

NIXON T. KUA, Petitioner, vs. ROBERT DEAN S. BARBERS, Respondent.

G.R. No. 159410. January 28, 2008

Ponente: AZCUNA, J.

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AZCUNA, J.:

Assailed in this petition for review on certiorari under Rule 45 of the Revised Rules of Court are the May 30, 2003 Decision[1] and August 7, 2003 Resolution[2] of the Court of Appeals in CA-G.R. SP No. 74136, which dismissed the quo warranto petition filed against respondent for assuming the office of the General Manager of Philippine Tourism Authority (PTA).

The facts are uncontested.

On November 7, 2000, petitioner Nixon T. Kua, who was then one of the three non-ex officio part-time members of the PTA Board of Directors, was appointed as PTA General Manager by former President Joseph Ejercito Estrada. The text of his appointment read:

Office of the President
of the Philippines
Malacañang

7 November 2000

Sir:

Pursuant to the provisions of existing laws, you are hereby appointed GENERAL MANAGER, PHILIPPINE TOURISM AUTHORITY vice Angelito T. Banayo.

By virtue hereof, you may qualify and enter upon the performance of the duties of the office, furnishing this Office and the Civil Service Commission with copies of your Oath of Office.

(Sgd) Joseph Ejercito Estrada

MR. NIXON KUA
Thru: The Office of the General Manager
Philippine Tourism Authority
City of Manila[3]

On the same day, petitioner took his oath of office before Associate Justice Teodoro P. Regino of the Court of Appeals.[4] For ceremonial purposes, he again took his oath on December 12, 2000 before the President at Malacañang.

Two years after petitioner's appointment, on November 12, 2002, President Gloria Macapagal-Arroyo appointed respondent Robert Dean S. Barbers as General Manager/Chief Executive Officer of the PTA. Stated in the letter of appointment, which was transmitted by the Executive Secretary to the Department of Tourism (DOT) Secretary,[5] are as follows:

Office of the President
of the Philippines
Malacañang

November 12, 2002

Sir:

Pursuant to the provisions of existing laws, you are hereby appointed GENERAL MANAGER/CHIEF EXECUTIVE OFFICER, PHILIPPINE TOURISM AUTHORITY (PTA), DEPARTMENT OF TOURISM (DOT), for a term of six (6) years expiring on October 3, 2008, vice Nixon T. Kua.

By virtue hereof, you may qualify and enter upon the performance of the duties of the office, furnishing this Office and the Civil Service Commission with copies of your oath of office.

(Sgd) Gloria Macapagal-Arroyo

Hon. ROBERT DEAN S. BARBERS
Thru: The Secretary
Department of Tourism
DOT Building, T.F. Valencia Circle
Ermita, Manila[6]

Thereafter, respondent took his oath of office and assumed the position.

Contending that his position as PTA General Manager has been usurped and unlawfully assumed by respondent, petitioner filed a Petition for Quo Warranto with Damages and Prayer for a Temporary Restraining Order and a Writ of Preliminary Mandatory and Prohibitory Injunction before the Court of Appeals on December 2, 2002.[7]

Petitioner alleged that Section 23-A of Presidential Decree (P.D.) No. 564 (otherwise known as the Revised Charter of the Philippine Tourism Authority), as added by Sec. 2 of P.D. No. 1400, provides that the PTA General Manager “shall serve for a term of six (6) years unless sooner removed for cause.”[8] Hence, there was no vacancy in the said office at the time of respondent’s appointment since his term has not yet expired; he has not resigned or accepted any incompatible office and that neither has he abandoned the position nor been removed therefrom for a cause. Petitioner argued that the term of office of the PTA General Manager is fixed and should not be equated with a situation where the law contemplates a regular rotation or cycle in the membership like in the appointment and filling of vacancy of the three non-ex officio part-time members of the PTA Board of Directors, which is governed by Sections 15 and 16 of P.D. No. 564.[9] He contended that these sections must be interpreted separately and distinctly from Sec. 23-A of the same law. This is as it should be since, according to him, it is well-established in this jurisdiction that a newly appointed or elected public officer will only be made to serve the unexpired portion of the term when it is so expressly provided; the clear intent of the creating power is that the entire board of an agency should not go out of office at once but that different groups should retire at regularly recurring intervals (citing *Republic v. Imperial*[10]); and the beginning or end of the fixed term has been provided (citing *Boynton v. Heart*[11]). Petitioner, thus, prayed that judgment be rendered:

- OUSTING AND EXCLUDING respondent Robert Dean S. Barbers from the position of PTA General Manager which he unlawfully holds, restoring petitioner to the possession thereof, and issuing a final injunction against said respondent under Section 9, Rule 58, perpetually restraining respondent from usurping the position of PTA General Manager;
- DECLARING that petitioner Nixon T. Kua is the one lawfully entitled to hold the aforesaid position; and
- ORDERING respondent to pay petitioner the following damages: (1) Actual damages in the amount of One

Thousand Three Hundred Fifty Eight Pesos (P1,358.00) per day from the time petitioner was unlawfully deprived of his office until he has reassumed the same; (2) Moral damages in the amount of Five Hundred Thousand Pesos (P500,000.00), and (3) Attorney's fees and litigation expenses in the amount of P500,000.00.[12]

On the other hand, respondent countered that he was validly appointed as PTA General Manager since the position was legally vacant at the time of his appointment. He averred that the term of office of petitioner had already expired at the time, the latter being merely appointed for the duration of the unexpired portion of the term of his predecessor. In support thereof, respondent stated that while Sec. 23-A of P.D. No. 564 clearly specifies the duration of the term of office of the PTA General Manager it is silent as to the date of the term's commencement and termination; hence, it is understood to start from the date of the first appointment and end after the expiration of the period. Following this argument, he claimed that the term of the persons subsequently appointed to the office of the PTA General Manager is to be reckoned from the date when P.D. No. 1400 took effect, which was on October 3, 1978, since P.D. No. 564 does not contain any provision regarding its duration, thus:

1[st] Term

3 October 1978 - 2 October 1984

2[nd] Term

3 October 1984 - 2 October 1990

3[rd] Term

3 October 1990 - 2 October 1996

4[th] Term

3 October 1996 - 2 October 2002

5[th] Term

3 October 2002 - 2 October 2008

As petitioner was appointed on November 7, 2000, respondent asserted that it falls within the 4th term, which filled the unexpired term of the 4th term that ended on October 2, 2002. Moreover, respondent alleged that the wording of petitioner's appointment – that is, “vice Angelito T. Banayo” – contradicts the theory that the latter's appointment was for a complete term of six years. As “vice” means “in lieu of,” “instead of,” and “in place of” in legal parlance, he asserted that petitioner's tenure as PTA General Manager was only to complete the remaining two years of the 4th term which was left vacant by his predecessor.

On May 30, 2003, the Court of Appeals promulgated its Decision,[13] the decretal portion of which states:

WHEREFORE, for want of any leg in law to stand on, the instant petition for quo warranto is DISMISSED.
No pronouncement as to costs.

SO ORDERED.[14]

In finding for respondent, the Court of Appeals reasoned:

Under P.D. No. 1400, taken in relation to P.D. No. 564, the terms of office of the general manager and the part-time members were uniformly fixed at six (6) years but following the initial staggered set-up, their terms have been made rotational in the sense that they were not to end at the same time, and while the appointments of the three (3) part-time board members have been mandated to be made at an interval of two (2) years, the

appointment of the general manager has been designated to coincide with one of the three (3) part-time members, particularly the one whose initial term was four (4) years. To elucidate, the terms of office of the first set of board members, exclusive of the ex officio chairman, who were appointed in 1974 were to expire in this order:

Indefinite

-

General Manager

1980

-

1[st] part-time member (initial
6-year term)

1978

-

2[nd] part-time member (initial
4-year term)

1976

-

3[rd]part-time member (initial
2-year term)

But after 1978, with the term of the general manager having been pruned down to six (6) years from that same year, the expiration of his fixed term was to be factored in along with that of the second set of part-time members, all of whom by then already had uniform six (6)-year terms, in this way:

Indefinite

-

General Manager

1986

-

1[st] part-time member

1984

-

General Manager and 2[nd] part-time member

1982

-

3[rd] part-time member

Every two (2) years thereafter, new appointments were to be made, with the general manager being appointed together with a part-time member (the second part-time member); hence, for the third, fourth and fifth sets of appointees, the sequence of the expiration of their respective terms would be as follows:

(a) Third set:

-

General Manager

1992

-

1[st] part-time member

1990

-

General Manager and 2[nd] part-time member

1988

-

3[rd] part-time member

(b) Fourth set:

1998

-

1[st] part-time member

1996

-

General Manager and 2nd part-time member

1994

-

3rd part-time member

(c) Fifth set:

2004

-

1st part-time member

2002

-

General Manager and 2nd part-time member

2000

-

3rd part-time member

The coincidence of the terms of the general manager and the second part-time member of the board could have been calculated to assure the continual presence of a quorum, together with the concurrent chairman, and to forestall the impairment of the power of the board to execute the functions of the Authority under Section 18 of P.D. No. 564 x x x.

And the provision of Section 16 of the same Decree x x x insures no break in the six (6)-year terms of the general manager and each of the part-time members of the board.

These features of P.D. No. 564, as amended by P.D. No. 1400, fit to-a-tee into the x x x pronouncement of the Supreme Court in *Republic vs. Imperial* [96 Phil. 770 (1955). Cf. *Gaminde vs. COA*, 401 Phil. 77 (2000)] x x x which is applicable four-square to the case at bar, contrary to the stance of the petitioner.

Examining the appointment of petitioner Kua in the case before us, we readily see that it is expressly tied up to the appointment of Angelito T. Banayo, his predecessor x x x.

In light of x x x Sections 15 and 16 of P.D. No. 546, we are called upon to determine when Banayo's term had begun and ended to be able to decide when his successor's, i.e., petitioner's[,], own term commenced and expired.

Although the parties, particularly the respondent, made reference to previous appointments to the position of PTA general manager, neither of them submitted authenticated copies thereof. Hence, to give us a complete picture of the situation, we required the Secretary of Tourism, being the PTA chairman, to furnish us the desired documents. From the List of Succession, Date of Appointment and Tenure of the General Manager of PTA submitted by the Secretary, we found out that no permanent appointment of a general manager had been made prior to April 6, 1990.

On August 20, 1974, Col. Rodolfo Cacdac was merely designated acting general manager by President Marcos; and he held office as such until July 19, 1978.

On July 20, 1978, Eng'r. Bernardo Vergara was likewise designated acting general manager also by President Marcos; and he manned the post until April 6, 1986.

On April 7, 1986, Ramon P. Binamira was designated, this time by Tourism Minister Jose Antonio U. Gonzalez, but his designation was, by its nature, only temporary and eventually recalled on January 4, 1990 by Her Excellency, Corazon C. Aquino, who ascended to the presidency by virtue of the EDSA I people power revolution, and who designated Tourism Secretary Peter D. Garrucho as "concurrent General Manager" until she could "appoint a person to serve in the said office in a permanent capacity."

It was only on April 6, 1990 that President Aquino appointed Jose A. Capistrano, Jr. permanent general manager. Consequently, this date – April 6, 1990 – should be the reckoning point in determining the first six (6)-year term of the office of the PTA general manager. It was to end on April 5, 1996.

The reckoning point cannot be October 3, 1978, the date of effectivity of P.D. No. 1400, following its publication in the Official Gazette on October 2, 1978, pursuant to the decision of the Supreme Court in *Tañada vs. Tuvera*, as posited by the respondent, because no permanent appointment to the position had been made prior to April 6, 1990, and the law (P.D. No. 1400) cannot operate in a vacuum or before the factual situation it is meant to govern has arisen.

But Capistrano did not exhaust his full six (6)-year term as he stayed in the position only until July 31, 1992.

On July 8, 1992, President Fidel Ramos appointed Eduardo T. Joaquin who succeeded Capistrano on July 31, 1992.

The unexpired portion of Capistrano's term assumed by Joaquin was to end on April 5, 1996 but Joaquin remained as PTA general manager in a hold-over capacity until June 29, 1998, by virtue of Sec. 23-A of P.D. No. 564, as amended by P.D. No. 1400.

On June 30, 1998, President Estrada appointed Angelito T. Banayo whose six (6)-year term to be reckoned from April 6, 1996, the end of the term of his predecessor, including the period spanned by Joaquin's hold-over tenure, was to expire on April 5, 2002, conformably with Section 15 of P.D. No. 564 which

commands that, “a successor to a member whose term has expired shall be appointed for the full term of six years from the date of expiration of the term for which his predecessor was appointed.”

Accordingly, when petitioner Nixon T. Kua was appointed on November 7, 2000, the unexpired portion of Banayo’s term which he assumed ended on April 5, 2002 in consonance with Section 16 of the same P.D. No. 564 which directs that any member appointed to fill a vacancy “prior to the expiration of the term for which his predecessor was appointed shall serve only for the unexpired portion of the term of his predecessor.”

The position, therefore, became vacant on April 6, 2002. That the petitioner continued to sit in the position and even afterwards could not, as it did not, bar its being filled up by a new appointee as his prolonged stay was already on borrowed time as a mere hold-over general manager, pursuant to Section 23-A of the same P.D. No. 564, as added by P.D. No. 1400, which states that, “upon the expiration of his (general manager) term, he shall serve as such until his successor shall have been appointed and qualified.” Hence, respondent’s appointment on November 12, 2002 cannot but be valid as the position was then already very much vacant and the petitioner had no more security or guarantee of tenure that could be transgressed, or even merely to speak of. But respondent’s term is up to April 5, 2008 only, and not October 3, 2008 as stated in his appointment.[15]

Petitioner moved to reconsider the Decision.[16] He insisted that Sections 15 and 16 of P.D. No. 564 apply only to the three non-ex officio part-time members of the PTA Board while Sec. 23-A of the same decree governs the term of office of the PTA General Manager. Petitioner refused to concede to the Court of Appeals’ interpretation because, according to him, the logical consequence is that the term of office of the DOT Secretary, who is also an ex officio member of the PTA Board, would have to be governed by Sections 15 and 16 of P.D. No. 564. He stressed that since the positions held by the DOT Secretary and General Manager in the PTA are practically the same, in the sense that both are ex officio members of the PTA Board, the court must not distinguish or make an interpretation that does not appear or is not intended or reflected in the very language of the statute.

Furthermore, petitioner disputed the Court of Appeals’ application to the present case of this Court’s rulings in *Republic v. Imperial*[17] and *Gaminde v. Commission on Audit*.[18] He explained that, compared with the Commission on Elections and the Commission on Audit, the office of the PTA General Manager is not a constitutional body composed of commissioners appointed on a rotational basis in order to prevent the President of the Philippines from appointing more than one commissioner during his or her term to ensure and maintain their independence. Invoking a Department of Justice (DOJ)

Opinion dated March 16, 2001 (Opinion No. 18, Series of 2001),[19] which ruled on the inapplicability of the rotational scheme of appointment enunciated in *Imperial* and *Gaminde* to the case of the Chairman and Members of the Energy Regulatory Board (ERB), petitioner advanced the argument that, applying the rule of *noscitur a sociis*, Sec. 16 of P.D. No. 564 should be construed as limited only to the non-ex officio part-time members of the PTA and should not be read or incorporated with Sec. 23-A thereof as the latter section merely fixes the term of office of the PTA General Manager at six years without expressly stating that such term is subject to the rotational system of appointment. Accordingly, the term of office of the PTA General Manager should start from the date of acceptance of the appointment and expire six years thereafter. He added that in *Binamira v. Garrucho*,[20] wherein the office of the PTA General Manager was likewise contested, this Court never mentioned the rotational scheme laid down in *Imperial* to determine the terms of office of the PTA Board members.

In denying petitioner’s motion,[21] the Court of Appeals opined that P.D. No. 1400, as an amendatory law, should be viewed in conjunction with P.D. No. 564. Particularly, it held that Sec. 16 of P.D. No. 564 referred only to the non-ex officio part-time members of the PTA Board because prior to the amendment it was only they who had fixed terms of office – staggered at six, four and two years for the initial appointees and a uniform term of six years for the succeeding ones – while the PTA General Manager had none. When P.D. No. 1400 took effect,

however, the term of office of the PTA General Manager was fixed also at six years. Consequently, reading together with the amendatory law, Sec. 16 of P.D. No. 564 should likewise be applicable to the position of PTA General Manager, who is undeniably a “member” of the PTA Board.

The Court of Appeals ruled that while the DOT Secretary and the PTA General Manager are both members of the PTA Board in an ex officio capacity, Sec. 16 of P.D. No. 564 cannot be applied with respect to the latter. It noted that the difference lies on the issue of security of tenure: unlike the PTA General Manager who could sit in the position for six years unless removed for a cause, the DOT Secretary does not enjoy the same protection since as an alter ego of the President he holds office at the latter’s pleasure.

Lastly, the appellate court rejected the applicability of the DOJ Opinion cited by petitioner, observing that Sec. 1 of E.O. No. 172 does not contain a provision that an appointed member of the ERB shall serve only for the unexpired portion of the term of his predecessor if a vacancy in the board occurs prior to the expiration of the latter’s term.

Now before us, petitioner submits the following issues for resolution:

- Whether the term of office of petitioner expired on April 5, 2002 and not on November 7, 2006.
- Whether the rotational scheme of appointments, laid down in *Republic v. Imperial* and in *Gaminde v. Commission on Audit* should apply to the case of petitioner in determining his term of office.[22]

The CA ruling is sustained.

On May 11, 1973, P.D. No. 189 renamed the Department of Trade and Tourism as the Department of Trade and created the DOT with the PTA attached to it. After more than a year, on October 2, 1974, the decree was revised by P.D. No. 564. On this point, relevant for our consideration are Sections 15 and 16 thereof, which are quoted again for clarity:

SEC. 15. Term of Office. – The term of office of the part-time members of the Board shall be six years. Of the part-time members first appointed, one shall hold office for six years, one for four years, and the last one for two years. A successor to a member whose term has expired shall be appointed for the full term of six years from the date of expiration of the term for which his predecessor was appointed.

SEC. 16. Vacancy Before Expiration of Term. – Any member appointed to fill a vacancy in the Board occurring prior to the expiration of the term for which his predecessor was appointed shall serve only for the unexpired portion of the term of his predecessor.

Later, on June 5, 1978, P.D. No. 564 was amended by P.D. No. 1400. Among the modifications introduced was the addition of Section 23-A to the existing decree, stating:

Section 23-A. General Manager – Appointment and Tenure. – The General Manager shall be appointed by the President of the Philippines and shall serve for a term of six (6) years unless sooner removed for cause; Provided, That upon the expiration of his term, he shall serve as such until his successor shall have been appointed and qualified.

Essentially, the bottom line of the issues raised by petitioner is whether Sections 15 and 16 of P.D. No. 564 should be read in relation to Sec. 23-A such that the PTA General Manager may also be required to hold office only for the unexpired portion of the term of his predecessor, if appointed to fill a vacancy in the Board which occurred prior to the expiration of the latter’s term.

Petitioner maintains his submission that Sections 15 and 16 of P.D. No. 564 are applicable only to the three non-ex officio part-time members of the PTA Board. Aside from reiterating his arguments in the court below, he

adds that there is a marked difference between the tasks of the PTA General Manager and the part-time members: the powers and duties of the PTA Board are enumerated in Sec. 22 of P.D. No. 564 which are alleged to be circumscribed solely to participating in the exercise of the corporate powers and functions of the PTA, while those of the General Manager are found in Sections 23, 24, 25 and 26 of the same law. Also, the principal function of the PTA General Manager is to act as PTA's Chief Executive and to direct, manage, and supervise its day-to-day operations and internal administration in accordance with the policies set by the Board. He is furthermore said to be vested with additional authority and functions in the event of extraordinary emergencies.

The argument is not tenable.

In *Estrada v. Caseda*,^[23] this Court held:

An amended act is ordinarily to be construed as if the original statute had been repealed, and a new and independent act in the amended form had been adopted in its stead; or, as frequently stated by the courts, so far as regards any action after the adoption of the amendment, [it is] as if the statute had been originally enacted in its amended form. The amendment becomes a part of the original statute as if it had always been contained therein, unless such amendment involves the abrogation of contractual relations between the state and others. Where an amendment leaves certain portions of the original act unchanged, such portions are continued in force, with the same meaning and effect they had before the amendment x x x .^[24]

The Court is, therefore, in full accord with the ruling of the Court of Appeals that the provisions of P.D. No. 1400, particularly Sec. 2 thereof which added Sec. 23-A, should be considered as part and parcel of P.D. No. 564 as if it had always been contained in the latter at the time it took effect. On the other hand, the portions of the original act left unchanged by the succeeding law are continued in force, bearing the same meaning and effect that they had before the amendment.

But what exactly then is the proper construction of Section 16 of P.D. No. 564?

The significant provisions of P.D. No. 564, which were unaltered by P.D. No. 1400, would reveal that petitioner's resolute insistence is to no avail. Sections 17 to 21 of P.D. No. 564 provide, thus:

SEC. 17. Per Diems. – Unless otherwise fixed by the President of the Philippines, the members of the Board shall receive for every meeting attended as per diem of not to exceed two hundred pesos (P200); Provided, That such per diems shall not exceed one thousand pesos (P1,000) during any month for each member. Members of the Board shall be reimbursed by the Authority for actual expenses (including traveling and subsistence expenses) incurred by them in the performance of their duties for the Authority as may be specifically authorized by the Board.

SEC. 18. Quorum; Effect of Vacancies. – The presence of three members of the Board, including the Chairman or the Vice Chairman, shall constitute a quorum for the transaction of the business of the Board.

Vacancies in the Board, as long as there shall be three members in the office, shall not impair the powers of the Board to execute the functions of the Authority.

SEC. 19. Withdrawal from the Meeting of a Member Having Prohibited Interest. – Whenever a member of the Board has a personal interest of any sort on a matter before the Board, or any of his business associates, or any of his relatives within the fourth civil degree of consanguinity or second degree of affinity has such interest, he shall not participate in the discussion or resolution of the matter and must retire from the meeting during the deliberations thereon. After the Board has resolved the matter, the fact that the member concerned or any of his business associate, or his relatives within the prohibited degrees has a personal interest in it, is to be made available to the public and the minutes of the meeting shall note the withdrawal of the member concerned.

SEC. 20. Removal or Suspension for Cause. – A member of the Board may be suspended or removed by the

President for cause, such as: mismanagement, grave abuse of discretion, infidelity in the conduct of fiduciary relations, gross negligence in the performance of duties, dishonesty, corruption, or any act involving moral turpitude.

SEC. 21. Meetings of the Board. – The Board shall meet as frequently as necessary to discharge its duties and responsibility properly, but shall meet regularly at least once a month. The Board shall be convoked by the Chairman or upon the written request of a majority of its members. Except when otherwise provided for in this Decree, the vote of a majority of the members constituting a quorum shall be sufficient for the adoption of any rule, resolution, decision or any act of the Board. (Emphasis ours)[25]

Upon analysis of the afore-quoted sections, specifically of the emphasized words and phrases, one obvious fact is manifest: that Sections 17 to 21 of P.D. No. 564 speak of “member/s” in a generic sense; no particular allusion whatsoever is made on the DOT Secretary, the General Manager or the three part-time members of the PTA Board. Said provisions equally apply to them all without distinction or qualification. Necessarily, the logical consequence of this would be to construe Sec. 16 of P.D. No. 564 in light of the company of words where it is found, that is, Sections 17 to 21 thereof. Perforce, the words “any member” mentioned in Sec. 16 should be understood to refer not just to the part-time members of the PTA Board but to its General Manager as well.

The foregoing declaration is but sensible since it is a basic rule in statutory construction "that the particular words, clauses and phrases should not be studied as detached and isolated expressions, but the whole and every part of the statute must be considered in fixing the meaning of any of its parts and in order to produce a harmonious whole. A statute must be so construed as to harmonize and give effect to all its provisions whenever possible." [26] Every meaning to be given to each word or phrase must be ascertained from the context of the body of the statute since a word or phrase in a statute is always used in association with other words or phrases and its meaning may be modified or restricted by the latter. [27]

Under the doctrine of *noscitur a sociis*, which even petitioner himself recognizes but appears to have misapplied, where a particular word or phrase is ambiguous in itself or is equally susceptible of various meanings, its meaning may be made clear and specific by considering the company of the words in which it is found or with which it is associated. [28] Stated differently, the obscurity or doubt on a particular word or phrase may be removed by reference to associated words. [29]

Moreover, the lawmaking body is presumed to know the meaning of the words employed in the statute and to have used them advisedly. [30] It is recognized that the Legislature is aware of previous statutes relating to the same subject matter, and that in the absence of any express repeal or amendment therein, the new provision is deemed enacted pursuant to the legislative policy embodied in the prior statutes which should all be construed together. [31]

To conclude, Section 23-A, as well as all other amendments made by P.D. No. 1400, should be read in connection with the provisions of P.D. No. 564 as if all had been enacted at the same time in the said decree, and, as far as possible, effect should be given to them all in furtherance of the general design of the statute. [32]

On the basis of the above disquisition alone, this Court finds no necessity to further dwell on our rulings in *Imperial* and *Gaminde*, which deal with the rotational scheme of appointment, to bolster the correct position of respondent affirmed by the CA.

WHEREFORE, the petition is DENIED. The May 30, 2003 Decision and August 7, 2003 Resolution of the Court of Appeals are hereby AFFIRMED. No costs.

SO ORDERED.

Puno, C.J., Sandoval-Gutierrez, Corona, and Leonardo-De Castro, JJ., concur.

[1] Penned by Associate Justice Salvador J. Valdez, Jr., with Associate Justices Bienvenido L. Reyes and Danilo B. Pine, concurring.

[2] Rollo, pp. 48-53.

[3] Rollo, p. 54; CA rollo, p. 32.

[4] Id. at 55; id. at 33.

[5] Rollo, p. 56; CA rollo, p. 34.

[6] Id. at 57; id. at 35.

[7] CA rollo, pp. 2-16.

[8] The full text of Section 2 of P.D. No. 1400 states:

SEC. 2. Section 23 is hereby amended by adding a new Section to read as follows:

"Section 23-A. General Manager – Appointment and Tenure. – The General Manager shall be appointed by the President of the Philippines and shall serve for a term of six (6) years unless sooner removed for cause; Provided, That upon the expiration of his term, he shall serve as such until his successor shall have been appointed and qualified."

[9] Sections 15 and 16 of P.D. No. 564 provide:

SEC. 15. Term of Office. – The term of office of the part-time members of the Board shall be six years. Of the part-time members first appointed, one shall hold office for six years, one for four years, and the last one for two years. A successor to a member whose term has expired shall be appointed for the full term of six years from the date of expiration of the term for which his predecessor was appointed.

SEC. 16. Vacancy Before Expiration of Term. – Any member appointed to fill a vacancy in the Board occurring prior to the expiration of the term for which his predecessor was appointed shall serve only for the unexpired portion of the term of his predecessor.

[10] 96 Phil. 770 (1955).

[11] 158 N.C. 488, 74 S.E. 470, Am. Ann. Cas. 1913D, 616 (1912).

[12] CA rollo, pp. 161-162.

[13] CA rollo, pp. 204-219.

[14] Id. at 218.

[15] CA rollo, pp. 209-218.

[16] CA rollo, pp. 222-244.

[17] Supra, note 10.

[18] 401 Phil. 77 (2000).

[19] In the Opinion, the DOJ Secretary allegedly held:

“In the present case, a careful examination of Section 1 of E.O. No. 172 earlier quoted, vis-à-vis Section 1(2) Article IX-B of the 1987 Constitution also above-quoted reveals that while Section 1 of E.O. 172 would seem to adopt the rotational system of appointments for the Chairman and Members of the ERB, by providing for staggered terms for the first Chairman and Members of the ERB, the rotational system is actually not workable and cannot be implemented. This is because Section 1 of E.O. No. 172, unlike Section 1(b) of Article IX-B, does not expressly provide for an appointment to the unexpired portion of the term of a Member who ceases in office prior to the expiration of his term, which is an indispensable condition under the ruling in *Republic vs. Imperial* for the rotational system to work.

Thus, it results that Section 1 of E.O. No. 172 merely provides for the duration of the terms of the Chairman and Members of the ERB. It does not fix the beginning and end of the terms. It is said that “where only the period of the term is specified and the incumbent vacates his office before the end of that period, the successor shall commence his own term for the full period.” (Cruz, Carlo, L., “The Law of Public Officers,” 1994 Ed., p. 62, citing Laurel, “Administrative Law,” pp. 56-57). Further, “where only the duration of the term is fixed, but no time is established for the beginning of the term, the person selected to fill the vacancy in such office may serve the full term and not merely the unexpired balance of the prior incumbent’s term.” (Martin, Ruperto G., “Administrative Law, Law of Public Officers and Election Law,” Revised Ed., 1981, p. 176 citing Laurel “Administrative Law,” pp. 56-57)

Based thereon, it is our view that the rotational system of appointment applied by the Supreme Court in the *Gaminde* case does not apply to the Chairman and Members of the ERB, whose four year terms must be deemed to commence from the date of their respective appointments and expire four (4) years thereafter.” (Emphasis supplied by petitioner)

[20] G.R. No. 92008, July 30, 1990, 188 SCRA 154.

[21] Rollo, pp. 48-53; CA rollo, pp. 246-251.

[22] Rollo, p. 98.

[23] 84 Phil. 791 (1949).

[24] Rollo, p. 793, citing 59 C.J. 1096, 1097. See also *People v. Garcia*, 85 Phil. 651, 655 (1950).

[25] 70 O.G. 41, 8668-F – 8668-G (1974).

[26] *Uy v. Sandiganbayan*, 407 Phil. 154, 180 (2001).

[27] *Planters Association of Southern Negros, Inc. v. Ponferrada*, 375 Phil. 901, 913 (1999); and *Philippine Virginia Tobacco Administration v. Tensuan*, G.R. No. 58817, August 20, 1990, 188 SCRA 628, 633.

[28] *People v. Delantar*, G.R. No. 169143, February 2, 2007, 514 SCRA 115, 139; and *Republic v. Sandiganbayan*, G.R. No. 84895, May 4, 1989, 173 SCRA 72, 82, citing *Co Kim Cham v. Valdez Tan Keh and Dizon*, 75 Phil. 371 (1945).

[29] *Oil and Natural Gas Commission v. Court of Appeals*, 354 Phil. 830, 841 (1998), citing *Luzon Stevedoring Co. v. Trinidad*, 43 Phil. 803 (1922).

[30] *Uy v. Sandiganbayan*, *Supra* at 179 (2001).

[31] *Legaspi v. Executive Secretary*, 160-A Phil. 905, 912 (1975).

[32] See Sotto v. Sotto, 43 Phil. 688, 693-694 (1922).

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