

****Title:**** Pharmaceutical and Health Care Association of the Philippines vs. Health Secretary Francisco T. Duque III, et al.

****Facts:****

- The case initiated from the issuance of Administrative Order (A.O.) No. 2006-0012 by the Department of Health (DOH), otherwise known as the Revised Implementing Rules and Regulations (RIRR) of Executive Order No. 51 (Milk Code).
- The Milk Code aims to protect and promote breastfeeding, through the regulation of the marketing of breastmilk substitutes, supplements, and other related products.
- The RIRR was promulgated to enhance the regulation on the marketing of these products, invoking not just the Milk Code but also international agreements like the International Code of Marketing of Breastmilk Substitutes and various World Health Assembly Resolutions.
- The Pharmaceutical and Health Care Association of the Philippines (PHCAP) challenged the RIRR's validity, claiming it contains unconstitutional provisions and extends beyond the scope of the Milk Code.
- The Supreme Court issued a Temporary Restraining Order (TRO) against the RIRR's implementation while the case was pending.

****Issues:****

1. Whether the RIRR is constitutional and does not exceed the DOH's rule-making authority.
2. If the RIRR provisions are consistent with the Milk Code.
3. Whether the RIRR provisions on advertising, donation, and the authority to impose sanctions are in accord with the Milk Code.

****Court's Decision:****

1. Standing: The Court recognized PHCAP as a real party-in-interest, capable of challenging the RIRR's validity, as it represents the collective interests of its members who are manufacturers of breastmilk substitutes.
2. Constitutionality and Authority: The Court found that certain provisions of the RIRR are not consistent with the Milk Code. Specifically, it held that:
 - Sections 4(f), 11, and 46 of the RIRR, which outrightly prohibit the advertising and promotion of breastmilk substitutes and impose administrative sanctions, are ultra vires, meaning they were beyond the DOH's authority to enact, thus null and void.
 - The rest of the RIRR provisions were generally consistent with the Milk Code and were within the DOH's authority.
 - The Court explained that while the DOH has the mandate to regulate the marketing of

breastmilk substitutes to ensure safe and adequate nutrition for infants, it cannot impose an absolute ban on advertising or enact provisions not supported by legislative enactment.

****Doctrine:****

The Court elucidated the doctrine of ultra vires actions by administrative bodies, emphasizing that while agencies have the authority to promulgate rules to implement laws, they cannot go beyond what the law provides. Regulations that exceed statutory authority are ultra vires and thus invalid.

****Class Notes:****

The case highlights several critical legal concepts:

- Administrative Law: The boundary of an administrative agency's rule-making power and the doctrine of ultra vires.
- Constitutional Law: The protection of commercial speech under the freedom of expression and its regulation by the state.
- Statutory Construction: The interpretation of statutes and their implementing rules and regulations.

Legal statutes or provisions highlighted:

- Executive Order No. 51 (The Milk Code)
- Administrative Order No. 2006-0012 (The RIRR of the Milk Code)
- Principles of Administrative Law regarding the scope of rule-making authority.

****Historical Background:****

This case interacts with a series of international agreements aimed at promoting breastfeeding and regulating the marketing of breastmilk substitutes to ensure that mothers are not unduly influenced by commercial interests. It underscores the Philippines' commitment, through legislative and executive actions, to international health norms and standards, particularly regarding child nutrition and welfare.