



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

**THE OFFICE OF THE
 SOLICITOR GENERAL (OSG),**
 Petitioner,

G.R. No. 199027

Present:

- versus -

SERENO, C.J.,
Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 VILLARAMA, JR., and
 REYES, JJ.

**THE HONORABLE COURT OF
 APPEALS and THE MUNICIPAL
 GOVERNMENT OF SAGUIRAN,
 LANA O DEL SUR,**
 Respondents.

Promulgated:

JUN 09 2014

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DECISION

REYES, J.:

This resolves the Petition for *Certiorari*¹ filed by the Office of the Solicitor General (OSG) to assail the Resolutions dated October 18, 2010² and August 25, 2011³ of the Court of Appeals (CA) in CA-G.R. SP No. 02816-MIN, where the CA denied the OSG's motion to be excused from filing for and on behalf of respondent Municipal Government of Saguiran, Lanao del Sur (Municipality of Saguiran) the memorandum, or any other pleading that would be required by the appellate court relative to the appeal.

¹ Rollo, pp. 2-18.

² Penned by Associate Justice Rodrigo F. Lim, Jr., with Associate Justices Angelita A. Gacutan and Nina G. Antonio-Valenzuela, concurring; id. at 22-25.

³ Id. at 27-29.

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The Antecedents

The Municipality of Saguiran was named a respondent in a petition for mandamus⁴ filed with the Regional Trial Court (RTC) of Lanao del Sur by the former members of the *Sangguniang Bayan* of Saguiran, namely, Macmod P. Masorong, Amrosi Macote Samporna, Alanie L. Dalama, Hassan P. Amai-Kurot and Cadalay S. Rataban. Therein petitioners sought to compel the Municipality of Saguiran to pay them the aggregate amount of ₱726,000.00, representing their unpaid terminal leave benefits under Section 5 of the Civil Service Commission Memorandum Circular Nos. 41, Series of 1998 and 14, Series of 1999.⁵ The Municipality of Saguiran sought the trial court's dismissal of the petition through its Verified Answer with Affirmative Defenses and Counterclaim⁶ which was signed by Municipal Mayor Hadjah Rasmia B. Macabago and Municipal Treasurer Hadji Mautinter Dimacaling.

On January 6, 2009, the RTC issued an Order⁷ dismissing the petition on the ground that the act being sought by therein petitioners was not a ministerial duty. The RTC explained that the payment of terminal leave benefits had to undergo the ordinary process of verification, approval or disapproval by municipal officials.⁸ It, nonetheless, directed the Municipality of Saguiran to include in its general or special budget for the year 2009 the subject claims for terminal leave benefits.

Dissatisfied with the RTC's directive for the inclusion of the subject claims in the municipality's budget, the Municipality of Saguiran partially appealed the order of the RTC to the CA. On December 14, 2009, the appellate court issued a notice⁹ requiring the OSG to file a memorandum for the Municipality of Saguiran within a non-extendible period of 30 days.

The OSG initially moved for a suspension of the period to file the required memorandum, explaining that it had not received any document or pleading in connection with the case.¹⁰ It asked for a period of 30 days from receipt of such documents within which to file the required memorandum. On April 23, 2010, the OSG's motion was denied by the CA on the ground that the relief sought was not among the remedies allowed under the Rules of Court. The OSG was instead given a non-extendible period of 90 days from notice within which to file the memorandum.¹¹

⁴ Id. at 30-33.

⁵ Id. at 30-31.

⁶ Id. at 34-36.

⁷ Issued by Acting Presiding Judge Rasad G. Balindong; id. at 37-38.

⁸ Id. at 38.

⁹ Id. at 39.

¹⁰ Id. at 40-42.

¹¹ Id. at 7.

On August 5, 2010, the OSG filed a Manifestation and Motion¹² requesting to be excused from filing the memorandum on the ground of lack of legal authority to represent the Municipality of Saguiran. It reasoned that the Municipality of Saguiran had to be represented by its legal officer, pursuant to Article XI(3)(i) of Republic Act No. 7160, otherwise known as the Local Government Code of 1991 (LGC).

On October 18, 2010, the CA issued the assailed Resolution¹³ denying the OSG's motion on the following basis:

The OSG alleges:

“The Office of the Solicitor General (OSG), to this Honorable Court, respectfully manifests that it has no legal authority to represent any of the respondent-appellants [sic] in the above-captioned case as its mandate is limited to the representation of ‘the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of lawyer.’”

We are at a loss as to how the OSG views a local government unit then if it does not consider the same part of the Government of the Philippines or an agency or instrumentality thereof; but to enlighten the said Office, the Supreme Court in *Province of Camarines Sur vs. Court of Appeals, Et. Al.* held that a local government unit, in the performance of its political functions, is an agency of the Republic and acts for the latter's benefit.¹⁴ (Citations omitted)

The OSG moved to reconsider, but this was denied by the CA *via* the Resolution¹⁵ dated August 25, 2011.

The Present Petition

Hence, this Petition for *Certiorari* founded on the following ground:

THE HONORABLE [CA] COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN COMPELLING THE OSG TO REPRESENT THE MUNICIPAL GOVERNMENT OF SAGUIRAN, LANA DEL SUR (A LOCAL GOVERNMENT UNIT) IN ITS LAWSUIT.¹⁶

¹² Id. at 43-45.

¹³ Id. at 22-25.

¹⁴ Id. at 22-23.

¹⁵ Id. at 27-29.

¹⁶ Id. at 8.

The OSG argues that the legal officer of a local government unit must represent it in its lawsuits, citing the provisions of the LGC and jurisprudence which bar local government units from obtaining the services of a lawyer other than their designated legal officers.

The Court's Ruling

The petition is meritorious.

The OSG's powers and functions are defined in the Administrative Code of 1987 (Administrative Code), particularly in Section 35, Book IV, Title III, Chapter 12 thereof, which reads:

Sec. 35. *Powers and Functions.* – The Office of the Solicitor General shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of a lawyer. When authorized by the President or head of the office concerned, it shall also represent government-owned or controlled corporations. The Office of the Solicitor General shall constitute the law office of the Government and, as such, shall discharge duties requiring the services of a lawyer. It shall have the following specific powers and functions:

- (1) Represent the Government in the Supreme Court and the Court of Appeals in all criminal proceedings; represent the Government and its officers in the Supreme Court, the Court of Appeals, and all other courts or tribunals in all civil actions and special proceedings in which the Government or any officer thereof in his official capacity is a party;

x x x x

A cursory reading of this provision may create the impression that the OSG's mandate under the Administrative Code is unqualified, and thus broad enough to include representation of a local government unit in any case filed by or against it, as local government units, indisputably, form part of the Government of the Philippines. Towards a proper resolution of the pending issue, however, the OSG's mandate under the Administrative Code must be construed taking into account the other statutes that pertain to the same subject of representation in courts. As the Court explained in *Philippine Economic Zone Authority v. Green Asia Construction & Development Corporation*:¹⁷

¹⁷ G.R. No. 188866, October 19, 2011, 659 SCRA 756.

Statutes are in *pari materia* when they relate to the same person or thing or to the same class of persons or things, or object, or cover the same specific or particular subject matter.

It is axiomatic in statutory construction that a statute must be interpreted, not only to be consistent with itself, but also to harmonize with other laws on the same subject matter, as to form a complete, coherent and intelligible system. The rule is expressed in the maxim, “*interpretare et concordare legibus est optimus interpretandi*,” or every statute must be so construed and harmonized with other statutes as to form a uniform system of jurisprudence.¹⁸

On the matter of counsels’ representation for the government, the Administrative Code is not the only law that delves on the issue. Specifically for local government units, the LGC limits the lawyers who are authorized to represent them in court actions, as the law defines the mandate of a local government unit’s legal officer. Book III, Title V, Article XI, Section 481 of the LGC provides:

Article Eleven
The Legal Officer

Sec. 481. *Qualifications, Term, Powers and Duties.*

(a) No person shall be appointed legal officer unless he is a citizen of the Philippines, a resident of the local government concerned, of good moral character, and a member of the Philippine Bar. x x x.

x x x x

The appointment of legal officer shall be mandatory for the provincial and city governments and optional for the municipal government.

(b) The legal officer, the chief legal counsel of the local government unit, shall take charge of the office of legal services and shall:

x x x x

(3) In addition to the foregoing duties and functions, the legal officer shall:

(i) **Represent the local government unit in all civil actions and special proceedings wherein the local government unit or any official thereof, in his official capacity, is a party:** Provided, That, in actions or proceedings where a component city or municipality is a party adverse to the provincial government or to another component city or municipality, a special legal officer may be deployed to represent the adverse party;

¹⁸ Id. at 764, citing *Honasan II v. The Panel of Investigating Prosecutors of the Department of Justice*, G.R. No. 159747, April 13, 2004, 427 SCRA 46, 69-70.

x x x x (Emphasis ours)

Evidently, this provision of the LGC not only identifies the powers and functions of a local government unit's legal officer. It also restricts, as it names, the lawyer who may represent the local government unit as its counsel in court proceedings. Being a special law on the issue of representation in court that is exclusively made applicable to local government units, the LGC must prevail over the provisions of the Administrative Code, which classifies only as a general law on the subject matter. The Court held in *Social Justice Society (SJS), et al. v. Hon. Atienza, Jr.*:¹⁹

The special act and the general law must stand together, one as the law of the particular subject and the other as the law of general application. The special law must be taken as intended to constitute an exception to, or a qualification of, the general act or provision.²⁰ (Citations omitted)

Further, the Court ruled in *Vinzons-Chato v. Fortune Tobacco Corporation*:²¹

A general statute is one which embraces a class of subjects or places and does not omit any subject or place naturally belonging to such class. A special statute, as the term is generally understood, is one which relates to particular persons or things of a class or to a particular portion or section of the state only.

A general law and a special law on the same subject are statutes in *pari materia* and should, accordingly, be read together and harmonized, if possible, with a view to giving effect to both. The rule is that where there are two acts, one of which is special and particular and the other general which, if standing alone, would include the same matter and thus conflict with the special act, **the special law must prevail since it evinces the legislative intent more clearly than that of a general statute** and must not be taken as intended to affect the more particular and specific provisions of the earlier act, unless it is absolutely necessary so to construe it in order to give its words any meaning at all.²² (Citations omitted and emphasis ours)

Given the foregoing, the CA committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the assailed resolutions which obligated the OSG to represent the Municipality of Saguiran. Such ruling disregarded the provisions of the LGC that vested exclusive authority upon legal officers to be counsels of local government units. Even the employment of a special legal officer is expressly allowed by the law only

¹⁹ 568 Phil. 658 (2008).

²⁰ Id. at 697.

²¹ 552 Phil. 101 (2007).

²² Id. at 110-111.

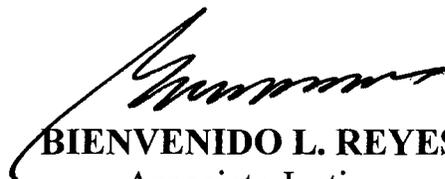
upon a strict condition that the action or proceeding which involves the component city or municipality is adverse to the provincial government or to another component city or municipality.

The mere fact that the OSG initially filed before the CA a motion for extension of time to file the required memorandum could not have estopped it from later raising the issue of its lack of authority to represent the Municipality of Saguiran. Its mandate was to be traced from existing laws. No action of the OSG could have validated an act that was beyond the scope of its authority.

It bears mentioning that notwithstanding the broad language of the Administrative Code on the OSG's functions, the LGC is not the only qualification to its scope. Jurisprudence also provides limits to its authority. In *Urbano v. Chavez*,²³ for example, the Court ruled that the OSG could not represent at any stage a public official who was accused in a criminal case. This was necessary to prevent a clear conflict of interest in the event that the OSG would become the appellate counsel of the People of the Philippines once a judgment of the public official's conviction was brought on appeal.

WHEREFORE, the petition is **GRANTED**. The Resolutions dated October 18, 2010 and August 25, 2011 of the Court of Appeals in CA-G.R. SP No. 02816-MIN are **ANNULLED** and **SET ASIDE**. The Legal Officer of the Municipal Government of Saguiran, Lanao del Sur, or if there is none, the Provincial Attorney of the Province of Lanao del Sur, and not the Office of the Solicitor General, has the duty to represent the local government unit as counsel in CA-G.R. SP No. 02816-MIN.

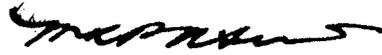
SO ORDERED.


BIENVENIDO L. REYES
Associate Justice

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262 Phil. 374 (1990).

WE CONCUR:

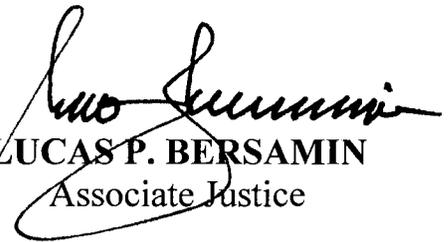


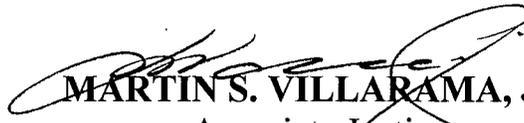
MARIA LOURDES P. A. SERENO

Chief Justice

Chairperson


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO

Chief Justice