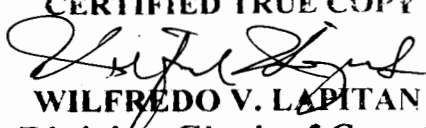




Republic of the Philippines  
 Supreme Court  
 Manila

CERTIFIED TRUE COPY  
  
 WILFREDO V. LAPITAN  
 Division Clerk of Court  
 Third Division  
 DEC 01 2016

THIRD DIVISION

PHILIPPINE TELEGRAPH & G.R. No. 189026  
 TELEPHONE CORP.,

Petitioner,

- versus -

SMART COMMUNICATIONS,  
 INC.,

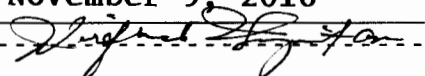
Respondent.

Present:

VELASCO, JR., J., *Chairperson*,\*  
 PERALTA, *Acting Chairperson*,\*\*  
 PEREZ,  
 BERNABE,\*\*\* and  
 JARDELEZA, JJ.

Promulgated:

November 9, 2016

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DECISION

JARDELEZA, J.:

Since 1979, the National Telecommunications Commission (NTC) has been the lead government agency in charge of regulating the telecommunications industry. The Public Telecommunications Policy Act of the Philippines<sup>1</sup> (RA 7925) gave the NTC the authority to approve or adopt access charge arrangements between two public telecommunication entities. The issues here are whether the NTC has primary jurisdiction over questions involving access charge stipulations in a bilateral interconnection agreement, and whether regular courts can restrain the NTC from reviewing the negotiated access charges.

I

Petitioner Philippine Telegraph & Telephone Corporation (PT&T) and respondent Smart Communications, Inc. (Smart) entered into an Agreement<sup>2</sup> dated June 23, 1997 for the interconnection of their telecommunication facilities. The Agreement provided for the

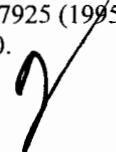
\* On leave.

\*\* Designated as Acting Chairperson per Special Order No. 2395 dated October 19, 2016.

\*\*\* Designated as Additional Member in lieu of Hon. Bienvenido L. Reyes per Raffle dated October 22, 2012.

<sup>1</sup> Republic Act No. 7925 (1995).

<sup>2</sup> Rollo, pp. 109-130.



interconnection of Smart's Cellular Mobile Telephone System (CMTS), Local Exchange Carrier (LEC) and Paging services with PT&T's LEC service. Starting 1999, however, PT&T had difficulty meeting its financial obligations to Smart.<sup>3</sup> Thus, on November 28, 2003, the parties amended the Agreement, which extended the payment period and allowed PT&T to settle its obligations on installment basis. The amended Agreement also specified, among others, that Smart's access charge to PT&T would increase from ₱1.00 to ₱2.00 once PT&T's unpaid balance reaches ₱4 Million and that PT&T's access charge to Smart would be reduced from ₱8.69 to ₱6.50. Upon full payment, PT&T's access charge would be further reduced to ₱4.50.<sup>4</sup>

On April 4, 2005, Smart sent a letter informing PT&T that it increased the access charge from ₱1.00 to ₱2.00 starting April 1, 2005 in accordance with the amended Agreement. However, on September 2, 2005, PT&T sent a letter to Smart claiming that the latter overcharged PT&T on outbound calls to Smart's CMTS.<sup>5</sup> PT&T cited the NTC resolution in a separate dispute between Smart and Digitel, where the NTC ultimately disallowed the access charges imposed by Smart for being discriminatory and less favorable than terms offered to other public telecommunication entities (PTEs). Accordingly, PT&T demanded a refund of ₱12,681,795.13 from Smart.<sup>6</sup>

Thereafter, on September 15, 2005, PT&T filed a letter-complaint with the NTC raising the issue that the access charges imposed by Smart were allegedly "discriminatory and not in conformity with those of other carriers."<sup>7</sup> On January 20, 2006, the NTC ordered Smart and PT&T to attend mediation conferences in order to thresh out the issues.<sup>8</sup> After the mediation efforts failed, the NTC directed the parties to file their respective pleadings, after which it would consider the case submitted for resolution. But before the parties were able to submit the pleadings, Smart filed a complaint with the Regional Trial Court of Makati City (RTC) against PT&T on April 7, 2006.<sup>9</sup> Smart alleged that PT&T was in breach of its contractual obligation when it failed to pay its outstanding debt and denied its liability to Smart. Accordingly, Smart prayed that PT&T be ordered to pay the sum of ₱1,387,742.33 representing its unpaid obligation and to comply with the amended Agreement.<sup>10</sup> Smart also asked the RTC to issue a temporary restraining order against the NTC and PT&T, which the RTC granted on April 25, 2006.<sup>11</sup>

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<sup>3</sup> *Id.* at 37.

<sup>4</sup> *Id.* at 38; 131-132.

<sup>5</sup> *Id.* at 38.

<sup>6</sup> *Id.* at 81.


<sup>7</sup> *Id.* at 80.

<sup>8</sup> *Id.* at 82.

<sup>9</sup> *Id.* at 313-338.

<sup>10</sup> *Id.* at 326.

<sup>11</sup> *Id.* at 142-143.



In its answer to the complaint,<sup>12</sup> PT&T sought for the dismissal of the civil case on the grounds of lack of jurisdiction, non-observance of the doctrine of primary jurisdiction, exhaustion of administrative remedies, *litis pendentia* and *res judicata*. It also prayed that the restraining order be immediately set aside. After several hearings, the RTC issued a writ of preliminary injunction in favor of Smart.<sup>13</sup> The RTC reasoned that allowing the NTC to proceed and adjudicate access charges would violate Smart's contractual rights. The RTC also denied PT&T's motion to dismiss, finding that the nature of the civil case was incapable of pecuniary estimation which squarely falls within its jurisdiction.<sup>14</sup> It added that the NTC has no jurisdiction to adjudicate breaches of contract and award damages.

PT&T elevated the case to the Court of Appeals through a petition for *certiorari*. The Court of Appeals held that the RTC did not commit grave abuse of discretion and, consequently, denied the petition.<sup>15</sup> It found that the RTC had jurisdiction over the case because it involved an action for specific performance, *i.e.*, PT&T's compliance with the Agreement, and is therefore incapable of pecuniary estimation. And insofar as the dispute involved an alleged breach of contract, there was no need to refer the matter to the NTC because it had no jurisdiction over breach of contract cases.<sup>16</sup>

After its motion for reconsideration was denied by the Court of Appeals, PT&T filed this petition for review<sup>17</sup> seeking to overturn the RTC's order of injunction and non-dismissal of Smart's complaint. PT&T principally argues that the NTC has primary jurisdiction over the determination of access charges. PT&T characterizes the NTC case as one involving the validity of interconnection rates, as opposed to one involving purely a breach of contract and claim for damages cognizable by the RTC. PT&T adds that the writ of preliminary injunction issued by the RTC against NTC constitutes interference with a co-equal body. Smart counters by claiming that the dispute was purely contractual; hence, it properly falls within the jurisdiction of the RTC. Although the Agreement contained technical terms, Smart's position is that the NTC has no jurisdiction over bilateral interconnection agreements voluntarily negotiated and entered into by PTEs.

## II

Like the Court of Appeals below, Smart relies on the argument that its complaint before the RTC is one which is incapable of pecuniary estimation and, accordingly, falls within the RTC's jurisdiction. Smart's theory is that, because it is seeking to enforce the Agreement, the action falls within the

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<sup>12</sup> *Id.* at 144-162.

<sup>13</sup> *Id.* at 203-205.

<sup>14</sup> *Id.* at 211-213.

<sup>15</sup> *Id.* at 36-46. Eighth Division, penned by Associate Justice Isaias Dicdican, with Associate Justices Bienvenido L. Reyes (now a Member of this Court) and Marlene Gonzales-Sison, concurring.

<sup>16</sup> *Id.* at 42-45.

<sup>17</sup> *Id.* at 3-35.

ruling of *Boiser v. Court of Appeals*<sup>18</sup> that the regular courts, not the NTC, have jurisdiction over cases involving breach of contract and damages. Invoking the freedom to contract and non-impairment clause, Smart posits that “[t]he specialized knowledge and expertise of the NTC is not indispensable or even necessary in this case since x x x [Smart] simply seeks to enforce and implement the contractual agreement between the parties and their rights and obligations in relation thereto.”<sup>19</sup> Responding to PT&T’s claim that it is seeking the NTC intervention only to resolve the issue on validity of the rates of charges between the two PTEs, Smart downplays this by stating that there is no dispute on the applicable rates since these were already stated in the Agreement.<sup>20</sup>

We cannot agree with Smart’s position. While it is true that regional trial courts, as courts of general jurisdiction, can take cognizance of cases that are incapable of pecuniary estimation—including actions for breach of contract and damages—the fact that the interconnection agreement between Smart and PT&T involved access charges warrants a more nuanced analysis.

RA 7925 recognizes and encourages bilateral negotiations between PTEs, but it does not strictly adopt a *laissez-faire* policy. It imposes strictures that restrain within reason how PTEs conduct their business.<sup>21</sup> The law aims to foster a healthy competitive environment by striking a balance between the freedom of PTEs to make business decisions and to interact with one another on the one hand and the affordability of rates on the other.<sup>22</sup> However, one can speak of healthy competition only between equals. Thus, consistent with Section 19,<sup>23</sup> Article XII of the Constitution, RA 7925 seeks to break up the monopoly in the telecommunications industry by gradually dismantling the barriers to entry and granting new industry entrants protection against dominant carriers through equitable access charges and equal access clauses in interconnection agreements and through the strict policing of predatory pricing by dominant carriers.<sup>24</sup> Specifically, Section 18 of RA 7925 regulates access charge arrangements between two PTEs:

*Access Charge/Revenue Sharing.* — The access charge/revenue sharing arrangements between all interconnecting carriers shall be negotiated between the parties and the agreement between the parties shall be submitted to the Commission. In the event the parties fail to agree thereon within a reasonable period of time, the

<sup>18</sup> G.R. No. L-61438, June 24, 1983, 122 SCRA 945.

<sup>19</sup> *Rollo*, p. 304.

<sup>20</sup> *Id.* at 288-312.

<sup>21</sup> *Globe Telecom, Inc. v. National Telecommunications Commission*, G.R. No. 143964, July 26, 2004, 435 SCRA 110, 132.

<sup>22</sup> RA 7925, Sec. 4(f).

<sup>23</sup> The State shall regulate or prohibit monopolies when the public interest so requires. No combinations in restraint of trade or unfair competition shall be allowed.

<sup>24</sup> *Philippine Long Distance Telephone Company, Inc. v. City of Davao*, G.R. No. 143867, March 25, 2003, 399 SCRA 442, 449-450.

dispute shall be submitted to the Commission for resolution.

In adopting or approving an access charge formula or revenue sharing agreement between two or more carriers, particularly, but not limited to a local exchange, interconnecting with a mobile radio, interexchange long distance carrier, or international carrier, **the Commission shall ensure equity, reciprocity and fairness among the parties concerned. In so approving the rates for interconnection between the telecommunications carriers, the Commission shall take into consideration the costs of the facilities needed to complete the interconnection, the need to provide the cross-subsidy to local exchange carriers to enable them to fulfill the primary national objective of increasing telephone density in the country and assure a rate of return on the local exchange network investment that is at parity with those earned by other segments of the telecommunications industry:** Provided, That international carriers and mobile radio operators which are mandated to provide local exchange services, shall not be exempt from the requirement to provide the cross-subsidy when they interconnect with the local exchanges of other carriers: Provided, further, That the local exchanges which they will additionally operate, shall equally be entitled to the cross-subsidy from other international carriers, mobile radio operators, or inter-exchange carriers interconnecting with them. (Emphasis supplied.)

The first paragraph mandates that any agreement pertaining to access charges must be submitted to the NTC for approval; in case the parties fail to agree, the matter shall be resolved by the NTC. Smart contends that the NTC's authority under the second paragraph of Section 18 is limited to instances where the parties fail to agree on the rates. This interpretation is incorrect. There is no indication that—and Smart has not pointed to any significant reason why—the second paragraph of Section 18 should be construed as limited to the latter instances. On the contrary, We observe that Congress deliberately used the word “approve,” in conjunction with “adopt,” in describing the action that the NTC may take. The plain dictionary meaning of approve is “to express often formally agreement with and support of or commendation of as meeting a standard.”<sup>25</sup> This presupposes that something has been submitted to the NTC, as the approving authority, contrasted with the NTC adopting its own formula. Under Section 18, it is either the access charge formula or revenue-sharing arrangement that is submitted to the NTC for approval. Smart and PT&T's Agreement, insofar as it specifies the access charge rates for the interconnection of their networks, falls within the coverage of the provision. Therefore, the Agreement should have been submitted to the NTC for its review and approval in accordance with the second paragraph of Section 18.

<sup>25</sup> Webster's Third New International Dictionary of the English Language Unabridged, Merriam-Webster Inc., Springfield, MA, 1993.

Conspicuously, however, neither Smart nor PT&T claims that the access charges in the Agreement have been submitted to, much less approved, by the NTC. This further justifies the intervention of the NTC.

It is clear that the law did not intend the approval to simply be a ministerial function. The second paragraph of Section 18 enumerates the guidelines to be considered by the NTC before it approves the access charges. Thus, the NTC must be satisfied that the access charge formula is fair and reasonable based on factors such as cost, public necessity and industry returns; otherwise, it has the discretion to disapprove the rates in the event that it finds that they fall short of the statutory standards.<sup>26</sup> Evidently, the proceeding under Section 18 is quasi-judicial in nature. Any action by the NTC would particularly and immediately affect the rights of the interconnecting PTEs—in this case, Smart and PT&T—rather than being applicable to all PTEs throughout the Philippines.<sup>27</sup> The NTC, therefore, correctly treated the dispute as adversarial and gave both Smart and PT&T the opportunity to be heard.

The mere fact that Smart and PT&T negotiated and executed a bilateral interconnection agreement does not take their stipulations on access charges out of the NTC's regulatory reach. This has to be so in order to further one of the declared policies of RA 7925 of expanding the telecommunications network by improving and extending basic services in unserved and underserved areas *at affordable rates*.<sup>28</sup> A contrary ruling would severely limit the NTC's ability to discharge its twin mandates of protecting consumers and promoting consumer welfare,<sup>29</sup> and would go against the trend towards greater delegation of judicial authority to administrative agencies in matters requiring technical knowledge.<sup>30</sup> Smart cannot rely on the non-impairment clause because it is a limit on the exercise of legislative power and not of judicial or quasi-judicial power.<sup>31</sup> As discussed in the preceding paragraph, the approval of the access charge formula under Section 18 is a quasi-judicial function.

The foregoing interpretation is equally supported by the structure of RA 7925. Congress gave the NTC broad powers over interconnection matters in order to achieve the goal of universal accessibility. Apart from the authority to approve or adopt interconnection rates, the NTC can even “[m]andate a fair and reasonable interconnection of facilities of authorized public network operators and other providers of telecommunications services through appropriate modalities of interconnection and at a reasonable and fair level of charges, which make provision for the cross

<sup>26</sup> See *Panay Autobus Co. v. Philippine Railway Co.*, 57 Phil. 872 (1933).

<sup>27</sup> *Philippine Communications Satellite Corporation v. Alcuaz*, G.R. No. 84818, December 18, 1989, 180 SCRA 218, 228.

<sup>28</sup> RA 7925, Sec. 4(b).

<sup>29</sup> RA 7925, Sec. 5(e) & 5(g).

<sup>30</sup> *Bank of Commerce v. Planters Development Bank*, G.R. Nos. 154470-71, September 24, 2012, 681 SCRA 521, 566.

<sup>31</sup> *Bank of the Philippine Islands v. Securities and Exchange Commission*, G.R. No. 164641, December 20, 2007, 541 SCRA 294, 301

subsidy to unprofitable local exchange service areas so as to promote telephone density and provide the most extensive access to basic telecommunications services available at affordable rates to the public.”<sup>32</sup> Such extensive powers may generally be traced to the Constitution, which recognizes the vital role of communication and information in nation-building.<sup>33</sup> In *Philippine Long Distance Telephone Co. (PLDT) v. National Telecommunications Commission*,<sup>34</sup> we explained why the NTC may regulate—in that case, mandate—interconnection between PTEs:

The interconnection which has been required of PLDT is a form of “intervention” with property rights [recognized by Article XII, Section 6 of the Constitution] dictated by “the objective of government to promote the rapid expansion of telecommunications services in all areas of the Philippines, x x x to maximize the use of telecommunications facilities available, x x x in recognition of the vital role of communications in nation building x x x and to ensure that all users of the public telecommunications service have access to all other users of the service wherever they may be within the Philippines at an acceptable standard of service and at reasonable cost” (DOTC Circular No. 90-248). Undoubtedly, the encompassing objective is the common good. The NTC, as the regulatory agency of the State, merely exercised its delegated authority to regulate the use of telecommunications networks when it decreed interconnection.

x x x

The decisive considerations are public need, public interest, and the common good. x x x Article II, Section 24 of the 1987 Constitution, recognizes the vital role of communication and information in nation building. It is likewise a State policy to provide the environment for the emergence of communications structures suitable to the balanced flow of information into, out of, and across the country (Article XVI, Section 10, x x x). A modern and dependable communications network rendering efficient and reasonably priced services is also indispensable for accelerated economic recovery and development. To these public and national interests, public utility companies must bow and yield.<sup>35</sup> (Emphasis omitted.)

The same reasoning obtains here. Access charges directly affect the State’s goal of making basic telecommunications services accessible to everyone at affordable rates. If the access charges are too high, the cost to end-users may well be prohibitive. Smart cannot simply invoke the freedom of contract to shield it from the intervention of the NTC, especially when the

<sup>32</sup> RA 7925, Sec. 5(c).

<sup>33</sup> CONSTITUTION, Art. II, Sec. 24.

<sup>34</sup> G.R. No. 88404, October 18, 1990, 190 SCRA 717.

<sup>35</sup> *PLDT v. National Telecommunications Commission*, *supra*, at 734-737



law itself sanctions the agency's intervention. As correctly pointed out by PT&T, "[b]ecause petitioner and respondent are public utility PTEs subject to regulation by the NTC, their freedom to enter into contracts is not absolute but subject to the police power of the State, especially when it comes to matters affecting public interest and convenience."<sup>36</sup>

The case relied upon by Smart, *Boiser*, finds no application here for the simple reason that the dispute in that case did not involve access charges. *Boiser* arose from PLDT's alleged failure to observe the 30-day pre-disconnection notice requirement stated in the parties' Interconnecting Agreement. In holding that regular courts had jurisdiction, we said that "[t]here is nothing in the Commission's powers which authorizes it to adjudicate breach of contract cases, much less to award moral and exemplary damages."<sup>37</sup> In stark contrast, jurisdiction over negotiated access charge formulas, such as Smart and PT&T's Agreement, has been allocated to the NTC by express provision of law.

In fine, Section 18 of RA 7925 authorizes the NTC to determine the equity, reciprocity and fairness of the access charges stipulated in Smart and PT&T's Agreement. This does not, however, completely deprive the RTC of its jurisdiction over the complaint filed by Smart. The Agreement has other stipulations which do not require the NTC's expertise. But insofar as Smart's complaint involved the enforcement of, as well as the collection of sums based on the rates subject of the NTC proceedings, the RTC cannot proceed with the civil case until the NTC has finally determined if the access charges are fair and reasonable. Hence, the more prudent course of action for the RTC would have been to hold the civil action in abeyance until after a determination of the NTC case. Indeed, logic and the doctrine of primary jurisdiction dictate such move. In *San Miguel Properties, Inc. v. Perez*,<sup>38</sup> we held that:


The doctrine of primary jurisdiction has been increasingly called into play on matters demanding the special competence of administrative agencies even if such matters are at the same time within the jurisdiction of the courts. A case that requires for its determination the expertise, specialized skills, and knowledge of some administrative board or commission because it involves technical matters or intricate questions of fact, relief must first be obtained in an appropriate administrative proceeding before a remedy will be supplied by the courts although the matter comes within the jurisdiction of the courts. The application of the doctrine does not call for the dismissal of the case in the court but only **for its suspension until after the matters within the competence of the administrative body are threshed out and determined.**

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<sup>36</sup> *Rollo*, p. 17.

<sup>37</sup> *Supra* note 18 at 953.

<sup>38</sup> G.R. No. 166836, September 4, 2013, 705 SCRA 38.





To accord with the doctrine of primary jurisdiction, **the courts cannot and will not determine a controversy involving a question within the competence of an administrative tribunal, the controversy having been so placed within the special competence of the administrative tribunal under a regulatory scheme.** In that instance, **the judicial process is suspended pending referral to the administrative body for its view on the matter in dispute.** Consequently, if the courts cannot resolve a question that is within the legal competence of an administrative body prior to the resolution of that question by the latter, especially where the question demands the exercise of sound administrative discretion requiring the special knowledge, experience, and services of the administrative agency to ascertain technical and intricate matters of fact, and a uniformity of ruling is essential to comply with the purposes of the regulatory statute administered, suspension or dismissal of the action is proper.<sup>39</sup> (Emphasis supplied; citations omitted.)

Here, it would be more proper for the RTC to yield its jurisdiction in favor of the NTC since the determination of a central issue, *i.e.*, the matter of access charges, requires the special competence and expertise of the latter. “In this era of clogged court dockets, administrative boards or commissions with special knowledge, experience and capability to promptly hear and determine disputes on technical matters or intricate questions of facts, subject to judicial review in case of grave abuse of discretion, are well-nigh indispensable. Between the power lodged in an administrative body and a court, therefore, the unmistakable trend is to refer it to the former.”<sup>40</sup>

### III

Under Rule 58, Section 2 of the 1997 Rules of Civil Procedure, the court where the action is pending may grant the provisional remedy of preliminary injunction. Generally, trial courts have the ancillary jurisdiction to issue writs of preliminary injunction in cases falling within its jurisdiction, including civil actions that are incapable of pecuniary estimation<sup>41</sup> and claims for sum of money exceeding ₱400,000.00,<sup>42</sup> among others. There are, however, exceptions to this rule, such as when Congress,

<sup>39</sup> *San Miguel Properties, Inc. v. Perez, supra*, at 60-61.

<sup>40</sup> *GMA Network, Inc. v. ABS-CBN Broadcasting Corporation*, G.R. No. 160703, September 23, 2005, 470 SCRA 727, 737.

<sup>41</sup> The following civil actions are considered as incapable of pecuniary estimation:

- (1) Actions for specific performance;
- (2) Actions for support which will require the determination of the civil status;
- (3) The right to support of the plaintiff;
- (4) Those for the annulment of decisions of lower courts;
- (5) Those for the rescission or reformation of contracts; and
- (6) Interpretation of a contractual stipulation.

*Surviving Heirs of Alfredo R. Bautista v. Lindo*, G.R. No. 208232, March 10, 2014, 718 SCRA 321, 330.

<sup>42</sup> For Metro Manila. *Batas Pambansa Blg. 129* (The Judiciary Reorganization Act of 1980), Sec. 19(8), as amended by Republic Act No. 7691.

in the exercise of its power to apportion jurisdiction,<sup>43</sup> restricts the authority of regular courts to issue injunctive reliefs. For example, the Labor Code prohibits any court from issuing injunctions in cases involving or arising from labor disputes.<sup>44</sup> Similarly, Republic Act No. 8975<sup>45</sup> (RA 8975) provides that no court, other than the Supreme Court, may issue provisional injunctive reliefs which would adversely affect the expeditious implementation and completion of government infrastructure projects.<sup>46</sup> Another well-recognized exception is that courts could not interfere with the judgments, orders, or decrees of a court of concurrent or coordinate jurisdiction.<sup>47</sup> This rule of non-interference applies not only to courts of law having equal rank but also to quasi-judicial agencies statutorily at par with such courts.<sup>48</sup>

The NTC was created pursuant to Executive Order No. 546<sup>49</sup> (EO 546), promulgated on July 23, 1979. It assumed the functions formerly assigned to the Board of Communications and the Telecommunications Control Bureau and was placed under the administrative supervision of the Ministry of Public Works. Meanwhile, the Board of Communications previously exercised the authority which originally pertained to the Public Service Commission (PSC).<sup>50</sup> Under Executive Order No. 125,<sup>51</sup> issued in January 1987, the NTC became an attached agency of the Department of Transportation and Communications.

Section 16 of EO 546 provides that, with respect to the NTC's quasi-judicial functions, its decisions shall be appealable in the same manner as the decisions of the Board of Communications had been appealed. The rulings and decisions of the Board were, in turn, appealable in the same manner as the rulings and decisions of the PSC.<sup>52</sup> Under Section 35 of the Public Service Act, the Supreme Court had jurisdiction to review any order, ruling, or decision of the PSC.<sup>53</sup> In *Iloilo Commercial and Ice Company v. Public*

<sup>43</sup> CONSTITUTION, Art. VIII, Sec. 2.

<sup>44</sup> LABOR CODE, Art. 266.

<sup>45</sup> An Act to Ensure the Expeditious Implementation and Completion of Government Infrastructure Projects by Prohibiting Lower Courts from Issuing Temporary Restraining Orders, Preliminary Injunctions or Preliminary Mandatory Injunctions, Providing Penalties for Violations Thereof, and for Other Purposes (2000).

<sup>46</sup> RA 8975, Sec. 3.

<sup>47</sup> *Ching v. Court of Appeals*, G.R. No. 118830, February 24, 2003, 398 SCRA 88, 92-93, citing *Orais v. Escaño*, 14 Phil. 208 (1909); *Núñez v. Low*, 19 Phil. 244 (1911); *Cabigao and Izquierdo v. Del Rosario and Lim*, 44 Phil. 182 (1922); *Hubahib v. Insular Drug Co.*, 64 Phil. 119 (1937); *National Power Corp. v. De Veyra*, G.R. No. L-15763, December 22, 1961, 3 SCRA 646; *Luciano v. Provincial Governor*, G.R. No. L-30306, June 20, 1969, 28 SCRA 517; *De Leon v. Salvador*, G.R. No. L-30871, December 28, 1970, 36 SCRA 567; *Cojuangco v. Villegas*, G.R. No. 76838, April 17, 1990, 184 SCRA 374; *Darwin v. Tokonaga*, G.R. No. 54177, May 27, 1991, 197 SCRA 442.

<sup>48</sup> *Municipality of Malolos v. Libangang Malolos, Inc.*, G.R. No. L-78592, August 11, 1988, 164 SCRA 290, 296.

<sup>49</sup> Creating A Ministry of Public Works and Ministry of Transportation and Communications.

<sup>50</sup> Created by Commonwealth Act No. 146 (CA 146), as amended, otherwise known as the Public Service Act. The Public Service Commission was abolished by Presidential Decree No. 1 dated September 24, 1972 as part of an integrated reorganization plan of the executive department.

<sup>51</sup> Reorganizing the Ministry of Transportation and Communications, Defining Its Powers and Functions, and for Other Purposes, as amended by Executive Order No. 125-A (April 13, 1987).

<sup>52</sup> Integrated Reorganization Plan (1972), Part X, Chapter I, Art. III, Sec. 7.

<sup>53</sup> CA 146, as amended, Sec. 35. The Supreme Court is hereby given jurisdiction to review any order,

*Service Commission*,<sup>54</sup> we categorically held that courts of first instance have no power to issue a restraining order directed to the PSC.<sup>55</sup> In that case, the PSC instructed the city fiscal to file a criminal action against the owner and manager of Iloilo Commercial and Ice Company for allegedly operating a public utility without the required certificate of public convenience. The company brought a complaint in the Court of First Instance of Iloilo for an injunction to restrain the PSC from proceeding against the company and its officers. The Court, speaking through Justice Malcolm, said:

The Public Service Law, Act No. 3108, as amended, creates a Public Service Commission which is vested with the powers and duties therein specified. The Public Service Commissioners are given the rank, prerogatives, and privileges of Judges of First Instance. Any order made by the commission may be reviewed on the application of any person or public service affected thereby, by certiorari, in appropriate cases or by petition, to the Supreme Court, and the Supreme Court is given jurisdiction to review any order of the Commission and to modify or set it aside (sec. 35).

**x x x In the absence of a specific delegation of jurisdiction to Courts of First Instance to grant injunctive relief against orders of the Public Service Commission, it would appear that no court, other than the Supreme Court, possesses such jurisdiction. To hold otherwise would amount to a presumption of power in favor of one branch of the judiciary, as against another branch of equal rank.** If every Court of First Instance had the right to interfere with the Public Service Commission in the due performance of its functions, unutterable confusion would result. The remedy at law is adequate, and consists either in making the proper defense in the criminal action or in the Ice Company following the procedure provided in the Public Service Law. An injunction is not the proper remedy, since other and exclusive remedies are prescribed by law.<sup>56</sup> (Emphasis supplied.)

The above ruling is deemed to have been modified by *Batas Pambansa Blg. 129*, which granted the Court of Appeals exclusive appellate jurisdiction over “all final judgments, resolutions, orders or awards of Regional Trial Courts and *quasi-judicial agencies, instrumentalities, boards or commission*” except those falling within the appellate jurisdiction of the

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ruling, or decision of the Commission and to modify or set aside such order, ruling, or decision when it clearly appears that there was no evidence before the Commission to support reasonably such order, ruling, or decision, or that the same is contrary to law, or that it was without the jurisdiction of the Commission. The evidence presented to the Commission, together with the record of the proceedings before the Commission, shall be certified by the secretary of the Commission to the Supreme Court. Any order, ruling, or decision of the Commission may likewise be reviewed by the Supreme Court upon a writ of certiorari in proper cases. The procedure for review, except as herein provided, shall be prescribed by rules of the Supreme Court.

<sup>54</sup> 56 Phil. 28 (1931).

<sup>55</sup> *Id.* at 30-31. Also cited in *Regalado v. Provincial Commander of Negros Occidental*, G.R. No. L-15674, November 29, 1961, 5 SCRA 503, 504.

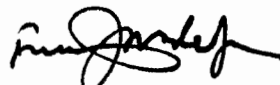
<sup>56</sup> *Supra* note 54 at 30-31.

Supreme Court in accordance with the Constitution and the Labor Code.<sup>57</sup> In this regard, Rule 43 of the Rules of Court provides that an appeal from any award, judgment or resolution of or authorized by a quasi-judicial agency in the exercise of its quasi-judicial functions, *including the NTC*, shall be through a petition for review with the Court of Appeals.<sup>58</sup>

In view of the legislative history of the NTC, it is clear that Congress intended NTC, in respect of its quasi-judicial or adjudicatory functions, to be co-equal with regional trial courts. Hence, the RTC cannot interfere with the NTC's exercise of its quasi-judicial powers without breaching the rule of non-interference with tribunals of concurrent or coordinate jurisdiction. In this case, the NTC was already in the process of resolving the issue of whether the access charges stipulated in the Agreement were fair and equitable pursuant to its mandate under RA 7925 when the RTC issued the assailed writ of preliminary injunction. Mediation conferences had been conducted and, failing to arrive at a settlement, the NTC had ordered the parties to submit their respective pleadings. Simply put, the NTC had already assumed jurisdiction over the issue involving access charges. Undeniably, the RTC exceeded its jurisdiction when it restrained the NTC from exercising its statutory authority over the dispute.

**WHEREFORE**, the petition is **PARTIALLY GRANTED**. The Decision dated February 18, 2009, as well as the Resolution dated July 23, 2009, of the Court of Appeals in CA-G.R. SP No. 97737 are **SET ASIDE**. The writ of preliminary injunction issued by the Regional Trial Court, Branch 146, Makati City is **DISSOLVED**. The Regional Trial Court, Branch 146, Makati City is further directed to **SUSPEND** its proceedings until the National Telecommunications Commission makes a final determination on the issue involving access charges.

**SO ORDERED.**



**FRANCIS H. JARDELEZA**  
*Associate Justice*

WE CONCUR:

*(On Leave)*

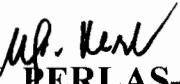
**PRESBITERO J. VELASCO, JR.**  
*Associate Justice*  
*Chairperson*

<sup>57</sup> Batas Pambansa Blg. 129, Sec. 9(3).

<sup>58</sup> RULES OF COURT, Rule 43, Secs. 1 & 5.


  
**DIOSDADO M. PERALTA**  
*Associate Justice*  
*Acting Chairperson*

  
**JOSE PORTUGAL PEREZ**  
*Associate Justice*

  
**ESTELA M. PERLAS-BERNABE**  
*Associate Justice*


**ATTESTATION**

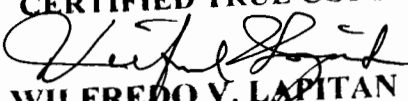
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**DIOSDADO M. PERALTA**  
*Associate Justice*  
*Acting Chairperson, Third Division*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting Chairperson's attestation, it is hereby certified that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**MARIA LOURDES P. A. SERENO**  
*Chief Justice*

**CERTIFIED TRUE COPY**  
  
**WILFREDO V. LAPITAN**  
 Division Clerk of Court  
 Third Division  
 DEC 01 2016