

THIRD DIVISION

[G.R. No. 168203, March 09, 2010]

**NATIONAL ELECTRIFICATION ADMINISTRATION, PETITIONER,
VS. VAL L. VILLANUEVA, RESPONDENT.**

D E C I S I O N

PERALTA, J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to annul and set aside the Decision^[1] dated November 12, 2004 and Resolution^[2] of April 6, 2005 of the Regional Trial Court (RTC) of Cabadbaran, Agusan del Norte, Branch 34, in SP. Civil Case No. 03-03 entitled *Val L. Villanueva, Petitioner, versus National Electrification Administration and the Agusan del Norte Electric Cooperative, Inc., Respondents*.

The undisputed facts are as follows:

Herein respondent Val L. Villanueva (Villanueva) was an elected member of the Board of Directors (BOD) of Agusan del Norte Electric Cooperative (ANECO) for a term of three years, from 2001 to 2003. However, with the subsequent redistricting of the area he represented, his term was extended until 2006.

In 2002, while serving as a member of the ANECO BOD, he was elected as *Barangay* Chairman of *Barangay* 12, in the Municipality of Cabadbaran, Agusan del Norte. Thereafter, he was also elected as President of what was formerly known as the Association of *Barangay* Captains (ABC), now known as *Liga ng mga Barangay* (Liga), of Cabadbaran. By virtue of his position as Liga President, he sat as *ex-officio* member of the *Sangguniang Bayan* of Cabadbaran.

Subsequently, the General Manager of ANECO sought the opinion of herein petitioner National Electrification Administration (NEA) as to whether or not respondent is still qualified to sit as member of the ANECO BOD.

In response to such query, the NEA Director for Co-Op Operations came out with the opinion, dated December 10, 2002, that respondent could no longer serve as a member of the ANECO BOD, because he was considered automatically resigned from the said position when he took his oath of office as Liga President. As basis of its opinion, the NEA Director for Co-Op Operations cited as authority the Local Government Code of 1991, NEA Memorandum dated February 13, 1998, and the Guidelines in the Conduct of Electric Cooperative District Elections.^[3]

In a letter dated January 3, 2003, respondent sought the opinion of the Provincial Director of the Department of Interior and Local Government (DILG) relative to his disqualification as a member of the ANECO BOD.

In his letter^[4] dated January 7, 2003, the DILG Provincial Director gave the view that his office could not issue an official opinion on the matter being sought, considering that another agency had jurisdiction over it. Nonetheless, he stated the view that respondent was not a regular member of the *Sangguniang Bayan*; instead, he occupied the office only in an *ex-officio* capacity, because he was not duly elected thereto by the registered voters of Cabadbaran, but occupied the said position only by reason of his being the president of the Liga.

On January 31, 2003, respondent requested review and reconsideration of the disputed opinion of the NEA Director for Co-Op Operations, but the same was denied in a letter dated February 17, 2003 by the NEA Chief Operating Officer/Deputy Administrator for Co-Op Development.^[5]

Aggrieved by such denial, respondent filed with the RTC of Cabadbaran, Agusan del Norte, a petition for *certiorari* with prayer for preliminary injunction against NEA and ANECO.^[6] The case was docketed as SP Civil Case No. 03-03.

On December 2, 2003, the RTC issued a Temporary Restraining Order enjoining NEA and ANECO and their representatives, attorneys and agents from disqualifying respondent as member of the ANECO BOD or allowing him to continue attending meetings or sessions of the said BOD and granting him back all benefits, emoluments and remunerations due him on account of his disqualification.^[7]

NEA and ANECO filed separate motions for reconsideration.

On January 7, 2004, the RTC issued an Order^[8] denying the motions for reconsideration of NEA and ANECO and directing the issuance of a preliminary injunction, which enjoined NEA and ANECO from enforcing the disqualification of respondent as member of the ANECO BOD and directing them to put up a bond in the amount of P300,000.00.

Consequently, on February 10, 2004, the RTC issued a Writ of Preliminary Injunction.^[9]

On November 12, 2004 the RTC rendered its presently assailed Decision, the dispositive portion of which reads, thus:

WHEREFORE, the petition is hereby granted. The injunction issued against respondent is hereby made permanent.

Respondents are likewise ordered to pay to petitioner the amount of Ph50,000.00 as attorney's fees and Ph50,000.00 as expenses of litigation.

SO ORDERED.^[10]

NEA filed a motion for reconsideration, but the RTC denied it in its Resolution^[11] dated April 6, 2005.

Hence, the present petition raising the following issues:

1. Whether or not the Hon. Orlando F. Doyon, in his capacity as Presiding Judge of the Regional Trial Court of Cabadbaran, Agusan del Norte, Branch 34, exercised grave abuse of discretion which is tantamount to lack or in excess of jurisdiction in deciding the case in an action for *certiorari* with prayer for Preliminary Injunction it resolved to nullify an order issued by an administrative agency without sufficient legal basis;
2. Whether or not the instant case should be dismissed for lack of cause of action on the ground of respondent's failure to exhaust administrative remedies; and
3. Whether or not the law was correctly applied by the trial court in the issuance of the Temporary Restraining Order and Writ of Preliminary Injunction.^[12]

Petitioner contends that respondent went to court without first exhausting the administrative remedies available to him making his action premature or his case not ripe for judicial determination and, for that reason, he has no cause of action to ventilate in court.

Petitioner also avers that in coming up with its decision nullifying the order issued by the NEA, the RTC, in effect, deprived the Office of the President of its power to review the disputed order.

Petitioner further argues that the provision under the Guidelines in the Conduct of Electric Cooperative District Elections, which prohibits persons who hold an elective office in the government or appointed to an elective position above the level of *Barangay* Captain from being members of the BOD of an electric cooperative, applies not only to candidates for membership in the BOD but also to incumbent members thereof.

Lastly, petitioner asserts that the temporary restraining order issued by the RTC is invalid, because it was made effective beyond the 20-day period provided under the Rules of Court.

The Court finds the petition meritorious.

With respect to the procedural aspect of the case, respondent should have first exhausted the administrative remedies still available to him by appealing the challenged order of the NEA to the Office of the President, which exercises the power of supervision over it. Section 13, Chapter II of Presidential Decree No. 269 (PD 269), otherwise known as the *National Electrification Administration Decree*, provides that:

Sec. 13 - *Supervision over NEA; Power Development Council* - The NEA shall be under the supervision of the Office of the President of the Philippines. **All orders, rules and regulations promulgated by the**

NEA shall be subject to the approval of the Office of the President of the Philippines. (Emphasis supplied)

Considering that the President has the power to review on appeal the orders or acts of petitioner NEA, the failure of respondent to undertake such an appeal bars him from resorting to a judicial suit.^[13] It is settled that under the doctrine of exhaustion of administrative remedies, recourse through court action cannot prosper until after all such administrative remedies have first been exhausted.^[14] If remedy is available within the administrative machinery, this should be resorted to before recourse can be made to courts. The party with an administrative remedy must not only initiate the prescribed administrative procedure to obtain relief but also pursue it to its appropriate conclusion before seeking judicial intervention in order to give the administrative agency an opportunity to decide the matter itself correctly and prevent unnecessary and premature resort to the court.^[15] The non-observance of the doctrine of exhaustion of administrative remedies results in lack of cause of action, which is one of the grounds in the Rules of Court justifying the dismissal of the complaint.^[16]

In the present case, respondent failed to exhaust his administrative remedies when he filed a case with the RTC without appealing the decision of the NEA to the Office of the President. As such, his petition filed with the RTC must necessarily fail.

In any case, the main issue of whether respondent can still continue to be a member of the ANECO BOD after becoming an *ex-officio* member of the *Sangguniang Bayan* of Cabadbaran must be answered in the negative.

Section 7 (8), Article II of the Guidelines in the Conduct of Electric Cooperative District Elections issued by the NEA Main Office, through its Board of Administrators, on June 23, 1993, provides:

Section 7 - *Qualification for Board of Directors.* - *Bona fide* members who possess the following qualifications are eligible to become and/or to remain as member of Board of Directors:

1. He/she is a Filipino citizen

x x x x

8. He/she does not hold elective office in the government nor appointed to an elective position above the level of a Barangay Captain.

x x x x^[17]

In the same manner, the Memorandum^[18] dated February 13, 1998 issued by the NEA Main Office states:

2.3.1. Book III, Article Three, Sec. 446 of R.A. 7160 listed the composition of the *Sangguniang Bayan* which includes, among others,