

NATIONAL ELECTRIFICATION ADMINISTRATION (NEA) AND ORIENTAL MINDORO ELECTRIC COOPERATIVE I (ORMECO), PETITIONERS, VS. HON. FILEMON MENDOZA IN HIS CAPACITY AS PRESIDING JUDGE, COU...

G.R. No. 62038. September 25, 1985

Ponente: ALAMPAY, J.

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ALAMPAY, J.:

On February 20, 1981, petitioner Oriental Mindoro Electric Cooperative I or (ORMECO) I, sent notices to the electric consumers in Oriental Mindoro informing them that effective March 1, 1981, it will charge increased rates of electricity authorized by the National Electrification Administration (NEA) on February 4, 1981.

On March 17, 1981, the Integrated Bar of the Philippines (IBP) Oriental Mindoro Chapter, thru its officers, opposing the increase of electric rates, filed a petition for injunction, docketed as Civil Case No. R-3326, in the Court of First Instance of Oriental Mindoro, to prevent the implementation of the said increases. On the same day, respondent Judge issued a restraining order directing ORMECO I to refrain from enforcing the increase in its electric rates.

On March 26, 1981, petitioner ORMECO I filed its Answer praying that the petition be dismissed for insufficient cause of action and/or want of jurisdiction and praying therein that the restraining order earlier issued by the court below be lifted or dissolved.

On April 10, 1981, respondent Judge lifted the restraining order and dismissed the petition. However, upon Motion for Reconsideration filed by private respondent IBP, respondent Judge reinstated the restraining order previously issued.

On September 4, 1981, petitioner NEA filed its Motion for Intervention which was granted on October 23, 1981. NEA filed a Motion to Dismiss the injunction suit on the ground that respondent Court has no jurisdiction over the subject case which pertains to the electricity rates that are being charged by a cooperative, which matter is submitted to be within the exclusive jurisdiction of the NEA. On December 17, 1981, an order was issued denying Petitioner NEA's Motion to Dismiss. Respondent court declared that it can restrain the implementation of said rates inasmuch as there was no public hearing on the proposed rates to be collected by the cooperative from its consumers.

Upon motion of the private respondent IBP, the respondent Judge, also issued two Orders, one dated March 3, 1982, and another dated March 10, 1982, (1) directing the Provincial Auditor to assist the IBP in examining the records of petitioner ORMECO I to determine whether said entity is losing or not, and to submit its findings to the court and (2) fixing the rate of P1.72/kwh. These ultimately led to the filing of the present Petition before this Court.

Petitioner contends that the trial court has no jurisdiction to act at all on the case. On the other hand, private

respondents maintain that the respondent Court of First Instance, has jurisdiction over the subject matter of the action which it filed because the consumers were denied due process of law due to the absence of any public hearing conducted regarding the reasonableness of the proposed increases in the electric light rates.

We find merit in the petition.

Firstly, private respondent should have first exhausted the administrative remedies still available to it by appealing the challenged order of NEA approving the increased rates, to the President of the Philippines who exercises the power of supervision over the National Electrification Administration, Section 13 of the Organic Law of NEA, as found in P. D. No. 269 as amended, provides that:

"Section 13. — Supervision over NEA; Power of Development Council — The NEA shall be under the supervision of the Office of the President. All orders, rules and regulations promulgated ... by the NEA ... shall be subject to the approval of the Office of the President of the Philippines. x x x"

Considering that the President has the power to review on appeal the orders or acts of petitioner NEA, the failure of private respondent IBP to undertake such an appeal bars it from resorting to a judicial suit. In the case of *Tan vs. Director of Forestry*, 125 SCRA 205, it was there stressed that the administrative remedies must first be exhausted before resort can be had to courts.

The private respondent's argument that P.D. 269 does not empower the NEA to approve the increase in the electric rates of the cooperative without any notice of public hearing is neither forceful nor persuasive. Here the consumers are members of the cooperative ORMECO I, which is a non-profit organization. The consumers or the members of the cooperative are already represented by the Board of Directors whom they had elected. The necessity of a public hearing is lost. It was no less the ORMECO I which solicited the approval of the NEA to adjust the rates upward and this the NEA granted as it was necessary for the continued financial viability of the ORMECO I.

It is undisputed that NEA was the creditor of the electric cooperative which had obtained a huge loan from the NEA on March 27, 1973. It has been stipulated between the NEA and the ORMECO I that the rates and charges affecting the cooperative, shall be subject to the approval by the Board of Administrators of the NEA. Consequently, the Court of First Instance now Regional Trial Court cannot usurp for itself the power, as it did, to review the power rates charged by the ORMECO I and approved by NEA. This competence has been lodged by law to the NEA and to no other. In *Pineda vs. Lantin*, 6 SCRA 757, 763, We ruled that a Court of First Instance cannot interfere with an order of regulatory Commission because it cannot substitute its judgment for that of the Commission on what should be or should not be done as the legislature had not intended that. In *Philippine Pacific Fishing Company, Inc. versus Luna* 112 SCRA 604 (1982), it was ruled that "nowhere does the law empower any Court of First Instance to interfere with the orders of the Commission, not even on grounds of due process and jurisdiction." The petitioner Commission, in the instant case is in the very least a co-equal body with the Court of First Instance and co-equal bodies have no power to control the other. Furthermore, the power of judicial review of NEA's order and decision pertains to the Supreme Court as decreed in Section 59 of P.D. No. 269 which vests specifically on the Supreme Court the jurisdiction to review any order, ruling or decision of the NEA and to modify or set aside such orders, rulings or decisions.

WHEREFORE, for certiorari in this case is hereby granted, and the questioned orders of respondent Judge dated December 17, 1981, and March 3 and March 10, 1982 are hereby set aside for being null and void and issued in excess of its jurisdiction. Respondent Judge is further directed to dismiss the stated Civil Case No. R-3326 for lack of jurisdiction over the same. No pronouncement is here made as to costs.

SO ORDERED.

Aquino, (Chairman), Concepcion, Jr., Abad Santos, Escolin, and Cuevas, JJ., concur.

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