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THIRD DIVISION

[G.R. No. 165641. August 25, 2010]

ENGR. RANULFO C. FELICIANO, in his capacity as General Manager of the Leyte Metropolitan Water District (LMWD), Tacloban City, *petitioner,* **NAPOLEON G. ARANEZ, in his capacity as President and Chairman of "No Tax, No Impairment of Contracts Coalition, Inc.,"** *petitioner-in-intervention, vs.* **HON. CORNELIO C. GISON, Undersecretary, Department of Finance,** *respondent.*

SYLLABUS

1. POLITICAL LAW; PUBLIC CORPORATIONS; GOVERNMENT-OWNED OR CONTROLLED CORPORATION DISTINGUISHED FROM PRIVATE CORPORATION; CASE AT BAR.— Our ruling in *Feliciano* squarely addressed the difference between a private corporation created under general law and a GOCC created by a special charter, and we need only to quote what *Feliciano* said: We begin by explaining the general framework under the fundamental law. The Constitution recognizes two classes of corporations. The first refers to private corporations created under a general law. The second refers to government-owned or controlled corporations created by special charters. Section 16, Article XII of the Constitution provides: Sec. 16. The Congress shall not, except by general law, provide for the formation, organization, or regulation of private corporations. Government-owned or controlled corporations may be created or established by special charters in the interest of the common good and subject to the test of economic viability. The Constitution emphatically prohibits the creation of private corporations except by a general law applicable to all citizens. The purpose of this constitutional provision is to ban private corporations created by special charters, which historically gave certain individuals, families or groups special privileges denied to other citizens. In short, Congress cannot enact a law creating a private corporation with a special charter. Such legislation would be unconstitutional. Private corporations may exist only under a

general law. If the corporation is private, it must necessarily exist under a general law. Stated differently, only corporations created under a general law can qualify as private corporations. Under existing laws, that general law is the Corporation Code, except that the Cooperative Code governs the incorporation of cooperatives. The Constitution authorizes Congress to create government-owned or controlled corporations through special charters. Since private corporations cannot have special charters, it follows that Congress can create corporations with special charters only if such corporations are government-owned or controlled. Obviously, LWDs [*referring to local water districts*] are not private corporations because they are not created under the Corporation Code. LWDs are not registered with the Securities and Exchange Commission. Section 14 of the Corporation Code states that "[A]ll corporations organized under this code shall file with the Securities and Exchange Commission articles of incorporation x x x." LWDs have no articles of incorporation, no incorporators and no stockholders or members. There are no stockholders or members to elect the board directors of LWDs as in the case of all corporations registered with the Securities and Exchange Commission. The local mayor or the provincial governor appoints the directors of LWDs for a fixed term of office. x x x *Feliciano* further categorically held that P.D. No. 198 constitutes the special charter by virtue of which local water districts exist. Unlike private corporations that derive their legal existence and power from the Corporation Code, water districts derive their legal existence and power from P.D. No. 198. Section 6 of the decree in fact provides that water districts "shall exercise the powers, rights and privileges given to private corporations under existing laws, in addition to the powers granted in, and subject to such restrictions imposed under this Act." Therefore, water districts would not have corporate powers without P.D. No. 198. As already mentioned above, the Court reiterated this ruling – *i.e.* that a water district is a government-owned and controlled corporation with a special charter since it is created pursuant to a special law, PD 198 – albeit with respect to the authority of the COA to audit water districts, in *De Jesus v. COA*.

2. REMEDIAL LAW; CIVIL PROCEDURE; JUDGMENTS; DOCTRINE OF CONCLUSIVENESS OF JUDGMENT; EXPLAINED.— The principle of doctrine of "conclusiveness of judgment" – a branch of the rule on *res judicata* – provides

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> that issues actually and directly resolved in a former suit cannot again be raised in any future case between the same parties involving a different cause of action. Where there has been a previous final judgment on the merits between the same parties or substantially the same parties, rendered by a court of competent jurisdiction over the matter and the parties, the matters or issues raised and adjudged in the previous final judgment shall be conclusive on the parties although they are now litigating a different cause of action and shall continue to be binding between the same parties for as long as the facts on which that judgment was predicated continue to be the facts of the case or incident before the court.

APPEARANCES OF COUNSEL

Torralba Ereneta Elamparo and Ortega for petitioner.
Grapilon Can Obias & Hidalgo Law Office for intervenor.

D E C I S I O N

BRION, *J.*:

Before this Court is the Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court filed by Leyte Metropolitan Water District (*LMWD*) through its General Manager, Engr. Ranulfo C. Feliciano, which seeks to set aside the July 14, 2004 decision of the Court of Appeals (*CA*)[2] that in turn affirmed the ruling of the Court of Tax Appeals (*CTA*) in CTA Case No. 6165.[3] The CTA dismissed LMWD's petition for lack of jurisdiction to try the case.

Joining the petitioner is the "No Tax, No Impairment of Contracts Coalition, Inc." (*Coalition*), a corporation represented by its President and Chairman, Napoleon G. Aranez, which filed a motion for leave to admit complaint-petition in intervention

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[1] *Rollo,* pp 8-33.

[2] *Id.* at 34-40.

[3] *Id.* at 45-55.

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on February 17, 2005.[4] The Court granted said motion and required the Coalition, together with LMWD, to submit their respective memoranda in a resolution dated July 5, 2006.[5]

BACKGROUND FACTS

The present petition arose from the tax case initiated by LMWD after it filed with the Department of Finance (*DOF*) a petition requesting that certain water supply equipment and a motor vehicle, particularly a Toyota Hi-Lux pick-up truck, be exempted from tax. These properties were given to LMWD through a grant by the Japanese Government for the rehabilitation of its typhoon-damaged water supply system.

In an indorsement dated July 5, 1995, the DOF granted the tax exemption on the water supply equipment but assessed the corresponding tax and duty on the Toyota Hi-Lux pick-up truck.[6] On June 9, 2000, LMWD moved to reconsider the disallowance of the tax exemption on the subject vehicle. The DOF, through then Undersecretary Cornelio C. Gison, denied LMWD's request for reconsideration because the tax exemption privileges of government agencies and government owned and controlled corporations (*GOCCs*) had already been withdrawn by Executive Order No. 93.[7] This prompted LMWD, through its General Manager Engr. Ranulfo C. Feliciano, to appeal to the CTA.

After considering the evidence presented at the hearing, the CTA found LMWD to be a GOCC with an original charter. For this reason, the CTA resolved to dismiss LMWD's appeal for lack of jurisdiction to take cognizance of the case.[8] The CTA's resolution was without prejudice to the right of LMWD to refile the case, if it so desires, in the appropriate forum. Likewise,

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[4] *Id.* at 87-101.

[5] *Id.* at 187.

[6] *Id.* at 35.

[7] *Id.* at 42.

[8] In a Resolution dated February 8, 2002; *Id,* pp. 56-60.

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the CTA denied LMWD's motion to reconsider the dismissal of its appeal.[9]

LMWD filed a petition for review[10] with the CA raising the issues of whether the CTA decided the case in accord with the evidence presented and the applicable law, and **whether the LMWD is a GOCC with original charter.** The CA found the petition to be unmeritorious and affirmed the CTA's ruling that the LMWD is a GOCC with original charter, and not a private corporation or entity as LMWD argued. Hence, the present petition for review on *certiorari* filed by LMWD with this Court.

THE PETITION

LMWD appeals to us primarily to determine whether water districts are, by law, GOCCs with original charter. Citing the Constitution and Presidential Decree (*P.D.*) No. 198,[11] LMWD claims that water districts are private corporations and as such are entitled to certain tax exemptions under the law. LMWD argues that **P.D. No. 198 is a general law, similar to the Corporation Code and other general laws, and is not a special law.** Because it is a general law, water districts constituted under its terms are private corporations, not a government-owned or controlled corporation (*GOCC*) with original charter.

In support of its position, LMWD points out provisions in P.D. No. 198 that it claims implements the general policy of the decree as enunciated in its Section 2, specifically, Section 5[12] (pertaining to the purpose of water districts), Section 6 (formation

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[9] *Id.* at 61-63.

[10] *Id.* at 64-84.

[11] Declaring A National Policy Favoring Local Operation and Control of Water Systems; Authorizing the Formation of Local Water Districts and Providing for the Government and Administration of such Districts; Chartering a National Administration to Facilitate Improvement of Local Water Utilities; Granting said Administration such Powers as are Necessary to Optimize Public Service from Water Utility Operations, and for other Purposes. Also known as the "Provincial Water Utilities Act of 1973." Effective May 25, 1973.

[12] Section 5, *Purpose*. Local water districts **may be formed pursuant to this Title** for the purposes of (a) acquiring, installing, improving, maintaining

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of a water district), as amended by P.D. No. 1479,[13] and Section 7 (filing of resolution forming a water district), as amended by P.D. No. 768,[14] of Chapter II. LMWD concludes from this examination that P.D. No. 198 is not an original charter but a general act authorizing the formation of water districts on a local option basis, similar to the Corporation Code (Batas Pambansa Blg. 68).

In drawing parallelism with the Corporation Code, LMWD cites (1) the *Resolution of Formation* passed by the *sanggunian* under PD 198 for the creation of a water district as an equivalent to the *Articles of Incorporation and By-laws* under the Corporation Code, and (2) the *filing of the Resolution of Formation* of the water district with the LWUA as the counterpart of the *issuance of the Certificate of Filing of the Articles of Incorporation and By-laws* to the private corporation by the

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and operating water supply and distribution systems for domestic, industrial, municipal and agricultural uses for residents and lands within the boundaries of such districts, (b) providing, maintaining and operating waste water collection, treatment and disposal facilities, and (c) conducting such other functions and operations incidental to water resource development, utilization and disposal within such districts, as are necessary or incidental to said purpose. (Emphasis supplied by the petitioner.)

[13] Section 6. *Formation of District.* This Act is the **source of authorization and power to form and maintain a district**. For purposes of this Act, **a district shall be considered as a quasi-public corporation** performing public service and supplying public wants. As such, a district shall **exercise the powers, rights and privileges given to private corporations under existing laws, in addition to the powers granted in, and subject to such restrictions imposed, under this Act.** x x x (Emphasis supplied by the petitioner.)

[14] Section 7. *Filing of Resolution.* A **certified copy of the resolution or resolutions forming a district shall be forwarded to the office of the Secretary of the Administration. If found by the Administration to conform to the requirements of Section 6 and the policy objectives in Section 2, the resolution shall be duly filed.** The district shall be deemed **duly formed and existing upon the date of such filing.** A certified copy of said resolution showing the filing stamp of the Administration shall be maintained in the office of the district. **Upon such filing, the local government or governments concerned shall lose ownership, supervision and control or any right whatsoever over the district except as provided herein.** (Emphasis supplied by the petitioner.)

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Securities and Exchange Commission (*SEC*). The juridical personality of a water district is acquired on the date of filing of the resolution in the same way that the juridical personality of a private corporation is acquired on the date of issuance of the certificate of filing with the SEC.

LMWD further claims that the Constitution does not limit the meaning of the term "general law" to the Corporation Code, as there are other general laws such as Republic Act (*R.A.*) No. 6938[15] (including R.A. No. 6939 — An Act Creating the Cooperative Development Authority), and R.A. No. 6810.[16] Under R.A. No. 6938 and R.A. No. 6810, any group of individuals can form a cooperative and a Countryside and *Barangay* Business Enterprise (*CBBE*), respectively, and acquire a juridical personality separate and distinct from their creators, members or officers provided that they comply with all the requirements under said laws. In the same manner, any group of individuals in a given local government unit can form and organize themselves into a water district provided that they comply with the requirements under P.D. No. 198.

Part of LMWD's theory is that P.D. No. 198 is not the operative act that created the local water districts; they are created through compliance with the nine separate and distinct operative acts found in the Procedural Formation of a Water District prescribed under Section 6 of P.D. No. 198 and its Implementing Rules and Regulations. The last step of these operative acts is the filing of the Resolution of Formation of the *sanggunian* concerned with the LWUA after the latter has determined that such resolution has conformed to the requirements of Section 6 and the policy objectives in Section 2 of P.D. No. 198,

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[15] An Act to Ordain A Cooperative Code of the Philippines. Also known as the "Cooperative Code of the Philippines." Enacted into law on March 10, 1990.

[16] An Act Establishing the Magna Carta for Countryside and Barangay Business Enterprises, Granting Exemptions from any and all Government Rules and Regulations and other Incentives and Benefits therefore, and for other Purposes. Also known and cited as the "Magna Carta for Countryside and Barangay Business Enterprises" or "*Kalakalan* 20 Law." Approved December 14, 1989.

as amended.[17] According to LMWD, no water district is formed by the enactment of P.D. No. 198. The decree merely authorized the formation of water districts by the *sanggunian*, in the same manner that the Corporation Code authorizes the formation of private corporations.

LMWD theorizes that what is actually chartered, formed and created under P.D. No. 198 is the Local Water Utilities Administration (*LWUA*), as provided in Section 49 of the decree. This provision establishing LWUA's charter and the policy statement in Section 2 of P.D. No. 198, are in stark contrast to the decree's failure to provide an express provision on what constitutes the water districts' charter, leading to the inference that the decree is not the charter of the water districts but merely authorizes their formation, on a local option basis.

THE PETITION-IN-INTERVENTION

On February 17, 2005, Napoleon G. Aranez (*Aranez*), acting in behalf of the "No Tax, No Impairment of Contracts Coalition, Inc." (*Coalition*) filed a motion for leave to admit complaint-petition in intervention in connection with the petition for review on *certiorari* filed by LMWD with this Court. Aranez is the Coalition's president and chairman. The Coalition claims to indirectly represent all the water district concessionaires of the entire country figuring to more or less four hundred million, aside from the 26,000 concessionaires situated in the city of Tacloban and the municipalities of Dagami, Palo, Pastrana, Sta. Fe, Tabon-Tabon, Tanauan, Tolosa — all within the province of Leyte.

The petition in intervention raises three main arguments: (1) that the water districts are not GOCCs as they are quasi-public corporations or private corporations exercising public functions, (2) that classifying the water districts as GOCCs will result in an unjust disregard of the "non-impairment of contracts" clause in the Constitution, and (3) that the appealed CA decision, if not corrected or reversed, would result in a nationwide crisis and would create social unrest.

[17] As provided in Section 7 of P.D. No, 198, as amended by P.D. No. 768 (Effective August 15, 1975).

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Interestingly, the Coalition sets forth the premise that P.D. No. 198 is not entirely a special law or a general law, but a composite law made up of both laws: Title II – Local Water District Law being the general law, and Title III – Local Water Utilities Law being the special law or charter. For the rest of the petition in intervention, the Coalition adopts supporting arguments similar, if not exactly the same, as those of LMWD's.

THE COURT'S RULING

We find no merit in the petition and the petition in intervention, particularly in their core position that water districts are private corporations, not GOCCs. The question is a long-settled matter that LMWD and the Coalition seek to revive and to re-litigate in their respective petitions.

The present petition is not the first instance that the petitioner LMWD, through Engr. Ranulfo C. Feliciano, has raised for determination by this Court the corporate classification of local water districts.[18] LMWD posed this exact same question in *Feliciano v. Commission on Audit* (*COA*).[19] In ruling that local water districts, such as the LMWD, are GOCCs with special charter, the Court even pointed to settled jurisprudence[20] culminating in *Davao City Water District v. Civil Service Commission*[21] and recently reiterated in *De Jesus v. COA.* [22]

In *Feliciano,* LMWD likewise claimed that it is a private corporation and therefore, should not be subject to the audit jurisdiction of the COA. LMWD then argued that P.D. No. 198 is

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[18] In *National Service Corporation v. NLRC* (G.R. No. 69870, November 29, 1988, 168 SCRA 122), the Court, by citing the deliberations in the Constitutional Commission, clarified that there is no difference between the terms "original charters" and "special charters."

[19] G.R. No. 147402, January 14, 2004, 419 SCRA 363.

[20] *Baguio Water District v. Hon. Trajano*, 212 Phil. 674;127 SCRA 730 (1984); *Hagonoy Water District v. NLRC*, G.R. No. 81490, August 31, 1988, 165 SCRA 272; *Tanjay Water District v. Gabaton*, G.R. No. 84300, April 17, 1989, 172 SCRA 253.

[21] G.R. Nos. 95237-38, September 13, 1991, 201 SCRA 593.

[22] G.R. No. 149154, June 10, 2003. 403 SCRA 666.

not an "original charter" that would place the water districts within the audit jurisdiction of the COA as defined in Section 2 (1), Article IX-D of the 1987 Constitution.[23] Neither did P.D. No. 198 expressly direct the creation of the water districts. LMWD posited that the decree merely provided for their formation on an optional or voluntary basis and what actually created the water districts is the approval of the *Sanggunian* Resolution.[24] Significantly, these are the very same positions that the LMWD and the Coalition (as petitioner-intervenor) submit in the present petition.

Our ruling in *Feliciano* squarely addressed the difference between a private corporation created under general law and a GOCC created by a special charter, and we need only to quote what *Feliciano* said:

> We begin by explaining the general framework under the fundamental law. The Constitution recognizes two classes of corporations. The first refers to private corporations created under a general law. The second refers to government-owned or controlled corporations created by special charters. Section 16, Article XII of the Constitution provides:
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> > Sec. 16. The Congress shall not, except by general law, provide for the formation, organization, or regulation of private corporations. Government-owned or controlled corporations may be created or established by special charters in the interest of the common good and subject to the test of economic viability.
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> The Constitution emphatically prohibits the creation of private corporations except by a general law applicable to all citizens. The purpose of this constitutional provision is to ban private corporations created by special charters, which historically gave certain individuals, families or groups special privileges denied to other citizens.

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[23] SECTION 2. (1) The Commission on Audit shall have the power, authority and duty to examine, audit and settle all accounts pertaining to the Government, or any of its subdivisions, agencies or instrumentalities, including **government-owned and controlled corporations with original charters**, and on a post audit basis: x x x (Emphasis supplied).

[24] *Supra* 2, pp. 368-369.

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In short, Congress cannot enact a law creating a private corporation with a special charter. Such legislation would be unconstitutional. Private corporations may exist only under a general law. If the corporation is private, it must necessarily exist under a general law. Stated differently, only corporations created under a general law can qualify as private corporations. Under existing laws, that general law is the Corporation Code, except that the Cooperative Code governs the incorporation of cooperatives.

The Constitution authorizes Congress to create government-owned or controlled corporations through special charters. Since private corporations cannot have special charters, it follows that Congress can create corporations with special charters only if such corporations are government-owned or controlled.

Obviously, LWDs [*referring to local water districts*] are not private corporations because they are not created under the Corporation Code. LWDs are not registered with the Securities and Exchange Commission. Section 14 of the Corporation Code states that "[A]ll corporations organized under this code shall file with the Securities and Exchange Commission articles of incorporation x x x." LWDs have no articles of incorporation, no incorporators and no stockholders or members. There are no stockholders or members to elect the board directors of LWDs as in the case of all corporations registered with the Securities and Exchange Commission. The local mayor or the provincial governor appoints the directors of LWDs for a fixed term of office. This Court has ruled that LWDs are not created under the Corporation Code, thus:

> From the foregoing pronouncement, it is clear that what has been excluded from the coverage of the CSC are those corporations created pursuant to the Corporation Code. **Significantly, petitioners are not created under the said code, but on the contrary, they were created pursuant to a special law and are governed primarily by its provision.** (Emphasis supplied)" (*Citations Omitted*)[25]

Feliciano further categorically held that P.D. No. 198 constitutes the special charter by virtue of which local water districts exist. Unlike private corporations that derive their legal existence and power from the Corporation Code, water districts

[25] *Id.* at 369-370.

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derive their legal existence and power from P.D. No. 198. Section 6 of the decree in fact provides that water districts "shall exercise the powers, rights and privileges given to private corporations under existing laws, in addition to the powers granted in, and subject to such restrictions imposed under this Act." Therefore, water districts would not have corporate powers without P.D. No. 198.

As already mentioned above, the Court reiterated this ruling – *i.e.* that a water district is a government-owned and controlled corporation with a special charter since it is created pursuant to a special law, PD 198 – albeit with respect to the authority of the COA to audit water districts, in *De Jesus v. COA*.[26]

In light of these settled rulings, specifically rendered conclusive on LMWD by *Feliciano v. COA* and the application of the principle of "conclusiveness of judgment," we cannot but deny the present petition and petition in intervention.

The principle of doctrine of "conclusiveness of judgment" – a branch of the rule on *res judicata*[27] – provides that issues actually and directly resolved in a former suit cannot again be raised in any future case between the same parties involving a different cause of action. Where there has been a previous final judgment on the merits between the same parties or substantially the same parties, rendered by a court of competent jurisdiction over the matter and the parties, the matters or issues raised and adjudged in the previous final judgment shall be conclusive on the parties although they are now litigating a different cause of action[28] and shall continue to be binding between the same parties for as long as the facts on which that judgment was predicated continue to be the facts of the case or incident before the court.[29]

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[26] *Supra* at 22.

[27] See *Quasha v. Court of Appeals*, G.R. No. 182013, December 4, 2009; *Oropeza Marketing Corporation vs. Allied Banking Corporation* G.R. No. 129788, December 3, 2002, 393 SCRA 278.

[28] *Tan v. Court of Appeals*, 415 Phil. 675; *Vda. de Cruzo v. Carriaga, Jr.* 174 SCRA 330 (1989).

[29] *Kilosbayan, Inc. v. Morato*, 246 SCRA 145 (1996); *Miranda v. Court of Appeals*, 141 SCRA 302, February 11, 1986.

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No doubt exists that the judgment in *Feliciano v. COA* was a final judgment rendered by a court with competent jurisdiction over the subject matter and the parties. The decision was in fact a ruling of this Court on the same issue posed in the present case. The ruling was also on the merits as it squarely responded to the issues the parties raised on the basis of their submitted arguments. There was, likewise, between *Feliciano v. COA* and the present case a substantial identity of parties and issue presented.

In both cases, the main petitioner has been LMWD, represented by its General Manager Engr. Ranulfo C. Feliciano. While the respondents in these cases were different government offices – the Commission on Audit and the Department of Finance – they nevertheless represented and spoke for the same government; thus, a substantial identity of respondents obtained in resolving the same contentious issue of whether local water districts should be treated as private corporations and not as GOCCs with special charter.

IN VIEW OF THE FOREGOING, we hereby *DENY* the petition and the petition for intervention for lack of merit and accordingly *AFFIRM* the decision of the Court of Appeals dated July 14, 2004 affirming the ruling of the Court of Tax Appeals in CTA Case No. 6165. Costs against the petitioners.

SO ORDERED.

Carpio Morales (Chairperson), Bersamin, Villarama, Jr., and *Sereno, JJ.,* concur.