



Republic of the Philippines
Supreme Court
Manila

SPECIAL THIRD DIVISION

**NPC DRIVERS AND MECHANICS
ASSOCIATION (NPC DAMA),
represented by its President ROGER S.
SAN JUAN, SR., NPC EMPLOYEES
& WORKERS UNION (NEWU) -
NORTHERN LUZON, REGIONAL
CENTER, represented by its Regional
President JIMMY D. SALMAN, in
their own individual capacities and
in behalf of the members of the
associations and all affected officers
and employees of National Power
Corporation (NPC), ZOL D. MEDINA,
NARCISO M. MAGANTE, VICENTE B.
CIRIO, JR., and NECITAS
B. CAMAMA, in their individual
capacities as employees of National
Power Corporation,**

Petitioners,

- versus -

**THE NATIONAL POWER
CORPORATION (NPC), NATIONAL
POWER BOARD OF DIRECTORS
(NPB), JOSE ISIDRO N. CAMACHO
as Chairman of the National Power Board
of Directors (NPB), ROLANDO S.
QUILALA, as President - Officer-in-
charge/CEO of National Power
Corporation and Member of National
Power Board, and VINCENT S. PEREZ,
JR., EMILIA T. BONCODIN, MARIUS
P. CORPUS, RUBEN S. REINOSO, JR.,
GREGORY L. DOMINGO, NIEVES L.
OSORIO and POWER SECTOR ASSETS
and LIABILITIES MANAGEMENT
(PSALM),**

Respondents.

G.R. No. 156208

Present:

LEONARDO-DE CASTRO, J.,
Chairperson,
BRION,
BERSAMIN,
VILLARAMA, JR.,* and
LEONEN, JJ.

Promulgated:

June 30, 2014

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* Designated as Additional Member vice Associate Justice Antonio T. Carpio, per Special Order No. 1696-A dated June 13, 2014.

RESOLUTION

BRION, J.:

Before the Court are the following incidents:

For the petitioners National Power Corporation (NPC) Drivers and Mechanics Association (NPC DAMA), represented by its President Roger S. San Juan, Sr., NPC Employees & Workers Union (NEWU) – Northern Luzon, Regional Center, represented by its Regional President Jimmy D. Salman, in their own individual capacities and in behalf of the members of the associations and all affected officers and employees of National Power Corporation (NPC), Zol D. Medina, Narciso M. Magante, Vicente B. Cirio, Jr., and Necitas B. Camama, in their individual capacities as employees of National Power Corporation:

1. *Manifestation with Ex-Parte Very Urgent Motion to Summarily Cite Respondents and their Counsel in Contempt of Court* dated January 5, 2010.¹

For the respondent NPC, represented by the Office of the Solicitor General (OSG):

2. *Motion for Reconsideration (of the Resolution dated 2 December 2009) with Motion to Refer Case en consulta to the Court en banc (with prayer to hear parties for oral argument)* dated 18 December 2009²;
3. *Very Urgent Plea to Defer Execution of Resolution dated 2 December 2009 (Pending Resolution of NPC's Motion for Reconsideration) and for the Issuance of a Temporary Restraining Order (To Enjoin Implementation of the Ex-Officio Sheriff's Garnishment of NPC Funds)* dated 5 January 2010³; and
4. *Very Urgent Motion to Direct the Ex-Officio Sheriff Atty. Perlita Vitan-Ele and Sheriffs Rolando G. Acal, Pedro L. Borja, and Edgar R. Lucas to Show Cause as to Why They Should Not be Cited in Contempt* dated December 29, 2009.⁴

For the respondent Power Sector Assets and Liabilities Management (PSALM), represented by the Office of the Government Corporate Counsel:

5. *Motion for Reconsideration of the December 2, 2009 Resolution (with Urgent Prayer for the Issuance of a Temporary Restraining*

¹ *Rollo*, pp. 1365-1372.

² *Id.* at 1250-1290.

³ *Id.* at 1336-1349.

⁴ *Id.* at 1308-1319a.

Order and/or to hold in abeyance the Implementation of the Decision dated 26 September 2006) dated December 4, 2009⁵; and

6. *Urgent Reiterative Motion for the Issuance of a Temporary Restraining Order and/or to Hold in Abeyance the Implementation of the September 26, 2006 Decision dated December 28, 2009.*⁶

THE FACTUAL BACKGROUND

We narrate below the main chronological sequence of events that led to the present motions.

In the **September 26, 2006 Decision**,⁷ the Court declared null and without legal effect **NPB Resolution Nos. 2002-124⁸ and 2002-125,⁹** which directed the termination from the service of all employees of the NPC on January 31, 2003 in line with the restructuring of the NPC under Republic Act No. 9316 or the *Electric Power Industry Reform Act of 2001 (EPIRA)*. The Court thereafter enjoined the implementation of the nullified NPB Resolution Nos. 2002-124 and No. 2002-125.

On January 24, 2007, the Court denied with finality the NPC's motion for reconsideration of the September 26, 2006 Decision for lack of merit.¹⁰

On June 4, 2007, the Court denied the NPC's second motion for reconsideration and the motion to refer the case *en consulta* to the Court *en banc*.¹¹

In the **September 17, 2008 Resolution**,¹² the Court partially granted the petitioners' motion for clarification and/or amplification by affirming

⁵ Id. at 1214-1247, the dispositive portion of which states:

WHEREFORE, premises considered, National Power Board Resolutions No. 2002-124 and No. 2002-125 are hereby declared VOID and WITHOUT LEGAL EFFECT. The Petition for Injunction is hereby GRANTED and respondents are hereby ENJOINED from implementing said NPB Resolutions No. 2002-124 and No. 2002-125.

SO ORDERED. (Id. at 307).

⁶ Id. at 1294-1305.

⁷ Id. at 297-308.

⁸ Id. at 121-127, the pertinent portion of which states:

RESOLVED, FURTHER, that, to implement the NPC Restructuring Plan, the NPC Table of Organization, attached as Annex "A" and made an integral part thereof, is hereby approved and confirmed, with the following salient features, to wit:

x x x x

RESOLVED, FURTHER, That, pursuant to Section 63 of the EPIRA and Rule 33 of the IRR, **all NPC personnel shall be legally terminated on January 31, 2003**, and shall be entitled to the separation benefits as provided in the Guidelines hereunder adopted[.] [emphasis and underscore ours].

⁹ Id. at 118-120.

¹⁰ Id. at 330.

¹¹ Id. at 397.

¹² Id. at 511-534, the dispositive portion of which states:

that, as a logical and necessary consequence of our September 26, 2006 Decision, the “petitioners have the right to reinstatement, or separation pay in lieu of reinstatement, pursuant to a validly approved Separation Program; plus backwages, wage adjustments, and other benefits accruing from 31 January 2003 to the date of their reinstatement or payment of separation pay; but deducting therefrom the amount of separation benefits which they previously received under the null NPB resolutions[.]”¹³ The Court also partially granted the motion for approval of charging attorney’s lien of Atty. Cornelio P. Aldon and Atty. Victoriano V. Orocio and ordered “the entry in the records of this case of their ten percent (10%) charging lien on the amounts recoverable by petitioners from respondent NPC[.]”¹⁴ The Court then ordered that entry of judgment be finally made in due course in the case at bar.¹⁵

On **October 10, 2008**, an **entry of judgment** was made on the September 26, 2006 Decision and the September 17, 2008 Resolution.¹⁶

On November 14, 2008, the petitioners moved for the execution of the September 26, 2006 Decision and the September 17, 2008 Resolution.¹⁷ Pursuant to the September 17, 2008 Resolution, the Court ordered the Regional Trial Court of Quezon City (*RTC-QC*) to compute the actual amounts due the petitioners and to enforce the payment thereof by execution.¹⁸

In a **Resolution dated December 10, 2008**,¹⁹ the Court, without any opposition from the NPC, granted the petitioners’ urgent motion for execution and issued the following orders:

IN VIEW OF THE FOREGOING, we hereby RESOLVE to:

(1) PARTIALLY GRANT the Motion for Clarification and/or Amplification of petitioners by affirming that, as a logical and necessary consequence of our Decision dated 26 September 2006 declaring null and without effect NPB Resolutions No. 2002-124 and No. 2002-125 and enjoining the implementation of the same, petitioners have the right to reinstatement, or separation pay in lieu of reinstatement, pursuant to a validly approved Separation Program; plus backwages, wage adjustments, and other benefits accruing from 31 January 2003 to the date of their reinstatement or payment of separation pay; but deducting therefrom the amount of separation benefits which they previously received under the null NPB Resolutions;

(2) PARTIALLY GRANT the Motion for Approval of Charging (Attorney’s) Lien of Atty. Aldon and Atty. Orocio and ORDER the entry in the records of this case of their ten percent (10%) charging lien on the amounts recoverable by petitioners from respondent NPC by virtue of our Decision dated 26 September 2006; and

(3) ORDER that Entry of Judgment be finally made in due course in the case at bar.

SO ORDERED.

¹³ Id. at 532.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Id. at 545-546.

¹⁷ Id. at 552-577.

¹⁸ Id. at 531.

¹⁹ Id. at 576-557.

1. The Chairman and Members of the National Power Board and the President of the National Power Corporation (NPC) to cause the preparation of a list, under oath, of (a) the names of all NPC personnel/employees terminated and/or separated as a result of or pursuant to the nullified NPB Board Resolutions No. 2002-124 and No. 2002-125, and (b) the amounts due to each of them by way of separation pay, backwages, wage adjustments and other benefits in accordance with applicable jurisprudence on illegal dismissal cases, as well as interests due from the time the decision became final and executory. From the totality of the amounts due to the illegally dismissed NPC personnel/employees, the same officers are directed to compute the 10% charging lien thereon of Atty. Cornelio P. Aldon (Aldon) and Atty. Victoriano V. Orocio (Orocio) pursuant to the Resolution dated 17 September 2008 of this Court;
2. The Chairman and Members of the National Power Board and the President of the NPC to pay or cause to be paid immediately the amounts due to the petitioners and all other illegally dismissed NPC personnel/employees, as well as the amount of charging lien to Atty. Aldon and Atty. Orocio, in accordance with the list and computations prepared under oath pursuant to paragraph 1 hereof; and
3. The Chairman and Members of the National Power Board and the President of the NPC to respectively submit proof of their compliance of the orders of this Court as stated in paragraphs 1 and 2 hereof within thirty (30) days from receipt of this Resolution.²⁰

On February 9, 2009, the petitioners filed a Manifestation with Urgent Omnibus Motions,²¹ praying,

first, to cite in contempt of court the Chairman and Members of NPC, the NPB, and the NPC President for their failure to comply with item (1) of the December 10, 2008 Resolution, *i.e.*, the submission of a list, under oath, of the names of all NPC personnel/employees terminated and/or separated as a result or pursuant to the nullified NPC Board Resolutions Nos. 2002-124 and 2002-125;

second, to appoint the Clerk of Court and *Ex-Officio* Sheriff of the RTC-QC, Atty. Perlita Viton-Ele, to enforce the execution to garnish/levy the NPC's assets, including the assets of PSALM; and

third, for the Court to summon certain NPC officials²² to attest to pertinent official documents and submit under oath certified copies thereof.

²⁰ Ibid.

²¹ Id. at 564-571.

²² They are: (1) Mr. Eduardo P. Eroy, Vice-President, Human Resources; (2) Mr. Paquito F. Garcia, Sr., Department Manager, Human Resources & Administration; and (3) Ms. Wilma V. Ortega, Manager, Compensation and Benefits Management Division (CBMD), Human Resources Department, NPC, (id. at 569-570).

Though aware of the filing of the petitioners' Urgent Omnibus Motions of February 9, 2009, the PSALM contends that it was not impleaded in the case and was never formally furnished a copy of the motion by the petitioners. Without submitting to the Court's jurisdiction, the PSALM filed a Manifestation²³ on February 24, 2009 to contest the petitioners' motion to have its assets garnished and levied to satisfy the NPC's liabilities. The petitioners opposed the PSALM's argument in a Counter-Manifestation it filed with the Court.²⁴

On March 9, 2009, the NPC, through the OSG, filed its Compliance,²⁵ submitting a list²⁶ (not under oath) of only 16 top level employees who it claimed were terminated by the nullified NPB Resolutions No. 2002-124 and No. 2002-125.

On March 24, 2009, the petitioners filed a Comment/Manifestation and Urgent Motions²⁷ to include for contempt the OSG and to summon the NPC Vice-President for Human Resource and Administration to attest and certify to certain official documents for failing to comply with the December 10, 2008 Resolution. The NPC filed a Consolidated Comment²⁸ arguing that it had properly complied with the final September 26, 2006 Decision and September 17, 2008 Resolution.²⁹

In the **December 2, 2009 Resolution**,³⁰ the Court ordered the respondents and their counsel to show cause why they should not be held in

²³ Id. at 830-838.

²⁴ Id. at 856- 864; also see PSALM's Submission (to the Petitioners' Counter-Manifestation dated 13 March 2009), id. at 892-904.

²⁵ Id. at 844-850.

²⁶ Id. at 853.

²⁷ Id. at 868-877.

²⁸ Id. at 918-929.

²⁹ See Petitioners' Reply to Consolidated Comment, id. at 933-940 and 947-948.

³⁰ Id. at 1183-1210, the dispositive portion of which states:

WHEREFORE, premises considered, the Court resolves to GRANT petitioners' Manifestation with Urgent Omnibus Motions dated 9 February 2009 by:

1. ORDERING the Chairperson and the Members of the National Power Board and the President of the National Power Corporation, and their respective counsels, to SHOW CAUSE why they should not be held in contempt of court for their willful failure to comply with paragraphs 1 and 2 of the Resolution dated 10 December 2008 by claiming that the Court's decision nullifying NPB Board Resolutions No. 2002-124 and No. 2002-125 covered only sixteen employees when it is clear that the Court's decision covered all personnel/employees affected by the restructuring of the NPC;
2. ORDERING the Clerk of Court of this Division to implead or join PSALM as a party-respondent in this case;
3. ORDERING the Chairperson and the Members of the National Power Board and the President of the National Power Corporation to comply with the Court's Resolution dated 10 December 2008. The list shall contain all the names of all, not 16, NPC personnel/employees affected by the restructuring of the NPC. The computation of the amounts due the employees who were terminated and/or separated as a result of, or pursuant to, the nullified NPB Board Resolutions No. 2002-124 and No. 2002-125 shall be from their date of illegal termination up to 14 September 2007 when NPB Resolution No. 2007-55 was issued. Said list shall be submitted to the Clerk of Court of the

contempt of court for their willful failure to comply with the December 10, 2008 Resolution. The Court also ordered the respondents (the Chairperson, the Members of the NPB and the President of the NPC) to comply with the December 10, 2008 Resolution by submitting within 10 days from notice to the Clerk of Court and *Ex-Officio* Sheriff of the RTC-QC the list containing “the names of all, and not only 16, NPC personnel/employees affected by the restructuring of the NPC,”³¹ with the computation of the amounts due them from their date of illegal termination up to September 14, 2007.

The Court also ordered that the PSALM be impleaded or joined as a party-respondent in the case as the NPC’s *transferee-in-interest*.³²

The Pending Motions

On December 16, 2009, the PSALM filed a ***Motion for Reconsideration of the December 2, 2009 Resolution (with Urgent Prayer for the Issuance of a Temporary Restraining Order and/or to hold in abeyance the Implementation of the Decision dated 26 September 2006)***.³³ The PSALM raised two issues:

- (a) Should the PSALM, a government corporation separate and distinct from the NPC, which acquired the assets and liabilities of the NPC by operation of law upon the effectivity of the same law, be held liable and responsible for acts committed by the NPC, almost two years after the law took effect; and,
- (b) Can the transferred NPC assets, now the PSALM assets by operation of the law, be subject of a writ of garnishment or levy, to satisfy a judgment against the NPC, despite the fact that the PSALM was not given any opportunity to present its own evidence to disprove liability?³⁴

The petitioners filed an Opposition³⁵ to the PSALM’s motion for reconsideration, arguing that the PSALM is liable to pay the separation pay of the NPC’s employees, as it was primarily tasked by the EPIRA to administer the assets and liabilities of the NPC.

Regional Trial Court and Ex-Officio Sheriff of Quezon City within ten (10) days from receipt of this resolution. They are also ordered to submit to this Court their compliance to said order within thirty (30) days from receipt of this resolution; and

4. DIRECTING the Clerk of Court of the Regional Trial Court and Ex-Officio Sheriff of Quezon City to cause the immediate execution of our Decision. Said Clerk of Court is further directed to submit to this Court his/her compliance to this directive within thirty (30) days from receipt of this resolution.

SO ORDERED.

³¹ Id. at 1209.

³² Id. at 1207.

³³ *Supra* note 5.

³⁴ Id. at 1215.

³⁵ Id. at 1561-1563.

On December 18, 2009, the NPC filed a ***Motion for Reconsideration of the Resolution dated 2 December 2009, with Motion to Refer Case En Consulta to the Court En Banc***.³⁶ The NPC implored the Court to re-evaluate its stance on the premise that the payment of claims was not germane to those originally presented to and adjudicated by the Court.

On December 23, 2009, the RTC-QC demanded that the NPC pay the dismissed employees, including the attorney's charging lien and the court for the lawful fees and costs for the execution of the December 2, 2009 Resolution of this Court.³⁷ That same day, the RTC-QC issued notices of garnishment to Manila Electric Company³⁸ (*MERALCO*), Land Bank of the Philippines³⁹ (*LBP*), and Philippine National Bank⁴⁰ (*PNB*).

On December 28, 2009, the PSALM filed an ***Urgent Reiterative Motion for the Issuance of a Temporary Restraining Order and/or to Hold in Abeyance the Implementation of the September 26, 2006 Decision***⁴¹ (or exclude from execution) on its properties.

On December 29, 2009, the NPC filed a ***Very Urgent Motion to Direct the Ex-Officio Sheriff Atty. Perlita Vitan-Ele and Sheriffs Rolando G. Acal, Pedro L. Borja, and Edgar R. Lucas to Show Cause as to Why They Should Not be Cited in Contempt***⁴² for prematurely executing the December 2, 2009 Resolution of the Court.

On January 5, 2010, the NPC filed a ***Very Urgent Plea to Defer Execution of Resolution dated 2 December 2009 (Pending Resolution of NPC's Motion for Reconsideration) and for the Issuance of a Temporary Restraining Order (To Enjoin Implementation of the Ex-Officio Sheriff's Garnishment of NPC Funds)***⁴³ to enjoin the implementation of the garnishment of the NPC funds pending resolution of its motion for reconsideration.

On the same date, the petitioners filed a ***Manifestation with Ex-Parte Very Urgent Motion to Summarily Cite Respondents and their Counsels in Contempt of Court***,⁴⁴ arguing that the respondents and their counsel had not filed their explanation on the show cause order under the December 2, 2009 Resolution despite the sufficient time given to them to comply. On the same day, the Court ordered the parties to maintain *status quo* before the issuance of the December 2, 2009 Resolution.⁴⁵ The NPC filed its *Comment*⁴⁶ to the

³⁶ *Supra* note 2.

³⁷ *Rollo*, pp. 1379-1380.

³⁸ *Id.* at 1387-1389.

³⁹ *Id.* at 1381-1383.

⁴⁰ *Id.* at 1384-1386.

⁴¹ *Supra* note 6.

⁴² *Supra* note 4. In response to the NPC's motion, see the *Comment* filed by Atty. Ele and Sheriffs Acal, Borja and Lucas, (*rollo*, pp. 1514-1515).

⁴³ *Supra* note 3.

⁴⁴ *Supra* note 1.

⁴⁵ *Id.* at 1357-1359.

⁴⁶ *Rollo*, pp. 2098-2107.

petitioners' motion on February 25, 2010, maintaining its stance that the execution was premature and had deviated from the final September 26, 2006 Decision.

In a **January 13, 2010 Resolution**,⁴⁷ the Court, among others, directed:

- (1) the respondents, the *Ex-Oficio* sheriff and sheriffs to show cause why they should not be cited in contempt; and
- (2) both parties to maintain the *status quo* in the case prevailing before the issuance of the December 2, 2009 Resolution, such that no NPC assets/deposits shall be garnished until further orders from the Court.

The Court also set the case for oral argument on January 20, 2010 with the following **ISSUES**⁴⁸ for consideration:

- (1) **Who are the NPC personnel, officers and rank-and-file, that were actually separated from the service as a result of the full implementation of the nullified National Power Board (NPB) Resolution No. (Res.) 2002-124 and Res. 2002-125?**
- (2) **Did the Resolution of this Court dated September 17, 2008, acting on the motion of petitioners for clarification, in fact grant relief not sought or contemplated in our Decision of September 26, 2006?**
- (3) **Did the Resolution of the Court dated December 10, 2008 granting petitioners' motion for execution exceed the terms of the September 17, 2008 resolution sought to be executed?**
- (4) **What was the effect, if any, of NPB Resolution No. 2007-55 on the nullified Res. 2002-124 and Res. 2002-125?**
- (5) **To what extent is PSALM liable for NPC's liabilities, as in this case?**

On January 20, 2010, the Court directed the parties to submit their memoranda and their willingness to explore the possibility of settlement.

On February 12, 2010, the petitioners filed a *Manifestation*⁴⁹ informing the Court that the NPC and the PSALM have not initiated any move to discuss the settlement of the case with the petitioners' counsels. From the information they received, the petitioners claimed that the NPC had no intention to enter into an amicable settlement.

⁴⁷ Id. at 1452-1454.

⁴⁸ Per the January 18, 2010 Advisory; id. at 1457-1459.

⁴⁹ Id. at 2060-2069.

By February 14, 2010, all the parties have submitted their respective memoranda in compliance with the January 20, 2010 Resolution.⁵⁰

After the filing of the parties' memoranda and pending resolution of the issues raised, the Court received numerous letters of appeal and motions to resolve the pending incidents and to lift the status *quo order*. It is not amiss to note that on October 4, 2011, the Court rendered a ruling in a related case of *Betoy v. The Board of Directors, National Power Corporation*,⁵¹ where we reiterated the contents of the December 2, 2009 Resolution on the nullity of NPB Resolution Nos. 2002-214 and 2002-125 and its effect on the employment of all NPC employees.

THE ISSUES AND THE PARTIES' ARGUMENTS

In their respective memoranda, the parties stated their positions and arguments on the above issues, which we summarize below.

(1) Who are the NPC personnel, officers and rank-and-file that were actually separated from the service as a result of the full implementation of the nullified NPB Resolution Nos. 2002-124 and 2002-125?

The NPC insists that only **16 employees** (all belonging to the executive/VP levels and above) were actually separated from their employment on January 31, 2003 pursuant to **NPB Resolution Nos. 2002-124 and 2002-125**, which were nullified by the Court in its September 26, 2006 Decision. The nullity of these NPB Resolutions, however, did not preclude the NPC from issuing subsequent resolutions, such as **NPB Resolution No. 2003-11**,⁵² which effected the separation of all other NPC employees beginning February 28, 2003.

Thus, the NPC claims that the termination from employment of all other NPC employees (below the executive/VP levels, supervisors, and rank-and-file personnel) were effected pursuant to NPB Resolution No. 2003-11, and not under the nullified NPB Resolution Nos. 2002-124 and No. 2002-125.⁵³ The validity of NPB Resolution No. 2003-11, however, was never questioned before the Court. In fact, NPB Resolution No. 2003-11 was ratified by NPB Resolution No. 2007-55 on September 14, 2007.⁵⁴

⁵⁰ See: NPC's Memorandum, (id. at 1573-1632); PSALM's Memorandum, (id. at 1826-1879); and Petitioner's Memorandum, (id. at 1635-1667); and Petitioner's Supplemental Memorandum, (id. at 2075-2081).

⁵¹ G.R. Nos. 156556-57, October 4, 2011, 658 SCRA 420.

⁵² Approved and confirmed on January 22, 2003; *rollo*, pp. 878-880.

⁵³ Id. at 1584.

⁵⁴ Id. at 1292.

The petitioners, on the other hand, allege that **around 8,018 NPC employees** were illegally terminated from their employment pursuant to the nullified NPB Resolution Nos. 2002-124 and 2002-125. The Court's September 26, 2006 Decision and September 17, 2008 Resolution were clear that the employment of all NPC employees illegally terminated under the nullified NPB Resolutions were covered by the judgment, *regardless of their actual date of termination*.

The petitioners stress that the petition subject of the September 26, 2006 Decision was filed by all NPC employees prejudiced by the nullified Resolutions and included the employees separated on January 15, 2003, January 31, 2003, and February 28, 2003. The nullified NPB Resolutions were the principal sources of their separation from employment and the subsequent NPB resolutions were mere amendments to the date of actual separation, not the fact of separation.

The petitioners further contend that the NPC can no longer insist on a different interpretation with respect to the number of employees illegally terminated (*i.e.*, by limiting the coverage to only 16 NPC top-level executives who were terminated from their employment on January 31, 2003, and excluding all others whose employment was terminated on February 28, 2003⁵⁵), since it failed to deny or question this matter in its pleadings before the Court.

(2) Did the September 17, 2008 Resolution grant a relief not sought or contemplated in the September 26, 2006 Decision?

The NPC argues that the relief prayed for by the petitioners in their injunction petition before the Court was only to enjoin and nullify NPB Resolution Nos. 2002-124 and 2002-125. The petition did not pray for or cover reliefs founded on the resolution of the illegal dismissal issue, *i.e.*, the propriety of reinstating the petitioners and the award of backwages and other monetary benefits.

The illegal dismissal issue and the additional reliefs, however, were resolved and included in the Court's September 17, 2008 Resolution which granted the petitioners' motion for clarification and/or amplification. The NPC contends that it did not file an opposition to the petitioners' motion for clarification and/or amplification (which was granted in the September 17, 2008 Resolution) since the Court did not require one.

Neither did the NPC find the need to file a motion for a reconsideration of the September 17, 2008 Resolution, since it agreed with the Court's ruling that the computation of the amounts due the petitioners

⁵⁵

The subject of NPB Resolution No. 2003-11; *id.* at 878-880.

should be done in a proper forum and not before the Court. Indeed, Section 78 of the EPIRA confines the jurisdiction of the Court to cases involving the implementation of its provisions. The Court's jurisdiction ended upon its declaration of the nullity of NPB Resolution Nos. 2002-124 and 2002-125.

Thus, any issue relating to the separation of the petitioners and their subsequent re-employment is properly cognizable by the Civil Service Commission (CSC) pursuant to Section 4 of the Uniform Rules on Administrative Cases in the Civil Service (*Uniform Rules*).⁵⁶

At any rate, the NPC states that the 16 NPC employees who were dismissed pursuant to the nullified NPB resolutions have already received separation benefits under the separation scheme effected under NPB Resolution No. 2003-01.⁵⁷ To give them additional separation benefits would amount to their unjust enrichment.

The petitioners, on the other hand, claim that the Court was acting within its authority when it made the modification by way of clarification in the September 17, 2008 Resolution, as the Court "may expound x x x on matters that are logical, necessary and inevitable consequences of [the] judgment."⁵⁸ Since the matters discussed in the Court's Resolutions issued subsequent to the September 26, 2006 Decision involved issues that were incidental to or were the logical consequence of the nullification of NPB resolutions, the Court has jurisdiction to resolve them.

The petitioners did not need to file a complaint for termination before the Civil Service Commission; otherwise, they would be violating the rule of splitting of causes of action and the rule on non forum-shopping.

(3) Did the December 10, 2008 Resolution which granted the petitioners' motion for execution exceed the terms of the September 17, 2008 Resolution?

⁵⁶ Section 4. Jurisdiction of the Civil Service Commission. – The Civil Service Commission shall hear and decide administrative cases instituted by or, brought before it, directly or on appeal, including contested appointments, and shall review decisions and actions of its offices and of the agencies attached to it.

Except as otherwise provided by the Constitution or by law, the Civil Service Commission shall have the final authority to pass upon the removal, separation and suspension of all officers and employees in the civil service and upon all matters relating to the conduct, discipline and efficiency of such officers and employees. [italics supplied]

⁵⁷ *Rollo*, p. 1602; It states: All Covered Personnel who avail of the Separation Benefits provided in Article II, Section 4.3 above, shall waive their entitlement to any other separation pay without prejudice to the other benefits set out in Article II, Section 4.6 below. Also, this waiver shall not apply to social security benefits under existing laws, rules and regulations.

⁵⁸ *Id.* at 1641.

The NPC argues that the Court's orders in the December 10, 2008 Resolution exceeded the terms of its September 17, 2008 Resolution by: (1) requiring the submission of the list of covered employees and the immediate payment of the benefits without conducting any proceedings; and (2) awarding interests.

The petitioners, however, allege that the NPC had waived any objections it might have had against whatever modifications were made to the September 17, 2008 Resolution by the December 10, 2008 Resolution, since the NPC failed to raise the supposed invalid modifications in its motion for reconsideration of the December 2, 2009 Resolution.⁵⁹

The petitioners contend that the Court's December 10, 2008 Resolution did not exceed the terms of the September 17, 2008 Resolution. Any modification in the execution was procedural and only determined the amounts due (*i.e.*, backwages, separation pay, wage adjustments and other benefits, interests, and 10% attorney's fees) by applying the laws on illegal dismissal.

The petitioners emphasize that the respondents did not file a motion to quash or for reconsideration of the December 10, 2008 Resolution. In fact, the NPC complied with the Court's directives in the December 10, 2008 Resolution by submitting a list of the employees covered by the September 26, 2006 Decision and September 17, 2008 Resolution.

In answer to the petitioners' allegations, the NPC denies any misrepresentation regarding the employees terminated on January 31, 2003 under the nullified NPB resolutions. The NPC did not see any need to disclose to the Court that the termination from employment of all other NPC employees was under NPB Resolution No. 2003-11, since this resolution was not the subject of the petition.

For this reason, the NPC contends that the Court cannot include, as an issue in this case, the termination of the NPC employees affected by NPB Resolution No. 2003-11 in the guise of enforcing the final September 26, 2006 Decision, which was limited to nullified NPB Resolution Nos. 2002-124 and 2002-125. Thus, the NPC argues against the validity of the December 2, 2009 Resolution, the terms of which deviated from the September 26, 2006 Decision.

(4) What was the effect of NPB Resolution No. 2007-55 on the nullified NPB Resolution Nos. 2002-124 and 2002-125?

⁵⁹ *Supra* note 2.

The petitioners claim that NPB Resolution No. 2007-55 dated September 14, 2007, ratifying all previous board resolutions on the 2003 NPC Reorganization, has no retroactive effect on the nullified NPB Resolution Nos. 2002-124 and 2002-125. The prospective application of NPB Resolution No. 2007-55 means that the services of all NPC employees were legally terminated only on September 14, 2007.

The NPC argues that NPB Resolution No. 2007-55 ratified all board resolutions that involved the NPC re-organization, including NPB Resolution No. 2003-11 which amended the nullified NPB resolutions. Contrary to the petitioners' claim, NPB Resolution No. 2007-55 can be given retroactive effect, as it was issued precisely to avoid future issues on the validity or legality of board resolutions as a result of the September 26, 2006 Decision of the Court. The NPC further argues that the nullified NPB Resolutions could be legally ratified, since these were not void but merely unenforceable under Article 1403 of the Civil Code.

(5) To what extent is PSALM liable for the NPC's liabilities?

The petitioners contend that Sections 49⁶⁰ and 50⁶¹ of the EPIRA, in relation with Section 19, Rule 3 of the Rules of Court,⁶² make the PSALM a transferee-in-interest of the NPC and, thus, solidarily liable for the NPC's financial liabilities. There is nothing in the EPIRA that expressly declares that the PSALM is liable only for the NPC obligations that were transferred to it as of the effectivity of the EPIRA on June 26, 2001.

The petitioners also point out that under the Deed of Transfer⁶³ executed between the NPC and the PSALM in December 2001, the "assignment, transfer and conveyance of each of the Assets as well as each

⁶⁰ SEC. 49. Creation of Power Sector Assets and Liabilities Management Corporation. – There is hereby created a government-owned and -controlled corporation to be known as the "Power Sector Assets and Liabilities Management Corporation", hereinafter referred to as the "PSALM Corp.", which shall take ownership of all existing NPC generation assets, liabilities, IPP contracts, real estate and all other disposable assets. All outstanding obligations of the NPC arising from loans, issuances of bonds, securities and other instruments of indebtedness shall be transferred to and assumed by the PSALM Corp. within one hundred eighty (180) days from the approval of this Act.

⁶¹ SEC. 50. Purpose and Objective, Domicile and Term of Existence. – The principal purpose of the PSALM Corp. is to manage the orderly sale, disposition, and privatization of NPC generation assets, real estate and other disposable assets, and IPP contracts with the objective of liquidating all NPC financial obligations and stranded contract costs in an optimal manner.

The PSALM Corp. shall have its principal office and place of business within Metro Manila.

The PSALM Corp. shall exist for a period of twenty five (25) years from the effectivity of this Act, unless otherwise provided by law, and all assets held by it, all moneys and properties belonging to it, and all its liabilities outstanding upon the expiration of its term of existence shall revert to and be assumed by the National Government.

⁶² SEC. 19. Transfer of interest. – In case of any transfer of interest, the action may be continued by or against the original party, unless the court upon motion directs the person to whom the interest is transferred to be substituted in the action or joined with the original party.

⁶³ *Rollo*, pp. 1668-1690.

of the obligations arising from the liabilities shall *take effect only upon Transfer Date*.”⁶⁴

The Deed of Transfer, however, imposed numerous conditions before its terms could become effective. Indeed, it was only on October 1, 2008 that the transfer took effect,⁶⁵ after the parties have agreed to waive the conditions set forth in the Deed of Transfer.⁶⁶

Thus, the transfer of the assets and obligations from the NPC to the PSALM took place on October 1, 2008, *after* the petitioners have already commenced the present action for injunction on December 8, 2002.

The PSALM argues that it cannot be made liable for the liabilities of the NPC outside of those contemplated in the EPIRA.

It contends that under Section 19, Rule 3 of the Rules of Court, it cannot be considered as a transferee-in-interest. The established rule is that the transfer of interest should occur *during the pendency* of the action in court, which clearly does not obtain in the present case. The transfer to the PSALM preceded the circumstances leading to the filing of the present action. The transfer of NPC’s assets and liabilities was made pursuant to the EPIRA, which became effective on June 26, 2001; the present action, on the other hand, was instituted in December 2002, after the assailed NPB resolutions were passed.

In our December 2, 2009 Resolution, the Court ruled that the word “existing” in Section 49 of the EPIRA refers only to “NPC generation assets,” and is not limited to existing liabilities of the NPC at the time of transfer.⁶⁷ In other words, the PSALM acquired all liabilities of the NPC, whether already existing or not at the time of the transfer.

The PSALM disagrees, noting that the last sentence of Section 49 of the EPIRA declared that the PSALM shall assume only the *outstanding* obligations of the NPC. The intent to limit the transferred liabilities of the NPC only to outstanding obligations may also be inferred, by analogy, from Section 60 of the EPIRA, which transferred to the PSALM only the *outstanding* financial obligations of electric cooperatives to the National Electrification Authority and other government agencies. Clarifying Section 60 of the EPIRA, Section 2, Rule 31 of its Implementing Rules and Regulations (*IRR*) states that *financial obligations* refer to “liabilities, or

⁶⁴ Section 5, Deed of Transfer; *id.* at 1678.

⁶⁵ As evidenced by NPB Resolution No. 2009-40 dated July 13, 2009 (*id.* at 1696) which states:
WHEREAS, on 1 October 2008, with the transfer of assets and liabilities of the National Power Corporation (NPC) to the Power Sector Assets and Liabilities Management (PSALM) Corporation, in accordance with the Electric Power Industry Reform Act (EPIRA) of 2001[.]

⁶⁶ As agreed in NPC Resolution No. 2007-66 dated November 14, 2007, *id.* at 1694.

⁶⁷ *Id.* at 1294-1296.

amounts payable by the ECs to NEA and other government agencies *as of 26 June 2001.*”

Also, Section 56 of the EPIRA⁶⁸ (and its counterpart provision in the IRR, Section 12 of Rule 21⁶⁹) expressly enumerated the claims the PSALM assumed, and this enumeration should be interpreted strictly and exclusively.

The PSALM contends that it is the exclusive owner of the assets it acquired from the NPC, and should not be treated as a mere successor-in-interest of the NPC. The PSALM and the NPC are separate and distinct government-owned and -controlled corporations. The PSALM was created with the objective of liquidating all the financial obligations and stranded contract costs of the NPC.⁷⁰ This objective notwithstanding, the PSALM should not be treated as a liquidator of the NPC; it does not exist solely to wind up the NPC’s business. The PSALM conducts its business not for the benefit of the NPC, but in pursuance of its own mandate. Neither is the PSALM acting as trustee of the NPC. The PSALM does not hold the assets in trust for the NPC, but has acquired their full ownership.

Congressional deliberations further show that the thrust of the EPIRA was to bailout the NPC from its financial obligations arising from direct contractual obligations with banking and financial institutions. The PSALM’s assets and privatization funds have been earmarked by Congress for the liquidation of the NPC’s debt, thus, beyond the reach of execution or garnishment.

If garnishment of the PSALM’s assets is allowed, adverse consequences will follow. The PSALM would be unable to fulfill its mandate within its limited term of existence – it will not be able to liquidate the assets and obligations it acquired and it will default from paying the loans and obligations it assumed. It would also be unable to contract further loans because financial institutions would be wary of its capability to pay. The National Government would have to step up as guarantor of the loans,

⁶⁸ SEC. 56. Claims Against the PSALM Corp. – The following shall constitute the claims against the PSALM Corp.:

- (a) NPC liabilities transferred to the PSALM Corp.;
- (b) Transfers from the national government;
- (c) New loans; and
- (d) NPC stranded contract costs.

⁶⁹ Section 12. Claims Against PSALM. The following shall constitute the claims against PSALM:

- (a) NPC liabilities transferred to PSALM;
- (b) Transfers from the National Government;
- (c) New loans, such as, but not limited to those in the form of bonds, convertible instruments, warrants, leases and similar structures;
- (d) Obligations under IPP contracts transferred by NPC to PSALM;
- (e) Loans of ECs that are to be assumed by PSALM under Section 60 of the Act; and
- (f) Expenses for rehabilitation and maintenance of Agus and Pulangi Complexes.

⁷⁰ SEC. 50. Purpose and Objective, Domicile and Term of Existence. – The principal purpose of the PSALM Corp. is to manage the orderly sale, disposition, and privatization of NPC generation assets, real estate and other disposable assets, and IPP contracts **with the objective of liquidating all NPC financial obligations and stranded contract costs in an optimal manner.** x x x x.

and ultimately, these will be shouldered by the Filipino people as part of the Universal Charge that is imposed on all end-users of electricity.

The PSALM further contends that the assailed NPB resolutions were solely the NPC's acts, and it had no participation whatsoever. The Court's December 2, 2009 Resolution inequitably held the PSALM responsible for the acts of the NPC, although the PSALM was never formally impleaded as a party to the case. Assuming that the PSALM is an indispensable party to the case, the failure to implead it renders the entire proceedings null and void for failure to afford it due process.

Section 63 of the EPIRA actually declares that the separation pay and other benefits to be given to displaced or separated NPC employees shall be "in accordance with existing laws, rules or regulations." There is nothing in Section 63 of the EPIRA that made the PSALM liable to pay these benefits. Section 4, Rule 13 of the IRR of the EPIRA has actually identified the source of funding for the payment of the benefits, *i.e.*, the Government Service Insurance System or the NPC.⁷¹

THE COURT'S RULING

The six (6) pending motions raise matters relating to the proper execution of the final September 26, 2006 Decision and September 17, 2008 Resolution because of certain events that arose after the filing of the petition, whose existence became known to the Court only during the execution stage of our final rulings.

As embodied in the five (5) issues confronting this Court, we have considered the factual and legal aspects of these challenges in light of our final rulings. We will not go beyond the clear terms of our final rulings, unless there are compelling reasons to do so under the circumstances.

- (1) Who are the NPC personnel, officers and rank-and-file that were actually separated from the service as a result of the full implementation of the nullified NPB Resolution Nos. 2002-124 and 2002-125?**

⁷¹ Rule 13, Section 4. Funding.

Funds necessary to cover the separation pay under this Rule shall be provided either by the Government Service Insurance System (GSIS) or from the corporate funds of the NEA or the NPC, as the case may be; and in the case of the DOE and the ERB, by the GSIS or from the general fund, as the case may be.

The Buyer or Concessionaire or the successor company shall not be liable for the payment of the separation pay.

We conclude that the final September 26, 2006 Decision and September 17, 2008 Resolution cover the separation from employment of **all NPC employees**. As we explained in the final September 17, 2008 Resolution, the logical and necessary consequence of the nullification of NPB Resolution Nos. 2002-124 and 2002-125 was the illegality of the dismissal of the NPC employees, since their separation from employment stemmed from these nullified NPB resolutions.⁷² Our final rulings could not have intended any other meaning. All the pleadings filed prior to our final rulings indicate that the injunction case affected *all NPC employees*.⁷³

The final September 26, 2006 Decision and the final September 17, 2008 Resolution were based on the pleadings showing that all NPC employees were affected by the nullified NPB resolutions

The records show that the petition was a class suit filed in behalf of three thousand NPC employees, more or less, affected by the nullified NPB resolutions.⁷⁴ The records further show that **the pleadings filed by the NPC bore its admission that the nullified NPB resolutions covered the separation of all NPC personnel**. If it had been otherwise, the NPC would not have claimed a huge amount of monetary liability if the subject NPB resolutions had to be nullified. The NPC claimed that its monetary liability under the Court's final ruling would amount to ₱4,701,354,073.00⁷⁵ – an amount that would cover the separation package of more employees than the 16 officials that the NPC claimed.

The NPC is estopped from claiming that not all NPC employees are covered by our final rulings

The records additionally reveal the **NPC's obvious refusal to pay its obligation under our final rulings**. Pursuant to this intent, the NPC created a dilemma more imagined than real to circumvent the clear terms of our final rulings. This dilemma caused serious and considerable delays in the execution of our final rulings, resulting in lost years that the NPC employees could have used to enjoy the amounts due them.

Under the circumstances, we agree with the petitioners that while the date of their *actual* termination from employment was not by virtue of the

⁷² Rollo, p. 523, which states:

We, however, have to sustain petitioners' position in their Motion for Clarification and/or Amplification that our declaration of nullity of NPB Resolutions No. 2002-124 and No. 2002-125 and our injunction on the implementation of the same logically and necessarily meant that the termination of the employment of petitioners on 31 January 2003 was illegal.

⁷³ See p. 5 of NPB Resolution No. 2002-124; id. at 125.

⁷⁴ Id. at 4-5.

⁷⁵ See the NPC's Second Motion for Reconsideration (of Decision dated 26 September 2006); id. at 372-373.

nullified NPC resolutions, the amendment in the date of their actual termination did not exclude them from the effect of our final rulings. It is an absurd proposition to consider that the petitioners – as the parties who initiated the petition – would be barred from reaping the rewards of a favorable judgment because of the *NPC's clandestine act of withholding material information*. We shall not allow or accept any excuse or reason from the NPC and/or the OSG on why they withheld from us, or otherwise failed to inform the Court of, the existence of NPB resolutions that changed the date of the actual termination of NPC employees under the NPC's restructuring program. Likewise, the NPC and the OSG cannot use this omission to their advantage.

The NPC and the OSG's apparent lack of good faith in dealing with the petitioners and with the Court is demonstrated by the following events subsequent to the filing of the petition for injunction:

- November 2002
 - The NPB Resolution Nos. 2002-124⁷⁶ and 2002-125⁷⁷ were issued.
- December 2002
 - The petitioners filed a petition for injunction⁷⁸ with the Court assailing NPB Resolution Nos. 2002-124 and 2002-125.
- January 2003
 - The NPC issued NPB Resolution No. 2003-11⁷⁹ amending the date of termination from employment of NPC employees, specifically, officials below VP levels, supervisors and for the rank-and-file to February 28, 2003.
- March 2003
 - The NPC issued NPC Circular No. 2003-09⁸⁰ amending the dates of legal termination of NPC employees:
 - a. Key officials (*i.e.*, corporate secretary, vice-presidents and senior vice-presidents)⁸¹ at the close of office hours of January 31, 2003;
 - b. The NPC personnel who availed of the early leavers' scheme on the last day of service in NPC but not beyond January 15, 2003;

⁷⁶ Id. at 121-126.

⁷⁷ Id. at 118-120.

⁷⁸ Id. at 3-20.

⁷⁹ Id. at 878-880.

⁸⁰ Id. at 881-886.

⁸¹ Appointed under NPB Resolution No. 2003-12; *id.* at 881.

- c. The NPC personnel no longer employed in NPC after June 26, 2001 shall be the date of their actual separation from the NPC; and
 - d. All other NPC personnel shall be at the close of office hours/shift schedule of February 28, 2003.
- August 2003
 - The NPC filed its Comment⁸² to the petition acknowledging that the petitioners filed the injunction to prevent “massive unemployment”⁸³ resulting in the implementation of the assailed NPB Resolution Nos. 2002-124 and 2002-125.
- April 2005
 - The NPC filed a Memorandum⁸⁴ admitting that *all NPC employees* are covered by the nullified NPB Resolutions.⁸⁵
- September 2006
 - The Court’s Decision nullifying NPB Resolution Nos. 2002-124 and 2002-125.⁸⁶
- November 2006
 - The NPC filed a Motion for Reconsideration of the September 26, 2006 Decision⁸⁷ alleging that the nullified NPB Resolutions “would entail a financial liability... (₱4,701,354,073.00), representing the backwages and wage adjustments of employees[.]”⁸⁸
- March 2007
 - The NPC filed a Motion for Leave to file a 2nd Motion for Reconsideration with Motion to Refer Case *En Consulta* to *En Banc*⁸⁹ stating the huge financial liability it would shoulder because of the nullified NPB resolutions.

⁸² Id. at 205-221.

⁸³ Id. at 211.

⁸⁴ Id. at 252-267.

⁸⁵ Id. at 256.

⁸⁶ Id. at 297-208.

⁸⁷ Id. at 310-322.

⁸⁸ Id. at 319.

⁸⁹ Id. at 339-375.

- March 2007 - The petitioners filed a Motion for Clarification and/or Amplification of the September 26, 2006 Decision.⁹⁰
- September 2008 - The Court's Resolution⁹¹ clarifying that the logical and necessary consequence of the nullification of NPB Resolution Nos. 2002-124 and 2002-125 is the existence of the petitioners' right to reinstatement, or separation pay in lieu of reinstatement, plus payment of backwages and other benefits.
- October 2008 - Entry of Judgment⁹² of the September 26, 2006 Decision and the September 17, 2008 Resolution

The NPC having represented that all NPC employees were affected by the nullified NPB resolutions, and aware of NPB resolutions amending the date of actual termination from employment of the majority of NPC employees which it omitted to disclose, is now estopped from assailing the implementation of our final rulings. The representations of the NPC, as embodied in its pleadings, necessarily bind it under the principle of estoppel.

Article 1431 of the Civil Code defines estoppel as follows:

Art. 1431. Through estoppel an admission or representation is rendered conclusive upon the person making it, and cannot be denied or disproved as against the person relying thereon.

In this regard, Section 2(a), Rule 131 of the Rules of Court provides:

SEC. 2. *Conclusive presumptions.* – The following are instances of conclusive presumptions:

- (a) Whenever a party has, by his own declaration, act, or omission, intentionally and deliberately led another to believe a particular thing is true, and to act upon such belief, he cannot, in any litigation arising out of such declaration, act or omission, be permitted to falsify it. [italics supplied]

“In estoppel, a party creating an appearance of fact, which is false, is bound by that appearance as against another person who acted in good faith on [the representation made]. Estoppel is based on public policy, fair dealing, good faith and justice. Its purpose is to forbid one to speak against his own act, representations, or commitments to the injury of one who reasonably relied thereon. It springs from equity, and is designed to aid the

⁹⁰ Id. at 334-337.

⁹¹ Id. at 511-534.

⁹² Id. at 545-546.

law in the administration of justice where without its aid, injustice might result.⁹³

“[E]stoppel may arise from silence as well as from words. Estoppel by silence arises when a person, x x x by force of circumstances[, otherwise] obliged to x x x speak, refrains from doing so and thereby induces the other to believe in the existence of a state of facts in reliance on which he acts to his prejudice. Silence may support an estoppel whether the failure to speak is intentional or negligent.”⁹⁴

Based on the following facts, the **NPC is estopped from claiming that not all NPC employees were covered by our final rulings:**

- (1) After the filing of the petition on December 16, 2002, the NPC issued NPB Resolution No. 2003-11 (dated January 22, 2003) and NPC Circular No. 2003-09 (dated March 24, 2003) amending the date of actual termination from employment of NPC employees;
- (2) The NPC did not deny the petitioners’ allegation in their petition that the nullified NPB resolutions affected about 5,648 employees and officials of the NPC, 2,370 of whom would be displaced due to NPC’s restructuring;⁹⁵
- (3) The NPC represented in its Comment and Memorandum that the nullified NPB Resolution Nos. 2002-124 and 2002-125 affected all NPC employees;
- (4) The NPC, in its first and second motions for reconsideration, represented that it would shoulder financial liability amounting to ₱4,701,354,073.00, representing the backwages and wage adjustments of employees;
- (5) The NPC did not file a motion for reconsideration or otherwise inform the Court of its change in position despite its receipt of the September 17, 2008 Resolution; and
- (6) The NPC allowed to lapse into finality our final rulings that we rendered based on the consideration that all NPC employees were separated from employment under the nullified NPB Resolution Nos. 2002-124 and 2002-125.

The rule on finality of judgment applies

Based on the immutability of judgment principle, the execution of the dispositive portion of our final rulings (declaring the nullity of NPB Resolutions Nos. 2002-124 and 2002-125 and ordering the reinstatement or the payment of separation pay to all NPC employees) should no longer be disturbed.

⁹³ *Marques v. Far East Bank and Trust Company*, G.R. Nos. 171379 and 171419, January 10, 2011, 639 SCRA 10, 22-23, citation omitted.

⁹⁴ *Id.* at 23; citation omitted.

⁹⁵ *Rollo*, p. 16.

Although the records show that the termination from employment of the majority of the NPC employees was not actually effected on January 31, 2003, we find no compelling reason to modify our final rulings. In this light, **NPB Resolution No. 2003-11 and NPC Circular No. 2003-09 are NOT supervening events that will relieve the NPC of liability under the nullified NPB resolutions.**

In *Natalia Realty, Inc. v. Court of Appeals*,⁹⁶ we explained the nature of supervening events as an exception to the rule on immutability of judgment, thus:

One of the exceptions to the principle of immutability of final judgments is the existence of supervening events. Supervening events refer to facts which transpire after judgment has become final and executory or to new circumstances which developed after the judgment has acquired finality, including matters which the parties were not aware of prior to or during the trial as they were not yet in existence at that time.

Supervening events refer to facts that transpire *after judgment has become final and executory* or to new circumstances that develop after the judgment has acquired finality.⁹⁷ In *Dee Ping Wee v. Lee Hiong Wee*,⁹⁸ we held that a supervening event affects or changes the substance of the judgment and renders its execution inequitable.

Based on these considerations, NPB Resolution No. 2003-11 and NPC Circular No. 2003-09 are **not supervening events** that render them exceptions to the rule of immutability of judgment.

First, they transpired *before* the resolution of the petition and the promulgation of our final September 26, 2006 Decision.

Second, their existence carried no material bearing to the execution of our final rulings. There was no material change in the situation of the parties, since the execution of our final rulings would not cause NPC any prejudice. Any change that might have resulted in the issuance of NPB Resolution No. 2003-11 and NPC Circular No. 2003-09 only affected the computation of *the amount of separation benefits* to be received by the petitioners, not the persons to be benefited (*i.e.*, all NPC employees) as determined under the clear terms of our final rulings.

The Court has jurisdiction to rule on the issue of the petitioners' separation from employment

Section 78 of the EPIRA provides the extent of the Court's jurisdiction:

⁹⁶ 440 Phil. 1, 23 (2002).

⁹⁷ *Lee v. Regional Trial Court of Quezon City, Branch 85*, 496 Phil. 421, 430 (2005).

⁹⁸ G.R. No. 169345, August 25, 2010, 629 SCRA 145.

Section 78. Injunction and Restraining Order. – The implementation of the provisions of the Act shall not be restrained or enjoined except by an order issued by the Supreme Court of the Philippines.

The provision vests upon the Supreme Court the jurisdiction to restrain or enjoin the implementation of the provisions of the EPIRA. In other words, the Court exercises jurisdiction on all questions involving the enforcement of the provisions of the EPIRA.

The EPIRA was enacted, among others, to privatize the assets and liabilities of the NPC. As part of the NPC's privatization, Section 3 of the EPIRA mandates a "framework for the restructuring of the electric power industry, including the privatization of the assets of NPC, the transition to the desired competitive structure, and the definition of the responsibilities of the various government agencies and private entities."

The term "restructuring" under Section 4 of the EPIRA refers to the "process of reorganizing the electric power industry in order to introduce higher efficiency, greater innovation and end-user choice."⁹⁹ Restructuring "shall be understood as covering a *range of alternatives* enhancing exposure of the industry to competitive market forces."¹⁰⁰ **The displacement and separation of employees in affected agencies are among the "alternatives" that may be adopted as part of the restructuring program, as recognized by Section 63 of the EPIRA,** which reads:

Section 63. Separation Benefits of Officials and Employees of Affected Agencies. – **National government employees displaced or separated from the service as a result of the restructuring of the electricity industry and privatization of NPC assets pursuant to this Act, shall be entitled to either a separation pay and other benefits** in accordance with existing laws, rules or regulations or be entitled to avail of the privileges provided under a separation plan which shall be one and one-half month salary for every year of service in the government: Provided, however, That those who avail of such privilege shall start their government service anew if absorbed by any government-owned successor company. In no case shall there be any diminution of benefits under the separation plan until the full implementation of the restructuring and privatization. Displaced or separated personnel as a result of the privatization, if qualified, shall be given preference in the hiring of the manpower requirements of the privatized companies.

Section 63 is enforced by Section 33 of the IRR of the EPIRA, which provides:

RULE 33. SEPARATION BENEFITS

Section 1. General Statement on Coverage.

⁹⁹ Section 4 (rr), EPIRA.

¹⁰⁰ Ibid.

This Rule shall apply to **all employees** in the National Government service as of 26 June 2001 regardless of position, designation or status, **who are displaced or separated from the service as a result of the Restructuring of the electricity industry and Privatization of NPC assets:** Provided, however, That the coverage for casual or contractual employees shall be limited to those whose appointments were approved or attested by the Civil Service Commission (CSC).

Section 2. Scope of Application.

This Rule shall apply to affected personnel of DOE, ERB, NEA and NPC.

Section 3. Separation and Other Benefits.

X X X X

(b) The following shall govern the application of Section 3(a) of this Rule

(i) With respect to NPC officials and employees, they shall be considered legally terminated and shall be entitled to the benefits or separation pay provided in Section 3(a) herein when the restructuring plan as approved by the NPC Board shall have been implemented.

(f) Likewise, "Separation" or "Displacement" refers to the severance of employment of any official or employee, who is neither qualified under existing laws, rules and regulations nor has opted to retire under existing laws, as a result of the Restructuring of the electric power industry or Privatization of NPC assets pursuant to the Act.

In light of the recognition under Section 63 and the corresponding provisions in the IRR that the displacement and separation of the national government employees may result from "the restructuring of the electricity industry and privatization of NPC assets," the NPC, through its Board, issued the nullified NPB resolutions. Specifically, NPB Resolution No. 2002-124 provided the *Guidelines on the Separation Program of the National Power Corporation (NPC), and the Selection and Placement of Personnel in the NPC Table of Organization under Republic Act No. 9136*. NPB Resolution No. 2002-125 provided for the constitution of a Transition Team to coordinate the NPC's Table of Organization.

Based on these considerations, there is no question that the validity of the separation from employment of the NPC employees fall within the Court's jurisdiction under Section 78 of the EPIRA, as it involves the proper implementation of the provisions of the EPIRA. Precisely for this reason, the petitioners filed with this Court their petition for injunction against the implementation of the nullified NPB Resolutions, as these resolutions would effectively separate them from their employment if not restrained.

We are not unmindful of the CSC's jurisdiction over all members of the civil service. Section 4 of the Uniform Rules squarely places the issue of the petitioners' separation from employment within the CSC's jurisdiction. It is not amiss to note however that **the CSC's jurisdiction under Section 4 of the Uniform Rules is *not exclusive* and**, as provided by its provisions, ***may be exercised concurrently with another office***. The second paragraph of Section 4 of the Uniform Rules provides:

Section 4. *Jurisdiction of the Civil Service Commission.* – x x x

Except as otherwise provided by the Constitution or by law, the Civil Service Commission shall have the final authority to pass upon the removal, separation and suspension of all officers and employees in the civil service and upon all matters relating to the conduct, discipline and efficiency of such officers and employees. (emphasis and underscore ours, italics supplied]

Pursuant to Section 78 of the EPIRA, the CSC exercises concurrent jurisdiction with the Supreme Court on the petitioners' separation from employment. The Court, upon the filing of the petition for injunction, assumed jurisdiction to determine the status of the petitioners' employment under the nullified NBP resolutions, since the resolution of this issue is a logical consequence of the implementation of the provisions of the EPIRA.

(2) Did the September 17, 2008 Resolution grant a relief not sought or contemplated in the September 26, 2006 Decision?

We find no merit in NPC's argument that the September 17, 2008 Resolution granted additional reliefs not covered by the petition for injunction.

In the case of *Casent Realty & Development Corporation v. Premiere Development Bank*,¹⁰¹ we expounded on the effect and consequences of asking for general and/or specific reliefs in pleadings and motions in this wise:

In the absence of a prayer for general relief, the moving party usually is confined to the relief asked for in the motion or specified in its notice; at most, relief necessarily incident to what was asked for may be granted. On the other hand, where notice of the motion asks for specific relief, or for such other relief as may be just, the court may, under the alternative clause, afford any relief compatible with the facts presented. However, even under a prayer for general relief, only reliefs allied to, and not entirely distinct from, that specifically asked may be granted. This rule has also been applied to pleadings. Thus, where a party has prayed only for specific relief or reliefs as to a specific subject matter, usually no different relief may be granted. However, **where a prayer for general**

¹⁰¹ 516 Phil. 219, 226 (2006); citations omitted, emphasis ours.

relief is added to the demand of specific relief, the court may grant such other appropriate relief as may be consistent with the allegations and proofs.

A facial examination of the petition showed that it contained a prayer for both general and specific reliefs, thus:

WHEREFORE, it is most respectfully prayed:

1. A TEMPORARY RESTRAINING ORDER (TRO) be issued immediately ex parte upon the filing of this petition enjoining, prohibiting and restraining the respondents from implementing the questioned NP Board Resolutions and, thus, maintain and pressure the status quo pending resolution of the prayer for issuance of a writ of preliminary injunction;
2. Upon notice and hearing, a writ of preliminary injunction be issued enjoining, prohibiting and restraining respondents from implementing the questioned NP Board Resolutions pending the final resolution and decision of the present petition.
3. After hearing on the merits to grant the petition and declare the writ of preliminary injunction perpetual and permanent.

Other reliefs and remedies as may be just and equitable are also prayed for.¹⁰²

The specific reliefs asked for in the petition are found in items 1, 2 and 3, which include the issuance of a temporary restraining order (*TRO*) pending the resolution of the petition and the issuance of a writ of preliminary injunction enjoining, prohibiting and restraining the NPC to implement the nullified Board resolutions. In turn, the general relief asked for is contained in the prayer for “[o]ther reliefs and remedies just and equitable.” The general reliefs are based on the allegations in the petition.

To our mind, **the resolution of the issue on the propriety of the separation of all NPC employees under the nullified NPB Resolution Nos. 2002-124 and 2002-125 was included as part of the petition’s prayer for general relief.** The allegations in the petition undoubtedly questioned the validity of the NPB resolutions, which contained a Restructuring Plan that included the “measures and guidelines for the separation, termination and hiring of NPC employees and officials.”¹⁰³

As reflected in the petition’s third cause of action, the petitioners emphasized that the nullified NPB resolutions “will have adverse effect to about 5,684 employees and officials”¹⁰⁴ of the NPC “and will result to [sic] the removal and displacement of about 2,370 of such employees and officials most of whom will come from the ranks of the herein

¹⁰² *Rollo*, pp. 19-20.

¹⁰³ *Id.* at 10.

¹⁰⁴ *Id.* at 16.

petitioners.”¹⁰⁵ A facial examination of the petition’s Allegations in Support of Application for Issuance of a TRO and/or Writ of Preliminary Injunction also reveals the effect of the implementation of the nullified NPB resolutions to the employment of all NPC employees.¹⁰⁶

The above circumstances justify the modification of our final September 26, 2006 Decision, as the September 17, 2008 Resolution clarified the consequences of our Decision. As we explained in our September 17, 2008 Resolution, the determination of the issue of illegal dismissal and the propriety of the awards of reinstatement and/or payment of separation benefits are *logical and necessary consequences* of our ruling declaring null and without effect the assailed NPB Resolutions.¹⁰⁷ The resolution of the validity of the separation from employment of all NPC employees was allied to the resolution of the validity of the assailed NPB resolutions, since the petitioners’ separation from employment depended on the validity of the assailed resolutions.

Incidentally, the NPC’s argument that our September 17, 2008 Resolution would result in unjust enrichment of the 16 executive/VP-level employees who already received separation benefits is unavailing, as we specifically provided in our dispositive portion the deduction of such separation benefits already received in the computation of the separation benefits.

Lastly, the NPC already waived its right to question the final September 17, 2008 Resolution for failing to seasonably move for its reconsideration. The NPC’s failure to file a motion for reconsideration of the September 17, 2008 Resolution (allowing it to lapse into finality) can also be taken as an indication of its agreement and conformity with the entire Resolution.

(3) Did the December 10, 2008 Resolution, which granted the petitioners’ motion for execution, exceed the terms of the September 17, 2008 Resolution?

The NPC’s argument that the December 10, 2008 Resolution exceeded the terms of the final September 17, 2008 Resolution is similarly unavailing and clearly refuted by a comparison of the dispositive portions of the two resolutions.

On the one hand, the pertinent portions of the September 17, 2008 Resolution’s dispositive portion state:

¹⁰⁵ Id. at 16-17.

¹⁰⁶ Id. at 18.

¹⁰⁷ Id. at 532.

IN VIEW OF THE FOREGOING, we hereby **RESOLVE** to:

- (1) **PARTIALLY GRANT** the Motion for Clarification and/or Amplification of petitioners by affirming that, as a logical and necessary consequence of our Decision dated 26 September 2006 declaring null and without effect NPB Resolutions No. 2002-124 and No. 2002-125 and enjoining the implementation of the same, petitioners have the right to reinstatement, or separation pay in lieu of reinstatement, pursuant to a validly approved Separation Program; plus backwages, wage adjustments, and other benefits accruing from 31 January 2003 to the date of their reinstatement or payment of separation pay; but deducting therefrom the amount of separation benefits which they previously received under the null NPB Resolutions;
- (2) **PARTIALLY GRANT** the Motion for Approval of Charging (Attorney's) Lien of Atty. Aldon and Atty. Orocio and **ORDER** the entry in the records of this case of their ten percent (10%) charging lien on the amounts recoverable by petitioners from respondent NPC by virtue of our Decision dated 26 September 2006[.]¹⁰⁸

On the other hand, the December 10, 2008 Resolution provides for *the manner of executing our final rulings*. Notably, the dispositive portion of our December 10, 2008 Resolution ordered the performance by the respondents of the following acts:

- (1) to prepare a list of the names of all NPC personnel/employees terminated and/or separated as a result of or pursuant to the nullified NPB Resolution Nos. 2002-124 and 2002-125, and the employees' names and the amounts due to each of them by way of separation pay, backwages, wage adjustments and other benefits;
- (2) to compute the 10% charging lien of Atty. Orocio and Atty. Aldon from the totality of the amounts due to the NPC employees;
- (3) to pay the amounts due to the illegally dismissed NPC employees; and
- (4) to pay interest from the time the decision became final and executory; and
- (5) to submit proof of compliance with the above orders.¹⁰⁹

Nowhere in the dispositive portions of the September 17, 2008 Resolution and the December 10, 2008 Resolution did we provide that another proceeding is required for the performance of the above acts or that the above acts may only be performed in another proceeding. Further, the September 17, 2008 Resolution and the December 10, 2008 Resolution did not remove the Court's authority to execute its own final rulings.

¹⁰⁸ Id. at 532; emphases supplied.

¹⁰⁹ Id. at 576-577.

It is not amiss to note that Section 6, Rule 135 of the Rules of Court recognizes the Court's *authority to delegate the execution of its final rulings*:

Section 6. Means to carry jurisdiction into effect. — When by law jurisdiction is conferred on a court or judicial officer, all auxiliary writs, processes and other means necessary to carry it into effect may be employed by such court or officer; and if the procedure to be followed in the exercise of such jurisdiction is not specifically pointed out by law or by these rules, *any suitable process or mode of proceeding may be adopted* which appears comfortable to the spirit of the said law or rules.

The Court has residual authority to ensure the proper enforcement and implementation of its final judgment.¹¹⁰ In the exercise of this residual authority, we may delegate to another court, as we have done in this case, the execution of our final rulings. The Court does not surrender its authority to execute its final rulings by such delegation. In other words, we maintain our authority over all matters concerning the implementation of our final rulings and issue such orders necessary for their implementation.

In this case, the need exists to refer the enforcement of the judgment to the RTC-QC, as the Court lacks the resources to implement the final judgment. Another reason for the referral is the need to compute the amounts due the petitioners, which required the presentation of factual proof and which the RTC-QC is in a better position to handle. What we referred to the RTC-QC was the *computation of the actual amounts* due the petitioners. The Court maintains its authority to issue orders to implement how our final rulings would be executed.

Also pursuant to this residual authority, the Court gave the RTC-QC instructions on how our final rulings should be executed to expedite the proceedings, taking into account the period that had elapsed since the finality of our rulings. We also considered the obvious reluctance of the NPC to comply with its obligations under our final rulings. The resulting social and economic burden brought about by the belated executions of our final rulings to the petitioners (and all the illegally dismissed NPC employees) compelled us to expedite the execution proper by seeing to it that the RTC-QC would have all the necessary documents and the cooperation of all parties in the execution of our final rulings.

With respect to the award of 12% legal interest accruing from the finality of judgment, the case of *Eastern Shipping Lines, Inc. v. Court of Appeals*¹¹¹ cannot be any clearer:

3. When the judgment of the court awarding a sum of money becomes final and executory, the rate of legal interest x x x shall be 12%

¹¹⁰ *Firestone Ceramics, Inc. v. Court of Appeals*, 389 Phil. 810, 818 (2000), insofar as it applies *mutatis mutandis*.

¹¹¹ G.R. No. 97412, July 12, 1994, 234 SCRA 78.

per annum from such finality until its satisfaction, this interim period being deemed to be by then an equivalent to a forbearance of credit.¹¹²

In *Session Delights Ice Cream & Fast Foods v. Court of Appeals*,¹¹³ we explained that, pursuant to our ruling in *Eastern Shipping Lines, Inc. v. Court of Appeals*,¹¹⁴ a final decision becomes a judgment for money from which consequence flows the payment of legal interest of 12% in case of delay. We clarified in *BPI Employees Union-Metro Manila v. Bank of the Philippine Islands*,¹¹⁵ that the payment of legal interest of 12% is a “natural consequence of a final judgment.”¹¹⁶ Thus, we held in *Gonzales v. Solid Cement Corporation*[.]¹¹⁷ that the principle of immutability of judgment is not affected.

The passage of Central Bank Circular No. 799¹¹⁸ (effective July 1, 2013), which lowered the rate of interest for judgments from 12% to 6%, will not apply in this case because the circular may only be applied prospectively.¹¹⁹ Since our ruling in this case had become final and executory on October 10, 2008 when the entry of judgment was made, the original legal interest of 12% shall apply from that date up to June 30, 2013, and only thereafter be reduced to 6%.

(4) What was the effect of NPB Resolution No. 2007-55 on the nullified NPB Resolution Nos. 2002-124 and 2002-125?

The arguments by the NPC that NPB Resolution No. 2007-55 has retroactive application and the nullified NPB Resolution Nos. 2002-124 and 2002-125 can be ratified for being unenforceable (not void) rest on specious grounds.

NPB Resolution No. 2007-55 has prospective application

Our December 2, 2009 Resolution clearly stated that **NPB Resolution No. 2007-55 can only be given prospective application**, thus:

¹¹² Id. at 97.

¹¹³ G.R. No. 172149, February 8, 2010, 612 SCRA 10, 27.

¹¹⁴ *Supra* note 111.

¹¹⁵ G.R. Nos. 178699 and 178735, September 21, 2011, 658 SCRA 127.

¹¹⁶ Id. at 143.

¹¹⁷ G.R. No. 198423, October 20, 2012, 684 SCRA 344.

¹¹⁸ Section 1. The rate of interest for the loan or forbearance of any money, goods, or credits and the rate allowed in judgments, in the absence of an express contract as to such rate of interest, shall be six percent (6%) per annum.

¹¹⁹ *Nacar v. Gallery Frames*, G.R. No. 189871, August 13, 2013, 703 SCRA 439, 458, where the Court declared that with regard to those “judgments that have become final and executory prior to July 1, 2013, said [judgments] shall be disturbed and shall continue to be implemented applying the rate of interest fixed therein.”

The approval of NPB Resolution No. 2007-55, supposedly by a majority of the National Power Board as designated by law, that adopted, confirmed and approved the contents of NPB Resolutions No. 2002-124 and No. 2002-125 will have a **prospective effect**, not a retroactive effect. The approval of NPB Resolution No. 2007-55 cannot ratify and validate NPB Resolutions No. 2002-124 and No. 2002-125 as to make the termination of services of all NPC personnel/employees on 31 January 2003 valid, because the said resolutions were void.¹²⁰ [emphasis supplied]

On the effect of NPB Resolution No. 2007-55 to the petitioners' employment, we held that:

The approval of NPB Resolution No. 2007-55 on 14 September 2007 means that the services of all NPC employees have been legally terminated on this date.¹²¹ (emphasis supplied)

We note that the contents of NPB Resolution No. 2007-55 show its intention to have prospective application. This intent may be inferred from the last portion of the first *Whereas* clause stating that "there is need to ratify other Board resolutions on the 2003 NPC Reorganization *to avoid future issues* on its validity of illegality."¹²² Simply put, NPB Resolution No. 2007-55 was a safety measure adopted by the NPC to protect its interest arising from future litigations involving the implementation of the NPB resolutions issued pursuant to the 2003 NPC reorganization.

We also note that the provisions of NPB Resolution No. 2007-55 belie any intention to have an effect on the nullified NPB resolutions. On the contrary, it in fact recognizes the September 26, 2006 Decision by "declaring invalid and of no legal effect" the nullified NPB resolutions.¹²³

The nullified NPB Resolutions are void (not simply unenforceable) resolutions

In the first place, our previous final rulings declared the nullified NPB resolution Nos. 2002-124 and 2002-125 as void and without legal effect for having contravened Section 48 of the EPIRA.¹²⁴ In light of this final declaration, the NPC can no longer insist on a different conclusion. As the nullified NPB resolutions are null and void (and not merely unenforceable), they cannot be revived or ratified.¹²⁵

¹²⁰ *Rollo*, p. 1202.

¹²¹ *Ibid.*

¹²² *Id.* at 854.

¹²³ *Ibid.*

¹²⁴ SEC. 48. National Power Board of Directors. – Upon the passage of this Act, Section 6 of R.A. 6395, as amended, and Section 13 of RA 7638, as amended, referring to the composition of the National Power Board of Directors, are hereby repealed and a new Board shall be immediately organized. The new Board shall be composed of the Secretary of Finance as Chairman, with the following as members: the Secretary of Energy, the Secretary of Budget and Management, the Secretary of Agriculture, the Director General of the National Economic and Development Authority, the Secretary of Environment and Natural Resources, the Secretary of Interior and Local Government, the Secretary of the Department of Trade and Industry, and the President of the National Power Corporation.

¹²⁵ *Viacrucis v. Estenzo*, No. L-18457, June 30, 1962, 5 SCRA 560, 566.

Besides, the nullified NPB resolutions are not unenforceable contracts according to the enumeration in Article 1403 of the Civil Code,¹²⁶ since they are not, in the first place, contracts defined and contemplated under Article 1305 of the Civil Code.¹²⁷

Assuming that the nullified NPB resolutions may be deemed as contracts, we declared in our September 26, 2006 Decision that **the infirmity in the nullified NPB resolutions did not stem from the absence of consent or authority**, which would have made them unenforceable contracts under Article 1401(1) of the Civil Code. **The infirmity comes from the failure of the NPC to comply with the requirements set forth in the EPIRA.** To quote our ruling:

In enumerating under Section 48 those who shall compose the National Power Board of Directors, the legislature has vested upon these persons the power to exercise their judgment and discretion in running the affairs of the NPC. x x x It is to be presumed that in naming the respective department heads as members of the board of directors, the legislature chose these secretaries of the various executive departments on the basis of their personal qualifications and acumen which made them eligible to occupy their present positions as department heads. Thus, the **department secretaries cannot delegate their duties as members of the NPB, much less their power to vote and approve board resolutions**, because it is their personal judgment that must be exercised in the fulfillment of such responsibility.

X X X X

¹²⁶ Art. 1403. The following contracts are unenforceable, unless they are ratified:

(1) Those entered into in the name of another person by one who has been given no authority or legal representation, or who has acted beyond his powers;

(2) Those that do not comply with the Statute of Frauds as set forth in this number. In the following cases an agreement hereafter made shall be unenforceable by action, unless the same, or some note or memorandum, thereof, be in writing, and subscribed by the party charged, or by his agent; evidence, therefore, of the agreement cannot be received without the writing, or a secondary evidence of its contents:

- (a) An agreement that by its terms is not to be performed within a year from the making thereof;
- (b) A special promise to answer for the debt, default, or miscarriage of another;
- (c) An agreement made in consideration of marriage, other than a mutual promise to marry;
- (d) An agreement for the sale of goods, chattels or things in action, at a price not less than five hundred pesos, unless the buyer accept and receive part of such goods and chattels, or the evidences, or some of them, of such things in action or pay at the time some part of the purchase money; but when a sale is made by auction and entry is made by the auctioneer in his sales book, at the time of the sale, of the amount and kind of property sold, terms of sale, price, names of the purchasers and person on whose account the sale is made, it is a sufficient memorandum;
- (e) An agreement of the leasing for a longer period than one year, or for the sale of real property or of an interest therein;
- (f) A representation as to the credit of a third person.

(3) Those where both parties are incapable of giving consent to a contract.

¹²⁷ Article 1305. A contract is a meeting of minds between two persons whereby one binds himself, with respect to the other, to give something or to render some service.

Having determined that **the assailed Resolutions are void as they lack the necessary number of votes for their adoption**, We no longer deem it necessary to pass upon the other issues raised in the instant petition.¹²⁸

On this basis, they cannot be classified as an unenforceable contract under Article 1403(1) of the Civil Code, but as void contracts under Article 1409(7) of the Civil Code for being “expressly prohibited or declared void by law.” The last paragraph of Article 1409 of the Civil Code expressly provides that **void contracts cannot be ratified**.

(5) To what extent is the PSALM liable to NPC’s liabilities?

The enumerated assets and liabilities that were transferred from NPC to the PSALM are limited to those existing at the time of the enactment of the EPIRA

Our reading of the law and the records tells us that reasonable basis exists to declare that the EPIRA intended to **limit the liabilities and obligations transferred from the NPC to the PSALM to those existing at the time the EPIRA took effect**.

Section 49 of the EPIRA states that

Section 49. Creation of Power Sector Assets and Liabilities Management Corporation. – There is hereby created a government-owned and -controlled corporation to be known as the “Power Sector Assets and Liabilities Management Corporation”, hereinafter referred to as the “PSALM Corp.”, which shall take ownership of **all existing NPC generation assets, liabilities, IPP contracts, real estate and all other disposable assets**. All outstanding obligations of the NPC arising from loans, issuances of bonds, securities and other instruments of indebtedness shall be transferred to and assumed by the PSALM Corp. within one hundred eighty (180) days from the approval of this Act. [emphasis, italics and underscore ours]

The adjective “existing” in the above provision modifies all the nouns subsequent to it, *i.e.*, the generation assets, the liabilities, the IPP contracts, the real estate, and all the other disposable assets. In other words, “existing” refers not only to existing NPC **generation assets** (as we have declared in our Resolution dated December 2, 2009), but it refers also to **liabilities, IPP contracts, real estate, and all other disposable assets** of the NPC that were existing at the time of the EPIRA’s effectivity.

¹²⁸ *Rollo*, pp. 305 and 307; emphases ours.

Statutory construction rules dictate that a law should be read in its entirety.¹²⁹ If the intent was to limit “existing” only to the NPC generation assets, then the word should not have been omitted in other EPIRA provisions that referred to the same NPC generation assets, to wit:

Section 47. *NPC Privatization.* – Except for the assets of SPUG, **the generation assets, real estate, and other disposable assets as well as IPP contracts of NPC shall be privatized in accordance with this Act.** Within six (6) months from the effectivity of this Act, the PSALM Corp shall submit a plan for the endorsement by the Joint Congressional Power Commission and the approval of the President of the Philippines, on the total privatization of the generation assets, real estate, other disposable assets as well as existing IPP contracts of NPC and thereafter, implement the same, in accordance with the following guidelines, except as provided for in Paragraph (f) herein:

(a) The privatization value to the National Government of the NPC generation assets, real estate, other disposable assets as well as IPP contracts shall be optimized; x x x x.

Section 50. *Purpose and Objective, Domicile and Term of Existence.* – **The principal purpose of the PSALM Corp. is to manage the orderly sale, disposition, and privatization of NPC generation assets, real estate and other disposable assets, and IPP contracts with the objective of liquidating all NPC financial obligations and stranded contract costs in an optimal manner.**

The PSALM Corp. shall have its principal office and place of business within Metro Manila.

The PSALM Corp. shall exist for a period of twenty five (25) years from the effectivity of this Act, unless otherwise provided by law, and all assets held by it, all moneys and properties belonging to it and all its liabilities outstanding upon the expiration of its term of existence shall revert to and be assumed by the National Government.

Section 55. *Property of the PSALM Corp.* – **The following funds, assets, contributions and other property shall constitute the property of the PSALM Corp.:**

(a) **The generation assets, real estate, IPP contracts, other disposable assets of NPC, proceeds from the sale or disposition of such assets and the residual assets from B-O-T, R-O-T, and other variations thereof[.] [italics supplied, emphases and underscores ours]**

We fail to find the rationale for omitting the word “existing” in Sections 47, 50, and 55, while including it in Section 49, particularly when all these provisions refer to the same properties of the NPC that shall be transferred to the PSALM. The inclusion of the word “existing” in Section 49 simply clarified **the intent of the EPIRA to limit the transfer only to**

¹²⁹ *Freedom From Debt Coalition v. Energy Regulatory Commission*, 476 Phil. 134, 196 (2004), citing *Aisporna v. Court of Appeals*, G.R. No. L-39419, April 12, 1982, 113 SCRA 459.

those enumerated NPC properties that already existed at the time of the EPIRA's effectivity. Thus, the appreciation of the enumeration of assets in Sections 47, 50, and 55 of the EPIRA should be made in the same way, *i.e.*, it should refer only to the *generation assets, real estate, IPP contracts, and other disposable assets* of the NPC *existing at the time of the EPIRA's effectivity*.

However, the above interpretation is by no means an all-encompassing description of the NPC properties that were transferred to the PSALM. The PSALM acquired NPC properties other than those enumerated in the above-quoted portions of Sections 47, 49, 50, and 55 of the EPIRA, which properties may or may not have existed at the time the law took effect. These other properties are covered and governed by other provisions of the EPIRA.¹³⁰ Insofar as generation assets, liabilities, IPP contracts, real estate, and all other disposable assets of the NPC are concerned, only those existing as of June 26, 2001 (the effective date of the EPIRA) were transferred to the PSALM.

¹³⁰ The following EPIRA provisions governed the transfer to or acquisition by PSALM of other NPC properties:

- SEC. 8. *Creation of the National Transmission Company.* – x x x x Within six (6) months from the effectivity of this Act, the transmission and subtransmission facilities of NPC and all other assets related to transmission operations, including the nationwide franchise of NPC for the operation of the transmission system and the grid, shall be transferred to the TRANSCO. The TRANSCO shall be wholly owned by the Power Sector Assets and Liabilities Management Corporation (PSALM Corp.). x x x All transmission and subtransmission related liabilities of NPC shall be transferred to and assumed by the PSALM Corp.
- SEC. 18. *Profits.* – The net profit, if any, of TRANSCO shall be remitted to the PSALM Corp. not later than ninety (90) days after the immediately preceding quarter.
- Sec. 55. *Property of the PSALM Corp.* – The following funds, assets, contributions and other property shall constitute the property of the PSALM Corp.:
 - a) The generation assets, real estate, IPP contracts, other disposable assets of NPC, proceeds from the sale or disposition of such assets and the residual assets from B-O-T, R-O-T, and other variations thereof;
 - b) Transfers from the National Government;
 - c) Proceeds from loans incurred to restructure or refinance NPC's transferred liabilities: Provided, however, That all borrowings shall be fully paid for by the end of the life of the PSALM Corp.;
 - d) Proceeds from the universal charge allocated for stranded contract costs and the stranded debts of NPC;
 - e) Net profit of NPC;
 - f) Net profit of TRANSCO;
 - g) Official assistance, grants, and donations from external sources; and
 - h) Other sources of funds as may be determined by PSALM Corp. necessary for the above- mentioned purposes.

In the same manner that “existing” modifies the assets transferred from the NPC to the PSALM, **the liabilities transferred from the NPC to the PSALM under Section 49 of the EPIRA are also limited to those existing at the time of the effectivity of the law.** In this regard, we consider significant the purpose and objective of creating the PSALM, the powers conferred to it, and the duration of its existence.

Section 50 of the EPIRA states that “the principal purpose of the PSALM Corp. is to manage the orderly sale, disposition, and privatization of NPC generation assets, real estate and other disposable assets and IPP contracts with the objective of liquidating all NPC financial obligations and stranded contract costs in an optimal manner.”¹³¹ Pursuant to this purpose, the PSALM was conferred the power “to formulate and implement a program for the sale and privatization of the NPC assets and IPP contracts and the liquidation of NPC debts and stranded contract costs, **such liquidation to be completed within the term of existence of the PSALM Corp.**”¹³² Under Section 50 of the EPIRA, the **PSALM is to exist for a period of 25 years from the law’s effectivity.**

Considering the limited period of existence for the PSALM’s discharge of its mandate, it would be absurd and iniquitous to hold it liable for liabilities and obligations incurred by the NPC even after the EPIRA’s effectivity. Note that despite privatization, the NPC continues to exist and perform missionary electrification functions.¹³³ In discharging these missionary electrification functions, the NPC would certainly acquire assets and incur liabilities. To hold the PSALM liable for the NPC’s post-EPIRA liabilities and obligations, particularly those not arising from existing

¹³¹ SEC. 50. Purpose and Objective, Domicile and Term of Existence. – The principal purpose of the PSALM Corp. is to manage the orderly sale, disposition, and privatization of NPC generation assets, real estate and other disposable assets, and IPP contracts with the objective of liquidating all NPC financial obligations and stranded contract costs in an optimal manner.

The PSALM Corp. shall have its principal office and place of business within Metro Manila.

The PSALM Corp. shall exist for a period of twenty five (25) years from the effectivity of this Act, unless otherwise provided by law, and all assets held by it, all moneys and properties belonging to it, and all its liabilities outstanding upon the expiration of its term of existence shall revert to and be assumed by the National Government

¹³² SEC. 51. Powers. – The Corporation shall, in the performance of its functions and for the attainment of its objective, have the following powers:

- (a) To formulate and implement a program for the sale and privatization of the NPC assets and IPP contracts and the liquidation of NPC debts and stranded contract costs, such liquidation to be completed within the term of existence of the PSALM Corp.;

¹³³ SEC. 70. Missionary Electrification. – Notwithstanding the divestment and/or privatization of NPC assets, IPP contracts and spun-off corporations, NPC shall remain as a National Government-owned and -controlled corporation to perform the missionary electrification function through the Small Power Utilities Group (SPUG) and shall be responsible for providing power generation and its associated power delivery systems in areas that are not connected to the transmission system. The missionary electrification function shall be funded from the revenues from sales in missionary areas and from the universal charge to be collected from all electricity end-users as determined by the ERC.

liabilities and obligations, is clearly contrary to the declared policy of the EPIRA.¹³⁴

The second sentence of Section 49 of the EPIRA further confirms the interpretation that only existing NPC liabilities were transferred to the PSALM. The EPIRA requires that “[a]ll *outstanding obligations* of the NPC arising from loans, issuances of bonds, securities, and other instruments of indebtedness shall be transferred to and assumed by PSALM Corp. within one hundred eighty (180) days from the approval of this Act.”¹³⁵

These “outstanding obligations x x x arising from x x x instruments of indebtedness” fall within the broader classification of “existing liabilities” of the NPC that PSALM acquired. The only difference is that the outstanding obligations from instruments of indebtedness must be transferred to PSALM within 180 days from the approval of the EPIRA. But the 180-day period merely refers to the period within which the transfer should be effected; it does not authorize the transfer of obligations incurred during the same 180-day period from the EPIRA’s approval.

The EPIRA provided a 180-day period for the transfer of these obligations in order for the ERC to be able to determine, fix and approve the universal charge that shall be imposed on all electricity end-users within one (1) year from its approval.¹³⁶ Under Section 34 of the EPIRA, the universal charge shall answer for the *stranded debts* of the NPC or those “unpaid obligations of the NPC which have not been liquidated by the proceeds from the sales and privatization of NPC assets.” The outstanding obligations arising from instruments of indebtedness that Section 49 of the EPIRA refers to may be considered as “stranded debts of NPC” that shall be satisfied by the universal charge collected from electricity consumers.

Are the separation benefits of the NPC officials and employees an “existing liability” of the NPC at the time of the EPIRA’s effectivity that would make the PSALM liable? Based on Section 63 of the EPIRA, **the separation benefits are undoubtedly existing liabilities of the NPC.**

The separation of NPC employees affected by its reorganization and privatization was a foregone conclusion. In recognition of this, the EPIRA gave the assurance that these employees shall receive the separation pay and other benefits due them under existing laws, rules or regulations or be able

¹³⁴ SEC. 2. Declaration of Policy. – It is hereby declared the policy of the State: x x x x
(i) To provide for an orderly and transparent privatization of the assets and liabilities of the National Power Corporation (NPC);

¹³⁵ Section 49 of the EPIRA.

¹³⁶ SEC. 34. Universal Charge. – Within one (1) year from the effectivity of this Act, a universal charge to be determined, fixed and approved by the ERC., shall be imposed on all electricity end-users for the following purposes:
(a) Payment for the **stranded debts** in excess of the amount assumed by the National Government and stranded contract costs of NPC and as well as qualified stranded contract costs of distribution utilities resulting from the restructuring of the industry[.] [emphases ours]

to avail of the privileges under a separation plan which shall be one and one-half month salary for every year of service in the government. **The employees' separation being an unavoidable consequence of the mandated restructuring and privatization of the NPC, the liability to pay for their separation benefits should be deemed existing as of the EPIRA's effectivity, and were thus transferred to PSALM pursuant to Section 49 of the law.**

The failure to implead PSALM does not defeat the execution of the final judgment against the assets it acquired from the NPC; PSALM is a necessary party

Since the PSALM assumed NPC's liabilities for its separated employees upon the effectivity of the EPIRA and prior to the commencement of the petitioners' action, the PSALM was **not** a transferee *pendente lite*. A transferee *pendente lite* is a successor-in-interest of the parties by title subsequent to the commencement of the action and is bound by the judgment or final order.

Our discussion settled that the PSALM assumed the NPC's liabilities that were existing at the time of the EPIRA's effectivity, and these existing liabilities included the separation benefits due the petitioners. Would it be fair to hold PSALM liable for the separation benefits of the petitioners when PSALM was never formally impleaded as a party to the case? The PSALM claims that as an indispensable party to the case, the failure to implead it renders the entire proceedings void for failure to afford it due process.

Section 7, Rule 3 of the Rules of Court defines indispensable parties as parties-in-interest **without whom there can be no final determination of an action**; thus, they must be joined either as plaintiffs or as defendants. An indispensable party is one who has such an interest in the controversy or subject matter that a final adjudication cannot be made in its absence without injuring or affecting that interest.¹³⁷ Insofar as this case is originally concerned, **PSALM was not an indispensable party.**

We note that what is at issue before the Court now involves matters of *execution* of our final judgment. The case, however, *originated from a petition for injunction* instituted by the petitioners against NPC to assail NPB Resolution Nos. 2002-125 and 2002-125. PSALM itself has pointed out that the assailed resolutions were solely NPC acts, of which it had no participation whatsoever. **Having no interest in the assailed NPC resolutions, PSALM therefore cannot be deemed an indispensable party which should have been impleaded in the injunctive suit.**

¹³⁷ *Regner v. Logarta*, 562 Phil. 862, 876 (2007), citing *Arcelona v. Court of Appeals*, 345 Phil. 250, 269-270 (1997).

The petitioners commenced the action *before* their separation from employment could be effected pursuant to the assailed NPB resolutions. Unfortunately, no TRO or preliminary injunction was issued and NPC proceeded with the termination of the employment of the petitioners. By declaring that the “petitioners have the right to reinstatement or separation pay in lieu of reinstatement..., plus backwages, wage adjustments, and other benefits” in the September 17, 2008 Resolution, the Court implicitly recognized that the actual termination of the petitioners’ employment constituted a supervening event which had to be addressed to give effect to the final ruling invalidating the NPC resolutions. At this stage of the case, *i.e.*, the execution of the Court’s final judgment, PSALM’s participation becomes relevant.

The PSALM acquired the majority of the NPC’s properties, in fact, even the net profits NPC would acquire belonged to PSALM. The NPC retained only the assets of the small power utilities groups, and its function has been limited to missionary electrification, *i.e.*, providing power generation and its associated power delivery systems in areas that are not connected to the transmission system.¹³⁸ Between NPC and the PSALM, the latter is in a better financial position to answer for the separation benefits due the petitioners. Recognizing that the separation from service of thousands of employees would result from the mandated restructuring and privatization of NPC, the EPIRA could not have intended for NPC to solely answer for the separation benefits which, by NPC’s estimation, would amount to billions of pesos. For NPC to solely answer for these liabilities may ultimately result in its financial ruin, contrary to the intent of the EPIRA.

Under Section 50 of the EPIRA, the PSALM was created to liquidate all financial obligations of the NPC and these financial obligations undoubtedly included the separation benefits due the petitioners. The **PSALM should thus be considered** not as an indispensable party, but **as a necessary party** who ought to be joined as a party if **complete relief** is to be accorded as to those already parties, or **for a complete determination or settlement of the claim** subject of the action.¹³⁹ Section 11, Rule 3 of the Rules of Court state that “[p]arties may be x x x added by order of the court on motion of any party or on its own initiative at any stage of the action and on such terms as may be just.”

In light of these considerations and the opportunity given to PSALM to argue its position before the Court, we deem it fair and just to uphold the PSALM’s liability for the separation benefits due the petitioners, consistent with our December 2, 2009 resolution.

¹³⁸ Section 47 of the EPIRA.

¹³⁹ Rules of Court, Rule 3, Section 8.

**(6) OTHER ISSUES - Motions for Contempt
filed by the petitioners and the NPC**

“Contempt of court is defiance of court authority that tends to degrade the dignity of the court and bring the administration of the law into [disrepute], or an act that interferes with or prejudices parties-litigants or their witnesses during litigation thereby impeding the administration of justice.”¹⁴⁰ It is also defined as the disobedience to the Court by acting in opposition to its authority, justice, and dignity, and signifies a willful disregard or disobedience of the court’s orders; it is a conduct that tends to bring the authority of the court and the administration of law into disrepute or otherwise impedes the administration of justice.¹⁴¹

In several cases,¹⁴² we explained that the power to punish for contempt is inherent in all courts and is essential to the preservation of order in judicial proceedings and to the enforcement of judgments, orders, and mandates of the court, and, consequently, to the due administration of justice. We also explained that the power should be exercised on the preservative, not on the vindictive, principle. Only occasionally should the court invoke its inherent power in order to retain that respect, without which the administration of justice will falter or fail. Only in cases of clear and contumacious refusal to obey should the power be exercised.

We considered all these principles in examining the motions for contempt filed by the petitioners and the NPC. The present motions dwell on the propriety of implementing our final September 26, 2006 Decision and final September 17, 2008 Resolution under the December 2, 2009 Resolution.

We point out that the December 2, 2009 Resolution was an order of execution of our final rulings succeeding the December 10, 2008 Resolution initially issued to implement our final rulings. We issued the December 2, 2009 Resolution under the following circumstances made in response to our December 10, 2008 Resolution: (1) the NPC’s stance that only 16 employees were affected by the December 10, 2008 Resolution; (2) the NPC’s issuance of NPB No. 2007-11; and (3) the PSALM’s resistance to the order of execution on the ground that it was not a party to the case.

The dispositive portion of the December 2, 2009 Resolution reads:

¹⁴⁰ *Villa v. Government Services Insurance System (GSIS)*, G.R. No. 174642, October 30, 2009, 604 SCRA 742, 748-479, citing *Regalado v. Go*, G.R. No. 167988, February 6, 2007, 514 SCRA 616, 627.

¹⁴¹ *Villa v. GSIS*, *supra*, note 140, citing *Collantes v. Court of Appeals*, G.R. No. 169604, March 6, 2007, 517 SCRA 561.

¹⁴² See *Bank of the Philippine Islands v. Calanza*, G.R. No. 180699, October 13, 2010, 633 SCRA 186, citing *Inonog v. Ibay*, A.M. No. RTC-09-2175, July 28, 2009, 594 SCRA 168, 177-178, and *Lu Ym v. Mahinay*, G.R. No. 169476, June 16, 2006, 491 SCRA 253, 261-262. *Habawel v. Court of Tax Appeals, First Division*, G.R. No. 174759, September 7, 2011 657 SCRA 138, 157, citing *Villavicencio v. Lukban*, 39 Phil. 778 (1919); and *Montenegro v. Montenegro*, G.R. No. 156829, June 8, 2004, 431 SCRA 415, 423.

1. **ORDERING** the Chairperson and the Members of the National Power Board and the President of the National Power Corporation, and their respective counsels, to **SHOW CAUSE** why they should not be held in contempt of court for their willful failure to comply with paragraphs 1 and 2 of the Resolution dated 10 December 2008 by claiming that the Court's decision nullifying NPB Board Resolutions No. 2002-124 and No. 2002-125 ordered only sixteen employees when it is clear that the Court's decision covered all personnel/employees affected by the restructuring of the NPC;
2. **ORDERING** the Clerk of Court of this Division to implead or join PSALM as a party-respondent in this case;
3. **ORDERING** the Chairperson and the Member of the National Power Board and the President of the National Power Corporation to comply with the Court's Resolution dated 10 December 2008. The list shall contain all the names of all, not 16, NPC personnel/employees affected by the restructuring of the NPC. The computation of the amounts due the employees who were terminated and/or separated as a result of, or pursuant to, the nullified NPB Board Resolutions No. 2002-124 and No. 2002-125 shall be from their **date of illegal termination up to 14 September 2007** when NPB Resolution No. 2007-55 was issued. Said list shall be submitted to the Clerk of Court of the Regional Trial Court and Ex-Officio Sheriff of Quezon City within ten (10) days from receipt of this resolution. They are also ordered to submit to this Court their compliance to said order within thirty (30) days from receipt of this resolution; and
4. **DIRECTING** the Clerk of Court of the Regional Trial Court and Ex-Officio Sheriff of Quezon City to cause the immediate execution of our Decision. Said Clerk of Court is further directed to submit to this Court his/her compliance to this directive within thirty (30) days from receipt of this resolution.

SO ORDERED.¹⁴³

The NPC's Motion for Contempt

The NPC contended that Atty. Ele and the RTC sheriffs violated Section 3(d), Rule 71 of the Rules of Court for prematurely executing the December 2, 2009 Resolution, which was not yet final because of the NPC's pending motion for reconsideration. It added that Atty. Ele and the RTC sheriffs deviated from the terms of the December 2, 2009 Resolution¹⁴⁴ by directing Mr. Edmund P. Anguluan, Vice-President for Human Resources of the NPC, to submit computations of the amounts due the separated employees. Mr. Anguluan, however, is not among the NPC officials identified in the December 2, 2009 Resolution who were tasked to comply with the Court's directives. It further points out that Mr. Anguluan did not have the authority to furnish the required list of employees.

¹⁴³ *Rollo*, pp. 1209-1210; emphases supplied.

¹⁴⁴ *Id.* at 1308-1319.

In their Comment, Atty. Ele and the RTC sheriffs maintained that there was no premature execution of the final rulings, as they acted in accordance with the directives and within the period stated under the Supreme Court resolutions. They stressed that the non-implementation of the directives within the period provided by the Court would have exposed them to a charge of malfeasance in office.¹⁴⁵

Section 3(d), Rule 71 of the Rules of Court declared the following acts, among others, punishable with indirect contempt:

(d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice.

By jurisprudence, the phrase “improper conduct” refers to acts constituting gross disrespect to the court that detracts from the dignity and integrity of a court of justice.¹⁴⁶ Improper conduct may be in the form of unfair criticisms;¹⁴⁷ the continuing resistance to the Court’s final judgment;¹⁴⁸ the employment of delaying tactics to obstruct the administration of justice¹⁴⁹ or otherwise unduly delaying the case;¹⁵⁰ and the violation of the *sub judice* rule.¹⁵¹

Measured against these yardsticks, the NPC’s motion for contempt is without basis.

The acts of Atty. Ele and the RTC sheriffs do not constitute improper conduct under Section 3(d), Rule 71 of the Rules of Court because they did not impede, obstruct, or otherwise degrade the administration of justice. Their acts were performed pursuant to the Court’s directives under our December 2, 2009 Resolution.

Further, we do not find any precipitate haste nor deviation from the implementation of our final rulings under the terms of the December 2, 2009 Resolution. At the time of its execution, there was no order from the Court restraining the enforcement of the December 2, 2009 Resolution, thus, making it a ministerial duty on the part of Atty. Ele and the RTC sheriffs to implement it.¹⁵²

The records also reveal the diligent efforts exerted by Atty. Ele and the RTC sheriffs in executing our final rulings. They show that the designated NPC officials in the December 2, 2009 Resolution failed to

¹⁴⁵ Id. at 1514-1515.

¹⁴⁶ *Surigao Mineral Reservation Board v. Cloribel*, No. L-27072, January 9, 1970, 31 SCRA 1, 23; and *Zaldivar v. Sandiganbayan*, 252 Phil. 1, 10 (1989).

¹⁴⁷ *Garcia, Jr. v. Manrique*, G.R. No. 186592, October 10, 2012, 683 SCRA 491, citing *In re Almacen*, G.R. No. L-27654, February 18, 1970, 31 SCRA 562, 580.

¹⁴⁸ *Heirs of Trinidad de Leon Vda. de Roxas v. CA*, 466 Phil. 697, 711 (2004).

¹⁴⁹ *Barredo-Fuentes v. Judge Albarracin*, 496 Phil. 31, 41 (2005).

¹⁵⁰ *Poblete v. Court of Appeals*, 499 Phil. 672, 677 (2005).

¹⁵¹ *Romero II v. Estrada*, G.R. No. 174105, April 2, 2009, 583 SCRA 396, 403.

¹⁵² *Bank of the Philippine Islands v. Labor Arbiter Calanza*, *supra* note 142, at 195.

furnish the Court a list of employees as required by the clear terms of the said Resolution. At the same time, the petitioners, through their counsel,¹⁵³ were eager to have the Court's final rulings executed and, accordingly, coordinated with Atty. Ele and the RTC sheriffs to implement our final rulings. Most importantly, Atty. Ele and the RTC sheriffs were acting under time constraints, since they had to act within the deadline given by the Court to fully execute our final rulings.

Similarly, the imputed deviation allegedly committed by Atty. Ele and the RTC sheriffs was more imagined than real. In the first place, it was the NPC, not Atty. Ele and the RTC sheriffs, which had the obligation to furnish a list of the NPC employees covered by our final rulings under the terms of the December 2, 2009 Resolution. As stated earlier, Atty. Ele and the RTC sheriffs had to request Mr. Anguluan to furnish the required list considering the inaction of the NPC, the eagerness of the counsel of the petitioners to have our final rulings executed, and the time constraints imposed by the Court.

The imputed deviation is also negated by the procedure that Atty. Ele and the RTC sheriffs undertook; they followed the prescribed procedure under Section 9, Rule 39 of the Rules of Court in enforcing judgments for money, thus:

Section 9. Execution of judgments for money, how enforced. —

(a) Immediate payment on demand. — The officer shall enforce an execution of a judgment for money by demanding from the judgment obligor the immediate payment of the full amount stated in the writ of execution and all lawful fees. The judgment obligor shall pay in cash, certified bank check payable to the judgment obligee, or any other form of payment acceptable to the latter, the amount of the judgment debt under proper receipt directly to the judgment obligee or his authorized representative if present at the time of payment. The lawful fees shall be handed under proper receipt to the executing sheriff who shall turn over the same amount within the same day to the clerk of court that issued the writ.

X X X X

(b) Satisfaction by levy. — If the judgment obligor cannot pay all or part of the obligation in cash, certified bank check or other mode of payment acceptable to the judgment obligee, the officer shall levy upon the properties of the judgment obligor of every kind and nature whatsoever which may be disposed, of for value and not otherwise exempt from execution giving the latter the option to immediately choose which property or part thereof may be levied upon, sufficient to satisfy the judgment. If the judgment obligor does not exercise the option, the officer shall first levy on the personal properties, if any, and then on the real properties if the personal properties are insufficient to answer for the judgment.

X X X X

¹⁵³

Attys. Aldon and Orocio. *Rollo*, pp. 1315 and 1515.

(b) Garnishment of debts and credits. — The officer may levy on debts due the judgment obligor and other credits, including bank deposits, financial interests, royalties, commissions and other personal property not capable of manual delivery in the possession or control of third parties. Levy shall be made by serving notice upon the person owing such debts or having in his possession or control such credits to which the judgment obligor is entitled. The garnishment shall cover only such amount as will satisfy the judgment and all lawful fees.

The garnishee shall make a written report to the court within five (5) days from service of the notice of garnishment stating whether or not the judgment obligor has sufficient funds or credits to satisfy the amount of the judgment. If not, the report shall state how much funds or credits the garnishee holds for the judgment obligor. The garnished amount in cash, or certified bank check issued in the name of the judgment obligee, shall be delivered directly to the judgment obligee within ten (10) working days from service of notice on said garnishee requiring such delivery, except the lawful fees which shall be paid directly to the court.

In the event there are two or more garnishees holding deposits or credits sufficient to satisfy the judgment, the judgment obligor, if available, shall have the right to indicate the garnishee or garnishees who shall be required to deliver the amount due, otherwise, the choice shall be made by the judgment obligee.

The executing sheriff shall observe the same procedure under paragraph (a) with respect to delivery of payment to the judgment obligee.

Under the terms of our December 2, 2009 Resolution and the list of employees supplied by Mr. Anguluan,¹⁵⁴ Atty. Ele and the RTC sheriffs sent a Demand for Immediate Payment to the Chairman and Members of the NPB and the President of the NPC to pay the money judgment amounting to Thirty Three Billion Seven Hundred Fifty-One Million Two Hundred Ninety-Four Thousand Three Hundred Seventy-Four Pesos (₱33,751,294,374.00)¹⁵⁵ and lawful fees and costs for the execution amounting to One Billion Twelve Million Five Hundred Thirty-Nine Thousand Four Hundred Thirty-One Pesos and Twenty-Two Centavos (₱1,012,539,431.22), to be paid either in cash or certified bank check.

In accordance with the prescribed procedure, Atty. Ele and the RTC sheriffs sent Notices of Garnishment to the LBP, the PNB, the MERALCO, the National Grid Corporation of the Philippines, garnishing the credits of the NPC and the PSALM to satisfy the money judgment.¹⁵⁶

Viewed in this light, the NPC's motion for contempt must fail considering that Atty. Ele and the RTC sheriffs acted according to the terms of our December 2, 2009 Resolution and the prescribed procedure in executing our final rulings.

¹⁵⁴ Id. at 1378 and 1514.

¹⁵⁵ Id. at 1379-1380.

¹⁵⁶ Id. at 1381-1389 and 1505.

The petitioners' Motion for Contempt

The petitioners argued that the dilatory actions employed by the NPC and the OSG in resisting the execution of the final September 26, 2006 Decision and final September 17, 2008 Resolution are *res ipsa loquitor* in indicating their contumacious conduct. The “dilatory actions” referred to by the petitioners pertain to the pleadings filed by the NPC and the OSG (in the nature of legal remedies) to forestall the execution of our final rulings. Essentially these pleadings refer to the motions (items [2] to [6])) presently under our consideration.¹⁵⁷

Similarly, the petitioners stressed that the NPC and the OSG failed to timely submit an explanation on why they should not be held in contempt as required by the December 2, 2009 Resolution. The petitioners insisted that the NPC’s motion for reconsideration of the December 2, 2009 Resolution is a prohibited motion, being a third motion for reconsideration of our final rulings.

Under the circumstances, no doubt exists that the **NPC committed several acts demonstrating its disobedience to our final rulings:**

First, the NPC’s refusal to comply with the December 10, 2008 Resolution by insisting on an interpretation contrary to the clear import of our final rulings.

Second, the NPC’s refusal to comply with the December 2, 2009 Resolution which required it to: (1) submit a list of all NPC employees, together with the amounts due them, affected by the nullified NPB resolutions; (2) pay the amounts due to the affected NPC employees pursuant to our final rulings; and (3) submit proof of its compliance.

Third, the NPC’s refusal to give full cooperation in the implementation by Atty. Ele and RTC sheriffs of the December 2, 2009 Resolution, which compelled the latter, at their own initiative, to procure a copy of the list of the NPC employees affected by our final rulings.

Fourth, the NPC’s employment of motions to stay the execution of the December 2, 2009 Resolution grounded on issues not timely raised before the finality of our final rulings.

We cannot agree with the NPC and the OSG’s argument in their Comment that there was a need to first resolve the motions they filed questioning the propriety of execution ordered in the December 2, 2009 Resolution.¹⁵⁸ As an order of execution, the December 2, 2009 Resolution clearly provided for its immediate execution. This is reinforced by the

¹⁵⁷ See pp. 1 and 2 of the present Resolution.

¹⁵⁸ *Rollo*, pp. 2098-2104.

deadline we imposed upon Atty. Ele and the RTC sheriffs to comply with our directives.¹⁵⁹

The NPC's action significantly reveals its recognition of the December 2, 2009 Resolution's immediate enforceability; otherwise, it would not have filed a motion to defer its execution pending the resolution of its motion for reconsideration.¹⁶⁰ The NPC, too, recognized that the filing of a motion for reconsideration does not stay the execution of our December 2, 2009 Resolution.

We declared in *Far Eastern Surety & Insurance Company, Inc. v. Vda. de Hernandez*¹⁶¹ that after final judgment, as a rule, the parties will not be allowed to object to the execution by raising new issues of fact or of law. This is because a final judgment signifies that all the issues between or among the parties are deemed resolved; the judgment marks the end of the court's exercise of the court's judicial function on the matters related to the controversy litigated.¹⁶² From the time of finality, the execution of a final judgment is purely a ministerial phase of adjudication.¹⁶³ Although the rule admits of exceptions,¹⁶⁴ none of these exceptions applies to the NPC to warrant a stay in the execution of our final rulings.

From another perspective, our conclusion finds support from Section 4, Rule 39 of the Rules of Court, which may be applied by analogy under the circumstances. Section 4, Rule 39 of the Rules of Court provides that judgments in an action for injunction are immediately executory and are not stayed by appeal unless by order of the court. In this case, the pendency of a motion for reconsideration by itself was not a compelling reason to stay the execution of a final judgment.

Without doubt, these considerations plainly show the lack of any plausible reason to justify the NPC's failure to follow our December 10, 2008 Resolution and December 2, 2009 Resolution. We cannot permit therefore the NPC to further delay or frustrate the execution of a judgment that had long attained finality, absent any compelling reason to do so.

On this note, Section 3(b) Rule 71 of the Rules of Court lists the disobedience of or resistance to a lawful writ as one of the grounds for indirect contempt. We held in *BPI v. Labor Arbiter Calanza*¹⁶⁵ that to be

¹⁵⁹ *Supra* note 30.

¹⁶⁰ *Rollo*, pp. 1345-1346.

¹⁶¹ 160-A Phil. 406, 410 (1975).

¹⁶² *Id.* at 410

¹⁶³ *Id.* at 411.

¹⁶⁴ They are: (1) when there had been a change in the situation of the parties which makes such execution inequitable or when it appears that the controversy has ever been submitted to the judgment of the court; (2) when it appears that the writ of execution has been improvidently issued, or that it is defective in substance, or is issued against the wrong party, or that judgment debt has been paid or otherwise satisfied; and (3) when the writ has been issued without authority; See *Far Eastern Surety & Insurance Company, Inc. v. Vda. de Hernandez*, *supra* note 161, at 410-411.

¹⁶⁵ *Supra* note 142, at 193.

considered contemptuous, the act of disobedience must be clearly contrary to or prohibited by the order of the court or tribunal. We declared that “a person cannot, for disobedience, be punished for contempt unless the act which is forbidden or required to be done is clearly and exactly defined, so that there can be no reasonable doubt or uncertainty as to what specific act or thing is forbidden or required.”¹⁶⁶

In the past, we have recognized several factors indicative of contumacious conduct for disobedience of lawful writ or order, *i.e.*, the time element or lapse of time to comply with our final judgment, the sincerity and good faith of the losing party, and the repeated erroneous computations pursuant to final judgment.¹⁶⁷ In *Lee v. Regional Trial Court of Quezon City, Branch 85*, we considered as contumacious conduct a party’s repeated attempts to raise issues already laid to rest by a final and executory judgment.¹⁶⁸

The totality of circumstances in the present case amply support the contumacious conduct exhibited by the NPC and the OSG in failing to comply with our final rulings. We start with the time elapsed (or more than a year after the Court issued the first order of execution without any action from the NPC and the OSG) as a gauge of their willingness to comply in good faith with the directives as contemplated in our final rulings.

Also, their actions no less demonstrate bad faith and utter lack of sincerity based on the circumstance of the non-disclosure of NPB Resolution No. 2003-11 to the Court. It is not lost on us that NPB Resolution No. 2003-11, which amended NPB Resolution No. 2002-124, was issued a month after the filing of the case, but the NPC and the OSG informed the Court of its existence after more than six (6) years had passed and only after the finality of our final rulings. Their belated disclosure of NPB Resolution No. 2003-11 was made in order to support their “new” stand that only 16 NPC employees were affected by the nullified NPB Resolutions, in effect, mitigating its liability despite the clear import of our final rulings.

As mentioned in our December 2, 2009 Resolution, both the Court and the petitioners were made to believe that the issue in the petition involved the termination from employment of all NPC employees arising from the nullified NPB resolutions.¹⁶⁹ This belief was further strengthened by the pleadings (*i.e.*, motions for reconsideration) filed by the NPC through the OSG, assailing the final December 26, 2006 Decision. In these pleadings, the NPC hinted of a huge financial exposure resulting from the illegal termination of all NPC employees (not only 16 employees) under the nullified NPB resolutions.

¹⁶⁶ Id. at 195.

¹⁶⁷ *Villa v. GSIS*, *supra* note 141 at 752-754.

¹⁶⁸ *Supra* note 97.

¹⁶⁹ *Rollo*, p. 1199.

We are also not unmindful that after the issuance of the final September 26, 2006 Decision, the NPC, to mitigate its liability from our final rulings, issued NPB Resolution No. 2007-55 that ratified any infirmity from NPB Resolution No. 2003-11 and other subsequent NPB resolutions affecting the termination from employment of all NPC employees. Like NPB Resolution No. 2003-11, the NPC and the OSG now use the existence of NPB Resolution No. 2007-55 as part of a legal strategy to manipulate the execution of our final rulings in order to limit the NPC's financial liability. In line with this strategy, the NPC and the OSG submitted a Compliance to our December 10, 2008 Resolution by submitting a list of only 16 employees, contrary to the clear import of our final rulings that contemplated the illegal termination of all NPC employees.

Further, we are also aware that the NPC and the OSG filed a motion for reconsideration against the December 2, 2009 Resolution, aimed at staying and delaying the execution of our final rulings. To our mind, this move did not have the benefit of any arguably justifiable grounds. The motion was plainly dilatory in character considering that its arguments raised had been passed upon in the December 2, 2009 Resolution and, more importantly, were already barred by estoppel and the immutability of judgment principle.¹⁷⁰

In considering the contumacious conduct exhibited by the NPC, we also take note of the OSG's participation by giving improper and unjustified advice to the NPC. Despite the finality of our final rulings, the OSG encouraged the NPC's disobedience against our final rulings as shown in the letter dated October 8, 2008 of Assistant Solicitor General Roman G. del Rosario and Associate Solicitor General Aristotle R. Mejia to NPC President Atty. Cyril C. del Callar, thus:

A review of pertinent circumstances disclosed that **the execution of the Supreme Court's Decision dated 26 September 2006 may be challenged for cogent reasons.**

Significantly, **since NPB Resolution No. 2007-55, including NPB Resolution Nos. 2003-01, 2003-11, 2003-12, and 2003-15 were not the subject of the Supreme Court Decision dated 26 September 2006, the same remains valid and effective.** Until nullified, these subsequent resolutions may be implemented more so – as they were issued with the approval of the NPB Members as specified by law x x x.

x x x x

In fine, NPB Resolution No. 2007-55, including NPB Resolution Nos. 2003-01, 2003-11, 2003-12, and 2003-15 are supervening events that bring about a material change in the situation between the parties which makes the execution inequitable.¹⁷¹

¹⁷⁰ We also note the NPC's pending petition for review, docketed as G.R. No. 194529, *NPC v. Canabag and Panal*, in which the NPC raised the same issues already resolved with finality by this Court in the present case.

¹⁷¹ *Rollo*, p. 815; emphases ours.

The OSG also allowed itself to be used as an instrument to delay the implementation of our final rulings. The records show that the OSG filed a motion for additional time¹⁷² to “address” the December 10, 2008 Resolution in light of the letter dated February 5, 2009 of NPC President Froilan Tampinco to the then Solicitor General, Agnes VST Devanadera,:

x x x in the light of the Opinion dated 8 October 2008 of the Office of the Solicitor General (OSG) and in order to properly address the Supreme Court Resolution dated 10 December 2008 x x x.

x x x. We hope you understand the NPC predicament.¹⁷³

On the basis of the OSG’s opinion stated in the letter dated October 8, 2008, the NPC, through the OSG, filed its “compliance” with the December 10, 2008 Resolution which contravened the clear import of our final rulings.

The OSG, as officers of the court, “share in the task and responsibility of dispensing justice and resolving disputes,”¹⁷⁴ in addition to its sworn duty to provide legal services to the Government. Under the circumstances, we can neither permit nor condone any act that obstructs, perverts or impedes and degrades the administration of justice.¹⁷⁵ For employing legal schemes to delay the execution of our final rulings that have long attained finality, the OSG is reminded of its following duties under the Code of Professional Responsibility, namely:

CANON 1 - A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND LEGAL PROCESSES.

Rule 1.04 - A lawyer shall encourage his clients to avoid, end or settle a controversy if it will admit of a fair settlement.

Rule 12.04 - A lawyer shall not unduly delay a case, impede the execution of a judgment or misuse Court processes.

Canon 6 of the Code of Professional Responsibility provides that the above duties apply to lawyers in the government service in the discharge of their official tasks. In this case, the OSG failed to render effective legal service pursuant to the duties stated in the Code of Professional Responsibility. It failed to properly provide the appropriate advice to the NPC in the matter of accepting the Court’s ruling and on the effect of a final judgment. Instead, the OSG used its efforts and resources to look for legal loopholes and misused its knowledge of court procedure to relieve the NPC of our final rulings or otherwise forestall their inevitable execution. Clearly, the OSG overstepped due bounds in protecting the interests of the NPC.

¹⁷² Id. at 802-805.

¹⁷³ Id. at 806.

¹⁷⁴ *Halili v. Court of Industrial Relations*, 224 Phil. 225, 242 (1985); insofar as it is applied *mutatis mutandis*.

¹⁷⁵ Id. at 238-239; *mutatis mutandis*.

Thus, together with the NPC, the OSG's actions constitute contumacious conduct no less.

CONCLUSIONS

We sum up all our discussions as follows:

First, our final September 26, 2006 Decision and final September 17, 2008 Resolution contemplate and cover **all the NPC employees** whose illegal termination from employment stemmed from NPB Resolution No. 2002-124 and NPB Resolution No. 2002-125. Section 78 of the EPIRA vests the Court with jurisdiction to rule on the issue of the illegal termination of all the NPC employees as the issue was incidental to the implementation of the provisions of the EPIRA.

The NPC is barred by estoppel and by the principle of finality of judgment from raising arguments aimed at modifying our final rulings. Without any supporting exceptional reason or argument, the NPC and the OSG cannot repeatedly attack our final judgments by raising points that should have been raised prior to the finality of our rulings.

Second, the September 17, 2008 Resolution did not grant additional reliefs not included in the September 26, 2006 Decision. The September 17, 2008 Resolution merely clarified the September 26, 2006 Decision by explaining the consequences of the earlier decision. Besides, the Court's order of reinstatement or the payment of separation benefits to all the NPC employees illegally dismissed from employment under the nullified NPB resolution forms part of the general relief in the petition and the result of the specific reliefs prayed for therein.

Third, the dispositive portion of the December 10, 2008 Resolution did not exceed the terms of the final September 17, 2008 Resolution. The terms stated in the December 10, 2008 Resolution were consistent with the terms of the final September 17, 2008 Resolution falling within the Court's residual authority to see to the proper execution and enforcement of its final rulings. Similarly, the award of 12% legal interest accruing from the finality of judgment is proper; it is a natural consequence of a final judgment and did not affect the principle of immutability of judgment as we explained in the cases of *Eastern Shipping Lines, Inc., Session Delights Ice Cream & Fast Foods, BPI Employees Union-Metro Manila* and *Gonzales*.¹⁷⁶

Fourth, our final rulings declared the nullified NPB resolutions as void and without legal effect for being enacted in contravention of Section 48 of the EPIRA. With this final declaration, the nullified NPB Resolutions cannot be ratified. The issuance of NPB Resolution No. 2007-55 did not affect our final rulings in light of its prospective application.

¹⁷⁶

See notes 111, 113, and 115, respectively.

Fifth, the PSALM assumed NPC's liabilities existing at the time of the EPIRA's effectivity, and these include the separation benefits due the petitioners.

As may be gathered from Sections 47, 49, 50 and 55 of the EPIRA law, the properties and liabilities of the NPC existing at the time of the EPIRA's effectivity were transferred to the PSALM. These liabilities include the separation benefits due the petitioners whose termination from employment is acknowledged by the EPIRA as part of its mandated restructuring and privatization of the NPC. For this reason, the PSALM is considered as a necessary party and is impleaded in the case in order that complete relief may be accorded the parties.

Lastly, the refusal by the NPC to comply with the December 10, 2008 Resolution and December 2, 2009 Resolution, implementing our final rulings, constitutes contumacious conduct for being unjustified and without legal and factual basis. The NPC and the OSG's non-compliance with our final orders was attended with bad faith and utter lack of sincerity to abide by our resolutions. The contumacious conduct was demonstrated by the filing of dilatory pleadings raising arguments already barred by estoppel and contrary to the principle of immutability of judgment.

WHEREFORE, premises considered, the Court resolves to:

1. **GRANT** the petitioners' Manifestation with Ex-Parte Very Urgent Motion to Summarily Cite Respondents and their Counsels in Contempt of Court dated January 5, 2010. The National Power Corporation and the Office of the Solicitor General are separately found guilty of **INDIRECT CONTEMPT** and are hereby **ORDERED** to each pay a **FINE** in the amount of Thirty Thousand Pesos (P30,000.00).
2. **DENY** the National Power Corporation's Motion for Reconsideration (of the Resolution dated 2 December 2009) with Motion to Refer Case *en consulta* to the Court *en banc* dated 18 December 2009 (Pending Reconsideration of NPC's Motion for Reconsideration);
3. **DENY** the National Power Corporation's Very Urgent Plea to Defer Execution of Resolution dated 2 December 2009 (Pending Resolution of NPC's Motion for Reconsideration) and for the Issuance of a Temporary Restraining Order (To Enjoin Implementation of the Ex-Officio Sheriff's Garnishment of NPC Funds) dated 5 January 2010;
4. **DENY** the National Power Corporation's Very Urgent Motion to Direct the Ex-Officio Sheriff Atty. Perlita Vitan-Ele and Sheriffs Rolando G. Acal, Pedro L. Borja and Edgar R. Lucas to Show

Cause as to Why They Should Not Be Cited in Contempt dated December 29, 2009.


5. **DENY** the PSALM's Motion for Reconsideration of the December 2, 2009 Resolution (with Urgent Prayer for the Issuance of a Temporary Restraining Order and/or to hold in abeyance the Implementation of the Decision dated 26 September 2006) dated December 4, 2009.


Costs against respondent National Power Corporation.

SO ORDERED.


ARTURO D. BRION
Associate Justice

WE CONCUR:


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Chairperson

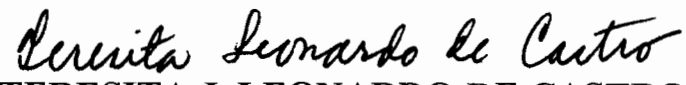

LUCAS P. BERSAMIN
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


MARVIC MARIO VICTOR F. LEONEN
Associate Justice

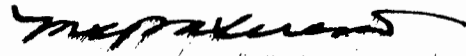
ATTESTATION

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


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution 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