

### Title:

**\*\*Garcia vs. The Executive Secretary: A Constitutional Challenge to the Foreign Investments Act of 1991\*\***

### Facts:

Congressman Enrique T. Garcia (petitioner) challenged the constitutionality of Republic Act 7042, otherwise known as the Foreign Investments Act of 1991, arguing that it violates the constitutional mandate to develop a self-reliant and independent national economy controlled by Filipinos, and protect Filipino enterprises against unfair foreign competition. Under Section 5 of RA 7042, foreign investors are allowed to invest up to 100% of the capital in a domestic enterprise without prior approval, needing only to register with the Securities and Exchange Commission (SEC) or the Bureau of Trade Regulation and Consumer Protection (BTRCP). Garcia contended that this law abdicated all regulation of foreign enterprises and granted them undue advantages over local investments, effectively displacing Filipino businesses.

The procedural journey to the Supreme Court involved a scathing critique of RA 7042's provisions, including its establishment of a Foreign Investment Negative List delineated into Lists A, B, and C, each specifying varying degrees of restrictions and allowances for foreign investment in certain sectors. Garcia's petition was rigorously opposed by respondents citing the law's inbuilt mechanisms for maintaining a balance between attracting foreign investments and protecting national interests.

### Issues:

1. Whether RA 7042 violates the constitutional policy of developing a self-reliant and independent national economy effectively controlled by Filipinos.
2. Whether the law unconstitutionally provides undue advantages to foreign investors over Filipino enterprises.
3. Whether the Foreign Investment Negative List system under RA 7042 suffices as a regulation and exercise of authority over foreign investments as mandated by the Constitution.

### Court's Decision:

The Supreme Court dismissed the petition, ruling that RA 7042 does not violate the Philippine Constitution. It reasoned that:

- The law indeed allows 100% foreign ownership in certain investment areas but adequately protects the national economy by reserving significant sectors for Filipinos through the

### Foreign Investment Negative List.

- The Negative List system does not abandon regulation of foreign investments but instead specifies the sectors where foreign investment is restricted or prohibited, thus balancing the need for foreign investments and protection of national and Filipino enterprise interests.
- The Court also addressed procedural objections, notably the prematurity of the challenge due to the absence of implementing rules and affirmed Congressman Garcia's standing to file the suit. However, it emphasized that the judiciary is not the forum for debates on the wisdom or efficacy of legislation, which are matters better decided by Congress.

### ### Doctrine:

- The case reiterates the doctrine of separation of powers and judicial deference to legislative discretion on matters of economic policy, emphasizing that the judiciary does not settle debates on the wisdom of legislation but only addresses grounds of clear constitutional violation.
- It further consolidates the legal standing of legislators to challenge laws that they believe contradict constitutional mandates, albeit with a preference for resolving such matters within legislative corridors.

### ### Class Notes:

- **\*\*Separation of Powers\*\***: Understand that the courts generally avoid ruling on constitutional questions unless absolutely necessary and presume the constitutionality of legislative actions in the absence of clear violation.
- **\*\*Economic Legislation\*\***: Learn that debates on the wisdom or efficacy of economic policies are the domain of the legislature, not the judiciary, reinforcing the principle of separation of powers.
- **\*\*Foreign Investment Regulation\*\***: Familiarize with the concept of the Foreign Investment Negative List as a regulatory mechanism, detailing sectors open to or restricted from foreign investment under RA 7042.

### ### Historical Background:

The challenge against RA 7042 reflected a period of significant economic policy reforms in the Philippines aimed at attracting foreign investments to bolster national development. It underscored ongoing debates about balancing the need for foreign capital and expertise with the protection of Filipino enterprises and the national economy—a crucial aspect of post-Martial Law economic restructuring and liberalization efforts.