# YAZAKI TORRES MANUFACTURING, INC., PETITIONER, VS. THE COURT OF APPEALS, THE HOME DEVELOPMENT MUTUAL FUND, THROUGH ITS BOARD OF TRUSTEES, AND HONORABLE ZORAYDA AMELIA C. ALONZO,...

*G.R. NO. 130584. June 27, 2006*

Ponente: SANDOVAL-GUTIERREZ, J.

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**SANDOVAL-GUTIERREZ, J.:**

This is a petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure, as amended, seeking to annul the Decision[1] of the Court of Appeals (Special Eighth Division), dated February 5, 1997, in CA-G.R. SP No. 41487 for having been issued with grave abuse of discretion.

The Home Development Mutual Fund (HDMF) is the government agency tasked with the administration of the PAG-IBIG[2] Fund (Fund) created under Presidential Decree (P.D.) No. 1530, signed into law on June 11, 1978. The Fund has been intended for housing purposes to be sourced from voluntary contributions from its members.

On December 14, 1980, P.D. No. 1530 was amended by P.D. No. 1752 providing that membership in the Fund is mandatory for all gainfully-employed Filipinos.

On June 17, 1994, P.D. No. 1752 was amended by Republic Act (R.A.) No. 7742 which took effect on January 1, 1995. Under the new law, the coverage of the Fund extends to all members of the Social Security System and Government Service Insurance System, as well as their employers. However, membership is voluntary for employees earning less than P4,000.00 a month.

On July 18, 1994, the HDMF Board of Trustees promulgated Rules and Regulations implementing R.A. No. 7742. Rule VII provides:

> RULE VII
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> WAIVER OR SUSPENSION
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> SEC. 1. Waiver or Suspension, Existing Provident or Retirement Plan. – An employer and/or employee group who has an existing provident or retirement plan as of the effectivity of Republic Act No. 7742, qualified under Republic Act No. 4917 and actuarially determined to be sound and reasonable by an independent actuary duly accredited by the Insurance Commission may apply with the Fund for waiver or suspension of coverage. Such waiver or suspension may be granted by the President of the Fund on the basis of verification that the waiver or suspension does not contravene any effective collective bargaining or other existing agreement and that the features of the plan or plans are superior to the Fund and continue to be so. The certificate of waiver or suspension of coverage issued therein shall only be for a period of one (1) year but the same may be renewed for another year upon the filing of a proper application within a period of sixty (60) days prior to the expiration of the existing waiver or suspension.
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> SEC. 2. Waiver or Suspension, Existing Housing Plan. – An employer and/or employee group who has an

> existing housing plan as of the effectivity of Republic Act No. 7742 may apply with the Fund for waiver or suspension of coverage. Such waiver or suspension may be granted by the President of the Fund on the basis of verification that the waiver or suspension does not contravene any effective collective bargaining or other existing agreement and that the features of the plan or plans are superior to the Fund and continue to be so. The certificate of waiver or suspension of coverage issued therein shall only be for a period of one (1) year but the same may be renewed for another year upon the filing of a proper application within a period of sixty (60) days prior to the expiration of the existing waiver or suspension.
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> SEC. 4. Effects of Waiver or Suspension, Existing Provident or Retirement/Housing Plan. - Waiver or suspension of coverage granted to an employer under Sections 1 and 2 of this Rule shall likewise apply to his employees who are members of the employer's private plan; Provided, That such members are not member-borrowers of the Fund. A member-borrower shall continue to pay and remit to the fund his monthly contributions together with the employer contributions to be shouldered by him. A member-saver may opt to remain in good standing by remitting to the Fund his monthly contributions with or without employer contribution.
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> Employees who are non-members of the employer's private plan at the time of the certificate of waiver or suspension of coverage is granted shall continue to be mandatorily covered by the Fund and their employer is required to set aside and remit to the Fund the employee contributions together with the employer contributions.

Yazaki Torres Manufacturing, Inc., petitioner herein, a corporation organized under Philippine laws, applied for and was granted by the HDMF a waiver from the Fund coverage for the period from January 1 to December 31, 1995. The HDMF found that petitioner's retirement plan for its employees is superior to that offered by the Fund.

On September 1, 1995, the HDMF Board of Trustees amended Rule VII of the Rules and Regulations implementing R.A. No. 7742. The amended Rule provides:

> SEC. 1. Waiver or Suspension Because of Existing Provident/Retirement and Housing Plan. – An employer with a plan providing both for a provident/retirement and housing benefits for all his employees and existing as of December 14, 1980, the effectivity date of Presidential Decree No. 1752, may apply with the Fund for waiver or suspension of the coverage. The provident/retirement aspect of the plan must be qualified under Republic Act No. 4917 and actuarially determined to be sound and reasonable by an independent actuary duly accredited by the Insurance Commission. The provident/retirement and housing benefits as provided for under the plan must be superior to the provident/retirement and housing benefits offered by the Fund.
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> Such waiver or suspension may be granted by the Fund on the basis of actual certification that the waiver or suspension does not contravene any collective bargaining agreement, any other existing agreement or clearly spelled out management policy and that features of the plan or plans are superior to the Fund and continue to be so.
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> Provided further, That the application must be endorsed by the labor union representing a majority of the employees or in the absence thereof by at least a majority vote for all the employees in the said establishment in a meeting specifically called for the purpose; Provided furthermore, That such a meeting be held or conducted under the supervision of an authorized representative from the Fund.
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> The certificate of waiver or suspension of coverage issued herein shall only be for a period of one (1) year effective upon issuance thereof. No certificate of waiver issued by the President of the Fund shall have retroactive effect. Application for renewal must be filed within sixty (60) days prior to the expiration of the existing waiver or suspension and such application for renewal shall only be granted based on the same conditions and requirements under which the original application was approved.


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> Pending the approval of the application for waiver or suspension of coverage or the application for renewal, the employer and his covered employees shall continue to be mandatorily covered by the Fund as provided for under Republic Act No. 7742.
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> SEC. 3. Effects of Waiver or Suspension; Existing Provident or Retirement/Housing Plan. – Waiver or suspension of coverage granted to an employer under Section 1 shall likewise apply to his employees who are members of the employer's private plan; Provided, That such members are not member-borrowers of the Fund. A member-borrower shall continue to pay and remit to the Fund his monthly contributions together with the employer contribution to be shouldered by him. A member-saver may opt to remain in good standing by remitting to the Fund his monthly contributions with or without employer contributions. Notwithstanding the certificate of waiver or suspension granted to the employer, it is still the obligation of the employer to service this type of contributing employee-member by deducting through salary deductions and remitting to the Fund the contribution as required herein.
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> Employees who are non-members of the employer's private plan at the time the certificate of waiver or suspension of coverage is granted shall continue to be mandatorily covered by the Fund and their employer is required to set aside and remit to the Fund the employee contributions together with the employer's required contributions.
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After its waiver from the Fund coverage lapsed, petitioner applied for a renewal. The ground relied upon was once again its "superior retirement plan" to that of the Fund.

On February 16, 1996, the HDMF Chief Executive Officer disapproved petitioner's application on the ground that its retirement plan is not superior to that provided by the Fund. Petitioner was then directed "to register its employees with the Fund and to remit their monthly contributions together with the mandatory employer's share."

Petitioner interposed an appeal to the HDMF Board of Trustees, but in a Resolution dated May 29, 1996, the Board denied the appeal.

Thereupon, petitioner filed with the Court of Appeals a petition for review, docketed as CA-G.R. SP No. 41487.

In a Decision dated February 5, 1997, the Court of Appeals (Special Eighth Division) denied the petition, holding that:

> Petitioner contends that the existing rules and regulations cannot be amended unless and until R.A. No. 7742 is likewise amended and since the September 1, 1995 amendment on Rule VII of the HDMF rules and regulations was beyond the 60-day period required under Section 5 of R.A. No. 7742, the same is invalid. To uphold these arguments would render the administrative agency inutile to correct the rules and regulations duly promulgated by it. A contario, such rules and regulations or orders may be amended, modified or revoked to conform to the requirements of the law or the demands of justice (Benito v. Public Service Commission, 86 Phil. 624 [1950]; Raymundo Transportation Co. v. Tanay Transit Co., 63 Phil. 1064 [1936]). The only limitation is that the administrative regulations cannot extend the law and amend a legislative enactment for settled is the rule that administrative regulations must be in harmony with the provisions of the law (Land Bank of the Philippines v. Court of Appeals, 249 SCRA 149 [1995]). In case of discrepancy between the basic law and an implementing rule or regulation, the former prevails (Shell Philippines, Inc. v. Central Bank of the Philippines, 162 SCRA 628 [1988]).
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> The September 1, 1995 amendment to the rules requiring both provident/retirement and housing plans to the employees in order that the employer may be granted a waiver or suspension of the Pag-ibig Fund coverage is in harmony with WHEREAS clauses of Presidential Decree No. 1752, thus:WHEREAS, the Government, in


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> pursuit of the Constitutional mandates on the promotion of public welfare through ample social services, as well as its humanist commitment to the interests of the working group, in relation particularly to their need for decent shelter has established the Home Development Mutual Fund, under Presidential Decree 1530, a system of employee – employer contributions for housing purposes; and
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> WHEREAS, there is need to strengthen the Home Development Mutual Funds and make it more effective both as savings generation and home building program for the gainfully-employed members of the Philippine society; (Emphasis supplied)

The governing law which is Section 19 of Pres. Decree No. 1752 states:

> SEC. 19. Existing Provident/Housing Plans – An employer and/or employee – group who, at the time this Decree becomes effective have their own provident and/or employee – housing plans, may register with the Fund, for any of the following purposes:(a) For annual certification of waiver or suspension from coverage or participation in the Fund, which shall be granted on the basis of verification that the waiver or suspension does not contravene any effective collective bargaining agreement and that the features of the plan or plans are superior to the Fund or continue to be so; or
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x x x The grant of the certification of waiver to the petitioner was only for a specific period, i.e., from January 1, 1995 to December 31, 1995 but subject to the condition that the same may be renewed for another year upon the filing of the proper application within 60 days prior to the expiration of the existing waiver or suspension. The grant is merely a privilege which the State in the exercise of its police power has the right not to renew the same as the exigency of the case warrants. After the lapse of the specified period, the HDMF is not automatically required to enter another contract with the petitioner as long as the latter applies for renewal of certification. To reiterate, Section 1 of the original HDMF rules, the law in force at the time of the granting of the certification of waiver to the petitioner, provides "[s]uch waiver or suspension may be granted by the President of the Fund on the basis of verification that the waiver or suspension does not contravene any effective collective bargaining or other existing agreement and that the features of the plan or plans are superior to the Fund and continue to be so." The word "may" is merely permissive and operates to confer discretion upon a party (Capati v. Ocampo, 113 SCRA 794 [1982]). The disapproval of the petitioner's application for renewal of waiver from the Pag-ibig Fund coverage was by reason that the petitioner's retirement plan was not superior to Pag-ibig Fund (Annex "D", Petition, p. 30, Rollo). It is well-settled principle that the finding of facts by the administrative bodies which has acquired the expertise in the field is entitled to great respect and, should not be disturbed on appeal unless it is shown that it has patently misappreciated the facts. Petitioner however failed to prove by sufficient evidence that the findings of the President of the Fund was patently erroneous.[3]

Petitioner filed its Motion for Reconsideration, but it was denied in a Resolution dated June 17, 1997.

Hence, the instant petition for certiorari.[4]

Petitioner contends that the Court of Appeals acted with grave abuse of discretion in upholding the HDMF's Resolution denying petitioner's application for renewal of waiver of the Fund membership coverage; and in confirming the authority of the HDMF to amend the implementing Rules of the Fund. It claims that Section 5 of R.A. No. 7742 does not grant HDMF the power to amend the implementing Rules and Regulations, contending that "the power to make laws does not necessarily include the power to alter or repeal the same." Since the HDMF is merely an administrative agency tasked to implement the law, its authority to promulgate implementing Rules does not include the power to amend or revise them.

It is a doctrine of long-standing that courts will not interfere in matters which are addressed to the sound

discretion of the government agency entrusted with regulation of activities coming under the special and technical training and knowledge of such agency.[5] For the exercise of administrative discretion is a policy decision and a matter that best be discharged by the government agency concerned and not by the courts.[6] In this case, there is no showing that the HDMF arbitrarily, whimsically or capriciously denied petitioner's application for renewal of its waiver. It conducted the necessary investigation, comparison, evaluation, and deliberation of petitioner's retirement plan vis-à-vis the Fund. This Court thus holds that the Court of Appeals committed no grave abuse of discretion amounting to lack or excess of jurisdiction when it affirmed the denial of petitioner's application for renewal of waiver by the HDMF.

Moreover, the grant of waiver or exemption from the coverage of the Fund is but a mere privilege granted by the State. A privilege is a particular and peculiar benefit or advantage enjoyed by a person, company, or class beyond the common advantages of other citizens.[7] Like any other privilege or exemption, it may be withdrawn by the State on a finding that the recipient is no longer entitled to it. There is no provision whatsoever in R.A. No. 7742 or its Implementing Rules and Regulations that the HDMF shall automatically renew a waiver from the Fund coverage upon an application for renewal. The task of determining whether such application should be granted is best discharged by the HDMF, not by the courts. Absent a showing that the denial of petitioner's application by the HDMF is tainted by caprice, arbitrariness, or despotism, this Court will not interfere in the exercise of its discretion.

Petitioner claims that under the original Implementing Rules and Regulations of the HDMF, superior retirement plan and superior housing plan were separate and alternative grounds for the waiver of the Fund coverage. However, under the Amended Rules and Regulations, superior retirement plan and superior housing plan are joint requirements. Since petitioner does not have a housing plan, this is the reason why its retirement plan was not considered superior to that of the Fund. Hence, its application for renewal of waiver was denied. Consequently, it insists that the HDMF exceeded its authority when it amended its original Rules and Regulations.

The legislative power is granted pursuant to Section 1, Article VI of the Constitution which provides:

> SEC. 1. The legislative power shall be vested in the Congress of the Philippines which shall consist of a Senate and a House of Representatives, except to the extent reserved to the people by the provision on initiative and referendum.

The legislative power has been described generally as the power to make, alter, and repeal laws.[8] The authority to amend, change, or modify a law is thus part of such legislative power. It is the peculiar province of the legislature to prescribe general rules for the government of society. However, the legislature cannot foresee every contingency involved in a particular problem that it seeks to address. Thus, it has become customary for it to delegate to instrumentalities of the executive department, known as administrative agencies, the power to make rules and regulations. This is because statutes are generally couched in general terms which express the policies, purposes, objectives, remedies and sanctions intended by the legislature. The details and manner of carrying out the law are left to the administrative agency charged with its implementation. In this sense, rules and regulations promulgated by an administrative agency are the product of a delegated power to create new or additional legal provisions that have the effect of law.[9] Hence, in general, rules and regulations issued by an administrative agency, pursuant to the authority conferred upon it by law, have the force and effect, or partake of the nature, of a statute.[10]

The law delegated to the HDMF the rule-making power since this is necessary for the proper exercise of its authority to administer the Fund. Following the doctrine of necessary implication, this grant of express power to formulate implementing rules and regulations must necessarily include the power to amend, revise, alter, or repeal the same.


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WHEREFORE, the petition is DISMISSED. The Decision and Resolution of the Court of Appeals dated February 5 and July 17, 1997 in CA-G.R. SP No. 41487 are AFFIRMED IN TOTO. Costs against petitioner.

**SO ORDERED.**

Puno, (Chairperson), Corona, Azcuna, and Garcia, JJ., concur.

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[1] Rollo, pp. 36-54. Ponencia by Associate Justice Corona Ibay-Somera (retired), with Associate Justice Romeo J. Callejo, Sr. (now a member of this Court), and Associate Justice Salvador J. Valdez, Jr. (retired), concurring.

[2] The acronym stands for "PAGTUTULUNGAN SA KINABUKASAN: IKAW, BANGKO, INDUSTRIYA, GOBYERNO."

[3] Rollo, pp. 46-49, 52-53.

[4] What petitioner should have filed was a petition for review on certiorari. Considering that this Court required private respondents to file their comment on the petition, and in the interest of justice, the same is given due course.

[5] Republic v. Express Telecommunications Co., Inc., G.R. Nos. 147096 & 147210, January 15, 2002, 373 SCRA 316, 346, citing Concerned Officials of the Metropolitan Waterworks & Sewerage System (MWSS) v. Vasquez, 240 SCRA 502 (1995).

[6] First Lepanto Ceramics, Inc. v. Court of Appeals, G.R. No. 117680, February 9, 1996, 253 SCRA 552, 558, citing Bureau Veritas v. Office of the President, 205 SCRA 705 (1992).

[7] BLACK'S LAW DICTIONARY (6[th] Ed. 1990) 1197.

[8] Occeña v. Commission on Elections, G.R. No. 52265, January 28, 1980, 95 SCRA 755, 759.

[9] Victorias Milling Co., Inc. v. Social Security Commission, 114 Phil. 555, 558 (1962).

[10] Commissioner of Internal Revenue v. Solidbank Corp., G.R. No. 148191, November 25, 2003, 416 SCRA 436, 448, citing Victorias Milling Co., Inc, v. Social Security Commission, supra.


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