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the court *a quo* is reduced to *reclusion perpetua.* Accused-appellants are further ordered jointly and severally to pay the heirs of Prudencio Lineses ₱50,000.00 as civil indemnity, ₱50,000.00 for moral damages and ₱20,000.00 for temperate damages. The awards for actual and exemplary damages are deleted for lack of factual and legal basis.

SO ORDERED.

Davide, Jr., C. J. (Chairman), Puno, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Callejo, Sr., and *Azcuna, JJ.,* concur.

EN BANC

[G.R. No. 143076. June 10, 2003]

PHILIPPINE RURAL ELECTRIC COOPERATIVES ASSOCIATION, INC. (PHILRECA); AGUSAN DEL NORTE ELECTRIC COOPERATIVE, INC. (ANECO); ILOILO I ELECTRIC COOPERATIVE, INC. (ILECO I); and ISABELA I ELECTRIC COOPERATIVE, INC. (ISELCO I), *petitioners, vs.* **THE SECRETARY, DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT, and THE SECRETARY, DEPARTMENT OF FINANCE,** *respondents.*

SYNOPSIS

Petitioners assailed the constitutionality of Sections 193 and 234 of R.A. No. 7160, otherwise known as the Local Government Code, for being violative of the equal protection clause and non-impairment clause of the Constitution because of the withdrawal by the said Code of the tax exemptions previously enjoyed by petitioners.

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The Supreme Court ruled that there was no violation of the equal protection clause. The equal protection clause under the Constitution means that no person or class of persons shall be deprived of the same protection of laws which is enjoyed by other persons or other classes in the same place in like circumstances. The guaranty of the equal protection of laws is not violated by a law based on reasonable classification. Classification, to be reasonable, must (1) rest on substantial distinctions; (2) be germane to the purpose of the law; (3) not be limited to existing conditions only; and (4) apply equally to all members of the same class. The Court held that there is reasonable classification under the Local Government Code to justify the different tax treatment between electric cooperatives covered by P.D. No. 269, as amended, and electric cooperatives under R.A. No. 6938.

The Court likewise ruled that there was no violation of the non-impairment clause. The constitutional prohibition on the impairment of the obligation of contracts does not prohibit every change in existing laws. To fall within the prohibition, the change must not only impair the obligation of the existing contract, but the impairment must be substantial.

SYLLABUS

1. **POLITICAL LAW; CONSTITUTIONAL LAW; BILL OF RIGHTS; EQUAL PROTECTION CLAUSE; NOT VIOLATED BY A LAW BASED ON REASONABLE CLASSIFICATION; CLASSIFICATION, WHEN REASONABLE.**— The equal protection clause under the Constitution means that "no person or class of persons shall be deprived of the same protection of laws which is enjoyed by other persons or other classes in the same place and in like circumstances." Thus, the guaranty of the equal protection of the laws is not violated by a law based on reasonable classification. Classification, to be reasonable, must (1) rest on substantial distinctions; (2) be germane to the purposes of the law; (3) not be limited to existing conditions only; and (4) apply equally to all members of the same class.

2. **COMMERCIAL LAW; REPUBLIC ACT NO. 6938; COOPERATIVES; ELEMENTS.**— A cooperative under R.A. No. 6938 is defined as: [A] duly registered association of persons

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with a common bond of interest, who have voluntarily joined together to achieve a lawful common or social economic end, *making equitable contributions to the capital required* and accepting a fair share of the risks and benefits of the undertaking in accordance with universally accepted cooperative principles. The above definition provides for the following elements of a cooperative: a) association of persons; b) common bond of interest; c) voluntary association; d) lawful common social or economic end; e) capital contributions; f) fair share of risks and benefits; g) adherence to cooperative values; and h) registration with the appropriate government authority.

3. **POLITICAL LAW; ADMINISTRATIVE LAW; LOCAL GOVERNMENT CODE; LIMITED AND RESTRICTIVE NATURE OF TAX EXEMPTION PRIVILEGES UNDER THE CODE; PURPOSE.**— In *Mactan Cebu International Airport Authority v. Marcos*, this Court held that the limited and restrictive nature of the tax exemption privileges under the Local Government Code is consistent with the State policy to ensure autonomy of local governments and the objective of the Local Government Code to grant genuine and meaningful autonomy to enable local government units to attain their fullest development as self-reliant communities and make them effective partners in the attainment of national goals. The obvious intention of the law is to broaden the tax base of local government units to assure them of substantial sources of revenue.

4. **ID.; CONSTITUTIONAL LAW; BILL OF RIGHTS; NON-IMPAIRMENT CLAUSE; VIOLATED WHEN THERE IS SUBSTANTIAL IMPAIRMENT OF THE OBLIGATION OF THE EXISTING CONTRACT.**— [T]he constitutional prohibition on the impairment of the obligation of contracts does not prohibit every change in existing laws. To fall within the prohibition, the change must not only impair the obligation of the existing contract, but the impairment must be substantial. What constitutes substantial impairment was explained by this Court in *Clemons v. Nolting*: A law which changes the terms of a legal contract between parties, either in the time or mode of performance, or imposes new conditions, or dispenses with those expressed, or authorizes for its satisfaction something different from that provided in its terms, is law which impairs the obligation of a contract and is therefore null and void. Moreover, to

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constitute impairment, the law must affect a change in the rights of the parties with reference to each other and not with respect to non-parties.

APPEARANCES OF COUNSEL

Suarez Senar Vigare Babaran Alcantara Ato O'Clarit for petitioners.

Solicitor General for respondents.

The City Legal Officer for City Mayor, treasurer & himself.

D E C I S I O N

PUNO, *J.*:

This is a petition for Prohibition under Rule 65 of the Rules of Court with prayer for the issuance of a temporary restraining order seeking to annul as unconstitutional sections 193 and 234 of R.A. No. 7160 otherwise known as The Local Government Code.

On May 23, 2000, a class suit was fled by petitioners in their own behalf and in behalf of other electric cooperatives organized and existing under P.D. No. 269 who are members of petitioner Philippine Rural Electric Cooperatives Association, Inc. (PHILRECA). Petitioner PHILRECA is an association of 119 electric cooperatives throughout the country. Petitioners Agusan del Norte Electric Cooperative, Inc. (ANECO), Iloilo I Electric Cooperative, Inc. (ILECO I) and Isabela I Electric Cooperative, Inc. (ISELCO I) are non-stock, non-profit electric cooperatives organized and existing under P.D. No. 269, as amended, and registered with the National Electrification Administration (NEA).

Under P.D. No. 269, as amended, or the National Electrification Administration Decree, it is the declared policy of the State to provide "the total electrification of the Philippines on an area coverage basis" the same "being vital to the people and the sound development of the nation."[1] Pursuant to this policy, P.D.

[1] Section 2, P.D. No. 269.

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No. 269 aims to "promote, encourage and assist all public service entities engaged in supplying electric service, particularly electric cooperatives" by "giving every tenable support and assistance" to the electric cooperatives coming within the purview of the law.[2] Accordingly, Section 39 of P.D. No. 269 provides for the following tax incentives to electric cooperatives:

SECTION 39. *Assistance to Cooperatives; Exemption from Taxes, Imposts, Duties, Fees; Assistance from the National Power Corporation.* — Pursuant to the national policy declared in Section 2, the Congress hereby finds and declares that the following assistance to cooperative is necessary and appropriate:

(a) Provided that it operates in conformity with the purposes and provisions of this Decree, *cooperatives (1) shall be permanently exempt from paying income taxes*, and (2) for a period ending on December 31 of the thirtieth full calendar year after the date of a cooperative's organization or conversion hereunder, or until it shall become completely free of indebtedness incurred by borrowing, whichever event first occurs, *shall be exempt from the payment (a) of all National Government, local government and municipal taxes and fees, including franchise, filing, recordation, license or permit fees or taxes and any fees, charges, or costs involved in any court or administrative proceeding in which it may be a party, and (b) of all duties or imposts on foreign goods acquired for its operations,* the period of such exemption for a new cooperative formed by consolidation, as provided for in Section 29, to begin from as of the date of the beginning of such period for the constituent consolidating cooperative which was most recently organized or converted under this Decree: Provided, That the Board of Administrators shall, after consultation with the Bureau of Internal Revenue, promulgate rules and regulations for the proper implementation of the tax exemptions provided for in this Decree.

. . . . . .[3]

From 1971 to 1978, in order to finance the electrification projects envisioned by P.D. No. 269, as amended, the Philippine Government, acting through the National Economic Council (now

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[2] *Id.*

[3] Italics supplied.

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National Economic Development Authority) and the NEA, entered into six (6) loan agreements with the government of the United States of America through the United States Agency for International Development (USAID) with electric cooperatives, including petitioners ANECO, ILECO I and ISELCO I, as beneficiaries. The six (6) loan agreements involved a total amount of approximately US$86,000,000.00. These loan agreements are existing until today.

The loan agreements contain similarly worded provisions on the tax application of the loan and any property or commodity acquired through the proceeds of the loan. Thus, Section 6.5 of A.I.D. Loan No. 492-H-027 dated November 15, 1971 provides:

> Section 6.5. *Taxes and Duties.* The Borrower covenants and agrees that this Loan Agreement and the Loan provided for herein shall be free from, and the Principal and interest shall be paid to A.I.D. without deduction for and free from, any taxation or fees imposed under any laws or decrees in effect within the Republic of the Philippines or any such taxes or fees so imposed or payable shall be reimbursed by the Borrower with funds other than those provided under the Loan. To the extent that (a) any contractor, including any consulting firm, any personnel of such contractor financed hereunder and any property or transactions relating to such contracts and (b) any commodity procurement transactions financed hereunder, are not exempt from identifiable taxes, tariffs, duties and other levies imposed under laws in effect in the country of the Borrower, the Borrower and/or Beneficiary shall pay or reimburse the same with funds other than those provided under the Loan.[4]

Petitioners contend that pursuant to the provisions of P.D. No. 269, as amended, and the above-mentioned provision in the loan agreements, they are exempt from payment of local taxes, including payment of real property tax. With the passage of the Local Government Code, however, they allege that their tax exemptions have been invalidly withdrawn. In particular, petitioners assail Sections 193 and 234 of the Local Government Code on the ground that the said provisions discriminate against them, in violation of the equal protection clause. Further, they submit that the said provisions

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[4] *Rollo*, p. 38.

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are unconstitutional because they impair the obligation of contracts between the Philippine Government and the United States Government.

On July 25, 2000 we issued a Temporary Restraining Order.[5]

We note that the instant action was filed directly to this Court, in disregard of the rule on hierarchy of courts. However, we opt to take primary jurisdiction over the present petition and decide the same on its merits in view of the significant constitutional issues raised by the parties dealing with the tax treatment of cooperatives under existing laws and in the interest of speedy justice and prompt disposition of the matter.

I

There is No Violation of the Equal Protection Clause

The pertinent parts of Sections 193 and 234 of the Local Government Code provide:

Section 193. *Withdrawal of Tax Exemption Privileges.* — Unless otherwise provided in this Code, tax exemptions or incentives granted to, or presently enjoyed by all persons, whether natural or juridical, including government-owned and controlled corporations, except local water districts, *cooperatives duly registered under R.A. No. 6938*, non-stock and non-profit hospitals and educational institutions, are hereby withdrawn upon the effectivity of this Code.

. . . . . .

Section 234. *Exemptions from real property tax.* — The following are exempted from payment of the real property tax:

. . . . . .

(d) All real property owned by duly registered cooperatives as provided for under R.A. No. 6938; and

. . . . . .

Except as provided herein, any exemption from payment of real property tax previously granted to, or presently enjoyed by, all persons whether natural or juridical, including all government-owned

[5] *Id.* at 262.

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and controlled corporations are hereby withdrawn upon effectivity of this Code.[6]

Petitioners argue that the above provisions of the Local Government Code are unconstitutional for violating the equal protection clause. Allegedly, said provisions unduly discriminate against petitioners who are duly registered cooperatives under P.D. No. 269, as amended, and not under R.A. No. 6938 or the Cooperative Code of the Philippines. They stress that cooperatives registered under R.A. No. 6938 are singled out for tax exemption privileges under the Local Government Code. They maintain that electric cooperatives registered with the NEA under P.D. No. 269, as amended, and electric cooperatives registered with the Cooperative Development Authority (CDA) under R.A. No. 6938 are similarly situated for the following reasons: a) petitioners are registered with the NEA which is a government agency like the CDA; b) petitioners, like CDA-registered cooperatives, operate for service to their member-consumers; and c) prior to the enactment of the Local Government Code, petitioners, like CDA-registered cooperatives, were already tax-exempt.[7] Thus, petitioners contend that to grant tax exemptions from local government taxes, including real property tax under Sections 193 and 234 of the Local Government Code only to registered cooperatives under R.A. No. 6938 is a violation of the equal protection clause.

We are not persuaded. The equal protection clause under the Constitution means that "no person or class of persons shall be deprived of the same protection of laws which is enjoyed by other persons or other classes in the same place and in like circumstances."[8] Thus, the guaranty of the equal protection of the laws is not violated by a law based on reasonable classification. Classification, to be reasonable, must (1) rest on substantial distinctions; (2) be germane to the purposes of the law; (3) not

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[6] Italics supplied.

[7] *Rollo*, p. 11.

[8] *Tolentino v. Board of Accountancy*, G.R. No. L-3062, September 28, 1951, 90 Phil 83, 90.

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be limited to existing conditions only; and (4) apply equally to all members of the same class.[9]

We hold that there is reasonable classification under the Local Government Code to justify the different tax treatment between electric cooperatives covered by P.D. No. 269, as amended, and electric cooperatives under R.A. No. 6938.

First, substantial distinctions exist between cooperatives under P.D. No. 269, as amended, and cooperatives under R.A. No. 6938. These distinctions are manifest in at least two material respects which go into the nature of cooperatives envisioned by R.A. No. 6938 and which characteristics are not present in the type of cooperative associations created under P.D. No. 269, as amended.

a. Capital Contributions by Members

A cooperative under R.A. No. 6938 is defined as:

> [A] duly registered association of persons with a common bond of interest, who have voluntarily joined together to achieve a lawful common or social economic end, *making equitable contributions to the capital required* and accepting a fair share of the risks and benefits of the undertaking in accordance with universally accepted cooperative principles.[10]

The above definition provides for the following elements of a cooperative: a) association of persons; b) common bond of interest; c) voluntary association; d) lawful common social or economic end; e) capital contributions; f) fair share of risks and benefits; g) adherence to cooperative values; and g) registration with the appropriate government authority.[11]

The importance of capital contributions by members of a cooperative under R.A. No. 6938 was emphasized during the Senate deliberations as one of the key factors which distinguished electric

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[9] *People v. Cayat*, G.R. No. 45987, May 5, 1939, 68 Phil. 12, 18.

[10] Art. 3, R.A. No. 6938. Italics supplied.

[11] M. F. VERZOSA, *THE PHILIPPINE COOPERATIVE LAW, ANNOTATED:* 28-30 (1991).

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cooperatives under P.D. No. 269, as amended, from electric cooperatives under the Cooperative Code. Thus:

Senator Osmeña. Will this Code, Mr. President, cover electric cooperatives as they exist in the country today and are administered by the National Electrification Administration?

Senator Aquino. That cannot be answered with a simple yes or no, Mr. President. The answer will depend on what provisions we will eventually come up with. *Electric cooperatives as they exist today would not fall under the term "cooperative" as used in this bill because the concept of a cooperative is that which adheres and practices certain cooperative principles. . . .*

. . . . . .

Senator Aquino. To begin with, one of the most important requirements, Mr. President, is *the principle where members bind themselves to help themselves. It is because of their collectivity that they can have some economic benefits.* In this particular case [cooperatives under P.D. No. 269), the government is the one that funds these so-called electric cooperatives. . . .

. . . . . .

Senator Aquino . . . That is why in Article III we have the following definition:

> A cooperative is an association of persons with a common bond of interest who have voluntarily joined together to achieve a common social or economic end, making equitable contributions to the capital required.

In this particular case [cooperatives under P.D. No. 269], Mr. President, the members do not make substantial contribution to the capital required. It is the government that puts in the capital, in most cases.

Senator Osmeña. Under line 6, Mr. President, making equitable contributions to the capital required would exclude electric cooperatives [under P.D. No. 269]. Because the membership does not make equitable contributions.

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[12] Record of the Senate, Third Regular Session 1989, Vol. 1, No. 13, pp. 378-379.

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Senator Aquino. Yes, Mr. President. This is precisely what I mean, that electric cooperatives [under P.D. No. 269] do not qualify in the spirit of cooperatives. That is the reason why they should be eventually assessed whether they intend to comply with the cooperatives or not. Because, if after giving them a second time, they do not comply, then, they should not be classified as cooperatives.

Senator Osmeña. Mr. President, *the measure of their qualifying as a cooperative would be the requirement that a member of the electric cooperative must contribute a pro rata share of the capital of the cooperative in cash to be a cooperative.*[12]

Nowhere in P.D. No. 269, as amended, does it require cooperatives to make equitable contributions to capital. Petitioners themselves admit that to qualify as a member of an electric cooperative under P.D. No. 269, *only the payment of a ₱5.00 membership fee* is required which is even refundable the moment the member is no longer interested in getting electric service from the cooperative or will transfer to another place outside the area covered by the cooperative.[13] However, under the Cooperative Code, the articles of cooperation of a cooperative applying for registration must be accompanied with the bonds of the accountable officers and a sworn statement of the treasurer elected by the subscribers showing that at least twenty-five per cent (25%) of the authorized share capital has been subscribed and at least twenty-five per cent (25%) of the total subscription has been paid and in no case shall the paid-up share capital be less than Two thousand pesos.(₱2,000.00).[14]

b. Extent of Government Control over Cooperatives

Another principle adhered to by the Cooperative Code is the *principle of subsidiarity.* Pursuant to this principle, the government may only engage in development activities where cooperatives do not posses the capability nor the resources to do so and only upon the request of such cooperatives.[15] Thus, Article 2 of the Cooperative Code provides:

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[13] *Rollo*, p. 377.

[14] Art. 14 (5), R.A. No. 6938.

[15] *Supra*, note 11 at 27.

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Art. 2. *Declaration of Policy.* — It is the declared policy of the State to foster the creation and growth of cooperatives as a practical vehicle for prompting self-reliance and harnessing people power towards the attainment of economic development and social justice. The State shall encourage the private sector to undertake the actual formation and organization to cooperatives and shall create an atmosphere that is conducive to the growth and development of these cooperatives.

Towards this end, the Government and all its branches, subdivisions, instrumentalities and agencies shall ensure the provision of technical guidance, financial assistance and other services to enable said cooperatives to develop into viable and responsive economic enterprises and thereby bring about a strong cooperative movement that is free from any conditions that might infringe upon the autonomy or organizational integrity of cooperatives.

Further, the State recognizes the principle of subsidiarity under which the cooperative sector will initiate and regulate within its own ranks the promotion and organization, training and research, audit and support services relating to cooperatives with government assistance where necessary.[16]

Accordingly, under the charter of the CDA, or the primary government agency tasked to promote and regulate the institutional development of cooperatives, it is the declared policy of the State that:

[glovernment assistance to cooperatives shall be free from any restriction and conditionality that may in any manner infringe upon the objectives and character of cooperatives as provided in this Act. *The State shall, except as provided in this Act, maintain the policy of noninterference in the management and operation of cooperatives.*[17]

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[16] Italic supplied.

[17] Art. 2, R.A. No. 6939 or "An Act Creating the Cooperative Development Authority to Promote the Viability and Growth of Cooperatives as Instruments of Equity, Social Justice and Economic Development, defining its Powers, Functions and Responsibilities, Rationalizing Government Policies and Agencies with Cooperative Functions, Supporting Cooperative Development, Transferring the Registration and Regulation Functions of Existing Government Agencies on Cooperatives as such and Consolidating the same with the Authority, Appropriating Funds Therefor, and for other Purposes." Italics supplied.

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In contrast, P.D. No. 269, as amended by P.D. No. 1645, is replete with provisions which grant the NEA, upon the happening of certain events, the power to control and take over the management and operations of cooperatives registered under it. Thus:

a) the NEA Administrator has the *power to designate,* subject to the confirmation of the Board of Administrators, an Acting General Manager and/or Project Supervisor for a cooperative where vacancies in the said positions occur and/or when the interest of the cooperative or the program so requires, and *to prescribe the functions* of the said Acting General Manager and/or Project Supervisor, *which powers shall not be nullified, altered or diminished by any policy or resolution of the Board of Directors of the cooperative concerned;*[18]

b) the NEA is given the power of *supervision and control* over electric cooperatives and pursuant to such powers, NEA may issue orders, rules and regulations *motu propio* or upon petition of third parties to conduct referenda and other similar actions in *all matters* affecting electric cooperatives;[19]

c) No cooperative shall borrow money from any source without the approval of the Board of Administrators of the NEA;[20] and

d) The management of a cooperative shall be vested in its Board, *subject to the supervision and control of NEA* which shall have the right to be represented and to participate in all Board meetings and deliberations and to approve all policies and resolutions.[21]

The extent of government control over electric cooperatives covered by P.D. No. 269, as amended, is largely a function of

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[18] Section 5 (a) (6), P.D. No. 269, as amended by P.D. No. 1645.

[19] Section 10, P.D. No. 269, as amended by P.D. No. 1645.

[20] *Id.*

[21] Section 24, P.D. No. 269, as amended by P.D. No. 1645.

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the role of the NEA *as a primary source of funds* of these electric cooperatives. It is crystal clear that NEA incurred loans from various sources *to finance the development and operations of the electric cooperatives.* Consequently, amendments to P.D. No. 269 were primarily geared to expand the powers of the NEA over the electric cooperatives to ensure that loans granted to them would be repaid to the government. In contrast, cooperatives under R.A. No. 6938 are envisioned to be *self-sufficient and independent* organizations *with minimal government intervention or regulation.*

To be sure, the transitory provisions of R.A. No. 6938 are indicative of the recognition by Congress of the fundamental distinctions between electric cooperatives organized under P.D No. 269, as amended, and cooperatives under the new Cooperative Code. Article 128 of the Cooperative Code provides that all cooperatives registered under previous laws shall be deemed registered with the CDA upon submission of certain requirements within one year. However, cooperatives created under P.D. No. 269, as amended, are given three years within which to *qualify and register* with the CDA, after which, provisions of P.D. No. 1645 which expand the powers of the NEA over electric cooperatives, would no longer apply.[22]

Second, the classification of tax-exempt entities in the Local Government Code is germane to the purpose of the law. The

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[22] Art. 128. *Transitory Provisions.* — All cooperatives registered under Presidential Decree Nos. 175 and 775 and Executive Order No. 898, and all other laws shall be deemed registered with the Cooperative Development Authority: Provided, however, That they shall submit to the nearest Cooperative Development Authority office their certificate of registration, copies of the articles of cooperation and bylaws and their latest duly audited financial statements within one (1) year from the effectivity of this Act, otherwise their registration shall be cancelled: Provided, further, That cooperatives created under Presidential Decree No. 269, as amended by Presidential Decree No. 1645, shall be given three (3) years within which to qualify and register with the Authority: Provided, finally, That after these cooperatives shall have qualified and registered, the provisions of Sections 3 and 5 of Presidential Decree No. 1645 shall no longer be applicable to said cooperatives.

[23] Art. X, Sections 2, 3 and 5, 1987 Constitution.

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Constitutional mandate that every local government unit shall enjoy local autonomy, does not mean that the exercise of power by local governments is beyond regulation by Congress. Thus, while each government unit is granted the power to create its own sources of revenue, Congress, in light of its broad power to tax, has the discretion to determine the *extent of the taxing powers* of local government units consistent with the policy of local autonomy.[23]

Section 193 of the Local Government Code is indicative of the legislative intent to vest broad taxing powers upon local government units and to limit exemptions from local taxation to entities specifically provided therein. Section 193 provides:

Section 193. *Withdrawal of Tax Exemption Privileges.* — Unless otherwise provided in this Code, tax exemptions or incentives granted to, or presently enjoyed by all persons, whether natural or juridical, including government-owned and controlled corporations, except local water districts, *cooperatives duly registered under R.A. No. 6938*, non-stock and non-profit hospitals and educational institutions, are hereby withdrawn upon the effectivity of this Code.[24]

The above provision effectively withdraws exemptions from local taxation enjoyed by various entities and organizations upon effectivity of the Local Government Code *except for a) local water districts; b) cooperatives duly registered under R.A. No. 6938; and c) non-stock and non-profit hospitals and educational institutions*. Further, with respect to real property taxes, the Local Government Code again specifically enumerates entities which are exempt therefrom and withdraws exemptions enjoyed by all other entities upon the effectivity of the code. Thus, Section 234 provides:

SEC. 234. *Exemptions from Real Property Tax.* — The following are exempted from payment of the real property tax:

(a) Real property owned by the Republic of the Philippines or any of its political subdivisions except when the beneficial use thereof had been granted for consideration or otherwise, to a taxable person;

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[24] Italics supplied.

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(b) Charitable institutions, churches, parsonages or convents appurtenant thereto, mosques, nonprofit or religious cemeteries and all lands, buildings and improvements actually, directly, and exclusively used for religious, charitable or educational purposes;

(c) All machineries and equipment that are actually, directly and exclusively used by local water districts and government-owned or controlled corporations engaged in the supply and distribution of water and/or generation and transmission of electric power;

(d) *All real property owned by duly registered cooperatives as provided for under R.A. No. 6938;* and

(e) Machinery and equipment used for pollution control and environmental protection.

Except as provided herein, any exemption from payment of real property tax previously granted to, or presently enjoyed by, all persons, whether natural or juridical, including all government-owned or controlled corporations are hereby withdrawn upon the effectivity of this Code.[25]

In *Mactan Cebu International Airport Authority v. Marcos*,[26] this Court held that the limited and restrictive nature of the tax exemption privileges under the Local Government Code is consistent with the State policy to ensure autonomy of local governments and the objective of the Local Government Code to grant genuine and meaningful autonomy to enable local government units to attain their fullest development as self-reliant communities and make them effective partners in the attainment of national goals. The obvious intention of the law is to broaden the tax base of local government units to assure them of substantial sources of revenue.

While we understand petitioners' predicament brought about by the withdrawal of their local tax exemption privileges under the Local Government Code, it is not the province of this Court to go into the *wisdom* of legislative enactments. Courts can only interpret laws. The principle of separation of powers prevents them from re-inventing the laws.

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[25] Italics supplied.

[26] G.R. No. 120082, September 11, 1996, 261 SCRA 667, 690.

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Finally, Sections 193 and 234 of the Local Government Code permit reasonable classification as these exemptions are not limited to existing conditions and apply equally to all members of the same class. Exemptions from local taxation, including real property tax, are granted to all cooperatives covered by R.A. No. 6938 and such exemptions exist for as long as the Local Government Code and the provisions therein on local taxation remain good law.

II

There is No Violation of the Non-Impairment Clause

It is ingrained in jurisprudence that the constitutional prohibition on the impairment of the obligation of contracts does not prohibit every change in existing laws. To fall within the prohibition, the change must not only impair the obligation of the existing contract, but the impairment must be substantial.[27] What constitutes substantial impairment was explained by this Court in *Clemons v. Nolting*:[28]

> A law which changes the terms of a legal contract between parties, either in the time or mode of performance, or imposes new conditions, or dispenses with those expressed, or authorizes for its satisfaction something different from that provided in its terms, is law which impairs the obligation of a contract and is therefore null and void.

Moreover, to constitute impairment, the law must affect a change in the rights of the parties with reference to each other and not with respect to non-parties.[29]

Petitioners insist that Sections 193 and 234 of the Local Government Code impair the obligations imposed under the six (6) loan agreements executed by the NEA as borrower and USAID as lender. All six agreements contain similarly worded

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[27] *Gaspar v. Molina*, G.R. No. 2206, November 2, 1905, 5 Phil. 197, 202-203.

[28] G.R. No. 17959, January 24, 1922, 42 Phil. 702, 717.

[29] BERNAS, *THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES: A COMMENTARY* 390 (1996).

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provisions on the tax treatment of the proceeds of the loan and properties and commodities acquired through the loan. Thus:

> Section 6.5. *Taxes and Duties*. The Borrower covenants and agrees that this Loan Agreement and the *Loan provided for herein shall be free from, and the Principal and interest shall be paid to A.I.D. without deduction for and free from, any taxation or fees imposed* under any laws or decrees in effect within the Republic of the Philippines or any such taxes or fees so imposed or payable shall be reimbursed by the Borrower with funds other than those provided under the Loan. *To the extent that (a) any contractor, including any consulting firm, any personnel of such contractor financed hereunder, and any property or transactions relating to such contracts and (b) any commodity procurement transactions financed hereunder, are not exempt from identifiable taxes, tariffs, duties and other levies imposed under laws in effect in the country of the Borrower, the Borrower and/or Beneficiary shall pay or reimburse the same with funds other than those provided under the Loan.*[30]

Petitioners contend that the withdrawal by the Local Government Code of the tax exemptions of cooperatives under P.D. No. 269, as amended, is an impairment of the tax exemptions provided under the loan agreements. Petitioners argue that as beneficiaries of the loan proceeds, pursuant to the above provision, "[a]ll the assets of petitioners, such as lands, buildings, distribution lines acquired through the proceeds of the Loan Agreements . . . are tax exempt.. . .[31]

We hold otherwise.

A plain reading of the provision quoted above readily shows that it does not grant any tax exemption in favor of the borrower or the beneficiary either on the proceeds of the loan itself or the properties acquired through the said loan. It simply states that the loan proceeds and the principal and interest of the loan, upon repayment by the borrower, shall be *without deduction of any tax or fee that may be payable under Philippine law as such tax or fee will be absorbed by the borrower with funds other*

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[30] A.I.D. Loan No. 492-H-027 dated November 15, 1971. *Rollo*, p. 38. Italics supplied.

[31] *Rollo*, p. 12.

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than the loan proceeds. Further, the provision states that with respect to any payment made by the borrower to (1) any contractor or any personnel of such contractor or any property transaction and (2) any commodity transaction using the proceeds of the loan, *the tax to be paid, if any, on such transactions shall be absorbed by the borrower and/or beneficiary through funds other than the loan proceeds.*

Beyond doubt, the import of the tax provision in the loan agreements cited by petitioners is twofold: (1) the borrower is entitled to receive from and is obliged to pay the lender the principal amount of the loan and the interest thereon *in full, without any deduction of the tax component thereof imposed under applicable Philippine law and any tax imposed shall be paid by the borrower with funds other than the loan proceeds* and (2) with respect to payments made to any contractor, its personnel or any property or commodity transaction entered into pursuant to the loan agreement and with the use of the proceeds thereof, taxes payable under the said transactions *shall be paid by the borrower and/or beneficiary with the use of funds other than the loan proceeds*. The quoted provision does not purport to grant any tax exemption in favor of any party to the contract, including the beneficiaries thereof. The provisions simply shift the tax burden, if any, on the transactions under the loan agreements to the borrower and/or beneficiary of the loan. Thus, the withdrawal by the Local Government Code under Sections 193 and 234 of the tax exemptions previously enjoyed by petitioners does not impair the obligation of the borrower, the lender or the beneficiary under the loan agreements as in fact, no tax exemption is granted therein.

III

Conclusion

Petitioners lament the difficulties they face in complying with the implementing rules and regulations issued by the CDA for the conversion of electric cooperatives under P.D. No. 269, as amended, to cooperatives under R.A. No. 6938. They allege

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that because of the cumbersome legal and technical requirements imposed by the Omnibus Rules and Regulations on the Registration of Electric Cooperatives under R.A. No. 6938, petitioners cannot register and convert as stock cooperatives under the Cooperative Code.[32]

The Court understands the plight of the petitioners. Their remedy, however, is not judicial. Striking down Sections 193 and 234 of the Local Government Code as unconstitutional or declaring them inapplicable to petitioners is not the proper course of action for them to obtain their previous tax exemptions. The language of the law and the intention of its framers are clear and unequivocal and courts have no other duty except to uphold the law. The task to re-examine the rules and guidelines on the conversion of electric cooperatives to cooperatives under R.A. No. 6938 and provide every assistance available to them should be addressed by the proper authorities of government. This is necessary to encourage the growth and viability of cooperatives as instruments of social justice and economic development.

WHEREFORE, the instant petition is DENIED and the temporary restraining order heretofore issued is LIFTED.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Callejo, Sr., and *Azcuna, JJ.,* concur.

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[32] *Id.* at 375-376.