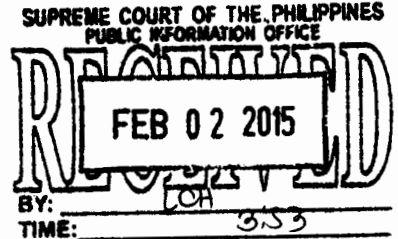




Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **November 12, 2014** which reads as follows:*

“UDK-15135 (Oriental Mindoro Electric Cooperative (ORMECO), its duly constituted Interim Board of Directors/Transition Committee, represented by its Chairman Mr. Jose N. Abao, *petitioners*, v. National Electrification Administration, and Edita S. Bueno, Administrator; Audel A. Arago, Clarito J. Aclan, Platanos T. Suarez, Jr., Benjamin Cacha, Noel Cataquiz and Romeo N. Cuasay, *respondents*)

The petitioners’ motion for an extension of thirty (30) days within which to file a petition for review on certiorari is **GRANTED**, counted from the expiration of the reglementary period.

Petitioner Oriental Mindoro Electric Cooperative (ORMECO) alleged in this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court that:

1. ORMECO was established sometime in 1973 under Presidential Decree No. 269, initially as Oriental Mindoro Electric Cooperative, Inc., to engage in power generation, transmission and/or distribution for the Province of Mindoro Oriental. Allegedly, it was not registered with the Securities and Exchange Commission or with the Department of Trade and Industry.

- over – five (5) pages

2. Sometime in 2012, ORMECO held a "Members Initiated Referendum" for the conversion of ORMECO into a cooperative pursuant to the Cooperative Development Authority (CDA) Memorandum Circular No. 2012-04. On 29 April 2013, ORMECO was duly registered with the CDA as a Cooperative.

3. Thereafter, petitioners, Interim Board of Directors of ORMECO, attempted to remove the sitting and incumbent Board of Directors of ORMECO and have the seats of these Directors, turned over to them, to no avail.

4. Thus, petitioners filed a case against the sitting and incumbent Board of Directors of ORMECO, for Preliminary Mandatory Injunction before the Regional Trial Court, Calapan, Mindoro Oriental, Branch 40 docketed as Civil Case No. CV-13-6627. Petitioners stance was that upon ORMECO's registration as a Cooperative, the seats of the Board of Directors of ORMECO were deemed vacated. The sitting and incumbent Board of Directors of ORMECO are private respondents in Civil Case No. CV-13-6627.

5. In the meantime, herein respondent National Electrification Administration (NEA) issued an Order dated 30 September 2013, signed by NEA Administrator, Edita Bueno, directing the conduct of a "confirmation referendum" to be held on 9 February 2014. The "confirmation referendum" sought to supersede and set aside the registration of ORMECO as a Cooperative.

6. Petitioners, Interim Board of Directors, opposed NEA's 20 September 2013 Order and insisted that NEA's exercise of jurisdiction conflicted with that of the CDA since ORMECO is now a duly registered Cooperative.

7. The sitting Board of Directors of ORMECO won in the 9 February 2014 "confirmation referendum" with ORMECO ostensibly maintaining its corporate existence.

Aggrieved by the 30 September 2013 Order of the NEA and the subsequent holding of the "confirmation referendum" on 9 February 2014, petitioners, Interim Board of Directors of ORMECO, filed a petition for *certiorari* under Rule 65 of the Rules of Court before the Court of Appeals docketed as CA-G.R. SP No. 133765 against herein respondents NEA *et al.* Petitioners alleged grave abuse of discretion in the 30 September 2013 Order of NEA.¹

¹ Rollo, pp. 21-26.

On 19 February 2014, the Court of Appeals issued a Resolution dismissing petitioners' petition for *certiorari* on the following grounds:

1. The Jurat in the petition did not comply with the Notarial Rules on Competent Evidence of Identity as the Notary Public did not indicate his MCLE Compliance;
2. Petitioners' Affidavit of Service did not offer an Explanation why they failed to undertake personal service of their petition;
3. Petitioners are guilty of forum shopping, and *litis pendentia* is present because the case before the Court of Appeals, CA-G.R. SP No. 133765, declared that there is already a pending civil case before the RTC, Branch 40, Calapan, Oriental Mindoro, docketed as Civil Case No. CV-13-6627 involving: (a) an identity of parties, or at least such parties as those representing the same interests in both actions; (b) an identity of rights asserted and reliefs prayed for, the reliefs being founded on the same facts; and (c) an identity with respect to the two preceding particulars in the two cases, such that any judgment that may be rendered in the pending case, regardless of which party is successful, would amount to *res judicata* in the other case.²

Hence, this appeal by *certiorari* of petitioners.

There is no reversible error in the ruling of the Court of Appeals dismissing petitioners' petition for *certiorari* under Rule 65 of the Rules of Court.

We agree with the appellate court's dismissal of the petition for *certiorari* as petitioners are guilty of forum shopping and *litis pendentia* is present in this instance, the pendency of Civil Case No. 13-6627 bars the Court of Appeals from taking cognizance of CA-G.R. SP No. 133765.

The case petitioners had filed before the Court of Appeals is already the subject matter of the action before the RTC, Branch 40, *i.e.*, on the nature of ORMECO as a cooperative or corporation, which entity had jurisdiction over it, whether the NEA or the CDA, and which group ought to sit as Board of Directors of ORMECO.

Petitioners are plainly guilty of forum shopping to avail themselves of multiple judicial remedies in different fora, simultaneously and successively, founded on the same transactions and the same essential facts

² Id. at 59-60.

and circumstances; and raising substantially similar issues either pending in or already resolved adversely by some other court; or for the purpose of increasing their chances of obtaining a favorable decision, if not in one court, then in another.³ In short, *litis pendentia* is present in this case.

The determination of whether *litis pendentia* exists is based on the policy against multiplicity of suits. The significance of our rule dismissing cases based on the existence of forum shopping and *litis pendentia* hinges on the vexation caused to the courts and parties-litigants by a party who asks different courts and/or administrative agencies to rule on the same or related cases and/or grant the same or substantially the same reliefs, in the process creating the possibility of conflicting decisions being rendered by the different courts and/or administrative agencies upon the same issues.⁴

Litis pendentia requires the concurrence of the following requisites: (1) identity of parties, or at least such parties as those representing the same interests in both actions; (2) identity of rights asserted and reliefs prayed for, the reliefs being founded on the same facts; and (3) identity with respect to the two preceding particulars in the two cases, such that any judgment that may be rendered in the pending case, regardless of which party is successful, would amount to *res judicata* in the other case.

Although ostensibly, the two cases appear to assail different matters: (1) Civil Case No. 13-6627 asks for a Preliminary Mandatory Injunction to direct the sitting and incumbent Board of Directors of ORMECO to vacate their positions and to allow petitioners to assume as Directors of ORMECO as a duly registered cooperative; and (2) CA-G.R. SP No. 133765 assailing the 30 September 2013 Order of NEA for the conduct of a “confirmation referendum” and the subsequent holding thereof on 9 February 2014, essentially, however, the two cases involve the legal question of the true nature and legal personality of NEA, whether as a cooperative or as a regular corporation.

WHEREFORE, the petition is **DENIED** for no reversible error in the Court of Appeals’ resolution.

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³ *Marasigan v. Chevron Philippines, Inc.*, G.R. No. 184015, 8 February 2012, 665 SCRA 499, 511.

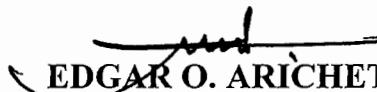
⁴ *Id.*

The petitioners' most urgent *ex-parte* second motion for extension of time to file a petition for review on certiorari due to freak accident for ten (10) days from September 29, 2014, stating that this motion was filed in anticipation of the probability of delay in the filing of the petition is **NOTED WITHOUT ACTION**; and the petitioners' *ex-parte* manifestation, submitting a compact disc containing the soft copy of the petition is **NOTED**.

The petitioners are hereby required to **SUBMIT** within five (5) days from notice hereof, a soft copy in compact disc, USB or e-mail containing the PDF files of the signed petition for review on certiorari and its annexes and of the signed *ex-parte* manifestation pursuant to the Resolution dated February 25, 2014 in A.M. Nos. 10-3-7-SC and 11-9-4-SC.

SO ORDERED.” **SERENO, C.J.**, on official travel; **DEL CASTILLO, J.**, acting member per S.O. No. 1862 dated November 4, 2014. **BERSAMIN, J.**, on official travel; **VELASCO, JR., J.**, acting member per S.O. No. 1870 dated November 4, 2014.

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court
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Supreme Court

Court of Appeals (x)
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