

**[ CDA MEMORANDUM CIRCULAR NO. 2012-03,  
December 09, 2011 ]**

**RULES OF PROCEDURE GOVERNING VOLUNTARY ARBITRATION  
BEFORE THE COOPERATIVE DEVELOPMENT AUTHORITY**

*Adopted: 09 December 2011*

*Dated Filed: 17 January 2012*

Pursuant to Article 137 of R.A. 9520, Section 1, rule XIII of the Rules and Regulations Implementing Certain Provision of the Philippine Cooperative Code of 2008, Sec. 3(m) and (o) of R.A. 6939, the following rules of Procedure Governing Voluntary Arbitration before the Cooperative Development Authority are hereby promulgated.

**ARTICLE 1  
POLICY AND OBJECTIVES**

Section 1. Statement of Policy and Objectives.–

It is the policy and objective of these Rules to provide a fair expeditious settlement of intra-cooperative and inter-cooperative disputes by way of an ***institutional mode*** of voluntary arbitration as an alternative to judicial proceedings with the end in view of ensuring and possibly restoring the disrupted harmonious and friendly relationships between or among the parties.

Section 2. Applicability of Rules. –

These Rules are applicable to proceeding in voluntary arbitration before the Cooperative Development Authority.

Section 3. Application of Judicial Technical rules. –

Voluntary Arbitration is an administrative proceeding. The technical rules applicable to court or judicial proceedings need not be controlling and it is the spirit and intention of these rules to use every and all reasonable means to ascertain the fact in each case speedily and objectively, and without regard to technicalities of law or procedure, all in the interest of substantive due process.

**ARTICLE II  
JURISDICTION**

The Cooperative Development Authority and the Arbitral Tribunal as contemplated by these Rules shall have original, exclusive and primary jurisdiction over disputes among members, officers, directors, and committee members, and intra-cooperative, inter-cooperative, intra-federation or inter-federation disputes which were not resolved amicably in accordance with the Conciliation/Mediation Mechanisms. Likewise, they shall continue to exercise exclusive and original jurisdiction over the afore-mentioned disputes although the arbitration is commercial pursuant to Section 21 of R.A. 9285 or the Alternative Dispute Resolution Act of 2004.

Excluded from the coverage of these rules are disputes arising from employer-employee relationship which shall be covered by the Labor Code, those involving criminal liability, and other matters which by law cannot be compromised.

## Section 2. Exercise of Jurisdiction. –

The Authority and the Arbitral Tribunal cannot acquire jurisdiction over the dispute, unless there exist

- a. An Arbitration Agreement either in their Articles of Cooperation, By-laws, contracts or other form of written communication between and among the parties:
- b. In the absence of an existing Arbitration Agreement, the parties subsequently agree to submit the same for voluntary arbitration, which submission may be in a form of

(i) An exchange of communication between the parties or some other form showing that the parties have agreed to submit whatever dispute to voluntary arbitration or adhere to the provisions of Article 137 of R.A. 9520;

(ii) Expressly or impliedly submitting to voluntary arbitration as can be gleaned from their respective written communications or pleadings filed with the Cooperative Development Authority or before the Arbitral Tribunal in accordance with these rules: or

(iii) Signing a Submission Agreement during the preliminary conference.

## Section 3. Jurisdictional Challenge. –

A Motion to Dismiss based on lack of jurisdiction shall be resolved by the appointed Arbitral Tribunal in accordance with the principle of Kompetenz-Kompetenz.

# **ARTICLE III**

## **REQUEST FOR ARBITRATION/COMPLAINT**

## Section 1. Filing and Commencement of Action. –

Any party of a dispute not resolved through Conciliation /Mediation Proceeding in the primary and union/federation level can commence an action for Voluntary Arbitration by filing a **Verified Complaint**, with a Certificate of Non-Forum

Shopping, in the prescribed form and number of copies with the Authority through the Legal division of the Cooperative development Authority which shall serve as the Secretariat. Whenever practicable, all complaints should be directly filed with the Voluntary Arbitration Secretariat.

However, the CDA-Extension Office having administrative jurisdiction over the cooperatives/parties involved in the dispute can receive the complaints which involved the latter, with the obligation to transit the same to the Voluntary Arbitration Secretariat. The date of the commencement of the action shall be the date the complaint was received by the Secretariat.

## Section 2. Condition Precedent. –

In the case of primary cooperative affiliated with a federation/union, the complaint shall be accompanied by a Certificate of Non-Settlement issued by the said federation/ union to which primary cooperative is affiliated with.

In the case of primary cooperative not affiliated with any federation or union, the complaint shall be accompanied by Certificate of Non-Settlement issued by the Conciliation/mediation Committee of such primary cooperative together with a Certificate of Non-Affiliation with any Federation/Union signed by the Chairperson of the Board of Directors of the same cooperative.

In case of Non-compliance with the re-condition, absent a showing of justifiable reason, exemption, the Arbitral Tribunal, or the Authority (if no member of the tribunal has yet been appointed), shall suspend voluntary arbitration proceeding pending compliance therewith within reasonable period directed by the Arbitral Tribunal or the Authority.

## Section 3. Contents of the Complaint.

The complaint shall contain:

1. The Names and Addresses of the Complainant/s and Respondent/s;
2. A Brief description of the Complaint and the documentary evidences, if any; and
3. The Relief Prayed For.

## Section 4. Parties to the Dispute.

The Party who filed the complaint shall be called the "Complainant/s" and the Party complained of shall be called the "Respondent/s"

## Section 5. Notice to Respondent and Request to Answer. –

The Voluntary Arbitration Secretariat shall, within ten (10) working days from receipt of the Complaint, issue notice/summons and transmit a copy of the Complaint (including the documents annexed thereto) to the Respondent for his/her Answer, copy furnished the Regional/Extension Office having jurisdiction over the cooperative concerned.

## **ARTICLE IV**

### **EFFECT OF THE AGREEMENT TO ARBITRATE**

#### **Section 1. Submission to CDA Institutional Voluntary Arbitration Jurisdiction. –**

An arbitration clause/arbitration agreement or a submission to arbitration of a cooperative dispute shall be deemed an agreement to submit an existing or future controversy to the jurisdiction of the CDA Institutional Voluntary Arbitration proceedings, notwithstanding the reference to a different arbitration institution or arbitral body in any document, contract or submission.

An arbitration agreement or a submission to arbitration shall preferably be in writing, or in some other forms, as long as the intent is clear that the parties agree to submit a present or future controversy arising from disputes mentioned in Article 137 of R.A. 9520.

It may be in the form of exchange of letters sent by post, courier, electronic means or by telefax, telegrams or any other mode of communication.

#### **Section 2. Failure or Refusal to Arbitrate. –**

Where the jurisdiction of the CDA Institutional Voluntary Arbitration proceedings is properly invoked by the filing of a Complaint for Arbitration in accordance with these Rules, the failure or refusal of the respondent to arbitrate shall not affect the proceedings. In such case, the Cooperative Development Authority, through its Board of Administrators as the appointing authority, shall appoint the member or members of the Arbitral Tribunal in accordance with these rules from among the list of accredited arbitrators. In the absence of any agreement as to the number of voluntary arbitrators who shall compose the tribunal, the default number shall be three (3) voluntary arbitrators. The arbitration proceeding shall continue notwithstanding the absence or lack of participation of the respondent, and the award shall be made after receiving the evidence of the claimant. In the event that, before award, the respondent shall appear and offer to present his evidence, the arbitrator shall reopen the proceedings and allow the respondent to present his evidence, but evidence already received shall not be affected by the reopening of the proceedings.

#### **Section 3. When Arbitration Cannot Proceed. –**

Where there is no existing arbitration agreement, or there was no submission for arbitration by the parties in the manner provided by these rules, the arbitration cannot proceed and the claimants shall be informed of that fact.

## **ARTICLE V**

### **ANSWER/COUNTERCLAIMS**

#### **Section 1. Time to Answer.**

The respondent shall, within fifteen (15) days from receipt of the summons and complaint, file his/her Answer thereto including such counterclaims as he/she may assert. The complainant shall be furnished a copy of the Answer. In exceptional circumstances, the respondent may apply to the Secretariat for an extension of time for the filing of his defense and his documents, which extension in no case shall exceed ten (10) days. If respondent fails to file his Answer, Arbitration shall proceed in accordance with these rules.

#### Section 2. Reply to Counterclaim. –

The Complainant shall file a reply to the counterclaim and shall furnish respondent a copy thereof within ten (10) days from date of receipt of the answer with counterclaim;

### **ARTICLE VI SUBMISSION AND COMMUNICATIONS/NOTICES**

#### Section 1. Number of Copies

All pleadings and written statements submitted by the parties, as well as documents attached thereto, shall be filed in four (4) original/duplicate original copies, with proof of prior service to the adverse party.

#### Section 2. Mode of Service and Filing. –

All pleadings and written statements submitted by the parties may be filed and served upon the other party preferably through personal service. Service and submission through registered mail or courier may be allowed provided that there is sufficient explanation why resort to such mode of service and submission was made. If a party is represented by counsel, service of notice and other pleadings and communications to counsel is proper notice and service to the party concerned.

#### Section 3. Notices. –

Notifications or communications from the Secretariat and/or the Arbitrator(s) shall be validly made if they are delivered against receipt or forwarded by registered mail to the address or last known address on record of the party/ies for whom the same are intended.

### **ARTICLE VII CONFIDENTIALITY**

#### Section 1. Confidentiality of Proceedings. –

The Arbitration Proceedings shall be confidential and shall not be published, except: (i) with the consent of the parties, or (ii) when necessary in case resort to the court is made under the Rules of Court.