate action before the proper courts.

Likewise, we do not find any merit in the allegation of forum-shopping against the private respondents. Forum-shopping exists where the elements of *litis pendentia* are present or where a final judgment in one case will amount to *res judicata* in the other.[43] The requisites for the existence of *litis pendentia*, in turn, are (1) identity of parties or at least such representing the same interest in both actions; (2) identity of rights asserted as prayed for, the relief being founded on the same facts; and (3) the identity in both cases is such that the judgment that may be rendered in the pending case, regardless of which party is successful, would amount to *res judicata* to the other case.[44]

While there may be identity of parties between SP Civil Case No. 25 filed with the RTC of Polomolok, South Cotabato, Branch 39, and CA-G.R. SP No. 47933 before the Court of Appeals, 13th Division, the two (2) other requisites are not present. The Court of Appeals correctly observed that the case filed with the RTC of Polomolok, South Cotabato was a petition for certiorari assailing the orders of therein respondent CDA for having been

allegedly issued without or in excess of jurisdiction. On the other hand, the case filed with the Court of Appeals was a petition for prohibition seeking to restrain therein respondent from further proceeding with the hearing of the case. Besides, the filing of the petition for prohibition with the Court of Appeals was necessary after the CDA issued the Order dated May 26, 1998 which directed the holding of a special general assembly for purposes of conducting elections of officers and members of the board of DARBCI after the Court of Appeals, 12th Division, in CA-G.R. SP No. 47318 issued a temporary restraining order enjoining the proceedings in Special Civil Case No. 25 and for the parties therein to maintain the status quo. Under the circumstances, the private respondents could not seek immediate relief before the trial court and hence, they had to seek recourse before the Court of Appeals via a petition for prohibition with a prayer for preliminary injunction to forestall the impending damage and injury to them in view of the order issued by the petitioner on May 26, 1998.

The filing of Special Civil Case No. 28 with the RTC of Polomolok, South Cotabato does not also constitute forum-shopping on the part of the private respondents. Therein petitioner Investa, which claims to have a subsisting lease agreement and a joint venture with DARBCI, is an entity whose juridical personality is separate and distinct from that of private respondent cooperative or herein individual private respondents and that they have totally different interests in the subject matter of the case. Moreover, it was incorrect for the petitioner to charge the private respondents with forum-shopping partly based on its erroneous claim that DARBCI and Investa were both represented by the same counsel. A charge of forum-shopping may not be anchored simply on the fact that the counsel for different petitioners in two (2) cases is one and the same.^[45] Besides, a review of the records of this case shows that the counsel of record of Investa in Special Civil Case No. 28 is a certain Atty. Ignacio D. Debuque, Jr. and not the same counsel representing the private respondents.^[46]

Anent the petition-in-intervention, the intervenors aver that the Resolution of the Court of Appeals dated February 9, 1999 in CA-G.R. SP No. 47933 denying the motion for reconsideration of herein petitioner CDA also invalidated the election of officers and members of the board of directors of DARBCI held during the special general assembly on July 12, 1998, thus adversely affecting their substantial rights including their right to due process. They claim that the object of the order issued by the appellate court on June 10, 1998 was to restrain the holding of the general assembly of DARBCI as directed in the order of CDA Administrator Arcadio Lozada dated May 26, 1998. In compliance with the said order of the Court of Appeals, no general assembly was held on June 14, 1998. However, due to the grave concern over the alleged tyrannical administration and unmitigated abuses of herein private respondents, the majority of the members of DARBCI, on their own initiative and in the exercise of their inherent right to assembly under the law and the 1987 Constitution, convened a general assembly on July 12, 1998. On the said occasion, the majority of the members of DARBCI unanimously elected herein petitioners-in-intervention as new officers and members of the board of directors of DARBCI,^[47] and thereby resulting in the removal of the private respondents from their positions in DARBCI.

Petitioners-in-intervention pointed out that the validity of the general assembly held on July 12, 1998 was never raised as an issue in CA-G.R. SP No. 47933. The petitioners-in-intervention were not even ordered by the Court of Appeals to file their comment on the “Twin Motions For Contempt of Court and to Nullify Proceedings” filed by the private respondents on July 29, 1998.

As earlier noted, the Court of Appeals issued a temporary restraining order^[48] in CA-G.R. SP No. 47933 on June 10, 1998, the pertinent portion of which reads:

Meanwhile, respondents or any and all persons acting in their behalf and stead are temporarily restrained from proceeding with the election of officers and members of the board of directors of the Dolefil Agrarian Reform Beneficiaries Cooperative, Inc. scheduled on June 14, 1998 and or any other date thereafter.

It was also noted that as a consequence of the temporary restraining order issued by the appellate court, the

general assembly and the election of officers and members of the board of directors of DARBCI, pursuant to the resolution issued by CDA Administrator Arcadio S. Lozada, did not take place as scheduled on June 14, 1998. However, on July 12, 1998 the majority of the members of DARBCI, at their own initiative, held a general assembly and elected a new set of officers and members of the board of directors of the cooperative which resulted in the ouster of the private respondents from their posts in the said cooperative.

The incident on July 12, 1998 prompted herein private respondents to file their Twin Motions for Contempt of Court and to Nullify Proceedings on July 26, 1998. The twin motions prayed, among others, that after due notice and hearing, certain personalities, including the petitioners-in-intervention, be cited in indirect contempt for their participation in the subject incident and for the nullification of the election on July 12, 1998 for being illegal, contrary to the by-laws of the cooperative and in defiance of the injunctive processes of the appellate court.

On September 9, 1998, the Court of Appeals, 13th Division, rendered a Decision in CA-G.R. SP No. 47933 which declared the CDA devoid of quasi-judicial jurisdiction to settle the dispute in CDA-CO Case No. 97-011 without however, taking any action on the “Twin Motions for Contempt of Court and to Nullify Proceedings” filed by the private respondents. As it turned out, it was only in its Resolution dated February 9, 1999 denying petitioner’s motion for reconsideration of the Decision in CA-G.R. SP No. 47933 that the Court of Appeals, 13[th] Division, acted on the “Twin Motions for Contempt of Court and to Nullify Proceedings” by declaring as null and void the election of the petitioners-in-intervention on July 12, 1998 as officers and members of the board of directors of DARBCI.

We find, however, that the action taken by the Court of Appeals, 13th Division, on the “Twin Motions for Contempt of Court and to Nullify Proceedings” insofar as it nullified the election of the officers and members of the Board of Directors of DARBCI, violated the constitutional right of the petitioners-in-intervention to due process. The requirement of due process is satisfied if the following conditions are present, namely: (1) there must be a court or tribunal clothed with judicial power to hear and determine the matter before it; (2) jurisdiction must be lawfully acquired over the person of the defendant or over the property which is the subject of the proceedings; (3) the defendant must be given an opportunity to be heard; and (4) judgment must be rendered upon lawful hearing.[49] The appellate court should have first required the petitioners-in-intervention to file their comment or opposition to the said “Twin Motions For Contempt Of Court And to Nullify Proceedings” which also refers to the elections held during the general assembly on July 12, 1998. It was precipitate for the appellate court to render judgment against the petitioners-in-intervention in its Resolution dated February 9, 1999 without due notice and opportunity to be heard. Besides, the validity of the general assembly held on July 12, 1998 was not raised as an issue in CA-G.R. SP No. 47933.

WHEREFORE, judgment is hereby rendered as follows:

- The petition for review on certiorari is hereby DENIED for lack of merit. The orders, resolutions, memoranda and any other acts rendered by petitioner Cooperative Development Authority in CDA-CO Case No. 97-011 are hereby declared null and void ab initio for lack of quasi-judicial authority of petitioner to adjudicate intra-cooperative disputes; and the petitioner is hereby ordered to cease and desist from taking any further proceedings therein; and
- In the interest of justice, the dispositive portion of the Resolution of the Court of Appeals, dated February 9, 1999, in CA-G.R. SP No. 47933, insofar as it nullified the elections of the members of the Board of Directors and Officers of DARBCI held during the general assembly of the DARBCI members on July 12, 1998, is hereby SET ASIDE.

No pronouncement as to costs.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and Corona, JJ., concur.

[1] Petition, Annex “A”, Rollo, pp. 53-64. Penned by Associate Justice Romeo A Brawner and concurred in by Associate Justices Angelina Sandoval-Gutierrez (now Associate Justice of the Supreme Court) and Martin S. Villarama.

[2] Petition, Annex “C”. Rollo, pp. 84-90.

[3] Comment, Annex “1”, Rollo, p. 661.

[4] Comment, Annex “3”, Rollo, pp. 663-664.

[5] Petition, Annex “D”, Rollo, pp. 91-97.

[6] Petition, Annex “E”, Rollo, pp. 98-103.

[7] A supplemental order was issued by CDA Administrator Alberto P. Zingapan on March 3, 1998 changing the composition of the DARBCI management committee, Petition, Annex “E-1”, Rollo, p. 104.

[8] Petition, Annexes “G”; “G-1”, Rollo, pp. 117-120; 121-126.

[9] Petition, Annex “H”, Rollo, pp. 127-128.

[10] Petition, Annex “J”, Rollo, pp. 137-142.

[11] Petition, Annex “K”, Rollo, PP. 143-163.

[12] Petition, Annex “L”, Rollo, p. 164.

[13] Petition, Annex “M”, Rollo, pp. 165-185.

[14] Petition, Annex “N”, Rollo, pp. 186-188.

[15] C. A. Rollo, pp. 160-181.

[16] See Note No. 1.

[17] Petition, Annex “B”, Rollo, pp. 65-82.

[18] See Note No. 2.

[19] Rollo, pp. 3-51.

[20] Entitled: “AN ACT CREATING THE COOPERATIVE DEVELOPMENT AUTHORITY TO PROMOTE THE VIABILITY AND GROWTH OF COOPERATIVES AS INSTRUMENTS OF EQUITY, SOCIAL JUSTICE AND ECONOMIC DEVELOPMENT, DEFINING ITS POWERS, FUNCTIONS AND RESPONSIBILITIES, RATIONALIZING GOVERNMENT POLICIES AND AGENCIES WITH COOPERATIVE FUNCTIONS, SUPPORTING COOPERATIVE DEVELOPMENT, TRANSFERRING THE REGISTRATION AND REGULATION FUNCTIONS OF EXISTING GOVERNMENT AGENCIES ON COOPERATIVES AS SUCH AND CONSOLIDATING THE SAME WITH THE AUTHORITY, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES.”

[21] Rollo, pp. 15-16.

[22] Rollo, pp. 23-24.

[23] 286 SCRA 666 (1998).

[24] Rollo, pp. 622-660.

[25] Rollo, pp. 714-719.

[26] Reply, Annex "A", Rollo, p. 720-721.

[27] Reply, Annex "B", Rollo, pp. 722-723.

[28] Rollo, p. 610.

[29] Republic, et al. v. Partisala, et al., 118 SCRA 370, 373 (1982); People v. Nano, 205 SCRA 155,159 (1992).

[30] 205 SCRA 816, 836-837, 846 (1992).

[31] See Note No. 25.

[32] Director of Lands v. CA, 276 SCRA 276, 287 (1997) citing Cebu Portland Cement Company v. Municipality of Naga, Cebu, 24 SCRA 708,712 (1968).

[33] Laguna Lake Development Authority v. CA, 231 SCRA 292,306 (1994) citing Guerzon v. CA, 164 SCRA 182, 189 (1988); Republic v. CA, 200 SCRA 226, 237 (1991).

[34] Journal and Record of the House of Representatives, Second Regular Session, 1988-1989, Vol. I, p. 243.

[35] Id., p. 246.

[36] Id., p. 286.

[37] Record of the Senate, Third Regular Session, Vol. II, Nos. 29-53, pp. 433-434.

[38] Record of the Senate, Third Regular Session, Vol. I, Nos. 1-28, p. 77

[39] Record of the Senate, Third Regular Session, Vol. IV, Nos. 107-143, p. 985

[40] Section 1 of R.A. No. 6939.

[41] Cecilleville Realty and Service Corporation v. CA, 278 SCRA 819, 824 (1997); Globe-Mackay Cable and Radio Corp. v. NLRC, 206 SCRA 701, 711 (1992).

[42] CANORECO v. Hon. Ruben D. Torres, supra, p 680.

[43] First Philippine International Bank v. CA, 252 SCRA 259, 283 (1996); Philippine Woman's Christian Temperance Union, Inc. v. Abiertas House of Friendship, Inc. 292 SCRA 785, 791 (1998).

[44] Atienza v. CA, 232 SCRA 737, 741 (1994); Sempio v. CA, 284 SCRA 580, 586 (1998); Casil v. CA, 285 SCRA 264, 270 (1998).

[45] Alejandrino v. CA, 295 SCRA 536, 554-555 (1998).

[46] See Note No. 13.

[47] Petition-In-Intervention, Annex "G". Rollo, p. 472.

[48] See Note No. 12.

[49] Banco Español Filipino v. Palanca, 37 Phil. 921, 943 (1918).

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