

CONGRESSMAN ENRIQUE T. GARCIA OF THE 2ND DISTRICT OF BATAAN, PETITIONER, VS. THE EXECUTIVE SECRETARY, THE SECRETARY OF THE DEPARTMENT OF ENERGY, CALTEX PHILIPPINES, INC., PETRON...

G.R. No. 157584. April 02, 2009

Ponente: BRION, J.

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BRION, J.:

For the second time, petitioner Enrique T. Garcia, Jr. (petitioner Garcia) asks this Court to examine the constitutionality of Section 19 of Republic Act No. 8479 (R.A. No. 8479), otherwise known as the Oil Deregulation Law of 1998) through this petition for certiorari.[1] He raises once again before us the propriety of implementing full deregulation by removing the system of price controls in the local downstream oil industry - a matter that we have ruled upon in the past.

THE FACTS

After years of imposing significant controls over the downstream oil industry in the Philippines, the government decided in March 1996 to pursue a policy of deregulation by enacting Republic Act No. 8180 (R.A. No. 8180) or the "Downstream Oil Industry Deregulation Act of 1996."

R.A. No. 8180, however, met strong opposition, and rightly so, as this Court concluded in its November 5, 1997 decision in *Tatad v. Secretary of Department of Energy*. [2] We struck down the law as invalid because the three key provisions intended to promote free competition were shown to achieve the opposite result; contrary to its intent, R.A. No. 8180's provisions on tariff differential, inventory requirements, and predatory pricing inhibited fair competition, encouraged monopolistic power, and interfered with the free interaction of market forces. We declared:

R.A. No. 8180 needs provisions to vouchsafe free and fair competition. The need for these vouchsafing provisions cannot be overstated. Before deregulation, PETRON, SHELL and CALTEX had no real competitors but did not have a free run of the market because government controls both the pricing and non-pricing aspects of the oil industry. After deregulation, PETRON, SHELL and CALTEX remain unthreatened by real competition yet are no longer subject to control by government with respect to their pricing and non-pricing decisions. The aftermath of R.A. No. 8180 is a deregulated market where competition can be corrupted and where market forces can be manipulated by oligopolies. [3]

Notwithstanding the existence of a separability clause among its provisions, we struck down R.A. No. 8180 in its entirety because its offensive provisions permeated the whole law and were the principal tools to carry deregulation into effect.

Congress responded to our Decision in *Tatad* by enacting on February 10, 1998 a new oil deregulation law, R.A. No. 8479. This time, Congress excluded the offensive provisions found in the invalidated law. Nonetheless,

petitioner Garcia again sought to declare the new oil deregulation law unconstitutional on the ground that it violated Article XII, Section 19 of the Constitution.[4] He specifically objected to Section 19 of R.A. No. 8479 which, in essence, prescribed the period for removal of price control on gasoline and other finished petroleum products and set the time for the full deregulation of the local downstream oil industry. The assailed provision reads:

SEC. 19. Start of Full Deregulation. - Full deregulation of the Industry shall start five (5) months following the effectivity of this Act: Provided, however, That when the public interest so requires, the President may accelerate the start of full deregulation upon the recommendation of the DOE and the Department of Finance (DOF) when the prices of crude oil and petroleum products in the world market are declining and the value of the peso in relation to the US dollar is stable, taking into account relevant trends and prospects; Provided, further, That the foregoing provision notwithstanding, the five (5)-month Transition Phase shall continue to apply to LPG, regular gasoline and kerosene as socially-sensitive petroleum products and said petroleum products shall be covered by the automatic pricing mechanism during the said period.

Upon the implementation of full deregulation as provided herein, the Transition Phase is deemed terminated and the following laws are repealed:

- a) Republic Act No. 6173, as amended;
- b) Section 5 of Executive Order No. 172, as amended;
- c) Letter of Instruction No. 1431, dated October 15, 1984;
- d) Letter of Instruction No. 1441, dated November 20, 1984, as amended;
- e) Letter of Instruction No. 1460, dated May 9, 1985;
- f) Presidential Decree No. 1889; and
- g) Presidential Decree No. 1956, as amended by Executive Order No. 137:

Provided, however, That in case full deregulation is started by the President in the exercise of the authority provided in this Section, the foregoing laws shall continue to be in force and effect with respect to LPG, regular gasoline and kerosene for the rest of the five (5)-month period.

Petitioner Garcia contended that implementing full deregulation and removing price control at a time when the market is still dominated and controlled by an oligopoly[5] would be contrary to public interest, as it would only provide an opportunity for the Big 3 to engage in price-fixing and overpricing. He averred that Section 19 of R.A. No. 8479 is "glaringly pro-oligopoly, anti-competition, and anti-people," and thus asked the Court to declare the provision unconstitutional.

On December 17, 1999, in *Garcia v. Corona* (1999 Garcia case),[6] we denied petitioner Garcia's plea for nullity. We declined to rule on the constitutionality of Section 19 of R.A. No. 8479 as we found the question replete with policy considerations; in the words of Justice Ynares-Santiago, the ponente of the 1999 Garcia case:

It bears reiterating at the outset that the deregulation of the oil industry is a policy determination of the highest order. It is unquestionably a priority program of Government. The Department of Energy Act of 1992 expressly mandates that the development and updating of the existing Philippine energy program "shall include a policy direction towards deregulation of the power and energy industry."

Be that as it may, we are not concerned with whether or not there should be deregulation. This is outside our jurisdiction. The judgment on the issue is a settled matter and only Congress can reverse it.

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Reduced to its basic arguments, it can be seen that the challenge in this petition is not against the legality of deregulation. Petitioner does not expressly challenge deregulation. The issue, quite simply, is the timeliness or the wisdom of the date when full deregulation should be effective.

In this regard, what constitutes reasonable time is not for judicial determination. Reasonable time involves the appraisal of a great variety of relevant conditions, political, social and economic. They are not within the appropriate range of evidence in a court of justice. It would be an extravagant extension of judicial authority to assert judicial notice as the basis for the determination. [Emphasis supplied.]

Undaunted, petitioner Garcia is again before us in the present petition for certiorari seeking a categorical declaration from this Court of the unconstitutionality of Section 19 of R.A. No. 8479.

THE PETITION

Petitioner Garcia does not deny that the present petition for certiorari raises the same issue of the constitutionality of Section 19 of R.A. No. 8479, which was already the subject of the 1999 Garcia case. He disagrees, however, with the allegation that the prior rulings of the Court in the two oil deregulation cases[7] amount to res judicata that would effectively bar the resolution of the present petition. He reasons that res judicata will not apply, as the earlier cases did not completely resolve the controversy and were not decided on the merits. Moreover, he maintains that the present case involves a matter of overarching and overriding importance to the national economy and to the public and cannot be sacrificed for technicalities like res judicata.[8]

To further support the present petition, petitioner Garcia invokes the following additional grounds to nullify Section 19 of R.A. No. 8479:

- Subsequent events after the lifting of price control in 1997 have confirmed the continued existence of the Big 3 oligopoly and its overpricing of finished petroleum products;
- The unabated overpricing of finished petroleum products by the Big 3 oligopoly is gravely and undeniably detrimental to the public interest;
- No longer may the bare and blatant constitutionality of the lifting of price control be glossed over through the expediency of legislative wisdom or judgment call in the face of the Big 3 oligopoly's characteristic, definitive, and continued overpricing;
- To avoid declaring the lifting of price control on finished petroleum products as unconstitutional is to consign to the dead letter dustbin the solemn and explicit constitutional command for the regulation of monopolies/oligopolies.[9]

THE COURT'S RULING

We resolve to dismiss the petition.

In asking the Court to declare Section 19 of R.A. No. 8479 as unconstitutional for contravening Section 19, Article XII of the Constitution, petitioner Garcia invokes the exercise by this Court of its power of judicial review, which power is expressly recognized under Section 4(2), Article VIII of the Constitution.[10] The power of judicial review is the power of the courts to test the validity of executive and legislative acts for their conformity with the Constitution.[11] Through such power, the judiciary enforces and upholds the supremacy of the Constitution.[12] For a court to exercise this power, certain requirements must first be met, namely:

- (1) an actual case or controversy calling for the exercise of judicial power;
- (2) the person challenging the act must have "standing" to challenge; he must have a personal and substantial

- interest in the case such that he has sustained, or will sustain, direct injury as a result of its enforcement;
- (3) the question of constitutionality must be raised at the earliest possible opportunity; and
- (4) the issue of constitutionality must be the very *lis mota* of the case.[13]

Actual Case Controversy Susceptible of Judicial Determination

The petition fails to satisfy the very first of these requirements - the existence of an actual case or controversy calling for the exercise of judicial power. An actual case or controversy is one that involves a conflict of legal rights, an assertion of opposite legal claims susceptible of judicial resolution; the case must not be moot or academic or based on extra-legal or other similar considerations not cognizable by a court of justice. Stated otherwise, it is not the mere existence of a conflict or controversy that will authorize the exercise by the courts of its power of review; more importantly, the issue involved must be susceptible of judicial determination. Excluded from these are questions of policy or wisdom, otherwise referred to as political questions:

As *Tañada v. Cuenco* puts it, political questions refer "to those questions which, under the Constitution, are to be decided by the people in their sovereign capacity, or in regard to which full discretionary authority has been delegated to the legislative or executive branch of government." Thus, if an issue is clearly identified by the text of the Constitution as matters for discretionary action by a particular branch of government or to the people themselves then it is held to be a political question. In the classic formulation of Justice Brennan in *Baker v. Carr*, "[p]rominent on the surface of any case held to involve a political question is found a textually demonstrable constitutional commitment of the issue to a coordinate political department; or a lack of judicially discoverable and manageable standards for resolving it; or the impossibility of deciding without an initial policy determination of a kind clearly for non-judicial discretion; or the impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government; or an unusual need for unquestioning adherence to a political decision already made; or the potentiality of embarrassment from multifarious pronouncements by various departments on the one question." [14] [Emphasis supplied.]

Petitioner Garcia's issues fit snugly into the political question mold, as he insists that by adopting a policy of full deregulation through the removal of price controls at a time when an oligopoly still exists, Section 19 of R.A. No. 8479 contravenes the Constitutional directive to regulate or prohibit monopolies[15] under Article XII, Section 19 of the Constitution. This Section states:

The State shall regulate or prohibit monopolies when the public interest so requires. No combinations in restraint of trade or unfair competition shall be allowed.

Read correctly, this constitutional provision does not declare an outright prohibition of monopolies. It simply allows the State to act "when public interest so requires"; even then, no outright prohibition is mandated, as the State may choose to regulate rather than to prohibit. Two elements must concur before a monopoly may be regulated or prohibited:

- There in fact exists a monopoly or an oligopoly, and
- Public interest requires its regulation or prohibition.

Whether a monopoly exists is a question of fact. On the other hand, the questions of (1) what public interest requires and (2) what the State reaction shall be essentially require the exercise of discretion on the part of the State.

Stripped to its core, what petitioner Garcia raises as an issue is the propriety of immediately and fully deregulating the oil industry. Such determination essentially dwells on the soundness or wisdom of the timing and manner of the deregulation Congress wants to implement through R.A. No. 8497. Quite clearly, the issue is not for us to

resolve; we cannot rule on when and to what extent deregulation should take place without passing upon the wisdom of the policy of deregulation that Congress has decided upon. To use the words of *Baker v. Carr*,^[16] the ruling that petitioner Garcia asks requires "an initial policy determination of a kind clearly for non-judicial discretion"; the branch of government that was given by the people the full discretionary authority to formulate the policy is the legislative department.

Directly supporting our conclusion that Garcia raises a political question is his proposal to adopt instead a system of partial deregulation - a system he presents as more consistent with the Constitutional "dictate." He avers that free market forces (in a fully deregulated environment) cannot prevail for as long as the market itself is dominated by an entrenched oligopoly. In such situation, he claims that prices are not determined by the free play of supply and demand, but instead by the entrenched and dominant oligopoly where overpricing and price-fixing are possible.^[17] Thus, before full deregulation can be implemented, he calls for an indefinite period of partial deregulation through imposition of price controls.^[18]

Petitioner Garcia's thesis readily reveals the political,^[19] hence, non-justiciable, nature of his petition; the choice of undertaking full or partial deregulation is not for this Court to make. By enacting the assailed provision - Section 19 - of R.A. No. 8479, Congress already determined that the problems confronting the local downstream oil industry are better addressed by removing all forms of prior controls and adopting a deregulated system. This intent is expressed in Section 2 of the law:

Section 2. Declaration of Policy. - It shall be the policy of the State to liberalize and deregulate the downstream oil industry in order to ensure a truly competitive market under a regime of fair prices, adequate and continuous supply of environmentally-clean and high-quality petroleum products. To this end, the State shall promote and encourage the entry of new participants in the downstream oil industry, and introduce adequate measures to ensure the attainment of these goals.

In *Tatad*, we declared that the fundamental principle espoused by Section 19, Article XII of the Constitution is competition.^[20] Congress, by enacting R.A. No. 8479, determined that this objective is better realized by liberalizing the oil market, instead of continuing with a highly regulated system enforced by means of restrictive prior controls. This legislative determination was a lawful exercise of Congress' prerogative and one that this Court must respect and uphold. Regardless of the individual opinions of the Members of this Court, we cannot, acting as a body, question the wisdom of a co-equal department's acts. The courts do not involve themselves with or delve into the policy or wisdom of a statute;^[21] it sits, not to review or revise legislative action, but to enforce the legislative will.^[22] For the Court to resolve a clearly non-justiciable matter would be to debase the principle of separation of powers that has been tightly woven by the Constitution into our republican system of government.

This same line of reasoning was what we used when we dismissed the first Garcia case. The petitioner correctly noted that this is not a matter of *res judicata* (as the respondents invoked), as the application of the principle of *res judicata* presupposes that there is a final judgment or decree on the merits rendered by a court of competent jurisdiction. To be exact, we are simply declaring that then, as now, and for the same reasons, we find that there is no justiciable controversy that would justify the grant of the petition.

Grave Abuse of Discretion

Recourse to the political question doctrine necessarily raises the underlying doctrine of separation of powers among the three great branches of government that our Constitution has entrenched. But at the same time that the Constitution mandates this Court to respect acts performed by co-equal departments done within their sphere of competence and authority, it has also allowed us to cross the line of separation on a very limited and specific point - to determine whether the acts of the executive and the legislative departments are null because they were

undertaken with grave abuse of discretion. *IBP v. Zamora* teaches us that -

When political questions are involved, the Constitution limits the determination as to whether there has been grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the official whose action is being questioned.

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[W]hile this Court has no power to substitute its judgment for that of Congress or of the President, it may look into the question of whether such exercise has been made in grave abuse of discretion. A showing that plenary power is granted either department of government, may not be an obstacle to judicial inquiry, for the improvident exercise or abuse thereof may give rise to justiciable controversy. [23] [Emphasis supplied.]

Jurisprudence has defined grave abuse of discretion to mean the capricious or whimsical exercise of judgment that is so patent and gross as to amount to an evasion of positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion or hostility.[24]

Significantly, the pleadings before us fail to disclose any act of the legislature that may be characterized as patently capricious or whimsical. A reading of the congressional deliberations made on R.A. No. 8479 indicates that the measure was thoroughly and carefully considered. Indeed, petitioner Garcia was among the many who interpellated the law's principal author, then Congressman Dante O. Tinga, now a Member of this Court.

We note, too, that petitioner Garcia has not adequately proven at this point that an oligopoly does in fact exist in the form of the Big 3, and that the Big 3 have actually engaged in oligopolistic practices. He merely cites (in his argument against the applicability of *res judicata*) and relies on the facts and findings stated in the two prior cases on oil deregulation. This calls to mind what former Chief Justice Panganiban said in his Separate Opinion in the 1999 Garcia case:

Petitioner merely resurrects and relies heavily on the arguments, the statistics and the proofs he submitted two years ago in the first oil deregulation case, *Tatad v. Secretary of the Department of Energy*. Needless to state, those reasons were taken into consideration in said case, and they indeed helped show the unconstitutionality of RA 8180. But exactly the same old grounds cannot continue to support petitioner's present allegation that the major oil companies -- Petron, Shell and Caltex -- persist to this date in their oligopolistic practices, as a consequence of the current Oil Deregulation Law and in violation of the Constitution. In brief, the legal cause and effect relationship has not been amply shown. [Emphasis supplied.]

This observation is true in the present case as it was true in the 1999 Garcia case; the petitioner has simply omitted the citation of facts, figures and statistics specifically supporting his petition. To prove charges of continued overpricing or price-fixing, he refers to data showing price adjustments of petroleum products for the period covering February 8, 1997 to August 1, 1997. Insofar as R.A. No. 8479 is concerned, however, these data are irrelevant, as they cover a period way before R.A. No. 8479 was enacted.[25]

Petitioner Garcia contends that the identity in the pricing patterns of the Big 3 confirms the existence of an oligopoly and shows that they have colluded to engage in unlawful cartel-like behaviour. His reasoning fails to persuade us. That the oil firms have the same prices and change them at the same rate at the same time are not sufficient evidence to conclude that collusion exists. An independent study on local oil prices explains:

[W]hen products are highly substitutable with each other (or what economists call "homogeneous products"), then firms will tend to set similar prices, especially when there are many competing sellers. Otherwise, if one firm tried to set a price significantly higher than the others, it would find itself losing customers to the others.[26]

Even assuming that the Big 3 have indeed colluded in fixing oil prices, this development will not necessarily justify a declaration against the validity and constitutionality of Section 19 of R.A. No. 8479. The remedy against the perceived failure of the Oil Deregulation Law to combat cartelization is not to declare it invalid, but to set in motion its anti-trust safeguards under Sections 11,[27] 12,[28] and 13.[29]

Lis Mota

Lis Mota - the fourth requirement to satisfy before this Court will undertake judicial review - means that the Court will not pass upon a question of unconstitutionality, although properly presented, if the case can be disposed of on some other ground, such as the application of the statute or the general law. The petitioner must be able to show that the case cannot be legally resolved unless the constitutional question raised is determined.[30] This requirement is based on the rule that every law has in its favor the presumption of constitutionality; [31] to justify its nullification, there must be a clear and unequivocal breach of the Constitution, and not one that is doubtful, speculative, or argumentative.

Petitioner Garcia argues against full deregulation implemented through the lifting of price control, as it allows oligopoly, overpricing and price-fixing. R.A. No. 8479, however, does not condone these acts; indeed, Section 11 (a) of the law expressly prohibits and punishes cartelization, which is defined in the same section as "any agreement, combination or concerted action by refiners, importers and/or dealers, or their representatives, to fix prices, restrict outputs or divide markets, either by products or by areas, or allocate markets, either by products or by areas, in restraint of trade or free competition, including any contractual stipulation which prescribes pricing levels and profit margins." This definition is broad enough to include the alleged acts of overpricing or price-fixing by the Big 3. R.A. No. 8479 has provided, aside from prosecution for cartelization, several other anti-trust mechanisms, including the enlarged scope of the Department of Energy's monitoring power and the creation of a Joint Task Force to immediately act on complaints against unreasonable rise in the price of petroleum products.[32] Petitioner Garcia's failure is that he failed to show that he resorted to these measures before filing the instant petition. His belief that these oversight mechanisms are unrealistic and insufficient does not permit disregard of these remedies.[33]

CONCLUSION

To summarize, we declare that the issues petitioner Garcia presented to this Court are non-justiciable matters that preclude the Court from exercising its power of judicial review. The immediate implementation of full deregulation of the local downstream oil industry is a policy determination by Congress which this Court cannot overturn without offending the Constitution and the principle of separation of powers. That the law failed in its objectives because its adoption spawned the evils petitioner Garcia alludes to does not warrant its nullification. In the words of Mr. Justice Leonardo A. Quisumbing in the 1999 Garcia case, "[a] calculus of fear and pessimism xxx does not justify the remedy petitioner seeks: that we overturn a law enacted by Congress and approved by the Chief Executive." [34]

WHEREFORE, we hereby DISMISS the petition. No pronouncements as to costs.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio Morales, Chico-Nazario, Velasco, Jr., Nachura, Leonardo-De Castro, and Peralta, JJ., concur.

Tinga, J., no part. & sponsor of the Challenged Law.

- [1] Filed under Rule 65 of the Rules of Court.
- [2] G.R. Nos. 124360 and 127867, November 5, 1997, 281 SCRA 311.
- [3] Ibid, pp. 361-362.
- [4] Garcia v. Corona. G.R No. 132451, December 17, 1999, 321 SCRA 218.
- [5] Referring to the oil companies of Shell, Caltex, and Petron, otherwise known as the Big 3.
- [6] Supra note 4; herein petitioner Garcia is the same petitioner in G.R. No. 132451, and therein respondent Executive Secretary Renato Corona is now a member of this Court.
- [7] See Tatad v. Secretary of DOE, supra note 2, and Garcia v. Corona, supra note 4.
- [8] Rollo, pp. 430-435.
- [9] Ibid, pp. 14-15.
- [10] The exercise of the power of judicial review by the lower courts is implicitly recognized in Section 5(1) (a) and (b), Article VIII of the Constitution.
- [11] A. Nachura, Outline Reviewer in Political Law (2006 ed.), p. 13.
- [12] H. De Leon, Philippine Constitutional Law: Principles and Cases (2004 ed.), p. 473.
- [13] Francisco, Jr. v. House of Representatives, G.R. No. 160261, November 10, 2003, 415 SCRA 44, citing Angara v. Electoral Commission, 63 Phil. 139 (1936).
- [14] Integrated Bar of the Philippines v. Zamora, G.R. No. 141284, August 15, 2000, 338 SCRA 81, citing Tañada v. Cuenco, 103 Phil. 1051 and Baker v. Carr, 369 U.S. 186.
- [15] Rollo, pp. 29, 445.
- [16] Cited in IBP v. Zamora, supra note 14.
- [17] Rollo, pp. 439-442, 453.
- [18] Ibid, pp. 29, 440.
- [19] That is, "pertaining to public policy," as defined in The New International Webster's Dictionary and Thesaurus of the English Language, International Edition (2002 ed.).
- [20] Supra note 2.
- [21] Fariñas v. COMELEC, G.R. No. 147387, December 10, 2003, 417 SCRA 503.
- [22] Demetria v. Alba, G.R. No. L-71977, February 27, 1987, 148 SCRA 208, citing T. M. Cooley, A Treatise on the Constitutional Limitations, Vol. 1, 8[th] ed.
- [23] Supra note 14.
- [24] Land Bank of the Philippines v. Court of Appeals, G.R. No. 129368, 25 August 2003, 409 SCRA 455.
- [25] R.A. No. 8479 was enacted on February 10, 1998.
- [26] Report of the SGV-UA&P Independent Study on Oil Prices, May 2008, p. 4.
- [27] SECTION 11. Anti-Trust Safeguards. -- To ensure fair competition and prevent cartels and monopolies in the

Industry, the following acts are hereby prohibited:

a) Cartelization which means any agreement, combination or concerted action by refiners, importers and/or dealers, or their representatives, to fix prices, restrict outputs or divide markets, either by products or by areas, or allocate markets, either by products or by areas, in restraint of trade or free competition, including any contractual stipulation which prescribes pricing levels and profit margins;

b) Predatory pricing which means selling or offering to sell any oil product at a price below the seller's or offeror's average variable cost for the purpose of destroying competition, eliminating a competitor or discouraging a potential competitor from entering the market: Provided, however, That pricing below average variable cost in order to match the lower price of the competitor and not for the purpose of destroying competition shall not be deemed predatory pricing. For purposes of this prohibition, "variable cost" as distinguished from "fixed cost", refers to costs such as utilities or raw materials, which vary as the output increases or decreases and "average variable cost" refers to the sum of all variable costs divided by the number of units of outputs.

Any person, including but not limited to the chief operating officer, chief executive officer or chief finance officer of the partnership, corporation or any entity involved, who is found guilty of any of the said prohibited acts shall suffer the penalty of three (3) to seven (7) years imprisonment, and a fine ranging from One million pesos (P1,000,000.00) to Two million pesos (P2,000,000.00).

[28] SECTION 12. Other Prohibited Acts. -- To ensure compliance with the provisions of this Act, the refusal to comply with any of the following shall likewise be prohibited:

- a) submission of any reportorial requirements;
- b) use of clean and safe (environment and worker-benign) technologies;
- c) any order or instruction of the DOE Secretary issued in the exercise of his enforcement powers under Section 15 of this Act; and
- d) registration of any fuel additive with the DOE prior to its use as an additive.

Any person, including but not limited to the chief operating officer or chief executive officer of the partnership, corporation or any entity involved, who is found guilty of any of the said prohibited acts shall suffer the penalty of imprisonment for two (2) years and fine ranging from Two hundred fifty thousand pesos (P250,000.00) to Five hundred thousand pesos (PP500,000.00).

[29] SECTION 13. Remedies. -- a) Government Action -- Whenever it is determined by the Joint Task Force created under Section 14 (d) of this Act, that there is a threatened, imminent or actual violation of Section 11 of this Act, it shall direct the provincial or city prosecutors having jurisdiction to institute an action to prevent or restrain such violation with the Regional Trial Court of the place where the defendant or any of the defendants reside or has his place of business. Pending hearing of the complaint and before final judgment, the court may at any time issue a temporary restraining order or an order of injunction as shall be deemed just within the premises, under the same conditions and principles as injunctive relief is granted under the Rules of Court.

Whenever it is determined by the Joint Task Force that the Government or any of its instrumentalities or agencies, including government-owned or -controlled corporations, shall suffer loss or damage in its business or property by reason of violation of Section 11 of this Act, such instrumentality, agency or corporation may file an action to recover damages and the costs of suit with the Regional Trial Court which has jurisdiction as provided above.

b) Private Complaint. -- Any person or entity shall report any violation of Section 11 of this Act to the Joint Task Force. The Joint Task Force shall investigate such reports in aid of which the DOE Secretary may exercise the powers granted under Section 15 of this Act. The Joint Task Force shall prepare a report embodying its findings

and recommendations as a result of any such investigation, and the report shall be made public at the discretion of the Joint Task Force. In the event that the Joint Task Force determines that there has been a violation of Section 11 of this Act, the private person or entity shall be entitled to sue for and obtain injunctive relief, as well as damages, in the Regional Trial Court having jurisdiction over any of the parties, under the same conditions and principles as injunctive relief is granted under the Rules of Court.

[30] *People v. Vera*, 65 Phil. 56 (1938).

[31] *Romualdez v. Sandiganbayan*, G.R. No. 152259, July 29, 2004, 435 SCRA 371.

[32] SECTION 14. Monitoring. - xxx (d) Any report from any person of an unreasonable rise in the prices of petroleum products shall be immediately acted upon. For this purpose, the creation of DOE-DOJ Task Force is here by mandated to determine within thirty (30) days the merits of the report and initiate the necessary actions warranted under the circumstance: Provided, That nothing herein shall prevent the said task force from investigating and/or filing the necessary complaint with the proper court or agency motu proprio. xxx.

[33] *Rollo*, pp. 459-461.

[34] Concurring Opinion of Justice Quisumbing in the 1999 Garcia case, p. 267.

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