# THE HONORABLE SECRETARY VINCENT S. PEREZ, IN HIS CAPACITY AS THE SECRETARY OF THE DEPARTMENT OF ENERGY, PETITIONER, VS. LPG REFILLERS ASSOCIATION OF THE PHILIPPINES, INC., RESPO...

*G.R. No. 159149. August 28, 2007*

Ponente: QUISUMBING, J.

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**QUISUMBING, J.:**

In its Motion for Reconsideration,[1] respondent LPG Refillers Association of the Philippines, Inc. seeks the reversal of this Court's Decision[2] dated June 26, 2006, which upheld the validity of the assailed Department of Energy (DOE) Circular No. 2000-06-10.

In assailing the validity of the Circular, respondent argues that:

- Circular No. 2000-06-010 (the "assailed Circular") listed prohibited acts and punishable offenses which are brand-new or which were not provided for by B.P. Blg. 33, as amended; and that B.P. Blg. 33 enumerated and specifically defined the prohibited/punishable acts under the law and that the punishable offenses in the assailed Circular are not included in the law.

- The petitioner-appellant admitted that the assailed Circular listed prohibited acts and punishable offenses which are brand-new or which were not provided for by B.P. Blg. 33, as amended.

- B.P. Blg. 33, as amended, is in the form of a penal statute that should be construed strictly against the State.

- The assailed Circular not only prescribed penalties for acts not prohibited/penalized under B.P. Blg. 33, as amended, but also prescribed penalties exceeding the ceiling prescribed by B.P. Blg. 33, as amended.

- The Honorable Court failed to consider that the imposition by the assailed Circular of penalty on per cylinder basis made the imposable penalty under the assailed Circular exceed the limits prescribed by B.P. Blg. 33, as amended.

- The Honorable Court failed to rule on the position of the respondent-appellee that the amount of imposable fine prescribed under the assailed Circular is excessive to the extent of being confiscatory and thus offends the Bill of Rights of the 1987 Constitution.

- The noble and laudable aim of the Government to protect the general consuming public against the nefarious practices of some [un]scrupulous individuals in the LPG industry should be achieved through means in accord with existing law.[3]

The assigned errors, being closely allied, will be discussed jointly.

On the first, second and third grounds, respondent argues that the Circular prohibited new acts not specified in Batas Pambansa Bilang 33, as amended. Respondent insists that since B.P. Blg. 33, as amended is a penal statute,

it already criminalizes the specific acts involving petroleum products. Respondent invokes the "void for vagueness" doctrine in assailing our decision, quoted in this wise:

> The Circular satisfies the first requirement. B.P. Blg. 33, as amended, criminalizes illegal trading, adulteration, underfilling, hoarding, and overpricing of petroleum products. Under this general description of what constitutes criminal acts involving petroleum products, the Circular merely lists the various modes by which the said criminal acts may be perpetrated, namely: no price display board, no weighing scale, no tare weight or incorrect tare weight markings, no authorized LPG seal, no trade name, unbranded LPG cylinders, no serial number, no distinguishing color, no embossed identifying markings on cylinder, underfilling LPG cylinders, tampering LPG cylinders, and unauthorized decanting of LPG cylinders'[4] (Emphasis supplied.)

Respondent misconstrues our decision. A criminal statute is not rendered uncertain and void because general terms are used therein. The lawmakers have no positive constitutional or statutory duty to define each and every word in an enactment, as long as the legislative will is clear, or at least, can be gathered from the whole act, which is distinctly expressed in B.P. Blg. 33, as amended.[5] Thus, respondent's reliance on the "void for vagueness" doctrine is misplaced.

Demonstrably, the specific acts and omissions cited in the Circular are within the contemplation of the B.P. Blg. 33, as amended. The DOE, in issuing the Circular, merely filled up the details and the manner through which B.P. Blg. 33, as amended may be carried out. Nothing extraneous was provided in the Circular that could result in its invalidity.

On the fourth, fifth and sixth grounds, respondent avers that the penalties imposed in the Circular exceeded the ceiling prescribed by B.P. Blg. 33, as amended. Respondent contends that the Circular, in providing penalties on a per cylinder basis, is no longer regulatory, but already confiscatory in nature.

Respondent's position is untenable. The Circular is not confiscatory in providing penalties on a per cylinder basis. Those penalties do not exceed the ceiling prescribed in Section 4 of B.P. Blg. 33, as amended, which penalizes "any person who commits any act [t]herein prohibited." Thus, violation on a per cylinder basis falls within the phrase "any act" as mandated in Section 4. To provide the same penalty for one who violates a prohibited act in B.P. Blg. 33, as amended, regardless of the number of cylinders involved would result in an indiscriminate, oppressive and impractical operation of B.P. Blg. 33, as amended. The equal protection clause demands that "all persons subject to such legislation shall be treated alike, under like circumstances and conditions, both in the privileges conferred and in the liabilities imposed."

All other arguments of respondent having been passed upon in our June 26, 2006 Decision, we uphold the validity of DOE Circular No. 2000-06-010 sought to implement B.P. Blg. 33, as amended.

WHEREFORE, the Motion for Reconsideration by respondent is hereby DENIED with definite finality. No further pleadings will be entertained.

**SO ORDERED.**

Carpio, Carpio-Morales, Tinga, and Velasco, Jr. JJ., concur.

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[1] Rollo, pp. 553-584.

[2] Id. at 542-552.

[3] Id. at 554, 563, 567, 569, 575, 577, 580.


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[4] Perez v. LPG Refillers Association of the Philippines, Inc., G.R. No. 159149, June 26, 2006, 492 SCRA 638, 649-650.

[5] See Estrada v. Sandiganbayan, G.R. No. 148560, November 19, 2001, 369 SCRA 394, 435.


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