

**MANILA ELECTRIC COMPANY (MERALCO), PETITIONER, VS.
ENERGY REGULATORY BOARD (ERB), AND EDGAR L. TI, DOING
BUSINESS UNDER THE NAME AND STYLE OF ELT ENTERPRISE,
RESPONDENTS**

G.R. NO. 145399. March 17, 2006

Ponente: GARCIA, J.

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GARCIA, J.:

Before us is this petition for review on certiorari to annul and set aside the decision[1] dated September 22, 2000 of the Court of Appeals (CA) in CA G.R. SP No. 56946, which effectively affirmed the Orders of the Energy Regulatory Board[2] (ERB) dated October 22, 1999 and December 27, 1999 in ERB Case No. 99-67.

The assailed CA decision upheld public respondent ERB's exercise of jurisdiction over cases involving complaints for reconnection of electric service cut-off for alleged violation of Republic Act (R.A.) No. 7832, otherwise known as the "Anti-electricity and Electric Transmission Lines/Materials Pilferage Act of 1994," as well as ERB's authority to issue a provisional order of reconnection.

The factual background:

On October 18, 1999, herein private respondent Edgar L. Ti, doing business under the name and style ELT Enterprise, filed a verified complaint[3] before the ERB against petitioner Manila Electric Company (MERALCO). In it, Ti alleged inter alia that MERALCO unlawfully disconnected partially the electric service in his business establishment located at Little Baguio, San Juan, Metro Manila and seized three (3) of his electric meters on mere suspicion of meter tampering. Aggravating the situation, Ti adds, was the fact that the notice of disconnection was served at night, while the actual disconnection was not done in the presence of the owner of ELT Enterprise or his representative. The unauthorized disconnection, Ti claimed, has caused him great damage which, if not immediately addressed, would result to irreparable injury. He thus prayed that pending hearing of his complaint, docketed as ERB Case No. 99-67, electric service be restored in his establishment.

In an Order dated October 22, 1999,[4] the ERB, by way of provisional relief, ordered the desired reconnection of electric service and, at the same, directed MERALCO to submit its comment on the complaint.

On October 29, 1999, MERALCO moved for a reconsideration of the aforementioned provisional reconnection order, alleging that an inspection conducted by its service inspectors accompanied by elements of the Philippine National Police found Ti to have tampered three (3) electric meters installed in his business premises by manipulating the dial pointers thereof. The fraudulent act of Ti, according to MERALCO, constituted a violation of R.A. No. 7832 legally warranting the immediate disconnection of the electric supply on his establishment, as provided under Section 4[5] in relation to Section 6[6] thereof. MERALCO further argued that the ERB is without jurisdiction to issue a provisional relief and order the restoration of electric service, that authority being vested only on regular courts.

On the same day, MERALCO instituted a criminal complaint against Ti for violation of R. A. No. 7832 before the Prosecutor's Office of Rizal. The criminal complaint appears to be still pending resolution.

On November 11, 1999, MERALCO filed its comment[7] to Ti's complaint in ERB Case No. 99-67 and there moved for the dismissal thereof on the ground of lack of jurisdiction.

On December 27, 1999, the ERB issued an Order[8]denying MERALCO's motion for reconsideration, thereby virtually reiterating the reconnection directive contained in its earlier Order of October 22, 1999.[9] Partly wrote the ERB in its December 27, 1999 Order:

[Petitioner MERALCO's] contention that this Board has no jurisdiction over the subject matter of the instant complaint, which is the restoration of the partial shutdown of the electric service to complainant's building, cannot be upheld. The law gives consumers who have a cause of grievance against any public utility, such as herein [petitioner] MERALCO, a complete, speedy and adequate remedy. That is the purpose of Commonwealth Act No. 146, as amended, creating the Public Service Commission, this Board's predecessor office, and prescribing its duties and powers, and the reason why it was enacted[10] (Words in bracket added.)

Dissatisfied, MERALCO went to the CA on a petition for certiorari, thereat docketed as CA-G.R. SP No. 56946, assailing as having been issued without jurisdiction or with grave abuse of discretion, the ERB's orders dated October 22, 1999 and December 27, 1999.

Eventually, the CA, in a Decision dated September 22, 2000,[11] veritably rejected MERALCO's imputation of lack of jurisdiction or grave abuse of discretion on the part of the ERB and, accordingly, affirmed the latter's twin assailed orders and dismissed MERALCO's recourse thereto. Partly says the CA in its decision:

The agency charged with regulatory and adjudicatory functions covering the energy sector is the Energy Regulatory Board created under E.O. No. 172 dated May 8, 1987. The nucleus of the ERB was the Board of Energy established by P.D. No. 1206 dated October 6, 1977, which had the power to regulate and fix power rates to be charged by electric companies and to issue certificates of public convenience for the operation of electric power utilities and services.[12]

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xxx. E.O. No. 172, dated June 5, 1987, saw the further need to create an independent body which gave birth to the present ERB. The aim of course is to achieve a more coherent and effective policy formulation, coordination, implementation and monitoring within the energy sector, and to consolidate in one body all the regulatory and adjudicatory functions covering the energy sector.[13]

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There should be no debate then about ERB's possessing jurisdiction to regulate and adjudicate matters relating to its functions as highlighted above. The law clearly affords any customer, like private respondent, a plain, complete and adequate remedy for any grievance against a public utility, and the ERB not only has the right, but the duty as well, to grant relief in proper cases. Relevant provisions of the Public Service Act have been substantially carried over in statutes creating independent specialized agencies, like ERB, with regulatory and adjudicatory powers.[14]

Hence, petitioner MERALCO's present recourse, on the following grounds:

A.

THE CONCLUSION OF THE [CA] THAT THE PUBLIC RESPONDENT HAS JURISDICTION TO HEAR CONTROVERSIES BETWEEN PRIVATE RESPONDENT AND PETITIONER ARISING FROM

VIOLATION OF THE SERVICE CONTRACT AND CASES FALLING UNDER R.A. 7832 IS CONTRARY TO EXISTING LAW.

B.

THE [CA] ERRONEOUSLY CONCLUDED THAT PUBLIC RESPONDENT HAS AUTHORITY TO ISSUE PROVISIONAL REMEDY IN THE NATURE OF WRIT OF PRELIMINARY MANDATORY INJUNCTION. ASSUMING ARGUENDO THAT IT HAS THE POWER, IT VIOLATED R.A. 7832 WHEN IT ORDERED THE RECONNECTION OF SERVICE WITHOUT THE REQUISITE BOND.[15]

The pivotal issue before the Court turns on whether or not public respondent ERB has jurisdiction to order the reconnection of electric service in cases arising from alleged violation of R. A. No. 7832.

Petitioner MERALCO urges the resolution of the issue in the negative on the rationale that there is no provision in Executive Order (E.O.) No. 172, series of 1987, the ERB charter, granting that agency adjudicative jurisdiction over violations of R. A. No. 7832, let alone order the restoration of a disconnected electric service. Such jurisdiction, as petitioner insisted all along, is vested with the regular courts.

The Court disagrees.

Jurisdiction is conferred by law.[16] Corollary to this basic postulate is the general rule that the jurisdiction of a court or tribunal over the subject matter is determined by the allegations in the complaint[17] or petition and not in those of the defendant's answer or similar responsive pleading.

To determine the ERB's jurisdiction, a look at the legislative history of the regulatory agencies preceding it is apropos. These agencies and the corresponding statute or issuance creating each are as indicated below:

- The first regulatory body, the Board of Rate Regulation (BRR), was created by virtue of Act No. 1779.[18] Its regulatory mandate under Section 5 of the law was limited to fixing or regulating rates of every public service corporation.
- In 1913, Act No. 2307[19] created the Board of Public Utility Commissioners (BPUC) to take over the functions of the BRR. By express provision of Act No. 2307, the BPUC was vested with jurisdiction, supervision and control over all public utilities and their properties and franchises.
- On November 7, 1936, Commonwealth Act (C.A.) No. 146, or the Public Service Act (PSA), was passed creating the Public Service Commission (PSC) to replace the BPUC. Like the BPUC, the PSC was expressly granted jurisdiction, supervision and control over public services, with the concomitant authority of calling on the public force to exercise its power, to wit:

SEC. 13. Except as otherwise provided herein, the Commission shall have general supervision and regulation of, jurisdiction and control over, all public utilities, and also over their property, property rights, equipment, facilities and franchises so far as may be necessary for the purpose of carrying out the provisions of this Act, and in the exercise of its authority it shall have the necessary powers and the aid of the public force xxx xxx xxx. (Emphasis supplied)

Section 14 of C.A. No. 146 defines the term "public service" or "public utility" as including "every individual, copartnership, association, corporation or joint-stock company, . . . that now or hereafter may own, operate, manage or control within the Philippines, for hire or compensation, any common carrier, xxx xxx, electric light, heat, power, xxx xxx, when owned, operated and managed for public use or service within the Philippines xxx xxx." Under the succeeding Section 17(a), the PSC has the power even without prior hearing —

- (a) To investigate, upon its own initiative, or upon complaint in writing, any matter concerning any public service as regards matters under its jurisdiction; to require any public service to furnish safe, adequate and

proper service as the public interest may require and warrant, to enforce compliance with any standard, rule, regulation, order or other requirement of this Act or of the Commission, xxx.4. Then came Presidential Decree (P.D.) No. 1,[20]reorganizing the national government and implementing the Integrated Reorganization Plan. Under the reorganization plan, jurisdiction, supervision and control over public services related to electric light, and power heretofore vested in the PSC were transferred to the Board of Power and Waterworks (BOPW).

Later, P.D. No. 1206[21] abolished the BOPW. Its powers and function relative to power utilities, including its authority to grant provisional relief,[22] were transferred to the newly-created Board of Energy (BOE).

5. On May 8, 1987, then President Corazon C. Aquino issued E.O. No. 172 reconstituting the BOE into the ERB, transferring the former's functions and powers under P.D. No. 1206 to the latter[23] and consolidating in and entrusting on the ERB "all the regulatory and adjudicatory functions covering the energy sector." [24] Section 14 of E.O. No. 172 states that "(T)he applicable provisions of [C.A.] No. 146, as amended, otherwise known as the "Public Service Act"; xxx and [P.D.] No. 1206, as amended, creating the Department of Energy, shall continue to have full force and effect, except insofar as inconsistent with this Order." [25]

Given the foregoing consideration, it is valid to say that certain provisions of the PSA (C.A. No. 146, as amended) have been carried over in the executive order, i.e., E.O. No. 172, creating the ERB. Foremost of these relate to the transfer to the ERB of the jurisdiction and control heretofore pertaining to and exercised by the PSC over electric, light and power corporations owned, operated and/or managed for public use or service. And as Section 17(a) of C.A. No. 146, as amended, supra, provides, this jurisdiction and control includes the power to investigate any matter concerning any public service and to require any public utility or public service corporation to furnish adequate and proper service. Any suggestion that the transfer of PSC's functions and powers to the ERB is inconsistent with E.O. No. 172 must be rejected, the principal objective of the said issuance being precisely to reinforce the powers of the ERB as the sole regulatory body over the energy sector.[26]

Needless to stress, petitioner MERALCO, being an electric service provider, is under the regulatory jurisdiction and supervision of the ERB.

What remains to be determined then is whether or not, based on the allegations in private respondent Ti's complaint in ERB Case No. 99-67, the ERB's jurisdiction, supervision and/or control over petitioner MERALCO is/are duly invoked.

The pertinent allegations in the complaint are, as follows:

- [Respondent Ti] is the owner of ELT Center ... a consumer of electric light and power for its 8-storey building supplied by [Meralco] ... since his operation in October 1998 to the present.
- That ... [Meralco] through its authorized inspectors, agents or representatives swooped down on ...the ELT Building and proceeded by force, ... to disconnect the electric service of [respondent Ti] and in the process seized three (3) electric meters The claim of the raiding team that the tampering on the electric meters confiscated was done "n flagrante delicto" is a pure fabrication without any factual basis. This unfortunate incident occurred on October 13 and 14, 1999 between the unholy hours of 11:30 pm — 1:30 am
- That the Notices of Disconnection dated October 13, 1999 were served at the unholy hours of the night when there was nobody in the premises to acknowledge receipt of the same. The three (3) disconnection notices dated October 13, 1999 were served only on the security guard on duty xxx

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- A public service corporation like [Meralco] should not resort to unlawful acts in ferreting out electric pilferers like what was done in the instant case

- [Meralco] should be reminded of its responsibility as a public service corporation which is clothed with public interest not to resort to oppression and abuse of authority which do not speak well of a giant corporation[27]

It is fairly clear from the foregoing that the ERB can properly take cognizance of respondent Ti's complaint for reconnection of electric service in ERB Case No. 99-67, touching as it does on the obligation of a public utility to supply adequate electricity and proper service to the consuming public. It bears to reiterate that the ERB, by force of the aforecited Sections 13 and 17(a) of C.A. No 146, as amended, in relation to Section 14 of E.O. No. 172, has jurisdiction, control and supervision over all public services, their franchises and properties, with power to investigate any matter respecting its jurisdiction and to require any public service to furnish safe, adequate and proper service as the public interest may require. To us, the power of control and supervision over public utilities would otherwise be a meaningless delegation were the ERB is precluded from requiring a public utility to reconnect pending the determination of propriety of the disconnection. For sure, respondent Ti's complaint prayed for no other relief than the immediate restoration in his business establishment of electric light and power service, to wit:

WHEREFORE premises considered, it is respectfully prayed of this Honorable Board to order respondent Meralco to restore the partial shutdown of electric light and power service that it unlawfully cut-off from the business establishment of herein complainant, pending notice and hearing, and that the order granting provisional relief should be issued immediately upon the filing of this complaint to prevent any further serious and irreparable damage and injury to herein complainant.

That after, notice and hearing, the provisional relief herein Granted should be made PERMANENT.[28]

There can be no quibbling that the ERB may investigate and ascertain the propriety of the disconnection due to an alleged violation of R. A. No. 7832. Necessarily, in the course of such investigation, the ERB may, if factually and legally justified, order the electric service provider, petitioner MERALCO in this instance, to reconnect the consumer's, private respondent's in this case, power supply and resume service. Compelling the complaining consumer to still go to court to secure, if proper, a reconnection order, as petitioner's line of argument urges, would be reading into R. A. No. 7832 something not written therein.

In any event, Section 9[29] of R. A. No. 7832 speaks of restraining orders or writs of injunction against the exercise by an electric provider of its right and authority "to disconnect" electric service. Here, the provisional relief granted by the ERB in its challenged Order of October 22, 1999 is for reconnection precisely because petitioner MERALCO had already disconnected the power supply to Ti's premises.

In this connection, it is significant to note that under Section 6 itself of R. A. No. 7832, the right and authority of a private electric utility to immediately disconnect an electric service upon written notice or warning to a customer may be done "without the need of a court or administrative order." We quote the pertinent provision of Section 6:

SEC. 6. Disconnection of Electric Service. — The private electric utility or rural electric cooperative concerned shall have the right and authority to disconnect immediately the electric service after serving a written notice or warning to that effect, without the need of a court or administrative order, and deny restoration of the same, when the owner of the house or establishment concerned or someone acting in his behalf shall have been caught in flagrante delicto doing any of the acts enumerated in Section 4(a) hereof, or when any of the circumstances so enumerated shall have been discovered for the second time: xxx (Emphasis supplied).

Inferentially, the express mention of an "administrative order" under the aforequoted provision negates MERALCO's principal submission that only the regular courts may issue orders in matters involving violations of R. A. No. 7832. And more specifically in the subject of disconnection, the legislature thereby implicitly recognized the participation of an administrative body although a public utility need not secure a prior order,

whether from the court or from the former, in order to effect a disconnection. Had the intention of Congress been to vest exclusively on the regular courts cases involving violation of R. A. No. 7832, there is simply no sense for it to include the term "administrative order" in Section 6.

The above conclusion is no more than being faithful to the rule that every part of a statute should be given effect, a statute being enacted as an integrated measure and not as a hodgepodge of conflicting provisions.[30] In line with this rule, it behooves courts to adopt a construction that will give effect to every part of the statute, its every word, if at all possible.[31]

The criminal aspect of the alleged violation of R. A. No. 7832 is of course a different matter. A circumspect look at E.O. No. 172 yields no indication that the ERB's jurisdiction extends to adjudication of criminal complaints for infringement of R. A. No. 7832.

While a complaint for reconnection of a customer's electric service is inter-related to the criminal action for violation of R. A. No. 7832, the determination of the propriety of the reconnection remains distinct and independent from the criminal action. The dominant and primordial objective of a criminal prosecution is the punishment of the offender, while a complaint for reconnection is intended merely to address a consumer's grievance against an electric service provider with respect to the generation, transmission and supply of electric service. In fact, any determination or ruling in the reconnection case is without prejudice to the criminal liability which may be imposed in the criminal action. There is absolutely no conflict between the exercise by the ERB of its power to entertain a complaint for reconnection of electric service and the regular court's jurisdiction to entertain and act on a criminal action against private respondent Ti for violation of R. A. No. 7832. The reason therefor is not hard to discern: a criminal action affects the social order while an action for reconnection of electric service pertains to the public utility's obligation to provide public service which partakes of the nature of a civil action and affects private rights.[32]

It is petitioner's posture that it is not within the ERB's power to grant a provisional relief. Hence, its argument that the ERB gravely abused its discretion when it ordered MERALCO to immediately reconnect Ti's electric service pending hearing of the main action in ERB Case No. 99-67.

Again, the Court disagrees.

Petitioner has evidently lost sight of Section 8 of E.O. No. 172 which explicitly vests on the ERB, as an incident to its principal functions, the authority to grant provisional relief, thus:

SEC. 8. Authority to Grant Provisional Relief. — The [Energy Regulatory] Board may, upon the filing of an application, petition or complaint or at any stage thereafter and without prior hearing, on the basis of supporting papers duly verified or authenticated, grant provisional relief on motion of a party in the case or on its own initiative, without prejudice to a final decision after hearing, should the Board find that the pleadings, together with such affidavits, documents and other evidence which may be submitted in support of the motion, substantially support the provisional order: (Emphasis and words in bracket supplied.)

Furthermore, Section 2, Rule 13 of the Rules of Practice and Procedure Governing Hearings Before the ERB,[33] provides as follows:

Section 2. Provisional relief. — Upon the filing of an application, petition or complaint, or at any stage thereafter, the Board may grant on motion of the pleader or on its own initiative, the relief prayed for without prejudice to a final decision after completion of the hearing should the Board find that the pleading, together with the affidavits and supporting documents attached thereto and such additional evidence as may have been presented, substantially support the provisional order; Provided: That the Board may, *motu proprio*, continue to issue orders or grant relief in the exercise of its powers of general supervision under existing laws. (Emphasis

supplied.)

As hereinabove explained, the ERB is endowed with the authority to hear and adjudicate complaints for reconnection of electric service and to grant provisional or ancillary relief during the pendency of the main action. At bottom then, the ERB did no more than to exercise its legal mandate when it ordered petitioner MERALCO to immediately restore the electric service at respondent Ti's business establishment pending hearing of the main case. The Court finds the ERB's provisional action to be both factually and legally justified. Hence, the imputation of grave abuse of discretion on its part is without leg to stand on.

Lastly, petitioner contends that the ERB's Order of October 22, 1999, directing the reconnection of electric service at the business premises of respondent Ti is in the nature of a writ of preliminary mandatory injunction which the ERB has no legal basis to issue. Petitioner cites in this regard Section 9 of R. A. No. 7832 which reads:

SEC. 9. Restriction on the Issuance of Restraining Orders or Writs of Injunction. — No writ of injunction or restraining order shall be issued by any court against any private electric utility or rural electric cooperative exercising the right and authority to disconnect electric service as provided in this Act, unless there is prima facie evidence that the disconnection was made with evident bad faith or grave abuse of authority. (Emphasis supplied)

The Court remains unconvinced.

Administrative agencies, such as the ERB, are not considered courts; they are neither part of the judicial system nor are they deemed judicial tribunals.[34] The prohibition against the issuance of restraining order or writs of injunction does not thus apply to ERB as the term "court" contemplated in the aforequoted provision refers to a regular court belonging to the judicial department.

Parenthetically, Section 14 of R. A. No. 7832 authorizes the ERB to issue the necessary implementing rules and regulations to ensure the efficient and effective implementation of its provisions. Pursuant to such authority, the ERB, as aptly observed by the CA, has approved, upon MERALCO's behest, the "Terms and Conditions of Service" which apply to and govern all service connections in all places within its franchise area. Specifically, the "Terms and Conditions of Service" provides the customer an understanding of the limitations attendant to his use of the electric service by MERALCO and further sets forth the rights and responsibilities of both the customer and MERALCO under the electric service. These rules, to borrow from the assailed decision of the CA, clearly afford any customer, like private respondent Ti, a plain and adequate remedy for any grievance against a public utility.

WHEREFORE, the instant petition is DENIED and the assailed decision of the Court of Appeals dated September 22, 2000 is AFFIRMED.

Costs against petitioner.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Corona, and Azcuna, JJ., concur.

[1] Penned by Associate Justice Oswaldo D. Agcaoili (now ret.), with Associate Justices Wenceslao I. Agnir, Jr. (now ret.) and Elvi John Asuncion, concurring; Rollo, pp. 31-46.

[2] Now Energy Regulatory Commission [ERC] by virtue of R.A. No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001" (EPIRA), enacted on June 8, 2001. Section 38 of R A. No. 9136 abolished the ERB and created in its stead the ERC.

[3] Rollo, pp. 160-164.

[4] Rollo, pp. 170-171.

[5] SEC. 4. Prima Facie Evidence. — (a) The presence of any of the following circumstances shall constitute prima facie evidence of illegal use of electricity, as defined in this Act, by the person benefited thereby, and shall be the basis for: (1) the immediate disconnection by the electric utility to such person after due notice, (2) the holding of a preliminary investigation by the prosecutor and the subsequent filing in court of the pertinent information, and (3) the lifting of any temporary restraining order or injunction which may have been issued against a private electric utility or rural electric cooperative:

xxx xxx xxx

(iv) The presence of a tampered, broken, or fake seal on the meter, or mutilated, altered, or tampered meter recording chart or graph, or computerized chart, graph or log;

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[6] Sec. 6. Disconnection of Electric Service. — The private electric utility xxx shall have the right and authority to disconnect immediately the electric service after serving a written notice or warning to that effect, without the need of a court or administrative order, and deny restoration of the same, when the owner of the house or establishment concerned or someone acting in his behalf shall have been caught in flagrante delicto doing any of the acts enumerated in Section 4(a) hereof, or where any of the circumstances so enumerated shall have been discovered for the second time: xxx.

[7] Rollo, pp. 181-189.

[8] Rollo, pp. 191-199.

[9] See Note #4, supra.

[10] At pp. 194-195.

[11] See Note #1, supra.

[12] Rollo, p. 35.

[13] Ibid., p. 37.

[14] Ibid., pp. 38-39.

[15] Rollo, pp. 18-19.

[16] De Rossi vs. NLRC, et al., G.R. No. 108710, 314 SCRA 245, September 14, 1999.

[17] Gochan, et al. vs. Young, et al., G.R. No. 131889, 354 SCRA 207, March 12, 2001.

[18] Enacted on October 12, 1907.

[19] Enacted on December 19, 1913.

[20] As amended by Presidential Decree No. 458 issued on May 16, 1974.

[21] Creating the Department of Energy.

[22] P.D. No. 1206, Section 9.

[23] Sec. 4.

[24] Second perambulatory clause.

[25] E.O. No. 172, Section 14.

[26] See Note # 23, *supra*.

[27] Rollo, pp. 161-162.

[28] Rollo, p. 163.

[29] SEC. 9. Restriction on the Issuance of Restraining Orders or Writs of Injunction. — No writ of injunction or restraining order shall be issued by any court against any private electric utility or rural electric cooperative exercising the right and authority to disconnect electric service as provided in this Act, unless there is *prima facie* evidence that the disconnection was made with evident bad faith or grave abuse of authority.

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[30] Agpalo, *Statutory Construction*, 5th ed., p. 251, citing *JMM Promotions & Management, Inc. v. NLRC*, G.R. No. 109835, 228 SCRA 129, November 22, 1993.

[31] *Ibid*; *Almeda v. Florentino*, G.R. No. L-23800, 15 SCRA 514, December 21, 1965.

[32] *Salazar vs. People, et al.*, G.R. No. 151931, 411 SCRA 598, September 23, 2003.

[33] Approved on November 20, 1987.

[34] *The United Residents of Dominican Hill, Inc., vs. COSLAP, et al.*, G.R. No. 135945, 353 SCRA 782, March 7, 2001.

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