Republic of the Philippines
Supreme Court
Baguio City

FIRST DIVISION

NATIONAL ELECTRIFICATION ADMINISTRATION (NEA),
Petitioner,

G.R. Nos. 192595-96

- versus -

MAGUINDANAO ELECTRIC COOPERATIVE, INC., represented by MAGUINDANAO ELECTRIC COOPERATIVE-PALMA AREA (MAGELCO-PALMA), represented by ATTY. LITTIE SARAH A. AGDEPPA, ANTONIO U. ACUB, EDGAR L. LAVEGA, RET. JUDGE TERESITA CARREON LLABAN, EMILY LLABAN, ARMANDO C. LLABAN, AUDIE D. MACASARTE, WILFREDO Q. LLABAN, EVANGELINE A. VARILLA, CORAZON TUMANG, and PRESCILLA LANO,
Respondents.

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COTABATO ELECTRIC COOPERATIVE, INC. (COTELCO), represented by ALEJANDRO Q. COLLADOS as General Manager,
Petitioner,

G.R. Nos. 192676-77

- versus -

MAGUINDANAO ELECTRIC COOPERATIVE-PALMA AREA (MAGELCO-PALMA), represented by ATTY. LITTIE SARAH A. AGDEPPA, ANTONIO U. ACUB, EDGAR L. LAVEGA, RET. JUDGE TERESITA CARREON LLABAN

EVANGELINE A. VARILLA, and CORAZON TUMANG; and MAGUINDANAO ELECTRIC COOPERATIVE, INC., represented by its President, DATU TUMAGANTANG ZAINAL,
Respondents.

Present:
SERENO, *CJ.*,*
LEONARDO-DE CASTRO, *Acting Chairperson*,**
DEL CASTILLO,*
JARDELEZA, and
TIJAM, *JJ.*

Promulgated:
APR 1 1 2018

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DECISION

JARDELEZA, *J.*:

Before us are two consolidated petitions for review on *certiorari*[1] under Rule 45 of the Rules of Court assailing the Decision[2] dated March 15, 2010 of the Court of Appeals (CA) in CA-G.R. SP Nos. 02547-MIN and 02759-MIN. The CA ruled on the consolidated petitions for *certiorari* under Rule 65 of the Rules of Court filed by Maguindanao Electric Cooperative-Palma Area (MAGELCO-PALMA) and Cotabato Electric Cooperative, Inc. (COTELCO). MAGELCO-PALMA challenged before the CA two letter-directives issued by the National Electrification Administration (NEA).[3] COTELCO, on the other hand, questioned the order of the Regional Trial Court (RTC) of Cotabato City, Branch 14 (RTC Branch 14) which granted the *ex-parte* motion for execution filed by MAGELCO-PALMA.[4] In the assailed Decision, the CA dismissed COTELCO's petition and granted that of MAGELCO-PALMA. The CA found that the NEA issued the two letter-directives in grave abuse of discretion.[5] The NEA and COTELCO separately filed an appeal through a petition for review on *certiorari* of this CA Decision before this Court. On March 11, 2011, we ordered the consolidation of these two petitions.[6]

Maguindanao Electric Cooperative, Inc. (MAGELCO) is a duly organized cooperative with a franchise to distribute electric light, and power to the municipalities of Sultan sa Barongis, Talayan, Pagalungan, Upi, South Upi, Ampatuan, Barrira, Buldon, Datu Piang, Dinaig, Kabuntalan, Maganoy, Matanog, Parang, and Sultan Kudarat in the province of Maguindanao. Its

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* On leave.
** Designated as Acting Chairperson of the First Division per Special Order No. 2540 dated February 28, 2018.
1 *Rollo* (G.R. No. 192595-96), pp. 51-112.
2 *Id.* at 120-187. Penned by Associate Justice Rodrigo F. Lim, Jr. and concurred in by Associate Justices Leoncia R. Dimagiba and Angelita A. Gacutan.
3 *Id.* at 122-124.
4 *Id.* at 124-127.
5 *Id.* at 179, 185, 187.
6 *Id.* at 1332.

franchise also includes the authority to distribute electricity in six municipalities in Cotabato, namely Pigcawayan, Alamada, Libungan, Midsayap, Aleosan, and Pikit (PPALMA Area).[7]

COTELCO is also a duly organized cooperative with a franchise to distribute electric light, and power to the province of Cotabato except for the PPALMA Area.[8] In 2000, COTELCO filed before the NEA an application for the amendment of its franchise to include the PPALMA Area. MAGELCO, which was the distributor of electricity in the area, opposed the application at that time. NEA conducted hearings attended by both COTELCO and MAGELCO.[9] In a Decision dated September 18, 2003,[10] the NEA, through the National Electrification Commission (NEC), granted COTELCO's application and ordered the transfer of MAGELCO's assets in the PPALMA Area to COTELCO upon payment of just compensation.[11]

MAGELCO filed before the CA a petition for review under Rule 43 of the Rules of Court to challenge this NEA Decision.[12] Hereafter, this petition shall be referred to as the First CA Case. While the First CA Case was pending, MAGELCO passed General Assembly Resolution No. 4, Series of 2007 (GA Resolution No. 4) which amended the MAGELCO by-laws. The resolution states that the general assembly has "approved the division and separation" of MAGELCO into "two (2) separate and independent branch units, x x x the MAGUINDANAO ELECTRIC COOPERATIVE, INC., as the mother unit or main branch, and THE MAGUINDANAO ELECTRIC COOPERATIVE, INC. – (PALMA AREA), as the daughter or branch unit."[13] Hereafter, MAGUINDANAO ELECTRIC COOPERATIVE, INC. shall be referred to as MAGELCO Main. The NEA approved GA Resolution No. 4 subject to its recommended modifications and the outcome of the pending First CA Case. It also required MAGELCO Main and MAGELCO-PALMA to submit a transition plan.[14] Upon its submission, NEA approved the transition plan and the two units began their separate operations.

Shortly after the commencement of MAGELCO-PALMA's operations, MAGELCO Main, on October 25, 2007, filed before the RTC Branch 14 an action for injunction and prohibition against the NEA Administrator and MAGELCO-PALMA. The action sought the annulment of MAGELCO's division for being contrary to law and asked the RTC to order MAGELCO-PALMA to return to MAGELCO Main all the properties in its possession in connection with its operation in the PPALMA Area.[15]

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7 *Id.* at 128-129.
8 *Id.* at 129.
9 *Id.* at 203-204.
10 *Id.* at 203-209.
11 *Id.* at 208.
12 *Id.* at 214.
13 *Id.* at 1001.
14 *Id.* at 607-612.
15 *Id.* at 133.

However, on December 1, 2007, MAGELCO Main and MAGELCO-PALMA entered into a memorandum of agreement which they used as a compromise agreement to put an end to the earlier action.[16] The agreement essentially pertained to the implementation of the separate and independent operation of MAGELCO Main and MAGELCO-PALMA. It included an allocation of the properties of MAGELCO between MAGELCO Main and MAGELCO-PALMA in connection with their separate operations. The agreement also stated that MAGELCO Main consents to the grant to MAGELCO-PALMA "of the power, authority and jurisdiction to obtain, acquire and apply for a separate electric franchise over the six municipalities of Cotabato, namely Pigcawayan, Alamada, Libungan, Midsayap, Aleosan and Pikit all of the Province of Cotabato in whatsoever corporate and/or business name it may choose."[17] The agreement further provided that MAGELCO Main "transfers, waives, alienates and repudiates in favor of [MAGELCO-PALMA] its existing electric franchise over the above said six (6) municipalities in the Province of Cotabato."[18] Under the agreement, MAGELCO Main and MAGELCO-PALMA undertook to have the case dismissed and to sign the corresponding motions for its withdrawal or submit the necessary compromise agreement for its termination. The RTC approved the compromise agreement on December 6, 2007.[19]

On January 18, 2008, the NEA issued a letter-directive approving the memorandum of agreement. It stated that pending MAGELCO-PALMA's acquisition of its own franchise, MAGELCO Main shall designate MAGELCO-PALMA as its agent and representative in the distribution of electricity in the PPALMA Area.[20]

Meanwhile, the CA rendered its Decision[21] on MAGELCO Main's appeal in the First CA Case. The CA held that the NEA had jurisdiction to rule on COTELCO's application and affirmed the NEA ruling which granted COTELCO's application for the amendment of its franchise. The Decision, however, modified the NEA ruling on the transfer of MAGELCO's assets to COTELCO upon payment of just compensation.[22]

The CA ruled that the NEA had the power to order the transfer of COTELCO's assets to MAGELCO. The CA held:

> In brief, the NEA, through the NEC, is empowered to acquire, by purchase or otherwise, and solely as agent for and on behalf of one or more public service entities, real and physical properties, together with all appurtenant rights, easements, licenses and privileges. This power is exercised upon determination by the NEA that such

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[16] *Id.* at 1022-1037.
[17] *Id.* at 1033.
[18] *Id.*
[19] *Rollo* (G.R. No. 192595-96), p. 1037.
[20] *Id.* at 1271-1272.
[21] *Id.* at 214-229.
[22] *Id.* at 219-223.

> acquisition is necessary to accomplish the purposes of P.D. 269, especially the objective of making service available throughout the nation on an area coverage basis as rapidly as possible. Such power to acquire includes the right of eminent domain.[23]

It also recognized that the NEA can properly order a transfer of assets upon payment of just compensation.[24] However, the CA held that the NEA did not observe the proper proceedings for the exercise of its right of eminent domain. Thus, it ruled:

> In fine, We sustain the NEC's grant of COTELCO's Application but find void the NEC's requirement for COTELCO to pay just compensation to MAGELCO for the assets attached to the six (6) municipalities for lack of sufficient basis. The disposition of these assets must still be subject to proper proceedings with the NEA pursuant to *Section 58 of Republic Act No. 9136 or the EPIRA of 2001* x x x.[25]

The CA further noted MAGELCO-PALMA's manifestation praying for a mediation conference with COTELCO. Thus, it ordered that the disposition of MAGELCO's assets in the PPALMA Area needs further proceedings and any efforts at mediation among the parties should be undertaken thereunder.[26]

The dispositive portion of the CA Decision stated:

> **WHEREFORE**, the Decisions dated 18 September 2003 and 18 May 2004 of the National Electrification Commission in NEC Case No. 2000-03 are hereby **AFFIRMED with MODIFICATION** that the requirement number (2) contained in the 18 September 2003 Decision stating "that COTELCO shall pay just compensation to MAGELCO for the assets attached to the six (6) municipalities" be **DELETED**. Let the disposition of these assets be subject to further proceedings before the NEC, where mediation proceedings between the parties may likewise be conducted.[27]

The CA's Decision in the First CA Case became final on January 29, 2008.[28] Despite this, problems as to which among COTELCO, MAGELCO Main, and MAGELCO-PALMA should operate in the PPALMA Area persisted.

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23 *Id.* at 226.
24 *Id.* at 226-227.
25 *Id.* at 227-228.
26 *Rollo* (G.R. No. 192595-96), pp. 228-229.
27 *Id.*
28 *Rollo* (G.R. No. 192595-96), p. 136.

On April 19, 2008, MAGELCO Main issued Board Resolution No. 40, series of 2008 declaring the cancellation of the memorandum of agreement and transition plan executed by and between MAGELCO Main and MAGELCO-PALMA.[29] MAGELCO Main also issued Board Resolution No. 132.[30] This resolution stated that, as the basis for the judgment on compromise agreement rendered by the RTC Branch 14 in the injunction case filed by MAGELCO Main, the memorandum of agreement between MAGELCO Main and MAGELCO-PALMA is unenforceable in the absence of a writ of execution. It then declared that MAGELCO Main repudiates any acts performed by MAGELCO-PALMA arising from the memorandum of agreement for lack of authority.

COTELCO, for its part, issued two resolutions concerning MAGELCO-PALMA. It issued Board Resolution No. 98-2008 requesting the NEA to revoke MAGELCO General Assembly Resolution No. 4 which amended the by-laws of MAGELCO and created MAGELCO Main and MAGELCO-PALMA. It also issued Resolution No. 99-2008 requesting the NEA to: (1) dissolve MAGELCO-PALMA; (2) order MAGELCO PALMA's depository banks to allow COTELCO to withdraw from its bank accounts to defray MAGELCO-PALMA's operational, incidental, and necessary expenses, and eventually order the closure of these bank accounts, and for the outstanding balances to be transferred to COTELCO's accounts in the PPALMA area; and (3) order that all future funds and payment collected by or in the possession of MAGELCO-PALMA be deposited or transferred to COTELCO's bank accounts.[31]

COTELCO also filed before the NEC a motion for the issuance of a writ of execution of the CA's Decision in the First CA Case.[32] The NEA responded to this motion through a letter stating that by virtue of the Electric Power Industry Reform Act of 2001, the NEC has ceased to exist. It thus referred COTELCO's motion to the NEA's Institutional Development Department for evaluation and appropriate action.[33]

On September 8, 2008, MAGELCO-PALMA filed an action before the RTC of Midsayap, Branch 18 (RTC Branch 18) for the "declaration of the existence and validity of MAGELCO's electric franchise; invalidity of COTELCO's franchise" with a prayer for the issuance of a writ of preliminary injunction/temporary restraining order.[34] However, the presiding judge of RTC Branch 18 inhibited from the case. Pending the reassignment of the case to a new judge, MAGELCO-PALMA filed a petition with this court for the issuance of a status *quo ante* order and/or a temporary

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[29] *Id.*
[30] *Rollo* (G.R. No. 192595-96), pp. 1269-1270.
[31] *Id.* at 138-139, 230-232.
[32] *Id.* at 349.
[33] *Id.* at 350.
[34] *Id.* at 137-138.

restraining order.[35] We dismissed this petition on September 29, 2008.[36]

Meanwhile, on September 26, 2008, the NEA issued two letter-directives. The first letter-directive: (1) approved MAGELCO Main Board Resolution No. 40, Series of 2008 and COTELCO Board Resolution No. 98-2008; (2) revoked its approval of MAGELCO Board Resolution No. 4 which divided MAGELCO between MAGELCO Main and MAGELCO-PALMA; and (3) highlighted that the initial approval of MAGELCO Board Resolution No. 4 was made without prejudice to the outcome of the CA appeal. Hence, as the CA already ruled on the matter, the NEA found merit in the two resolutions passed by MAGELCO Main and COTELCO.[37] On the same date, the NEA issued a second letter-directive approving COTELCO Board Resolution No. 99-2008. In this second letter-directive, the NEA: (1) declared that the PPALMA Area is under the coverage of COTELCO and not MAGELCO Main or MAGELCO-PALMA, subject to the mediation proceedings between MAGELCO and COTELCO as to the disposition of assets; (2) ordered MAGELCO-PALMA's depository banks to disburse funds from MAGELCO-PALMA's bank accounts solely to COTELCO for the necessary and incidental expenses of the operation in the PPALMA Area; and (3) ordered the management of MAGELCO-PALMA to deposit all present and future funds, and payments to COTELCO's bank accounts in the PPALMA Area.[38]

It appears that MAGELCO Main and COTELCO pursued the mediation proceedings for the proper distribution of the assets in the PPALMA Area. On October 1, 2008, MAGELCO Main and COTELCO entered into an Interim Memorandum of Agreement.[39] This was amended through a Supplemental Memorandum of Agreement dated December 16, 2008.[40] The final round of negotiation was completed on July 16 and 17, 2009 and a final memorandum of agreement was executed.[41] MAGELCO Main waived in favor of COTELCO all of its rights and interests over the assets in the PPALMA Area in exchange for COTELCO's undertaking to pay MAGELCO Main a certain sum of money and to assume some of the latter's obligations to generation companies and the National Grid Corporation of the Philippines.[42]

As early as the execution of the Interim Memorandum of Agreement, COTELCO took over MAGELCO Main's assets in the PPALMA Area. Thus, on October 6, 2008, MAGELCO-PALMA filed a petition for *certiorari* and prohibition with application for status *quo ante* order, temporary restraining order and/or writ of preliminary injunction, and for the

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35 *Id.* at 493-522.
36 *Id.* at 138.
37 *Id.* at 233-234.
38 *Id.* at 230-232.
39 *Id.* at 1068-1070.
40 *Id.* at 62, 1071-1073.
41 *Id.* at 63, 1074-1078.
42 *Id.* at 1075-1076.

issuance of a writ of *habeas data* before the CA. This petition challenged the NEA's two letter-directives on the ground that they were issued in grave abuse of discretion. The CA denied the prayer for the issuance a writ of *habeas data* on November 11, 2008.[43]

MAGELCO-PALMA also filed an action for forcible entry against COTELCO before the Municipal Trial Court (MTC) of Midsayap.[44] The MTC eventually rendered a decision in favor of MAGELCO-PALMA.[45]

As part of its efforts to retain control of the PPALMA Area, on December 17, 2008, MAGELCO-PALMA also filed before RTC Branch 14 an *ex-parte* motion for the issuance of a writ of execution in the injunction case which MAGELCO Main earlier filed. This is the same case where the RTC Branch 14 rendered a judgment on compromise agreement based on the memorandum of agreement entered into by MAGELCO Main and MAGELCO-PALMA. The RTC Branch 14 granted the motion for the issuance of a writ of execution a day from filing of the motion. MAGELCO-PALMA subsequently filed a motion asking the RTC Branch 14 to direct the banks to deliver to the custody of the sheriff all monies belonging to MAGELCO-PALMA and to submit an accurate bank statement. It also filed another motion asking the court to order identified persons to deliver certain properties to the court's sheriff. The RTC Branch 14 granted these motions in Orders dated January 5, 2009.[46]

COTELCO filed a special civil action for *certiorari* before the CA challenging these orders. The CA consolidated the COTELCO petition with the MAGELCO-PALMA petition challenging the two NEA letter-directives.[47]

The CA rendered its consolidated Decision[48] dated March 15, 2010. The CA dismissed COTELCO's petition and granted that of MAGELCO-PALMA. It nullified the NEA's two letter-directives and enjoined MAGELCO Main and MAGELCO-PALMA to comply with the terms and conditions of their compromise agreement.[49]

The CA found that the NEA issued the two letter-directives with grave abuse of discretion. It ruled that the NEA, in dissolving MAGELCO-PALMA, acted without jurisdiction. According to the CA, the power to dissolve a cooperative rests in its general membership under Section 33 of Presidential Decree No. (PD) 269, the National Electrification Administration Decree. The CA also found that the NEA nullified MAGELCO Main and MAGELCO-PALMA's compromise agreement

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[43] *Id.* at 140-141.
[44] *Id.* at 481-492.
[45] *Id.* at 141-142, 1053-1060.
[46] *Id.* at 142-146.
[47] *Id.* at 122-128.
[48] *Supra* note 2.
[49] *Rollo* (G.R. No. 192595-96), p. 187.

which the NEA had no power to do. It explained that a compromise agreement is in the nature of a contract. It is binding and has the force of law between the parties. Further, the CA held that MAGELCO Main cannot enter into an agreement with COTELCO concerning the assets in the PPALMA Area. By virtue of its compromise agreement and transition plan with MAGELCO-PALMA, these assets have ceased to belong to MAGELCO Main and are now rightfully owned by MAGELCO-PALMA. Nor can the NEA direct MAGELCO-PALMA to transfer its assets to COTELCO. Under PD 269, the disposition of the assets of a cooperative may be done either through its board or general membership, as the case may be. The NEA's authority on the matter is limited to approving such disposition. Finally, the CA highlighted that while it approved COTELCO's franchise over the PPALMA Area, it never cancelled that of MAGELCO. Under the compromise agreement, MAGELCO Main waived and transferred its franchise over the PPALMA Area to MAGELCO-PALMA. The NEA thus cannot cancel MAGELCO-PALMA's franchise and order the transfer of its assets without due process.[50]

Both COTELCO and the NEA filed their separate motions for reconsideration of this Decision. The CA, in a Resolution[51] dated June 3, 2010, expunged NEA's motion and denied that of COTELCO. As for NEA's motion for reconsideration, the CA held that it has never directed the NEA to participate in the proceedings and thus, as a nominal party in the Rule 65 petition, it should not appear in the case.

The NEA and COTELCO filed separate petitions for review on *certiorari* under Rule 45 of the Rules of Court before this Court. We ordered the consolidation of these two petitions. MAGELCO-PALMA filed two separate comments against COTELCO and the NEA.

The procedural issues presented are:

1. Whether the NEA can file an appeal of a special civil action for *certiorari* which challenges its official acts;
2. Whether MAGELCO-PALMA committed forum shopping; and
3. Whether the Decision in the First CA Case operates as *res judicata*.

The substantive issue presented is whether COTELCO can properly take over the assets of MAGELCO in the PPALMA Area upon payment of just compensation.

I.

The NEA has no standing to file a petition for review on *certiorari* of a CA case nullifying its decision for grave abuse of discretion under Rule 65 of the Rules of Court. The second paragraph of Section 5 of Rule 65 is clear and unequivocal:

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[50] *Id.* at 164A-173.
[51] *Id.* at 191-202.

Sec. 5. x x x

Unless otherwise specifically directed by the court where the petition is pending, the public respondents shall not appear in or file an answer or comment to the petition or any pleading therein. **If the case is elevated to a higher court by either party, the public respondents shall be included therein as nominal parties. However, unless otherwise specifically directed by the court, they shall not appear or participate in the proceedings therein**. (Emphasis supplied.)

In *Barillo v. Lantion*,[52] we explained that when the official act of a public respondent is challenged through a special civil action for *certiorari* and the judgment therein is eventually elevated to a higher court, the public respondent remains a nominal party. This means that the public respondent has no personal interest in the case. The public respondent "should maintain a detached attitude from the case and should not waste his time by taking an active part in a proceeding which relates to official actuations in a case but should apply himself to his principal task of hearing and adjudicating the cases in his court."[53] In that case, a judge filed a special civil action for *certiorari* before this Court assailing a decision of the Commission on Elections (COMELEC). The decision of the COMELEC, in turn, found that the judge committed grave abuse of discretion in issuing a ruling in an election case. We ruled that the judge, as nominal party, has no standing to challenge the decision of the COMELEC before this Court.

This was also our ruling in *Calderon v. Solicitor General.*[54] In that case, the accused in a case pending before the CA filed a special civil action for *certiorari* challenging the ruling of the judge which increased the accused's bail. The CA nullified the ruling of the judge. The judge then filed a petition for *certiorari* and *mandamus* before this Court. We refused to rule on the petition on the ground that the petitioner judge has no standing to file it. We explained:

Judge Calderon should be reminded of the well-known doctrine that a judge should detach himself from cases where his decision is appealed to a higher court for review. The raison d'etre for such doctrine is the fact that a judge is not an active combatant in such proceeding and must leave the opposing parties to contend their individual positions and for the appellate court to decide the issues without his active participation. By filing this case, petitioner in a way ceased to be judicial and has become adversarial instead.[55] (Citation omitted.)

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[52] G.R. No. 159117 & A.M. No. MTJ-10-1752, March 10, 2010, 615 SCRA 39.
[53] *Id.* at 73.
[54] G.R. Nos. 103752-53, November 25, 1992, 215 SCRA 876.
[55] *Id.* at 881.

While these cases both pertained to a respondent judge who elevated the case before us through a special civil action for *certiorari*, we rule that the doctrine in these cases apply to a public respondent quasi-judicial agency which files before this Court an appeal of a finding in a special civil action for *certiorari* that it acted with grave abuse of discretion. First, when Section 5 of Rule 65 speaks of public respondent as a nominal party, it makes no distinction. Thus, it refers to all classes of persons and instrumentalities that may become a respondent in a *certiorari* action, specifically any "judge, court, quasi-judicial agency, tribunal, corporation, board, officer or person."[56] Second, when the last paragraph of Section 5 refers to the elevation to a higher court of the decision in the *certiorari* action, it does not discriminate as to the mode of elevation. Thus, a public respondent judge elevating an adverse ruling through an appeal under Rule 45 is covered by the provision. Finally, the logical underpinning for this rule—that a public respondent has no personal stake in the outcome of the *certiorari* case and as such must not become an active combatant—applies with equal force in the case of the NEA.

The NEA has no standing to file its petition for review on *certiorari* before this Court. Hence, it is as if no such petition was filed. We will not rule on the errors raised by the NEA. Nevertheless, as COTELCO is the proper party to file an appeal of the CA Decision, we shall rule on its petition before us.

II.

MAGELCO Main is a duly-organized cooperative under PD 269. When its board of directors amended its by-laws and established two branches within MAGELCO Main, it did not create a separate cooperative. PD 269 details the process by which cooperatives are formed. This process does not allow for the creation of a cooperative from an existing one by mere amendment of its by-laws. Thus, no new cooperative arose from MAGELCO Main's act of amending its own by-laws. It affected only the internal operations of MAGELCO Main itself.

The significance of the amendment of MAGELCO Main's by-laws *vis-a-vis* the status of MAGELCO-PALMA can be better understood by taking into consideration the function of the by-laws in a cooperative and the management powers of a cooperative's board of directors.

PD 269 provides that the by-laws is a document which contains the basic rights and duties of members and directors as well as provisions for the regulation and management of the affairs of the cooperative.[57] By analogy, in the case of corporations, the by-laws governs the internal affairs of the corporation and the relationships between and among its members.[58] The by-

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[56] RULES OF COURT, Rule 65, Sec. 5.
[57] Presidential Decree No. 269, Sec. 20.
[58] See Villanueva and Villanueva-Tiansay, *Philippine Corporation Law* (2013), p. 212.

laws is intended as a guide in the management of the activities of the cooperative and the relationships of its members. Amendments to the by-laws, as such, affect only the management of the cooperative and its members. It is not a mechanism by which new cooperatives are created.

In truth, MAGELCO Main merely rearranged its structure by creating two branches. More specifically, it formed a separate branch to handle the distribution of electricity in the PPALMA Area. It is a matter related to the regulation of the affairs of MAGELCO Main; the board of directors is empowered under PD 269 to amend its by-laws to reflect this.[59] Furthermore, the board of directors is vested with the power to manage the affairs of the cooperative.[60] The by-laws provide that the board of directors shall "formulate and adopt policies and plans, promulgate rules and regulations for the management, operation and conduct of the Cooperative x x x."[61]

In sum, the decision of the board of directors of MAGELCO Main to amend its by-laws to create a new branch was never intended to give rise to a new cooperative. Legally, this was not feasible as PD 269 provides for the methods by which a cooperative is duly organized. Moreover, MAGELCO Main merely reorganized its own structure to improve its services. Finally, that MAGELCO-PALMA never existed as an independent cooperative is apparent not only from a reading of PD 269 but also from the language of the amendment in the by-laws. It states that "[t]he branch units of [MAGELCO] namely, the Maguindanao Electric Cooperative, Inc. as the mother unit and the Maguindanao Electric Cooperative, Inc. as the daughter unit shall jointly co-exist under one and the same franchise x x x until such time as the herein MAGELCO-PALMA shall have organized as a separate electric cooperative with a separate franchise."[62] The amendment in the by-laws was never intended to be construed as the constitution of a separate cooperative. In fact, the amendment appears to be a means for the eventual separation of MAGELCO-PALMA once it acquires the necessary franchise. MAGELCO-PALMA, however, never met the requirements necessary to be an independent cooperative.

In view of all these, the CA erred in holding that through the compromise agreement with MAGELCO Main, MAGELCO-PALMA acquired ownership over the assets in the PPALMA Area. No ownership can be transferred to a mere branch without a separate legal personality. MAGELCO Main retained ownership over the assets. Through the amendment of its by-laws, as well as the memorandum of agreement and transition plan, MAGELCO Main merely streamlined its operations by granting its branch control to the assets in the PPALMA Area. No transfer of

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[59] See Presidential Decree No. 269, Sec. 20.

[60] Presidential Decree No. 269, Sec. 24.

[61] *Rollo* (G.R. No. 192595-96), p. 438. By-Laws of Maguindanao Electric Cooperative, Inc., Art. IV, Sec. 1.

[62] *Id.* at 1013. Amendments to the By-Laws of Maguindanao Electric Cooperative, Inc., Art. XI, Sec. 5. See also NEA letter dated October 2, 2007 approving GA Resolution No. 4, *id.* at 611.

ownership took place precisely because the parent cooperative cannot transfer ownership to its unit within the same cooperative.

That MAGELCO-PALMA never existed as a separate juridical entity affects its capacity to file the special civil action for *certiorari* before the CA. We note that this is not a mere issue of whether MAGELCO-PALMA has the personality to file the action. The question is more fundamental as it goes into the matter of whether MAGELCO-PALMA has the legal capacity to sue.

In *Columbia Pictures, Inc. v. Court of Appeals*,[63] we differentiated between *legal capacity to sue* and *the lack of personality to sue*. A litigant lacks the personality to sue when he or she is not the real party in interest. In this situation, the initiatory pleading may be dismissed through a motion to dismiss on the ground of failure to state a cause of action. The lack of the legal capacity to sue, on the other hand, refers to a litigant's "general disability to sue, such as on account of minority, insanity, incompetence, lack of juridical personality or any other general disqualifications of a party."[64] In this case, the initiatory pleading may be dismissed on the ground of lack of legal capacity to sue.

When an entity has no separate juridical personality, it has no legal capacity to sue. Section 1, Rule 3 of the Rules of Court states that "only natural or juridical persons or entities authorized by law may be parties in a civil action." Article 44 of the Civil Code enumerates the entities that are considered as juridical persons:

> Art. 44. The following are juridical persons:
> (1) The State and its political subdivisions;
> (2) Other corporations, institutions and entities for public interest or purpose, created by law; their personality begins as soon as they have been constituted according to law;
> (3) Corporations, partnerships and associations for private interest or purpose to which the law grants a juridical personality, separate and distinct from that of each shareholder, partner or member.

We applied these rules in *Alabang Development Corporation v. Alabang Hills Village Association*,[65] where we held that after the dissolution of a corporation and the lapse of the three-year period under Section 122 of the Corporation Code, this defunct corporation no longer has the capacity to sue because it has lost its juridical personality.[66] Further, in *S.C. Megaworld Construction and Development Corporation v. Parada*,[67] we ruled that the trade name being used by a sole proprietorship in the conduct of business

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[63] G.R. No. 110318, August 28, 1996, 261 SCRA 144.
[64] *Id.* at 162.
[65] G.R. No. 187456, June 2, 2014, 724 SCRA 321.
[66] *Id.* at 326-329.
[67] G.R. No. 183804, September 11, 2013, 705 SCRA 584.

has no separate juridical personality from the owner. Thus, it has no legal capacity to sue or be sued.[68]

MAGELCO-PALMA was created as a branch within a cooperative. It never existed as a juridical person. Hence, in accordance with the established rules and jurisprudence, MAGELCO-PALMA does not have the legal capacity to institute the special civil action for *certiorari* before the CA. The CA erred in granting due course to the petition.

In the light of these discussions, we find that only COTELCO's recourse to this Court merits adjudication.

III.

The confusion in this case arose from the varying interpretations given by the parties to the Decision in the First CA Case. MAGELCO-PALMA argues that the Decision only affirmed the NEA's order granting COTELCO's application for the amendment of its franchise. The proper resolution of the case before us requires a clear understanding of the CA's Decision in the First CA Case.

The CA stated that the NEA has the power to order the acquisition of the assets in the PPALMA Area under Section 4 of PD 269. It also held that the NEA's power includes the right of eminent domain. While the CA nullified the NEA's order for COTELCO to pay just compensation to MAGELCO for the transfer of the assets, what the CA found invalid was not the *right* to exercise the power but merely the *manner* by which it was exercised. To be clear, the CA unequivocally and properly found that the NEA can exercise its right to eminent domain. Thus, in its Decision, the CA ordered NEA to comply with the proper procedure for the expropriation of the assets if it seeks to exercise this right. The Decision, however, did not end there. It also gave the parties the option to proceed with the mediation proceedings, as stated in the wherefore clause, thus:

> **WHEREFORE**, the Decisions dated 18 September 2003 and 18 May 2004 of the National Electrification Commission in NEC Case No. 2000-03 are hereby **AFFIRMED with MODIFICATION** that the requirement number (2) contained in the 18 September 2003 Decision stating "that COTELCO shall pay just compensation to MAGELCO for the assets attached to the six (6) municipalities" be **DELETED**. Let the disposition of these assets be subject to further proceedings before the NEC, where mediation proceedings between the parties may likewise be conducted.[69]

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[68] *Id.* at 598-599.

[69] *Rollo* (G.R. No. 192595-96), pp. 228-229.

The CA's pronouncement can be better understood in light of the power granted to the NEA in PD 269. Section 4(m) of PD 269 states—

> (m) **To acquire, by purchase or otherwise (including the right of eminent domain, which is hereby granted to the NEA, to be exercised in the manner provided by law for the institution and completion of expropriation proceedings by the National and local governments), real and physical properties, together with all appurtenant rights, easements, licenses and privileges, whether or not the same be already devoted to the public use of generating, transmitting or distributing electric power and energy, upon NEA's determination that such acquisition is necessary to accomplish the purposes of this Decree** and, if such properties be already devoted to the public use described in the foregoing, that such use will be better served and accomplished by such acquisition; *Provided,* **That the power herein granted shall be exercised by NEA solely as agent for and on behalf of one or more public service entities which shall timely receive, own and utilize or replace such properties for the purpose of furnishing adequate and dependable service on an area coverage basis**, which entity or entities shall then be, or in connection with the acquisition shall become, borrowers from NEA under sub-paragraph (f) of this section; and *Provided further*, **That the cost of such acquisition, including the cost of any eminent domain proceedings, shall be borne, either directly or by reimbursement to the NEA, whichever the NEA shall elect, by the public service entity or entitites on whose behalf the acquisition is undertaken;** and otherwise to acquire, improve, hold, transfer, sell, lease, rent, mortgage, encumber and otherwise dispose of property incident to, or necessary, convenient or proper to carry out, the purposes for which NEA was created; x x x. (Emphasis supplied.)

Section 4(m) outlines the extent of the NEA's power in connection with the disposition of properties necessary in the pursuit of the declared policy in favor of nationwide electrification. Under PD 269, the NEA had the power to acquire assets which includes the exercise of the right to eminent domain. This right is conditioned upon compliance with the appropriate expropriation proceedings. Section 4(m), however, does not limit the NEA's power to expropriation alone. It, in fact, empowers the NEA to acquire properties by purchase or by any other means, as an agent of a public service entity who shall, in turn, have the right to receive such properties. This section also mentions that payment may be made directly by the public service entity or through reimbursement to the NEA.

The import of the Decision in the First CA Case is that, *first*, the NEA ordered the payment of just compensation in the exercise of its right of eminent domain. *Second*, the exercise was improper and any attempt to expropriate MAGELCO's assets in the PPALMA Area must be done through the proper expropriation proceedings. *Third*, the disposition of the assets shall be subject to further proceedings before the NEA which may be in the form of mediation among the parties. In other words, the CA presented the options available to the NEA in determining the proper disposition of the assets in the PPALMA Area.

When the NEA pursued mediation, subsequently approved the agreement of COTELCO and MAGELCO Main, and ordered the transfer of the assets to COTELCO, it effectively exercised its power to acquire the properties as agent for a public service entity—COTELCO in this case. It also exercised its option to allow COTELCO to pay MAGELCO directly instead of having COTELCO reimburse the NEA for the transfer.

The NEA's authority to order the disposition of the assets arises from its determination that COTELCO should acquire the franchise for the distribution of electricity over the PPALMA Area. While MAGELCO-PALMA argues that the NEA never cancelled its franchise over the PPALMA Area and thus, both COTELCO and MAGELCO can operate in the area, the Decision of the NEA reveals otherwise. By granting COTELCO's application for the amendment of its franchise to include the PPALMA Area and ordering the transfer of MAGELCO's assets after hearings were conducted where both cooperatives were heard, the NEA necessarily and impliedly amended MAGELCO's franchise to exclude the area in dispute. This is the import of its ruling when it ordered COTELCO to pay MAGELCO just compensation. Under PD 269, in cases where two or more cooperatives have conflicting interests with respect to the grant, repeal, alteration, or conditioning of a franchise, the NEA has the power to prefer one cooperative over another.[70]

Thus, the Decision in the First CA Case affirmed the NEA's actions granting COTELCO the franchise for the distribution of electricity in the PPALMA Area. It also affirmed the amendment of MAGELCO's franchise, thus excluding the PPALMA Area from its coverage. Further, the CA affirmed the NEA's authority to determine the proper disposition of the assets in the PPALMA Area. Finally, it agreed with the NEA that the assets ought to be transferred to COTELCO, subject to the proper proceedings for the NEA's exercise of its power under Section 4(m) of PD 269.

The NEA, acting in accordance with the Decision of the CA, proceeded with the mediation. When MAGELCO Main and COTELCO arrived at an agreement as to the transfer of the assets in the PPALMA Area, they executed a memorandum of agreement. They also separately passed board resolutions which the NEA approved through the two letter-directives. Thus, when the NEA issued these letter-directives, it acted in pursuit of its power under PD 269 and the Decision of the CA in the First CA Case.

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[70] Presidential Decree No. 269, Sec. 44.

IV.

Essential to the disposition of this case is the effect of the judgment on compromise agreement. The CA, in its assailed Decision, theorized that the judgment on compromise agreement from RTC Branch 14 definitively settled the issue on the disposition of the assets in the PPALMA Area. It found that the judgment had already become final and operates as *res judicata* in this case. Thus, it affirmed the RTC Branch 14's issuance of a writ of execution on the judgment on compromise agreement.

We clarify the rules and doctrines governing judgments on compromise agreements.

The law recognizes a compromise agreement as a contract through which the parties, by making reciprocal concessions, avoid litigation or put an end to one already commenced.[71] Once judicially approved, it becomes immediately final and executory. A judgment on compromise agreement is a judgment on the merits and operates as *res judicata*. However, its effects must be understood within the confines of the laws on contracts and the rules pertaining to *res judicata* in judicial decisions.

A compromise agreement is essentially a contract.[72] As in the case of ordinary contracts, it is binding only upon the parties. It cannot affect the rights of persons who did not sign it.[73] We highlighted this doctrine in *Cebu International Finance Corporation v. Court of Appeals*[74] (*CIFC*). In *CIFC*, we explained that a compromise agreement, even if judicially approved, is unenforceable against a non-party.[75]

Further, *res judicata* also limits the effect of a judgment to the parties to a case and their privies. A judgment is conclusive only as to the parties and their successors in interest as to the matter directly adjudged or any matter that could have been raised in the action.[76] The effect of *res judicata* extends only to a litigation on the same thing by the party or the successor in interest under the same title and in the same action.[77] While *res judicata* may operate in cases involving a different subject matter, the parties to the latter action must involve the same parties to the previous judgment or their successors in interest.[78] In this instance, the prior judgment is *res judicata* only as to the issues directly adjudged and to matters that were actually and necessarily included in such issues.[79]

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71 CIVIL CODE, Art. 2028.
72 *Id.*
73 CIVIL CODE, Art. 1317.
74 G.R. No. 123031, October 12, 1999, 316 SCRA 488.
75 *Id.* at 498-499.
76 RULES OF COURT, Rule 39, Sec. 47(b).
77 *Id.*
78 RULES OF COURT, Rule 39, Section 47(c).
79 *Id.*

Thus, a judgment on compromise agreement, while it is final and immediately executory, binds only the parties who signed the contract. Moreover, precisely because a judgment on compromise agreement has the force of *res judicata*, its binding effect must be seen within the parameters within which *res judicata* finds application.

Hence, in *CIFC*,[80] we refused to enforce a judgment on compromise agreement against a person who was not privy to it. In that case, petitioner issued a check with respondent as the payee. It was intended to be drawn against petitioner's bank. When respondent tried to encash the check, the petitioner's bank dishonoured it. Petitioner then sued the bank. They entered into a compromise agreement through which they settled their dispute. In a separate action for the recovery of the amount of his check, respondent demanded payment from petitioner's bank. The bank raised the judgment on compromise agreement as basis for its claim that the check had been paid. We granted respondent's claim and explained that petitioner and the bank cannot enter into an agreement regarding the rights of the respondent who was not in any way a party to it. The compromise agreement between the petitioner and the bank settled their claims against each other but it cannot be construed as payment of respondent's claim as well.

The same principle applies in this case. The judgment on compromise agreement is a settlement of the dispute between MAGELCO Main and MAGELCO-PALMA. It cannot affect the rights of persons who were never parties to it. Through the compromise agreement, the parties in the RTC case agreed that MAGELCO-PALMA will have possession and control of the assets in the PPALMA Area. It must be noted that this agreement was entered into at a time when COTELCO's claim over the same properties were still being litigated before the CA. Any compromise agreement between MAGELCO Main and MAGELCO-PALMA, while it may settle the dispute between them, cannot be enforced against COTELCO whose rights were eventually recognized by the CA.

The compromise agreement was a settlement of the dispute within MAGELCO as a cooperative. It cannot be deemed to have settled the claim of COTELCO who was not a party to it and whose rights arose from a different source.

V.

A judgment on compromise agreement is immediately final and executory. This general rule, however, allows for exceptions. While a final and executory agreement is immutable and ought to be enforced, no execution will issue under the following exceptions: (1) the correction of clerical errors; (2) the so-called *nunc pro tunc* entries which cause no prejudice to any party; (3) void judgments; and (4) whenever circumstances

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[80] *Supra* note 74.

transpire after the finality of the decision rendering its execution unjust and inequitable.[81] We rule that the last exception, the presence of a supervening event, prevents the execution of the judgment on compromise agreement.

In *Remington Industrial Sales Corporation v. Mariculum Mining Corporation*[82] (*Remington*), we explained a supervening event as "a fact which transpires or a new circumstance which develops after a judgment has become final and executory. This includes matters which the parties were unaware of prior to or during trial because they were not yet in existence at that time."[83] To stop the execution of a final and executory judgment, a supervening event must transpire after the finality of the judgment[84] and must "create a substantial change in the rights or relations of the parties which would render the execution of a final judgment unjust, impossible or inequitable making it imperative to stay immediate execution in the interest of justice."[85]

In *Remington*, we halted the execution of an RTC decision that has long become final and executory because of the subsequent promulgation of a decision from this Court absolving the obligor in the RTC decision from any civil liability. We considered this Court's later decision as a supervening event that warrants the prevention of the execution of the RTC judgment. Similarly, in *Megaworld Properties and Holdings, Inc. v. Cobarde*,[86] we refused the execution of a judgment on compromise agreement. In that case, petitioner's obligation under the judgment on compromise agreement was conditioned upon the performance of an underlying development agreement. As the parties thereto unilaterally rescinded the development agreement, the contract from which petitioner's obligation could be sourced no longer existed. We deemed this as a supervening event preventing the execution of the judgment on compromise agreement.

The doctrine in these cases applies to the judgment on compromise agreement entered into by MAGELCO Main and MAGELCO-PALMA. There are two supervening events in this case preventing the execution of the judgment on compromise agreement.

The first supervening event is the Decision in the First CA Case which granted COTELCO's application for the amendment of its franchise and consequently modified that of MAGELCO to exclude the PPALMA Area. Thus, the creation of any unit to handle the operations in the PPALMA Area will not only be superfluous (as it can no longer distribute electricity in the area), it will also be illegal since the CA and the NEA already amended the franchise. When MAGELCO Main agreed to sign the compromise

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[81] *Villa v. Government Service Insurance System*, G.R. No. 174642, October 30, 2009, 604 SCRA 742, 749-750.
[82] G.R. No. 193945, June 22, 2015, 759 SCRA 649.
[83] *Id.* at 659. Citation omitted.
[84] See *Libongcogon v. Phimco Industries, Inc.*, G.R. No. 203332, June 18, 2014, 727 SCRA 1, 16-17.
[85] *Remington Industrial Sales Corporation v. Mariculum Mining Corporation, supra* note 82 at 659-660.
[86] G.R. No. 156200, March 31, 2004, 426 SCRA 689.

agreement, it did so to end the litigation between it and MAGELCO-PALMA in pursuit of the restructuring of its internal organization. Nevertheless, because of the Decision in the First CA Case where MAGELCO was a party, it became imperative for MAGELCO to reconsider its management decisions. As the CA affirmed the NEA's grant of franchise over the PPALMA Area to COTELCO and ordered further proceedings before the NEA to settle the disposition of the assets from MAGELCO to COTELCO, MAGELCO could no longer pursue its organizational restructuring. It was bound to comply with the Decision in the First CA Case. As such, it passed a board resolution revoking the memorandum of agreement and transition plan with MAGELCO-PALMA. This, in effect, dissolved MAGELCO-PALMA.

Second, MAGELCO Main's revocation of the memorandum of agreement and the transition plan meant that MAGELCO-PALMA will no longer be a separate unit. In legal contemplation, therefore, MAGELCO-PALMA has ceased to exist. There is thus nothing in the compromise agreement that can still be enforced considering that one party thereto has been validly dissolved. These developments have created a substantial change in the rights and relations of the parties so as to make the execution of the judgment on compromise agreement impossible.

The CA thus erred in affirming the RTC issuance of the writ of execution.

VI.

The NEA issued the two letter-directives pursuant to its decision to exercise its power to acquire property under Section 4(m) of PD 269 and in line with the Decision in the First CA Case which affirmed the grant of franchise to COTELCO and the transfer of assets to it.

As to the first letter-directive which revoked the NEA's approval of MAGELCO Main's board resolution amending its by-laws, it was performed in accordance with the ruling in the First CA Case that COTELCO should operate the franchise in the PPALMA Area and that it should own MAGELCO Main's assets necessary for its operations. As a party to the case, the NEA is bound to comply with the ruling of the court. Notably, even the NEA's prior approval of the memorandum of agreement was made with the caveat that it is subject to the outcome of the First CA Case, which was still pending at the time.

In the same vein, the second letter-directive was also an offshoot of the Decision in the First CA Case. In this letter-directive, the NEA merely stated that COTELCO is the proper holder of the franchise to distribute electricity in the PPALMA Area. Further, its approval of COTELCO and MAGELCO Main's board resolution is a mere execution of its decision to acquire the assets in the PPALMA Area in the manner laid down in Section 4(m) of PD 269.

Contrary to the CA's findings, the NEA did not annul the compromise agreement between MAGELCO Main and MAGELCO-PALMA. Instead, the NEA revoked its approval of the memorandum of agreement and the transition plan which, as we said, it was bound to do because of the ruling in the First CA Case. While the memorandum of agreement was used as a compromise agreement, it was not for the latter that the NEA withdrew its approval. The unenforceability of the judgment on compromise agreement arose due to an entirely different reason—the occurrence of a supervening event which prevented its execution.

Moreover, the NEA did not dissolve MAGELCO-PALMA as a separate cooperative. What it did was to merely approve resolutions issued by MAGELCO Main. In turn, MAGELCO Main's board of directors dissolved MAGELCO-PALMA through these resolutions. As we have already said, this is a management decision that MAGELCO Main's board of directors can validly do in the pursuit of the affairs of the cooperative. More than this, MAGELCO Main was duty bound to cease further operations in the PPALMA Area by virtue of the CA Decision granting the franchise over the area to COTELCO.

Hence, in issuing the two letter-directives, the NEA committed no grave abuse of discretion. The CA erred in annulling these letter-directives and in upholding the RTC's issuance of the writ of execution. What is clear is that the NEA correctly granted the amendment to COTELCO's franchise to cover the PPALMA Area. This necessarily amended MAGELCO's franchise in that it no longer covers the same area given to COTELCO. The CA affirmed this ruling, as well as the NEA's power to order the disposition of the assets in the PPALMA Area. It was in the exercise of this power that the NEA conducted mediation proceedings between MAGELCO Main and COTELCO. This eventually led to the final memorandum of agreement detailing the transfer of assets in the PPALMA Area and the consideration for this disposition. It is this final memorandum of agreement, which is a direct result of the Decision in the First CA Case and the proper exercise of the NEA's power under Section 4(m) of PD 269, that must prevail.

WHEREFORE, in view of the foregoing, the Decision of the Court of Appeals dated March 15, 2010 is **REVERSED**. The NEA's two letter-directives both dated September 26, 2008 are **REINSTATED**. The Regional Trial Court of Cotabato City, Branch 14's writ of execution of the judgment on compromise agreement between MAGELCO Main and MAGELCO-PALMA is **NULLIFIED** and **SET ASIDE**.

SO ORDERED.

FRANCIS H. JARDELEZA
Associate Justice

WE CONCUR:

(*On Leave*)
MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

(*On Leave*)
MARIANO C. DEL CASTILLO
Associate Justice

NOEL GIMENEZ TIJAM
Associate Justice

ATTESTATION

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

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson, First Division

CERTIFICATION

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

ANTONIO T. CARPIO
*Acting Chief Justice****

*** Designated as Acting Chief Justice per Special Order No. 2539 dated February 28, 2018.