

CHAMBER OF REAL ESTATE AND BUILDERS' ASSOCIATIONS, INC. (CREBA), PETITIONER, VS. ENERGY REGULATORY COMMISSION (ERC) AND MANILA ELECTRIC COMPANY (MERALCO), RESPONDENTS.

G.R. No. 174697. July 08, 2010

Ponente: BRION, J.

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BRION, J.:

This is a Petition for Certiorari with Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction[1] to nullify Section 2.6 of the Distribution Services and Open Access Rules (DSOAR), promulgated by respondent Energy Regulatory Commission (ERC) on January 18, 2006. Petitioner Chamber of Real Estate and Builders' Associations, Inc. asserts that Section 2.6 of the DSOAR, which obligates certain customers to advance the amount needed to cover the expenses of extending lines and installing additional facilities, is unconstitutional and contrary to Republic Act No. 9136, otherwise known as "The Electric Power Industry Reform Act of 2001 (EPIRA)."

The Background Facts

The petitioner is a non-stock, non-profit corporation, organized under the laws of the Republic of the Philippines, with principal office at 3/F CREBA Center, Don Alejandro Roces Avenue cor. South "A" Street, Quezon City. It has almost 4,500 members, comprising of developers, brokers, appraisers, contractors, manufacturers, suppliers, engineers, architects, and other persons or entities engaged in the housing and real estate business.[2]

The ERC is a quasi-judicial and quasi-legislative regulatory body created under Section 38 of the EPIRA, with office address at the Pacific Center Building, San Miguel Avenue, Ortigas Center, Pasig City. It is an administrative agency vested with broad regulatory and monitoring functions over the Philippine electric industry to ensure its successful restructuring and modernization, while, at the same time, promoting consumer interest.[3]

Respondent Manila Electric Company (MERALCO) is a corporation organized under the laws of the Republic of the Philippines, with principal office at Lopez Building, Ortigas Avenue, Pasig City. It is engaged primarily in the business of power production, transmission, and distribution. It is the largest distributor of electricity in the Philippines.[4]

Pursuant to its rule-making powers under the EPIRA, the ERC promulgated the Magna Carta for Residential Electricity Consumers (Magna Carta), which establishes residential consumers' rights to have access to electricity and electric service, subject to the requirements set by local government units and distribution utilities (DUs).[5] Article 14 of the Magna Carta pertains to the rights of consumers to avail of extension lines or additional facilities. It also distinguishes between consumers located within 30 meters from existing lines and those who are located beyond 30 meters; the latter have the obligation to advance the costs of the requested lines and facilities, to wit:

Article 14. Right to Extension of Lines and Facilities.--A consumer located within thirty (30) meters from the distribution utilities' existing secondary low voltage lines, has the right to an extension of lines or installation of additional facilities, other than a service drop, at the expense of the utility inasmuch as said assets will eventually form part of the rate base of the private distribution utilities, or will be sourced from the reinvestment funds of the electric cooperatives. However, if a prospective customer is beyond the said distance, or his demand load requires that the utility extend lines and facilities, the customer may initially fund the necessary expenditures.

Article 14 of the Magna Carta continues with a provision on how the costs advanced by the residential end-user can be recovered:

To recover his aforementioned expenditures, the customer may either demand the issuance of a notes payable from the distribution utility or refund at the rate of twenty-five (25) percent of the gross distribution revenue derived for the calendar year, or, if available, the purchase of preferred shares.

Revenue derived from additional customers tapped directly to the poles and facilities so extended shall be considered in determining the revenues derived from the extension of facilities.

The same article specifies that if a developer initially pays the cost of the extension lines but passes it to the registered customer, the customer would still be entitled to recover the cost in the manner provided under this article:

When a developer initially paid the cost of the extension of lines to provide electric service to a specific property and incorporated these expenses in the cost thereof, and that property was purchased and transferred in the name of the registered customer, the latter shall be entitled to the refund of the cost of the extension of lines, and exercise the options for refund provided in this article.

On January 18, 2006, the ERC modified this provision when it issued the DSOAR. Section 2.6.1 reiterates the old rule requiring consumers located beyond 30 meters from existing lines to advance the costs of the requested lines and facilities. Section 2.6.2 likewise provides that the costs advanced by consumers may be refunded at the rate of 25% of the annual gross distribution revenue derived from all customers connected to the line extension. However, Section 2.6.2 amends Article 14 of the Magna Carta by limiting the period for the refund to five years, whether or not the amount advanced by the consumer is fully paid. Section 2.6 of the DSOAR decrees that:

2.6. MODIFICATIONS AND NEW PHYSICAL CONNECTIONS: RESIDENTIAL

2.6.1 RIGHT TO EXTENSION OF LINES AND FACILITIES - In accordance with the Magna Carta, a residential End-user located within thirty (30) meters from the distribution utilities' existing secondary low voltage lines has the right to an extension of lines or installation of additional facilities, other than a service drop, at the expense of the utility. However, if a prospective customer is beyond the said distance, the customer shall advance the amounts necessary to cover the expenditures on the facilities beyond thirty (30) meters.

2.6.2 REFUND--To recover the aforementioned advanced payment, the customer may either demand the issuance of a notes payable from the distribution utility or a refund at the rate of twenty-five (25) percent of the gross distribution revenue derived from all customers connected to the line extension for the calendar year until such amounts are fully refunded or for five (5) years whichever period is shorter, or, if available, the purchase of preferred shares. Revenue derived from additional customers tapped directly to the poles and facilities so extended shall be considered in determining the revenues derived from the extension of facilities.

Distribution Connection Assets paid for through advances from residential End-users shall be deemed plant in service in the accounts of the DU. Unpaid advances shall be a reduction to plant in service. If replacement becomes necessary at any time for any Distribution Connection Assets paid for by residential End-users, the DU shall be solely responsible for the cost of such replacement which shall become plant in service in the

accounts of the DU, and shall not require another advanced payment from the connected residential End-users unless the replacement is due to End-user fault.

The petitioner alleged that the entities it represented applied for electrical power service, and MERALCO required them to sign pro forma contracts that (1) obligated them to advance the cost of the construction of new lines and other facilities and (2) allowed annual refunds at 25% of the gross distribution revenue derived from the customer's electric service, until the amount advanced is fully paid, pursuant to Section 2.6 of the DSOAR.[6]

The petitioner seeks to nullify Section 2.6 of the DSOAR, on the following grounds: (1) it is unconstitutional since it is oppressive and it violates the due process and equal protection clauses; (2) it contravenes the provisions of the EPIRA; and (3) it violates the principle of unjust enrichment.[7]

Petitioner claims that Section 2.6 of the DSOAR is unconstitutional as it is oppressive to the affected end-users who must advance the amount for the installation of additional facilities. Burdening residential end-users with the installation costs of additional facilities defeats the objective of the law - the electrification of residential areas - and contradicts the provisions of the legislative franchise, requiring DUs to be financially capable of providing the distribution service. Moreover, the questioned provision violates the equal protection clause since the difference in treatment between end-users residing within 30 meters of the existing lines and those beyond 30 meters does not rest on substantial distinctions.[8]

In addition, the petitioner alleges that the assailed provision contravenes Sections 2, 23, 41 and 43 of the EPIRA[9] which are geared towards ensuring the affordability of electric power and the protection of consumers.[10] Lastly, requiring consumers to provide the huge capital for the installation of the facilities, which will be owned by distribution utilities such as MERALCO, results in unjust enrichment.[11]

THE RESPONDENTS' CASE

a. The ERC Position

Contradicting the petitioner's arguments, the ERC avers that it issued Section 2.6 of the DSOAR as an exercise of police power directed at promoting the general welfare. The rule seeks to address the inequitable situation where the cost of an extension facility benefiting one or a few consumers is equally shared by them.[12]

The ERC likewise asserts that the equal protection clause is observed since the distinction between end-users residing within 30 meters of the existing lines and those beyond 30 meters is based on real and substantial differences, namely: (1) proximity of end-user service drop to the main distribution lines; (2) manner of checking status service; (3) system loss risk; (4) cost in installing the facilities; and (5) additional risk posed by the possibility of the customer defaulting in his electric service with the DU.[13]

The ERC also maintains that Section 2 of the DSOAR is consistent with Sections 2, 23, 41 and 43 of the EPIRA. By not subjecting most consumers to the payment of installation costs benefitting customers located beyond a reasonably-set boundary, the provision in question gives effect to the EPIRA policy to ensure that the prices of electricity remain affordable, transparent, and reasonable to the majority. The policy of accelerating the total electrification of the country is also served when the residents of far-flung areas are given the option to apply for extension lines. This option is subject only to the condition that the cost of the extension of existing lines is advanced by the end-user, who will eventually be reimbursed; without such condition, businesses will be reluctant to provide service connection in remote areas.[14]

Additionally, the ERC points out that the DSOAR provisions do not result in unjust enrichment since the DUs do not stand to be materially benefited by the customers' advances. The DUs have the obligation to reimburse the

customers the advances within five years, and whatever advances are unpaid during the five-year period are recorded as reductions in "plant in service." [15]

Finally, it argues that petitioner lacks the standing to file the present suit since the petitioner is not an end-user who will sustain a direct injury as a result of the issuance and implementation of the DSOAR. The ERC likewise maintains the petition for certiorari must fail since petitioner fails to impute grave abuse of discretion to the ERC. [16]

b. The MERALCO Position

MERALCO reiterates the defenses raised by the ERC. It also contends that the present petition does not involve the ERC's judicial and quasi-judicial functions so that a petition for certiorari is an improper remedy. MERALCO likewise argues that the petition for certiorari, assuming it to be a correct remedy, should be dismissed since the petitioner failed to observe the doctrine of hierarchy of courts by filing an original petition with this Court.

On the merits, MERALCO points out that even if Section 2.6 of the DSOAR is struck down, the provision in the Magna Carta, on the same point, would nevertheless require end-users located beyond 30 meters from existing lines to advance the cost. The petitioner's members are not also end-users, but subdivision developers, brokers, and various entities who are not affected by the questioned provision; if a developer would apply for electric service, the terms and conditions of the service will not be governed by Section 2.6 of the DSOAR. [17]

MERALCO also elaborates on why the provision does not result in unjust enrichment and justifies the distinction between end-users within the 30-meter limit and those located outside of this limit. The DSOAR provides that the unpaid amounts that the end-users advanced for the electrical facilities are not included in "plant in service." The total "plant in service" is the basis in fixing the rates collected by the DU from all its customers. By having the end-users, located 30 meters away from existing lines, advance the amount, this amount is no longer included in the rates passed on to regular consumers. The DSOAR further limits the subsidies by regular consumers, by limiting the amount to be recovered to 25% and to five years. Thus, if the costs of the lines are too great and the revenues are too small, it is the end-user who would bear the cost and not the regular customers. [18]

THE ISSUES

The petitioner summarizes the issues as follows:

Procedural Issues:

- A. Whether petitioner can challenge the constitutionality of a quasi-legislative act (i.e., the Rules) in a petition for certiorari under Rule 65 of the Rules of Court.
- B. Whether the Honorable Supreme [Court] has original jurisdiction over this case.
- C. Whether petitioner has legal standing to sue.
- D. Whether petitioner is authorized to file this suit.

Substantive issues:

- A. Whether Section 2.6 of the Rules violates the due process and equal protection clause of the Constitution.
- B. Whether Section 2.6 of the Rules violates R.A. No. 9136.
- C. Whether Section 2.6 of the Rules violates the rule against unjust enrichment.
- D. Whether Section 2.6 of the Rules is a valid exercise of police power. [19]

THE COURT'S RULING

We resolve to dismiss the petition for its serious procedural and technical defects.

a. The Petitioner Has No Legal Standing

We do not see the petitioner as an entity with the required standing to assail the validity of Section 2.6 of the DSOAR.

Legal standing or locus standi refers to a party's personal and substantial interest in a case, arising from the direct injury it has sustained or will sustain as a result of the challenged governmental action. Legal standing calls for more than just a generalized grievance. The term "interest" means a material interest, an interest in issue affected by the governmental action, as distinguished from mere interest in the question involved, or a mere incidental interest. Unless a person's constitutional rights are adversely affected by a statute or governmental action, he has no legal standing to challenge the statute or governmental action.[20]

The petitioner expressly enumerates its members to be the following: developers, brokers, appraisers, contractors, manufacturers, suppliers, engineers, architects, and other persons or entities engaged in the housing and real estate business.[21] It does not question the challenged DSOAR provision as a residential end-user and it cannot because the challenged provision only refers to the rights and obligations of DUs and residential end-users; neither the petitioner nor its members are residential end-users. In fact, the DSOAR has separate provisions for the extension of lines or installation of additional facilities for non-residential end-users, under its Section 2.7 entitled "Modifications and New Connections: Non-Residential." Thus, neither the petitioner nor its members can claim any injury, as residential end-users, arising from the challenged Section 2.6 of the DSOAR, nor cite any benefit accruing to them as residential end-users that would result from the invalidation of the assailed provision.

The petitioner meets the objection to its capacity to bring suit through the claim that subdivision developers are directly affected by the assailed provision because MERALCO has asked them to advance the cost of installing additional lines and facilities, in accordance with Section 2.6 of the DSOAR.[22] This claim is specious.

Section 1, Rule I of the Revised Rules and Regulations Implementing the Subdivision and Condominium Buyer's Protective Decree (PD 957) and Other Related Laws provides the minimum design standards for subdivisions. These minimum standards include an electrical power supply, described under subsection C(7) thus:

7. Electrical Power Supply System

Mandatory individual household connection to primary and/or alternate sources of power.

x x x x

Provision of street lighting per pole is mandatory at 50-meter distance and every other pole if distance is less than 50 meters.

Thus, subdivision developers are obligated under these rules to include in their design an electrical power supply system that would link individual households within their subdivision to primary and/or alternate sources of power. This requirement is intended to protect the rights of prospective subdivision homeowners,[23] and exists regardless of the validity of Section 2.6 of the DSOAR.

In other words, the invalidation of Section 2.6 of the DSOAR would not permit subdivision developers to renege from their duty to ensure power supply and to pass the costs of installing a proper electrical power supply system to MERALCO. In this light, it is immaterial that MERALCO did require certain developers to sign the Agreement for Extension of Lines And/Or Additional Facilities[24] as this was required under the provisions of the Magna

Carta, not under the assailed DSOAR provision that, in the first place, does not govern the relationship of subdivision developers (who are not residential end-users) and MERALCO.

a. 1. No Transcendental Issue Involved

The petitioner cites instances when the Court, in the exercise of its discretion, waived the procedural rule on standing in cases that raised issues of transcendental importance. We do not, however, view the present case as one involving a matter of transcendental importance so that a waiver of the locus standi rule should be recognized.

The Court, through Associate Justice Florentino P. Feliciano (now retired), provided the following instructive guides as determinants in determining whether a matter is of transcendental importance: (1) the character of the funds or other assets involved in the case; (2) the presence of a clear case of disregard of a constitutional or statutory prohibition by the public respondent agency or instrumentality of the government; and (3) the lack of any other party with a more direct and specific interest in the questions being raised.[25]

In this case, the three determinants are glaringly absent. Public funds are not involved. The allegations of constitutional and statutory violations of the public respondent agency are unsubstantiated by facts and are mere challenges on the wisdom of the rules, a matter that will be further discussed in this Decision. In addition, parties with a more direct and specific interest in the questions being raised - the residential end-users - undoubtedly exist and are not included as parties to the petition. As the Court did in *Anak Mindanao Party-List Group v. Executive Secretary*, [26] we cannot waive the rule on standing where the three determinants were not established.

b. Rule 65 is both a Wrong
and Misapplied Remedy

The petitioner's choice of remedy - a petition for certiorari under Rule 65 of the Rules of Court - is an incorrect remedy.

Rule 65, Section 1 of the Rules of Court mandates that the remedy of certiorari is directed against a tribunal, board, or officer exercising judicial or quasi-judicial functions:

Section 1. Petition for certiorari.--When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

Judicial functions are exercised by a body or officer clothed with authority to determine what the law is and what the legal rights of the parties are with respect to the matter in controversy.[27] Quasi-judicial function is a term that applies to the action or discretion of public administrative officers or bodies given the authority to investigate facts or ascertain the existence of facts, hold hearings, and draw conclusions from them as a basis for their official action using discretion of a judicial nature.[28] Thus, in *Philnabank Employees Association v. Estanislao*, we did not grant a petition for certiorari against the Department Secretary who did not act in any judicial or quasi-judicial capacity but merely promulgated the questioned implementing rules under the mandate of Republic Act No. 6971, the applicable law in this cited case.[29]

Contrary to Section 2, Rule III of the Rules of Court, the petitioner and its members are not even parties who are aggrieved by the assailed DSOAR provision, as already discussed above. Even if they had been properly aggrieved parties, the petition must still be dismissed for violation of yet another basic principle applicable to

Rule 65. This rule requires, for a petition for certiorari to be an appropriate remedy, that there be no appeal or plain, speedy, and adequate remedy in the ordinary course of law.[30] Since the petitioner assails the validity of a rule or statute and seeks our declaration that the rule is unconstitutional, a petition for declaratory relief under Section 1, Rule 63 of the Rules of Court[31] provides a remedy more appropriate than certiorari.

Furthermore, the Court of Appeals and the Supreme Court have original concurrent jurisdiction over petitions for certiorari; the rule on hierarchy of courts determines the venue of recourses to these courts. In original petitions for certiorari, the Supreme Court will not directly entertain this special civil action - as in the present case - unless the redress desired cannot be obtained elsewhere based on exceptional and compelling circumstances justifying immediate resort to this Court.[32]

In the present case, the petitioner alleges that the constitutionality and legality of the assailed provision are of "immense importance to the public"[33] and are a "recipe for financial ruin of the affected parties." [34] Moreover, it maintains that its petition raises transcendental and weighty issues that would merit the Honorable Court's exercise of original jurisdiction.[35] To support its position, it cites the cases of the Senate of the Philippines v. Ermita[36] and Ople v. Torres.[37]

Senate of the Philippines v. Ermita[38] was a case for certiorari and prohibition, while our Decision in Ople v. Torres[39] did not clearly state whether the case was filed as a petition for certiorari. But granting that both cases were filed as petitions for certiorari, they prompted the Court to suspend its rules of procedure as they involved clear violations of the Constitution which urgently needed to be addressed. Moreover, they were unquestionably filed by the proper parties.

The petitioners in the Ermita case included the Philippine Senate, which assailed Executive Order No. 464 for infringing on their prerogatives as legislators, to conduct inquiries in aid of legislation.[40] We had to immediately resolve this case since the implementation of the challenged order had already resulted in the absence of officials invited to Senate hearings.

In the Ople case, Senator Blas F. Ople sought to invalidate Administrative Order No. 308, which "establishes a system of identification that is all-encompassing in its scope, [and that] affects the life and liberty of every Filipino citizen and foreign resident." [41] The petition was based on two important constitutional grounds: (1) usurpation of the power of Congress to legislate and (2) impermissible intrusion into the citizenry's protected zone of privacy.

In the present case, the petitioner cannot come before this Court using an incorrect remedy and claim that it was oppressed, or that its rights to due process and equal protection have been violated by an administrative issuance that does not even affect its rights and obligations. The writ of certiorari is an extraordinary remedy that the Court issues only under closely defined grounds and procedures that litigants and their lawyers must scrupulously observe. They cannot seek refuge under the umbrella of this remedy on the basis of an undemonstrated claim that they raise issues of transcendental importance, while at the same time flouting the basic ground rules for the remedy's grant.[42]

These conclusions render any further discussion of the improperly raised substantive issues unnecessary.

WHEREFORE, premises considered, we hereby DISMISS the petition for its serious procedural and technical defects. Costs against the petitioner.

SO ORDERED.

Corona, C.J., Carpio, Del Castillo, Abad, Villarama, Jr., Perez, and Mendoza, JJ., concur.

Carpio Morales, [] and Nachura, JJ., on leave.

Velasco, Jr., Leonardo-De Castro, Peralta, and Bersamin, JJ. on official travel abroad.

[1] Rollo, pp. 3-22.

[2] Id. at 4.

[3] Id. at 153.

[4] Id. at 5.

[5] Under Section 4(q) of the EPIRA, a distribution utility refers to any electric cooperative, private corporation, government-owned utility, or existing local government unit which has an exclusive franchise to operate a distribution system in accordance with this Act.

[6] Rollo, pp. 7-9.

[7] Id. at 7.

[8] Id. at 11-15.

[9] Section 2. Declaration of Policy. - It is hereby declared the policy of the State:

x x x x

b) To ensure the quality, reliability, security and affordability of the supply of electric power;

c) To ensure transparent and reasonable prices of electricity in a regime of free and fair competition and full public accountability to achieve greater operational and economic efficiency and enhance the competitiveness of Philippine products in the global market;

x x x x

f) To protect the public interest as it is affected by the rates and services of electric utilities and other providers of electric power[.]

Section 23. Functions of Distribution Utilities. - A distribution utility shall have the obligation to provide distribution services and connections to its system for any end-user within its franchise area consistent with the distribution code. Any entity engaged therein shall provide open and non-discriminatory access to its distribution system to all users.

x x x x

Section 41. x x x The ERC shall handle consumer complaints and ensure the adequate promotion of consumer interests.

x x x x

Section 43. Functions of the ERC. The ERC shall promote competition, encourage market development, ensure customer choice and penalize abuse of market power in the restructured electricity industry.

[10] Rollo, pp. 15-17.

[11] Id. at 17-19.

[12] Id. at 288-289.

[13] Id. at 294.

[14] Id. at 297.

[15] Id. at 298-300.

[16] Id. at 300-304.

[17] Id. at 315, 318.

[18] Id. at 323-324.

[19] Id. at 236.

[20] *Abaya v. Ebdane*, G.R. No. 167919, February 14, 2007, 515 SCRA 720, 756-757; *Olama v. Philippine National Bank*, G.R. No. 169213, June 22, 2006, 492 SCRA 343, 353; and *Jumamil v. Café*, G.R. No. 144570, September 21, 2005, 470 SCRA 475, 487.

[21] *Rollo*, p. 4.

[22] Id. at 249.

[23] The "WHEREAS" clauses of Presidential Decree No. 957 state that:

WHEREAS, it is the policy of the State to afford its inhabitants the requirements of decent human settlement and to provide them with ample opportunities for improving their quality of life;

WHEREAS, numerous reports reveal that many real estate subdivision owners, developers, operators, and/or sellers have reneged on their representations and obligations to provide and maintain properly subdivision roads drainage, sewerage, water systems, lighting systems, and other similar basic requirements, thus endangering the health and safety of home and lot buyers[.]

[24] *Rollo*, pp. 208-222; Annexes "A" to "E" of the Reply to Respondents' Comments.

[25] *Senate of the Philippines v. Ermita*, G.R. No. 169777, April 20, 2006, 488 SCRA 1, 39-40; and *Francisco v. Nagmamalasakit na mga Manggagawang Pilipino, Inc.*, G.R. No. 160261, November 10, 2003, 415 SCRA 44, 139, citing *Kilosbayan v. Guingona*, G.R. No. 113375, May 5, 1994, 232 SCRA 110, 155-157.

[26] G.R. No. 166052, August 29, 2007, 531 SCRA 583, 592.

[27] *Angara v. Fedman Development Corporation*, G.R. No. 156822, October 18, 2004, 440 SCRA 467, 477; and *Toyota Motors Philippines Corporation Workers' Association v. Court of Appeals*, 458 Phil. 661, 681 (2003).

[28] *Metropolitan Bank and Trust Company, Inc. v. National Wages and Productivity Commission*, G.R. No. 144322, February 6, 2007, 514 SCRA 346, 357; and *Villarosa v. Commission on Elections*, 377 Phil. 497, 506 (1999).

[29] G.R. No. 104209, November 16, 1993, 227 SCRA 804, 810-811.

[30] *Esguera v. Gonzales-Asdala*, G.R. No. 168906, December 4, 2008, 573 SCRA 50, 64-65; *Franco-Cruz v. Court of Appeals*, G.R. No. 172238, September 17, 2008, 565 SCRA 531, 538; and *Mallari v. Banco Filipino Savings and Mortgage Bank*, G.R. No. 157660, August 29, 2008, 563 SCRA 664, 668.

[31] Section 1. Who may file petition.--Any person interested under a deed, will, contract or other written instrument, whose rights are affected by a statute, executive order or regulation, ordinance, or any other governmental regulation may, before breach or violation thereof, bring an action in the appropriate Regional Trial Court to determine any question of construction or validity arising, and for a declaration of his rights or duties, thereunder.

[32] Audi AG v. Mejia, G.R. No. 167533, July 27, 2007, 528 SCRA 378, 384-385; De los Reyes v. People, G.R. No. 138297, January 27, 2006, 480 SCRA 294, 297; and Santos v. Cruz, G.R. Nos. 170096 and 170097, March 3, 2006, 484 SCRA 66, 75.

[33] Rollo, p. 238.

[34] Id. at 239.

[35] Ibid.

[36] G.R. No. 169777, April 20, 2006, 488 SCRA 1.

[37] 354 Phil. 948 (1998).

[38] Supra note 36.

[39] Supra note 37.

[40] Supra note 36. The challenged order, Executive Order No. 464, required all heads of departments of the Executive Branch of the government to secure the consent of the President prior to appearing before either House of Congress. In its petition, the Senate considered this as a flagrant violation of their prerogatives under Article VI, Section 21 of the Constitution, among other provisions.

[41] Supra note 37, at 966.

[42] Athena Computers, Inc. v. Reyes, G.R. No. 156905, September 5, 2007, 532 SCRA 343, 348.

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