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FIRST DIVISION

[G.R. No. 72807. September 9, 1991]

MARILAO WATER CONSUMERS ASSOCIATION, INC., *petitioner, vs.* **INTERMEDIATE APPELLATE COURT, MUNICIPALITY OF MARILAO, BULACAN, SANGGUNIANG BAYAN, MARILAO, BULACAN, and MARILAO WATER DISTRICT,** *respondents.*

SYLLABUS

1. **REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; APPEAL NOT SPECIAL CIVIL ACTION OF CERTIORARI IS THE PROPER REMEDY AGAINST A FINAL ORDER OF THE COURT.** — It is quite evident that the Order of the Trial Court of June 8, 1984, dismissing the action of the Consumers Association, is really a *final* order; it finally disposed of the proceeding and left nothing more to be done by the Court on the merits. Now, the firmly settled principle is that the remedy against such a *final* order is the ordinary remedy of an appeal, either solely on questions of law — in which case the appeal may be taken only to the Supreme Court, or on questions of fact and law — in which event the appeal should be brought to the Court of Appeals. The extraordinary remedy of a special civil action of *certiorari* or prohibition is not the appropriate recourse because precisely, one of the conditions for availing of it is that there should be "no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law." A resort to the latter instead of the former would ordinarily be fatal, unless it should appear in a given case that appeal would otherwise be an inefficacious or inadequate remedy.

2. **ID.; ID.; THE REGIONAL TRIAL COURT, NOT THE SECURITIES AND EXCHANGE COMMISSION HAS JURISDICTION TO ORDER THE DISSOLUTION OF A WATER DISTRICT ORGANIZED AND OPERATED AS A QUASI-PUBLIC CORPORATION.** — The Consumer Association's action therefore is, in fine, in the nature of a mandamus suit, seeking to compel the board of directors of the Marilao Water District, and its alleged co-conspirators, the Sangguniang Bayan and the Mayor of Marilao to go through

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the process above described for the dissolution of the water district. In this sense, and indeed, taking account of the nature of the proceedings for dissolution just described, it seems plain that the case does not fall within the limited jurisdiction of the SEC, but within the general jurisdiction of Regional Trial Courts.

APPEARANCES OF COUNSEL

Magtanggol C. Gunigundo for petitioner.
Prospero A. Crescini for Marilao Water District.

D E C I S I O N

NARVASA, *J.*:

Involved in this appeal is the determination of which tribunal has jurisdiction over the dissolution of a water district organized and operating as a quasi-public corporation under the provisions of Presidential Decree No. 198, as amended:[1] the Regional Trial Court, or the Securities & Exchange Commission.

PD 198 authorizes the formation, lays down the powers and functions, and governs the operation of water districts throughout the country; it is "the source of authorization and power to form and maintain a (water) district." Once formed, it says, a district is subject to its provisions and is not under the jurisdiction of any political subdivision.[2]

Under PD 198, water districts may be created by the different local legislative bodies by the passage of a resolution to this effect, subject to the terms of the decree. The primary function of these water districts is to sell water to residents within their territory, under such schedules of rates and charges as may be determined by their boards.[3] They shall manage, administer,

[1] Otherwise known as the "Provincial Water Utilities Act of 1973" [effective May 25, 1973] as amended by PD No. 768 and PD No. 1479 [effective June 11, 1978].

[2] Section 6, PD 198.

[3] SEC. 38, PD 198, as amended by PD 768.

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operate and maintain all watersheds within their territorial boundaries, safeguard and protect the use of the waters therein, supervise and control structures within their service areas, and prohibit any person from selling or otherwise disposing of water for public purposes within their service areas where district facilities are available to provide such service.[4]

The decree specifies the terms under which water districts may be formed and operate. It prescribes, particularly —

a) the name by which a water district shall be known, which shall be contained in the enabling resolution, and "shall include the name of the city, municipality, or province, or region thereof, served by said system, followed by the words, 'Water District'";[5]

b) the number and qualifications of the members of the boards of directors, with the date of expiration of term of office for each;[6] the manner of their selection and initial appointment by the head of the local political subdivision;[7] their terms of office (which shall be in staggered periods of two, four and six years);[8] the manner of filling up vacancies in the board;[9] the compensation and liabilities of members of the board.[10] The resolution shall contain a "statement that the district may only be dissolved on the grounds and under the conditions set forth in Section 44" of the law, but nothing in the resolution of formation, the decree adds, "shall state or infer that the local legislative body has the power to dissolve, alter or affect the district beyond that specifically provided for in this Act."[11]

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[4] SEC. 31, PD 198, as amended by PD 768 and PD 1479.

[5] Sec. 6(a).

[6] Secs. 6 and 8.

[7] Secs. 3(b), 9 and 10.

[8] Sec. 11.

[9] Sec. 12.

[10] Secs. 13, 14.

[11] Sec. 6, PD 198.

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The juridical entities thus created and organized under PD 198 are considered quasi-public corporations, performing public services and supplying public wants. They are authorized not only to "exercise all the powers which are expressly granted" by said decree, and those "which are necessarily implied from or incidental to" said powers, but also "the power of eminent domain, the exercise *** (of which) shall however be subject to review by the Administration" (LWUA). In addition to the powers granted in, and subject to such restrictions imposed under, the Act, they may also exercise the powers, rights and privileges given to private corporations under existing laws.[12]

The decree also established a government corporation attached to the Office of the President, known as the Local Water Utilities Administration (LWUA),[13] to function primarily as "a specialized lending institution for the promotion, development and financing of local water utilities." It has the following specific powers and duties;[14]

"(1) prescribe minimum standards and regulations in order to assure acceptable standards of construction materials and supplies, maintenance, operation, personnel training, accounting and fiscal practices for local water utilities;

(2) furnish technical assistance and personnel training programs for local water utilities;

(3) monitor and evaluate local water standards; and

(4) effect systems integration, joint investment and operations, district annexation and de-annexation whenever economically warranted."

It was pursuant to the foregoing rules and norms that the Marilao Water District was formed by Resolution of the

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[12] SEC. 6, PD 198, as amended by PD 1479; SEE *Tanjay Water District v. Gabaton, et al.*, 172 SCRA 253, citing, also, Sec. 35, Art. VIII and Sec. 37, Art, IX of PD 807 (The Civil Service Act). SEE, too, *Baguio Water District vs. Trajano, et al.*, 127 SCRA 730; *Hagonoy Water District vs. NLRC*, 165 SCRA 272.

[13] SEC. 49, PD 198, as amended by PD 768.

[14] SEC. 50, PD 198, as amended by PD 768.

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Sangguniang Bayan of the Municipality of Marilao dated September 18, 1982, which resolution was thereafter forwarded to the LWUA and "duly filed" by it on October 4, 1982 after ascertaining that it conformed to the requirements of the law.[15]

The claim was thereafter made that the creation of the Marilao Water District in the manner aforestated was defective and illegal. The claim was made by a non-stock, non-profit corporation known as the Marilao Water Consumers Association, Inc., in a petition dated December 12, 1983 filed with the Regional Trial Court at Malolos, Bulacan. Impleaded as respondents were the Marilao Water District, as well as the Municipality of Marilao, Bulacan; its Sangguniang Bayan; and Mayor Nicanor V. Guillermo. The petition prayed for the dissolution of the water district on the basis chiefly of the following allegations, to wit:

1) there had been no real, but only a "farcical" public hearing prior to the creation of the Water District;

2) not only was the waterworks system turned over to the Water District without compensation but a subsidy was illegally authorized for it;

3) the Water District was being run with "negligence, apathy, indifference and mismanagement," and was not providing adequate and efficient service to the community, but this notwithstanding, the consumers were being billed in full and threatened with disconnection for failure to pay bills on time; in fact, one of the consumers who complained had his water service cut off;

4) the consumers were consequently "forced to organize themselves into a corporation last October 3, 1983 *** for the purpose of demanding adequate and sufficient supply of water

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[15] SEC. 7 (as amd by PD 768) provides that the district is deemed duly formed and existing upon the date of such filing and that thereupon, the local government or governments concerned shall lose ownership, supervision and control or any right whatsoever over the district except as (otherwise) provided ***."

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and efficient management of the waterworks in Marilao, Bulacan."[16]

Acting on the complaint, particularly on the application for temporary restraining order and preliminary injunction set out therein, the Trial Court issued an Order on December 22, 1983 setting the application for preliminary hearing, requiring the respondents to answer the petition and restraining them until further orders from collecting any water bill, disconnecting any water service, transferring any property of the waterworks, or disbursing any amount in favor of any person. The order was modified on January 6, 1984 to allow the respondents to pay the district's outstanding obligations to Meralco, by way of exception to the restraining order.

On January 13, 1984 the Marilao Water District filed its Answer with Compulsory Counterclaim, denying the material allegations of the petition and asserting as affirmative defenses (a) the Court's lack of jurisdiction of the subject matter, and (b) the failure of the petition to state a cause of action. The answer alleged that the matter of the water district's dissolution fell under the original and exclusive jurisdiction of the Securities & Exchange Commission (SEC); and the matter of the propriety of water rates, within the primary administrative jurisdiction of the LWUA and the quasi-judicial jurisdiction of the National Water Resources Council. On the same date, Marilao Water District filed a motion for admission of its third-party complaint against the officers and directors of the petitioner corporation, it being claimed that they had instigated the filing of the petition simply because one of them was a political adversary of the respondent Mayor.

The other respondents also filed their answer through the Provincial Fiscal of Bulacan, setting up the same affirmative defense of lack of jurisdiction on the part of the Trial Court; and failure of the petition to state a cause of action since it admitted that it was by resolution of the Marilao Sangguniang Bayan that the Marilao Water District was constituted.

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[16] *Rollo*, pp. 34-41.

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The petitioner — the Marilao Consumers Association — filed a reply, and an answer to the counterclaim, on January 26, 1984. It averred that since the Marilao Water District had not been organized under the Corporation Code, the SEC had no jurisdiction over a proceeding for its dissolution; and that under Section 45 of PD 198, the proceeding to determine if the dissolution of the water district is for the best interest of the people, is within the competence of a regular court of justice, and neither the LWUA nor the National Water Resources Council is competent to take cognizance of the matter of dissolution of the water district and recovery of its waterworks system, or the exorbitant rates imposed by it. The Consumers Association also opposed admission of the third-party complaint on the ground that its individual officers are not personally amenable to suit for acts of the corporation,[17] which has a personality district from theirs.

The Trial Court found for the respondents. It dismissed the Consumers Association's suit by Order handed down on June 8, 1984 which pertinently reads as follows:

"After a consideration of the arguments raised by the herein parties, the Court is more inclined to take the position of the respondents that the Securities and Exchange Commission has the exclusive and original jurisdiction over this case.

WHEREFORE, the instant petition, the third-party complaint, and the compulsory counterclaim filed herein are hereby DISMISSED, for lack of jurisdiction."

Its motion for reconsideration having been denied, by Order dated September 20, 1984, the Consumers Association filed with this Court a petition for review on *certiorari*, which was docketed as G.R. No. 68742. The case was however referred to the Intermediate Appellate Court by this Court's Second Division, in a Resolution dated November 19, 1984, where it was docketed as AC-G.R. SP. No. 04852.

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[17] SEC. 14, PD 198, provides that "No director may be held to be personally liable for any action of the distinct."

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But there in the Intermediate Appellate Court, the Consumers Association's cause also met with failure. The Appellate Court, in its Decision promulgated on September 10, 1985, ruled that its cause could not prosper because —

1) it had availed of the wrong remedy, *i.e.*, the special civil action of *certiorari*; the Order of June 8, 1984 being a final order — in the sense that it "left nothing else to be done in the case" — the proper remedy was appeal under Rule 41 of the Rules of Court and not a *certiorari* suit under Rule 65; and

2) even if the *certiorari* action be treated as an appeal, it was "unerringly clear that the controversy *** falls within the competence of the SEC," in virtue of P.D. 902-A[18] which provides that said agency "shall have original and exclusive jurisdiction to hear and decide cases involving:.

"a) * * *

"b) Controversies arising out of intra-corporate or partnership relations, between and among stockholders, members or associates; between any or all of them and the corporation, partnership or association of which they are stockholders, members or associates, respectively; and between such corporation, partnership or association and the state insofar as it concerns their individual franchise or right to exist as such entity * * *."

The Appellate Court subsequently denied the petitioner's motion for reconsideration, by Resolution dated November 4, 1985. Hence, the petition for review on *certiorari* at bar, in which reversal of the Appellate Tribunal's decision is sought, the petitioner insisting that the remedy resorted to by it was correct but misunderstood by the I.A.C., and that the law does indeed vest exclusive jurisdiction over the subject matter of the case in the Regional Trial Court, not the Securities and Exchange Commission.

Turning first to the adjective issue, it is quite evident that the Order of the Trial Court of June 8, 1984, dismissing the

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[18] Sec. 5.

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action of the Consumers Association, is really a *final* order; it finally disposed of the proceeding and left nothing more to be done by the Court on the merits. Now, the firmly settled principle is that the remedy against such a *final* order is the ordinary remedy of an appeal, either solely on questions of law — in which case the appeal may be taken only to the Supreme Court, or on questions of fact and law — in which event the appeal should be brought to the Court of Appeals. The extraordinary remedy of a special civil action of *certiorari* or prohibition is not the appropriate recourse because precisely, one of the conditions for availing of t is that there should be "no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law."[19] A resort to the latter instead of the former would ordinarily be fatal, unless it should appear in a given case that appeal would otherwise be an inefficacious or inadequate remedy.[20]

In holding that Marilao Water District had resorted to the wrong remedy against the Trial Court's order dismissing its suit, *i.e.*, the special civil action of *certiorari*, instead of an appeal, the Intermediate Appellate Court quite overlooked the fact, not seriously disputed by the Marilao Water District and its co-respondents, that the former had in fact availed of the remedy of appeal by *certiorari* under Rule 45 of the Rules of Court, as required by paragraph 25 of the *Interim* Rules & Guidelines of this Court, implementing *Batas Pambansa Bilang* 129; that before doing so, it had first asked for and been granted an extension of thirty (30) days within which to file a petition for review on *certiorari*; but that subsequently, by Resolution of this Court's Second Division dated November 19, 1984, the case was referred to the Intermediate Appellate Court, evidently because it was felt that certain factual issues had yet to be determined. In any case, all things considered, the Court is not prepared to have the case at bar finally determined on this procedural issue.

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[19] Secs. 1, 2, and 3, Rule 65, Rules of Court.

[20] SEE, *e.g.*, *PNB vs. Puno*, 170 SCRA 229; *Angeles vs. IAC*, 178 SCRA 125.

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The juridical entities known as water districts created by PD 198, although considered as quasi-public corporations and authorized to exercise the powers, rights and privileges given to private corporations under existing laws,[21] are entirely distinct from corporations organized under the Corporation Code, PD 902-A, as amended. The Corporation Code has nothing whatever to do with their formation and organization, all the terms and conditions for their organization and operation being particularly spelled out in PD 198. The resolutions creating them, their charters, in other words, are filed not with the Securities and Exchange Commission but with the LWUA. It is these resolutions *qua* charters, and not articles of incorporation drawn up under the Corporation Code, which set forth the name of the water districts, the number of their directors, the manner of their selection and replacement, their powers, *etc*. The SEC which is charged with enforcement of the Corporation Code as regards corporations, partnerships and associations formed or operating under its provisions, has no power of supervision or control over the activities of water districts. More particularly, the SEC has no power of oversight over such activities of water districts as selling water, fixing the rates and charges therefor,[22] or the management, administration, operation and maintenance of watersheds within their territorial boundaries, or the safeguarding and protection of the use of the waters therein, or the supervision and control of structures within the service areas of the district, and the prohibition of any person from selling or otherwise disposing of water for public purposes within their service areas where district facilities are available to provide such service.[23] That function of supervision or control over water districts is entrusted to the Local Water Utilities Administration.[24] Consequently, as regards the activities of water districts just mentioned, the SEC obviously can have no claim to any expertise.

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[21] SEE footnote 13, *supra*.

[22] SEC. 38, PD 198, as amended by PD 768.

[23] SEC. 31, PD 198, as amended by PD 768 and PD 1479.

[24] SEC. 62, PD 198, as amended by PD 768.

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The "Provincial Water Utilities Act of 1973" has a specific provision governing dissolution of water districts created thereunder. This is Section 45 of PD 198[25] reading as follows:

"SEC. 45. *Dissolution.* — A district may be dissolved by resolution of its board of directors filed in the manner of filing the resolution forming the district: Provided, however, That prior to the adoption of any such resolution: (1) another public entity has acquired the assets of the district and has assumed all obligations and liabilities attached thereto; (2) all bondholders and other creditors have been notified and they consent to said transfer and dissolution; and (3) a court of competent jurisdiction has found that said transfer and dissolution are in the best interest of the public."

Under this provision, it is the LWUA which is the administrative body involved in the voluntary dissolution of a water district; it is with it that the resolution of dissolution is filed, not the Securities and Exchange Commission. And this provision is evidently quite distinct and different from those on dissolution of corporations "formed or organized under the provisions of *** (the Corporation) Code" set out in Sections 117 to 121, inclusive, of said Code, under which dissolution may be voluntary (by vote of the stockholders or members), generally effected by the filing of the corresponding resolution with the Securities and Exchange Commission, or involuntary, commenced by the filing of a verified complaint also with the SEC.

All these argue against conceding jurisdiction in the Securities and Exchange Commission over proceedings for the dissolution of water districts. For although described as quasi-public corporations, and granted the same powers as private corporations, water districts are not really corporations. They have no incorporators, stockholders or members, who have the right to vote for directors, or amend the articles of incorporation or by-laws, or pass resolutions, or otherwise perform such other acts as are authorized to stockholders or members of corporations by the Corporation Code. In a word, there can be no such thing as a relation of corporation-and-stockholders or members

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[25] As amended by PD 768, eff. Aug. 15, 1975.

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in a water district for the simple reason that in the latter there are no stockholders or members. Between the water district and those who are recipients of its water services there exists not the relationship of corporation-and-stockholder, but that of a service agency and users or customers. There can therefore be no such thing in a water district as "intra-corporate or partnership relations, between and among stockholders, members or associates (or) between any or all of them and the corporation, partnership or association of which they are stockholders, members or associates, respectively," within the contemplation of Section 5 of the Corporation Code so as to bring controversies involving them within the competence and cognizance of the SEC.

There can be even less debate about the fact that the SEC has no jurisdiction over the co-respondents of the Marilao Water District — the Municipality of Marilao, its Sangguniang Bayan and its Mayor — who are accused of a "conspiracy" with the water district in respect of the anomalies described in the Consumer Association's petition.[26]

The controversy, therefore, between the Consumers Association, on the one hand, and Marilao District and its co-respondents, on the other, is not within the jurisdiction of the SEC.

In their answer with counterclaim in the proceedings *a quo*, the respondents advocated the theory that the case falls within the jurisdiction of the LWUA and/or the National Water Resources Council.

The LWUA does not appear to have any adjudicatory functions. It is, as already pointed out, "primarily a specialized lending institution for the promotion, development and financing of local water utilities,"[27] with power to prescribe minimum standards and regulations regarding maintenance, operation, personnel training, accounting and fiscal practices for local water

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[26] *Rollo*, pp. 34-41.

[27] SEE footnote 13, *supra*.

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utilities, to furnish technical assistance and personnel training programs therefor; monitor and evaluate local water standards; and effect systems integration, joint investment and operations, district annexation and deannexation whenever economically warranted.[28] The LWUA has quasi-judicial power only as regards rates or charges fixed by water districts, which it may review to establish compliance with the provisions of PD 198, without prejudice to appeal being taken therefrom by a water concessionaire to the National Water Resources Council whose decision thereon shall be appealable to the Office of the President.[29] The rates or charges established by respondent Marilao Water District do not appear to be at issue in the controversy at bar.

The National Water Resources Council, on the other hand, is conferred "original jurisdiction over all disputes relating to appropriation, utilization, exploitation, development, control, conservation and protection of waters within the meaning and context of the provisions of ***" (the Code by which said Council was created, Presidential Decree No. 1067, otherwise known as the Water Code of the Philippines);[30] and its decision on water rights controversies may be appealed to the Court of First Instance of the province where the subject matter of the controversy is situated.[31] It also has authority to review questions of annexations and deannexations (addition to or exclusion from the district of territory). Again it does not appear that the case at bar is a water rights controversy or one involving annexation or deannexation.

What essentially is sought by the Consumers Association is the dissolution of the Marilao Water District, on the ground that its formation was illegal and invalid; the waterworks system had been turned over to it without compensation and a subsidy illegally authorized for it; and the Water District was being run

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[28] SEC. 50, PD 198, as amended by PD 768 (SEE footnote 14, *supra*).

[29] SEC. 68, PD 198, as amended by PD 768.

[30] Effective Dec. 31, 1976; SEE Sec. 88 of said PD 1067.

[31] Sec. 89, PD 1067.

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with "negligence, apathy, indifference and mismanagement," and was not providing adequate and efficient service to the community.[32]

Now, as already above stated, the dissolution of a water district is governed by Section 46 of PD 198, as amended, stating that it "may be dissolved by resolution of its board of directors filed *in the manner of filing the resolution forming the district*," subject to enumerated pre-requisites.[33] The procedure for dissolution thus consists of the following steps:

1) the initiation by the board of directors of the water district *motu proprio* or at the relation of an interested party, of proceedings for the dissolution of the water district, including:

a) the ascertainment by said board that —

1) another public entity has acquired the assets of the district and has assumed all obligations and liabilities attached thereto; and liabilities attached thereto; and

2) all bondholders and other creditors have been notified and consent to said transfer and dissolution;

b) the commencement by the water district in a court of competent jurisdiction of a proceeding to obtain a declaration that "said transfer and dissolution are in the best interest of the public";

2) after compliance with the foregoing requisites, the adoption by the board of directors of the water district of a resolution dissolving the water district and its submission to the Sangguniang Bayan concerned for approval;

3) submission of the resolution of the Sangguniang Bayan dissolving the water district to the head of the local government concerned for approval, and ultimately to the LWUA, for final approval and filing.

The Consumer Association's action therefore is, in fine, in the nature of a *mandamus* suit, seeking to compel the board of

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[32] SEE footnote 15, *supra*.

[33] SEE footnote 23, and related text, *supra*.

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directors of the Marilao Water District, and its alleged co-conspirators, the Sangguniang Bayan and the Mayor of Marilao to go through the process above described for the dissolution of the water district. In this sense, and indeed, taking account of the nature of the proceedings for dissolution just described, it seems plain that the case does not fall within the limited jurisdiction of the SEC, but within the general jurisdiction of Regional Trial Courts.

WHEREFORE, the Decision of the Intermediate Appellate Court of September 10, 1985 — affirming that of the Regional Trial Court of June 8, 1984 — is REVERSED and SET ASIDE, and the case is remanded to the Regional Trial Court for further proceedings and adjudication in accordance with law. No costs.

SO ORDERED.

Cruz and *Medialdea, JJ.*, concur.

Gancayco, J., retired, as of August 20, 1991.

Griño-Aquino, J., no part.

FIRST DIVISION

[G.R. No. 75810. September 9, 1991]

KAISAHAN NG MANGGAGAWANG PILIPINO (KAMPIL-KATIPUNAN), *petitioner, vs.* **HON. CRESENCIANO B. TRAJANO, in his capacity as Director, Bureau of Labor Relations, and VIRON GARMENTS MFG., CO., INC.,** *respondents.*

SYLLABUS

LABOR AND SOCIAL LEGISLATION; LABOR RELATIONS; CERTIFICATION ELECTION; ORDER BARRING HOLDING THEREOF A GRAVE ABUSE OF DISCRETION WHERE THE PROSCRIPTIONS TO CERTIFICATION