

THIRD DIVISION

[G.R. No. 173840, April 25, 2012]

SAMAR II ELECTRIC COOPERATIVE, INC. (SAMELCO II) AND ITS BOARD OF DIRECTORS, COMPOSED OF DEBORAH T. MARCO (IMMEDIATE PAST PRESIDENT), ATTY. MEDINO L. ACUBA, ENGR. MANUEL C. OREJOLA, ALFONSO F. QUILAPIO, RAUL DE GUZMAN AND PONCIANO R. ROSALES (GENERAL MANAGER AND EX OFFICIO DIRECTOR), PETITIONERS, VS. ANANIAS D. SELUDO, JR., RESPONDENT.

D E C I S I O N

PERALTA, J.:

Assailed in the present petition for review on *certiorari* under Rule 45 of the Rules of Court are the Decision^[1] and Resolution^[2] dated January 26, 2006 and July 12, 2006, respectively, of the Court of Appeals (CA) in CA-G.R. CEB SP No. 01175. The CA Decision dismissed petitioners' petition for *certiorari* and affirmed the Orders of the Regional Trial Court (RTC) of Calbiga, Samar, Branch 33, dated May 6, 2005 and September 15, 2005, while the CA Resolution denied petitioners' Motion for Reconsideration.

Herein petitioner Samar II Electric Cooperative, Inc. (SAMELCO II) was organized under the provisions of Presidential Decree (P.D.) No. 269, otherwise known as the "National Electrification Administration Decree," as amended by P.D. No. 1645. The individual petitioners are members of SAMELCO II's Board of Directors. Respondent was also a member of the SAMELCO II Board of Directors having been elected thereto in 2002 and whose term of office expired in May 2005.

The antecedent facts, as summarized by the CA, are as follows:

As members of the Board of Directors (BOD) of the petitioner Samar II Electric Cooperative, Inc. (SAMELCO II), an electric cooperative providing electric service to all members-consumers in all municipalities within the Second Congressional District of the Province of Samar, individual petitioners passed Resolution No. 5 [Series] of 2005 on January 22, 2005.

The said resolution disallowed the private respondent to attend succeeding meetings of the BOD effective February 2005 until the end of his term as director. The same resolution also disqualified him for one (1) term to run as a candidate for director in the upcoming district elections.

Convinced that his rights as a director of petitioner SAMELCO II had been curtailed by the subject board resolution, private respondent filed an

Urgent Petition for Prohibition against petitioner SAMELCO II, impleading individual petitioners as directors thereof, in the Regional Trial Court (RTC) in Calbiga, Samar. The case was docketed as Special Civil Case No. C-2005-1085 and was raffled to Branch 33 of the said court x x x.

In his petition, private respondent prayed for the nullification of Resolution No. 5, [Series] of 2005, contending that it was issued without any legal and factual bases. He likewise prayed that a temporary restraining order (TRO) and/or a writ of preliminary injunction be issued to enjoin the individual petitioners from enforcing the assailed board resolution.

Granting private respondent's prayer for a TRO, the public respondent issued one, effective for seventy-two (72) hours which effectivity was later on extended for another seventeen (17) days.

In their answer to the petition for prohibition, individual petitioners raised the affirmative defense of lack of jurisdiction of the RTC over the subject matter of the case. Individual petitioners assert that, since the matter involved an electric cooperative, SAMELCO II, primary jurisdiction is vested on the National Electrification Administration (NEA).

In her assailed Order dated May 6, 2005, [the RTC judge] sustained the jurisdiction of the court over the petition for prohibition and barred the petitioners and/or their representatives from enforcing Resolution No. 5 [Series] of 2005.

x x x^[3]

Petitioners filed a motion for reconsideration, but the same was denied by the RTC in its September 15, 2005 Order.

Petitioners then elevated the case to the CA *via* a special civil action for *certiorari*, imputing grave abuse of discretion on the part of the RTC in issuing its assailed Orders.

On January 26, 2006, the CA rendered its Decision dismissing petitioners' petition for *certiorari* and affirming the assailed Orders of the RTC.

Petitioners filed a motion for reconsideration, but it was denied by the CA in its July 12, 2006 Resolution.

Hence, the instant petition with the following assigned errors:

(1)

IN ITS INTERPRETATION AND APPLICATION OF THE DOCTRINE OF PRIMARY JURISDICTION, THE HONORABLE COURT OF APPEALS COMMITTED LEGAL ERRORS IN LIMITING THE DOCTRINE TO "CERTAIN MATTERS IN CONTROVERSIES INVOLVING SPECIALIZED DISPUTES" AND

IN UPHOLDING THE JURISDICTION OF THE TRIAL COURT OVER THE URGENT PETITION FOR PROHIBITION FILED BY RESPONDENT SELUDO ON THE GROUND THAT THE ISSUES RAISED THEREIN "DO NOT REQUIRE THE TECHNICAL EXPERTISE OF THE NEA"

(2)

THE HONORABLE COURT OF APPEALS, IN SUSTAINING THE JURISDICTION OF THE TRIAL COURT, COMMITTED AN ERROR OF LAW BY HOLDING THAT "A PERUSAL OF THE LAW CREATING THE NEA DISCLOSES THAT THE NEA WAS NOT GRANTED THE POWER TO HEAR AND DECIDE CASES INVOLVING THE VALIDITY OF BOARD RESOLUTIONS UNSEATING ANY MEMBER OF THE BOARD OF DIRECTORS" AND THAT "NEITHER WAS IT GRANTED JURISDICTION OVER PETITIONS FOR CERTIORARI, PROHIBITION OR MANDAMUS."

(3)

THE HONORABLE COURT OF APPEALS COMMITTED AN ERROR OF LAW WHEN IT SUSTAINED THE JURISDICTION OF [THE] TRIAL COURT OVER THE PETITION FOR PROHIBITION DESPITE THE EXISTENCE OF APPEAL OR OTHER PLAIN, SPEEDY AND ADEQUATE REMEDY AVAILABLE TO THEREIN PETITIONER SELUDO.^[4]

In their first assigned error, petitioners contend that the CA erred in interpreting the doctrine of primary jurisdiction in a very limited sense. Petitioners aver that in a number of cases, this Court applied the doctrine of primary jurisdiction even in cases where the issues involved do not require the technical expertise of administrative bodies.

Petitioners also argue, in their second assignment of error, that it is wrong for the CA to rule that there is nothing under the law creating the National Electrification Administration (NEA), which grants the said administrative body the power to ascertain the validity of board resolutions unseating any member of the Board of Directors of an electric cooperative. Citing the provisions of P.D. Nos. 269 and 1645, petitioners aver that the NEA is empowered to determine the validity of resolutions passed by electric cooperatives.

In their third assigned error, petitioners assert that respondent is precluded from filing a petition for prohibition considering that, under the applicable laws, it has an adequate remedy in the ordinary course of law.

The Court finds the petition meritorious. As the assigned errors are interrelated, the Court will discuss them jointly.

Section 10, Chapter II of P.D. No. 269, as amended by Section 5 of P.D. No. 1645, provides:

Section 5. Section 10, Chapter II of Presidential Decree No. 269 is hereby amended to read as follows:

Section 10. *Enforcement Powers and Remedies.* - **In the exercise of its power of supervision and control over electric cooperatives** and other borrower, supervised or controlled entities, **the NEA is empowered to issue orders, rules and regulations and *motu proprio* or upon petition of third parties, to conduct investigations, referenda and other similar actions in all matters affecting said electric cooperatives** and other borrower, or supervised or controlled entities.

If the electric cooperative concerned or other similar entity fails after due notice to comply with NEA orders, rules and regulations and/or decisions, or with any of the terms of the Loan Agreement, the NEA Board of Administrators may avail of any or all of the following remedies:

x x x x.

(e) Take preventive and/or disciplinary measures including suspension and/or removal and replacement of any or all of the members of the Board of Directors, officers or employees of the Cooperative, other borrower institutions or supervised or controlled entities as the NEA Board of Administrators may deem fit and necessary and to take any other remedial measures as the law or the Loan Agreement may provide.

x x x x (Emphasis supplied.)

In addition, Subsection (a), Section 24, Chapter III of P.D. No. 269, as amended by Section 7 of P.D. No. 1645, states:

Section 7. Subsection (a), Section 24, Chapter III of Presidential Decree No. 269 is hereby amended to read as follows:

Section 24. *Board of Directors.* - (a) **The Management of a Cooperative shall be vested in its Board, subject to the supervision and control of NEA which shall have the right to be represented and to participate in all Board meetings and deliberations and to approve all policies and resolutions.**

The composition, qualifications, the manner of elections and filling of vacancies, the procedures for holding meetings and other similar provisions shall be defined in the by-laws of the Cooperative subject to NEA policies, rules and regulations.

x x x. (Emphasis supplied.)

A comparison of the original provisions of Sections 10 and 24 of P.D. No. 269 and the amendatory provisions under Sections 5 and 7 of P.D. No. 1645 would readily show that the intention of the framers of the amendatory law is to broaden the