Digests of Supreme Court decided cases from 1901-2010 and Analysis of Development Implications

under

MDG-F 1919: Enhancing Access to and Provision of Water Services with the Active Participation of the Poor for the Compilation and Analysis of Jurisprudence on Water Supply

Prepared by Atty. Raymond Quiocho Salas, J.D.

Analysis of Development Implications

Digest of Cases

ANALYSIS OF DEVELOPMENT IMPLICATIONS OF SUPREME COURT DECISIONS FOR THE PERIOD 1901-2010

I

Supply of water is protected and ensured, in general

Philippine laws and jurisprudence protect and ensure water supply. Three Supreme Court decisions held that our Civil Code and Constitutions dictate that water sources such as rivers,[1] forest lands[2] and watershed reservations[3] are inalienable public property. Through the years our Constitutions – 1935, 1973 and 1987 – contain provisions on the exclusion of forest lands from private occupation. Reserving the supply of water from these sources to the public domain assures the public that water is for everyone. In doing so, this may allow better regulation and preservation of water supply as opposed to giving unbridled private access to profit-oriented private individuals or groups. As far back as 1920 in the case of *Sideco v. Sarenas, et al., G.R. No. 15700, September 18, 1920*, it was admitted that water has been recognized as a subject of legislation and consequent regulation since the establishment of the Philippine government. From the Philippine Bill of 1902, "Beneficial use shall be the basis, the measure, and the limit of all rights to water in said islands."

Consequently, in *NAWASA v. Secretary of Public Works and Communications, G.R. No. L-2928, March 31, 1966* where the Supreme Court in harmonizing the different laws on acquisition of use of water rights during that period held that NAWASA acquired by prescription the rights to using the water of the Angat River, the supply of water for domestic use was somehow secured.

Moreover, in an alienable and disposable public agricultural land, laying pipes underground are considered material occupation and public which can be considered basis for acquisitive prescription. Thus, *Santiago, et al., v. CA, et al., G.R. No. 109111, June 28, 2000*, in a land dispute involving claim of ownership through acquisitive prescription, the Court held that placing pipelines under the land is considered as material occupation of the land and thus subject the land to its will and control. This became the basis for MWSS to acquire ownership by prescription and even if such pipes were "hidden" from sight, these are still considered public.

When it comes to directly ensuring the supply and delivery of water to the consuming public, the Supreme Court went so far as to upholding a will that provided a grant to religious corporations giving them free water in exchange for land to be used by a waterworks system. (*Orden de Predicadores v. Metropolitan Water District, G.R. No. 18715, Jan. 8, 1923* and *San Juan De Dios Hospital v. Metropolitan Water District, G.R. No. 31508, Dec. 27, 1929*)

Also in 1933, to avoid conflicts that would arise between two feuding municipal entities and thereby ensure the water service to the public is uninterrupted, the Supreme Court in the case of *Municipality of Majayjay v. Dizon, et al., G.R. No. 35838, Feb. 9, 1933* ruled

[1] Municipality of Mangaldan v. Municipality of Manaog, GR 11627, August 10, 1918
[2] Republic v. Hon. Curz, et al, GR L-35644, September 30, 1975
[3] Collado, et al. v CA, et al., GR 107764, October 4, 2002

that the province should administer combined waterworks system, such as that of the municipalities of Majayjay and Magdalena in Laguna.

Further, the protection of the consumer against the tyranny of water utilities was upheld in *Atty. Dominador B. Borje v. Hon. Court of First Instance of Misamis Occidental, Branch II, Violeta Galicinao, et al., G.R. No. L-48315, February 27, 1979.* This case demonstrated that water utilities cannot just (a) harass consumers when they complain about increase of water rates, (b) cut off their water supply without due process and (c) not inform the consumers the specifications of the billing cost.

More than a decade or two after the *Borje* case was promulgated several other cases reflect the power of the Courts to grant remedy over actions involving contracts and protection towards consumers. Especially if such involved the interruption of water service supply and delivery, the Court will always rule in favor of consumers getting continuous supply of water. However, one of the most substantial cases of this nature was struck down due to its technicality, instead of addressing the access of the poor to affordability of water rates and increases.

In *Villostas v. CA, et al., G.R. No. 96271, June 26, 1992*, the Court ruled in favor of a consumer entitling him to rescind the contract of sale of a water purifier, which has a warranty certificate that the product will perform efficiently for one full year from the date of original purchase, clearly an express warranty under which a 4-year prescription governs. *Arranza, et al. v. BF Homes, Inc., et al., G.R. No. 131683, June 19, 2000*, states that in complaints of subdivision homeowners against a subdivision developer under receivership involving basic homeowner's rights such as water, HLURB has jurisdiction, but any and all monetary claims established shall be referred to the Board of Receivers, and thereafter to SEC, if necessary.

In *Ong Chiu Kwan v. CA, G.R. No. 113006, Nov. 23, 2000*, a criminal case where the Court found guilty of unjust vexation the accused who ordered the cutting the water and utility lines without the necessary permit or authorization to relocate those line, and timing such interruption of water and utility services during peak hours of the operation of business while in *MWSS v. Act Theater, G.R. No. 147076, June 17, 2004*, the Court held MWSS liable for damages as its act of cutting off the water service connection of an establishment whose employees where apprehended for allegedly tampering a water meter. The Court said that while MWSS has the right to exclude any person from the enjoyment and disposal of water supply to certain consumers, it should act with justice and give its consumers its due.

In *Spouses Lantin v. CA, et al., G.R. No. 127141, April 30, 2003*, in a case involving payment of water bills, the Court held that such cannot be evidenced by presentations of mere cash vouchers as these are insufficient to prove payments. Lessees of areas assume the obligation for the payment of water consumption until the end of their possession, whether actual or constructive, in the said area. But this obligation only covers those periods within which the lessee possesses the property and does not cover beyond that period.

While the petitioners may have raised substantial issues over consumer rights and access of the poor to water, the case *Freedom from Debt Coalition, et al v. MWSS and the MWSS Regulatory Office, G.R. No. 173044, Dec. 10, 2007*, was dismissed by the Court on the ground that petitioners' petition failed to resort to appropriate remedy. The Court noted that while petitioners claim that the MWSS resolutions regarding price adjustments on water rates by private concessionaires are violative of the Constitution, the petition has failed to cite

any Constitutional provision being violated. Also, there are issues that are beyond the Court's function as it is not a trier of facts.

Then there are cases that reflect the bias of the Court toward continuous supply and delivery of water services, especially in terms of the infrastructure for these waterworks systems. However, the Court would still want that these contracts be free from any doubt or ambiguity in terms of the meaning of the terms stated in the contracts.

In *Marmont Resort Hotel Enterprises v. Guiang, et al., G.R. No. 79734, Dec. 8, 1988*, where the Court considered the stipulations in an agreement between two parties that appear to have been designed precisely to benefit a third person in its need to meet its water requirements partake the nature of stipulations *pour autrui*, in favor of a third person conferring a clear and deliberate favor upon him. In *Nasser v. CA, et al., G.R. No. 115829, June 5, 1995* where in a case involving a sale of a lot which has a natural spring, ideal for water supply, the Court declared that compromise agreements made by the parties are presumed to have been freely entered into a covenant to settle their controversy, so any unjustified delay in the enforcement of any compromise agreements should not be tolerated by courts for its sets at naught its role in disposing of justiciable controversies with finality.

However, *Prosperity Credit Resources, Inc. v. CA, et al., G.R. No. 114170, Jan. 15, 1999* stated that in a contract involving access to a property, the terms "ingress" and "egress" with the phrase "for whatever passage" does not convey a meaning that includes a right to install water pipes on the access road. If the intent covers such activity, proceedings before the trial court are needed to prove such intent.

II

Supply of potable water is ensured, in particular

By reiterating in a long list of cases the importance of sanitation, the supply of potable water is being ensured. *Case, et al. v. La Junta de Sanidad de Manila, et al., G.R. No. 7595, Feb. 4, 1913* emphasized that people should be aware of the necessity of water sanitation. The health and convenience of all other residents should far outweigh the expense incurred to remedy an insanitary condition. *Rivera v. Campbell, G.R. No. 11119, Mar. 23, 1916*, on the other hand, is an example of an act, like that of washing clothes in the river, may be viewed as harmless or ordinary but can have a larger impact on health and environment.

In another case (*The Homeowners Association of El Deposito, et al v. Hon. Guardson Lood, G.R. No. L-31864, September 29, 1972*) the Supreme Court protected the possible pollution of water pipelines that supply potable water to Manila by ruling that under our Civil Code, public nuisance per se could be abated without judicial proceeding. This case involved illegal constructions without provision for accumulation or disposal of waste matters and constructed without building permits that were said to pollute the supply of water.

On matters not related to public nuisance under the Civil Code, Republic Act No. 3931, entitled "An Act Creating a National Water and Air Pollution Control Commission" expressly states that "no court action shall be initiated until the Commission shall have finally ruled thereon." Thus in *Donald Mead v. Hon. Manuel A. Argel, G.R. No. L-41958 July 20, 1982* the Supreme Court ruled that before a fiscal can prosecute violations under RA 3931

there must be a prior determination by the Commission that the act of the accused had caused pollution in any water or atmospheric air of the Philippines. The role of the National Water and Air Pollution Control Commission therefore is crucial in protecting and ensuring access to potable water because the prosecution of offenses under RA 3931 is important to deter companies and individuals from polluting our waters.

Years after this ruling, the Supreme Court continued upholding the jurisdictions of administrative agencies vested with power to protect our water sources. These include recognizing the ex-parte CDO of the Pollution Adjudication Board, the CDO powers of the Laguna Lake Development Authority, the local government units in terms of general environmental protection mandate, and such other administrative agencies vested with such authority under the law. In fact, these mandatory obligations can be compelled by the Court to perform such functions to protect water systems.

Pollution Adjudication Board v. CA and Solar Textile Finishing Corp., G.R. No. 93891, March 11, 1991, where the Court ruled in favor of the PAB in its power to issue *ex-parte* cease-and-desist orders whenever the wastes discharged by an establishment pose an immediate threat to life, safety or welfare, or to plant or animal life, or whenever such wastes or discharges exceed the allowable standards set.

In *LLDA v. CA, et al., G.R. NO. 110120, Mar. 16, 1994*, where the Court validated LLDA's power to issue cease and desist orders prohibiting a local government unit from dumping its garbage in an open dumpsite. Laws creating the LLDA and subsequent orders authorizes LLDA to make, alter or modify orders requiring the discontinuance of pollution. It explicitly authorizes the LLDA to make whatever order may be necessary in the exercise of its jurisdiction. In another LLDA case, *LLDA v. CA, et al., G.R. Nos. 120865-71, Dec. 7, 1995* where the Court declared The Local Government Code of 1991 did not repeal the provisions of the Charter of the Laguna Lake Development Authority. LLDA has the exclusive jurisdiction to issue permits for the enjoyment of fishery privileges in Laguna de Bay to the exclusion of municipalities situated therein. But actions necessitating the legal questions of affecting the powers of the LLDA, it is the RTC, not the CA, which has jurisdiction to resolve it.

In *The Province of Rizal, et al., v. Executive Secretary, et al, G.R. No. 129546, Dec. 13, 2005*, where the Court ordered the permanent closure of the San Mateo Landfill as it has adversely affected its environment and that sources of water should always be protected, and declaring as unconstitutional the Presidential proclamation declaring parts of the Marikina watershed Reservation for use as a sanitary landfill and similar waste disposal. The Court succinctly put it as, "Water is life, and must be saved at all costs."

In the most recent pronouncement of the Court, *MMDA, et al., v. Concerned Residents of Manila Bay, et al., G.R. No. 171947-48, Dec. 18, 2008*, the Court ruled that the cleaning or rehabilitation of Manila Bay can be compelled by mandamus and government agencies are enjoined, as a matter of statutory obligation, to perform certain functions relating directly or indirectly to the cleanup, rehabilitation, protection, and preservation of the Manila Bay. The Court further ordered government agencies in line with the principle of "continuing mandamus" to each submit a quarterly progressive report of the activities undertaken in accordance with the Decision.

Amidst this backdrop of jurisprudence espousing the significance of clean water, it is common knowledge that lack of access to potable water in certain areas of the country

persists. For instance, in *Juana vda. De Macanip, et al. v. Workmen's Compensation Commission and the Municipality of Jaro, Leyte, G.R. No. L-43223, May 31, 1979*, a government employee in the course of campaigning for the payment of taxes in remote barrios, contracted schistosomiasis (an illness caused by eating and/or drinking water from unfiltered water) and later died of the same. Even though there are no recent Supreme Court cases stating a similar circumstance, there is still a need for government to address this problem.

While access to potable water is encouraged, it is still subject to the rule of law. In *Teoville Homeowners Asso., Inc. v. Ferreira, et al., G.R. No. 140086, June 8, 2005*, in a case involving title to a land where the water tank was built, the Court held that questions over the validity of titles cannot be raised collaterally in a case involving a different issue. A main action expressly instituted for the purpose of question its validity must be filed.

III

Investment in waterworks system is encouraged

Some decisions may affect investor confidence. Eight cases reaffirmed the unconstitutionality of Republic Act 1383 in so far as it vests ownership, supervision and control to the NAWASA without just compensation. The Supreme Court held that a waterworks system is patrimonial in character. Although it may be subjected to police power, the power of eminent domain and its corresponding doctrine of just compensation protect the waterworks system from unnecessary and unjust taking of private property. Organizations then investing in waterworks system cannot be discouraged by the prospect of government taking their property in the exercise of its police power especially that in the determination of just compensation as in the case of *Metropolitan Water District v. Director of Lands, et al., G.R. No. 35490, Oct. 12, 1932*, the Court seemed to have used an equitable valuation by factoring in an expert's report, the offer of the seller, and the cost of land in the immediate vicinity.

Investment in waterworks system is also encouraged with the ruling that water districts do not have exclusive franchises over their territorial jurisdictions. In *MCWD vs. Margarita A. Adala, G.R. No. 168914, July 14, 2007*, the Court declared as unconstitutional Section 47 of PD 198 granting exclusive franchises to water districts unless its Board consents thereto, a strict interpretation would mean that Congress cannot issue franchises for operating waterworks systems without a water district's consent, but the NWRB may keep on issuing CPCs authorizing the very same act even without such consent. While the prohibition applies to the issuance of CPCs, it must still be deemed void *ab initio* as there is a constitutional prohibition against exclusive franchises.

IV

Quality of service by water providers and cost of water access is dependent on several factors

Several factors determine the quality of service by water providers and the cost-effectiveness of access to water.

Effectiveness of People

In *Ramon Duterte, et al, v. Florencio Moreno, et al, G.R. No. L-15142, November 29, 1966*, the Supreme Court held that under the law creating the Osmeña waterworks system, the Secretary of Public Works and Communication had the power to appoint the employees of the waterworks system. The high tribunal further ruled that the Revised Administrative Code and the Cebu City Charter does not apply to this case. It is essential that waterworks systems are managed by capable individuals. Therefore, knowing who has the power to appoint the employees of these systems matter to the efficient delivery of water to the people. Moreover, the Board of Directors of waterworks systems provide the over-all direction of the organization and set its policies. Having members of the board that are considerate of the welfare of the people is important to the accessibility of potable water by the people.

The composition of the staff of water service providers also affects the quality of service delivery. In *Hagonoy Water District v. NLRC, G.R. No. 81490, August 31, 1988*, the Court held that the nature of water districts are that of government-owned and controlled corporations (GOCCs). Their employees are subject to the provisions of Civil Service Law, and not the Labor Code. They are then expected to perform at a standard in keeping with the principle that public service is a public trust.

This does not mean however that those organizations outside of the government whose employees are not subject to civil service law are subjected to fewer criteria. In *Miguel Rubia v. NLRC, G.R. No. 178621, July 26, 2010*, the Court affirmed the dismissal of a General Manager of a cooperative whose primarily engaged in water and sanitation service for, among others, his failure to closely monitor the contamination of water supply. His work required a substantial amount of trust and confidence reposed on him by his employer as he occupied a highly sensitive and critical position which involved a high degree of responsibility.

Cost-effective Utility Expansion

The cases pertaining to water utility expansion show how some of our laws ensure the quality of the facilities and equipment of waterworks systems by quality assurance and regulation of companies that can bid in government projects. In *C & C Commercial Corporation v. NAWASA, G.R. No. L-27275, November 18, 1967*, the Supreme Court ruled that Section 1 of Republic Act 912 requires the certification by the Director of the Bureau of Public Works and/or his assistants on the availability, practicability, usability and durability of waterworks system materials before any construction and repair thereof is made. This condition is crucial in having well-equipped utilities that can efficiently deliver and supply potable water.

Administrative Order 66 issued by the President of the Philippines on June 26, 1967, invoked in *NAWASA v. Hon. Andres Reyes and C & C Commercial Corporation, G.R. No. L-28597, February 29, 1968*, guarantees the quality of materials used by water utilities not only in the certification of their quality but in letting only reputable and responsible companies participate in public biddings. C & C Commercial Corporation's cases regarding its tax

liabilities with the government disqualified it from participating in the biddings to supply waterworks system materials.

In *Concerned Officials of the MWSS v. Hon. Vasquez, et al., G.R. No. 109113, Jan. 25, 1995*, the Court sided with MWSS with respect to Ombudsman decision setting aside the recommendation of the PBAC. As a GOCC charged with the construction, maintenance and operation of waterworks system to insure an uninterrupted and adequate supply and distribution of potable water, MWSS is in the best position to evaluate the feasibility of the projection of the bidders and to decide which bid is compatible with its development plans.

Justice in Rate-Fixing

Several decisions of the Supreme Court touched on rate-fixing. In the early years, the Court held that although the MWD can fix a system of rates and the PUC can review such rates, the PUC's review should be within the grounds of reasonableness. We learned this in *Metropolitan Water District v. Public Utility Commission, G.R. No. 22318, Oct. 15, 1924* and in *Metropolitan Water District v. Public Service Commission, et al., G.R. No. 38814, Sept. 15, 1933.*

In the '60s and early '70s, two cases discussed the fixing of rates by public utilities. The cases show when the Supreme Court believes rates may be increased, how properties should be valued to serve as bases for the increase, and what rate of earnings should be used.

Both cases recognize the need of public utilities to reach a rate of earnings of at least 12% in order to effectively continue its operations and attract the needed investments. How the 12% rate was arrived at was not discussed. The wisdom of it was relegated to the Public Service Commission who, the Supreme Court said was the proper agency to fix the rates since rate fixing involved "a series of technical operations into the details of which the Supreme Court is ill-equipped to enter." While this may be true, it is expected that people appointed to the Commission are indeed experts and capable of fixing rates intelligently taking into consideration not only the interest of the investors and the public utility but also the interest of the public and the common good.

In the consolidated cases of November 14, 1966 (*Manila Electric Company v. Public Service Commission, G.R. No. L-24762, etc.*) the present market value method was used in determining the value of the properties to in turn determine the proper rate of increase in the cost of utility service. The other consolidated cases decided on October 4, 1971 on the other hand (*Republic of the Philippines v. Enrique Medina, G.R. No. L-32068, etc.*) ruled that property valuation would depend on the facts and circumstances affecting such utility. The suggestion found in the concurring opinion of Justice Castro in this case is helpful. Justice Castro opined that it is time for the Philippines to follow a standard in property valuation and we should.

In addition, the concurring opinion discussion on who can go back to the Commission and question the rates is note-worthy. Indeed, the local government authorities directly affected by a previous adjudication should be able to initiate action for rate revision before the Commission and it should not only be relegated to the Solicitor General.

It was not until 30 years thereafter that the Supreme Court had occasion to rule on rate-fixing by water utilities. This time the cases were on procedural matters.

In *Bacolod City Water District v. Hon. Labayen, G.R. No. 157494, Dec. 10, 2004*, the Court held that the imposition of increases in water rates by Water Districts should follow the procedure set by regulations, and in so doing conduct public hearings in compliance with the due process requirements.

Meanwhile, it is in *Polomolok Water District v. Polomolok General Consumers Association, Inc. G.R. No. 162124, Oct. 18, 2007*, where the Court upheld the jurisdiction of the RTC over the NWRB over a case involving the validity of the water district's resolution imposing new and higher water rates, one that is incapable of pecuniary estimation, which RTCs has exclusive original jurisdiction. Jurisdiction is determined on the basis of the material allegation of the complaint and the character of the relief prayed for irrespective of whether plaintiff is entitled to such relief.

In contrast to the Polomolok ruling, *Merida Water District, et al v. Francisco Bacarro, et al., G.R. No. 165993, September 30, 2008* the Court explained that after review of water rates increases by the LWUA, a water concessionaire may appeal not to the court but to the NWRB, and the NWRB's decision may then be appealed to the Office of the President. The high tribunal stated that it is incumbent upon the party who has an administrative remedy to pursue the same to its appropriate conclusion before seeking judicial intervention.

Increases in rates of public utilities should be regulated to make sure that access to the public especially the poor are protected.

Waterworks Expenses

The case of *Board of Assessment Appeals, et al v. Court of Tax Appeals, et al, G.R. No. L-18125, May 31, 1963*, held that Section 3 (a) of Republic Act 470 exempts the real property of NAWASA from real estate taxes. This reduces the expenses of a waterworks system owned by the government and should hopefully result in lesser charges for the public availing of its services.

Jurisdiction and settlement of water disputes

The jurisdiction of the settlement of water rights was first exhaustively discussed in *Gerardo Abe-abe, et al v. Judge Luis D. Manta, et al, G.R. No. L-4827, May 1979.* The Supreme Court ruled that under the Water Code and Presidential Decree No. 424, conflicts on water rights should first be lodged with the National Water Resources Council before a case is filed in court. The National Water Resources Council therefore, plays a central role in the adjudication of water rights and the access to potable water.

In later rulings, the Supreme Court delineated the cases that can be heard before the NWRC and those that can be heard before the RTC. In *Tanjay Water District v. Gabaton, G.R. No. L-63742, April 17, 1989*, the Court held that issues relating to appropriation, utilization, exploitation, development, control, conservation and protection of waters, NWRC has jurisdiction. Regular courts only have appellate jurisdiction.

Meanwhile, *Marilao Water Consumers Asso., Inc. v. IAC, et al., G.R. No. 72807, Sept. 9, 1991*, ruled that the jurisdiction over questions involving formation and dissolution of a

water districts is before the RTC, and not the SEC, being a corporation established under PD 198, not Corporation Code.

In *Metro Iloilo Water District v. CA, et al., G.R. No. 122855, March 31, 2005*, the Court declared that where the case involved is not the settlement of a water rights dispute, but the enjoyment of a right to water use for which a permit was already granted, the RTCs have jurisdiction to hear the case, not NWRC.

With regard to appeals, the recent Supreme Court ruling found that NWRB decisions are appealable to the CA, being a quasi-judicial agency. This is in contrast to a prior doctrine that NWRC decisions are appealable to the RTC. Reference to RTC having appellate jurisdiction over NWRB decisions under the Water Code have already been rendered inoperative by the passage of BP 129, Judiciary Reorganization Act. BF Northwest is no longer controlling, and *Tanjay* case is not in point as it involves dispute over water appropriation, utilization and control. Certiorari and appellate jurisdictions over NWRB adjudications properly belong to the Court of Appeals.

In *BF Northwest Homeowners Asso. Inc. v. IAC and BF Homes, Inc., G.R. No. L-72370, May 29, 1987*, the Court decided that RTCs, not the CA, have jurisdiction in questions involving NWRC decisions. While NWRC may have been substituted with PSC and PSC decisions are appealable to the Supreme Court, NWRC are considered inferior to PSC as NWRC decisions on water rights controversies are appealable to the proper RTC.

This was reiterated in *Amistoso v. Ong, G.R. No. L-60219, June 29, 1984*, where the Court held that NWRC exercises jurisdiction only to those issues, which have not yet been resolved or subject to litigation. Water permits already granted and vested by other authorities should be respect. Hence, trial courts have jurisdiction since it is not being asked to grant such right, but only to recognize such valid and vested existing right. What is involved here is not the right to use, exploit or convey water, but such right already given through an approved water rights grant, partaking of a nature like a water permit.

However, in *National Water Resources Board (NWRB) v. A.L. Ang Network, Inc., G.R. No. 186450, April 14, 2010*, on the issue of whether RTCs have jurisdiction over appeals from NWRB decisions, the Court ruled that since the Court of appeals have exclusive appellate jurisdiction over quasi-judicial agencies under Rule 43 of the Rules of Court, petitions for certiorari, prohibition or mandamus against the acts and omissions of NWRB should be fixed with the CA.

In *BF Homes, Inc. and Phil. Waterworks and Construction Corp. v. NWRC and CA, G.R. No. 78529, Sept. 17, 1987*, the Court declared that NWRC actions can be compelled by mandamus considering that what petitioners seek are not to compel NWRC to approve pending applications, but only as to consider an deliberate upon the applications before it.

In *Buendia v. City of Iligan, G.R. No. 132209, April 29, 2005*, the Court upheld the doctrine of primary jurisdiction in deference to the special expertise of administrative agencies to act on certain matters. The question of who between the parties has the better right to the water source should have been left to the determination of the NWRB via a timely protest filed during the pendency of the water permit applications. Absent such protest, no water rights controversy arose wherein NWRB can properly discuss the substantial issues raised. Absent such discussion, the trial court should have refrained from resolving that question.

Case, et al. v. La Junta de Sanidad de Manila, et al., G.R. No. 7595, Feb. 4, 1913

Facts: Case owned a house on No. 202 Calle Solana, Intramuros that seemed to be an apartment house, a gym, or a dormitory. This house is occupied by a large number of persons. The assistant city health engineer notified Case's representatives that the sanitary conditions in the house were very bad. The house connected to the old sewers, and did not have a privy or aseptic vault. The old sewers were open and ran on flat and faulty grades, and the waste also passed directly through the old moat and other surface channels into the Pasig River, thereby polluting all of said surface water watercourses.

Pursuant to Ordinance No. 125, "An ordinance to regulate and enforce the use of sewers and drains in the city of Manila, Philippine Islands," Case was directed to connect to the new sewer system. The new sewers are covered, and its contents are pumped from the pumping station on the Tondo beach for a distance of over a mile over the flats into the deep water of Manila Bay. Case failed to comply with the ordinance. Case received another letter, which stated that he had ten days to connect to the sewer system.

Case filed a petition before the Court of First Instance of Manila and prayed that the officers from the sanitation department be stopped from carrying out the orders of the Department of Health; that his house is in good sanitary condition; and that the officers from the sanitation department are not authorized to carry out orders from the Department of Health.

Lower Court's Ruling: The CFI ruled that Ordinance No. 125 had no effect, and prohibited the officers from the sanitation department from requiring Case to connect with the new sewer system.

Issues: Whether the conditions at No. 202 Calle Solana were insanitary; and

Whether the City of Manila, through the sanitary authorities, had jurisdiction to correct the insanitary conditions at No. 202 Calle Solana.

Supreme Court's Ruling: The method of depositing the sewage from No. 202 Calle Solana, Intramuros, is insanitary and likely to produce disease and discomfort, not only to the occupants of said house, but to the people of the city of Manila. If a typhoid germ should be deposited in the water-closet system of said premises, for the same to reach the Pasig River, and then carried to every one of the numerous esteros of the city and thus communicated to the thousands of inhabitants who use water from the rivers and esteros for bathing and other purposes. The detrimental effect from such possibilities to the health and comfort of the people of the city can scarcely be overestimated.

The city of Manila is authorized by its charter to enact ordinances, and to legislate upon certain questions which are defined in said charter. The charter of the city of Manila

(Act No. 183) contains a general welfare clause (Section 16) which provides that the Board shall "make such ordinances and regulations as may be necessary to carry into effect and discharge the powers and duties conferred by this Act, and to provide for the peace, order, safety, and general welfare of the city and its inhabitants." Specific sections in the charter also give special powers to the Municipal Board and officers of the City of Manila to regulate public places and to prohibit the throwing or depositing of offensive matter on the same (Section 17(t)); to establish and maintain public sewers (Section 17 (x)); to enforce the regulations of the Bureau of Health (Section 17 (dd)); to declare, prevent and abate nuisances (Section 17 (jj)); and to make, amend and repeal all ordinances necessary to carry into effect the powers granted, and to enforce them by fines and penalties, within the limits authorized by law (Section 17 (kk)). The City Engineer is mandated to have "the care and custody of the public system water works and sewers, and all sources of water supply and shall control, maintain, and regulate the use of the same in accordance with the ordinances relating thereto, shall inspect and regulate, subject to the approval of the Board, the use of all private systems for supplying water to the approval of the Board, the use of all private systems for supplying water to the city an its inhabitants, and all private sewers and their connection with the public sewer system."

Act No. 1150 of the Philippine Commission further defines the powers and duties of the Board of Health for the Philippine Islands and of the Municipal Board of the city of Manila, in accordance with preservation of the public health of said city. It provided for the installation and maintenance of proper drainage (Section 1 (d)); proper sanitary maintenance (Section 1 (e)); location and use of public drains, and construction of private drains (Section 1 (r)); and the conduct of sanitary inspections (Section 6).

Furthermore, the Municipal Board imposed upon the City Engineer certain duties with reference to the inspection of buildings and plumbing and sewer system of houses and places (Article 14, Ordinance No. 86 [Revised Ordinance No. 179]).

Finally, Ordinance No. 125 required the connection of every building in the city with the sanitary sewer system.

The State can thus compel owners of private property to incur expense in order to remedy an insanitary condition, and thereby preserve the health and convenience of the people.

Rivera v. Campbell, G.R. No. 11119, Mar. 23, 1916

Facts: Juana Rivera was found washing her clothing near the Santolan pumping station near Boso-Boso dam. She was charged with violation of paragraph (f) of section 4 of Ordinance No. 149, first by the municipal court of Manila and again by the Court of First Instance of Manila. Section 4(f) prohibited washing of garments in the waters of any river or water course. Manila's municipal board adopted section 4(f) pursuant to paragraphs (w) and (cc) of Section 17 of Act No. 183, and paragraph (i) of Section 3 of Act No. 1150 of the Philippine Commission. Section 17(w) and (cc) authorized the board to purify the source of water supply as well as the drainage area of such water supply. Section 3(i) authorized the board to protect from infection all water supplies. Juana Rivera's act of washing clothing interfered with the purity of the water which was supplied to Manila by the Santolan pumping station.

Lower Court's Ruling: The CFI ruled that the court had jurisdiction over Juana Rivera and the offense committed, and sentenced her to pay a fine of P50 and costs.

Issues: Whether the CFI had jurisdiction over the offense, considering that the washing of clothes was in the Mariquina River.

Supreme Court's Ruling: The Supreme Court affirmed the CFI's ruling.

The Santolan pumping station is a part of the public water supply of Manila with water taken from that part of the Mariquina River, in the waters of which Juana Rivera washed clothes. Public water supply is not limited to water supply owned and controlled by a municipal corporation, but should be construed as meaning a supply of water for public and domestic use, furnished or to be furnished from water works.

The provisions of the Ordinance No. 149 of the City of Manila and the Acts of the Philippine Commission would be meaningless and absurd if made applicable only to the Santolan pumping station and not to that part of the Mariquina River immediately above it and from which the pumping station draws water for the use of the inhabitants of the City of Manila.

Municipality of Mangaldan v. Municipality of Manaoag, G.R. No. 11627, Aug. 10, 1918

Facts: The municipality of Manaoag constructed a strong dam between the Tagumising and Tolon Rivers, thus obstructing the flow of water and depriving the residents of Mangaldan of the use and enjoyment of the water of the two rivers.

Two years later, the municipality of Mangaldan filed a complaint against the municipality of Manaoag. Residents of Mangaldan have been irrigating their lands with water from the Tagumising and Tolon Rivers for more than 30 years.

Lower Court's Ruling: The CFI ordered the municipality of Manaoag to remove the dam, as well as the deposits of earth and sand in front of and behind the dam. A new dam made of tree branches should be constructed, so that the surplus water might pass by and be used by the inhabitants of Mangaldan.

Issues: Whether the water flowing through the Tagumising and Tolon Rivers belong to the public domain; and

Whether the people of Mangaldan have the right to use and enjoy the water from Tagumising and Tolon rivers

Supreme Court's Ruling: The Supreme Court affirmed the CFI's ruling.

The Civil Code provides that rivers and their natural beds are of public ownership (Article 407), the use of public waters is acquired by administrative concession and by prescription of twenty years (Article 409), and the use is extinguished by forfeiture of the concession, and by nonuse for twenty years (Article 411). Hence, both the Tagumising and Tolon Rivers are of the public domain. Article 33 of the Law of Waters of August 3, 1866 confirms this.

Both the people of Mangaldan and Manaoag thus have the same right to enjoy the use of the water. The municipality of Manaoag may not alter, modify or reduce the water bed in the part where it passes through Manaoag; neither may it impede the flow of water and deprive the people of Mangaldan the said water.

Sideco v. Sarenas, et al., G.R. No. 15700, Sept. 18, 1920

Facts: Leocadio and Rufino Sarenas claim the exclusive right to the use of waters flowing through the estero (estuary) Bangad, Nueva Ecija, for irrigation purposes. Crispulo Sideco opposed the Sarenas' claim. Sideco's claim goes back to 1885. The predecessor-in-interest of Sideco's father constructed a dam in the waters; the use of the dam was interrupted by outside causes such as imprisonment and war, but was reasserted in 1911, 1915, and 1916. The basis for the Sarenas'claim was not clear. However, the Director of Public Works, with the approval of the Secretary of Commerce and Communications, approved the Sarenas' claim. Sideco filed a complaint before the CFI of Nueva Ecija.

Lower Court's Ruling: The CFI confirmed the decision of the administrative authorities and granted the Sarenas' claim.

Issue: Which of the two claimants have shown priority of use of the waters of the estero Bangad?

Supreme Court's Ruling: The Supreme Court reversed the CFI's ruling. Sideco has the preferential right to the waters of the estero Bangad for the irrigation of his land.

The Philippine law on waters has both a constitutional and a statutory basis and has both a civil law and a common law origin. The Philippine Bill authorized the Government of the Philippine Islands to make rules and regulations for the use of waters. The Philippine Bill stated that "Beneficial use shall be the basis, the measure, and the limit of all rights to water in said islands." Priority of possession, rights to the use of water which had vested and accrued and which were recognized and acknowledged by the local customs, laws, and the decisions of the courts, were to be respected. The possessors and owners of such vested rights were to be maintained and protected in the same. (Act of Congress of July 1, 1902, sections 19, 50)

Local statutory law relating to irrigation is made up of the Spanish Law of Waters of August 3, 1866, various provisions of the Spanish Civil Code, and the Irrigation Act, Act No. 2152 of the Philippine Legislature as amended by Act No. 2652. The Law of Waters was held as in force in the Islands in a decision of the Supreme Court of the Philippine Islands affirmed by the Supreme Court of the United States; and Act No. 2152 continued this law and the provisions of the Civil Code in the matter of waters, and all other existing laws dealing with waters and irrigation systems in force in so far as they are not incompatible with the provisions of the Act. (Ker & Co. vs. Cauden [1906], 6 Phil., 732; [1912], 223 U. S., 268; Act No. 2152, sec. 51.) The Irrigation Act, like the Organic Law, explicitly provides that it shall not work to the detriment of rights acquired prior to its passage. (Secs. 1, 50.) Like the Organic Law, the doctrine of beneficial use is recognized. Priority of appropriation gives the better right as between two or more persons using the public waters. (Sec. 3.) The Civil Code and the Spanish Law of Waters, which must be looked to in order to determine rights which had vested prior to the enactment of the Irrigation Act, provide that the use of waters is acquired either by administrative concession or by prescription of twenty years. (Civil Code, art. 409, and various provisions of the Spanish Law of Waters.)

The doctrine of prior appropriation is recognized as the fundamental principle which primarily determines what constituted a valid appropriation of waters for irrigation purposes. There should be an intent to use the waters for a beneficial purpose. The right is said to be asserted when the claimant started to construct his dam or other appliance and effects his appropriation, provided he continues his work to success and with reasonable diligence. Sideco, according to the facts found by the CFI, has shown prior appropriation.

Orden de Predicadores v. Metropolitan Water District, G.R. No. 18715, Jan. 8, 1923

Facts: During the construction of the Carriedo water supply for the City of Manila, Sagrada Orden de Predicadores (Order) donated to Manila certain lands it owned in San Juan del Monte that were required for bringing water to the city. In return, the City of Manila decided to furnish, free of charge, water from the Carriedo waterworks to the Sto. Domingo Convent. The Sto. Domingo Convent enjoyed the free use of water from 1886 until July 1920. The Metropolitan Water District (MWD), as administrator and trustee of Manila's water supply system, asked the Order to pay for the water it consumed from July to September 1920 worth P52.24. The Order paid the amount under protest and filed the present suit.

Lower Court's Ruling: The CFI absolved the MWD, and directed the Order to pay for the water consumed from September 1, 1916, up to the third quarter of 1920. Section 3 of the Jone Law prohibits that any public property or fund be used, without due compensation, for the use, benefit or maintenance of any church, religious institution or denomination.

Issue: Whether the Sto. Domingo Convent should continue enjoying free water.

Supreme Court's Ruling: The Supreme Court reversed the CFI's ruling.

General Francisco Carriedo's will provided funds for the construction of a water supply system for the inhabitants of Manila. One of the conditions for the grant was for the city of Manila to lay water conduits to the convents of San Francisco, San Juan de Dios, and Sta. Clara. If any other convent wishes to enjoy the same benefit, it should contribute to the expenses in conducting the water. In the present case, the Sto. Domingo Convent donated its lands in San Juan del Monte in favor of the city for the construction of the Carriedo waterworks. In turn, the city granted free use of water in the Sto. Domingo Convent. The free water is compensated by the value of more than 10,000 square meters of donated land. It was error for the CFI to apply Section 3 of the Jones Law.

J. Street's Concurring and Dissenting Opinion: The Order cannot be made to pay for the water used since September 1, 1916, and prior to the third quarter of 1920 because the water was voluntarily supplied. However, the Metropolitan Water District can revoke the privilege given to the Order.

J. Johns' dissent, joined by Jjs. Malcolm and Ostrand: There was no contract or agreement between the Order and the city. Covenants running with land can only be created by a written instrument under seal in which they are recited in, and made a part of, the instrument. Neither the gift of land or of water was dependent upon or connected with the other. Moreover, the current source of waters are from Montalban, and not from the Carriedo canal. The free use of waters, if at all, should be confined and limited to the waters of the Carriedo canal.

Metropolitan Water District v. Public Utility Commission, G.R. No. 22318, Oct. 15, 1924

Facts: Water mains used in the distribution of water are the property of the Metropolitan Water District (MWD). On the other hand, the connecting pipes and meters where the water connections are installed belong to the consumers. Prior to April 1, 1922, the MWD charged its services for repairing meters and connecting lines in proportion to the service rendered. However, persons served would complain about the charges. Hence, the MWD issued Resolution No. 2, series of 1922, which resolved to adopt a level rate for the maintenance and upkeep of the meter and pipelines upon all consumers, as opposed to the previous practice of making charges proportionate to the services rendered.

The complaints ceased, but the Public Utility Commission (PUC) questioned the validity of the resolution. The MWD questioned the PUC's jurisdiction.

Lower Court's Ruling: The PUC declared Resolution No. 2, series of 1922, of the MWD ultra vires and enjoined its enforcement.

Issues: Whether the PUC has the authority to review the rates fixed by the MWD; and

Whether the PUC erred in annulling Resolution No. 2.

Supreme Court's Ruling: The Supreme Court affirmed the jurisdiction of the PUC. It also affirmed the validity of Resolution No. 2.

Section 13 of Act No. 3108 gave the PUC the general supervision and jurisdiction over all public utilities with power to regulate and control the same. "Public utility" includes pipelines and water and sewer systems for public use.

The MWD was acting within its powers when it passed Resolution No. 2 and fixed a system of rates. The outlay on the part of each consumer is always compensated in some measure by the service of inspection, and the expenditure serves as a protection against the heavier outlay that would otherwise be necessary when the inevitable day of repair and reckoning comes. There is no evidence to justify the conclusion that Resolution No. 2 was unreasonable.

Santos v. Public Service Commission, G.R. No. 26771, Sept. 23, 1927

Facts: El Tren de Aguadas supplies water to ships in the Pasig River and Manila Bay. El Tren de Aguadas was organized in Manila in 1894 as "una sociedad de cuentas en participacion." El Tren de Aguadas submitted a tariff of its water service, and even asked for amendment of the tariff, from the former Public Utility Commission (PUC) in 1920. In 1921, El Tren de Aguadas asked for exemption from submitting to the jurisdiction of the PUC.

Lower Court's Ruling: The PUC denied El Tren de Aguadas' petition for exemption, and ordered that it observe the PUC's regulations, render the corresponding reports, and solicit the proper Certificate of Public Convenience.

Issues: Whether the Public Service Commission (PSC) has jurisdiction over El Tren de Aguadas; and

Whether El Tren de Aguadas is a public utility or a public service.

Supreme Court's Ruling: The Supreme Court affirmed the jurisdiction of the PSC. El Tren de Aguadas is a public utility or a public service.

Under Section 14 of Act No. 2307 (Public Utility Law), the PUC shall have jurisdiction over an individual, copartnership, etc. which is a public utility, and said business must be for public use. Under Section 13 of Act No. 3108 (Public Service Law), superseding Act No. 2307, the PSC shall have jurisdiction over an individual, copartnership, etc. which is engaged in public service, and said business must be for hire or compensation.

El Tren de Aguadas is dedicated to the operation of a water system, and this service is for public use or for hire or compensation. El Tren de Aguadas appears to have sold water from its water boat to practically every person who desired to purchase it. Therefore, El Tren de Aguadas is included in the term "public utility" as defined under the Public Utility Law, and in the term "public service" as defined by the Public Service Law. As a consequence, El Tren de Aguadas comes under the jurisdiction of the PSC.

San Juan De Dios Hospital v. Metropolitan Water District, G.R. No. 31508, Dec. 27, 1929

Facts: The Carriedo Water System, a water system named after its founder, existed in the city of Manila before the American occupation. The will of Francisco Carriedo, which provided for the grant for construction of the water system, specified that water should be given for free to the San Juan de Dios Convent. Thus, the San Juan de Dios Hospital received free water.

The Metropolitan Water District (MWD) denied free water service to the nurses home of the hospital. The nurses home is a building separate from the main hospital, and is located about 13 to 16 meters away. The hospital paid MWD under protest.

Lower Court's Ruling: The CFI allowed a refund to the hospital worth P106.57, or what it paid under protest to MWD.

Issues: Whether the San Juan de Dios Hospital is entitled to free water service from the MWD for the nurses home of the hospital.

Supreme Court's Ruling: The Supreme Court affirmed San Juan de Dios' continued enjoyment of free water.

There is an identity existing between the San Juan de Dios Convent and the San Juan de Dios Hospital. The MWD has become the successor of the Carriedo Water System and the trustee of the Carriedo legacy. The hospital has been permitted to receive free water for many years without objection, and has an acquired right to the same.

A hospital is generally considered to be a charitable institution. It is good public policy to encourage works of charity. What Carriedo did in his will was to make a beneficent grant not to a hospital thought of as a building, but to a hospital thought of as an institution. The free water was for the good of the hospital in this larger sense. Should the hospital be enlarged or rebuilt, the water concession would continue just the same. But a hospital cannot function without personnel. And such personnel must have a place to live, which is the reason why a home devoted exclusively to the needs of the nurses was founded. Free water for a nurses home as an adjunct to a hospital is as beneficial to the charitable purposes of the hospital as is free water for the hospital proper.

Metropolitan Water District v. De los Angeles, et al., G.R. No. 33545, Mar. 7, 1931

Facts: The Metropolitan Water District (MWD) is a public corporation organized for the purpose of furnishing an adequate water supply to the City of Manila and the nearby municipalities. The MWD sought to expropriate the land of Sixto De Los Angeles, et al., with an area of 171.8861 hectares, in Montalban, Rizal. MWD alleged that the land was necessary in the construction of the Angat Waterworks System, and the watershed was located by MWD through the land of De Los Angeles. The property underwent expropriation proceedings.

Lower Court's Ruling: The CFI rendered a judgment in accordance with majority of the commissioners and fixed the value of the land and its improvements.

Issues: Whether the MWD has the right to have the complaint dismissed, even after five years of litigation.

Supreme Court's Ruling: The Supreme Court affirmed MWD's right to have the complaint dismissed.

During the pendency of the petition before the Supreme Court, the MWD passed a resolution to quash the condemnation proceedings. The MWD declared that the land is not indispensably necessary in the maintenance and operation of its system of waterworks.

The MWD can expropriate land under the power of eminent domain. This power was granted in Section 63 by an Act of Congress of July 1, 1902, the first Organic Act, and in Section 28 in the second Organic Act of the Philippine Government, of August 29, 1916. Under both sections, the right to condemn property should be for public use.

The power of eminent domain is a right reserved to the people or Government to take property for public use. It is the right of the state, through its regular organization, to reassert either temporarily or permanently its dominion over any portion of the soil of the state on account of public necessity and for the public good. The right of eminent domain is the right which the Government or the people retains over the estates of individuals to resume them for public use. It is the right of the people, or the sovereign, to dispose, in case of public necessity and for the public safety, of all the wealth contained in the state.

The complaint should be dismissed because the MWD itself admitted that the expropriation is not for a public use.

Jjs. Malcolm, Villamor, and Johns' dissent: The court should proceed with a review of the case to determine just compensation. MWD engaged in an experimental suit, which should be condemned. MWD's reason for abandoning the property is the excessive and exorbitant assessed value, thus it could do away with the necessity of the property without detriment to the public and to the maintenance and operation of its system of waterworks. Had the assessment been deemed reasonable, MWD would not have asked for dismissal of the action.

Metropolitan Water District v. Director of Lands, et a., G.R. No. 35490, Oct. 12, 1932

Facts: The Metropolitan Water District (MWD) instituted an action for the taking of 663 hectares of land for the use of the Angat Waterworks System. The lands sought for expropriation are thirty-seven parcels of friar lands. The MWD alleged the Director of Lands is the administrator of the lands, because they are part of the Tala Friar Lands Estate belonging the government. Mariano Escueta, however, claims an in interest in the lands as he is a holder of sales certificates covering them.

Lower Court's Ruling: The CFI accepted the valuation of majority of the commissioners and awarded judgment in favor of Escueta, with a reduction of the amounts due to the Bureau of Lands.

Issues: Whether the valuation of the CFI was correct; and

Whether the MWD should pay the valuation to Escueta

Supreme Court's Ruling: The Supreme Court reduced the amount of just compensation from P216,099 to P100,000.

In the determination of just compensation, the Supreme Court considered the report of an expert, Escueta's offer to the water district in 1926, and sales of lands in the immediate vicinity.

However, an exact ruling on the rights of Escueta and Director of Lands cannot be made because evidentiary facts are lacking.

Cebu Ice & Cold Stores Corporation v. Velez, G.R. No. 35705, Oct. 17, 1932

Facts: Constancia Velez applied for a certificate of public convenience for the operation, installation, and maintenance of an ice and cold storage plant and a refrigerating system in the municipality of Cebu, province of Cebu. Cebu Ice and Cold Stores Corporation (Cebu Ice) opposed the application. Cebu Ice is the only ice plant in Cebu.

Lower Court's Ruling: The Public Service Commission (PSC) ordered the issuance of a certificate of public convenience to Constancia Velez. The PSC found that Cebu Ice's output is insufficient and inadequate for the consumption of the general public in that territory. The public demands more ice and better service than that rendered by Cebu Ice.

Issues: Whether Constancia Velez should be awarded a certificate of public convenience.

Supreme Court's Ruling: The Supreme Court affirmed the decision of the PSC, which was well justified by the evidence.

The service rendered by Cebu Ice was inadequate to serve the public because it has not been able to supply ice to its customers at the time and in the amount desired. A reasonable and well-regulated competition should be stimulated because it encourages and promotes a public service as well as the interest of the community. The Supreme Court was also mindful to the prejudice to the community should Cebu Ice, being the only ice plant in the community, suffer an accident on account of some trouble in the motor or machinery, or because of a strike. The public should be protected from these contingencies, and have ice needed for the consumption of the neighborhood and the uses of life.

Jjs. Hull, Malcolm, Vickers, and Butte's dissent: The findings of fact of the PSC are not reasonably supported by evidence. The PSC's decision believes that Cebu Ice is making too much money and charges excessively for ice, and therefore competition sould be encouraged so that the people will have greater facilities and cheaper ice. To truly protect public interest, the PSC should have exercised its powers and asked Cebu Ice to remedy the defects of its service before competition is permitted.

Municipality of Majayjay v. Dizon, et al., G.R. No. 35838, Feb. 9, 1933

Facts: The municipality of Majayjay constructed on August 1920 a water system to supply water to inhabitants in its municipality. The Majayjay Waterworks System was named Guevara Waterworks System after Senator Pedro Guevara, who was responsible for Act No. 2773 which funded the construction of the system. A year after the Majayjay Waterworks System opened, the municipality of Magdalena, a neighboring town of Majayjay, constructed a water system to supply water to its inhabitants. The waterworks system of Majayjay and Magdalena have the same source of water which is the Sinabak spring, and both use the same pipe. Both waterworks system were funded with municipal funds and with insular aid.

On January 14, 1925, the Chief of the Executive Bureau, the Director of Public Works, the Secretary of the Interior and the Secretary of Commerce and Communications issued a joint circular, the "General regulations governing the administration, operation and maintenance of municipal and provincial waterworks," which ordered that all municipal and provincial waterworks in the government shall be administered by the provincial board when the system furnishes water to two or more municipalities or is to be extended to supply two or more municipalities of a province.

The Chief of the Executive Bureau, the Director of Public Works and provincial board of Laguna transferred the administration of the Majayjay waterworks system from the municipal council of Majayjay to the provincial board of Laguna. The provincial board of Laguna proceeded to approve and promulgate a tariff of charges as well as regulations. The municipality of Majayjay protested.

Lower Court's Ruling: The CFI declared the circular illegal, and issued an injunction against it.

Issues: Whether the circular was illegal, on the ground that it deprives the municipality of Majayjay the control and administration of its waterworks system.

Supreme Court's Ruling: The Supreme Court reversed the decision of the CFI, declared the circular valid, and lifted the injunction.

The Guevara Waterworks System is not a municipal waterworks system because it does not exclusively belong to the municipality of Majayjay. Majayjay and Magdalena have the same source and are connected by a single main pipe. Section 2317 of the Revised Administrative Code reads: "*Municipal waterworks.* – A municipal council shall have the authority to acquire, construct, and maintain waterworks for the purpose of supplying the inhabitants of the municipality with water; to regulate the supply and use of water therefrom; and to fix and collect rents for water thus supplied."

The provincial board should administer the combined waterworks system and the tariff should be regulated by the same entity to avoid conflicts that would arise between municipal entities attempting to defend the rights of their respective inhabitants.

Metropolitan Water District v. Public Service Commission, et al., G.R. No. 39454, Sept. 15, 1933

Facts: Judge Sabino Padilla filed before the Public Service Commission (PSC) a complaint against the Metropolitan Water District (MWD). He reported that he received a notice to test the water meter at his wife's house on November 29, 1932. At the time of receipt, the test had already been made and the meter in question already removed to MWD's repair shop. The same irregularity had been committed in other buildings belonging to his wife.

Lower Court's Ruling: The PSC amended the MWD's rules and regulations regarding inspection and repair of water meters. The PSC stated that every water meter should be tested at the place where it is installed before its removal for repairs; after repair and reinstallation, another test should be conducted to ascertain if it is registering correctly; and that both tests be made in the presence of the owner of the property or his duly authorized representative. The MWD should also send by messenger a written notice sufficiently in advance of the proposed test of the water meter and removal, as well as of the reinstallation and retest.

Issues: Whether the PSC has authority to change the MWD's rules and regulations.

Supreme Court's Ruling: The Supreme Court reversed the decision of the PSC, and set aside the PSC's amendment of the MWD's rules.

The Supreme Court reiterated its ruling in Metropolitan Water District v. Public Utility Commission (46 Phil. 412) which held that: "The District Board of the Metropolitan Water District has power to prescribe uniform rates for the maintenance and upkeep of the meters and connecting pipe lines belonging to consumers of the waters supplied by said Water District."

Judge Sabino Padilla's complaint does not render the rules and regulations of MWD regarding inspection, testing and repair of meters unreasonable. At most, it constitutes negligence on the part of the person who in charge of sending out the notices, or delay in the mail, or failure on the part of the person who received the letter in the house of the addressee, to deliver it promptly. These defects may be corrected by filing a complaint with the Director of the MWD or with the Director of Posts, as the case may be.

The PSC has no authority to change the MWD's rules and regulations. The MWD is vested with legal power to prescribe the procedure to be followed relative to inspection and repair of water meters. There is no evidence showing that such rules and regulations are unreasonable and unjust.

Metropolitan Water District v. Public Service Commission, et al., G.R. No. 38814, Sept. 15, 1933

Facts: The Metropolitan Water District (MWD) issued a resolution which provided for annual charges in the maintenance and upkeep of meters and service line pipes.

The Asociacion de Empleados Civiles de Filipinos, Incorporada (AECFI) filed with the Public Service Commission (PSC) a complaint against the Metropolitan Water District (MWD) for charging excessive and unreasonable rates and prayed for a reduction of the same. Manila Medical Society, the Union de Consumidores, and certain residents of San Juan del Monte joined in the petition.

During the pendency of the case before the PSC, the Board of Directors of MWD reduced the recharge, flat rate on delinquent bills, from P2 to P1.

Lower Court's Ruling: The PSC declared that MWD's financial state did not justify a reduction of its rates. However, MWD should cease collecting service maintenance charges and the recharge should be a percentage of the bill and not a fixed sum regardless of the bill.

Issues: Whether the PSC acted within its authority when it ordered MWD's suspension of charges.

Supreme Court's Ruling: The Supreme Court found no evidence to support the PSC's conclusion that the charges collected by MWD are unreasonable, and set aside the decision of the PSC.

Reasonable rates for public utilities are the ultimate object. The extent of judicial interference is protection against unreasonable rates. The public utility is entitled to a just compensation and a fair return upon the value of its property while the public is using it. MWD's net profits are all invested for the benefit of the water consumers and not to satisfy private ends.

The MWD has power to charge for service maintenance and for delinquency in payment. The MWD is entitled to compensation for its services and to a fair return on its investment. The Supreme Court concluded that there was no evidence before the PSC reasonably supporting the finding that the charges being collected by the MWD were unreasonable.

City of Baguio v. NAWASA, G.R. No. L-12032, Aug. 31, 1959

Facts: The City of Baguio (Baguio) maintained the Baguio Waterworks System under a certificate of public convenience, and financed by the Baguio general fund and by the national government. The National Waterworks and Sewerage Authority (NAWASA) was created by Republic Act No. 1383 for the purpose of consolidating and centralizing all waterworks, sewerage and drainage systems in the Philippines, under one control, direction and general supervision. NAWASA shall have jurisdiction, supervision and control over all territory embraced by Metropolitan Water District (MWD) as well as areas served by existing government-owned waterworks in cities, municipalities and municipal districts. Section 8 of RA 1383 dissolved the MWD and transferred its records, assets and liabilities to NAWASA.

Baguio filed a complaint for declaratory relief against NAWASA. Baguio asserted that RA 1383 does not cover the Baguio Waterworks System. In the event that it does, RA 1383 is unconstitutional as it deprives Baguio of the ownership, control and operation of the waterworks system without compensation and due process of law. RA 1383 is also oppressive, unreasonable and unjust to Baguio and other cities, municipalities and municipal districts similarly situated.

NAWASA filed a motion to dismiss the complaint. NAWASA asserted that RA 1383 is a proper exercise of police power. In the event that RA 1383 is an act of expropriation, it is a constitutional exercise of the power of eminent domain. Further, Baguio Waterworks System is not private property, but public works for public service.

Lower Court's Ruling: The CFI held that the Baguio Waterworks System is private property and may not be expropriated without just compensation. Section 8, RA 1383, which provides for the exchange of NAWASA assets for the value of the Baguio Waterworks System, is unconstitutional as it is not just compensation.

Issues: Whether Baguio Waterworks System is patrimonial property of the city of Baguio;
and Whether RA 1383 is a valid exercise of police power.

Supreme Court's Ruling: The Supreme Court affirmed the decision of the CFI.

RA 1383 merely directs that all waterworks belonging to cities, municipalities and municipal districts in the Philippines be transferred to NAWASA for the purpose of placing them under the control and supervision of one agency with a view to promoting their efficient management. There is no confiscation because NAWASA is directed to pay the districts with an equal value of the assets of NAWASA.

The Baguio Waterworks System, however, is a property owned by Baguio in its proprietary character. A waterworks system is patrimonial property of the city that established it. Hence, waterworks cannot be taken away without observing the safeguards set by our Constitution for the protection of private property.

Baguio cannot thus be deprived of its property even if NAWASA desires to take over the administration of the waterworks in accordance with RA 1383. RA 1383, insofar as it expropriates waterworks without providing for an effective payment of just compensation, violates the Constitution.

City of Cebu v. NAWASA, G.R. No. L-12892, Apr. 30, 1960

Facts: The Municipality of Cebu (Cebu) constructed sewer and drainage facilities, known as the Osmeña Waterworks System. In 1948, the Public Service Commission (PSC) granted Cebu a certificate of public convenience to operate and maintain the Osmeña Waterworks System. In 1955, RA 1383 created the National Waterworks and Sewerage Authority (NAWASA) to have jurisdiction, supervision and control over all territory embraced by Metropolitan Water District (MWD) as well as areas served by existing government-owned waterworks in cities, municipalities and municipal districts. Section 8 of RA 1383 dissolved the MWD and transferred its records, assets and liabilities to NAWASA.

Cebu filed a complaint for declaratory relief against NAWASA.

Lower Court's Ruling: The CFI held that RA 1383 is unconstitutional insofar as it vests NAWASA ownership over the Osmeña Waterworks System without just compensation. NAWASA, however, has the right of control, jurisdiction and supervision over the Osmeña Waterworks System.

Issues: Whether RA 1383 provides for automatic expropriation of the Osmeña Waterworks System;

Whether the Osmeña Waterworks System is proprietary; and

Whether RA 1383 is a valid exercise of police power.

Supreme Court's Ruling: The Supreme Court affirmed the decision of the CFI.

RA 1383 failed to present what kind of assets from NAWASA shall be received in equal value by the cities, municipalities, and other government-owned waterworks and sewerage systems in exchange for their assets. This kind of compensation does not satisfy constitutional provisions.

The Osmeña Waterworks System is proprietary. Only those of the general public who pay the required rental or charge authorized by the System make use of the water. The system serves all who pay charges. It is open to the public (thus making it public service), but only upon payment of a certain rental (thus making it proprietary). A municipal water system designed to supply water to the inhabitants for a profit is a corporate function of the municipality.

Finally, the transfer of ownership of the Osmeña Waterworks System to another governmental agency is not a valid exercise of police power. While the power to enact laws intended to promote public order, safety, health, morals and general welfare is inherent in every sovereign state, such power is not without limitations, such as the constitutional prohibition against the taking of private property for public use without just compensation.

RA 1383 is violative of the Constitution because of the lack of provision regarding effective payment of just compensation.

The Municipality of Lucban vs. National Waterworks and Sewerage Authority, G.R. No. L-15525, October 11, 1961

Facts: The Municipality of Lucban (Lucban) has always managed and controlled the operation of its water system, known as Apolinario de la Cruz Waterworks System since its creation in 1920. It has also controlled the appointment of its personnel. The operating income and expenses of its water system have always been regulated or disposed of by the municipality's council. After the enactment of Republic Act No. 1383, Lucban's municipal council passed Municipal Resolution No. 27 of January 31, 1956, indicating to the National Waterworks and Sewerage Authority (NAWASA) its refusal to transfer to the latter its municipal water system.

In disregard of the aforesaid resolution, Gregorio V. Isana, Municipal Treasurer of Lucban, transferred to NAWASA all the assets and equipment of the Apolinario de la Cruz Waterworks System. On February 15, 1956, Lucban passed Resolution No. 35 disapproving or rejecting the transfer of its water system to NAWASA by its former Municipal Treasurer.

The Municipality of Lucban filed a case against NAWASA. Lucban prayed that: (1) the provisions of Sections 1, 8 and 9 of RA 1383 and those executive orders and circulars providing for the transfer of the ownership and operation of the waterworks of municipalities to the NAWASA, be declared unconstitutional; and (2) the NAWASA and its agents be enjoined from assuming the ownership and operation of Lucban's waterworks.

Lower Court's Ruling: The CFI declared Republic Act No. 1383 as unconstitutional in so far as it vests on the NAWASA ownership of the waterworks system of municipalities, chartered cities and provinces without compensation. The court declared Lucban the owner of the Lucban waterworks system and ordered the NAWASA to render an accounting of the revenues it had received from the operation of the said waterworks system.

The CFI further held that the construction and maintenance of a waterworks system is a purely corporate or business function of a municipal corporation, distinct and separate from its governmental functions; that such property like those owned by private individuals is not subject to the unrestricted authority of the Legislature, except by the exercise of eminent domain and upon full payment of just compensation. Inasmuch as under Section 8, RA 1383, Lucban will be credited by NAWASA on its book with an equivalent value merely in the form of book entry, payment not being in the form of money, the requirements for a valid exercise of the right of eminent domain were not complied with. The State's police power is never intended as a substitute for just compensation in eminent domain proceedings, because liability to the exercise of police power rests entirely on different considerations, and the power does not extend so far as to include the acquisition of property without compensation.

Issues: Whether municipal waterworks systems are public in character and are therefore subject to legislative control;

Whether Republic Act No. 1383 is a legitimate exercise of police power; and

Whether the State can legislate over a municipal waterworks system and exercise the right of eminent domain if the latter is not public property.

Supreme Court's Ruling: The Supreme Court affirmed the CFI's ruling and decided in favor of the Lucban.

The waterworks system is patrimonial property. Although it is open to the public, the system serves only those who pay its charges. RA1383 is not a valid exercise of police power because while the power to enact laws intended to promote public order, safety, health, morals and general welfare of society is inherent in every sovereign state, such power is not without limitations, notable among which is the constitutional prohibition against the taking of private property for public use without just compensation." [Art. III, Sec. 1, Constitution of the Philippines.] For lack of provision regarding effective payment of just compensation, RA1383 was declared violative of the Constitution in the case of City of Baguio v. NAWASA.

Board of Assessment Appeals, et al vs. Court of Tax Appeals, et al, G.R. No. L-18125, May 31, 1963

Facts: In 1956, the Provincial Assessor of Laguna assessed, for purposes of real estate taxes, the property comprising the Cabuyao-Sta. Rosa-Biñan Waterworks System, which the National Waterworks and Sewerage Authority (NAWASA) had taken over pursuant to Republic Act No. 1383. NAWASA protested the assessment and claimed that the properties are exempted from the payment of real estate taxes in view of the nature and kind of said properties and functions and activities of NAWASA as provided in Republic Act No. 1383. NAWASA's protest was overruled on appeal before the Board of Assessment Appeals.

Court of Tax Appeals' Ruling: The Court of Tax Appeals reversed the decision of the Board of Assessment Appeals and ruled in favor of NAWASA.

Issue: Whether the water pipes, reservoir, intake and buildings used by NAWASA in the operation of its waterworks system in the municipalities of Cabuyao, Sta Rosa and Biñan, province of Laguna are subject to real estate tax

Supreme Court's Ruling: The Supreme Court affirmed the decision of the Court of Tax Appeals, and ruled in favor of NAWASA.

In exempting from taxation "property owned by the Republic of the Philippines, any province, city, municipality or municipal district . . .," Section 3(a) of Republic Act No. 470 made no distinction between property held in a sovereign, governmental or political capacity and those possessed in a private, proprietary or patrimonial character. Where the law does not distinguish, neither may the Supreme Court, unless there are facts and circumstances clearly showing that the lawmaker intended the contrary, but no such facts and circumstances have been brought to the Court's attention. The noun "property" and the verb "owned" used inSection 3(a) strongly suggest that the object of exemption is considered more from the view point of dominion, than from that of domain. Moreover, taxes are financial burdens imposed for the purpose of raising revenues with which to defray the cost of the operation of the Government, and a tax on property of the Government, whether national or local, would merely have the effect of taking money from one pocket to put it in another pocket. It would not serve, in the final analysis, the main purpose of taxation. What is more, it would tend to defeat it, on account of the paper work, time and, consequently, expenses it would entail.

Section 1 of RA 104, upon which the Board of Assessment Appeals relies, reads: ". . . All corporations, agencies, or instrumentalities owned or controlled by the government shall pay such duties, taxes, fees and other charges upon their transaction, business, industry, sale, or income as are imposed by law upon individuals, associations or corporations engaged in any taxable business, industry, or activity except on goods or commodities imported or purchased and sold or distributed for relief purposes as may be determined by the President of the Philippines." This provision is inapplicable to the present case for it refers only to duties, taxes, fees and other charges upon "transaction, business, industry, sale or income" and does not include taxes on property like real estate tax.

Municipality of Naguilian vs. NAWASA, G.R. No. L-18540, Nov. 29, 1963

Facts: In August 1956, pursuant to Republic Act No. 1383 creating it, NAWASA took over the control and administration of the Naguilian Waterworks System. Delivery of the said waterworks to NAWASA, having been made involuntarily, the Municipality of Naguilian (Naguilian) filed a special civil action for declaratory relief in the Court of First Instance of La Union, claiming that the said Act is unconstitutional and void, and should not include the municipality's waterworks.

Lower Court's Ruling: The CFI held Republic Act No. 1383 to be unconstitutional in so far as it transfers ownership of Naguilian's water system to NAWASA without just compensation. It further declared the municipality to be the owner of said system.

Issue: Whether NAWASA can exercise jurisdiction, supervision and control over the Naguilian Waterworks System without necessarily acquiring ownership thereof under the State's police power

Supreme Court's Ruling: The Supreme Court affirmed the CFI's ruling and decided in favor of Naguilian.

RA 1383 does not constitute a valid exercise of police power. RA 1383 does not seek to merely transfer administration of the property of a municipal corporation from one agency to another for purposes of supervision or control; ownership and beneficial interest are also conveyed. It carries out a real transfer of dominion over the waterworks to the new agency, NAWASA.

Municipality of La Carlota vs. NAWASA, G.R. No. L-20232, Sept. 30, 1964

Facts: The municipality of La Carlota (La Carlota) owned the waterworks system serving its inhabitants until the enactment of Republic Act No. 1383 on June 28, 1955. By virtue of RA 1383, the National Waterworks and Sewerage Authority (NAWASA) assumed ownership and took over the supervision, administration and control of the said system, including the collection of water rentals from the consumers.

On April 5, 1950, La Carlota commenced this action in the Court of First Instance of Negros Occidental against the NAWASA for recovery and accounting

Lower Court's Ruling: The court ruled in favor of the municipality of La Carlota. It held that the possession, administration, supervision and maintenance of the La Carlota water system vests in the municipality of La Carlota.

Issue: Whether Republic Act No. 1383 authorizes NAWASA to have jurisdiction, supervision and control over all areas now served by existing government owned waterworks and sewerage and drainage systems within the boundaries of cities, municipalities, and municipal districts in the Philippines without paying just compensation.

Supreme Court's Ruling: The Supreme Court affirmed the CFI's decision which ruled in favor of La Carlota.

It is hard to conceive how the jurisdiction, supervision and control of the La Carlota's waterworks system may be vested in NAWASA without destroying the integrity of La Carlota's right of dominion. Ownership is nothing without the inherent rights of possession, control and enjoyment. Where the owner is deprived of the ordinary and beneficial use of his property or of its value by its being diverted to public use, there is taking within the constitutional sense. Such deprivation would be the certain consequence if, as prayed for by NAWASA, it should be allowed to assume jurisdiction supervision and control over the waterworks system of La Carlota. That would be little less than all assumption of ownership itself and not of mere administration.

NAWASA vs. Secretary of Public Works and Communications, G.R. No. L-20928, March 31, 1966

Facts: On January 7, 1959, the Project Engineer of the Angat River Irrigation System filed a letter complaint addressed to the Director of Public Works. The engineer asked that representations be made to the National Waterworks and Sewerage Authority (NAWASA) to secure the release of enough water from the Ipo Dam to avert a crop failure in the Province of Bulacan and from the refusal of the NAWASA to grant the request because of the low water level in its reservoirs.

After a series of indorsements, the Acting Undersecretary of Public Works and Communications, acting for the Secretary, rendered an administrative decision recognizing that Executive Proclamation Nos. 48 (dated November 10, 1922) and 72 (dated December 27, 1950) reserve 3,600 and 40,000 liters per second of water from the Angat River for the Metropolitan Water District (MWD, predecessor of the NAWASA) and the Angat River Irrigation System, respectively. Moreover, it was declared that NAWASA was not entitled to priority in the use of the water of the Angat River, and ordered the said entity to apply for water rights with the Bureau of Public Works, pursuant to section 14 of Act 2152 (Irrigation Law). In effect, the Secretary's decision declared that the NAWASA has no right to use the waters of the Angat River.

NAWASA appealed to the courts as provided by section 4 of the Irrigation Act.

Lower Court's Ruling: The CFI of Manila reversed the Secretary's decision and ruled in favor of NAWASA. The court held that NAWASA had acquired the right to use the waters of the Angat River by prescription.

Issue: Whether NAWASA acquired the right to use the waters of the Angat River by prescription

Supreme Court's Ruling: The Supreme Court affirmed the decision of the CFI and ruled in favor of NAWASA.

By virtue of Proclamation No. 5 of July 10, 1913, as amended by Proclamation No. 48 of November 10, 1922, then Governor-General of the Philippine Islands, General Leonard Wood, expressly declared that, pursuant to Act No. 2152 —

> "I hereby, for reasons of public policy, designate as exempt from appropriation and reserve for the use of the Metropolitan Water District of Manila, Philippine Islands, 3500 liters per second of time, or so much thereof as may be needed for domestic purposes, of the water of the Angat River, Province of Bulacan, Philippine Islands..."

The terms "exempt from appropriation and reserve for the use of the Metropolitan Water District" necessarily imply that MWD was granted authority to withdraw and make exclusive use of the aforesaid amount of water; otherwise, the reservation and exemption from appropriation of such water would lose all significance.

Thus, the Proclamations in favor of the MWD constituted valid and operative administrative concessions in favor of NAWASA's predecessor, and it admittedly, made use of the water thus granted without objection from any party until 1959.

Appellant Secretary argued that under the Irrigation Act, Act 2152 as amended, acquisition by prescription of the use of public waters is not recognized, because under section 14 of said Act, "Any person hereafter desiring to appropriate any public water shall previously make an application to the Secretary of Public Works and Communications through the Director of Public Works."

Both the Civil Code of 1889 (Art. 409) and the Law of Waters of 1866 (Art. 194) recognized two different ways of acquiring the right to the use of public water: (1) by administrative concession and (2) by prescription for 20 years. Since the Irrigation Law nowhere provides that the procedure provided in its section 14 shall be exclusive, and implied repeals are not favored, the Supreme Court saw no reason to disturb the CFI's conclusion that even if the Irrigation Law did modify the old legislation procedure in obtaining administrative concession of public waters, still it has not invalidated prescription as a mode of acquiring title thereto, especially considering that the Civil Code of 1950, Article 504, reiterated the dual juridical source of title to the use of public water, and even reduced the prescriptive period from twenty to ten years. In fact, the Attorney General of the Philippines had heretofore recognized that the Irrigation Law (Art. 2152) has not affected either Article 409 of the Civil Code of 1889 or Articles, 39 and 194 of the Law of Waters of 1866.

In Serrano vs. De la Cruz, 67 Phil. 348, wherein as late as 1939, twenty-seven years after the enactment of the original Irrigation Act No. 2152, this High Tribunal recognized the existence of title to the use of public water by prescription.

Manila Electric Company vs. Public Service Commission, G.R. No. L-24762, Nov. 14, 1966

Facts: These are four (4) different appeals from a decision and an order of the Public Service Commission (PSC), dated March 15, and July 16, 1965, respectively.

On October 22, 1964, the Manila Electric Company (MERALCO) filed a petition seeking approval of a revised (increased) rate schedule, and of the "Terms and Conditions of Service" and the "Standard Rules and Regulations" appended to the application, for the purpose of providing a fair return on the present value of its property now devoted to public service and of attracting foreign capital with which to expand its facilities in order to meet the requirements of its present and future customers. The Republic of the Philippines, the City of Manila, Ricardo Rosal and a number of other entities and individuals opposed said petition.

On March 15, 1965, the PSC disapproved the proposed rates of MERALCO and in lieu thereof authorized and approved a modified rate increase as follows: for Residential Service, 23% instead of 32.5% (increase as proposed); for General Services, 24.99% instead of 30.99% (increase as proposed); for General Power, 24.90%, instead of 25.90% (increase as proposed), all subject to the condition, that a substantial portion of the increased revenues resulting from the revision of rates shall be devoted exclusively to the acquisition of equipment to meet the demands of public service, to avoid a deterioration of the service. This decision was opposed.

On June 29, 1965, the Supreme Court directed the PSC to immediately hear and promptly resolve the motions for reconsideration of its decision of March 15, 1965.

Lower Court's Ruling: On July 16, 1965, two (2) orders were registered in the Office of the Secretary of the PSC. One, filed at about 2:52 p.m., was signed by five (5) members of the PSC amending its March 15, 1965 decision. It exempted from any increase: (A) All hospitals, public and private; (B) All residential flat rate customers; and (C) All metered residential customers who consume from 1 to 30 kwh. In addition, the PSC subjected certain residential customers with a gradual rate of increase based on their consumption, as follows: (1) 31 to 40 kwh – up to 5%; (2) 41 to 50 kwh – up to 8.33%; (3) 51 to 60 kwh – up to 10.71%; (4) 61 to 70 kwh – up to 12.67%; (5) 71 to 80 kwh – up to 14.38%; (6) 81 to 90 kwh – up to 15.88%; and (7) 91 to 100 kwh – up to 17.22%.

The other order filed on July 16, 1965, at about 4:01 p.m., although dated June 14, 1965, was signed by PSC Commissioner Medina and concurred in by Associate Commissioner Panganiban, and favored the granting of the motions for reconsideration of the March 15, 1965 decision. Appeals were taken from said order of July 16, 1965, and the aforementioned decision of March 15, 1965, by the Meralco (G.R. No. L-24762), Ricardo Rosal (G.R. No. L-24841), the Republic of the Philippines (G.R. No. L-24854), and the City of Manila (G.R. No. L-24872).

Issues: Whether the rate increases were proper considering the circumstances obtaining in these cases;

What rate of earnings are allowable;

What shall be the basis for the computation of said earnings; and

Whether the reduction of rates directed in the order of July 16, 1965, is legally justifiable.

Supreme Court's Ruling: The Supreme Court ruled in favor of and affirmed the decision of the Public Service Commission dated March 15, 1965, as amended by the appealed order of July 16, 1965.

On the first issue

The exigencies of the present and the future require, not only that measures be taken to offset the effects of the wear and tear upon MERALCO's lines, equipment and other facilities and to avoid a deterioration of the adequate and satisfactory services it has rendered, but also, that additional and improved equipment and facilities be acquired, installed and used to meet the ever growing demands for electricity in all field of endeavor.

The Supreme Court in arriving at this ruling relied on the March 15, 1965 decision of the PSC, and said that it wanted to avoid a repetition of the state of affairs of PLDT and the unpleasant deterioration of the PLDT's public service. Thus it is better to approve now a modest increase (23% for residential service and approximately 25% for General Service and General Powers) than to have to approve later on a 50% increase plus another 40% and 47% increase, as with the PLDT, with the added advantage that the satisfactory and adequate service rendered by Meralco today will not be interrupted.

On the second issue

In the Philippines, our decisions have consistently adopted the 12% rate for public utilities and the PSC has done no more than adhere to the established jurisprudence thereon. In view of this circumstance, nobody would lend the necessary funds to the MERALCO, if its returns were fixed at a lower rate. The reason is obvious: capitalists would prefer to lend their resources to other public utilities, because the latter would, generally, be in a better position to pay a higher rate of interest and offer a greater assurance of stability and capacity to meet its obligations, all other things being equal.

On the third issue

The Supreme Court found no reason to disturb either the facts upon which the conclusions of the PSC are premised or the conclusions drawn from said facts, both being, by and large, supported by the records. The PSC adopted the present or market value theory, as the basis for the computation of the earnings allowable to and the rate schedule chargeable by the MERALCO, as well as the method of valuation used and the appraisal made by the same, after making therefrom some deductions recommended by GAO.

On the fourth issue

The Supreme Court quoted from part of the PSC's decision appealed from which stated that "[I]n a democracy the instrumentality of the State favors not only one segment of society, like favoring only the poor, or favoring only the rich; it must favor the public good or well-being, the reason for its existence. And so it is that in determining a reasonable compensation for the services of a public utility, it should be just to the public and just to the Company; but the more enlightened reason is that if it cannot be just to both . . . it must in any event be just to the public."

The order appealed from does not give any specific figures that would permit the Supreme Court to estimate the amount of the reduction that would thus be effected in the revenues and returns of the MERALCO, as determined in the original decision, dated March 15, 1965. Neither has the MERALCO supplied the figures necessary to show that the modifications provided in the order of July 16, 1965, are materially inconsistent with the basic principles or premises established and adopted in said decision and confirmed in the order appealed from. And, since the findings of and determinations by administrative organs, in matters which are within their peculiar competence, should be respected by courts of justice, unless clearly devoid of factual or legal foundation, and no such flaw has been shown in the cases at bar, we deem it improper, at this time, to review the modifications thus effected by said order. At any rate, it should always be understood that if, after having been in operation long enough to reasonably ascertain the effects of the contested modifications, the same should prove to be unjust and unfair, the PSC may, after due notice and hearing, grant such relief as may be proper to remove the resulting evils, if any, and promote public interest.

Ramon Duterte, etc., et al., vs. Florencio Moreno, et al., G.R. No. L-15142, Nov. 29, 1966

Facts: Certain employees of the Osmeña Waterworks System were appointed by then Mayor Sergio Osmeña, Jr. The appointments were disapproved at first instance by the Bureau of Civil Service, on reconsideration by the Commissioner of Civil Service and on appeal by the Office of the President through the Executive Secretary.

The employees, together with Mayor Duterte of Cebu City, then filed a petition and prayed for judgment, among others: (1) directing the Bureau of Civil Service and the Executive Secretary to approve the appointments extended by the City Mayor of Cebu in their favor and (2) enjoining the Secretary of Public Works and Communications and the Manager of the National Waterworks and Sewerage Authority (NAWASA) from exercising the power of appointment over the personnel of the Osmeña Waterworks System.

Lower Court's Ruling: The CFI ruled in favor of the Secretary of Public Works, et al. It stated that the power to appoint the officers and employees of the Osmeña Waterworks System is lodged in the Secretary of Public Works and Communications, by virtue of section 8 of Act 2009 creating the said system, and as expressly provided in paragraph 2, section 9 of Republic Act 1383 creating the NAWASA.

Issue: Who is the official vested by law with the power of appointment over the officers and employees of the Osmeña Waterworks System?

Supreme Court's Ruling: The Supreme Court affirmed the lower court's ruling and decided in favor of Secretary of Public Works, et al. It ruled that the contention that the power of the Mayor of the City of Cebu to appoint the employees of the Osmeña Waterworks System is based on section 1916 of the Revised Administrative Code deserves scant consideration. The cited provision of the administrative code clearly refers to waterworks owned or administered by provinces and municipalities and does not include chartered cities.

The power of the city mayor under section 21 of the Cebu City charter applies only if the appointment is not otherwise provided by law. Since by virtue of section 8, Act 2009, the law creating the Osmeña Waterworks System, "the Director of Public Works of the Philippines shall have exclusive charge and control of all work to be done and improvements to be made" under the said Act, it is the Secretary of Public Works and Communication who is empowered to appoint the officers and employees of the Osmeña Waterworks System.

The Municipality of Compostela, Cebu vs. NAWASA, G.R. No. 21763, Dec. 17, 1966

Facts: Sometime in 1940, the Municipality of Compostela (Compostela), Province of Cebu, secured a loan from the National Markets and Waterworks Fund, for the construction of a waterworks system within said municipality, pursuant to Commonwealth Act No. 403. The system began operations on January, 1941. As of the year 1953, Compostela's loan balance was later assumed by the National Government.

Compostela instituted an action to recover the ownership, possession, operation, jurisdiction, supervision and control over its waterworks system which was assumed by the National Waterworks and Sewerage Authority (NAWASA) by virtue of Republic Act No. 1383.

Lower Court's Ruling: The lower court ruled in favor of Compostela. Compostela was declared as the true lawful and exclusive owner and possessor of the waterworks system in question, with the concomitant legal attributes of ownership, such as possession, administration, jurisdiction, supervision, operation and control over the same.

Issue: Whether Compostela is the owner of the waterworks system

Supreme Court's Ruling: The Supreme Court affirmed the lower court's ruling and decided in favor of Compostela.

Although the funds used in constructing the waterworks system were that of the National Government it was in a form of a loan. The condonation of the debt necessarily implied that the National Government was Compostela's creditor, a legal relation which could not have possibly existed had the system belonged, since its establishment in 1940, to the National Government. Further, it ruled that the alleged sufficiency of Republic Act No. 1383 to justify the action taken by the NAWASA has been overruled in a number of cases where it was consistently held that the National Government can not appropriate patrimonial property of municipal corporations without just compensation and due process of Law.

The National Government may not assume the power of administration of patrimonial property of municipal corporations, if such action is based upon the appropriation of said property by the State. The National Government may not, by operation of law, assume such administration, without appropriating the title to the property, if the same or the income derived from its operation will be commingled with other property, either of the National Government or of other municipal corporations, in such a way as to permit the use of the property or income belonging to one of such corporations, for the benefit of another municipal corporation or of the State itself.

Finally, municipalities have authority to fix and collect fees for the water supplied by its waterworks system under Sections 2308(F) and 2317 of the Revised Administrative Code, as well as under Sec. 2 of Republic Act No. 2264.

NAWASA vs. Hon. Alfredo Catolico, et al., G.R. No. L-21705, April 27, 1967

Facts: The Province of Misamis Occidental instituted a case against the National Waterworks and Sewerage Authority (NAWASA) to recover from NAWASA the possession, administration, operation and control of the Misamis Waterworks System and the Oroquieta Waterworks System which had been taken over by the NAWASA since 1956, acting in pursuance of Republic Act No. 1383.

G. R. No. L-21705 is a petition for certiorari, with preliminary injunction, to set aside an order of the Court of First Instance of Misamis Occidental, directing the execution of its decision in Civil Case No. 2281 thereof, entitled "The Province of Misamis Occidental vs. The National Waterworks and Sewerage Authority" during the pendency of the appeal taken by the latter from said decision, whereas G. R. No L-24327 is the aforementioned appeal.

Lower Court's Ruling: The lower court ruled in favor of the Province of Misamis Occidental. It declared the province as the absolute owner of the Misamis Waterworks System and the Oroquieta Waterworks System.

Issue: Whether the Province of Misamis Occidental is entitled to recover the possession, administration and control of the Waterworks Systems

Supreme Court's Ruling: The Supreme Court affirmed the lower court's ruling and decided in favor of the Province of Misamis Occidental.

The Court has repeatedly held, in several decisions, the first of which was rendered as early as August 30, 1959, that RA 1383 — upon the authority of which the NAWASA had acted in taking over the Systems in question — is unconstitutional — insofar as it makes the NAWASA the owner of all local waterworks systems in the Philippines — upon the ground that it constitutes a taking of private property without just compensation and without due process of law.

NAWASA vs. Hobart Dator, G.R. No. L-21911, Sept. 29, 1967

Facts: In 1961, in its decision in G.R. No. L-15525, the Supreme Court declared the municipality of Lucban (Lucban) the owner of the Lucban Waterworks System, which is also known as Apolinario de la Cruz Waterworks System. The decision has become final and executory. On February 2, 1962, Mayor Hobart Dator issued a Memorandum directing the Municipal Treasurer to designate some of the clerks as temporary waterworks collectors to receive the water rentals paid by the users. The treasurer thus proceeded to collect water fees, and made collections from consumers.

National Waterworks and Sewerage Authority (NAWASA) filed with the Court of First Instance of Quezon a petition to declare Mayor Dator in contempt, alleging that the acts of the latter in ordering for collection of fees are in defiance of the Supreme Court's Decision in G.R. No. L-15525. The decision declared Lucban as the owner of the Apolinario de la Cruz Waterworks System, subject to the control and supervision of NAWASA.

Lower Court's Ruling: The lower court ruled in favor of Lucban and Mayor Dator. The collection of water fees and the appointment of personnel of the system are acts relating to internal management and are not included in the regulatory and supervisory powers embraced in the term "jurisdiction, supervision and control" to be exercised by NAWASA over the waterworks system pertaining to municipalities under Republic Act 1383.

Issue: Whether the mayor's order to collect water bills in the name of the municipality constitute contempt of court as it is an encroachment upon NAWASA's supervisory power over the municipality's waterworks system as declared in GR No. L-15525.

Supreme Court's Ruling: The Supreme Court affirmed the lower court's ruling and decided in favor of Lucban and Mayor Dator.

The authority of a municipality to fix and collect rents for water supplied by its waterworks system is expressly granted by law in Section 2317 of the Revised Administrative Code and section 2 of Republic Act No. 2264. Absent these express provisions, the authority of the municipality to fix and collect fees from its waterworks would be justified from its inherent power to administer what it owns privately. It is now settled that although the NAWASA may regulate and supervise the water plants owned and operated by cities and municipalities, the ownership thereof is vested in the municipality and in the operation thereof the municipality acts in its proprietary capacity. If a governmental entity, like the NAWASA, were allowed to collect the fees that the consuming public pay for the water supplied to them by the municipality, the latter, as owner, would be deprived of the full enjoyment of its property. As previously stated, ownership is nothing without the inherent rights of possession, control and enjoyment.

C & C Commercial Corporation vs. NAWASA, G.R. No. L-27275, Nov. 18, 1967

Facts: The National Waterworks and Sewerage Authority (NAWASA) called for bids for the supply of labor and materials for the improvement of the waterworks systems in Iloilo, Davao, Manila and its suburbs, and thereafter awarded the same to the lowest bidders. C & C Commercial Corporation contended that NAWASA in specifying the steel pipes in the call for bids defied the mandate of section 1 of Republic Act 912, which stated that:

> "Section 1. In construction or repair work undertaken by the Government, whether done directly or through contract awards, Philippine made materials and products, whenever available, practicable and usable, and will serve the purpose as equally well as foreign made products or materials, shall be used in said construction or repair work, upon the proper certification of the availability, practicability, usability and durability of said materials or products by the Director of the Bureau of Public Works and/or his assistants."

The C & C Commercial Corporation filed a petition for declaratory relief with the Court of First Instance of Manila, which later became an action for prohibition with preliminary injunction through the process of supplemental pleadings.

Lower Court's Ruling: The CFI ruled in favor of C & C Commercial Corporation. The court found and concluded that the act of the NAWASA in specifying steel pipes for the project of the City of Manila and its suburbs, and in awarding the contracts for the supply of steel pipes in the cases of the Davao and Iloilo Waterworks System, constituted a violation of the provisions of Republic Act 912.

Issue: Whether NAWASA in its call for bids for the supply of steel and centrifugal cast iron pipes for the waterworks projects in Iloilo, Davao, Manila and suburbs, violated the provisions of Section 1 of Republic Act 912.

Supreme Court's Ruling: The Supreme Court set aside the CFI's ruling and decided in favor of NAWASA.

Since Republic Act 912 grants preference only upon the certification of availability, practicability and usability of locally produced materials by the Director of Public Works, that certification must be existing and effective before any right arising therefrom may be claimed to have been violated.

Notwithstanding the clear nationalistic policy of the law aforementioned, the Court cannot recognize the existence of C & C Commercial Corporation's right under the law alleged to have been violated since C & C Commercial Corporation has miserably failed to prove such in this case. With respect to the Interim Project for the City of Manila and its suburbs, it would seem that the decision appealed from had virtually become moot and academic by reason of the passage of Republic Act 4858 which authorizes the President to allow the procurement of supplies necessary for the rehabilitation of the project as an exception to the restrictions and preferences provided for in Republic Act 912, and the President appears to have authorized the General manager of the NAWASA under the said statutory power to purchase all the pipes and materials necessary for the project by negotiated sales.

NAWASA vs. Hon. Andres Reyes and C & C Commercial Corporation, G.R. No. L-28597, February 29, 1968

Facts: On December 12, 1967, the National Waterworks and Sewerage Authority (NAWASA) published an advertisement calling for bids for the supply of steel pipes of 30-inch and 24-inch diameters, intended for the Interim Program of Development of the Distribution System of the Manila and Suburbs Waterworks. C & C Commercial Corporation filed a complaint against the NAWASA in the CFI, alleging that it is a qualified bidder in any bidding of the Government; that its locally manufactured asbestos cement pipes are far less expensive and cheaper than any other type, class or kind of pipe locally manufactured; that its asbestos cement pipes are available, proven and tested to be durable and usable and serve as equally well as steel pipes in waterworks distribution systems, that in the call for bids of the NAWASA in its advertisement of December 12, 1967, asbestos cement pressure pipes had been excluded in violation of Republic Act 912; and that said deliberate discrimination against its products would cause great prejudice to public interest and would cause irreparable damage to NAWASA and the Government.

Lower Court's Ruling: The CFI ordered NAWASA to desist from proceeding with the bidding in question.

NAWASA then filed an original case for certiorari and prohibition against Honorable Reyes, the presiding judge of Branch VI, Court of First Instance of Rizal and the C & C Commercial Corporation, seeking to set aside a preliminary injunction issued by the said court dated January 18, 1968, in Civil Case No. 10523, which restrained herein petitioner from proceeding with the calling of bids for the supply of steel pipes intended for the improvement of its waterworks projects in the City of Manila and its suburbs.

Issue: Whether the preliminary injunction issued by the Court of First Instance of Rizal against NAWASA were invalid for the failure of C & C Corporation to state a cause of action in its original complaint and for being disqualified to participate in public biddings by virtue of Administrative Order No. 66 issued by the President of the Republic of the Philippines.

Supreme Court's Ruling: The Supreme Court ruled in favor of NAWASA. The lack of presentation of a certification as to the availability, practicability, usability and durability of the materials to be used is fatal to C & C Commercial Corporation's cause of action in the lower court, and sustains the claim of NAWASA that private respondent is not entitled to the benefits of Republic Act 912.

Furthermore, C & C Commercial Corporation is disqualified to participate in public biddings by virtue of Administrative Order No. 66 issued by the President of the Philippines on June 26, 1967: "Disqualifying any person, natural or juridical, with pending case with the bureau of internal revenue or bureau of customs or criminal or civil case against him or it involving nonpayment of tax duty or undertaking with the government from participating in public bidding or any contract with the government or any of its branches, subdivisions or instrumentalities."

It appearing that as alleged in the petition, which is not traversed, the private respondent has tremendous tax liabilities with the government and for which several cases have been filed in court against it. C & C Commercial Corporation however, assails the constitutionality of said Administrative Order No. 66 without giving any reason, and considering the well-settled rule that the constitutionality of a law or executive order may not be collaterally attacked, and they shall be deemed valid unless declared null and void by a competent court, the contention deserves no merit.

Province of Bohol vs. NAWASA, G.R. No. L-30856, Feb. 27, 1970

Facts: On August 23, 1962, the Province of Bohol (Bohol) sued NAWASA for payment of just compensation or restitution of the Tagbilaran Waterworks System. Bohol delivered the waterworks system to NAWASA for administration. During the course of the trial, instead of presenting evidence, NAWASA through its counsel made a verbal manifestation that a commissioner be appointed to assess the property of Bohol in its possession.

Lower Court's Ruling: The CFI declared Bohol the owner of the system and put a monetary value upon the assets of the waterworks. The CFI also ordered NAWASA to deliver to Bohol the said parcel of land and its improvements, and further ordered NAWASA to make an accounting of all its expenses resulting from the operation of the waterworks system.

Issue: Whether the Court of First Instance was correct in denying the verbal manifestation made by the NAWASA in open court for the appointment of a commissioner to appraise the waterworks system of the Province of Bohol.

Supreme Court's Ruling: The Supreme Court ruled in favor of the Province of Bohol.

The lone issue may be summarily disposed of by recognizing the correct nature of the present appeal, which is one from an interlocutory order of the lower court. It is all too well-settled to require any citation of authorities that an interlocutory order cannot be the subject of an appeal, as it does not dispose of the case on the merits. Also, the Supreme Court noted NAWASA's lack of interest in referring the matter to a commissioner.

What the NAWASA should have done, if it seriously desired to project the issue of just compensation or fair market value, taking into account what it now claims as the depreciation of the properties of the waterworks system, was to file the proper motion in writing with the court a quo, accompanied by supporting affidavits and other documents. NAWASA did not even attempt to present in evidence the records of the properties and other assets of the waterworks system which are in its control, possession and custody, to prove the matter of just compensation and the fact of depreciation.

Municipality of Paete vs. NAWASA, G.R. No. L-21576, May 19, 1970

Facts: In December 1956, relying on Republic Act No. 1383, Executive Order No. 127 and Proclamation No. 106 of the Provincial Governor of Laguna, the National Waterworks and Sewerage Authority (NAWASA) took possession of, and assumed the administration, control and supervision of the Paete Waterworks System without just compensation.

The municipality of Paete (Paete) commenced Civil Case No. SC-283 for the recovery of the control, possession and administration of its waterworks system from NAWASA. *Lower Court's Ruling*: The CFI of Laguna ruled in favor of Paete. It declared Paete as the owner of the Paete Waterworks system and ordered NAWASA to turn over the possession, control, administration and supervision of the Paete Waterworks System.

Issue: Whether NAWASA was entitled to continue in the possession, administration, supervision and control of the Paete waterworks system.

Supreme Court's Ruling: The Supreme Court ruled in favor of Paete.

Reiterating its decisions in the City of Baguio vs. The National Waterworks and Sewerage Authority (G.R. No. L-12032, August 31, 1959) and City of Cebu vs. NAWASA (G.R. No. L-12892, April 30, 1960), the Supreme Court ruled that while the National Government may expropriate the waterworks system involved in this case, it may validly do so only by providing for and paying the municipality of Paete the just compensation due to it. Consequently said municipality continues to be the owner of the Water System involved in this case and is entitled to have it in its possession and under its administration and control, no lawful and affective expropriation thereof by the State having been made to this date.

Republic of the Philippines vs. Enrique Medina, et al, G.R. No. L-32068, Oct. 4, 1971

Facts: On May 7, 1970, Manila Electric Company (MERALCO) filed an application with the Public Service Commission (PSC) seeking approval of revised rate schedules, with increased charges, claiming that the floating exchange rate and economic conditions resulting therefrom increased its operating and maintenance expenses by more than 40%, and likewise increased the peso cost of servicing its foreign debts, causing it to incur an operational deficit and net loss of over one million pesos a month. The proposed new rates would give MERALCO a reasonable return of below 12% of the present value of its properties devoted to the public service, and implicated no additional burden to small consumers (of 100 KWH or less per month) constituting around 52% of petitioner's customers.

On May 1970, the Republic and other oppositors argued that the increase in rate sought is excessive and unreasonable and will bring about greater hardship to the people, as well as directly cause increase in the cost of production which will have to be unduly borne by the consuming public.

On 27 May 1970, PSC, through Commissioner Enrique Medina, issued an order directing the Auditor General to conduct an examination of MERALCO's books of accounts.

On 9 June 1970, the Office of the Auditor General requested PSC to allow it sufficient time until 30 June 1970 to submit its report. On 16 June 1970, Commissioner Medina replied that in view of his impending retirement on 2 July 1970, the report be submitted on or before 20 June 1970.

On 19 June 1970, the Office of the Auditor General, by return indorsement, informed the Commissioner that although the examination could be finished that day, it would take about a week or so to prepare and write the report.

On 24 June 1970, the Office of the Auditor General submitted its report to the PSC without the supporting documents mentioned therein and, for lack of material time, without being able to delve "into as much detail as would ordinarily be done in a rate audit, considering the magnitude of the utility's operations, so that only the bit items were test-checked." Neither was the Auditor General able to verify the reasonableness of the valuation for lack of material time and the voluminous nature of the appraisal report.

Lower Court's Ruling: After hearing, on 30 June 1970, the PSC promulgated a decision finding the proposed rates reasonable and justified with minor adjustments.

Issues: Whether oppositors-appellants were denied due process by curtailing evidence; and

Whether the rates authorized were not warranted, and that a different method in fixing the rate base should have been adopted.

Supreme Court's Ruling: The Supreme Court affirmed the decision of the Public Service Commission of 30 June 1970, without prejudice to the right of the oppositors to initiate proceedings in the PSC for the adoption of a new formula that may be used. The right is also

reserved to MERALCO to file proceedings seeking to increase the flexibility of the rates fixed by the decision.

On the first issue

The Supreme Court concluded that the claim of denial of due process is unfounded and must be overruled.

While the case could have proceeded at a more leisurely pace, the time employed does not sustain the charge that the case was "railroaded." Undoubtedly, the impending retirement of Commissioner Medina did play a role in his being strict in granting continuances; but in the absence of any evidence of improper motivation (and none was produced), or of proof that oppositors were denied adequate opportunity such conduct does not constitute irregularity warranting reversal. No undue restrictions were placed on oppositors until the PSC, apparently realizing that its policy to allow even individual consumers to cross examine independently MERALCO's witnesses was unworkable and would lead only to confusion, decided to limit the number of cross examiners. This lay within the trier's discretion and should not be interfered with in the absence of abuse, which is not here shown.

Oppositors-appellants insist that the PSC gave the General Auditing Office (GAO) only fifteen days to submit its report on its examination of MERALCO's books of account and that the examination was incomplete. This is not accurate. In fact, GAO finished the audit on 19 June 1970, according to the testimony of Pablo S. Bumanglag, head of the auditing team and submitted its written report on 25 June 1970. Nowhere did he claim that the period allotted was insufficient. Nor was it likely to be such, since Auditor Bumanglag admitted he was familiar with the MERALCO books of account, that had been audited in 1964. Moreover, the subsequent yearly reports of said company were also audited by GAO conformably to the Public Service Act.

The PSC's resolve to avoid unnecessary delay in this particular case appears justified in view of the unwholesome situation that could arise were the hearing Commissioner to withdraw at the middle of the trial, since a newcomer would not be able to proceed without first acquainting himself with what had previously transpired; and also because the evidence indicated that serious losses would be incurred by MERALCO were it to continue serving at the rates previously approved.

On the second issue

The Supreme Court stated that rate-fixing involves a series of technical operations into the details of which the Supreme Court is ill-equipped to enter, and which is primarily entrusted to the PSC.

In authorizing an increase of rates, the PSC proceeded on the basis that the MERALCO as public utility should receive a reasonable return on its investment, equivalent to 12% on the rate base, the present market or replacement value of the properties devoted to the service less depreciation, plus operating capital equivalent to 2 months operating income. The PSC only followed the constant doctrine of the case adjudicated by the Supreme Court.

In following the Supreme Court's doctrines, the PSC can hardly be accused of abuse of discretion. In the case of Manila Electric Co. vs. Public Service Commission, G.R. No. L-24762,14 November 1966, 18 SCRA 651, objections raised against the 12% rate of return, identical to those interposed in the present case, were examined and overruled.

Various theories or formulae have been proposed to appraise the assets and determine what are fair rates for public utilities. Of them three appear to have gained favor at various times: (1) the historical cost or prudent investment formula; (2) that of present cost or market value; and (3) the cost to reproduce theory The decided weight of authority, however, is to the effect that property valuation is not to be solved by formula, but depends upon particular circumstances and relevant facts affecting each utility as to what constitutes a just rate base and what would be the fair return, just to both the utility and the public.

J. Castro's concurrence: J. Castro wants to put on record his reservation that the manner by which the majority, impelled by the peculiar factual circumstances, has disposed of the cases. The manner should be regarded as ad hoc.

Moreover, the doctrine should be expanded to explicitly to authorize the mayor and the municipal or city council of a municipality or city directly affected by a previous adjudication to initiate action for rate revision.

Finally, there should be constant touch with the growth and development of public utility practices and principles in the United States because of our continuing quest to provide one good workable formula.

The Homeowners Association of El Deposito, et al., vs. Hon. Lood, et al., G.R. No. L-31864, Sept. 29, 1972

Facts: The Metropolitan Waterworks and Sewerage System (MWSS, successor-in-interest of National Waterworks and Sewerage Authority [NAWASA]) asserted ownership of a parcel of public land in barrios Corazon de Jesus and Halo Halo in San Juan, Rizal, (more popularly known as "El Deposito" from the Spanish times). Said land, declared for taxation purposes in the name of the old Metropolitan Water District, are composed of aqueducts and an underground reservoir. Portions of the land were sold or leased by NAWASA. MWSS desired the demolition and removal of the houses and structures on the subject land.

The petitioners claimed the same land, and moved to reopen the cadastral proceedings on it. The CFI denied the reopening of the cadastral proceedings. The same petitioners later filed a special civil action for certiorari and mandamus with the Supreme Court, which was dismissed. Reconsideration was also denied for lack of merit.

Lower Court's Ruling: The CFI issued orders to demolish and remove the houses and structures on the subject land. No further justification exists to continue the stay order against the removal and demolition of the constructions.

Issue: Whether the CFI exceeded its authority and jurisdiction and committed grave abuse of discretion in denying the preliminary injunction sought to stay demolition and removal of petitioners' houses and structures

Supreme Court's Ruling: The Supreme Court dismissed the petition and ruled in favor of the CFI.

Authority was not exceeded and there was no grave abuse of discretion in the CFI's denial of petitioners' motion for a writ of preliminary injunction allegedly "to maintain the status quo" and stay demolition and removal of their illegal constructions found to be public nuisances per se and serious hazards to public health. Petitioners' constructions have been duly found to be public nuisances per se (without provision for accumulation or disposal of waste matters and constructed without building permits contiguously to and therefore liable to pollute one of the main water pipelines which supplies potable water to the Greater Manila area) may be abated without judicial proceedings under our Civil Code.

As stated in Sitchon vs. Aquino, the police power of the state justifies the abatement or destruction by summary proceedings of public nuisances per se.

Republic of the Philippines vs. Hon. Rafaela de la Cruz, et al, G.R. No. L-35644, September 30, 1975

Facts: Elvira C. Medua was awarded, by cadastral decree, Lot 920 of the Pili Cadastre with a huge area of 18,394,083 square meters, more or less, or 1,839.4083 hectares. The Republic of the Philippines filed a complaint for annulment of cadastral decree and reversion of said lot, as it was inalienable land of the public domain being part of the Mt. Isarog National Park. The lot includes the spring sources of the Naga City Water System, the Pili Waterworks, the Relay Station of the Bureau of Telecommunications, wood lands with falls, creeks and streams and other tributaries of the Anayan, Himaao and Binasagan Rivers which supply potable as well as irrigation waters to thousands of farms and farmers in the valley below.

Republic maintained that Lot 920 (which was inadvertently included as a lot in the Pili cadastral proceedings initiated in 1968 by the Director Lands, although it was and still is part of the forest reserve) was under the exclusive jurisdiction of the Commission of Parks and Wildlife and as such could not be the subject matter of cadastral proceedings nor be the subject of acquisition by, and award decree by the cadastral court in favor of, private individuals such as respondent Medua.

Lower Court's Ruling: The CFI ruled in favor of Medua and ordered that the complaint be dismissed for want of cause of action.

Issue: Whether the CFI was correct in dismissing the original complaint for want of cause of action.

Supreme Court's Ruling: The Supreme Court ruled in favor of the Republic. It set aside the CFI's dismissal of the Republic's action in Civil Case No. 7201 and remanded the case to the CFI for proper proceedings and trial and determination on the merits in consonance with the court's opinion.

The factual allegations of Republic's complaint plainly state a valid cause of action. Respondent court utterly disregarded the elementary rule that in a motion to dismiss alleged failure to state a cause of action, the movant is deemed hypothetically to admit the truth of the facts alleged in complaint and the alleged want of cause of action must appear on the face of the complaint since the movant cannot traverse its factual allegations. As the motion to dismiss must be deemed to hypothetically admit the truth of the complaint's basic allegation that the 1,839-hectare lot is inalienable land of the public domain part of the Mt. Isarog National Park, it is obvious that the complaint states a valid cause of action. The right of the Republic to revert and recover land of the public domain to which a person has obtained decree or title by mistake or oversight since such a decree or title is void ab initio is a settled matter.

This doctrine is once more reiterated in Republic vs. Animas where the Court held that "(T)he defense of indefeasibility of a certificate of title issued pursuant to a free patent does not lie against the state in action for reversion of the land covered thereby when such land is a part of a public forest or a forest reservation. As a general rule, timber or forest lands are not alienable or disposable under either the Constitution of 1935 of the Constitution of 1973....That the area in question is a forest or timber land is clearly established by the certification made by the Bureau of Forest Development that it is within the portion of the area which was reverted to the category of forest land, approved by the President on March 7, 1958... Titles issued to private parties by the Bureau of Lands when the land covered thereby is not disposable public land but forest land are void ab initio."

Atty. Dominador B. Borje vs. Hon. Court of First Instance of Misamis Occidental, Branch II, Violeta Galicinao, et al., G.R. No. L-48315, Feb. 27, 1979

Facts: Atty. Dominador Borje was the counsel of the water consuming public of Ozamiz City who were indignant against the increase of water rates imposed by Misamis Occidental Water District and who thereby resorted to court action for redress and/or remedy. After acceptance of the retainer as counsel, Atty. Borje allegedly received water bills from the water district without indication of the meter readings, the number of cubic meters consumed and the amounts to be paid. So he refused to pay the "blank bills." For such failure, Atty. Borje's water service was cut on February 6, 1978. Atty. Borje sued Misamis Occidental Water District for damages for disconnecting his water service, with prayer for preliminary mandatory injunction.

Upon order of the trial court the water service was reconnected immediately. The Misamis Occidental Water District moved to dismiss alleging: (1) lack of jurisdiction and (2) pendency of another action between the same parties for the same cause.

Lower Court's Ruling: The CFI dismissed Atty. Borje's complaint on the grounds that there was no malice or bad faith in the severance of the water connection of petitioner and that private respondents had already reconnected the same.

Issue: Whether the CFI committed grave abuse of discretion amounting to lack of jurisdiction in dismissing the complaint without conducting any hearing despite the existence of controverted facts that need to be proved

Supreme Court's Ruling: The Supreme Court granted the petition, set aside for being null and void the Orders of the respondent court dismissing the complaint for damages and denying the motion for reconsideration thereof, and ruled in favor of Atty. Borje. The CFI was further ordered to try the case on the merits after the conduct of a pre-trial conference.

The question posed by Atty. Borje is whether there is really failure to pay on his part. It is his contention that there is no failure as he was sent water bills that did not indicate the meter readings, the number of cubic meters consumed and the amount to be paid. Inasmuch as the Misamis Occidental Water District deny these allegations of Atty. Borje an issue of fact exists that requires presentation of proof. If the allegations of Atty. Borje are true the Misamis Occidental Water District are not authorized to cut off his water service as the collection period as to him would not have even started yet. For an obligation to become due there must be a demand. Default generally begins from the moment the creditor demands the performance of the obligation. Without such demand, judicial or extra-judicial, the effects of default will not arise.

Misamis Occidental Water District also argued that Atty. Borje could have paid his account when the final notice to pay was sent him since he was then already certain of the amount of the bill. This final notice is the notice of disconnection, served on the day the service was cut off. Atty. Borje however, contended that this was the first time he ever came to know of the sum due from him and he claimed that only the total amount due for the months of November and December 1977 was stated. There is no specification of the amount due for each month, the meter readings and the number of cubic meters consumed, thus, leaving uncertain as to how the amount was arrived at. Assuming the truth of these allegations, the Misamis Occidental Water District would not have been entitled still to cut off Atty. Borje's water supply at the time they cut if off as the demand did not contain the requisite details and hence, improper. And even if the sufficiency of the demand is conceded, petitioner has still thirty days from date of such knowledge within which to pay the same in accordance with the contract and the avowed policy of the water district.

Juana vda. De Macanip, et al. vs. Workmen's Compensation Commission and the Municipality of Jaro, Leyte, GR L-43223, May 31, 1979

Facts: During his employment with the Municipality of Jaro, Camilo Macanip contracted schistosomiasis, an illness caused by eating and/or drinking water from unfiltered water. As campaign clerk, Macanip had to go to remote barrios to campaign for payment of taxes, and during his campaign, he drank water containing elements coming from dangerous snail. He never recovered from the ailment and he ultimately died by reason thereof. The Acting Referee awarded death compensation in favor of the widow but the Workmen's Compensation Commission reversed the Referee's decision.

Lower Court's Ruling: The Workmen's Compensation Commission reversed the decision of the Acting Referee on the ground that there is no evidence that the deceased Camilo Macanip was ever treated of any ailment on or before May 14, 1971, and that there is no evidence which shows that the cause of his death, Cardiac Heart Failure due to Pericardial Effusion, is traceable to his former employment with the Municipality of Jaro, Leyte.

Issue: Whether the Workmen's Compensation was correct in ruling against Juana vda. De Manacip and that her claim was not compensable.

Supreme Court's Ruling: The Supreme Court reversed the Workmen's Compensation Commission, and held that, Camilo's illness having supervened during his employment, there is a disputable presumption that the claim is compensable, which presumption the employer failed to rebut.

Gerardo Abe-abe, et al. vs. Judge Luis D. Manta of the Court of First Instance of Camiguin and Pedro P. Romualdo, G.R. No. L-4827, May 31, 1979

Facts: On August 20, 1976, the one hundred thirty-seven petitioners (farmers and owners of ricelands) filed an injunction suit in the Camiguin court against Pedro P. Romualdo. The purpose of the suit was to secure a judicial declaration as to the petitioners' prior vested rights under article 504 of the Civil Code to use the water of the Anibungan (Inoboñgan), Ablay and Tajong Creeks to irrigate their ricelands located upstream in Barrios Lumad and Baylao, Mambajao, Camiguin. The petitioners sought to enjoin Romualdo from using the water of the creeks at night to irrigate his two-hectare riceland located downstream. That nocturnal use was allegedly prejudicial to the petitioners.

Romualdo invoked Presidential Decree No. 424, which took effect on March 28, 1974 and which created the National Water Resources Council (to replace the Water Resources Committee) and vested it with powers to coordinate and integrate water resources development activities or, according to its section 2, to "determine, adjudicate, and grant water rights." Romualdo argued that Presidential Decree No. 424 repealed article 504 of the Civil Code which allows the acquisition of the use of public waters by prescription for ten years. After the lower court found that on January 14, 1977 Romualdo's temporary permit to use the water of the communal irrigation system was cancelled, as directed by the executive director of the National Water Resources Council it issued on February 11, 1977 an order enjoining Romualdo from diverting the water of the creeks to his two-hectare farm.

In the meantime, the Water Code of the Philippines or Presidential Decree No. 1067 was promulgated on December 31, 1976. Romualdo urged the trial court to dismiss the injunction suit on the ground of lack of jurisdiction because the controversy should first be passed upon by the National Water Resources Council, as allegedly required under Presidential Decree No. 424 and under Arts. 88-89 of the Water Code which confer original jurisdiction upon the Council to decide controversies on water rights and which vest appellate jurisdiction in the Court of First Instance to review the Council's decisions.

Lower Court's Ruling: The lower court dismissed the case for lack of jurisdiction and for nonexhaustion of administrative remedies. It ruled in favor of Pedro Romualdo.

Issue: Whether the Court of First Instance of Camiguin has jurisdiction to adjudicate a dispute over water rights for irrigation purposes even if the controversy has not yet been passed upon by the National Water Resources Council, the agency vested with original and exclusive competence to resolve conflicting claims on the appropriation of water resources

Supreme Court's Ruling: The Supreme Court dismissed the petition and ruled in favor of Pedro Romualdo. It is incontestable that the petitioners' immediate recourse is to ventilate their grievance with the National Water Resources Council which, as already noted is the administrative agency exclusively vested with original jurisdiction to settle water rights disputes under the Water Code and under Presidential Decree No. 424.

That jurisdiction of the Council under section 2(b) of Presidential Decree No. 424 is reaffirmed in section 88 of the Water Code and in section 3(d) thereof which provides that

"the utilization, exploitation, development, conservation and protection of water resources shall be subject to the control and regulation of the government through" the Council.

Article 100 of the Water Code repealed the provisions of the Civil Code and the Spanish Law of Waters of August 3, 1866 "on ownership of waters, easements relating to waters, use of public waters and acquisitive prescription on the use of waters, which are inconsistent with the provisions of the" Water Code. Article 100 also repealed the Irrigation Law, Act No. 2152.

Section 3(e) of the Water Code recognizes that "preference in the use and development of waters shall consider current usages and be responsive to the changing needs of the country." Article 95 of the Water Code recognizes vested rights but requires that such rights should be registered on or before December 31, 1978. The Code in its article 20 acknowledges that "the measure and limit of appropriation of water shall be beneficial use", a rule found in the Philippine Bill of 1902.

The Code assumes that it is more expeditious and pragmatic to entrust to an administrative agency the settlement of water rights disputes rather than require the claimants to go directly to the court where the proceedings are subject to unavoidable delays which are detrimental to the parties.

It is patent that the petitioners did not exhaust their administrative remedy. Their complaint should have been lodged with the National Water Resources Council whose decision is reviewable by the Court of First Instance as indicated in sections 88 and 89 of the Water Code.

If a litigant goes to court without first pursuing his administrative remedies, his action is premature or he has no cause of action to ventilate in court.

Donald Mead vs. Hon. Manuel A. Argel, G.R. No. L-41958, July 20, 1982

Facts: On March 11, 1975, Donald Mead (Mead) and a certain Isaac Arivas were charged by the Provincial Fiscal of Rizal with a violation of Section 9, in relation to Section 10 of Republic Act No. 3931. The information alleged that Mead and Isaac Arivas "willfully, unlawfully and feloniously drain or otherwise dispose into the highway canal and/or cause, permit, suffer to be drained or allow to seep into such waterway the industrial and other waste matters discharged due to the operation of the said Insular Oil Refinery Co. so managed and operated by them, thereby causing pollution of such waterway with the resulting damage and/or destruction to the arriving plants in the vicinity and providing hazard to health and property in the same vicinity." The case was subsequently assigned to Branch XXXV of the Court of First Instance of Rizal (Caloocan City) presided over by Judge Argel.

On August 11, 1975, Mead filed a motion to quash on the grounds that the trial court has no jurisdiction and that the Provincial Fiscal of Rizal has no legal personality to file the above-quoted information.

Lower Court's Ruling: The motion to quash was denied by Judge Argel in an Order dated September 5, 1975. Judge Argel in his Order of November 10, 1965 also denied a Motion For Reconsideration filed by Mead.

Issue: Whether Judge Argel acted with grave abuse of discretion when he denied the Motion to Quash and the Motion for Reconsideration filed by Mead and thus holding that the Provincial Fiscal has the authority to file an information for a violation of Republic Act No. 3931, entitled "An Act Creating a National Water and Air Pollution Control Commission (NWAPCC)."

Supreme Court's Ruling: The Supreme Court annulled and set aside the questioned Orders of Judge Argel and ruled in favor of Mead. Judge Argel was ordered to dismiss Criminal Case No. 5984-75 for lack of jurisdiction.

The last paragraph of Sec. 8 of RA 3931 delineates the authority to be exercised by NWAPCC and by the ordinary courts in respect of preventing or remedying the pollution of the waters or atmospheric air of the Philippines. The provision excludes from the authority of NWAPCC only the determination of and the filing of court actions involving violations of the New Civil Code on nuisance. It is expressly directed that on matters not related to nuisance "no court action shall be initiated until NWAPCC shall have finally ruled thereon." This provision leaves little room for doubt that a court action involving the determination of the existence of pollution may not be initiated until and unless NWAPCC has so determined the existence of what in the law is considered pollution.

The Provincial Fiscal of Rizal lacked the authority to file the information charging Mead with a violation of the provisions of Republic Act No. 3931. There was no prior finding or determination by NWAPCC that the act of Mead had caused pollution in any water or atmospheric air of the Philippines. It is not to be understood, however, that a fiscal or public prosecutor may not file an information for a violation of the said law at all. He may do so if NWAPCC had made a finding or determination that the law or any of its orders had been violated. In the criminal case presently considered, there had been no prior determination by NWAPCC that the supposed acts of the petitioner had caused pollution to any water of the Philippines. The filing of the information for the violation of Section 9 of the law is, therefore, premature and unauthorized. Concommittantly, Judge Argel is without jurisdiction to take cognizance of the offense charged therein.

Amistoso vs. Ong, et al., G.R. No. L-60219, June 29, 1984

Facts: Amistoso filed before the Court of First Instance Camarines Sur a complaint alleging that he and Epifania Neri (Neri) are the owners of adjoining parcels of agricultural; that an irrigation canal traverses the land of Neri through which irrigation water from a river passes and flows to the land of the Amistoso for the latter's beneficial use and that Neri, owner of the land on which said irrigation canal exists and co-respondent Senecio Ong, the cultivator of the said property, despite repeated demands refused to recognize the rights and title of the petitioner to the beneficial use of the water passing through the aforesaid irrigation canal and to have petitioner's rights and/or claims annotated on the Certificate of Title of respondent Neri. Hence, the filing of the complaint.

Ong, et al., denied the existence of any right on the part of Amistoso to the use of the canal mentioned in the complaint, much less any deed or encumbrance on their property and assert that they have not performed any act prejudicial to Amistoso that will warrant the filing of the complaint against them. Ong, et al. also alleged that the Court has no jurisdiction over the same.

Lower Court's Ruling: Trial was held and after Amistoso has rested his case, Ong, et al. filed a motion to dismiss, instead of presenting their evidence. Ong, et al. claim that this case falls within the exclusive jurisdiction of the National Water Resource Council (NWRC) pursuant to PD 424 as it involves the development, exploitation, conservation and utilization of water resources. Acting on this motion, the RTC dismissed the complaint filed.

Issue: Whether it is the regular courts or NWRC which has jurisdiction

Supreme Court's Ruling: The regular courts have jurisdiction and Amistoso's right to the beneficial use of said irrigation canal and water passing through the same is recognized.

The court is not being asked to grant such right, but only to recognize such valid and vested existing right. What is involved in this case is not the right to use, exploit or convey water, but such right was already given to petition through an approved Water Rights Grant, partaking of a nature of a document like a water permit recognized under PD 1067. Water right is granted by the government to appropriate and use water and being a vested right, entitles petitioner to the beneficial use of water and cannot be litigated as to bring the case within NWRC's jurisdiction.

BF Northwest Homeowners Asso. Inc. v. IAC and BF Homes, Inc., G.R. No. L-72370, May 29, 1987

Facts: BF Homes, Inc. is a subdivision owner and developer in Parañaque. In 1972, it filed a petition for a Certificate of Public Convenience (CPC) and for authority to charge water rates before the then Board of Power and Waterworks (National Water Resources Council (NWRC) as previously named with respect to powers and functions relative to waterworks).

NWRC granted a CPC to BF Homes, Inc. for the operation and maintenance of waterworks systems at the BF Homes. It also approved a Compromise Agreement entered into between BF Homes Inc. and BF Parañaque Homeowners Association, Inc. embodying the water rates chargeable to customers. Later on, NWRC issued two other orders increasing the water rates.

Lower Court's Ruling: These NWRC orders triggered the filing of three separate cases set out by BF Northwest Homeowners Association, Inc. The RTC dismissed the three cases for lack of jurisdiction. The NWRC, which took over the functions of the Public Service Commission (PSC), has the rank of an RTC; hence, only the Supreme Court and the Court of Appeals may review NWRC decision on water rates.

Issue: Whether the RTC or the CA has jurisdiction over actions to annul Orders, Resolutions and/or Decisions of the National Water Resources Council (NWRC) relative to water rates

Supreme Court's Ruling: The RTC has jurisdiction over the Orders, Resolutions and/or Decisions of the National Water Resources Council (NWRC) relative to water rates.

Created by P.D. No. 424, the NWRC was vested with the general power to coordinate and integrate water resources development, and among others, to formulate and promulgate rules and regulations for the exploitation and optimum utilization of water resources, including the imposition on water appropriators of such fees or charges as may be deemed necessary by the Council.

P.D. No. 1067, which enacted the Water Code of the Philippines, identified the NWRC as the administrative agency for the enforcement of its provisions and was "authorized to impose and collect reasonable fees or charges for water resources development from water appropriators." The law clearly ranked NWRC with "inferior courts." NWRC decisions on water rights controversies are appealable to the CFI. Hence, the Court found no room for the pronouncement that the NWRC is at par with the RTC.

The NWRC, which substituted the PSC, even though vested with the same powers and functions as PSC in so far as waterworks are concerned, is not identical to the PSC. The PSC was abolished and replaced by several specialized regulatory boards, and rulings and decisions of the Boards were appealable in the same manner as the rulings and decisions of the PSC, that is, to the Supreme Court. It is those Boards therefore, which may be considered at par with the PSC.

Pursuant to P.D. No. 1206 creating the Department of Energy, the Board of Power and Waterworks was abolished and its functions relative to waterworks were transferred to the

NWRC. The NWRC was not given the stature of the PSC. On the contrary, its inferior status, *vis-a-vis* the PSC, is further shown by the following considerations: 1) the PSC Commissioners were expressly conferred the rank and privileges of CFI Judges. On the other hand, the NWRC is not composed of Commissioners. Its membership is confined to specified officials headed by the Secretary of Public Works. 2) While the PSC may summarily punish for contempt, the NWRC is not empowered to do so. The aggrieved party must file an application with the proper RTC. 3) It was the Supreme Court, which was vested with jurisdiction to review, modify or set aside any order, ruling, or decision of the Commission. In contrast, NWRC decisions on water rights controversies are appealable to the proper RTC.

Therefore, jurisdiction over actions for annulment of NWRC decisions lies with the RTCs. The appellate jurisdiction of the RTC over NWRC decisions covers such broad and all embracing grounds as grave abuse of discretion, questions of law, and questions of fact and law. This conclusion is also in keeping with the Judiciary Reorganization Act of 1980, which vests RTCs with original jurisdiction to issue writs of certiorari, prohibition, mandamus, relating to acts or omissions of an inferior Court. Considering the specificity with which PD No. 1067, a special law, treats appeals from the NWRC, there is no room to apply BP 129, a general law, which confers to CA exclusive appellate jurisdiction over decisions of quasi-judicial agencies. The fact that one is special and the other is general creates a presumption that the special is to be considered as remaining an exception to the general, one as a general law of the land, the other as the law of a particular case.

BF Homes, Inc. and Phil. Waterworks and Construction Corp. v. NWRC and CA, G.R. No. 78529, Sept. 17, 1987

Facts: BF Homes, Inc. constructed water distribution systems at its subdivisions so that residents would have an adequate supply of potable water. BF Homes, Inc. applied for and was granted a Certificate of Public Convenience and Necessity (CPCN) for its water distribution system at its Las Piñas subdivision. BF Homes, Inc. sought authority from the National Water Resources Council (NWRC) to transfer the CPCN to Philippine Waterworks and Construction Corporation (PWCC). NWRC did not act upon the application. BF Homes, Inc. also has a CPCN to operate its water distribution system at B.F. Homes Parañaque.

BF Homes, Inc. sought authority from NWRC to increase the water rates at B.F. Homes Parañaque. NWRC similarly failed to date to act upon this application to increase rates.

Lower Court's Ruling: BF Homes, Inc. filed a petition for mandamus with the CA to compel NWRC to act on the application for transfer of the franchise at Las Piñas to PWCC and also to act upon the application for authority to increase water rates.

The CA, in two Resolutions, dismissed the petition for mandamus. Mandamus will not issue to compel NWRC to act on the matters pending before it, since such acts are not ministerial in nature.

Issue: Whether NWRC actions can be compelled by mandamus

Supreme Court's Ruling: The Supreme Court reversed the CA's ruling. Mandamus will not issue to control the performance of discretionary, non-ministerial, duties, that is, to compel a body discharging duties involving the exercise of discretion to act in a particular way or to approve or disapprove a specific application.

BF Homes, Inc. does not seek to compel NWRC specifically to approve BF Homes, Inc.'s applications pending before NWRC. What BF Homes, Inc. seeks, and is entitled to, is a writ that would require NWRC to consider and deliberate upon the applications before it, examining in that process whatever evidence lies before it and to act accordingly, either approving or disapproving the applications before it, in accordance with applicable law and jurisprudence and in the best interest of the community involved. NWRC has failed, for unexplained reasons, to exercise its discretion and to act, one way or the other, on the applications of BF Homes, Inc. for a prolonged period of time imposing in the process substantial prejudice or inconvenience upon the many hundreds of families living in the two subdivisions involved. NWRC also failed to inform BF Homes, Inc. of a supposed need for additional data concerning PWCC.

Hagonoy Water District v. NLRC, et al., G.R. No. 81490, Aug. 31, 1988

Facts: Dante Villanueva was employed as service foreman by Hagonoy Water District (HWD) when he was indefinitely suspended and thereafter dismissed for abandonment of work and conflict of interest. He filed a complaint for illegal dismissal, illegal suspension and underpayment of wages and emergency cost of living allowance against HWD with the then Ministry of Labor and Employment.

HWD immediately moved for outright dismissal of the complaint on the ground of lack of jurisdiction. Being a government entity, HWD claimed, its personnel are governed by the provisions of the Civil Service Law, not by the Labor Code, and protests concerning the lawfulness of dismissals from the service fall within the jurisdiction of the Civil Service Commission, not the Ministry of Labor and Employment.

Labor Court's Ruling: The Labor Arbiter proceeded to hear and try the case and rendered a Decision in favor of Villanueva. On appeal, the National Labor Relations Commission affirmed the decision of the Labor Arbiter. HWD's motion for reconsideration was denied.

Issue: Whether local water districts are government owned or controlled corporations whose employees are subject to the provisions of Civil Service Law

Supreme Court's Ruling: Water Districts are government-owned and –controlled corporations whose employees are subject to the provisions of the Civil Service Laws.

PD 1479 wiped away PD 198's provision exempting the employees of water districts from the application of the Civil Service Law. While the 1987 Constitution provides that Civil Service embraces GOCCs with original charters, the applicable law at that time was that the Labor Arbiter has no jurisdiction to render the decision that he in fact rendered. The Court merely stated that for whatever that effect might be, and it will deal with that when an appropriate case comes before the Court— the Court believes that the 1987 Constitution did not operate retrospectively so as to confer jurisdiction upon the Labor Arbiter to render a decision which, under the law applicable at the time of the rendition of such decision, was clearly outside the scope of competence of the Labor Arbiter. NLRC had nothing before it which it could pass upon in the exercise of its appellate jurisdiction. A decision of the Labor Arbiter without jurisdiction over the case is a complete nullity, vesting no rights, imposing no liabilities.

Marmont Resort Hotel Enterprises v. Guiang, et al., G.R. No. 79734, Dec. 8, 1988

Facts: Under the agreement between Maris Trading and Marmont Resort Hotel, Maris Trading undertook to drill for water and to provide all equipment necessary to install and complete a water supply facility to service the hotel. In fulfillment of its contract, Maris Trading drilled a well and installed a water pump on a portion of a parcel of land, then occupied by the Guiang spouses. Five (5) months later, a second agreement was executed between Maris Trading and Aurora Guiang, with Federico Guiang signing as witness whereby the Guiangs sell, transfer and cede all possessory rights, interest and claims over the portion of the lot where the water source is located in favor of Maris Trading.

After some time, the water supply of the hotel became inadequate to meet the hotel's water requirements. It secured the services of another contractor, which suggested that in addition to the existing water pump, a submersible pump be installed to increase the pressure and improve the flow of water to the hotel. Accordingly, the hotel manager sought permission from the Guiang spouses to inspect the water pump which had been installed on the portion of the land previously occupied by the spouses and to make the necessary additional installations thereon. No such permission, however, was granted. For this refusal to allow representatives of the hotel and its contractor to enter the water facility site, a complaint for Damages was filed against the Guiangs to which the spouses denied having knowledge of the first agreement and that the second agreement was invalid for not having been executed in accordance with law.

Trial Court's Ruling: The RTC dismissed the complaint finding that while Aurora Guiang had validly alienated her rights over the disputed portion of the land to Maris Trading, no such transfer of rights was shown from Maris Trading to Marmont.

Appellate Court's Ruling: The CA affirmed the RTC's decision and dismissed the appeal for lack of merit. The Memoranda of Agreement could not be legally considered as the documents were not formally offered in evidence by either party.

Issue: Whether the Memoranda of Agreement should be considered as they were already admitted in the pre-trial order; and

Whether the ownership of rights belongs to Maris Trading; hence, Guiang can prohibit Marmont Resort from entering the land

Supreme Court's Ruling: The Memoranda of Agreement should be considered because these have been admitted during the pretrial. This constitutes judicial admission, the veracity of which requires no further proof.

While the wife solely contracted the agreement, it was also signed by the husband as a witness, indicating that the husband gave consent to the execution of the agreement by his wife. Even if the land in dispute is public land, the Guiang spouses chose to transfer such rights to Maris Trading, and in the same agreement, the Guiang spouses therein had acknowledged the earlier agreement and the obligations. The courts below failed to take account of the fact that the sole purpose of Maris Trading in acquiring possessory rights over that specific portion of the land where well and pump and piping had been installed, was to supply the water requirements of Marmont Hotel.

Said stipulations in the agreements appear to have been designed precisely to benefit the hotel and, thus, partake of the nature of stipulations *pour autrui,* contemplated in Article 1311 of the Civil Code. A stipulation *pour autrui* is a stipulation in favor of a third person conferring a clear and deliberate favor upon him, which stipulation is found in a contract entered into by parties neither of whom acted as agent of the beneficiary.

Tanjay Water District v. Hon. Gabaton, et al., G.R. No. L-63742, April 17, 1989

Facts: Tanjay Water District filed a case against the Municipality of Pamplona and its official to prevent them from interfering in the management of the Tanjay Waterworks system. Judge dismissed the case for lack of jurisdiction over the subject matter, being water by virtue of Presidential Decree 1067.

In another case, Josefino Datuin filed a complaint for illegal dismissal against Tarlac Water District in the Department of Labor and Employment, which decided in favor of Datuin. On appeal before the National Labor Relations Commission (NLRC), NLRC reversed the decision and dismissed thr complaint for lack of jurisdiction holding that Tarlac Water district is a corporation created by special law, its officers and employees belong to the civil service and their separation should be governmed by Civil Service Rules and Regulations.

Issue: Whether water districts created under PD No. 198 are private corporations or government-owned or controlled corporations

Supreme Court's Ruling: Both petitions are dismissed without prejudice to the Tanjay Water District filing their complaint in the NWRC and Datuin seeking redress in the Civil Service Commission.

The Court has already ruled that water districts are quasi public corporations whose employees belong to the civil service, hence, the dismissal of those employees shall be governed by the civil service law, rules and regulations. Inasmuch as PD No. 198, as amended, is the original charter of Tanjay Water District and Tarlac Water District and all water districts in the country, they come under the coverage of the civil service law, rules and regulations. PD 1067 likewise provided that NWRC has jurisdiction over all disputes relating to appropriation, utilization, exploitation, development, control, conservation and protection of waters. Regular courts only have appellate jurisdiction.

Pollution Adjudication Board v. CA and Solar Textile Finishing Corp., G.R. No. 93891, March 11, 1991

Facts: Solar Textile Finishing Corporation (Solar) in Malabon is involved in bleaching, rinsing and dyeing textiles. Solar directly discharged its untreated wastewater into a drainage canal leading to the Tullahan-Tinejeros River. Pollution Adjudication Board (PAB) issued an *ex parte* Order directing Solar immediately to cease and desist from utilizing its wastewater pollution source installations. The National Pollution Control Commission (NPCC) and the Department of Environment and Natural Resources (DENR) based the Order on findings of several inspections of Solar's plant.

Lower Court's Ruling: Solar went to the RTC of Quezon City on petition for certiorari with preliminary injunction against the Board. The RTC dismissed the case on the ground that appeal and not certiorari from the questioned Order of the PAB as well as the Writ of Execution was the proper remedy, and that the PAB's subsequent Order allowing Solar to operate temporarily had rendered Solar's petition moot and academic.

Appellate Court's Ruling: The CA reversed the trial court's order of dismissal and remanded the case to that court for further proceedings. The CA also held that certiorari was a proper remedy since the PAB Orders may result in great and irreparable injury to Solar; and that while the case might be moot and academic, "larger issues" demanded that the question of due process be settled.

Issue: Whether the PAB denied due process to Solar

Supreme Court's Ruling: There was no denial of due process.

Under PD 984, an *ex parte* cease and desist order may be issued by the PAB (a) whenever the wastes discharged by an establishment pose an "immediate threat to life, public health, safety or welfare, or to animal or plant life," or (b) whenever such discharges or wastes exceed "the allowable standards set." On the one hand, it is not essential that PAB prove that an "immediate threat to life, public health, safety or welfare, or to animal or plant life" exists before an *ex parte* cease and desist order may be issued. It is enough if PAB finds that the wastes discharged do exceed "the allowable standards set."

In respect of discharges of wastes as to which allowable standards have been set by the NPCC, PAB may issue an *ex parte* cease and desist order when there is *prima facie* evidence of an establishment exceeding such allowable standards. Where, however, the effluents or discharges have not yet been the subject matter of allowable standards set by the NPCC, then PAB may act on an ex parte basis when it finds at least *prima facie* proof that the wastewater or material involved presents an "immediate threat to life, public health, safety or welfare or to animal or plant life." Since the applicable standards set by the NPCC existing at any given time may well not cover every possible or imaginable kind of effluent or waste discharge, the general standard of an "immediate threat to life public health, safety or welfare, or to animal and plant life" remains necessary.

The Court, however, must assume that the extant allowable standards have been set by the NPCC or PAB precisely in order to avoid or neutralize an "immediate threat to life, public health, safety or welfare, or to animal or plant life."

There was *prima facie* evidence before the PAB that the effluents emanating from Solar's plant exceeded the maximum allowable levels of physical and chemical substances set by the NPCC and that accordingly there was adequate basis supporting the *ex parte* cease and desist order issued by the PAB. It is also well to note that the previous owner of the plant facility — Fine Touch Finishing Corporation — had been issued a Notice of Violation on 20 December 1985 directing it to cease and refrain from carrying out dyeing operations until the water treatment plant was completed and operational. Solar, the new owner, informed the NPCC of the acquisition of the plant on March 1986. Solar was summoned by the NPCC to a hearing on 13 October 1986 based on the results of the sampling test conducted by the NPCC on 8 August 1986. PAB refrained from issuing an *ex parte* cease and desist order until after the November 1986 and September 1988 re-inspections were conducted and the violation of applicable standards was confirmed. In other words, PAB appears to have been remarkably forbearing in its efforts to enforce the applicable standards vis-a-vis Solar. Solar, on the other hand, seemed very casual about its continued discharge of untreated, pollutive effluents into the Tullahan-Tinejeros River, presumably loath to spend the money necessary to put its Wastewater Treatment Plant ("WTP") in an operating condition.

In *TDI v. Court of Appeals, et al.,* G.R. No 94759, 21 January 1991, the Court upheld the summary closure made by an LGU. In this case, the *ex parte* CDO was issued not by an LGU official but by the PAB, the very agency of the Government charged with the task of determining whether the effluents of a particular industrial establishment comply with or violate applicable anti-pollution statutory and regulatory provisions.

Solar claims that the petition for certiorari was the proper remedy as the questioned Order and Writ of Execution issued by the Board were patent nullities. Since the Court have concluded that Order and Writ of Execution were entirely within the lawful authority of PAB, the trial court did not err when it dismissed Solar's petition for certiorari. It follows that the proper remedy was an appeal from the trial court to the Court of Appeals, as Solar did in fact appeal.

Merville Park Homeowners Asso. Inc., v. Hon. Velez et al., G.R. No. 82985, Apr. 22, 1991

Facts: Merville Park Homeowners Association, Inc. (MPHAI) owns the pipelines and waterworks system of Merville Park Subdivision in Parañaque. MPHAI entered into a contract of lease with Edgardo Salandanan covering its waterworks system to insure efficient water service within the village. That contract required Salandanan to construct additional wells, to put into full operational condition and/or rehabilitate existing wells. The contract also allowed Salandanan to increase annually the water rates but only to the extent of ten percent (10%) of the preceding year's rates, but these rates could be charged only upon completion of a well. The contract was later on amended to provide for a period of ten (10) years commencing from its signing indicating that the parties agreed to increase the water rates which increase was in turn approved by the National Water Resources Council (NWRC). Each homeowner shall also pay a deposit which was to be used to pay for Salandanan's overdue electric bill with Meralco, and thereafter, to be credited against the homeowner's future water bills.

Subsequently, Salandanan again asked for an increase in water rates. MPHAI was at first adamant to the point of filing a case in court against Salandanan. But sometime in 1982, MPHAI and Salandanan arrived at a compromise, with MPHAI consented to an increase in the water rates as urged by Salandanan but conditioned upon his completion of a well. The compromise agreement was later amended and provided for a new water rate schedule effective 1 July 1984, but similarly conditioned upon Salandanan's completion of same well.

MPHAI filed a civil case before RTC Makati against Salandanan. MPHAI sought to rescind the amended lease contract and compromise agreement, and prayed for issuance of a writ of preliminary mandatory injunction. MPHAI claims that for failure to pay his electric bills, Meralco had cut off the electric power supply resulting in a severe water shortage and thereby endangering the lives and health of the residents thereof; that he had violated his contract by neglecting to drill and complete new wells and undertake immediate repairs of broken water pumps; that there was an immediate need to issue a writ of preliminary mandatory injunction to enable it to take possession and control of the water works system.

Lower Court's Ruling: The RTC granted MPHAI's prayer for a writ of preliminary mandatory injunction and directed Salandanan to turn over to MPHAI the operation and control of the waterworks system. This prompted Salandanan to file an urgent motion for reconsideration stating that the regular courts had no jurisdiction over the subject matter of the case, being under the jurisdiction of the NWRC; and that the case was filed prematurely considering that MPHAI had not as yet exhausted the available administrative remedies. Salandanan also argued later on such a writ was not a proper remedy to deliver property in the possession of one party to another. But, before Salandanan's motion could be resolved, the case was, for the third time, re-raffled and transferred this time to the sala of respondent Judge Francisco X. Velez, who issued an order lifting and setting aside the writ, and directing the Deputy Sheriff to return and restore to Salandanan the possession of the waterworks system.

Issue: Whether Judge Velez committed grave abuse of discretion in ordering the restoration of the waterworks system to Salandanan

Supreme Court's Ruling: MPHAI has failed to show any grave abuse of discretion, or any act without or in excess of jurisdiction, on the part of Judge Velez in issuing the orders lifting and setting aside the writ of preliminary mandatory injunction, and ordering Salandanan restored to the possession of the waterworks system involved.

MPHAI failed to show the existence of some extraordinary situation imposing upon it irreparable injury and clearly calling for the issuance and maintenance of the writ of preliminary mandatory injunction. There was no showing that the severe water shortage had not been remedied at or before the said material times and that a clear and present danger of the same or similar default on Salandanan's part, threatening the same severe consequences for the subdivision residents, persisted. On the contrary, it appears that the MWSS had commenced servicing the Subdivision before issuance of the Judge's orders, which circumstance surely reduced the probabilities of recurrence of such breakdown of water supply. MPHAI has not shown that the continued possession of the leased waterworks system by Salandanan created a continuing, clear and imminent danger that the Subdivision would suffer from lack of adequate supply of potable water.

Judge Velez was not merely acting arbitrarily and capriciously in holding that Salandanan was entitled to be maintained in the possession of the leased waterworks system pending resolution of the on-going action for rescission of the amended contract of lease and compromise agreement. The relations have been strained and frayed by the controversies and litigation between the MPHAI and Salandanan so to protect residents from the hardships that would ensue from any recurrence of the problems encountered after delivery of the possession of the waterworks system to Salandanan, he should be required to post either a cash deposit or a surety bond from a surety company of indubitable solvency, conditioned upon the continued and adequate supply of potable water to Subdivision residents and faithful compliance with his other obligations under existing agreements. This shall be in addition to any performance bond required under existing contractual arrangements. Moreover, the trial court has full authority to issue such further order or orders may become necessary to protect adequately the residents from disruption of water service, attributable to the failure of either MPHAI or Salandanan to comply with any of their respective contractual obligations during the pendency of the action for rescission of contract.

Marilao Water Consumers Asso., Inc. v. IAC, et al., G.R. No. 72807, Sept. 9, 1991

Facts: Marilao Water District was formed through a Resolution of the Sangguniang Bayan of the Municipality of Marilao, which resolution was thereafter forwarded to the Local Water Utilities Administration (LWUA) and "duly filed" by it after ascertaining that it conformed to the requirements of the law. Marilao Water Consumers Association, Inc. filed a petition before the RTC claiming that the creation of the water district is defective and illegal. Marilao Water District filed its Answer with affirmative defenses that (a) the RTC lacked jurisdiction over the subject matter since the water district's dissolution fell under the original and exclusive jurisdiction of the Securities and Exchange Commission (SEC) while the matter of the propriety of water rates is within the primary administrative jurisdiction of the LWUA and the quasi-judicial jurisdiction of the National Water Resources Council.

Marilao Consumers Association countered that the SEC had no jurisdiction over a proceeding for its dissolution since the Marilao Water District had not been organized under the Corporation Code; and that under Section 45 of PD 198, the proceeding to determine if the dissolution of the water district is for the best interest of the people, is within the competence of a regular court of justice, and neither the LWUA nor the National Water Resources Council (NWRC) is competent to take cognizance of the matter of dissolution of the water district and recovery of its waterworks system, or the exorbitant rates imposed by it.

Lower Court's Ruling: The RTC dismissed the Consumers Association's suit. The SEC has the exclusive and original jurisdiction over this case. The motion for reconsideration was denied.

A petition was filed before the Supreme Court, but was referred to the Intermediate Appellate Court, but which cause could not prosper because petitioners availed of a wrong remedy and jurisdiction does not vest in the trial court but within the SEC's competence.

Issue: Whether the RTC or the SEC has jurisdiction over the dissolution of a water district organized and operating as a quasi-public corporation under the provisions of Presidential Decree No. 198, as amended

Supreme Court's Ruling: The present case does not fall within the limited jurisdiction of the SEC, but within the general jurisdiction of RTCs.

PD 198 (Provincial Water Utilities Act of 1973) authorizes the formation, lays down the powers and functions, and governs the operation of water districts throughout the country. Once formed, a district is subject to its provisions and is not under the jurisdiction of any political subdivision. Under PD 198, water districts may be created by the different local legislative bodies by the passage of a resolution to this effect, subject to the terms of the decree. The primary function of these water districts is to sell water to residents within their territory, under such schedules of rates and charges as may be determined by their boards. They shall manage, administer, operate and maintain all watersheds within their territorial boundaries, safeguard and protect the use of the waters therein, supervise and control structures within their service areas, and prohibit any person from selling or disposing of water for public purposes within their service areas where district facilities are available to provide such service. The juridical entities created and organized are considered quasi-public

corporations, performing public services and supplying public wants. The decree also established a government corporation attached to the Office of the President, known as the LWUA, to function primarily as a specialized lending institution for the promotion, development and financing of local water utilities.

The juridical entities known as water districts created by PD 198, although considered as quasi-public corporations and authorized to exercise the powers, rights and privileges given to private corporations under existing laws, are entirely distinct from corporations organized under the Corporation Code. The Code has nothing whatever to do with their formation and organization, all the terms and conditions for their organization and operation being particularly spelled out in PD 198. The resolutions creating them, their charters, are filed not with the SEC but with the LWUA. It is these resolutions *qua* charters, and not articles of incorporation drawn up under the Corporation Code, which set forth the name of the water districts, the number of their directors, the manner of their selection and replacement, their powers, etc. The SEC which is charged with enforcement of the Corporation Code as regards corporations, partnerships and associations formed or operating under its provisions, has no power of oversight over such activities of water districts as selling water, fixing the rates and charges therefor, or the management, administration, operation and maintenance of watersheds within their territorial boundaries, or the safeguarding and protection of the use of the waters therein, or the supervision and control of structures within the service areas of the district, and the prohibition of any person from selling or otherwise disposing of water for public purposes within their service areas where district facilities are available to provide such service. That function of supervision or control over water districts is entrusted to the LWUA and the SEC obviously has no claim to any expertise.

Under PD 198, it is the LWUA which is the administrative body involved in the voluntary dissolution of a water district; it is with it that the resolution of dissolution is filed, not the SEC. These argue against conceding jurisdiction in the SEC over proceedings for the dissolution of water districts. For although described as quasi-public corporations, and granted the same powers as private corporations, water districts are not really corporations. They have no incorporators, stockholders or members, who have the right to vote for directors, or amend the articles of incorporation or by-laws, or pass resolutions, or otherwise perform such other acts as are authorized to stockholders or members of corporations by the Corporation Code. In a word, there can be no such thing as a relation of corporation-and-stockholders or members in a water district for the simple reason that in the latter there are no stockholders or members. Between the water district and those who are recipients of its water services there exists not the relationship of corporation-and-stockholder, but that of a service agency and users or customers. There can therefore be no such thing in a water district as "intra-corporate or partnership relations, between and among stockholders, members or associates (or) between any or all of them and the corporation, partnership or association of which they are stockholders, members or associates, respectively."

The LWUA does not appear to have any adjudicatory functions as it is primarily a specialized lending institution for the promotion, development and financing of local water utilities, with power to prescribe minimum standards and regulations regarding maintenance, operation, personnel training, accounting and fiscal practices for local water utilities, to furnish technical assistance and personnel training programs therefor; monitor and evaluate local water standards; and effect systems integration, joint investment and operations, district

annexation and de annexation whenever economically warranted. The LWUA has quasi-judicial power only as regards rates or charges fixed by water districts, which it may review to establish compliance with the provisions of PD 198, without prejudice to appeal being taken therefrom by a water concessionaire to the National Water Resources Council whose decision thereon shall be appealable to the Office of the President. The rates or charges established by respondent Marilao Water District do not appear to be at issue in the controversy at bar.

NWRC, on the other hand, is conferred original jurisdiction over all disputes relating to appropriation, utilization, exploitation, development, control, conservation and protection of waters within the meaning and context of the provisions of PD 1067, and its decision on water rights controversies may be appealed to the Court of First Instance of the province where the subject matter of the controversy is situated. It also has authority to review questions of annexations and de-annexations. This case does not appear to be a water rights controversy or one involving annexation or de annexation.

The Consumer Association's action is in the nature of a *mandamus* suit, seeking to compel the board of directors of the Marilao Water District, and its alleged co-conspirators, the *Sangguniang Bayan* and the Mayor of Marilao to go through the process for the dissolution of the water district. In this sense, and taking account of the nature of the proceedings for dissolution described below, it seems plain that the case does not fall within the limited jurisdiction of the SEC, but within the general jurisdiction of RTCs.

The procedure for dissolution thus consists of the following steps:

1) the initiation by the board of directors of the water district *motu proprio* or at the relation of an interested party, of proceedings for the dissolution of the water district, including:

a) the ascertainment by said board that —

1) another public entity has acquired the assets of the district and has assumed all obligations and liabilities attached thereto; and liabilities attached thereto; and

2) all bondholders and other creditors have been notified and consent to said transfer and dissolution;

b) the commencement by the water district in a court of competent jurisdiction of a proceeding to obtain a declaration that "said transfer and dissolution are in the best interest of the public;"

2) after compliance with the foregoing requisites, the adoption by the board of directors of the water district of a resolution dissolving the water district and its submission to the Sangguniang Bayan concerned for approval;

3) submission of the resolution of the Sangguniang Bayan dissolving the water district to the head of the local government concerned for approval, and ultimately to the LWUA, for final approval and filing.

Arriola and Fernandez v. COA and Board of Liquidators, G.R. No. 90364, Sept. 30, 1991

Facts: The National Coal Authority (NCA), a PNOC subsidiary, invited accredited and prequalified contractors of PNOC to bid for the construction of the Batangas Water Well project in Sta. Rita, Batangas. Since only one contractor submitted a bid, the Contract Committee invalidated the bidding. Later, the Committee opened the rebidding during which P.I. Well Drilling Corp (P.I. Wells) was declared the winning bidder. Upon negotiation however, P.I. Wells reduced its bid from the original contract amount and the contract was thereafter approved by the NCA Administrator, with advise of the acceptance of the bid.

COA's Ruling: Upon completion of the project and subject to post-audit review, COA officer informed the NCA auditor that the contract for the Batangas Wells Project was excessive by 46.94%, to which a refund of the amount accounted as discrepant was demanded. NCA sought reconsideration pointing out that what had been submitted to the COA was not NCA estimate but the breakdown prepared by the contractor.

Upon denial of reconsideration and increasing the amount, NCA appealed to COA, which rendered decision dismissing the appeal but reducing the amount disallowed. Copies of the COA decision were requested to be furnished to the NCA official concerned but only petitioners herein were given copies and demanded solely from them the payment of the amount disallowed by COA.

Issue: Whether Arriola and Fernandez's right to due process was violated when certain documents were made basis of the COA decision were not shown them despite repeated demands; and

Whether the finding of disallowance in audit is supported by evidence.

Supreme Court's Ruling: Deciding in favor of Arriola and Fernandez, the COA decision was set aside on the grounds of absence of due process and evidence to support COA's disallowance.

While NCA had provided receipts and invoices to show the acquisition costs of materials found by COA to be overpriced, COA merely referred to a cost comparison made by an engineer of COA-TSO, based on unit costs furnished by the Price Monitoring Division of the COA-TSO. A more humane procedure, and totally conformable to the due process clause, is for the COA representative to allow the members of the Contracts Committee mandatory access to the COA source documents/canvass sheets. This gesture would have been in keeping with COA's own Audit Circular as regards excessive expenditures. By having access to source documents, Arriola and Fernandez could then satisfy themselves that COA guidelines/rules on excessive expenditures had been observed. The transparency would also erase any suspicion that the rules had been utilized to terrorize and or work injustice, instead of ensuring a "working partnership" between COA and the government agency, for the conservation and protection of government funds, which is the main rationale for COA audit. COA's disallowance was not sufficiently supported by evidence, as it was premised purely on undocumented claims, as in fact petitioners were denied access to the actual canvass sheets or price quotations from accredited suppliers. It was incumbent upon the COA to prove that the standards were met in its audit disallowance.

Villostas v. CA, et al., G.R. No. 96271, June 26, 1992

Facts: Desiring to have safe drinking water at home, Villostas and her husband decided to buy a water purifier. At about this time, Electrolux sales agents were making door to door selling of its products in the subdivision where Villostas has her residence. Because Electrolux sales agents had assured Villostas of the very special features of their brand of water purifier, Villostas placed an order for one unit of said water purifier. On September 13, 1986, an Electrolux Aqua Guard water purifier was delivered and installed at Villostas' residence, to which she signed the Sales Order and the Contract of Sale with Reservation of Title in October 1986. A warranty certificate was issued by which provides that Electrolux warrants the product to perform efficiently for one full year from date of original purchase.

After two weeks, Villostas verbally complained for the first time about the impurities, dirtiness and bad odor coming out of the unit. On October 21, 1986, Electrolux sent its service technician to examine and test the water purifier. The water which came out was dirty so the unit was shut off automatically. The technician changed the filter of the unit on said date without charge with an instruction that the filter should be changed every 6 months otherwise the unit will not last long as the water in the area was dirty.

Villostas complained for the second and third time when dirty water still came out of the water purifier after the replacement of the filter. It was on the third complaint of Villostas when the service technician gave advise that the filter should be changed every six (6) months costing about P300.00 which was considered to be uneconomical by Villostas.

On December 9, 1986, Villostas sent a letter to the Electrolux branch manager stating her complaint that the actual performance of the carbon filter was only for a month instead of the claim that the replacement of such filter will be only once every six (6) months. Villostas, decided to return the unit and demand a refund for the amount paid. Electrolux's branch manager offered to change the water purifier with another brand of any of its appliance of the unit in her favor. Villostas did not accept it as she was disappointed with the original unit which did not perform as warranted. Consequently, Villostas did not pay any more the subsequent installments.

There was an exchange of demand letter and reply between petitioner Villostas and private respondent Electrolux. Ultimately, Electrolux filed a complaint against Villostas with the MTC of Makati for the recovery of the sum of money representing the unpaid balance of the purchase price of one (1) Electrolux Water Purifier plus interest thereon at the rate of 42% per annum in accordance with the Sales Contract with Reservation of Title. In her amended answer, Villostas asserted that by reason of Electrolux's breach of warranty, she was availing of the remedy of rescission of the contract of sale and offered to return the water purifier to the seller as in fact, it was already being offered for return as early as December 9, 1986, aside from claiming for the refund of her payments. Villostas prayed that the contract of sale be declared rescinded and the payments refunded to her together with the full grant of the claims asserted in her counterclaims.

MTCs Ruling: The MTC ordered Villostas to pay Electrolux the amount representing the unpaid outstanding balance plus interest thereon at the rate of P42% per annum until fully paid, attorney's fees and dismissing the counterclaim.

RTC's Ruling: The RTC affirmed the MTC's decision and denied Villostas' motion for reconsideration.

Court of Appeals' ruling: Villostas was given an inextendible period of 15 days to file a petition for review. Anticipating that she would fail to comply with the deadline, Villostas petitioner filed a second extension to file a petition for review which, however, was denied.

Issue: Whether Villostas is entitled to rescind the contract on the basis of a violation of the warranty of the article delivered by the Electrolux

The sale of the water purifier is rescinded. With regard to the jurisdictional competence of the MTC to order rescission of contract, the action was initiated by Electrolux when it filed a complaint for collection of a sum of money worth P14,540.00, an amount is indubitably within the jurisdiction of the MTC since it does not exceed P20,000.00 exclusive of interest and costs but inclusive of damages of whatever. Moreover, the jurisdiction of the court over the subject matter is determined by the allegations of the complaint irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein. When the petitioner, therefore, raised rescission of contract in her answer, the court is not divested of its jurisdiction over the case on account of defenses raised by the answer. The court is then merely authorized to receive evidence thereon. Clearly, the jurisdiction of the court cannot be made to depend upon the defenses set up in the answer or upon the motion to dismiss. Otherwise, the question of jurisdiction would depend almost entirely upon the defendant.

As regards the contention that the action for rescission is barred by prescription under Art. 1571 of the Civil Code, the same is bereft of merit. At the time the Electrolux Aqua Guard water purifier was delivered and installed at Villostas' residence, a Warranty Certificate was issued by Electrolux which is clearly an express warranty regarding the efficiency of the water purifier. On this regard the court said that while it is true that Article 1571 of the Civil Code provides for a prescriptive period of six months for a redhibitory action, a cursory reading of the ten preceding articles to which it refers will reveal that said rule may be applied only in case of implied warranties. The present case involves one with an express warranty. Consequently, the general rule on rescission of contract, which is four years shall apply. Inasmuch as this case involves an express warranty, the filing of amended answer on September 30, 1988 is well within the four-year prescriptive period for rescission of contract from September 13, 1986, which was the delivery date of the unit.

LLDA v. CA, et al., G.R. NO. 110120, Mar. 16, 1994

Facts: The Task Force Camarin Dumpsite of Our Lady of Lourdes Parish, Barangay Camarin, Caloocan City, filed a letter-complaint with the Laguna Lake Development Authority (LLDA) seeking to stop the operation of the 8.6-hectare open garbage dumpsite in Tala Estate, Barangay Camarin, Caloocan City due to its harmful effects on the health of the residents and the possibility of pollution of the water content of the surrounding area. The LLDA conducted an on-site investigation, monitoring and test sampling of the leachate that seeps from said dumpsite to the nearby creek which is a tributary of the Marilao River and it found that the City Government was maintaining an open dumpsite without first securing an Environmental Compliance Certificate (ECC) from the DENR and clearance from LLDA.

After public hearing, LLDA found that the water collected from the leachate and the receiving streams could considerably affect the quality, in turn, of the receiving waters since it indicates the presence of bacteria, other than coliform, which may have contaminated the sample during collection or handling. With this, LLDA issued a Cease and Desist Order (CDO) ordering the Caloocan City and other entities, to completely halt, stop and desist from dumping any form or kind of garbage and other waste matter at the Camarin dumpsite. The City Government stopped the dumping operation but sometime in August 1992 the dumping operation was resumed after a meeting held among the parties failed to settle the problem. After another investigation by its personnel, the LLDA issued another order reiterating the earlier order and issued an Alias CDO enjoining the City Government of Caloocan from continuing its dumping operations at the Camarin area. With the assistance of the Philippine National Police, LLDA enforced its Alias Cease and Desist Order by prohibiting the entry of all garbage dump trucks into the Tala Estate, Camarin area being utilized as a dumpsite.

The City Government of Caloocan filed with the RTC Caloocan City an action for the declaration of nullity of the cease and desist order with prayer for the issuance of a writ of injunction. In its complaint, the City Government of Caloocan sought to be declared as the sole authority empowered to promote the health and safety and enhance the right of the people in Caloocan City to a balanced ecology within its territorial jurisdiction.

Lower Court's Ruling: The Executive Judge of RTC Caloocan City issued a TRO enjoining the LLDA from enforcing its CDO. The LLDA filed a motion to dismiss on the ground that under RA 3931, as amended by PD 984 (Pollution Control Law), the CDO issued by it is reviewable both upon the law and the facts of the case by the CA and not by the RTC. RTC Caloocan issued an order denying LLDA's motion to dismiss and granting the issuance of a writ of preliminary injunction enjoining the LLDA, its agent and all persons acting for and on its behalf, from enforcing or implementing its cease and desist order which prevents City of Caloocan from dumping garbage at the Camarin dumpsite during the pendency of this case and/or until further orders of the court.

Appellate Court's Ruling: The CA held that the RTC has no jurisdiction on appeal to try, hear and decide the action for annulment of LLDA's cease and desist order, including the issuance of a temporary restraining order and preliminary injunction in relation thereto, since appeal therefrom is within the exclusive and appellate jurisdiction of the Court of Appeals; and the LLDA has no power and authority to issue a cease and desist order under its enabling law, Republic Act No. 4850.

Issue: Whether the LLDA has power to issue cease and desist orders enjoining a local government unit from dumping of garbage

Supreme Court's Ruling: The LLDA has authority to issue a cease and desist order against the City Government of Caloocan to stop dumping its garbage in the Camarin open dumpsite. The LLDA found that the dumping violated Republic Act No. 4850 and other relevant environment laws; hence it cannot be stamped as an unauthorized exercise by the LLDA of injunctive powers. By its express terms, the law authorizes the LLDA to "make, alter or modify orders requiring the discontinuance or pollution." It explicitly authorizes the LLDA to make whatever order may be necessary in the exercise of its jurisdiction.

The LLDA was not expressly conferred the power "to issue an *ex-parte* cease and desist order" in a language similar to the express grant to the defunct National Pollution Control Commission which, admittedly was not reproduced in P.D. No. 813 and E.O. No. 927, series of 1983. However, it would be a mistake to conclude that there is a denial of the power to issue the order in question when the power "to make, alter or modify orders requiring the discontinuance of pollution" is expressly and clearly bestowed upon the LLDA by Executive Order No. 927, series of 1983.

Assuming *arguendo* that the authority to issue a "cease and desist order" were not expressly conferred by law, there is jurisprudence enough to the effect that the rule granting such authority need not necessarily be express. While it is a fundamental rule that an administrative agency has only such powers as are expressly granted to it by law, it is likewise a settled rule that an administrative agency has also such powers as are necessarily implied in the exercise of its express powers. In the exercise, therefore, of its express powers under its charter as a regulatory and quasi-judicial body with respect to pollution cases in the Laguna Lake region, the authority of the LLDA to issue a "cease and desist order" is, perforce, implied. Otherwise, it may well be reduced to a "toothless" paper agency.

The issuance, therefore, of the cease and desist order by the LLDA, as a practical matter of procedure under the circumstances of the case, is a proper exercise of its power and authority under its charter and its amendatory laws. Had the cease and desist order issued by the LLDA been complied with by the City Government of Caloocan as it did in the first instance, no further legal steps would have been necessary.

Concerned Officials of the MWSS v. Hon. Vasquez, et al., G.R. No. 109113, Jan. 25, 1995

Facts: In order to provide about 1.3 million liters of water daily to about 3.8 million people in the metropolitan area, the Metropolitan Waterworks and Sewerage System (MWSS) launched the Angat Water Supply Optimization Project (AWSOP) consisting of several phases. With the completion of the construction of the main aqueduct from Angat Dam all the way down to La Mesa Dam in Quezon City, MWSS focused its attention to the Distribution System Phase of the project that would particularly call for the supply of labor, materials and equipment, and of the installation of new watermains. MWSS caused the publication of an Invitation for Prequalification and Bids and 14 contractors submitted corresponding applications. MWSS' Pre-qualification, Bids and Awards Committee for Construction Services and Technical Equipment (PBAC-CSTE), after evaluating the applications, issued a report concluding that only 11 out of the 14 contractors were prequalified to bid. The major factors considered in the evaluation were the applicants' financial condition, technical qualifications and experience to undertake the project under bid.

Philippine Large Diameter Pressure Pipes Manufacturers' Association (PLDPPMA), sent seven letters to the MWSS requesting clarification, as well as offering some suggestions, on the technical specifications for the projects. Former MWSS Administrator Luis Sison issued six addenda to the bidding documents that embodied the meritorious suggestions of PLDPPMA on various technical specifications.

The bidding was conducted by PBAC on the previously scheduled date and the pre-qualified bidders using steel and fiberglass pipes submitted their respective bid proposals. The 3 lowest bidders proposed to use fiberglass pipes. PBAC-CSTE formally submitted its report on its bid evaluation and held that while the winning bidder was the lowest, it was invalid for failure to acknowledge an addendum which is a major consideration that could not be waived. PBAC-CSTE recommended that the contract be instead awarded to the second lowest but complying bidder, F.F. Cruz & Co., Inc., subject to the latter's manifestation that it would only hire key personnel with experience in the installation of fiberglass pressure pipes.

PLDPPMA filed with the Office of the Ombudsman a letter-complaint protesting the public bidding conducted by the MWSS detailing charges of an "apparent plan" on the part of the MWSS to favor suppliers of fiberglass pipes, and urging the Ombudsman to conduct an investigation thereon and to hold in abeyance the award of the contracts. The Ombudsman referred PLDPPMA's letter-complaint to the MWSS Board of Trustees for comment along with a directive to it to hold in abeyance the awarding of the subject contract. MWSS asked for an extension of time within which to submit its comment but called, at the same time, the attention of the Ombudsman to PD 1818 prohibiting the issuance of restraining orders/injunctions in cases involving government infrastructure projects.

Ombudsman's Ruling: The Ombudsman directed the Board of Trustees of MWSS to set aside the recommendation of its PBAC-CSTE that a contract be given to a contractor offering fiberglass pipes and to instead award the contract to a complying and responsive bidder pursuant to the provisions of PD 1594. MWSS' Motion for reconsideration was denied.

Issue: Whether the Ombudsman has jurisdiction to take cognizance of PLDPPMA's complaint and to correspondingly issue its challenged orders directing the Board of Trustees of the MWSS to set aside the recommendation of PBAC-CSTE

Supreme Court's Ruling: While the broad authority of the Ombudsman to investigate any act or omission which appears "illegal, unjust, improper, or inefficient" may be yielded, it is difficult to equally concede, however, that the Constitution and the Ombudsman Act have intended to likewise confer upon it veto or revisory power over an exercise of judgment or discretion by an agency or officer upon whom that judgment or discretion is lawfully vested. It would seem to us that the Office of the Ombudsman, in issuing the challenged orders, has not only directly assumed jurisdiction over, but likewise pre-empted the exercise of discretion by, the BOT of MWSS. Indeed, the recommendation of the PBAC-CSTE to award the contract appears to be yet pending consideration and action by the MWSS Board of Trustees.

The Court viewed the assailed Order to be more of an undue interference in the adjudicative responsibility of the MWSS BOT rather than a mere directive requiring the proper observance of and compliance with the law. The report submitted by the Office of the Ombudsman reveals its predisposition against the use of fiberglass pipes, a technical, rather than a legal, matter. It should not be amiss to mention that the PBAC, was tasked with the responsibility for the conduct of prequalification, bidding, evaluation of bids and recommending award of contracts. Part of PBAC's review was to verify whether the proposed pipe materials were in conformity with the permitted alternative materials specified in the bid document. PBAC was evidently guided by the rule that bids should be evaluated based on the required documents submitted before, and not after, the opening of bids, that should further dispel any indiscriminate or whimsical exercise of discretion on its part.

The MWSS, a GOCC created by law through RA 6234, is charged with the construction, maintenance and operation of waterwork system to insure an uninterrupted and adequate supply and distribution of potable water. It is the agency that should be in the best position to evaluate the feasibility of the projections of the bidders and to decide which bid is compatible with its development plans. The exercise of this discretion is a policy decision that necessitates among other things, prior inquiry, investigation, comparison, evaluation, and deliberation — matters that can best be discharged by it. MWSS has passed resolutions to likewise show its approval of the technical specifications for fiberglass.

Nasser v. CA, et al., G.R. No. 115829, June 5, 1995

Facts: Calvin R. Borre purchased a 2,230-square meter lot from the spouses Dionisio and Inapsa Prieto primarily because of its natural spring, which was very ideal for a water supply business. Later on, the Prieto spouses again sold the property to Calvin's brother, Arnaldo R. Borre, who also intended to utilize the same for his own water business. After securing the necessary franchise, certificate of public convenience and municipal permits, Arnaldo started a water servicing business under the same "Lidao Water System." He supplied water to interisland and oceangoing vessels through pipe lines connected from the water source inside the property to the wharf from where a landing barge would transport the water supply to the vessels docked at the Davao port or anchored nearby. When Calvin learned of the subsequent sale, he tried to settle the dispute amicably, they being brothers, but was unsuccessful.

Calvin filed a civil action for declaration of nullity of the sale to Arnaldo with damages against him and the Prieto spouses before the CFI. The parties later entered into a compromise agreement. They agreed that the title to the Lidao property would remain in the name of Arnaldo while Calvin, his heirs and assigns, would get a 40% share in the net income of the Lidao Water System after deducting maintenance, development and operating expenses. The trial court approved the compromise agreement.

The compromise agreement was not executed. Calvin moved that a commissioner be tasked to examine, review and audit the books of account of the Lidao Water System and to submit his report and recommendation thereon. The commissioner submitted his report and recommendation but Calvin was still not satisfied with this report. Mariano Nasser, one of the persons who withdraw water from Lidao for business, filed an MR on the order of garnishment.

Several appeals later before the Court of Appeals and the Supreme Court, all of which were dismissed, eventually, the Borre brothers and Nasser entered into a Supplementary Compromise Agreement, supposedly upon the intercession of the latter and was submitted to the court for approval. However when the judge approved the agreement and issued a writ for its execution, Arnaldo contested the validity of the writ. For failure of the writ of execution and other alias writs of execution to be enforced, the heirs of Calvin Borre filed a civil suit for damages against Nasser and to cite him for contempt of court. This case was consolidated with the other cases. In his answer, Nasser advanced the same arguments, that he was not a party in these cases and therefore not liable on the supplementary compromise agreement; that his participation therein was only to help the Borre brothers settle their differences, and that he had already paid all his water withdrawals from the Lidao property.

Lower Court's Ruling: The trial court ordered Nasser to support his claim by producing in court all the checks he allegedly issued to Arnaldo in payment for his water withdrawals. Nasser failed to comply with the order. The trial court ordered the issuance of an alias writ of execution against Nasser. In his motion for a reconsideration of the order, Nasser reiterated his earlier plea that he was not a party in the case and that the amount stated in the writ was not properly computed. The court *a quo* denied the motion for being *pro forma*.

Appellate Court's Ruling: The CA dismissed the appeal stating that Nasser cannot disclaim any liability on his water drawings from the Lidao property for two (2) reasons: (a) he signed

the Supplemental Compromise Agreement and (b) his evident bad faith in conspiring with Arnaldo to deprive Calvin of his rightful share in the business. The Supplemental Compromise Agreement has superseded the previous agreement between Calvin and Arnaldo and has the effect of *res judicata* between and among the parties, including Nasser who is a signatory thereto thereby submitting himself to the jurisdiction of the court, and should not be disturbed except when the consent is vitiated or when there is forgery.

Supreme Court's Ruling: Calvin exposed the real purpose of Nasser and Nasser Water Ferry Services in drawing water from the Lidao Property, i. e., to act as an alter ego of Arnaldo. Nasser had claimed that he and Arnaldo were in a buy and sell business, but this was refuted by Calvin who maintained that Nasser was a mere agent of Arnaldo and Nasser Water Ferry Services, one of the latter's marketing arms, the other being Samal Water Services. Nasser was given by the trial court an opportunity to dispute these allegations but he failed. This led the trial court to conclude that Nasser and Arnaldo conspired with one another in depriving Calvin of his rights under their compromise agreement.

Nasser, with the aid of his lawyers, has employed dilatory tactics to defeat a final and executory judgment based on the compromise by going into the merits of the case each time a writ of execution was issued. The postponement alone of the consolidated cases for at least sixteen (16) times successfully blocked the repeated attempts to Calvin, and later his heirs, to execute the Supplemental Compromise Agreement. The practice of Arnaldo then, and now Nasser, of filing motions for reconsideration of the orders of execution and, upon their denial, elevating them to the appellate courts, has indeed made a travesty of our judicial process. The unjustified delay in the enforcement of the *Supplemental Compromise Agreement* should not be tolerated for it sets at naught the role of courts in disposing of justiciable controversies with finality.

LLDA v. CA, et al., G.R. Nos. 120865-71, Dec. 7, 1995

Facts: Executive Order No. 927 was issued to further define and enlarge the functions and powers of the Laguna Lake Development Authority (LLDA) and named and enumerated the towns, cities and provinces encompassed by the term "Laguna de Bay Region." EO 927 also included in particular the sharing of fees. Then came Republic Act No. 7160, the Local Government Code of 1991. The municipalities in the Laguna Lake Region interpreted the provisions of this law to mean that the newly passed law gave municipal governments the exclusive jurisdiction to issue fishing privileges within their municipal waters because R.A. 7160 provides that municipalities shall have the exclusive authority to grant fishery privileges in the municipal waters and impose rental fees or charges therefor.

Municipal governments then assumed the authority to issue fishing privileges and fishpen permits. Big fishpen operators took advantage of the occasion to establish fishpens and fishcages to the consternation of the LLDA. Unregulated fishpens and fishcages, occupied almost one-third of the entire lake water surface area, increasing the occupation drastically from 7,000 hectares in 1990 to almost 21,000 hectares in 1995. The Mayor's permit to construct fishpens and fishcages were all undertaken in violation of the policies adopted by the LLDA on fishpen zoning and the Laguna Lake carrying capacity.

The implementation by the lakeshore municipalities of separate independent policies in the operation of fishpens and fishcages within their claimed territorial municipal waters in the lake and their indiscriminate grant of fishpens permits saturated the lake area with fishpens, and aggravated the current environmental problems and ecological stress of Laguna Lake. LLDA served notice that the fishpens, fishcages and other aquaculture structures which were not registered or has no pending application with LLDA are considered illegal, and as such are subject to demolition. A month after, LLDA sent notices to the concerned owners of the illegally constructed fishpens, fishcages and other aqua-culture structures advising them to dismantle their respective structures within 10 days from receipt thereof, otherwise, demolition shall be effected.

The affected fishpen owners filed injunction cases against the LLDA before various regional trial courts. LLDA filed motions to dismiss the cases against it on jurisdictional ground but were invariably denied. Meanwhile, temporary restraining order/writs of preliminary mandatory injunction were issued enjoining the LLDA from demolishing the fishpens and similar structures in question.

The LLDA filed a petition for *certiorari*, prohibition and injunction before the Supreme Court. Impleaded as parties-respondents are the various regional trial courts and respective private parties, and the municipalities and/or respective Mayors of Binangonan, Taguig and Jala-jala, who issued permits for the construction and operation of fishpens in Laguna de Bay. The petition sought to nullify the TROs issued, permanent prohibition against the trial courts from exercising jurisdiction over the cases involving the LLDA which is a co-equal body and judicial pronouncement that RA 7160 did not repeal, alter or modify the provisions of RA 4850 empowering the LLDA to issue permits for fishpens, fishcages and other aquaculture structures in Laguna de Bay and that the LLDA is the government agency vested with exclusive authority to issue said permits. The SC referred the case to the CA.

Appellate Court's Ruling: The CA dismissed the LLDA consolidated petitions and held that: (a) LLDA is not among those quasi-judicial agencies of government whose decision or order are appealable only to the Court of Appeals; (b) the LLDA charter does vest LLDA with quasi-judicial functions insofar as fishpens are concerned; (c) the provisions of the LLDA charter insofar as fishing privileges in Laguna de Bay are concerned had been repealed by the Local Government Code of 1991; (d) in view of the aforesaid repeal, the power to grant permits devolved to respective local government units concerned.

Issue: Which agency of the Government - the Laguna Lake Development Authority or the towns and municipalities comprising the region - should exercise jurisdiction over the Laguna Lake and its environs insofar as the issuance of permits for fishery privileges is concerned?

Supreme Court's Ruling: The LLDA should prevail over the LGUs insofar as the issuance of permits for fishery privileges is concerned.

RA 4850, PD 813, and EO 927 specifically provide that the LLDA shall have exclusive jurisdiction to issue permits for the use of all surface water for any projects or activities in or affecting the said region, including navigation, construction, and operation of fishpens, fish enclosures, fish corrals and the like. On the other hand, RA 7160 has granted to the municipalities the exclusive authority to grant fishery privileges in municipal waters. The Sangguniang Bayan may grant fishery privileges to erect fish corrals, oyster, mussels or other aquatic beds or bangus fry area within a definite zone of the municipal waters. The Court held that the provisions of RA 7160 do not necessarily repeal the aforementioned laws creating the LLDA and granting the latter water rights authority over Laguna de Bay and the lake region as it does not contain any express provision which categorically expressly repeal the charter of the Authority. There was no intent on the part of the legislature to repeal RA 4850 and its amendments. The repeal of laws should be made clear and expressed.

The LLDA charter constitutes a special law. RA 7160, the Local Government Code of 1991, is a general law. The enactment of a later legislation which is a general law cannot be construed to have repealed a special law. Where there is a conflict between a general law and a special statute, the special statute should prevail since it evinces the legislative intent more clearly than the general statute. The special law is to be taken as an exception to the general law in the absence of special circumstances forcing a contrary conclusion. This is because implied repeals are not favored and as much as possible, effect must be given to all enactments of the legislature. A special law cannot be repealed, amended or altered by a subsequent general law by mere implication. Thus, it has to be concluded that the LLDA charter should prevail over the Local Government Code of 1991.

Considering the reasons behind the establishment of the Authority, which are environmental protection, navigational safety, and sustainable development, there is every indication that the legislative intent is for LLDA to proceed with its mission. The power of the LGUs to issue fishing privileges was clearly granted for revenue purposes. On the other hand, the power of the LLDA to grant permits for fishpens, fishcages and other aqua-culture structures is for the purpose of effectively regulating and monitoring activities in the Laguna de Bay region and for lake quality control and management. It does partake of the nature of police power which is the most pervasive, the least limitable and the most demanding of all State powers including the power of taxation. Accordingly, the LLDA charter, which

embodies a valid exercise of police power, should prevail over the Local Government Code of 1991 on matters affecting Laguna de Bay.

LLDA has express powers as a regulatory and quasi-judicial body in respect to pollution cases with authority to issue a "cease and desist order" and on matters affecting the construction of illegal fishpens, fishcages and other aqua-culture structures in Laguna de Bay. However, the LLDA is not co-equal to the RTCs. On actions necessitating the resolution of legal questions affecting the powers of the LLDA as provided for in its charter, the RTCs have jurisdiction.

The Local Government Code of 1991 has not repealed the provisions of the charter of the LLDA. Thus, the LLDA has the exclusive jurisdiction to issue permits for the enjoyment of fishery privileges in Laguna de Bay to the exclusion of municipalities situated therein and the authority to exercise such powers as are by its charter vested on it. Removal from the LLDA of the aforesaid licensing authority will render nugatory its avowed purpose of protecting and developing the Laguna Lake Region. Otherwise stated, the abrogation of this power would render useless its reason for being and will in effect denigrate, if not abolish, the LLDA. The Local Government Code of 1991 had never intended to do this.

J. Padilla's concurring opinion: While the exclusive jurisdiction to determine whether or not projects or activities in the lake area should be allowed, as well as their regulation, is with the LLDA, once the LLDA grants a permit, the permittee may still be subjected to an additional local permit or license for revenue purposes of the LGUs concerned.

Prosperity Credit Resources, Inc. v. CA, et al., G.R. No. 114170, Jan. 15, 1999

Facts: Prosperity Credit Resources, Inc. (Prosperity) gave a loan to Metropolitan Fabrics, Inc. (Metropolitan). To secure the payment of the loan, Metropolitan mortgaged to Prosperity seven parcels of land located in Quezon City. The lots comprise a commercial compound with Tandang Sora Avenue as the nearest public road. Eventually, Metropolitan's loan amounted to P10.5 million. As Metropolitan defaulted in the payment of the loan, Prosperity foreclosed the mortgage and, in the ensuing public bidding, became the highest bidder and purchaser of the seven (7) lots subject of the mortgage.

Later, Metropolitan negotiated with Prosperity for the redemption of three lots, all located on the southern and middle portions of the compound. As the reacquisition of these three lots by Metropolitan would leave the remaining four lots on the northwestern side without access to Tandang Sora Avenue, Prosperity acceded to Metropolitan's request on the condition that Prosperity be given a right of way on the existing private road which forms part of the area to be redeemed by Metropolitan. The parties' agreement was embodied in a Memorandum of Undertaking.

Prosperity filed an injunctive suit in the RTC Quezon City alleging that Metropolitan refused to allow Prosperity to make excavations on one side of the access road for the installation of water pipes; that Metropolitan banned entry of Prosperity's trucks and those of its tenants; and that it subjected the vehicles to unnecessary searches. Prosperity sought the issuance of a writ of preliminary mandatory injunction requiring Metropolitan "to allow [Prosperity] to proceed with the MWSS installation project over the road lot in question, to allow [Prosperity] and [its] tenants' delivery trucks and other vehicles access to the same at any time and without undergoing unnecessary searches, and to otherwise recognize [Prosperity's] right of way over the said lot." Prosperity prayed that, after trial, the writ be made final.

Metropolitan alleged that Prosperity's right to undertake excavations on the access road was not provided for in the Memorandum of Undertaking. Metropolitan alleged that it was Prosperity which caused damage to Metropolitan's tenants by undertaking, without its consent, construction works on the access road which raised its level to about a meter and caused serious flooding of the nearby buildings whenever it rained; and that, as a result, its tenants demanded compensation for damage to their merchandise and equipment occasioned by the flooding. Metropolitan prayed for P2.1 million as counterclaim.

Lower Court's Ruling: The RTC granted Prosperity's prayer for a preliminary writ, conditioned upon the filing by Prosperity of a bond in the amount of P500,000.00. The RTC found that no cogent reason appears to warrant treating the terms "for whatever kind of passage" contained therein as nothing more than a useless, meaningless redundancy and "allow Prosperity to proceed with its MWSS installation project over the road lot in question, to allow Prosperity's and its tenant's delivery trucks and other vehicles access to the same at any time and without undergoing unnecessary searches, and to otherwise recognize Prosperity's right of way over the said road lot. Metropolitan filed a motion for reconsideration of the orders granting injunction which the trial court denied. However, the RTC increased the injunction bond to P2.1 million.

Appellate Court's Ruling: The CA granted the petition filed by Metropolitan and set aside the questioned orders after finding that the RTC had acted with grave abuse of discretion in issuing them. Its motion for reconsideration having been denied, Prosperity filed a petition for review on *certiorari* before the Supreme Court.

Issue: Whether the RTC gravely abused its discretion in issuing a writ of preliminary mandatory injunction ordering Metropolitan to allow Prosperity to undertake excavations along the access road for the purpose of installing water pipes

Supreme Court's Ruling: There was grave abuse of discretion in the RTC's issuance of a writ of preliminary mandatory injunction because there is doubt in Prosperity's right to it.

There is no question as to the meaning of the terms "ingress" and "egress." They give Prosperity the right to use the private road as a means of entry into and exit from its property on the northwestern side of the compound. The question concerns the meaning of the phrase "for whatever kind of passage." The trial court read this phrase to mean that Prosperity had the right to make excavations on the side of the access road in order to install a network of water pipes. The word "passage" does not, however, "clearly and unmistakably" convey a meaning that includes a right to install water pipes on the access road.

The ordinary meaning of the word, as defined in Webster's Dictionary, is that it is "the act or action of passing: movement or transference from one place or point to another." Its legal meaning is not different. It means, according to Black's Law Dictionary, the "act of passing; transit; transition." To achieve a meaning such as that which Prosperity proposes requires the consideration of evidence showing the parties' intention in using the word which can only be done during trial on the merits. Until such time, Prosperity cannot claim to have a "clear and unmistakable" right justifying the issuance of a writ of preliminary mandatory injunction in this case.

Arranza, et al. v. BF Homes, Inc., et al., G.R. No. 131683, June 19, 2000

Facts: BF Homes, Inc. (BFHI), is a domestic corporation engaged in developing subdivisions and selling residential lots. When the Central Bank ordered the closure of Banco Filipino, which had substantial investments in BFHI, BFHI filed with the SEC a petition for rehabilitation and a declaration that it was in a state of suspension of payments. SEC appointed a Receiver and approved a Revised Rehabilitation Plan. The Receiver instituted a central security system and unified the sixty-five homeowners' associations into an umbrella homeowners' association called United BF Homeowners' Associations, Inc. (UBFHAI), thereafter incorporated with the Home Insurance and Guaranty Corporation (HIGC).

BFHI, through Orendain, turned over to UBFHAI control and administration of security in the subdivision, the Clubhouse and the open spaces along Concha Cruz Drive. Through the Philippine Waterworks and Construction Corporation (PWCC), BFHI's managing company for waterworks in the various BF Homes subdivisions, BFHI entered into an agreement with UBFHAI for the annual collection of community assessment fund and for the purchase of eight new pumps to replace the over-capacitated pumps in the old wells. When the receiver was relieved of his duties, a new Board of Receivers consisting of 11 members of BFHI's Board was appointed for the implementation of the rehabilitation and it revoked the authority given to use the open spaces and to collect community assessment funds; deferred the purchase of new pumps; recognized BF Parañaque Homeowners' Association, Inc., (BFPHAI) as the representative of all homeowners in the subdivision; took over the management of the Clubhouse; and deployed its own security guards in the subdivision.

Consequently, Arranza, et al., filed with the HLURB a class suit for and in behalf of the more than 7,000 homeowners in the subdivision against BFHI, BF Citiland Corporation, PWCC and A.C. Aguirre Management Corporation to enforce the rights of purchasers of lots in BF Homes Parañaque alleging that the forty (40) wells, mostly located at different elevations of the subdivision and with only twenty-seven (27) productive, are the sources of the inter-connected water system in the 765-hectare subdivision and there is only one drainage and sewer system, among others. Arranza, et al., raised issues on the following basic needs of the homeowners: water, among others and the interlocking corporations that made it convenient for respondent to compartmentalize its obligations as general developer, even if all of these are hooked into the water, drainage and sewer systems of the subdivision.

Lower Court's Ruling: The HLURB issued a 20-day temporary restraining order to avoid rendering nugatory and ineffectual any judgment that could be issued in the case; and subsequently, an Order granting Arranza, et al.'s prayer for preliminary injunction was issued enjoining and restraining respondent BFHI, its agents and all persons acting for and in its behalf from taking over/administering the Concha Garden Row, and for other actions upon posting of a bond which shall answer for whatever damages respondents may sustain by reason of the issuance of the writ of preliminary injunction if it turns out that complainant is not entitled thereto.

Appellate Court's Ruling: The CA rendered a decision annulling and setting aside the writ of preliminary injunction issued by the HLURB. It ruled that BFHI's action may properly be regarded as a "claim" within the contemplation of PD No. 902-A which should be placed on equal footing with those of Arranza, et al.'s other creditor or creditors and which should be

filed with the Committee of Receivers. In any event, pursuant to SEC's Order, Arranza, et al.'s action against BFHI, which is under receivership, should be suspended.

Issue: Whether it is the Securities and Exchange Commission (SEC) or the Housing and Land Use Regulatory Board (HLURB) that has jurisdiction over a complaint filed by subdivision homeowners against a subdivision developer that is under receivership for specific performance regarding basic homeowners' needs such as water, security and open spaces

Supreme Court's Ruling: Case is remanded to HLURB for continuation of proceedings with dispatch as SEC proceeds with the rehabilitation of BFHI, through the Board of Receivers. Thereafter, any and all monetary claims duly established before the HLURB shall be referred to the Board of Receivers for proper disposition and thereafter, to the SEC, if necessary.

PD 957 was issued in answer to the popular call for correction of pernicious practices of subdivision owners and/or developers that adversely affected the interests of subdivision lot buyers and it empowered the National Housing Authority (NHA) with the exclusive jurisdiction to regulate the real estate trade and business. PD 1344 was issued to expand the jurisdiction of the NHA to include the specific performance of contractual and statutory obligations filed by buyers of subdivision lot or condominium unit against the owner, developer, dealer, broker or salesman. Thereafter, the regulatory and quasi-judicial functions of the NHA were transferred to the Human Settlements Regulatory Commission (HSRC) by virtue of Executive Order No. 648 which specifies the functions of the NHA that were transferred to the HSRC including the authority to hear and decide cases on unsound real estate business practices; claims involving refund filed against project owners, developers, dealers, brokers or salesmen and cases of specific performance. Executive Order No. 90 renamed the HSRC as the Housing and Land Use Regulatory Board (HLURB).

Arranza, et al.'s complaint is for specific performance to enforce their rights as purchasers of subdivision lots as regards rights of way, water, open spaces, road and perimeter wall repairs, and security. The HLURB has jurisdiction over the complaint. The fact that BFHI is under receivership does not divest the HLURB of that jurisdiction. No violation of the SEC order suspending payments to creditors would result as far as Arranza, et al.'s complaint before the HLURB is concerned. To reiterate, what Arranza, et al. seek to enforce are BFHI's obligations as a subdivision developer. Such claims are basically not pecuniary in nature although it could incidentally involve monetary considerations. Neither may Arranza, et al. be considered as having "claims" against BFHI within the context of the following proviso of P.D. No. 902-A to warrant suspension of the HLURB proceedings. In this case, under the complaint for specific performance before the HLURB, Arranza, et al. do not aim to enforce a pecuniary demand. Their claim for reimbursement should be viewed in the light of BFHI's alleged failure to observe its statutory and contractual obligations to provide Arranza, et al., a "decent human settlement" and "ample opportunities for improving their quality of life." The HLURB, not the SEC, is equipped with the expertise to deal with that matter.

On the other hand, the jurisdiction of the SEC is defined by P.D. No. 902-A while P.D. No. 957 delineates that of the HLURB. These two quasi-judicial agencies exercise functions that are distinct from each other. The SEC has authority over the operation of all kinds of corporations, partnerships or associations with the end in view of protecting the

interests of the investing public and creditors. On the other hand, the HLURB has jurisdiction over matters relating to observance of laws governing corporations engaged in the specific business of development of subdivisions and condominiums. The HLURB and the SEC being bestowed with distinct powers and functions, the exercise of those functions by one shall not abate the performance by the other of its own functions. What complicated the jurisdictional issue in this case is the fact that Arranza, et al., are primarily praying for the retention of BFHI's obligations under the Memorandum of Agreement that the Receiver had entered into with them but which the present Board of Receivers had revoked.

Hence, the HLURB should take jurisdiction over Arranza, et al.'s complaint because it pertains to matters within the HLURB's competence and expertise. The HLURB should view the issue of whether the Board of Receivers correctly revoked the agreements entered into between the previous receiver and Arranza, et al. from the perspective of the homeowners' interests, which P.D. No. 957 aims to protect. Whatever monetary awards the HLURB may impose upon respondent are incidental matters that should be addressed to the sound discretion of the Board of Receivers charged with maintaining the viability of respondent as a corporation. Any controversy that may arise in that regard should then be addressed to the SEC.

It is worth noting that the parties agreed that should the HLURB establish and grant Arranza, et al.'s claims, the same should be referred to the SEC. Thus, the proceedings at the HLURB should not be suspended notwithstanding that BFHI is still under receivership. The TRO that the Court has issued should accordingly continue until such time as the HLURB shall have resolved the controversy. The present members of the Board of Receivers are reminded of their duties and responsibilities as an impartial Board that should serve the interests of both the homeowners and respondent's creditors. Their interests, financial or otherwise, as members of respondent's Board of Directors should be circumscribed by judicious and unbiased performance of their duties and responsibilities as members of the Board of Receivers. Otherwise, BFHI's full rehabilitation may face a bleak future. Both parties should never give full rein to acts that could prove detrimental to the interests of the homeowners and eventually jeopardize respondent's rehabilitation.

Santiago, et al., v. CA, et al., G.R. No. 109111, June 28, 2000

Facts: The Metropolitan Waterworks and Sewerage System (MWSS) filed with the RTC of San Mateo, Rizal an application for registration of title under the torrens system of eleven (11) parcels of land, situated in San Mateo, Rizal. Long before World War II, MWSS buried a 42-inch diameter steel aqueduct pipeline under the subject parcels of land. The pipeline drew water from the Wawa Dam in Montalban, Rizal to the Balara Filters in Quezon City. Later, MWSS filed with RTC San Mateo, Rizal a second amended petition alleging ownership of the subject parcels of land. It alleged that by itself and through its predecessors-in-interest, the National Waterworks and Sewerage System (NAWASA) and the Metropolitan Water District (MWD), it has been in open, continuous, exclusive and notorious possession and occupation of the said parcels of land under a *bonafide* claim of ownership since 1945.

Santiago, et al. filed an opposition to the application. They alleged ownership of a portion of the land subject of the application. They presented transfer certificates of title, related papers and documents to support their claim. They stated that neither they nor their predecessors-in-interest ever ceded ownership or possession of the property to any person, and even assuming that MWSS possessed the land, it did not acquire ownership by prescription.

Trial Court's Ruling: The RTC ruled in favor of Santiago, et al. reasoning that: First, the tax declarations presented by MWSS did not prove ownership and merely constituted *prima facie* evidence of possession. Second, the transfer certificates of title presented by Santiago, et al. proved ownership and cannot be attacked collaterally. Third, the pipelines installed by MWSS were buried and hidden under the ground, hence, MWSS' possession was not "open." Further, MWSS admittedly discontinued use of the pipelines after 1968, hence, possession was not "continuous." Last, MWSS' use and possession of the land was merely tolerated by Santiago, et al. and could not ripen into ownership.

Appellate Court's Ruling: The CA reversed the RTC.

First, the property covered by the original and transfer certificates of title presented by Santiago, et al. merely adjoins and are adjacent to the property claimed by MWSS. The parcels of land covered by the certificates of title do not overlap or encroach on the property claimed by MWSS. In fact, the strips of land where the pipes were laid were deliberately excluded in the survey plans of Santiago, et al.'s property. The survey served as basis for issuance of Santiago, et al.'s certificates of title. Second, the aqueducts were installed and buried long before World War II, under untitled land, giving rise to the presumption that such land was "public land". Third, Santiago, et al. did not present compelling proof that the land under which the pipelines were buried were owned by their predecessors-in-interest. There was no proof that use of the land by MWSS was merely tolerated by petitioners' predecessors. The testimonies presented by Santiago, et al. on the matter are hearsay. Last, MWSS acquired ownership by prescription. True, the pipes were "hidden" under the land. However, it is a matter of public knowledge and judicial notice that the pipes existed and were buried there before World War II. The existence of the pipelines was indicated above the ground by "*pilapils*" constructed by the adjoining landowners themselves, since they planted rice alongside the strips of land.

Issue: Whether MWSS still has a claim over the land

Supreme Court's ruling: The appeal is not meritorious. The findings of the Court of Appeals are supported by substantial evidence and are binding on this Court. Documents proving ownership such as transfer and original certificates of title are the legs on which Santiago, et al.'s case stands. Premised on the relevance of these documents, the trial court ruled in favor of Santiago, et al. However, the proverbial legs of evidence are broken. While the titles presented by Santiago, et al. show ownership, such ownership is not of the land claimed, but over the adjoining parcels of land. The technical descriptions in the titles presented by Santiago, et al.betray them as adjacent and adjoining owners of the land claimed by MWSS for registration. The certificate of title covers only the land described therein together with improvements existing thereon, if any, nothing more. The titles presented by Santiago, et al.covering as they do land adjacent to that claimed in MWSS' application for registration, do not support their claim, but even defeat it.

Further, the SC held that if Santiago, et al.'s predecessors were truly the owners of the subject parcels of land, they would have taken steps to have the land properly titled long ago. The land was possessed by MWSS long before World War II.

MWSS presented tax declarations to buttress its ownership of the land. Although tax declarations do not prove ownership, they can be strong evidence of ownership when accompanied by possession for a period sufficient for prescription. Since MWSS possessed the land in the concept of owner for more than thirty (30) years preceding the application, MWSS acquired ownership by prescription. By placing the pipelines under the land, there was material occupation of the land by MWSS, subjecting the land to its will and control. Santiago, et al. cannot argue that MWSS' possession was not "open." The existence of the pipes was indicated above the ground by "*pilapils*." Even assuming *arguendo* that the pipes were "hidden" from sight, Santiago, et al. cannot claim ignorance of the existence of the pipes. The possession must be public in order to be the basis for prescription. If the owner proves that the possession is clandestine, it will not affect his possession. Santiago, et al. also cannot claim that MWSS abandoned its possession. There is no showing that by discontinuing the use of the pipes, MWSS voluntarily renounced its claim over the land.

Ong Chiu Kwan v. CA, G.R. No. 113006, Nov. 23, 2000

Facts: An information was filed charging Ong Chiu Kwan with unjust vexation for cutting the electric wires, water pipes and telephone lines of "Crazy Feet," a business establishment owned and operated by Mildred Ong. He ordered Wilfredo Infante to "relocate" the telephone, electric and water lines of "Crazy Feet," because said lines posed as a disturbance. However, Ong Chiu Kwan failed to present a permit from appropriate authorities allowing him to cut the electric wires, water pipe and telephone lines of the business establishment.

Municipal Trial Court's Ruling: The MTC found Ong Chiu Kwan guilty of unjust vexation, and sentenced him to imprisonment for twenty days. The court also ordered him to pay moral damages, finding that the wrongful act of abruptly cutting off the electric, water pipe and telephone lines of "Crazy Feet" caused the interruption of its business operations during peak hours, to the detriment of its owner, Mildred Ong.

Regional Trial Court's Ruling: The RTC adopted the decision of the lower court *in toto*, without stating the reasons for doing so.

Appellate Court's Ruling: The CA dismissing the appeal, agreeing with the MTC's finding that Ong Chiu Kwan was guilty beyond reasonable doubt of unjust vexation.

Issue: Whether Ong Chiu Kwan is guilty of unjust vexation

Supreme Court's Ruling: The decision of the lower courts are reversed and set aside, and Ong Chiu Kwan is sentenced to pay a fine while award for damages are deleted. SC noted that the RTC did not make a full finding of fact and conclusion of law on its own. This violated the Constitution and Rules of Court. The SC, however, chose to make a full finding of fact and conclusion of law on its own.

Ong Chiu Kwan admitted having ordered the cutting of the electric, water and telephone lines of Mildred Ong's business establishment because these lines crossed his property line. He failed, however, to show evidence that he had the necessary permit or authorization to relocate the lines. Also, he timed the interruption of electric, water and telephone services during peak hours of the operation of business of the complainant. Thus, his act unjustly annoyed or vexed the complainant. Consequently, Ong Chiu Kwan is liable for unjust vexation.

Collado, et al. v. CA, et al., G.R. No. 107764, Oct. 4, 2002

Facts: Edna T. Collado (Collado) filed with the land registration court an application for registration of a parcel of land with an approximate area of 1,200,766 square meters or 120.0766 hectares. The Lot is situated in Barangay San Isidro, Antipolo, Rizal. Attached to the application was the technical description of the Lot which stated that, *"[t]his survey is inside IN-12 Mariquina Watershed."* Collado filed an Amended Application to include additional co-applicants and subsequently, more applicants joined.

The Republic of the Philippines, through the Solicitor General, and the Municipality of Antipolo, through its Municipal Attorney and the Provincial Fiscal of Rizal, filed oppositions to Collado, et al.'s application. In due course, the land registration court issued an order of general default against the whole world with the exception of the oppositors.

During the hearing, only the assistant provincial prosecutor appeared without the Solicitor General. For failure of the oppositors to present their evidence, the land registration court issued an order considering the case submitted for decision based on the evidence of the petitioners. The court set aside the order and reset the hearing for the presentation of the evidence. Counsel for oppositors failed to appear again despite due notice. Hence, the court issued an order submitting the case for decision based on the evidence of the petitioners.

Lower Court's Ruling: The RTC held that Collado, et al. had adduced sufficient evidence to establish their registrable rights over the Lot. Accordingly, the RTC rendered a decision confirming the imperfect title of Collado, et al.

Appellate Court's Ruling: The CA declared null and void the decision of the RTC.

Issues: Whether Collado, et al. have registrable title over the lot

The Supreme Court's decision: Collado, et al. did not acquire private rights over the parcel of land prior to the issuance of EO 33 segregating the same as a watershed reservation.

First. An applicant for confirmation of imperfect title bears the burden of proving that he meets the requirements of CA 141. He must overcome the presumption that the land he is applying for is part of the public domain and that he has an interest therein sufficient to warrant registration in his name arising from an imperfect title. An imperfect title may have been derived from old Spanish grants such as a *titulo real* or royal grant, a *concession especial* or special grant, a *composition con el estado* or adjustment title, or a *titulo de compra* or title through purchase. Or, that he has had continuous, open and notorious possession and occupation of agricultural lands of the public domain under a bona fide claim of ownership for at least thirty years preceding the filing of his application as provided by CA 141.

Clearly, Collado, et al. were unable to acquire a valid and enforceable right or title because of the failure to complete the required period of possession, whether under CA 141 prior to the issuance of EO 33, or under the amendment by RA 1942 and PD 1073. There is no proof that prior to the issuance of EO 33 in 1904, Collado, et al. had acquired ownership or title to the

Lot either by deed or by any other mode of acquisition from the State, as for instance by acquisitive prescription. As of 1904, Sesinando Leyva had only been in possession for two years. Verily, Collado, et al. have not possessed the parcel of land in the manner and for the number of years required by law for the confirmation of imperfect title.

Second, assuming that the Lot was alienable and disposable land prior to the issuance of EO 33 in 1904, EO 33 reserved the Lot as a watershed. Since then, the Lot became non-disposable and inalienable public land. At the time Collado, et al. filed their application on April 25, 1985, the Lot has been reserved as a watershed under EO 33 for 81 years prior to the filing of petitioners' application. The period of occupancy after the issuance of EO 33 in 1904 could no longer be counted because as a watershed reservation, the Lot was no longer susceptible of occupancy, disposition, conveyance or alienation. CA 141, applies exclusively to alienable and disposable public agricultural land. Forestlands, including watershed reservations, are excluded. It is axiomatic that the possession of forest lands or other inalienable public lands cannot ripen into private ownership.

Third, Based on the facts on record that neither Collado, et al. nor their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the Lot for at least thirty years immediately preceding the filing of the application for confirmation of title.

Spouses Lantin v. CA, et al., G.R. No. 127141, April 30, 2003

Facts: Spouses Emmanuel Lantin and Melanie Lantin (the Lantins) were former lessees of a residential house, owned by Esperanza C. Reyes (Reyes), located in Merville Park Subdivision in Parañaque City. The Lantins informed Reyes that they were terminating the lease contract. The Lantins vacated the leased premises but retained the key to the house to enable them to remove the intercom unit which they installed therein. The Lantins later turned over the key to the house to Reyes. On even date, Reyes returned to the Lantins a check in the amount of P8,000.00 which they issued representing the one (1) month deposit on the house. Ms. Reyes issued another check in favor of the Lantins in the amount of P4,514.50 representing the balance of the other one (1) month deposit, after deducting the amount of P4,514.50 contained in an unsigned cash voucher turned over by Reyes to the Lantins.

Reyes then leased the aforesaid house to the Spouses Roland and Ma. Victoria Beltran (the Beltrans) who later discovered that there were utility bills pertaining to the house that were left unpaid. The billing statements received by the Beltrans included an electric bill, water consumption and homeowners' association dues and a telephone bill. Afraid that their telephone, electric and water supply would be cut off if they let the bills remain unpaid, the Beltrans were constrained to settle them on behalf of the Lantins. Consequently, the Beltrans demanded from the Lantins reimbursement. However, the Lantins refused to pay the Beltrans. The matter was then brought to the *barangay* authorities for the requisite conciliation proceedings, as the parties reside in the same subdivision, to no avail.

Metropolitan Trial Court's Ruling: MeTC ruled in favor of the Lantins upon finding that they had already paid the electric bill, Merville Park Homeowners' Association (MPHA) water consumption and association dues to the owner of the house, Reyes, who deducted the corresponding amounts from the Lantins deposit.

Regional Trial Court's Ruling: The RTC affirmed *in toto* the decision of the MeTC.

Appellate Court's Ruling: The CA reversed and set aside the RTC's decision. The CA found that the Beltrans paid for the Lantins' water consumption and homeowners' association dues and the Beltrans are thus entitled to reimbursement for said payment. However, like the lower courts, the appellate court found that the Beltrans are not entitled to reimbursement for the electric bill and telephone bill payments.

Issue: Whether the CA correctly ordered the Lantins to reimburse the Beltrans for the payment made by the latter for the water consumption and homeowners' association dues

Supreme Court's Ruling: On the matter concerning the telephone and electricity bills, the MeTC, RTC and CA are unanimous in ruling that the Beltrans are not entitled to reimbursement for these particular utility bills. The Court shall thus defer to these courts''findings on the matter considering that factual findings of the appellate court are given great weight especially when in complete accord with the findings of the lower court. Unlike the MeTC and RTC, however, the CA found the petitioners liable to the respondents for the payment of the water consumption and association dues for the month. In so holding, the CA ruled that the cash voucher relied upon by the Lantins was insufficient to prove their payment

of said dues. The reimbursement being claimed by the Beltrans from the Lantins pertained to the water consumption and association dues. It cannot be gainsaid that the Lantins occupied the leased premises until said dates and retained constructive possession thereof when they kept the key to the house until March 30, 1994. Thus, it is only just and equitable that the Lantins assume the obligation to pay the water consumption and association dues of the leased premises for the said month.

However, the amount adjudged by the CA to be reimbursed by the Lantins to the Beltrans has to be reduced from P1,587.90 to P1,062.90. The receipt issued by the homeowners'association (MPHA) shows that the Beltrans paid by check (RCBC Check No. 063635) the following amounts: P525.00 for the homeowners'association dues for April 1994 and P1,062.90 for the water consumption for March 1994. The CA thus should not have included the amount of P525.00 as the same pertained to the homeowners' association dues for the month of April 1994. At the time, the Lantins no longer occupied, constructively or otherwise, the leased premises. In fine, the Beltrans are entitled to reimbursement for the payment made by them for the Lantins' water consumption for the month pursuant to Art. 1236 of the New Civil Code. The Lantins had been clearly benefited from the payment made by the respondents because, by reason of such payment, the Lantins had been relieved from their obligation to pay the same to the owner of the leased premises.

MWSS v. Act Theater, G.R. No. 147076, June 17, 2004

Facts: Four employees of the Act Theater, Inc., were apprehended by members of the Quezon City police force for allegedly tampering a water meter in violation of P.D. No. 401. Act Theater, Inc.'s employees were subsequently criminally charged before the trial court. On account of the incident, Act Theater, Inc.'s water service connection was cut off. Consequently, a complaint for injunction with damages was filed against the MWSS.

In the civil case, Act Theater, Inc. alleged in its complaint filed with the court *a quo* that the MWSS acted arbitrarily, whimsically and capriciously, in cutting off the Act Theater, Inc.'s water service connection without prior notice. Due to lack of water, the health and sanitation, not only of the Act Theater, Inc.'s patrons but in the surrounding premises as well, were adversely affected. Act Theater, Inc. prayed that the MWSS be directed to pay damages.

Lower Court's Ruling: The four accused were acquitted for failure to prove their guilt beyond reasonable doubt.

Appellate Court's Ruling: MWSS appealed the civil aspect of the case, which the CA dismissed. According to the CA, the court *a quo* correctly found that the MWSS's act of cutting off the Act Theater, Inc.'s water service connection without prior notice was arbitrary, injurious and prejudicial to the latter justifying the award of damages under Article 19 of the Civil Code.

Issue: Whether MWSS is justified in its act of disconnecting the water supply of the Act Theater, Inc. without prior notice, hence not liable for any damages

Supreme Court's Ruling: As the owner of the utility providing water supply to certain consumers including Act Theater, Inc., MWSS had the right to exclude any person from the enjoyment and disposal thereof. However, the exercise of rights is not without limitations. Having the right should not be confused with the manner by which such right is to be exercised. Article 19 of the Civil Code precisely sets the norms for the exercise of one's rights. In this case, MWSS failed to act with justice and give Act Theater, Inc. what is due to it when the MWSS unceremoniously cut off the Act Theater, Inc.'s water service connection. There is, thus, no reason to deviate from the uniform findings and conclusion of the court *a quo* and the appellate court that the MWSS' act was arbitrary, injurious and prejudicial to the Act Theater, Inc. justifying the award of damages under Article 19 of the Civil Code.

Bacolod City Water District v. Hon. Labayen, G.R. No. 157494, Dec. 10, 2004

Facts: Bacolod City Water District (BACIWA) is a water district established pursuant to PD 198 as a government-owned and controlled corporation with original charter. It is in the business of providing safe and potable water to Bacolod City. Bacolod City filed a case against BACIWA. BACIWA sought to increase water rates, which Bacolod City opposes. Bacolod City alleged that the proposed water rates would violate due process as they were to be imposed without the public hearing required under LOI 700 and PD 1479.

Lower Court's Ruling: The RTC issued an Order commanding BACIWA to stop, desist and refrain from implementing the proposed water rates for the year 2000. Eventually, the RTC issued the assailed Decision granting the final injunction, which allegedly confirmed the previous preliminary injunction. Motion for reconsideration was denied for lack of merit.

Appellate Court's Ruling: The CA dismissed BACIWA's petition for review on *certiorari.*

Issue: Whether the order issued by the RTC is a temporary restraining order or a preliminary injunction

Supreme Court's Ruling: The sequence of events and the proceedings that transpired in the RTC make a clear conclusion that the Order issued was a temporary restraining order and not a preliminary injunction. *Injunction* is a judicial writ, process or proceeding whereby a party is ordered to do or refrain from doing a certain act. It may be the main action or merely a provisional remedy for and as an incident in the main action. The main action for injunction is distinct from the provisional or ancillary remedy of preliminary injunction which cannot exist except only as part or an incident of an independent action or proceeding. Under the law, the main action for injunction seeks a judgment embodying a final injunction which is distinct from, and should not be confused with, the provisional remedy of preliminary injunction, the sole object of which is to preserve the *status quo* until the merits can be heard. A restraining order, on the other hand, is issued to preserve the *status quo until the hearing of the application for preliminary injunction* which cannot be issued *ex parte.*

Metro Iloilo Water District v. CA, et al., G.R. No. 122855, March 31, 2005

Facts: Metro Iloilo Water District (MIWD) is a water district organized under the provisions of PD 198. The Local Water Utilities Administration (LWUA) granted MIWD Conditional Certificate of Conformance No. 71. MIWD's service areas encompass the entire territorial areas of Iloilo City and the Municipalities of Ma-asin, Cabatuan, Santa Barbara and Pavia. MIWD filed nine (9) individual yet identical petitions for injunction with prayer for preliminary injunction and/or temporary restraining orders against Nava, et al. for unauthorized extraction or withdrawal of ground water without the necessary permit and constitutes interference with or deterioration of water quality or the natural flow of surface or ground water supply.

Lower Court's Ruling: The RTC dismissed the petitions and ruled that the controversy is within the jurisdiction of the National Water Resource Council (NWRC) under PD 1067 involving, as it did, the appropriation, exploitation and utilization of water, and factual issues which were within the NWRC's competence. In addition, the RTC held that MIWD failed to exhaust administrative remedies under the doctrine of "primary administrative jurisdiction."

Appellate Court's Ruling: The CA denied the petition, holding that the RTC did not err in dismissing the case for want of jurisdiction as it was the NWRC which had jurisdiction over the case. The CA stated that the case actually involves also a dispute over the appropriation, utilization, exploitation, development, control, conservation and protection of waters because Nava, et al. have allegedly engaged in the extraction or withdrawal of ground water without a permit from the NWRC within the territorial jurisdiction of the MIWD.

Issue: Whether the trial courts have jurisdiction over subject matter of the petitions

Supreme Court's Ruling: The petitions filed before the trial court were for the issuance of an injunction order for Nava, et al. to cease and desist from extracting or withdrawing water from MIWD's well and from selling the same within its service areas. In essence, the petitions focus on the violations incurred by Nava, et al. by virtue of their alleged unauthorized extraction and withdrawal of ground water within MIWD's service area, *vis-à-vis* MIWD's vested rights as a water district. At issue is whether Nava, et al.'s extraction and sale of ground water within MIWD's service area violated MIWD's rights as a water district. It is at once obvious that the petitions raise a judicial question.

While initially it may appear that there is a dimension to the petitions which pertains to the sphere of the Water Council, *i.e.*, the appropriation of water which the Water Code defines as "the acquisition of rights over the use of waters or the taking or diverting of waters from a natural source in the manner and for any purpose allowed by law," in reality the matter is at most merely collateral to the main thrust of the petitions.

The petitions having raised a judicial question, it follows that the doctrine of exhaustion of administrative remedies, on the basis of which the petitions were dismissed by the trial court and the Court of Appeals, does not even come to play.

Notably too, private respondents themselves do not dispute petitioner's rights as a water district. The cases of *Abe-Abe v. Manta* and *Tanjay Water District v. Gabaton* invoked by Nava, et al. are thus inapplicable. In *Abe-Abe v. Manta*, both petitioners and respondent had no established right emanating from any grant by any governmental agency to the use, appropriation and exploitation of water, while in *Tanjay Water District v. Gabaton*, petitioner Tanjay sought to enjoin the Municipality of Pamplona and its officials from interfering in the management of the Tanjay Waterworks System.

On the other hand, in an analogous case of *Amistoso v. Ong,* petitioner had an approved Water Rights Grant from the Department of Public Works, Transportation and Communications. The trial court was not asked to grant petitioner the right to use but to compel private respondents to recognize that right. Thus, the Court declared that the trial court's jurisdiction must be upheld where the issue involved is not the settlement of a water rights dispute, but the enjoyment of a right to water use for which a permit was already granted.

In like manner, the present petition calls for the issuance of an injunction order to prevent Nava, et al. from extracting and selling ground water within MIWD's service area in violation of the MIWD's water permit. There is no dispute regarding MIWD's right to ground water within its service area. It is MIWD's enjoyment of its rights as a water district which it seeks to assert against Nava, et al.

Buendia v. City of Iligan, G.R. No. 132209, April 29, 2005

Facts: Buendia filed with the National Water Resource Board (NWRB) an application for the appropriation of water from a spring located within his property in Iligan City. In the absence of protests to the applications being timely filed, the NWRB, after evaluating Buendia's applications, issued Water Permits in his favor. Almost five (5) months after Buendia's Water Permits were issued, the City of Iligan filed with the NWRB an "Opposition and/or Appeal" contesting the issuance of said water permits to Buendia. The Opposition and/or Appeal sought to serve as both a protest against Buendia's water permit applications, as well as an appeal to the NWRB's grant of the water permits to Buendia.

NWRB dismissed the City of Iligan's Opposition and/or Appeal. The City of Iligan did not move for a reconsideration of said order, nor did it appeal to the appropriate Executive Department, but instead filed a petition with the RTC Lanao del Norte assailing the legality of the NWRB Order for being issued in excess of its jurisdiction and/or with grave abuse of discretion amounting to lack of jurisdiction.

Lower Court's Rruling: Although the RTC upheld the dismissal of the "Opposition and/or Appeal" on procedural grounds, it nonetheless annulled the NWRB Order.

Issue: Whether NWRB correctly dismissed City of Iligan's opposition and/or appeal

Supreme Court's Ruling: The SC granted Buendia's petition granted. The SC also set aside the RTC decision and affirmed the NWRB's order

Notwithstanding the conclusion that the dismissal of said opposition and/or appeal was in accordance with law, the RTC proceeded to resolve the question of as to who between the City of Iligan and Carlos Buendia has the better right to the water source, certainly going beyond the issue delineated in the pre-trial. Absent a discussion by the NWRB of the substantial issues raised in the Opposition and/or Appeal, the RTC should not have decided said questions especially since they were not passed upon by the Board which exercises original jurisdiction over issues involving water rights controversies. Time and again, the Court has upheld the *doctrine of primary jurisdiction* in deference to the specialized expertise of administrative agencies to act on certain matters. Therefore, the question of as to who between the City of Iligan and Carlos Buendia has the better right to the water source should have been left to the determination of the NWRB via a timely protest filed during the pendency of the water permit applications. However, said issue could not have been adjudicated upon by the NWRB since the application was never properly contested. Hence, in the absence of a timely protest filed before the NWRB, no water rights controversy arose wherein the NWRB can properly discuss the substantial issues raised by respondent.

Teoville Homeowners Asso., Inc. v. Ferreira, et al., G.R. No. 140086, June 8, 2005

Facts: This case stemmed from a dispute over a 711-square meter lot designated as Lot 98 of the Teoville Subdivision in Parañaque City previously owned by the Villongco Realty Corporation. Based on the original plans of the subdivision project approved by the Municipal Council of Parañaque City in 1968, the lot was designated as a saleable lot. Before its completion, however, Villongco Realty Corporation transferred the subdivision project, including all the unsold lots therein, through a Deed of Sale and Assignment to REAM Development Corporation (REAM). The sale included all the improvements erected upon Lot 98 such as the water system, equipment and appurtenances thereto. Sometime in 1985, the residents experienced a severe water crisis occasioned by the complete breakdown of the centralized water system and a dispute between REAM and Teoville (Parañaque) Homeowners Association, Inc. (Teoville) as to who was responsible for the unpaid electricity bills of the centralized water system. Through a Deed of Transfer and Donation REAM donated to Teoville the water distribution system of 30,000.00 gallons capacity water tank, including the 30-horsepower deepwell submersible motor pump, respectively, all their facilities and appurtenances thereof. The water pump and the water tank soon became unoperational and were subsequently dismantled.

On 16 April 1985, with the approval of the Land Registration Authority, REAM caused the subdivision of Lot 98 into Lot 98-A with an area of 300 square meters and Lot 98-B with an area of 411 square meters. REAM then sold Lot 98-A to Edward L. Ferreira on 20 September 1985. By virtue of the sale of the lot to Ferreira, Transfer Certificate of Title (TCT) No. 95354 of the Registry of Deeds of Pasay City in the name of REAM was cancelled and TCT No. 102423 was issued in the name of Ferreira.

Teoville filed a Verified Complaint before the Adjudication Board of the Housing and Land Use Regulatory Board (HLURB) against REAM Development Corporation and Edward Ferreira arguing that the sale between REAM and Ferreira was illegal and should be annulled because REAM cannot dispose of Lot 98 since it is an open space where the water tank which allegedly belongs to the homeowners association was built. In lieu of an Answer, Ferreira filed a Motion to Dismiss on the ground of lack of jurisdiction.

HLURB's Ruling: HLURB Arbiter dismissed the Complaint for lack of jurisdiction rationalizing that since the Registry of Deeds of Pasay City had already issued a title to Lot 98-A, the appropriate Regional Trial Court and not the HLURB had jurisdiction to declare the nullity of the Torrens Title issued to Ferreira and ordering REAM to comply with its undertaking to donate Lot 98-B to Teoville. On appeal, the HLURB Board of Commissioners rendered a decision setting aside the decision of HLURB Arbiter stating that while Lot 98 previously appeared to be a saleable lot, however, since the water system, a form of subdivision development, was situated in Lot 98, REAM, in effect, made a representation that the lot was part of the open space, a facility for public use. The re-subdivision thereof resulted in the alteration of an open space which to be valid required the prior approval of the HLURB upon written conformity or consent of the homeowners, under PD 957.

On motion for reconsideration, the HLURB Board of Commissioners, Special Division, set aside the earlier decision of the HLURB Board of Commissioners and held that REAM had the right to re-subdivide Lot 98 without prior clearance from the HLURB because there was no more facility for public use set up therein and further held that since REAM

expressed willingness to donate Lot 98-B to Teoville, the HLURB Board of Commissioners "can only go so far as directing REAM to comply with its voluntary undertaking." Teoville's MR was denied on the ground that the water system in Lot 98 was no longer functioning.

Office of the President's Ruling: The OP dismissed Teoville's appeal and the resolutions of the HLURB Board of Commissioners, Special Division, were affirmed *in toto*.

Appellate Court's Ruling: The CA dismissed the petition due to technicality.

Issue: Whether HLURB's findings of fact are accorded with great respect

Supreme Court's Ruling: On the issue of substance, a less stringent interpretation of the rules is not justified in this case which raises factual issues already passed upon by both the HLURB and the Office of the President. Findings of fact by administrative agencies are generally accorded great respect, if not finality, by the Court because of the special knowledge and expertise over matters falling under their jurisdiction.

More, the title to the land of Ferreira has acquired the character of indeafeasibility having been registered under the Torrens system of registration. Once a decree of registration is made under the Torrens system, and the reglementary period has passed within which the decree may be questioned, the title is perfected and cannot be collaterally questioned later on. To permit a collateral attack on his title, such as what petitioner now attempts, would reduce the vaunted legal indefeasibility of Torrens Title to meaningless verbiage. A Torrens Title cannot be collaterally attacked. A direct attack against a judgment is made through an action or proceeding the main object of which is to annul, set aside, or enjoin the enforcement of such judgment, if not yet carried into effect; or, if the property has been disposed of, the aggrieved party may sue for recovery. A collateral attack is made when, in another action to obtain a different relief, an attack on the judgment is made as an incident in said action. It has, therefore, become an ancient rule that the issue on the validity of title, *i.e.*, whether or not it was fraudulently issued, can only be raised in an action expressly instituted for that purpose.

The Province of Rizal, et al., vs. Executive Secretary, et al, G.R. No. 129546, Dec. 13, 2005

Facts: At the height of the garbage crisis plaguing Metro Manila and its environs, parts of the Marikina Watershed Reservation were set aside by the Office of the President, through Proclamation No. 635 dated 28 August 1995, for use as a sanitary landfill and similar waste disposal applications. This site, extending to more or less 18 hectares, had already been in operation since 19 February 1990 for the solid wastes of Quezon City, Marikina, San Juan, Mandaluyong, Pateros, Pasig, and Taguig.

On 24 November 1995, the petitioners Municipality of San Mateo and the residents of Pintong Bocaue, represented by former Senator Jovito Salonga, sent a letter to President Fidel Ramos requesting him to reconsider Proclamation No. 635. Receiving no reply, they sent another letter on 02 January 1996 reiterating their previous request.

On 22 July 1996, the petitioners filed before the Court of Appeals a civil action for certiorari, prohibition and mandamus with application for a temporary restraining order/writ of preliminary injunction.

On 19 July 1999, President Joseph E. Estrada, taking cognizance of the gravity of the problems in the affected areas and the likelihood that violence would erupt among the parties involved, issued a Memorandum ordering the closure of the dumpsite on 31 December 2000. Accordingly, on 20 July 1999, the Presidential Committee on Flagship Programs and Projects and the Metro Manila Development Authority (MMDA) entered into a Memorandum of Agreement (MOA) with the Provincial Government of Rizal, the Municipality of San Mateo, and the City of Antipolo, wherein the latter agreed to further extend the use of the dumpsite until its permanent closure on 31 December 2000.

On 11 January 2001, President Estrada directed Department of Interior and Local Government (DILG) Secretary Alfredo Lim and MMDA Chairman Binay to reopen the San Mateo dumpsite "in view of the emergency situation of uncollected garbage in Metro Manila, resulting in a critical and imminent health and sanitation epidemic."

Claiming the above events constituted a "clear and present danger of violence erupting in the affected areas," the petitioners filed an Urgent Petition for Restraining Order on 19 January 2001.

On 24 January 2001, the Supreme Court issued the Temporary Restraining Order prayed for, "effective immediately and until further orders." Meanwhile, on 26 January 2001, President Estrada signed Republic Act No. 9003, otherwise known as "The Ecological Solid Waste Management Act of 2000," into law.

Lower Court's Ruling: The Court of Appeals ruled in favor of Executive Secretary, et al. The CA denied, for lack of cause of action, the petition for certiorari, prohibition and mandamus with application for a temporary restraining order/writ of preliminary injunction assailing the legality and constitutionality of Proclamation No. 635.

Issues: Whether the permanent closure of the San Mateo landfill is mandated by Rep. Act. No. 9003; and

Whether Proclamation No. 635 is constitutional.

Supreme Court's Ruling: The Supreme Court ruled in favor of the Province of Rizal, et al. and reversed and set aside the decision of the Court of Appeals.

The San Mateo Landfill will remain permanently closed. There is an added need to reassure the residents of the Province of Rizal that this is indeed a final resolution of this controversy, for a brief review of the records of this case indicates two self-evident facts. First, the San Mateo site has adversely affected its environs, and second, sources of water should always be protected.

As to the first point, the adverse effects of the site were reported as early as 19 June 1989, when the Investigation Report of the Community Environment and Natural Resources Officer of Department of Environment and Natural Resources (DENR)-IV-1 stated that the sources of domestic water supply of over one thousand families would be adversely affected by the dumping operations. The succeeding report included the observation that the use of the areas as dumping site greatly affected the ecological balance and environmental factors of the community. Respondent Laguna Lake Development Authority (LLDA) in fact informed the MMDA that the heavy pollution and risk of disease generated by dumpsites rendered the location of a dumpsite within the Marikina Watershed Reservation incompatible with its program of upgrading the water quality of the Laguna Lake.

The DENR suspended the site's Environmental Compliance Certificate (ECC) after investigations revealed ground slumping and erosion had resulted from improper development of the site. Another Investigation Report submitted by the Regional Technical Director to the DENR reported respiratory illnesses among pupils of a primary school located approximately 100 meters from the site, as well as the constant presence of large flies and windblown debris all over the school's playground. It further reiterated reports that the leachate treatment plant had been eroded twice already, contaminating the nearby creeks that were sources of potable water for the residents. The contaminated water was also found to flow to the Wawa Dam and Boso-Boso River, which in turn empties into Laguna de Bay.

This brings to the second self-evident point. Water is life, and must be saved at all costs. In Collado v. Court of Appeals, the Supreme Court had occasion to reaffirm its previous discussion in Sta. Rosa Realty Development Corporation v. Court of Appeals, on the primordial importance of watershed areas, thus: "The most important product of a watershed is water, which is one of the most important human necessities. The protection of watersheds ensures an adequate supply of water for future generations and the control of flashfloods that not only damage property but also cause loss of lives. Protection of watersheds is an "intergenerational" responsibility that needs to be answered now.

The Reorganization Act of the DENR Defines and Limits Its Powers over the Country's Natural Resources

The Administrative Code of 1987 and Executive Order No. 192 entrust the DENR with the guardianship and safekeeping of the Marikina Watershed Reservation and our other natural treasures. However, although the DENR, an agency of the government, owns the

Marikina Reserve and has jurisdiction over the same, this power is not absolute, but is defined by the declared policies of the state, and is subject to the law and higher authority.

The Local Government Code Gives to Local Government Units All the Necessary Powers to Promote the General Welfare of Their Inhabitants

Under the Local Government Code, two requisites must be met before a national project that affects the environmental and ecological balance of local communities can be implemented: prior consultation with the affected local communities, and prior approval of the project by the appropriate *sanggunian*. Absent either of these mandatory requirements, the project's implementation is illegal.

Waste Disposal Is Regulated by the Ecological Solid Waste Management Act of 2000

The Ecological Sold Waste Management Act of 2000 mandates the formulation of a National Solid Waste Management Framework, which should include, among other things, the method and procedure for the phaseout and the eventual closure within eighteen months from effectivity of the Act in case of existing open dumps and/or sanitary landfills located within an aquifer, groundwater reservoir or watershed area. Any landfills subsequently developed must comply with the minimum requirements laid down in Section 40, specifically that the site selected must be consistent with the overall land use plan of the local government unit, and that the site must be located in an area where the landfill's operation will not detrimentally affect environmentally sensitive resources such as aquifers, groundwater reservoirs or watershed areas.

Having declared Proclamation No. 635 illegal, the Supreme Court sees no compelling need to tackle the remaining issues raised in the petition and the parties' respective memoranda.

MCWD vs. Margarita A. Adala, G.R. No. 168914, July 14, 2007

Facts: On October 24, 2002, Margarita A. Adala filed an application with the National Water Resources Board (NWRB) for the issuance of a Certificate of Public Convenience (CPC) to operate and maintain waterworks system in sitios San Vicente, Fatima, and Sambag in Barangay Bulacao, Cebu City.

At the initial hearing of December 16, 2002 the Metropolitan Cebu Water District (MCWD), a government-owned and controlled corporation created pursuant to P.D. 198 which took effect upon its issuance by then President Marcos on May 25, 1973, as amended, appeared through its lawyers to oppose the application.

In its Opposition, MCWD prayed for the denial of Adala's application on the following grounds: (1) MCWD's Board of Directors had not consented to the issuance of the franchise applied for, such consent being a mandatory condition pursuant to P.D. 198, (2) the proposed waterworks would interfere with petitioner's water supply which it has the right to protect, and (3) the water needs of the residents in the subject area was already being well served by petitioner.

In support of its contention that the consent of its Board of Directors is a condition sine qua non for the grant of the CPC applied for by Adala, MCWD cites Section 47 of P.D. 198 which states:

> Sec. 47. Exclusive Franchise. — No franchise shall be granted to any other person or agency for domestic, industrial or commercial water service within the district or any portion thereof unless and except to the extent that the board of directors of said district consents thereto by resolution duly adopted, such resolution, however, shall be subject to review by the Administration.

After hearing and an ocular inspection of the area, the NWRB, by Decision dated September 22, 2003, dismissed petitioner's Opposition "for lack of merit and/or failure to state the cause of action" and ruled in favor of respondent.

Lower Court's Ruling: The RTC affirmed in toto the Decision of the NWRB dated September 22, 2003 in favor of Margarita A. Adala. The RTC also denied MCWD's motion for reconsideration.

Issues: Whether the consent of the Board of Directors of MCWD is a condition sine qua non to the grant of certificate of public convenience by the NWRB upon operators of waterworks within the service area of the water district;

Whether the term "franchise" as used in Sec. 47 of PD 198, as amended, means a franchise granted by congress through legislation only or whether it includes in its meaning a certificate of public convenience issued by the national water resources board for the maintenance of waterworks system or water supply service

Supreme Court's Ruling: The Supreme Court ruled in favor of Adala and dismissed MCWD's petition. It also declared the law relied upon by MCWD, Section 47, PD 198 as unconstitutional.

MCWD's position that an overly strict construction of the term "franchise" as used in Section 47 of P.D. 198 would lead to an absurd result impresses. If franchises, in this context, were strictly understood to mean an authorization issuing directly from the legislature, it would follow that, while Congress cannot issue franchises for operating waterworks systems without the water district's consent, the NWRB may keep on issuing CPCs authorizing the very same act even without such consent. In effect, not only would the NWRB be subject to less constraints than Congress in issuing franchises. The exclusive character of the franchise provided for by Section 47 would be illusory.

Once a district is "duly formed and existing" after following Secs. 6 and 7 of PD 198, it acquires the "exclusive franchise" referred to in Section 47. Thus, P.D. 198 itself, in harmony with Philippine Airlines, Inc. v. Civil Aeronautics Board, gives the name "franchise" to an authorization that does not proceed directly from the legislature.

Nonetheless, while the prohibition in Section 47 of P.D. 198 applies to the issuance of CPCs for the reasons discussed above, the same provision must be deemed *void ab initio* for being irreconcilable with Article XIV Section 5 of the 1973 Constitution which was ratified on January 17, 1973 – the constitution in force when P.D. 198 was issued on May 25, 1973. Thus, Section 5 of Art. XIV of the 1973 Constitution reads:

> SECTION 5. No franchise, certificate, or any other form of authorization for the operation of a public utility shall be granted except to citizens of the Philippines or to corporations or associations organized under the laws of the Philippines at least sixty per centum of the capital of which is owned by such citizens, nor shall such franchise, certificate, or authorization be exclusive in character or for a longer period than fifty years. Neither shall any such franchise or right be granted except under the condition that it shall be subject to amendment, alteration, or repeal by the Batasang Pambansa when the public interest so requires. The State shall encourage equity participation in public utilities by the general public. The participation of foreign investors in the governing body of any public utility enterprise shall be limited to their proportionate share in the capital thereof. (Emphasis and underscoring supplied)

This provision has been substantially reproduced in Article XII Section 11 of the 1987 Constitution, including the prohibition against exclusive franchises.

In view of the purposes for which they are established, water districts fall under the term "public utility" as defined in the case of National Power Corporation v. Court of Appeals where it states: A "public utility" is a business or service engaged in regularly supplying the public with some commodity or service of public consequence such as electricity, gas, water, transportation, telephone or telegraph service.

It bears noting, moreover, that as early as 1933, the Court held that a particular water district – the Metropolitan Water District – is a public utility.

Polomolok Water District vs. Polomolok General Consumers Association, Inc. G.R. No. 162124, Oct. 18, 2007

Facts: In October 1994 Polomolok Water District passed a resolution imposing new and higher water rates upon its customers. Polomolok General Consumers Association, Inc. vigorously opposed it through filing an administrative complaint with the National Water Resources Board (NWRB). But in an Order dated October 13, 1999, the NWRB dismissed the complaint for having been filed out of time.

On November 3, 1999, Polomolok General Consumers Association, Inc. filed with the Regional Trial Court, a class suit for declaration of nullity of PWD Resolution No. 94-023, with prayer for a temporary restraining order and preliminary injunction. Polomolok Water District alleged that the Resolution was passed without due notice to its members and hearing as required by Presidential Decree (P.D.) No. 198, as amended.

In its answer, petitioner claimed that it posted notices at various conspicuous public places at least one week before the public hearing; that it conducted two public hearings on March 2 and June 22, 1994; and that during the second hearing, 187 residents of Polomolok were present.

Lower Court's Ruling: On January 18, 2001, the RTC issued an Order in favor of Polomolok General Consumers Association, Inc. and found sufficient proof of violation of their rights to justify the issuance of a writ of preliminary injunction restraining the Polomolok Water District from disconnecting the water meter/connection of the Polomolok General Consumers Association Inc. and its members. Polomolok Water District filed a motion for reconsideration, but the trial court in its Order dated May 10, 2001 denied this.

Appellate Court's Ruling: The Court of Appeals affirmed the trial court's questioned Orders. It further ordered the remand of the case to the Regional Trial Court of Polomolok, South Cotabato, Branch 39 for the court to resolve with deliberate dispatch the class suit for declaration of nullity of Polomolok Water District Resolution No. 94-023.

The Court of Appeals held that the issue before the trial court was the validity of PWD Resolution No. 94-023, S. 1994 which is incapable of pecuniary estimation. Hence, the doctrine of exhaustion of administrative remedies is inapplicable.

Issue: Whether the Regional Trial Court committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the Orders dated January 18 and May 10, 2001

Supreme Court's Ruling: The Supreme Court affirmed the ruling of the Court of Appeals and ruled in favor of Polomok General Consumers Association, Inc.

The Court of Appeals did not err in holding that the subject of litigation is incapable of pecuniary estimation. Section 19 of Batas Pambansa Blg. 129 provides that the Regional Trial Courts shall exercise exclusive original jurisdiction in "all civil actions in which the subject of the litigation is incapable of pecuniary estimation."

It is well settled that jurisdiction of the court is determined on the basis of the material allegations of the complaint and the character of the relief prayed for irrespective of whether plaintiff is entitled to such relief. From the allegations and relief prayed for in its complaint, the issue raised is whether PWD Resolution No. 94-023, S. 1994 is valid.

Freedom from Debt Coaltion, et al vs. MWSS and the MWSS Regulatory Office, G.R. No. 173044, Dec. 10, 2007

Facts: In 1995, the government embarked upon the privatization of the waterworks and sewerage system of Metropolitan Waterworks and Sewerage System (MWSS). After a process of public bidding and selection, the Service Area East was awarded to Manila Water Company, Inc., while the Service Area West was awarded to Maynilad Water Services, Inc. On February 21, 1997, respondent MWSS executed separate Concession Agreements with the Manila Water Company, Inc. and Maynilad Water Services, Inc. (the concessionaires).

On March 31, 2004, the MWSS Regulatory Office issued a Notice of Extraordinary Price Adjustment (NEPA) which was opposed by both concessionaires. On June 2, 2004, the MWSS Board of Trustees, directed its Regulatory Office and the concessionaires to create a Technical Working Group (TWG) which will discuss the issues raised by the concessionaires in order to find a mutually acceptable resolution to avoid arbitration before the Appeals Panel.

Lower Court's Ruling: After the creation of the TWG and submission of its report, the MWSS Regulatory Office issued the assailed Resolution No. 04-006-CA approving and adopting the findings and recommendations of the TWG. On the same day (July 30, 2004), the MWSS Board of Trustees, in its assailed Resolution No. 2004-201 approved Regulatory Office Resolution No. 04-006-CA.

Issue: Whether the MWSS and MWSS Regulatory Office acted with grave abuse of discretion amounting to lack or in excess of jurisdiction in issuing the assailed Resolutions.

Supreme Court Ruling: The Supreme Court ruled in favor of MWSS and MWSS Regulatory Office and dismissed the petition for lack of merit.

Petitioners failed to resort to the appropriate remedy. Under Section 12 of the MWSS Charter, it was the defunct Public Service Commission which had the exclusive original jurisdiction over all cases contesting the rates or fees of water and sewerage services.

First, petitioners have a plain and speedy remedy in the ordinary course of law as prescribed in Section 12 of the MWSS Charter. The writ of certiorari and prohibition may be availed of only when "there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law."

Second, even assuming that petitioners may resort to certiorari and prohibition, their petition, however, suffers from a fatal defect, i.e., it failed to implead the two concessionaires who are certainly indispensable parties. Indispensable parties are those which have such interest in the controversy that a final adjudication of the case would certainly affect their rights, so that the court cannot proceed without their presence.

Third, the petition is barred under the doctrine of hierarchy of courts. Such doctrine is one of the structural aspects intended for the orderly administration of justice. In the absence of special reasons, parties cannot disregard the doctrine of the hierarchy of courts in

our judicial system by seeking relief directly from the Supreme Court despite the fact that the same is available in the lower tribunals in the exercise of their original concurrent jurisdiction.

Significantly, the petition raises issues of fact which cannot be addressed to the Supreme Court. For instance, in determining whether the concessionaires are public utilities or mere agents of MWSS, there must be an examination of the intention of MWSS and the concessionaires at the time of the bidding process, negotiation, and execution of the Concession Agreements. Moreover, petitioners maintain that the assailed Resolutions could authorize the increase of water rates beyond the 12% rate of return limit. While such claim is purely speculative in nature, it would nonetheless require a very complicated and technical computation of the current rate of return – which entails a determination of income, the valuation of assets, which assets are to be included in the computation, and other factual factors. Again, these matters are beyond the Court's function as it is not a trier of facts.

While petitioners claim that the assailed Resolutions are "in flagrant violation of the Constitution and statutory provisions defining public utilities," however, they failed to cite any Constitutional provision being violated.

Merida Water District, et al vs. Francisco Bacarro, et al., G.R. No. 165993, September 30, 2008

Facts: On September 2002, after receiving a confirmation letter of its proposed water rates from the Local Water Utilities Administration (LWUA), Merida Water District approved Resolution No. 006-02, implementing a water rate increase of P90 for the first ten cubic meters of water consumption. Thereafter, Merida Water District issued notices of disconnection to concessionaires who refused to pay the water rate increase and did not render service to those who opted to pay the increased rate on installment basis.

On February 13, 2003, respondents, consumers of Merida Water District, filed a Petition for Injunction, etc. against petitioners before the RTC. Respondents sought to enjoin the petitioners from collecting payment of P90 for the first ten cubic meters of water consumption. Respondents alleged that this imposed rate was contrary to the rate increase agreed upon during the public hearing. Respondents claimed that petitioners violated Letter of Instructions (LOI) No. 700 by: (1) implementing a water rate increase exceeding 60% of the current rate; and (2) failing to conduct a public hearing for the imposed rate of P90.

On February 24, 2003, Merida Water District, et al filed a Motion to Dismiss, alleging that respondents' petition lacked a cause of action as they failed to exhaust administrative remedies under Presidential Decree (P.D.) No. 198, the Provincial Water Utilities Act of 1973, as amended by P.D. Nos. 768 and 1479.

On February 26, 2003, one of the respondents questioned the legality of the water rate increase before the National Water Resources Board (NWRB).

Lower Court's Ruling: TheRTC ruled in favor of the consumers and held that there was no need to exhaust administrative remedies due to the following circumstances, that by imposing and collecting P90 for the first ten cubic meters of water consumption from its concessionaires, petitioners: (1) failed to comply with the legal requisites of hearing and notice; and (2) violated LOI No. 700 for prescribing a water rate increase of almost 100% from the previous rate. On March 8, 2003, petitioners filed a Motion for Reconsideration, which the RTC denied in its Order dated March 31, 2003.

Appellate Court's Ruling: The CA affirmed the RTC's orders, upheld the RTC's jurisdiction and the propriety of respondents'recourse to the trial court notwithstanding the rule on the exhaustion of administrative remedies. Petitioners filed a Motion for Reconsideration, which the CA denied.

Issues: Whether the RTC has jurisdiction over respondents' petition; and

In the event of an affirmative answer of the first issue, whether respondents' recourse to the trial court is proper despite their failure to exhaust administrative remedies.

Supreme Court's Ruling: The Supreme Court ruled in favor of Merida Water District, et al. and reversed and set aside the ruling of the Court of Appeals that affirmed the RTC's decision.

PD No. 1479 provided that after review by the LWUA, a water concessionaire may appeal the same to the NWRB, and the NWRB's decision may then be appealed to the Office of the President.

Respondents failed to exhaust administrative remedies by stopping their pursuit of the administrative process before the NWRB. Their failure to exhaust administrative remedies, however, does not affect the jurisdiction of the RTC. Non-exhaustion of administrative remedies only renders the action premature, that the "claimed cause of action is not ripe for judicial determination."

It is incumbent upon the party who has an administrative remedy to pursue the same to its appropriate conclusion before seeking judicial intervention. Although the doctrine of exhaustion does not preclude in all cases a party from seeking judicial relief, cases where its observance has been disregarded require a strong showing of the inadequacy of the prescribed procedure and of impending harm.

Respondents justify their failure to observe the administrative process on the following exceptions to the doctrine of exhaustion of administrative remedies: (1) patent illegality; and (2) a denial of due process. However, respondents fail to show that the instant case merits the application of these exceptions.

First Contention

In the cases where the Supreme Court has upheld the non-observance of exhaustion of administrative remedies because of patently illegal actions the question of patent illegality arose from a set of undisputed facts. Here, certain facts need to be resolved first, in order to arrive at a conclusion of patent illegality. The LWUA confirmed the Rate Schedule of Approved Water Rates for Merida Water District, a schedule that outlines different rates due to the progressive increase of water rates. Thus, the determination of the current rate from which to measure the allowable increase prescribed by LOI No. 700 is a factual matter best left to the expertise of the NWRB.

Second Contention

Section 11 of P.D. No. 1479 provides that hearing is a requirement in establishing water rates: The rates or charges established by such local district, after hearing shall have been conducted for the purpose, shall be subject to review by the Administration to establish compliance with the abovestated provisions.

Respondents admit that Merida Water District conducted a public hearing on October 10, 2001 regarding the increase of water rates. The existence of a hearing for this purpose renders the allegation of a denial of due process without merit.

MMDA, et al., vs. Concerned Residents of Manila Bay, et al., G.R. No. 171947-48, Dec. 18, 2008

Facts: On January 29, 1999, respondents Concerned Residents of Manila Bay filed a complaint before the Regional Trial Court (RTC) in Imus, Cavite against several government agencies, among them the petitioners, for the cleanup, rehabilitation, and protection of the Manila Bay. The complaint alleged that the water quality of the Manila Bay had fallen way below the allowable standards set by law, specifically Presidential Decree No. (PD) 1152 or the Philippine Environment Code.

In their individual causes of action, respondents alleged that the continued neglect of petitioners in abating the pollution of the Manila Bay constitutes a violation of, among others: (1) Respondents' constitutional right to life, health, and a balanced ecology; (2) The Environment Code (PD 1152); (3) The Pollution Control Law (PD 984); (4) The Water Code (PD 1067); (5) The Sanitation Code (PD 856); (6) The Illegal Disposal of Wastes Decree (PD 825); (7) The Marine Pollution Law (PD 979); (8) Executive Order No. 192; (9) The Toxic and Hazardous Wastes Law (Republic Act No. 6969); (10) Civil Code provisions on nuisance and human relations; (11) The Trust Doctrine and the Principle of Guardianship; and (12) International Law.

Lower Court's Ruling: The RTC ruled in favor of the Concerned Residents of Manila Bay and rendered a decision ordering the defendant-government agencies, jointly and solidarily, to clean up and rehabilitate Manila Bay and restore its waters to SB classification to make it fit for swimming, skin-diving and other forms of contact recreation. Further, the RTC directed the defendant-agencies, with defendant DENR as the lead agency, within six (6) months from receipt of the Decision, to act and perform their respective duties by devising a consolidated, coordinated and concerted scheme of action for the rehabilitation and restoration of the bay. The RTC also ordered the different government agencies to act on specific activities in order to rehabilitate Manila Bay.

Appellate Court's Ruling: The Court of Appeals affirmed the ruling of the RTC in toto.

Issues: Whether the cleaning of Manila Bay is a ministerial act which can be compelled by mandamus;

Whether the pertinent provisions of the Environment Code (PD 1152) relate only to the cleaning of specific pollution incidents and do not cover cleaning in general.

Supreme Court's Ruling: The Supreme Court ruled in favor of the Concerned Residents of Manila Bay and affirmed the Decisions of the RTC and Court of Appeals with modifications. The Supreme Court went on further to order the heads of petitioners-agencies MMDA, DENR, DepEd, DOH, DA, DPWH, DBM, PCG, PNP Maritime Group, DILG, and also of MWSS, LWUA, and PPA, in line with the principle of "continuing mandamus," to each submit to the Court a quarterly progressive report of the activities undertaken in accordance with the Decision.

On the First Issue

The Supreme Court ruled that the cleaning or rehabilitation of Manila Bay can be compelled by mandamus. It enumerated the enabling laws and issuances of each concerned

agency and held that the mentioned enabling laws and issuances are in themselves clear, categorical, and complete as to what are the obligations and mandate of each agency/petitioner under the law.

Petitioners' obligation to perform their duties as defined by law, on one hand, and how they are to carry out such duties, on the other, are two different concepts. The government agencies (petitioners) are enjoined, as a matter of statutory obligation, to perform certain functions relating directly or indirectly to the cleanup, rehabilitation, protection, and preservation of the Manila Bay. They are precluded from choosing not to perform these duties.

On the Second Issue

The Supreme Court held that Secs. 17 and 20 of the Environment Code include cleaning in general. Sec. 17 does not in any way state that the government agencies concerned ought to confine themselves to the containment, removal, and cleaning operations when a specific pollution incident occurs. The underlying duty to upgrade the quality of water is not conditional on the occurrence of any pollution incident.

A perusal of Sec. 20 of the Environment Code, as couched, indicates that it is properly applicable to a specific situation in which the pollution is caused by polluters who fail to clean up the mess they left behind. In such instance, the concerned government agencies shall undertake the cleanup work for the polluters' account. Petitioners' assertion, that they have to perform cleanup operations in the Manila Bay only when there is a water pollution incident and the erring polluters do not undertake the containment, removal, and cleanup operations, is quite off mark.

Petitioners, thus, cannot plausibly invoke and hide behind Sec. 20 of PD 1152 or Sec. 16 of RA 9275 on the pretext that their cleanup mandate depends on the happening of a specific pollution incident. In this regard, what the CA said with respect to the impasse over Secs. 17 and 20 of PD 1152 is at once valid as it is practical. The appellate court wrote: "PD 1152 aims to introduce a comprehensive program of environmental protection and management. This is better served by making Secs. 17 & 20 of general application rather than limiting them to specific pollution incidents."

RA 9003 is a sweeping piece of legislation enacted to radically transform and improve waste management. It implements Sec. 16, Art. II of the 1987 Constitution, which explicitly provides that the State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.

So it was that in *Oposa v. Factoran, Jr.* the Court stated that the right to a balanced and healthful ecology need not even be written in the Constitution for it is assumed, like other civil and political rights guaranteed in the Bill of Rights, to exist from the inception of mankind and it is an issue of transcendental importance with intergenerational implications. Even assuming the absence of a categorical legal provision specifically prodding petitioners to clean up the bay, they and the men and women representing them cannot escape their obligation to future generations of Filipinos to keep the waters of the Manila Bay clean and clear as humanly as possible. Anything less would be a betrayal of the trust reposed in them.

National Water Resources Board (NWRB) vs. A.L. Ang Network, Inc., GR 186450, April 14, 2010

Facts: A.L. Ang Network filed on January 23, 2003 an application for a Certificate of Public Convenience (CPC) with the National Water Resources Board (NWRB) to operate and maintain a water service system in Alijis, Bacolod City which application was later approved on August 20, 2003 despite opposition by the Bacolod City Water District (BACIWA). BACIWA opposed A.L. Ang Network's application on the ground that it is the only government agency authorized to operate a water service system within the city.

BACIWA moved to have the decision reconsidered, contending that its right to due process was violated when it was not allowed to present evidence in support of its opposition.

The NWRB reconsidered its Decision and allowed BACIWA to present evidence prompting A.L Ang Network to file a petition for certiorari with the Regional Trial Court (RTC) of Bacolod City against NWRB and BACIWA. The NWRB moved to dismiss the petition, arguing that the proper recourse of respondent was to the Court of Appeals, citing Rule 43 of the Rules of Court.

Lower Court's Ruling: The Regional Trial Court ruled in favor of NWRB and dismissed A.L. Ang Network's petition for lack of jurisdiction. The RTC held that with Art. 89 of PD 1067 having been long repealed by BP 129, as amended, it is the Court of Appeals which has exclusive appellate jurisdiction over all decisions of quasi-judicial agencies except those within the appellate jurisdiction of the Supreme Court.

Appellate Court's Ruling: The Court of Appeals annulled and set aside the decision of the RTC and held that it is the RTC which has jurisdiction over appeals from NWRB's decisions. As no repeal is expressly made, Article 89 of P.D. No. 1067 is certainly meant to be an exception to the jurisdiction of the Court of Appeals over appeals or petitions for certiorari of the decisions of quasi-judicial bodies. This finds harmony with Paragraph 2, Section 4, Rule 65 of the Rules of Court wherein it is stated that, "If it involves the acts of a quasi-judicial agency, unless otherwise provided by law or these rules, the petition shall be filed in and cognizable only by the Court of Appeals." Evidently, not all petitions for certiorari under Rule 65 involving the decisions of quasi-judicial agencies must be filed with the Court of Appeals. The rule admits of some exceptions as plainly provided by the phrase "unless otherwise provided by law or these rules" and Article 89 of P.D. No. 1067 is verily an example of these exceptions.

Issue: Whether Regional Trial Courts have jurisdiction over appeals from decisions, resolutions or orders of the National Water Resources Board.

Supreme Court's Ruling: The Supreme Court ruled in favor of the NWRB and reversed and set aside the Decision of the Court of Appeals and upheld the Order of the Regional Trial Court of Bacolod City.

Since the appellate court has exclusive appellate jurisdiction over quasi-judicial agencies under Rule 43 of the Rules of Court, petitions for writs of certiorari, prohibition or mandamus against the acts and omissions of quasi-judicial agencies, like the NWRB, should

be filed with it. This is what Rule 65 of the Rules imposes for procedural uniformity. The only exception to this instruction is when the law or the Rules itself directs otherwise, as cited in Section 4, Rule 65. Article 89 of PD 1067 had long been rendered inoperative by the passage of BP 129. Aside from delineating the jurisdictions of the Court of Appeals and the RTCs, Section 47 of BP 129 repealed or modified:

> x x x. [t]he provisions of Republic Act No. 296, otherwise known as the Judiciary Act of 1948, as amended, of Republic Act No. 5179, as amended, of the Rules of Court, and of all other statutes, letters of instructions and general orders or parts thereof, inconsistent with the provisions of this Act x x x.

The general repealing clause under Section 47 "predicates the intended repeal under the condition that a substantial conflict must be found in existing and prior acts."

In enacting BP 129, the Batasang Pambansa was presumed to have knowledge of the provision of Article 89 of P.D. No. 1067 and to have intended to change it. The legislative intent to repeal Article 89 is clear and manifest given the scope and purpose of BP 129, one of which is to provide a homogeneous procedure for the review of adjudications of quasi-judicial entities to the Court of Appeals.

While Section 9 (3) of BP 129 and Section 1 of Rule 43 of the Rules of Court does not list the NWRB as "among" the quasi-judicial agencies whose final judgments, orders, resolutions or awards are appealable to the appellate court, it is settled that the list of quasi-judicial agencies specifically mentioned in Rule 43 is not meant to be exclusive. The employment of the word "among" clearly instructs so.

Miguel Rubia vs. National Labor Relations Commission, G.R. No. 178621, July 26, 2010

Facts: On April 4, 2002, Miguel Rubia filed a complaint for illegal dismissal with the National Labor Relations Commission. Miguel Rubia is the General Manager of the Board of Community Water and Sanitation Cooperative (COWASSCO), a cooperative primarily engaged in water and sanitation service for the municipality of Argao in Cebu.

On 28 August 2000, COWASSCO, through its Chairman of the Board, issued a memorandum charging petitioner with mismanagement of operation relating to the non-monitoring and non-compliance on the application of the correct dosage of chlorine to the water system and requesting an explanation from him. After investigation and finding the explanation of Miguel Rubia unsatisfactory, the COWASSCO Board adopted a Resolution terminating the services of Miguel Rubia for loss of trust and confidence.

Quasi-Judicial Agency's Ruling: The labor arbiter ruled in favor of Miguel Rubia and held that COWASSCO failed to prove that there was mismanagement of operations on the part of Miguel Rubia to support the ground of loss of trust and confidence in dismissing the latter's employment.

The NLRC reversed and set aside the labor arbiter's decision. It upheld the dismissal of Miguel Rubia as valid on the ground of loss of trust and confidence.

Appellate Court's Ruling: The Court of Appeals affirmed the ruling of the NLRC.

Issue: Whether Miguel Rubia was validly dismissed on the ground of loss of trust and confidence.

Supreme Court's Ruling: The Supreme Court ruled in favor of and affirmed the decision of the NLRC.

For there to be a valid dismissal based on loss of trust and confidence, the employee concerned must be holding a position of trust and confidence and there must be an act that would justify the loss of trust and confidence.

First Element

The Supreme Court quoted the observation of the Court of Appeals that the nature of Miguel Rubia's work as general manager "requires a substantial amount of trust and confidence reposed on him by his employer. He occupies a highly sensitive and critical position which involves a high degree of responsibility."

Second Element

As the general manager, Miguel Rubia is tasked to perform key functions such as the monitoring of COWASSCO's day-to-day operation. Therefore, the manager must directly address any lapse brought to the company's attention. The NLRC aptly observed:

> x x x As General Manager, he is tasked with the duty of delivering safe, clean and potable water to the consumers. In his hands therefore lies the health and

even lives of the people of the Municipality of Argao. Even the slightest case of water contamination, (in this case, the presence of coliform organisms) if not treated immediately could result in an epidemic of epic proportions thus putting at risk the lives of thousands of innocent consumers. He cannot simply ignore the case with the wry remark "*Wa pa man kahay namatay*" (Nobody has died yet). He cannot also exculpate himself by saying that he already implemented the recommendations of the SB and the Board of Directors, nor can he wash his hands by saying that it was the fault of the Chlorinator/Reservoir Tender and Master Plumber. As earlier pointed out, the job of General Manager of a water service cooperative calls for a hands-on leader not a swivel chair executive who contents himself with issuing memos and office orders.

For breach of trust to constitute a valid cause for dismissal, it must be willful, meaning it must be done intentionally, knowingly, and purposely, without justifiable excuse.

Miguel Rubia did not deny that he was remiss in his duties, particularly in monitoring the application of the correct dosage of chlorine in the water system. What he did was to shift the blame to his subordinates -- the Chlorinator and Master Plumber. During the investigation however, it appears that petitioner did not even bother to impose disciplinary action against these erring employees. As manager, petitioner should have paid close attention to the persistent problem of chlorination given the fact that the *Sangguniang Bayan* had repeatedly called his attention on the matter.

Miguel Rubia's failure to closely monitor the contamination of water supply, his repeated failure to appear before the *Sanggunaing Bayan* to explain his lapses, and his overall indifference in performing the task assigned to him as general manager clearly demonstrate a willful breach of trust.