



Republika ng Pilipinas
KAGAWARAN NG KATARUNGAN
Department of Justice
Manila

APR 25 2022

Undersecretary JOSEPH B. ENCABO

Chairman
Cooperative Development Authority
827 Aurora Blvd., Service Road
Brgy. Immaculate Conception
1111 Cubao, Quezon City

Dear **Undersecretary Encabo**:

This refers to your request for this Department's opinion on whether or not the Cooperative Development Authority ("Authority") went beyond its powers under Republic Act (R.A.) No. 11364, otherwise known as the "Cooperative Development Authority Charter of 2019", when it provided for the organization and recognition of the Regional Clustered Organizations (RCOs) pursuant to the Implementing Rules and Regulations (IRR) of R.A. No. 11364 in order to effectuate and to make the provision of Section 4(z) of the said law operative.

You stated in your letter that among the powers of the Authority is to recognize sectoral apex organizations (SAOs) and a national alliance of cooperatives (NAC) to serve as the overall consultative and coordinating body with the Authority. This is based on Section 4(z) of R.A. No. 11364 which provides that:

Section 4. *Powers, Functions and Responsibilities.* - The Authority shall have the following powers and functions:

xxx xxx xxx

(z) Recognize sectoral apex organizations and a national alliance representing all types and categories of cooperatives which shall function as the overall consultative and coordinating body with the Authority, for this purpose, the pertinent provisions of Republic Act No. 9520 are hereby amended accordingly, and **the Authority shall issue the necessary IRR for this provision**; (Emphasis supplied in the letter)

In Rule IX of the IRR of R.A. No. 11364, which sets forth the rules and regulations implementing Section 4(z) thereof, the Authority provided for the recognition of the following organizations:

Regional Clustered Organization (RCO) - A recognized association of primary, secondary, tertiary cooperatives as well as of union of

cooperatives belonging to a specific cluster operating in a region to serve as a consultative body of cooperatives in the regional level;¹

Sectoral Apex Organization (SAO) - A recognized association of Regional Clustered Organizations, including tertiary cooperatives and union of cooperatives operating nationwide, to serve as a consultative body in the national level on issues and concerns affecting their respective clusters;²

National Alliance of Cooperatives (NAC) - A recognized association of Sectoral Apex Organizations in the national level acting as the primary advocacy and over-all consultative and coordinating body for national issues and concerns affecting cooperatives.³

The Authority also issued Memorandum Circular (M.C.) No. 2020-28 prescribing the guidelines and procedures governing the organization and recognition of the NAC, the SAOs, and the RCOs.

In your letter-request, you stated that the IRR of R.A. No. 11364 provided for a hierarchical organization structure based on geographical levels of organization.

Each of the six (6) clusters of cooperatives⁴ will first come up with the organization at the regional level of all cooperatives belonging to each cluster (comprising of primary, secondary and tertiary cooperatives operating within the region) and these organizations shall be called the RCOs. The organization and recognition of the RCOs will pave the way for the creation and recognition of the SAOs, which shall operate at the national level. Occupying the topmost level of these organizations is the NAC, which shall be established only after all the RCOs and the SAOs are created and recognized by the Authority.

You also stated, among others, that the SAOs and the NAC draw their powers, duties and responsibilities from the multitude of their membership who elected them. The members are the bedrock of their creation and existence, and that without their members, there would be no SAOs and/or NAC. It is the very same principle that the Authority adopted when the concept of RCOs was formulated in consultation with all stakeholders. The RCOs are the very foundation of the SAOs who elected their representatives to it. Further, the RCOs not only solidified the foundation of the SAOs but they also greatly facilitated the organization of the SAOs.

You further stated that without organizing the RCOs, the Authority would be hard-pressed in coordinating and facilitating the direct organization

¹ Section 3(v), Rule I of the IRR of R.A. 11364.

² Section 3(w), *Ibid.*

³ Section 3(r), *Id.*

⁴ (1) credit and financial services, banking, insurance and credit surety fund; (2) consumers, marketing, producers and logistics; (3) human services: health, housing, workers and labor service; (4) education and advocacy; (5) agriculture, agrarian, aquaculture, farmers, dairy and fisherfolk; and (6) public utilities: electricity, water, communications and transport.

of SAOs from all existing cooperatives, and that they must be organized in a nationwide scope. The RCOs paved the way for a first-level organization by regions, and it helped the cooperatives to organize themselves without any difficulty.

Thus, it is your position that Section 4(z) of R.A. No. 11364 merely sets forth a policy or principle which cannot be implemented without the active intervention of the Authority. The recourse of the Authority is that the organization of the first level body be on a regional scale. Hence, the establishment and organization of the RCOs under the IRR of R.A. No. 11364 and further amplified under CDA MC No. 2020-28.

According to you, notwithstanding the fact that the creation of the RCOs was prompted with the best motives and shares the concern of each cooperative comprising the sector for equal opportunity to participate in the consultation process regardless of size, type, and category, a question has been posed on the validity of their creation and recognition given that RCOs are not provided in R.A. No. 11364.

Hence, this request.

It is settled that an administrative agency not only has such powers as are expressly granted to it by law but also those necessarily implied in the exercise of its express powers.

Equally settled is the rule that rules and regulations promulgated in pursuance of an authority conferred by law partakes of the nature of a statute. Such rules, in a sense, may be said to be the product of a delegated power to create new or additional provisions that have the effect of law. The necessity for vesting administrative authorities with the power to make rules and regulations because of the impracticability of the lawmakers to provide general regulations for various and varying details of management has been recognized by the courts and upheld against various particular objections.⁵

Such power of subordinate legislation conferred upon administrative agencies is permitted in order to adapt to the increasing complexity of modern life. Hence, specialization even in legislation has become necessary. With this authority, an administrative body may implement broad policies laid down in a statute by "filling in" the details which the legislature may neither have time nor competence to provide.⁶

In *Maceda v. Macaraig, Jr.*⁷, the Court explained the rationale behind the permissible delegation of legislative powers to specialized agencies, thus:

The latest in our jurisprudence indicates that delegation of legislative power has become the rule and its non-delegation the exception. The reason is the increasing complexity of modern life and many technical

⁵ 42 Am. Jur. 329, cited in *Geukeko vs. Araneta*, G.R. No. L-10182, 24 December 1957.

⁶ *Kilusang Mayo Uno Labor Center vs. Garcia, Jr.*, G.R. No. 115381, 23 December 1994.

⁷ G.R. No. 88291, dated 31 May 1991.

fields of governmental functions as in matters pertaining to tax exemptions. This is coupled by the growing inability of the legislature to cope directly with the many problems demanding its attention. The growth of society has ramified its activities and created peculiar and sophisticated problems that the legislature cannot be expected reasonably to comprehend. Specialization even in legislation has become necessary. To many of the problems attendant upon present day undertakings, the legislature may not have the competence, let alone the interest and the time, to provide the required direct and efficacious, not to say specific solutions.

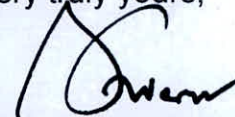
As you have pointed out, the RCOs are the very foundation of the SAOs. It not only solidified the foundation of the SAOs but also greatly facilitated its organization.

Thus, while it is categorical from Section 4(z) of R.A. No. 11364 that only sectoral apex organizations and a national alliance representing all types and categories of cooperatives shall be recognized by the Authority and nothing is mentioned therein on the recognition of RCOs, practicality and logic both dictate that RCOs be recognized.

From the foregoing, this Department is of the opinion that by recognizing the RCOs, the Authority, in exercising the authority of subordinate legislation, has only filled in the details in the law which the legislature may neither have seen nor considered when R.A. No. 11364 was passed.

Please be guided accordingly.

Very truly yours,



MENARDO I. GUEVARRA
Secretary

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