

Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PHILIPPINE CONTRACTORS
ACCREDITATION BOARD,
Petitioner,

G.R. No. 242296

Present:

- versus -

CENTRAL MINDANAO
CONSTRUCTION MULTI-
PURPOSE COOPERATIVE REP. BY
ITS CHAIRMAN NOEL O. GASCON
AND HARRY M. LUSTERIO,
Respondents.

GESMUNDO, C.J., Chairperson
HERNANDO,
ZALAMEDA,
ROSARIO, and
MARQUEZ, JJ.

Promulgated:

JUL 31 2024

X-----X

DECISION

ZALAMEDA, J.:

This Petition for Review on *Certiorari*¹ seeks to reverse and set aside the Decision² of the Court of Appeals (CA). The CA denied the appeal filed by petitioner Philippine Contractors Accreditation Board (PCAB), assailing the Decision³ and Resolution⁴ of the Regional Trial Court (RTC) which

¹ *Rollo*, pp. 34–67.

² *Id.* at 69–79. The June 21, 2018 Decision in CA-G.R. CV No. 04454-MIN was penned by Associate Justice Walter S. Ong and concurred in by Associate Justices Edgardo A. Camello and Perpetua T. Atalpaño of the Twenty-Second Division, Court of Appeals, Cagayan de Oro City.

³ *Id.* at 95–103. The November 7, 2014 Decision in Civil Case No. 2012-138 was penned by Presiding Judge Arvin Sadiri B. Balagot, CPA, of Branch 17, Regional Trial Court, Kidapawan City.

⁴ *Id.* at 118–121. The May 2, 2016 Resolution in Civil Case No. 2012-138 was penned by Presiding

enjoined the implementation of PCAB's Board Resolution No. 915, series of 2011 (Resolution No. 915) for lack of approval by the President of the Philippines.

Antecedents

In a Complaint⁵ dated November 24, 2012 filed before the RTC, respondent Central Mindanao Construction Multi-Purpose Cooperative (CMCM Cooperative), alleged as follows:

1. That Plaintiffs [sic] is a duly organized service cooperative duly registered with the Cooperative Development Authority under Certificate of Registration/Confirmation No. RN- 2608-KEO dated November 11, 1996[,] has complied with all the requirements of the authority for issuance of Certificate of Registration under Article 144 of R.A. 9520[,] otherwise known as the "Philippine Cooperative Code of 2008"[,] and is represented in this action by its Chairman of the Board, Noel P. Gascon and Authorized Managing Officer, Dr. Harry M. Lusterio. . . ;
2. That Respondent Philippine Contractors Accreditation Board (PCAB) is an agency of the Department of Trade and Industries [sic] under the Construction [Industry] Authority of the Philippines. . . ;
3. That plaintiff[,] which is a service multi- purpose cooperative with Good Standing. . .[,] was organized characterized [sic] by mason[s], carpenters, small contractors and entrepreneur[s], who can not compete nor intent to compete with the big construction companies such as those owned, operated and managed by officers connected with respondent PCAB. . . ;
4. That[,] having complied with all the requirements for licensure and in accordance with R.A. 4566, as amended[,] and its Implementing Rules and Regulations, plaintiff was issued a Contractor's License from October 21, 1997 up to the present to engage in the construction of low cost housing and other projects. . . ;
5. That[,] unfortunately, the newly constituted PCAB Board adopted and approved Board Resolution No. 915, Series of 2011 mandating the setting up of deadline for cooperatives such as herein plaintiff to reorganize and incorporate into a business corporation as a condition sine qua non for the continuous grant of the Contractor's License[,] thereby directing service cooperatives and herein plaintiff/petitioner to convert itself into a purely business corporation as a requirement for renewal of contractor's license for CY 2013-2014 and[,] likewise, giving all service cooperatives and the herein plaintiff a mandatory period to renew their respective licenses until CY 2012-2013 with the

Judge Arvin Sadiri B. Balagot, CPA, Branch 17, Regional Trial Court, Kidapawan City.

⁵ *Id.* at 86-91.

condition that plaintiff should be converted into a purely business corporation as a requirement for the renewal of license for CY 2013-2014. . . [P]er letter dated 13 January 2012 of OIC Rene E. Fajardo . . . respondent reiterated its [directive] for herein service cooperative to convert itself into a purely business corporation in clear defiance of the state policy on the promotion and protection of cooperative[s] enunciated in the Philippine Constitution and articulated in the Cooperative Code of the Philippines under pain of denial of their application for the issuance of Contractor's License;⁶

PCAB, through the Office of the Solicitor General, responded in an Answer⁷ dated March 21, 2013, as follows:

11. . . RA 9520, otherwise known as the Philippine Cooperative Code of 2008, has no specific provision authorizing a cooperative to undertake construction contracting *per se*.

12. While Article 23 of said law, which enumerates different types of cooperatives, provides three (3) activities that obliquely refer to construction, the same is limited by the condition that the activity must be intended to serve only the household members or regular members of the specific cooperative[.]

13. A further reading of RA 9520 would reveal that only agrarian reform cooperatives are given the privilege to undertake construction activities, but with a very limited scope[.]

14. RA 9520 also provides for the requirements for an agrarian reform cooperative to be organized and registered[.]

15. Clearly, the above-stated provisions of RA 9520 warrant only the grant of a special license for specific purposes.

16. Since plaintiff does not claim to be an agrarian reform cooperative, or an electric, housing or water service cooperative[,], and does not possess any of the qualifications in order to be organized and registered as such, then it cannot validly continue undertaking construction contracting under the Philippine Cooperative Code of 2008.

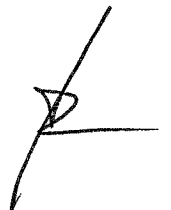
17. Interestingly, RA No. 4566 defines those who may qualify to apply for a contractor's license[.]

18. [P]laintiff. . . being a cooperative, must also comply with the existing law governing such.

19. Unfortunately, as discussed above, RA 9520 does not provide for a "construction cooperative"; nor there was [sic] any showing that the Cooperative Development Authority (CDA), the government agency

⁶ *Id.* at 70-71.

⁷ *CA rollo*, pp. 57-69.



in charge of the registration and regulation of cooperatives, has already determined such type of cooperative.

20. More importantly, it must be pointed out that plaintiff's Contractor's License is a mere privilege. Well-settled is the rule that a license authorizing a person to enjoy a certain privilege is neither a property nor property right[.]⁸ (Citations omitted)

The Resolution subject of the instant case reads:

BOARD RESOLUTION NO. 915
Series of 2011

**SETTING THE DEADLINE FOR COOPERATIVES TO
INCORPORATE FOR THE CONTINUED GRANT OF THE
CONTRACTOR'S LICENSE**

WHEREAS, the Philippine Cooperative Code of 2008 (RA 9520) contains no specific provision authorizing a cooperative to undertake construction contracting per se or be licensed as a regular contractor/engage in construction business;

WHEREAS, pending a clear determination of legal basis, the Board in Resolution No. 273, Series of 2011 as amended by Resolution No. 431, Series of 2011 passed on 07 April 2011 and 07 June 2011, respectively, ordered a moratorium on acceptance and processing of new applications by cooperatives for contractor's license/government registration or amendments thereto;

WHEREAS, the Board has likewise given cooperatives who were previously granted regular licenses the chance to renew the license until further orders are issued;

WHEREAS, up to present time, the legal basis for the grant of a regular license to cooperatives has not been established;

NOW THEREFORE for and in consideration of the foregoing premises, the Board RESOLVES as it is hereby RESOLVED to continue with the non-acceptance of new license applications/government registration and amendments to existing licenses and to set a deadline for licensed cooperatives to incorporate for the continued grant of license. Further, the Board RESOLVED to give the cooperatives concerned a grace period/allow them to renew their respective licenses for CFY 2012-2013 but the cooperative should be converted into a corporation as a requirement for the renewal of license for CFY 2013-2014.

SO ORDERED.

06 December 2011, Makati City, Philippines[.]⁹

⁸ *Rollo*, pp. 72-73.

⁹ *Id.* at 80.



On December 27, 2012, CMCM Cooperative filed an action under Rule 63 of the Rules of Court, seeking the nullification of Resolution No. 915. CMCM assails the said resolution on the ground that it is a “clear defiance of the state policy on the promotion and protection of cooperative enunciated in the Philippine Constitution and articulated in the Cooperative Code of the Philippines[.]”¹⁰

CMCM Cooperative is a cooperative duly registered with the Cooperative Development Authority under registration number 9520-12000454. Prior to the filing of the action, PCAB accredited the cooperative and gave it a contractor’s license. Said accreditations were from July 1, 2011 to June 30, 2012, and from July 1, 2012 to June 30, 2013.¹¹ However, after June 30, 2013, by virtue of PCAB’s assailed resolution, CMCM Cooperative could no longer renew its contractor’s license as said resolution requires it to first convert into a corporation.¹²

Thus, CMCM Cooperative filed the instant action questioning the validity of PCAB’s resolution. CMCM Cooperative stands to lose its construction business, for without a Contractor’s License, it is prohibited to undertake construction in the Philippines.¹³

Ruling of the RTC

In its Decision, the RTC ruled for CMCM Cooperative, *viz.*:

WHEREFORE, for lack of approval by the President of the Philippines, the implementation of Resolution No. 915, Series of 2011 of the Philippine Contractor’s [sic] Accreditation Board is hereby declared premature. The Defendant PHILIPPINE CONTRACTOR’S [sic] ACCREDITATION BOARD is enjoined to implement [sic] its Board Resolution No. 915[,] Series of 2011[,] and to bar the accreditation of the Defendant on the sole ground that it is a cooperative. Plaintiff’s claim for damages against the Defendant is dismissed for lack of merit.

SO ORDERED.¹⁴ (Emphasis in the original)

The RTC held that while Republic Act No. 4566 has empowered PCAB to issue rules and regulations to carry out the provisions of Republic Act No. 4566 and its mandate, said power is not absolute. Section 5 thereof requires that PCAB’s rules and regulations be approved by the President of

¹⁰ *Id.* at 95.

¹¹ *Id.* at 97.

¹² *Id.*

¹³ *Id.* at 98.

¹⁴ *Id.* at 102–103.

the Philippines (President). The RTC also underlined that PCAB recognizes this requirement, as illustrated in a handbook it issued wherein PCAB provided that its issuance of rules and regulations for implementation of Republic Act No. 4566 is subject to confirmation of the Construction Industry Authority of the Philippines (CIAP). It ruled that on the face of the assailed resolution, it appears that PCAB's resolution has not been approved by the President. PCAB also has not presented evidence showing that the President gave his imprimatur and approved the assailed resolution. Without the approval of the President, the assailed resolution could not be implemented. Consequently, the PCAB's implementation of Resolution No. 915 is premature.¹⁵

PCAB's Motion for Partial Reconsideration was denied by the RTC in its Resolution. Undeterred, PCAB appealed to the CA.¹⁶

Ruling of the CA

On June 21, 2018, the CA dismissed the appeal on technicality, to wit:

WHEREFORE, the instant appeal is DISMISSED

SO ORDERED.¹⁷

The CA held that pursuant to Rule 41, Section 2 and Rule 45, Section 1 of the Rules of Court, PCAB improperly filed its appeal with the CA. Considering that the only question raised by PCAB is whether or not it may validly implement its Resolution No. 915 without approval of the President or confirmation from the CIAP, which is a purely legal question as the parties are in agreement on the applicable facts of the case and there is no question as to the truth or falsity of the parties' factual allegations, PCAB should have filed directly with the Supreme Court. As such, based on Rule 50, Section 2 of the Rules of Court, an appeal erroneously taken to the CA shall not be transferred to the appropriate court but shall be dismissed outright.¹⁸

Consequently, without regard to the merits of the arguments advanced by PCAB, the CA dismissed the appeal and ruled that the same is not the proper judicial remedy from the assailed Decision.¹⁹

Aggrieved, PCAB filed the present Petition.

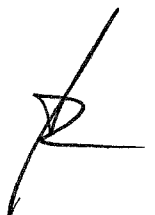
¹⁵ *Id.* at 101–102.

¹⁶ *Id.* at 122–125.

¹⁷ *Id.* at 78.

¹⁸ *Id.* at 75–77.

¹⁹ *Id.* at 78.



Issues

PCAB raised the following issues: (1) whether the CA erred in dismissing the case outright pursuant to procedural rules; and (2) whether Board Resolution No. 915 requires the approval of the President and/or confirmation from the CIAP to be implemented.²⁰

Ruling of the Court

The Petition must be dismissed.

PCAB claims that the CA erred in dismissing the appeal based on technicality as the application of the Rules of Court may be relaxed as the instant case involves a matter of paramount public interest.²¹ PCAB likewise insists that Resolution No. 915 does not require approval from the President and/or confirmation from the CIAP to be implemented. It underlines that Section 5 of Republic Act No. 4566 and Rule 2 of the Rules and Regulations Governing Licensing and Accreditation of Constructors in the Philippines only refer to the issuance of the Implementing Rules and Regulations (IRR) of Republic Act No. 4566 and not to any other issuances of PCAB.²²

We ultimately rule for CMCM Cooperative. The findings of this Court shall be discussed *in seriatim*.

The CA was correct in dismissing PCAB's appeal pursuant to Rule 50, Section 2 of the Rules of Court

At the outset, the CA's finding that PCAB solely anchored its appeal on a purely legal question deserves respect from this Court. The primordial issue of the case involves the validity and application of Resolution No. 915. This ascertainment involves a purely legal question, and thus, the dismissal of PCAB's appeal before the CA is the unavoidable outcome.²³ As further held in *Republic v. Caraig*:²⁴

²⁰ *Id.* at 42–43.

²¹ *Id.* at 44–49.

²² *Id.* at 50–55.

²³ *Spouses Domasian v. Demdam*, G.R. No. 212349, November 17, 2021 [Per J. Gaerlan, Second Division] at 8. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

²⁴ 887 Phil. 827 (2020) [Per J. Hernando, Second Division].



[B]asic is the rule that a question of law arises when there is doubt as to what the law is on a certain state of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts. For a question to be one of law, the same must not involve an examination of the probative value of the evidence presented by the litigants or any of them. The resolution of the issue must rest solely on what the law provides on the given set of circumstances.²⁵

Under Rule 41, Section 2 of the Rules of Court, there are two modes of appeal from a decision or final order of the trial court in the exercise of its original jurisdiction: (1) by writ of error under Rule 41, Section 2(a) if questions of fact or questions of fact and law are raised or involved; or (2) appeal by *certiorari* under Rule 41, Section 2(c), in relation to Rule 45, where only questions of law are raised or involved, *viz.*:²⁶

Sec. 2. *Modes of appeal.* —

(a) *Ordinary appeal.* — The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party. No record on appeal shall be required except in special proceedings and other cases of multiple or separate appeals where the law or these Rules so require. In such cases, the record on appeal shall be filed and served in like manner.

....

(c) *Appeal by certiorari.* — In all cases where only questions of law are raised or involved, the appeal shall be to the Supreme Court by petition for review on *certiorari* in accordance with Rule 45.

Thus, this Court finds that the CA did not err in dismissing PCAB's appeal. Since what PCAB raised in its appeal was a pure question of law, its proper recourse was to file before this Court a petition for review on *certiorari* under Rule 45 of the Rules of Court. In fact, Rule 50, Section 2 of the Rules of Court clearly mandates the outright dismissal of appeals made under Rule 41 thereof, if they only raise pure questions of law,²⁷ as in this case. Rule 50, Section 2 of the Rules of Court provides:

Sec. 2. *Dismissal of improper appeal to the Court of Appeals.*
— An appeal under Rule 41 taken from the Regional Trial Court to the Court of Appeals raising only questions of law shall be dismissed, issues purely of law not being reviewable by said court. Similarly, an appeal by notice of appeal instead of by petition for review from the appellate judgment of a Regional Trial Court shall be dismissed.

²⁵ *Id.* at 838, citing *Leonicio v. De Vera*, 569 Phil. 512, 516 (2008) [Per J. Nachura, Third Division]; *Binay v. Odeña*, 551 Phil. 681, 689 (2007) [Per J. Nachura, *En Banc*].

²⁶ *Park Developers, Inc. v. Daclan*, 866 Phil. 602, 612 (2019) [Per J. Inting, Second Division].

²⁷ *Spouses Navarro v. Rural Bank of Tarlac, Inc.*, 790 Phil. 1, 2–3 (2016) [Per J. Sereno, First Division].

An appeal erroneously taken to the Court of Appeals shall not be transferred to the appropriate court but shall be dismissed outright.
(Emphasis supplied)

Given that the appeal filed by PCAB before the court *a quo* raised only questions of law, the CA committed no error in dismissing the Petition in fealty to Rule 50, Section 2 of the Rules of Court. To be sure, the CA's dismissal of PCAB's appeal was the only proper and unavoidable outcome.²⁸

The above disquisition provides enough reason to end our discussion. Nevertheless, the Court deems it wise, in the interest of substantial justice, to take another look at this case.

Resolution No. 915 is null and void

It is settled that administrative issuances must not override, supplant, or modify the law; they must remain consistent with the law intended to carry out.²⁹ When the application of an administrative issuance modifies existing laws or exceeds the intended scope, the issuance becomes void, not only for being *ultra vires*, but also for being unreasonable.³⁰ Surely, courts will not countenance such administrative issuances that override, instead of remaining consistent and in harmony with the law they seek to apply and implement.³¹

Without a doubt, the authority of administrative agencies to create rules and regulations *is not an absolute authority*. This is limited by the express legislative purpose of the law it implements, the standards set out in this law, and the express wording of the provisions of the law. The rules and regulations that administrative agencies promulgate should not be *ultra vires* or beyond the limits of the authority conferred to them.³²

The Court in *Waterfront Philippines, Inc. v. Social Security System*³³ held that:

An *ultra vires* act may be classified as either illegal or merely *ultra vires*. The former contemplates the doing of an act which is contrary to

²⁸ *Park Developers, Inc. v. Daclan*, 866 Phil. 602, 612 (2019) [Per J. Inting, Second Division].

²⁹ *In the Matter of Declaratory Relief on the Validity of BIR Revenue Memorandum Circular No. 65-2012*, 868 Phil. 517, 563 (2020) [Per J. Lazaro-Javier, First Division].

³⁰ *Department of Finance v. Asia United Bank*, G.R. Nos. 240163 & 240168-69, December 1, 2021 [Per J. Zalameda, Third Division].

³¹ *In the Matter of Declaratory Relief on the Validity of BIR Revenue Memorandum Circular No. 65-2012*, 868 Phil. 517, 563 (2020) [Per J. Lazaro-Javier, First Division].

³² *Quezon City PTCA Federation, Inc. v. Department of Education*, 781 Phil. 399, 466 (2016) [Per J. Leonen, *En Banc*].

³³ G.R. No. 249337, July 6, 2021 [Per J. Gaerlan, First Division].

law, morals, or public order, or one that contravenes some rules of public policy or public duty, and is, like similar transactions between individuals, void. It cannot serve as a basis of a court action, nor acquire validity by performance, ratification, or estoppel. On the other hand, a mere *ultra vires act* is that which is not illegal and void ab initio, but is merely outside of the scope of the articles of incorporation, and is thus, merely voidable and may become binding and enforceable when ratified by the stockholders.³⁴

In this regard, the issuance of Resolution No. 915 is an *ultra vires act*.

We agree with the RTC that Section 5 of Republic Act No. 4566 requires PCAB to acquire the approval of the President before it may issue rules and regulations carrying out said law. Section 5 of Republic Act No. 4566 reads:

Section 5. Powers and duties of the Board. The Board is vested with authority to issue, suspend and revoke licenses of contractors, to investigate such violations of this Act and the regulations thereunder as may come to its knowledge and, for this purpose, issue subpoena and subpoena duces tecum to secure appearance of witnesses in connection with the charges presented to the Board, and to discharge such powers and duties affecting the constructing industry in the Philippines.

The Board may, with the approval of the President of the Philippines, issue such rules and regulations as may be deemed necessary to carry out the provisions of this Act, to adopt a code of ethics for contractors and to have an official seal to authenticate its official documents. (Emphasis supplied)

Clearly, Section 5 of Republic Act No. 4566 provides that before a regulation issued by PCAB can be effective and valid, presidential approval is required.³⁵

Indeed, basic is the principle that where the law does not distinguish, neither should the courts distinguish. *Ubi lex non distinguit, nec nos distinguere debemus*. There should be no distinction in the application of a law where none is indicated. As the Court *En Banc* has consistently reiterated, where the law is free from ambiguity, the court may not introduce exceptions or conditions where none is provided from considerations of convenience, public welfare, or for any laudable purpose; neither may it engraft into the law qualifications not contemplated.³⁶

³⁴ *Id.* at 15–16. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

³⁵ Section 5. *Powers and duties of the Board.* —

The Board may, with the approval of the President of the Philippines, issue such rules and regulations as may be deemed necessary to carry out the provisions of this Act, to adopt a code of ethics for contractors and to have an official seal to authenticate its official documents.

³⁶ *Ifurung v. Carpio-Morales*, 831 Phil. 135, 184–185 (2018) [Per J. Martires, *En Banc*].

Here, Section 5 of Republic Act No. 4566 did not specify that the requirement of prior approval is applicable only to the issuance of the implementing rules and regulations of the same. On the contrary, the wording of the provision, as is, encompasses all “rules and regulations *as may be deemed necessary* to carry out” Republic Act No. 4566. Notably, under the same provision, the law vested PCAB with the “authority to issue, suspend and revoke licenses of contractors.” When PCAB thus issued Board Resolution No. 915, which, in essence, is a regulation on the qualification of applicants for renewal of their contractor’s license, it was carrying out its duty as mandated under Republic Act No. 4566.

That this regulation takes the form of a board resolution is of no moment. For Section 5 of Republic Act No. 4566 does not refer to the caption of the document containing the rule and regulation but to its substance, i.e., as long as the rule or regulation carries out the provisions of Republic Act No. 4566, regardless in what issuance it is enshrined, it ought to be approved first by the President with the confirmation of the CIAP.

We note that this is not the first instance the Court encountered administrative regulations enshrined in board resolutions. Indeed, such matter was reaffirmed in the recent case of *Sobrejuanite-Flores v. Pilando*,³⁷ where the validity of a regulation concerning the exemption from licensure examination of psychologists who attained certain educational and work experience was likewise assailed. This was issued through Board Resolution No. 003-12 dated November 28, 2012 of the Professional Regulation Commission. Its form notwithstanding, the Court recognized and referred to the same as an administrative regulation.³⁸

Significantly, PCAB’s Board Resolution No. 915 has not been approved by the President, and PCAB has not presented evidence showing that the President gave his imprimatur and approved the assailed resolution. Without the approval of the President, the assailed Resolution could not be implemented. Republic Act No. 4566 is explicit on the need for PCAB’s issuances to be approved by the President. Consequently, as the RTC pronounced, PCAB’s implementation of Resolution No. 915 is premature.

Further, the Rules and Regulations Governing Licensing and Accreditation of Constructors in the Philippines require that PCAB’s resolutions be confirmed by the CIAP.³⁹ Significantly, such confirmation is absent in the present case.

³⁷ G.R. No. 251816, November 23, 2021 [Per J. M. Lopez, *En Banc*].

³⁸ *Id.*

³⁹ Rule 2, Rules and Regulations Governing Licensing and Accreditation of Constructors in the Philippines (1989).

More importantly, since the resolution restricts the business that cooperatives may engage into, it is reasonable to strictly construe the provision of Section 5, Republic Act No. 4566 against PCAB and in favor of CMCM Cooperative.⁴⁰ To do otherwise is contrary to the declared policy of the State contained in Section 2 of Republic Act No. 6938 to “foster the creation and growth of cooperatives as a practical vehicle for promoting self-reliance and harnessing people power towards the attainment of economic development and social justice.”

Likewise, Article XII, Section 1 of the 1987 Constitution guarantees the protection of cooperatives, to wit:

The goals of the national economy are a more equitable distribution of opportunities, income, and wealth; a sustained increase in the amount of goods and services produced by the nation for the benefit of the people; and an expanding productivity as the key to raising the quality of life for all, especially the underprivileged.

The State shall promote industrialization and full employment based on sound agricultural development and agrarian reform, through industries that make full and efficient use of human and natural resources, and which are competitive in both domestic and foreign markets. However, the State shall protect Filipino enterprises against unfair foreign competition and trade practices.

In the pursuit of these goals, all sectors of the economy and all regions of the country shall be given optimum opportunity to develop. Private enterprises, including corporations, cooperatives, and similar collective organizations, shall be encouraged to broaden the base of their ownership.

In relation thereto, Article II, Section 10 of the 1987 Constitution declares that it is the policy of the State to promote social justice in all phases of national development. Moreover, Article XIII, Section 2 of the Constitution states that the promotion of social justice shall include the commitment to create economic opportunities based on freedom of initiative and self-reliance. Article XII, Section 15 of the Constitution further states that Congress shall create an agency to promote the viability and growth of cooperatives as instruments for social justice and economic development.

On this note, upon perusing the available records of this case, We also do not see any valid legal basis or justification for the issuance of the assailed Resolution. PCAB’s argument that CMCM Cooperative is not authorized to engage in construction contracting because only agrarian reform cooperatives and electric, housing, or water service cooperatives may do so, is untenable.

⁴⁰ See *Republic v. Court of Appeals*, 359 Phil. 530 (1998), where it was held that: “Statutes in derogation of common or general rights are strictly construed and rigidly confined to cases clearly within their scope and purpose.”

Under Article 6 of Republic Act No. 952, a cooperative may be organized and registered for the purpose of, among others, providing goods and services and other requirements to its members. Meanwhile, Section 23 of the same law classifies a “service cooperative” as one which engages in, among others, housing services and “other services,” viz.:

ART. 23. *Types and Categories of Cooperatives.* – (1) *Types of Cooperatives* – Cooperatives may fall under any of the following types:

....

(e) **Service Cooperative** — is one which engages in medical and dental care, hospitalization, transportation, insurance, *housing*, labor, electric light and power, communication, professional *and other services*; (Emphasis supplied)

By including the catch-all phrase “and other services,” Section 23 of Republic Act No. 9520 does not limit the kinds of services which a cooperative may render to its members. Indeed, such ambit of the law is even in keeping with the constitutional policy to promote and protect cooperatives.

Here, CMCM Cooperative clearly alleged in its complaint that it is a “duly organized *service cooperative* duly registered with the Cooperative Development Authority.” Specifically, it is a “*multi-purpose cooperative*” engaged in the construction of low cost housing and other projects.⁴¹ Surely, the construction contracting services rendered by CMCM Cooperative falls within the ambit of the catch-all phrase “other services,” not to mention the “housing” services, which a service cooperative may render under Section 23(e) of Republic Act No. 9520.

Therefore, Resolution No. 915, insofar as it curtails CMCM Cooperative’s freedom to engage in construction contracting services, runs counter to the constitutional protection clearly granted to cooperatives. Verily, the Court, in the faithful exercise of its duty to uphold the Constitution through the power of judicial review, is left with no other choice but to strike as null and void Resolution No. 915.

To reiterate, administrative agencies, in the exercise of their power of subordinate legislation, should not enlarge, alter, or restrict the provisions of the law it administers and enforces, and should not engraft additional non-contradictory requirements that the Congress did not contemplate, such as requiring cooperatives to incorporate in order to undertake construction business. Thus, as also mentioned above, in formulating rules and

⁴¹ *Rollo*, pp. 70–71.

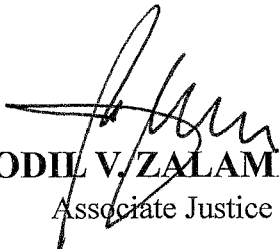
regulations, administrative agencies should not amend, supplant, or modify the law which breathes life to it.⁴²

Considering the above, Resolution No. 915 without the necessary approval is an illegal *ultra vires* act.⁴³ The execution of the assailed resolution is in stark violation of Republic Act No. 4566. As exhaustively discussed, it was issued without the approval of the President which is clearly required under Section 5. Worse, it runs counter to the constitutionally guaranteed protection of cooperatives. Patently, said Resolution transgressed Republic Act No. 4566, thereby rendering it *ultra vires* and void.⁴⁴ Correspondingly, *ultra vires* acts or those that are clearly beyond the scope of one's authority are null and void and cannot be given any effect.⁴⁵

In light of the foregoing, Resolution No. 915 is an *ultra vires* act that may not be given any effect.

ACCORDINGLY, the instant Petition is **DENIED** and the Decision dated June 21, 2018 of the Court of Appeals in CA-G.R. CV No. 04454-MIN, and effectively, the Decision dated November 7, 2014 and Resolution dated May 2, 2016 of Branch 17, Regional Trial Court of Kidapawan City enjoining the implementation of Philippine Contractors Accreditation Board's Board Resolution No. 915, series of 2011 for lack of approval by the President of the Philippines, are **AFFIRMED**.

SO ORDERED.


RODIL V. ZALAMEDA
Associate Justice

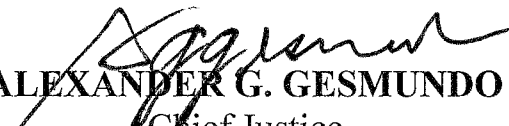
⁴² See *Quezon City PTCA Federation, Inc. v. Department of Education*, 781 Phil. 399, 466 (2016) [Per J. Leonen, *En Banc*].

⁴³ See *Heirs of Gamboa v. Teves*, 696 Phil. 276, 331 (2012) [Per J. Carpio, *En Banc*].

⁴⁴ *Waterfront Philippines, Inc. v. Social Security System*, G.R. No. 249337, July 6, 2021 [Per J. Gaerlan, First Division] at 16. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁴⁵ *Id.*

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice
Chairperson

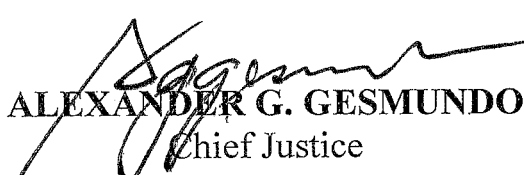

RAMON PAUL L. HERNANDO
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice

CERTIFICATION

Pursuant to the 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.


ALEXANDER G. GESMUNDO
Chief Justice

