



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

REPUBLIC OF THE PHILIPPINES, G.R. No. 179492
represented by ABUSAMA M. ALID,
Officer-in-Charge, DEPARTMENT OF
AGRICULTURE – REGIONAL FIELD UNIT XII (DA-RFU XII),
Petitioner,

-versus-

Present:

VELASCO, JR., J., *Chairperson*,
PERALTA,
ABAD,
MENDOZA, and
LEONEN, JJ.

ABDULWAHAB A. BAYAO,
OSMEÑA I. MONTAÑER, RAKMA B.
BUISAN, HELEN M. ALVARES,
NEILA P. LIMBA, ELIZABETH B.
PUSTA, ANNA MAE A. SIDENO,
UDTOG B. TABONG, JOHN S.
KAMENZA, DELIA R. SUBALDO,
DAYANG W. MACMOD, FLORENCE
S. TAYUAN, in their own behalf and in
behalf of the other officials and
employees of DA-RFU XII,

Respondents.

Promulgated:

JUN 05 2013

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DECISION

LEONEN, J.:

Before us is a Petition for Review on *Certiorari* filed under Rule 45.
This Petition prays for the reversal and setting aside of the Court of Appeals'

(1) Resolution dated March 21, 2007 that dismissed the Petition for *Certiorari* under Rule 65 filed by petitioner for failure to resort to a Motion for Reconsideration of the assailed trial court Order dated October 9, 2006 and (2) Resolution dated August 16, 2007 denying petitioner's Motion for Reconsideration.

Petitioner Department of Agriculture–Regional Field Unit XII (DA-RFU XII) is a government office mandated to implement the laws, policies, plans, programs, rules, and regulations of the Department of Agriculture in its regional area, while respondents are officials and employees of DA-RFU XII.¹

On March 30, 2004, Executive Order (E.O.) No. 304 was passed designating Koronadal City as the regional center and seat of SOCCSKSARGEN Region.² It provides that all departments, bureaus, and offices of the national government in the SOCCSKSARGEN Region shall transfer their regional seat of operations to Koronadal City.³

In an April 1, 2005 Memorandum, the Department of Agriculture (DA) Undersecretary for Operations Edmund J. Sana directed Officer-in-Charge (OIC) and Regional Executive Director of DA-RFU XII Abusama M. Alid as follows:

In compliance with Executive Order No. 304 of which Section 2 states "Transfer of Regional Offices. All departments, bureaus and offices of the National Government on the SOCCSKSARGEN Region shall transfer their regional seat of operations to Koronadal City," you are hereby directed to immediately effect the transfer of the administrative, finance and operations base of RFU XII from Cotabato City to Koronadal City. On the interim, part of the staff can temporarily hold office at either or both the ATI building in Tandingan and Tupi Seed Farm, but the main office shall be within Koronadal City.

The action plan for transfer should be submitted to my office not later than 6 April 2005 so that appropriate funding can be processed soonest. Further, execution of the plan should commence by 16 April 2005 or earlier so that concerned personnel can benefit from the summer break to make personal arrangements for the transfer of their work base.

For strict compliance.⁴

¹ *Rollo*, pp. 15-16.

² *Id.* at 85.

³ *Id.*

⁴ *Id.* at 86.

In a Memorandum dated April 22, 2005 addressed to DA Secretary Arthur Yap, private respondents opposed the implementation of the April 1, 2005 Memorandum.⁵

They alleged that in 2004, former President Gloria Macapagal-Arroyo made a pronouncement during one of her visits in Cotabato City that the regional seat of Region 12 shall remain in Cotabato City.⁶ Only three departments were not covered by the suspension of E.O. No. 304, namely, the Department of Trade and Industry (DTI), Department of Tourism (DOT), and Department of Labor and Employment (DOLE).⁷

Respondents alleged further in their Memorandum to the DA Secretary that on March 7, 2005, they appealed to the Secretary of Agriculture that the implementation of E.O. No. 304 be held in abeyance. A copy of the Petition was attached to the Memorandum. It cited reasons such as the huge costs the physical transfer will entail and the plight of employees who have already settled and established their homes in Cotabato City.⁸

On March 8, 2005, their Petition was endorsed by Department of Agriculture Employees Association-12 (DAEAS-12) President Osmeña I. Motañer to then President Macapagal-Arroyo, and on April 12, 2005, this was referred to DA Secretary Yap for his information and appropriate action.⁹ Respondents justified their appeal saying that a building was constructed in Cotabato City that can accommodate the whole staff of DA-RFU XII. On the other hand, there is no building yet in Koronadal City where rent is very expensive.¹⁰ Moreover, if the regional office remains in Cotabato City, the government need not spend over ₱7,200,000.00 as dislocation pay as well as other expenses for equipment hauling and construction.¹¹ Finally, respondents alleged that the proposed third floor of the ATI Building in Tantangan has a sub-standard foundation and will not be issued a certificate of occupancy by the City Engineering Office of Koronadal City as per information from an auditor.¹²

On May 17, 2005, OIC Abusama M. Alid held a meeting and ordered the transfer of the regional office to ATI Building in Tantangan and Tupi Seed Farm in Tupi, both located in South Cotabato and Uptown, Koronadal City, to be carried out on May 21, 2005.¹³

⁵ Id. at 88.

⁶ Id.

⁷ Id. at 92.

⁸ Id.

⁹ Id. at 88.

¹⁰ Id. at 89.

¹¹ Id.

¹² Id. at 90.

¹³ Id. at 17.

This prompted respondents to file on May 18, 2005 a Complaint for Injunction with Prayer for Issuance of Writ of Preliminary Injunction and/or Temporary Restraining Order with the Regional Trial Court, Branch 14 of Cotabato City.¹⁴

By Order dated October 9, 2006, the trial court granted respondents' Prayer for a Writ of Preliminary Injunction.¹⁵

In a petition dated December 17, 2006,¹⁶ petitioner went to the Court of Appeals via Rule 65 on the ground that the assailed Order of the trial court is contrary to the pronouncement of this Court in *DENR v. DENR Region 12 Employees*.

Through the March 21, 2007 Resolution, the Court of Appeals dismissed the Petition for *Certiorari* for failure of petitioner to resort to a Motion for Reconsideration of the assailed trial court Order.¹⁷

Hence, the present Petition under Rule 45.

Petitioner argues that (1) this case falls under the exceptions for filing a Motion for Reconsideration prior to filing a Petition under Rule 65; (2) the trial court Order enjoining the transfer is contrary to *DENR v. DENR Region 12 Employees*¹⁸ that upheld the separation of powers between the executive and judiciary on the wisdom of transfer of regional offices; (3) the trial court interfered into this wisdom of the executive in the management of its affairs; and (4) the trial court disregarded basic rules on amendment and revocation of administrative issuances and the propriety of injunction as a remedy.¹⁹

In their Comment, respondents counter that a Petition via Rule 45 is not the proper remedy to assail the disputed Resolutions.²⁰ They allege that the assailed Court of Appeals Resolution dismissing the Petition for *Certiorari* for failure of the petitioners to file a Motion for Reconsideration is not a “final order or resolution” contemplated by Rule 45.²¹ It is not an adjudication on the merits.²² In fact, the Court of Appeals did not even attempt to resolve the propriety of the issuance of the assailed trial court Order.²³ In any case, respondents argue that petitioner’s failure to file a Motion for Reconsideration is fatal. They contend that this is a condition

¹⁴ Id. at 189.

¹⁵ Id. at 18.

¹⁶ Id. at 182.

¹⁷ Id. at 43-46.

¹⁸ *DENR v. DENR Region 12 Employees*, 456 Phil. 635 (2003).

¹⁹ *Rollo*, p. 359.

²⁰ Id. at 316.

²¹ Id. at 317.

²² Id. at 317-318.

²³ Id. at 318.

sine qua non for a Petition under Rule 65, and none of the exceptions are present in this case.²⁴

Based on both parties' contentions, the issues involved in this case may be summarized as follows:

- I. Whether a Petition via Rule 45 is the proper remedy to assail the disputed Resolutions
- II. Whether the present case falls within the exceptions on the requisite for filing a Motion for Reconsideration prior to filing a Petition for *Certiorari* under Rule 65
- III. Whether petitioner can raise other issues not addressed in the assailed Resolutions
- IV. Whether the issuance by the RTC of a preliminary injunction against the transfer of the DA Regional Office to Koronadal City violates the separation of powers between the executive department and the judiciary as to the wisdom behind the transfer

First, we discuss the procedural issues.

Respondents contend that a Petition via Rule 45 is not the proper remedy to assail the disputed Resolutions.²⁵ They allege that the assailed Court of Appeals Resolution dismissing the Petition for *Certiorari* for failure of the petitioners to file a Motion for Reconsideration is not a "final order or resolution" contemplated by Rule 45.²⁶

On the other hand, petitioner argues that if the assailed Resolutions are not elevated via Rule 45, they would attain finality and consequently, the trial court Order dated October 9, 2006 would become unassailable as well.²⁷

A dismissal by the Court of Appeals of a Petition via Rule 65 for failure to file a Motion for Reconsideration may be assailed via Rule 45.

Unlike a Petition via Rule 45 that is a continuation of the appellate process over the original case, a special civil action for *certiorari* under Rule

²⁴ Id. at 318-321.

²⁵ Id. at 316.

²⁶ Id. at 317.

²⁷ Id. at 330.

65 is an original or independent action.²⁸ Consequently, the March 21, 2007 Resolution of the Court of Appeals dismissing the Petition via Rule 65 as well as its August 16, 2007 Resolution denying reconsideration are the final Resolutions contemplated under Rule 45. As correctly pointed out by petitioner, these Resolutions would attain finality if these are not elevated on appeal via Rule 45. As a result, the trial court Order dated October 9, 2006 would also become unassailable.²⁹

Respondents also argue that petitioner's failure to file a Motion for Reconsideration of the assailed Regional Trial Court Order dated October 9, 2006 is fatal.³⁰ They contend that the reasons raised by petitioner do not justify dispensing with the prerequisite of filing a Motion for Reconsideration.³¹

For its part, petitioner argues that its Petition for Certiorari filed before the Court of Appeals falls under the exceptions to the necessity of filing a Motion for Reconsideration.³² In its Petition with the Court of Appeals, petitioners explained its reasons for no longer filing a Motion for Reconsideration of the assailed order in that (a) the questions to be raised in the motion have already been duly raised and passed upon by the lower court³³ and (b) there is urgent necessity for the resolution of the questions or issues raised.³⁴ Petitioners allege that the trial court presiding judge was not acting on the disposition of the case with dispatch and that any further delay would unduly prejudice the interests of the government in pursuing its economic development strategies in the region.³⁵

The settled rule is that a Motion for Reconsideration is a condition *sine qua non* for the filing of a Petition for *Certiorari*.³⁶ Its purpose is to grant an opportunity for the court to correct any actual or perceived error attributed to it by re-examination of the legal and factual circumstances of the case.³⁷

This rule admits well-defined exceptions as follows:

Concededly, the settled rule is that a motion for reconsideration is a condition *sine qua non* for the filing of a petition for *certiorari*.

²⁸ *De Mendez v. Court of Appeals et al.*, G.R. No. 174937, June 13, 2012, 672 SCRA 200, 207 citing *Chua v. Santos*, 483 Phil. 392, 400 (2004); G.R. No. 132467, October 18, 2004, 440 SCRA 365, 373.

²⁹ *Rollo*, p. 330.

³⁰ *Id.* at 318.

³¹ *Id.* at 386.

³² *Id.* at 360.

³³ *Id.* at 169. *See also* p. 360.

³⁴ *Id.* *See also* p. 362.

³⁵ *Id.* *See also* p. 362.

³⁶ *Commissioner of Internal Revenue v. Court of Tax Appeals*, G.R. No. 190680, September 13, 2012; *Medado v. Heirs of Consing*, G.R. No. 186720, February 8, 2012, 665 SCRA 534, 548 citing *Pineda v. Court of Appeals*, G.R. No. 181643, November 17, 2010, 635 SCRA 274, 281-282.

³⁷ *Commissioner of Internal Revenue v. Court of Tax Appeals*, *supra*.

Its purpose is to grant an opportunity for the court to correct any actual or perceived error attributed to it by the re-examination of the legal and factual circumstances of the case. The rule is, however, circumscribed by well-defined exceptions, such as (a) where the order is a patent nullity, as where the court *a quo* has no jurisdiction; (b) **where the questions raised in the *certiorari* proceedings have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court**; (c) where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government or of the petitioner or the subject matter of the action is perishable; (d) where, under the circumstances, a motion for reconsideration would be useless; (e) where petitioner was deprived of due process and there is extreme urgency for relief; (f) where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable; (g) where the proceedings in the lower court are a nullity for lack of due process; (h) where the proceeding were *ex parte* or in which the petitioner had no opportunity to object; and (i) where the issue raised is one purely of law or where public interest is involved.³⁸ (Emphasis provided)

The second exception is present in this case.

In *Siok Ping Tang v. Subic Bay Distribution, Inc.*,³⁹ this Court found that the non-filing of a Motion for Reconsideration in the case was not fatal since the questions raised in the *certiorari* proceedings have already been duly raised and passed upon by the lower court, *viz*:

Respondent explained their omission of filing a motion for reconsideration before resorting to a petition for *certiorari* based on exceptions (b), (c) and (i). The CA brushed aside the filing of the motion for reconsideration based on the ground that the questions raised in the *certiorari* proceedings have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court. We agree.

Respondent had filed its position paper in the RTC stating the reasons why the injunction prayed for by petitioner should not be granted. However, the RTC granted the injunction. Respondent filed a petition for *certiorari* with the CA and presented the same arguments which were already passed upon by the RTC. The RTC already had the opportunity to consider and rule on the question of the propriety or impropriety of the issuance of the injunction. We found no reversible error committed by the CA for relaxing the rule since respondent's case falls within the exceptions.⁴⁰

³⁸ *Siok Ping Tang v. Subic Bay Distribution, Inc.*, G.R. No. 162575, December 15, 2010, 638 SCRA 457, 469-470. See also *Republic v. Pantranco North Express et al.*, G.R. No. 178593, February 15, 2012, 666 SCRA 199, 205-206. See also *Domdom v. Sandiganbayan*, G.R. Nos. 182382-83, February 24, 2010, 613 SCRA 528, 532-533 citing *Tan v. Court of Appeals*, 341 Phil. 570, 576-578 (1997).

³⁹ *Siok Ping Tang v. Subic Bay Distribution, Inc.*, supra.

⁴⁰ Id. at 470-471.

Similarly, the various issues raised in the Petition with the Court of Appeals have already been raised by petitioner on several occasions through its pleadings with the trial court. The lower court, therefore, passed upon them prior to its issuance of its Order dated October 9, 2006. Specifically, the table below summarizes the issues and arguments raised by petitioner before the trial court vis a vis those raised in the Petition for *Certiorari* filed with the Court of Appeals:

TRIAL COURT			COURT OF APPEALS
Motion to Dismiss ⁴¹ dated June 27, 2005	Memorandum ⁴² dated September 1, 2006	Manifestation and Reply ⁴³ dated September 5, 2006	Petition for Certiorari ⁴⁴ dated December 17, 2006
The Honorable Supreme Court had already ruled that the propriety or wisdom of the transfer of government agencies or offices from Cotabato City to Koronadal, South Cotabato is beyond judicial inquiry. ⁴⁵	The instant complaint filed by plaintiffs for injunction is an indirect way of preventing the transfer of the regional seat of DA-RFU XII which has been upheld by the Supreme Court in <i>DENR v. DENR Region 12 Employees</i> (409 SCRA 359 [2003]). If this Honorable Court cannot countermand the Supreme Court’s ruling directly, it cannot do so indirectly. ⁴⁶	To reiterate, the Supreme Court has held in the applicable case of <i>DENR v. DENR Region 12 Employees</i> (409 SCRA 359 [2003]) that respondent DENR employees “cannot, by means of an injunction, force the DENR XII Regional Offices to remain in Cotabato City, as the exercise of the authority to transfer the same is executive in nature.” The Supreme Court further stated in said case that “the judiciary cannot inquire into the wisdom or expediency of the acts of the executive or the legislative department.” ⁴⁷	Respondent judge committed grave abuse of discretion to lack or excess of jurisdiction when he enjoined petitioner from transferring DA-RFU XII from Cotabato City to South Cotabato and Koronadal City. The assailed order of the lower court enjoining petitioner from transferring the seat of the DA-RFU XII office to Koronadal City in South Cotabato is contrary to the pronouncement of the Supreme Court in <i>DENR v. DENR Region 12 Employees</i> (409 SCRA 359 [2003]). ⁴⁸

⁴¹ *Rollo*, pp. 98-114.
⁴² *Id.* at 132-154.
⁴³ *Id.* at 160-166.
⁴⁴ *Id.* at 167- 184.
⁴⁵ *Id.* at 99.
⁴⁶ *Id.* at 136.
⁴⁷ *Id.* at 161.
⁴⁸ *Id.* at 173.

	Corollary to the above, the Order dated May 31, 2005 of this Honorable Court enjoining defendants from transferring the seat of the DA-RFU XII office to Koronadal City in South Cotabato is contrary to the above pronouncement of the Supreme Court. Perforce, the Order must be set aside accordingly. ⁴⁹		
The allegation under Paragraph 4 of the Complaint that her Excellency, President Gloria Macapagal-Arroyo only made a public pronouncement that the effect of E.O. No. 304 is suspended is hearsay and contrary to the procedure on the repeal, amendment or modification of rules and regulations. ⁵⁰	Executive orders are amended, modified or revoked by subsequent ones. The alleged public pronouncement of the President suspending the implementation of Executive Order No. 304 is contrary to the ordinance power of the President as provided under the Administrative Code of 1987. ⁵¹		Respondent judge acted arbitrarily, whimsically and in a very bias[ed] manner when he concluded that the President of the Republic has suspended the implementation of Executive Order No. 304. ⁵²
By the nature of their appointment as Regional Officials and Employees, plaintiffs can be reassigned anywhere within Region XII in the exigency of the service. ⁵³			Respondent judge committed grave abuse of discretion when he concluded that the transfer of DA-RFU XII to Koronadal City will affect seriously the studies of respondents' children and that there will be no buildings to house respondents. ⁵⁴

⁴⁹ Id. at 138.
⁵⁰ Id. at 108.
⁵¹ Id. at 144-145.
⁵² Id. at 174.
⁵³ Id. at 104.
⁵⁴ Id. at 176.

	<p>The allegation of possible injury to plaintiffs and their families as a consequence of the planned transfer of the regional seat of DA-RFU XII to Koronadal City had been ruled upon by the Supreme Court in <i>DENR v. DENR Region 12 Employees</i> (409 SCRA 359 [2003]) to be beyond judicial inquiry because it involves concerns that are more on the propriety or wisdom of the transfer rather than on its legality.⁵⁵</p>	<p>If the plight and conditions of the families of the DENR employees are worth considering, like the dislocation of schooling of their children, which without doubt has more adverse impact than the supposed absence of allowances for the transfer, the Supreme Court should have granted the injunction prayed for by said DENR employees.</p> <p>Apparently, the Supreme Court did not find it compelling to grant the injunction over and above the wisdom of the transfer.⁵⁶</p>	
	<p>The families of the employees can still stay in Cotabato City in as much as they have established residences in the area. It must be emphasized that the employees derive salaries and benefits from their government work, from which they support their families. The movement of employees thus would not cause much financial dislocation as long as the employees received their salaries and benefits.⁵⁷</p>		

⁵⁵ Id. at 149.
⁵⁶ Id. at 163.
⁵⁷ Id. at 144.

		<p>The Honorable Court must further realize that the employees are being paid their salaries. In the given order of things, such salaries are enough to provide for their basic necessities. The Regional Office can simply provide for transportation to effectuate the minimum required for the transfer to Koronadal City and expect the employees to live on their salaries. Any allowances due and owing the employees connected with the transfer can be given to them later as back payments. This is not to forget that the Regional Office has provided temporary housing for said employees to alleviate any inconvenience that they may suffer.⁵⁸</p>	<p>Respondent judge committed grave abuse of discretion when he concluded that the transfer of DA-RFU XII would stretch out the meager salaries of respondents and that it would cause them economic strangulation.⁵⁹</p>
<p>There is absolutely no technical malversation in the realignment of budgetary allocation for the intended transfer of DA-RFU XII to Koronadal City.⁶⁰</p>	<p>The issues on the alleged illegal realignment of funds, unauthorized issuance of memorandum and the alleged unjust transfer of employees of DA-RFU XII are acts that are executive in nature x x x.⁶¹</p>		<p>Respondent judge committed grave abuse of discretion when he ordered the issuance of a writ of preliminary injunction based on the absence of appropriation for the transfer to Koronadal City in the amount of ₱9,250,000.00.⁶²</p>

⁵⁸ Id. at 163.
⁵⁹ Id. at 177.
⁶⁰ Id. at 106-107.
⁶¹ Id. at 140.
⁶² Id. at 178.

	<p>x x x the funds needed for the transfer can be sourced and met by the DA from sources such as the discretionary administrative fund of the Office of the Secretary.</p> <p>Respondent's computation of the amount required for the transfer in the amount of ₱9,222,000.00 is bloated or exaggerated.⁶³</p>		
	<p>Respondents who are accountable officers cannot be coerced to transfer funds that are deemed illegal or improper. Hence, no personal liability or irreparable injury would be caused upon them. On the other hand, the rest of respondents who are ordinary employees would not suffer any irreparable injury. This is due to the fact that they have no privity to the alleged illegal transfer of funds.⁶⁴</p>		<p>Respondent judge committed grave abuse of discretion when he concluded that respondents would suffer irreparable damage if the transfer of DA-RFU XII from Cotabato City to Koronadal City is not enjoined.⁶⁵</p>

Thus, the present case falls under the second exception in that a Motion for Reconsideration need not be filed where questions raised in the *certiorari* proceedings are the same as those raised and passed upon in the lower court.

In any case, this Court disregards the presence of procedural flaws when there is necessity to address the issues because of the demands of public interest, including the need for stability in the public service and the

⁶³ Id. at 143.
⁶⁴ Id. at 142-143.
⁶⁵ Id. at 181.

serious implications the case may cause on the effective administration of the executive department.⁶⁶

The instant Petition involves the effective administration of the executive department and would similarly warrant relaxation of procedural rules if need be. Specifically, the fourth clause of E.O. No. 304 states as follows: “WHEREAS, the political and socio-economic conditions in SOCCSKSARGEN Region point to the need for designating the regional center and seat of the region to improve government operations and services.”⁶⁷

Respondents’ final contention is that the disputed Resolutions issued by the Court of Appeals dwell solely on the indispensability of the filing of a Motion for Reconsideration with the trial court before filing a Petition via Rule 65; thus, the other grounds in the present Petition need not be addressed.⁶⁸

Considering that the Petition has overcome the procedural issues as discussed above, we can now proceed to discuss the substantive issues raised by petitioner.

Petitioner argues that the assailed Order of the trial court enjoining it from transferring the seat of the DA-RFU XII Regional Office to Koronadal City is contrary to this Court’s pronouncement in *DENR v. DENR Region 12 Employees* upholding the separation of powers of the executive department and the judiciary when it comes to the wisdom of transfer of regional offices.⁶⁹

This Court has held that while the power to merge administrative regions is not provided for expressly in the Constitution, it is a power which has traditionally been lodged with the President to facilitate the exercise of the power of general supervision over local governments.⁷⁰ This power of supervision is found in the Constitution⁷¹ as well as in the Local Government Code of 1991, as follows:

⁶⁶ *DENR v. DENR Region 12 Employees*, supra note 18, at 643. Similarly, this involves an Order by the trial court to cease and desist the transfer of DENR XII regional office from Cotabato City to Koronadal. In this case, although no appeal was made within the reglementary period to appeal, the Court found that “departure from the general rule that the extraordinary writ of *certiorari* cannot be a substitute for the lost remedy of appeal is justified because the execution of the assailed decision would amount to an oppressive exercise of judicial authority.”

⁶⁷ Executive Order No. 304 (2004).

⁶⁸ *Rollo*, p. 389.

⁶⁹ *Id.* at 362-363.

⁷⁰ *Abbas v. COMELEC*, 258-A Phil. 870, 884 (1989).

⁷¹ CONSTITUTION, Art. X, Sec. 4.

Sec. 4. The President of the Philippines shall exercise general supervision over local governments. Provinces with respect to component cities and municipalities, and cities and municipalities with respect to component barangays, shall ensure that the acts of their component units are within the scope of their prescribed powers and functions.

Section 25 – National Supervision over Local Government Units –

(a) Consistent with the basic policy on local autonomy, the President shall exercise general supervision over local government units to ensure that their acts are within the scope of their prescribed powers and functions.

The President shall exercise supervisory authority directly over provinces, highly urbanized cities, and independent component cities; through the province with respect to component cities and municipalities; and through the city and municipality with respect to barangays.⁷²

In *Chiongbian v. Orbos*, we held further that the power of the President to reorganize administrative regions carries with it the power to determine the regional center.⁷³

The case of *DENR v. DENR Region 12 Employees* is in point. This Court held that the DENR Secretary can reorganize validly the DENR by ordering the transfer of the DENR XII Regional Offices from Cotabato City to Koronadal, South Cotabato.⁷⁴ We also found as follows:

It may be true that the transfer of the offices may not be timely considering that: (1) there are no buildings yet to house the regional offices in Koronadal, (2) the transfer falls on the month of Ramadan, (3) the children of the affected employees are already enrolled in schools in Cotabato City, (4) the Regional Development Council was not consulted, and (5) the Sangguniang Panglungsod, through a resolution, requested the DENR Secretary to reconsider the orders. However, **these concern issues addressed to the wisdom of the transfer rather than to its legality. It is basic in our form of government that the judiciary cannot inquire into the wisdom or expediency of the acts of the executive** or the legislative department, for each department is supreme and independent of the others, and each is devoid of authority not only to encroach upon the powers or field of action assigned to any of the other department, but also to inquire into or pass upon the advisability or wisdom of the acts performed, measures taken or decisions made by the other departments.⁷⁵ (Emphasis provided)

The transfer of the regional center of the SOCCSKSARGEN region to Koronadal City is an executive function.

⁷² Republic Act No. 7160 (1991), Chap. III, Art. I, Sec. 25.

⁷³ *Chiongbian v. Orbos*, 315 Phil. 251, 269 (1995).

⁷⁴ *DENR v. DENR Region 12 Employees*, supra at 645-646.

⁷⁵ Id.

Similar to *DENR v. DENR Region 12 Employees*, the issues in the present case are addressed to the wisdom of the transfer rather than to its legality. Some of these concerns are the lack of a proper and suitable building in Koronadal to house the DA regional office, the inconvenience of the transfer considering that the children of respondent-employees are already enrolled in Cotabato City schools, and other similar reasons.

The judiciary cannot inquire into the wisdom or expediency of the acts of the executive.⁷⁶ When the trial court issued its October 9, 2006 Order granting preliminary injunction on the transfer of the regional center to Koronadal City when such transfer was mandated by E.O. No. 304, the lower court did precisely that.

The principle of separation of powers ordains that each of the three great government branches has exclusive cognizance of and is supreme in concerns falling within its own constitutionally allocated sphere.⁷⁷ The judiciary as Justice Laurel emphatically asserted "will neither direct nor restrain executive [or legislative] action x x x."⁷⁸

Finally, a verbal pronouncement to the effect that E.O. No. 304 is suspended should not have been given weight. An executive order is valid when it is not contrary to the law or Constitution.⁷⁹

WHEREFORE, the Petition is **GRANTED**. The Resolutions of the Court of Appeals dated March 21, 2007 and August 16, 2007 in CA-G.R. SP No. 01457-MIN, as well as the Decision dated October 9, 2006 of the Regional Trial Court, Branch 14 of Cotabato City are **REVERSED** and **SET ASIDE**.

SO ORDERED.


MARVIC MARIO VICTOR F. LEONEN
Associate Justice

⁷⁶ *DENR v. DENR Region 12 Employees*, supra at 648.

⁷⁷ *Santiago v. Guingona*, 359 Phil. 276, 284 (1998).

⁷⁸ *Tan et al. v. Macapagal*, 150 Phil. 778, 784 (1972) citing *Planas v. Gil*, 67 Phil. 62, 73 (1939).


⁷⁹ CIVIL CODE, Art. 7.

"Laws are repealed only by subsequent ones, and their violation or non-observance shall not be excused by disuse, or custom or practice to the contrary.

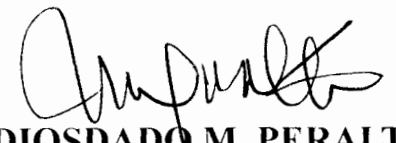
When the courts declare a law to be inconsistent with the Constitution, the former shall be void and the latter shall govern.


Administrative or executive acts, orders and regulations shall be valid only when they are not contrary to the laws of the Constitution."

WE CONCUR:


PRESBITERO J. VELASCO, JR.

Associate Justice
Chairperson

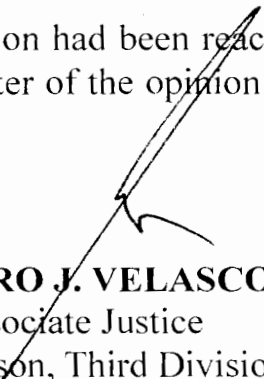

DIOSDADO M. PERALTA
Associate Justice


ROBERTO A. ABAD
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice

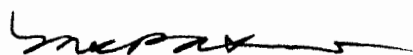
ATTESTATION

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.


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify 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