

EN BANC

[G.R. No. 187107, January 31, 2012]

UNITED CLAIMANTS ASSOCIATION OF NEA (UNICAN), REPRESENTED BY ITS REPRESENTATIVE BIENVENIDO R. LEAL, IN HIS OFFICIAL CAPACITY AS ITS PRESIDENT AND IN HIS OWN INDIVIDUAL CAPACITY, EDUARDO R. LACSON, ORENCIO F. VENIDA, JR., THELMA V. OGENA, BOBBY M. CARANTO, MARILOU B. DE JESUS, EDNA G. RAÑA, AND ZENAIDA P. OLIQUINO, IN THEIR OWN CAPACITIES AND IN BEHALF OF ALL THOSE SIMILARLY SITUATED OFFICIALS AND EMPLOYEES OF THE NATIONAL ELECTRIFICATION ADMINISTRATION, PETITIONERS, VS. NATIONAL ELECTRIFICATION ADMINISTRATION (NEA), NEA BOARD OF ADMINISTRATORS (NEA BOARD), ANGELO T. REYES AS CHAIRMAN OF THE NEA BOARD OF ADMINISTRATORS, EDITHA S. BUENO, EX-OFFICIO MEMBER AND NEA ADMINISTRATOR, AND WILFRED L. BILLENA, JOSPEPH D. KHONGHUN, AND FR. JOSE VICTOR E. LOBRIGO, MEMBERS, NEA BOARD, RESPONDENTS.

DECISION

VELASCO JR., J.:

The Case

This is an original action for Injunction to restrain and/or prevent the implementation of Resolution Nos. 46 and 59, dated July 10, 2003 and September 3, 2003, respectively, otherwise known as the National Electrification Administration (NEA) Termination Pay Plan, issued by respondent NEA Board of Administrators (NEA Board).

The Facts

Petitioners are former employees of NEA who were terminated from their employment with the implementation of the assailed resolutions.

Respondent NEA is a government-owned and/or controlled corporation created in accordance with Presidential Decree No. (PD) 269 issued on August 6, 1973. Under PD 269, Section 5(a)(5), the NEA Board is empowered to organize or reorganize NEA's staffing structure, as follows:

Section 5. National Electrification Administration; Board of Administrators; Administrator.

(a) For the purpose of administering the provisions of this Decree, there is hereby established a public corporation to be known as the National

Electrification Administration. All of the powers of the corporation shall be vested in and exercised by a Board of Administrators, which shall be composed of a Chairman and four (4) members, one of whom shall be the Administrator as ex-officio member. The Chairman and the three other members shall be appointed by the President of the Philippines to serve for a term of six years. x x x

x x x x

The Board shall, without limiting the generality of the foregoing, have the following specific powers and duties.

1. To implement the provisions and purposes of this Decree;

x x x x

5. To establish policies and guidelines for employment on the basis of merit, technical competence and moral character, and, upon the recommendation of the Administrator **to organize or reorganize NEA's staffing structure**, to fix the salaries of personnel and to define their powers and duties. (Emphasis supplied.)

Thereafter, in order to enhance and accelerate the electrification of the whole country, including the privatization of the National Power Corporation, Republic Act No. (RA) 9136, otherwise known as the *Electric Power Industry Reform Act of 2001* (EPIRA Law), was enacted, taking effect on June 26, 2001. The law imposed upon NEA additional mandates in relation to the promotion of the role of rural electric cooperatives to achieve national electrification. Correlatively, Sec. 3 of the law provides:

Section 3. Scope. - This Act shall provide a framework for the **restructuring of the electric power industry**, including the privatization of the assets of NPC, the transition to the desired competitive structure, and the definition of the responsibilities of the various government agencies and private entities. (Emphasis supplied.)

Sec. 77 of RA 9136 also provides:

Section 77. Implementing Rules and Regulations. - The DOE shall, in consultation with the electric power industry participants and end-users, promulgate the Implementing Rules and Regulations (IRR) of this Act within six (6) months from the effectivity of this Act, subject to the approval by the Power Commission.

Thus, the Rules and Regulations to implement RA 9136 were issued on February 27, 2002. Under Sec. 3(b)(ii), Rule 33 of the Rules and Regulations, all the NEA employees and officers are considered terminated and the 965 plantilla positions of

NEA vacant, to wit:

Section 3. Separation and Other Benefits.

(a) x x x

(b) The following shall govern the application of Section 3(a) of this Rule:

x x x x

(ii) **With respect to NEA officials and employees, they shall be considered legally terminated and shall be entitled to the benefits or separation pay provided in Section 3(a) herein when a restructuring of NEA is implemented pursuant to a law enacted by Congress or pursuant to Section 5(a)(5) of Presidential Decree No. 269.** (Emphasis supplied.)

Meanwhile, on August 28, 2002, former President Gloria Macapagal- Arroyo issued Executive Order No. 119 directing the NEA Board to submit a reorganization plan. Thus, the NEA Board issued the assailed resolutions.

On September 17, 2003, the Department of Budget and Management approved the NEA Termination Pay Plan.

Thereafter, the NEA implemented an early retirement program denominated as the "Early Leavers Program," giving incentives to those who availed of it and left NEA before the effectivity of the reorganization plan. The other employees of NEA were terminated effective December 31, 2003.

Hence, We have this petition.

The Issues

Petitioners raise the following issues:

1. The NEA Board has no power to terminate all the NEA employees;
2. Executive Order No. 119 did not grant the NEA Board the power to terminate all NEA employees; and
3. Resolution Nos. 46 and 59 were carried out in bad faith.

On the other hand, respondents argue in their Comment dated August 20, 2009 that:

1. The Court has no jurisdiction over the petition;
2. Injunction is improper in this case given that the assailed resolutions of the NEA Board have long been implemented; and

3. The assailed NEA Board resolutions were issued in good faith.

The Court's Ruling

This petition must be dismissed.

The procedural issues raised by respondents shall first be discussed.

This Court Has Jurisdiction over the Case

Respondents essentially argue that petitioners violated the principle of hierarchy of courts, pursuant to which the instant petition should have been filed with the Regional Trial Court first rather than with this Court directly.

We explained the principle of hierarchy of courts in *Mendoza v. Villas*,^[1] stating:

In Chamber of Real Estate and Builders Associations, Inc. (CREBA) v. Secretary of Agrarian Reform, a petition for certiorari filed under Rule 65 was dismissed for having been filed directly with the Court, violating the principle of hierarchy of courts, to wit:

Primarily, although this Court, the Court of Appeals and the Regional Trial Courts have concurrent jurisdiction to issue writs of certiorari, prohibition, mandamus, quo warranto, habeas corpus and injunction, such concurrence does not give the petitioner unrestricted freedom of choice of court forum. In *Heirs of Bertuldo Hinog v. Melicor*, citing *People v. Cuaresma*, this Court made the following pronouncements:

This Court's original jurisdiction to issue writs of certiorari is not exclusive. It is shared by this Court with Regional Trial Courts and with the Court of Appeals. This concurrence of jurisdiction is not, however, to be taken as according to parties seeking any of the writs an absolute, unrestrained freedom of choice of the court to which application therefor will be directed. There is after all a hierarchy of courts. That hierarchy is determinative of the venue of appeals, and also serves as a general determinant of the appropriate forum for petitions for the extraordinary writs. **A becoming regard for that judicial hierarchy most certainly indicates that petitions for the issuance of extraordinary writs against first level ("inferior") courts should be filed with the Regional Trial Court, and those against the latter, with the Court of Appeals. A direct invocation of the Supreme Court's original jurisdiction to issue these writs should be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition.** This is [an] established policy. It is a policy necessary to prevent inordinate demands upon the Court's time and attention which are better devoted to those matters