

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
FIRST DIVISION**

**TANJAY WATER DISTRICT,  
represented by Engr. JOEL B.  
BORRAMEO, Manager,  
*Petitioner,***

***-versus-***

**G.R. No. 63742  
April 17, 1989**

**HON. PEDRO GABATON, MUN. OF  
PAMPLONA, APOLINARIO ARNAIZ,  
ROMULO ALPAS, WENCESLAO  
DURAN, SERGIO SALMA, APOLLO  
BOBON, CATALINO ORTEGA,  
FRANCISCO ZERNA, ANTONIO  
DIVINAGRACIA, PEDRO SINCERO,  
DIONISIO TABALOC, ROMEO  
RAMIREZ, FRANCISCO CABILAO and  
ESPERIDION MOSO,**

***Respondents.***

**X-----X**

**JOSEFINO DATUIN,  
*Petitioner,***

***-versus-***

**G.R. No. 84300  
April 17, 1989**

**TARLAC WATER DISTRICT,  
*Respondent.***

X-----X

## **DECISION**

**GRÑO-AQUINO, J.:**

The common issue in these consolidated cases is whether or not water districts created under PD No. 198, as amended, are private corporations or government-owned or controlled corporations. Another issue in G.R. No. 63742 is whether respondent Judge acted without, or in excess of, jurisdiction or with grave abuse of discretion in dismissing Civil Case No. 8144 for alleged lack of jurisdiction over the subject matter.

### **I. G.R. No. 63742**

On March 3, 1983, petitioner Tanjay Water District, represented by its manager, Joel B. Borromeo, filed in the Regional Trial Court of Negros Oriental, Dumaguete City, 7th Judicial Region, Civil Case No. 8144, an action for injunction with preliminary mandatory injunction and damages, against respondent Municipality of Pamplona and its officials to prevent them from interfering in the management of the Tanjay Waterworks System.

Respondent Judge set the hearing of the application for injunction on March 16, 1983. The Municipality and its officials answered the complaint. Esperidion Moso filed a separate answer.

When the case was called for hearing on March 16, 1983, respondent Judge gave the parties five (5) days to submit their respective position papers on the issue of the court's jurisdiction (or lack of it), over the action. The respondents' position paper questioned the court's jurisdiction over the case and asked for its dismissal of the complaint (Annex F). Instead of a position paper, the petitioner filed a reply with opposition to the motion to dismiss (Annex G).

On March 25, 1983, respondent Judge issued an order dismissing the complaint for lack of jurisdiction over the subject matter (water) and over the parties (both being government instrumentalities) by virtue of Art. 88 of PD No. 1067 and PD No. 242. He declared that the petitioner's recourse to the court was premature because the controversy should have been ventilated first before the National Water Resources Council pursuant to Arts. 88 and 89 of PD No. 1067. He further ruled that as the parties are government instrumentalities, the dispute should be administratively settled in accordance with PD No. 242.

Petitioner filed a petition for certiorari in this Court alleging that respondent Judge acted without or in excess of jurisdiction or with grave abuse of discretion in dismissing the case.

## **II. G.R. No. 84300**

Petitioner Josefino Datuin filed a complaint for illegal dismissal against respondent Tarlac Water District in the Department of Labor and Employment (DOLE) which decided in his favor. However, upon respondent's motion for reconsideration (which was treated as an appeal) the National Labor Relations Commission (NLRC) reversed the decision and dismissed the complaint "for lack of jurisdiction," holding that as the respondent Tarlac Water District is a corporation created by a special law (PD No. 198), its officers and employees belong to the civil service and their separation from office should be governed by Civil Service Rules and Regulations.

Petitioner contends that this case is similar to the case of Tanjay Water District versus Hon. Pedro C. Gabaton, et al., G.R. No. 63742, because the lone issue in both cases is whether or not water districts created under PD No. 198, as amended, are private corporations or government-owned or controlled corporations. The two cases were consolidated pursuant to the resolution dated July 25, 1988 of this Court.

Actually the question of the corporate personality of local water districts is not new. The Court ruled in the recent case of Hagonoy Water District vs. NLRC, G.R. No. 81490, August 31, 1988, that they

are quasi public corporations whose employees belong to the civil service, hence, the dismissal of those employees shall be governed by the civil service law, rules and regulations. The pertinent part of this Court's decision reads as follows:

“The only question here is whether or not local water districts are government owned or controlled corporations whose employees are subject to the provisions of the Civil Service Law. The Labor Arbiter asserted jurisdiction over the alleged illegal dismissal of private respondent Villanueva by relying on Section 25 of Presidential Decree No. 198, known as the ‘Provincial Water Utilities Act of 1973’ which went into effect on 25 May 1973, and which provides as follows:

‘Exemption from Civil Service. — The district and its employees, being engaged in a proprietary function, are hereby exempt from the provisions of the Civil Service Law. Collective Bargaining shall be available only to personnel below supervisory levels: Provided, however, That the total of all salaries, wages, emoluments, benefits or other compensation paid to all employees in any month shall not exceed fifty percent (50%) of average net monthly revenue, said net revenue representing income from water sales and sewerage service charges, less pro-rata share of debt service and expenses for fuel or energy for pumping during the preceding fiscal year.’

The Labor Arbiter failed to take into account the provisions of Presidential Decree No. 1479, which went into effect on 11 June 1978. P.D. No. 1479 wiped away Section 25 of P.D. 198 quoted above, and Section 26 of P.D. 198 was renumbered as Section 25 in the following manner:

“Section 26 of the same decree P.D. 198 is hereby amended to read as Section 25 as follows:

‘Section 25. Authorization. — The district may exercise all the powers which are expressly granted by this Title or which are necessarily implied from or incidental to the powers and purposes herein stated. For the purpose of

carrying out the objectives of this Act, a district is hereby granted the power of government domain, the exercise thereof shall, however, be subject to review by the Administration.’

Thus, Section 25 of P.D. 198 exempting the employees of water districts from the application of the Civil Service Law was removed from the statute books.

“This is not the first time that officials of the Department of Labor and Employment have taken the position that the Labor Arbiter here adopted. In *Baguio Water District vs. Cresenciano B. Trajano, etc., et al.* (127 SCRA 730 [1984]), the petitioner Water District sought review of a decision of the Bureau of Labor Relations which affirmed that of a Med-Arbiter calling for a certification election among the regular rank-and-file employees of the Baguio Water District (BWD). In granting the petition, the Court said:

‘The Baguio Water District was formed pursuant to Title II — Local Water District Law — of P.D. No. 198, as amended. The BWD is by Sec. 6 of that decree ‘a quasi-public corporation performing public service and supplying public wants.’”

“x x x

“We grant the petition for the following reasons:

“1. Section 25 of P.D. No. 198 was repealed by Sec. 3 of P.D. No. 1479; Section 26 of P.E. No. 198 was amended to read as Sec. 25 by Sec. 4 of P.D. No. 1479. The amendatory decree took effect on June 11, 1978.

“x x x

“3. The BWD is a corporation created pursuant to a special law - P.D. No. 198, as amended. As such its officers and employees are part of the Civil Service. (Sec. 1, Art. XII-B, [1973] Constitution; P.D. No. 868.)”

The hiring and firing of employees of government-owned or controlled corporations are governed by the Civil Service Law and Civil Service Rules and Regulations. In *National Housing Corporation vs. Juco*, 134 SCRA 172, 176, We held:

“There should no longer be any question at this time that employees of government-owned or controlled corporations are governed by the civil service law and civil service rules and regulations.

“Section 1, Article XII-B of the [1973] Constitution specifically provides:

‘The Civil Service embraces every branch, agency, subdivision, and instrumentality of the Government, including every government-owned or controlled corporation.’

“The 1935 Constitution had a similar provision in its Section 1, Article XII which stated:

‘A Civil Service embracing all branches and subdivisions of the Government shall be provided by law.’

“The inclusion of ‘government-owned or controlled corporations’ within the embrace of the civil service shows a deliberate effort of the framers to plug an earlier loophole which allowed government-owned or controlled corporations to avoid the full consequences of the all-encompassing coverage of the civil service system. The same explicit intent is shown by the addition of ‘agency’ and ‘instrumentality’ to branches and subdivisions of the Government. All offices and firms of the government are covered.

“The amendments introduced in 1973 are not idle exercises or meaningless gestures. They carry the strong message that civil service coverage is broad and all-

embracing insofar as employment in the government in any of its governmental or corporate arms is concerned.

“x x x

“Section 1 of Article XII-B, 1973 Constitution uses the word ‘every’ to modify the phrase ‘government-owned or controlled corporation’

“‘Every’ means each one of a group, without exception. It means all possible and all, taken one by one. Of course, our decision in this case refers to a corporation created as a government-owned or controlled entity. It does not cover cases involving private firms taken over by the government in foreclosure or similar proceedings. We reserve judgment on these latter cases when the appropriate controversy is brought to this Court.” (Italics ours)

Significantly, Article IX(B), Section 2(1) of the 1987 Constitution provides that “(t)he civil service embraces all branches, subdivisions, instrumentalities, and agencies of the government, including government-owned or controlled corporations with original charters.” Inasmuch as PD No. 198, as amended, is the original charter of the petitioner, Tanjay Water District, and respondent Tarlac Water District and all water districts in the country, they come under the coverage of the civil service law, rules and regulations. (Sec. 35, Art VIII and Sec. 37, Art. IX of PD No. 242.

In G.R. No. 63742, respondent Judge ruled that as the subject matter of Civil Case No. 8144 was water, the case should have been brought first to the National Water Resources Council in accordance with Articles 88 and 89 of PD No. 1067, and, as the parties are government instrumentalities (The Tanjay Water District and the Municipality of Pamplona), the dispute should be administratively settled in accordance with PD No. 242.

Articles 88 and 89 of The Water Code (PD No. 1067, promulgated on January 25, 1977) provide as follows:

“ART. 88. The [Water Resources] Council shall have original jurisdiction over all disputes relating to appropriation, utilization, exploitation, development, control, conservation and protection of waters within the meaning and context of the provisions of this Code.

“The decisions of the Council on water rights controversies shall be immediately executory and the enforcement thereof may be suspended only when a bond, in an amount fixed by the Council to answer for damages occasioned by the suspension or stay of execution, shall have been filed by the appealing party, unless the suspension is by virtue of an order of a competent court.

“All disputes shall be decided within sixty (60) days after the parties submit the same for decision or resolution.

“The Council shall have the power to issue writs of execution and enforce its decisions with the assistance of local or national police agencies.”

“ART. 89. The decisions of the Council on water rights controversies may be appealed to the Court of First Instance of the province where the subject matter of the controversy is situated within fifteen (15) days from the date the party appealing receives a copy of the decision, on any of the following grounds: (1) grave abuse of discretion (2) question of law; and (3) questions of fact and law.” (Italics supplied.)

Inasmuch as Civil Case No. 8144 involves the appropriation, utilization and control of water, We hold that the jurisdiction to hear and decide the dispute in the first instance, pertains to the Water Resources Council as provided in PD No. 1067 which is the special law on the subject. The Court of First Instance (now Regional Trial Court) has only appellate jurisdiction over the case.

P.D. No. 242 which was issued on July 9, 1973, prescribes administrative procedures for the settlement of:

“all disputes, claims and controversies solely between or among the departments, bureaus, offices, agencies and

instrumentalities of the National Government, including government-owned or controlled corporations but excluding constitutional offices or agencies, arising from the interpretation and application of statutes, contracts or agreements.”

by either the Secretary of Justice, or the Solicitor General, or the Government Corporate Counsel, depending on the parties involved and whether the case raises pure questions of law or mixed questions of law and fact.

P.D. No. 242 is inapplicable to this case because the controversy herein did not arise from the “interpretation and application of statutes, contracts, or agreements” of the parties herein. As previously stated, it involves the appropriation, utilization, and control of water.

Our determination in the earlier cases (Baguio Water District vs. Trajano, 127 SCRA 730; Hagonoy Water District vs. NLRC, G.R. No. 81490, August 31, 1988) that water districts are government instrumentalities and that their employees belong to the civil service, disposes of Datuin’s petition in G.R. No. 84300. The National Labor Relations Commission has no jurisdiction over his complaint for illegal dismissal.

**WHEREFORE**, both petitions in G.R. Nos. 63742 and 84300 are dismissed without prejudice to the petitioners in G.R. No. 63742 filing their complaint in the National Water Resources Council and the petitioner in G.R. No. 84300 seeking redress in the Civil Service Commission. No costs.

**SO ORDERED.**

**Narvasa, Cruz, Gancayco and Medialdea, JJ., concur.**