



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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SECOND DIVISION

CESAR V. PURISIMA, in his
capacity as Secretary of the
Department of Finance and
EMMANUEL F. DOOC, in his
capacity as Insurance Commissioner,
Petitioners,

G.R. No. 223318

Present:

CARPIO, J., Chairperson,
*PERLAS-BERNABE,**
CAGUIOA,
REYES, J. JR., and
LAZARO-JAVIER, JJ.

- versus -

**SECURITY PACIFIC ASSURANCE
CORPORATION, VISAYAN
SURETY & INSURANCE
CORPORATION, FINMAN
GENERAL ASSURANCE
CORPORATION, MILESTONE
GUARANTY & ASSURANCE
CORPORATION, R&B
INSURANCE CORPORATION,
INDUSTRIAL INSURANCE
COMPANY INCORPORATED,
PHILIPPINE PHOENIX SURETY &
INSURANCE INCORPORATED,
MERCANTILE INSURANCE
COMPANY INCORPORATED,
GREAT DOMESTIC INSURANCE
COMPANY OF THE PHILIPPINES,
INCORPORATED, and
INSURANCE OF THE PHILIPPINE
ISLANDS COMPANY
INCORPORATED,**

Respondents.

Promulgated:

15 JUL 2019

[Handwritten Signature]

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* On official leave.

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DECISION

REYES, J. JR., J.:

Assailed before this Court, through a Petition for Review on *Certiorari*,¹ are the Decision² dated May 15, 2015 and Resolution³ dated February 29, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 129905, which upheld the issuance of a writ of preliminary injunction issued by the trial court.

The Relevant Antecedents

On September 1, 2006, Department Order (DO) No. 27-06, ordering the increase in the minimum paid-up capital stock requirement of life, non-life, and reinsurance companies, was issued. Superseding several memorandum circulars, DO No. 27-06 suspended the adoption of risk-based capital framework for non-life insurance and integrated the compliance standards for fixed capitalization under the DO and the risk-based capital framework.⁴

As a consequence, members of the Philippine Insurers and Reinsurers Association, Inc. (PIRAI) received a letter from the Deputy Insurance Commissioner, reminding them that their paid-up capital must be at least equal to the amount scheduled by DO No. 27-06. Similarly, an advisory was sent to them by Commissioner Emmanuel Dooc (Commissioner Dooc) after having failed to comply with the minimum paid-up capital of ₱175 Million by the end of December 2011.⁵

This prompted Security Pacific Assurance Corporation, Visayan Surety & Insurance Corporation, Finman General Assurance Corporation, Milestone Guaranty & Assurance Corporation, R&B Insurance Corporation, Industrial Insurance Company Incorporated, Philippine Phoenix Surety & Insurance Incorporated, Mercantile Insurance Company Incorporated, Great Domestic Insurance Company of the Philippines, Incorporated, and Insurance of the Philippine Islands Company Incorporated (respondents), to file a complaint with application for the issuance of a Temporary Restraining Order (TRO) and Writ of Preliminary Injunction (WPI) against the Secretary of Finance, Cesar Purisima, and Commissioner Dooc (petitioners).⁶

In their Complaint, respondents alleged that DO No. 27-06 is unconstitutional because, among others, it vests upon the Secretary of Finance the legislative power to increase the minimum paid-up capital stock

¹ *Rollo*, pp. 10-43.

² Penned by Associate Justice Stephen C. Cruz, with Associate Justice Fernanda Lampas Peralta and then Associate Justice, now Supreme Court Associate Justice, Ramon Paul L. Hernando, concurring; *id.* at 46-54.

³ *Id.* at 57-58.

⁴ *Id.* at 47.

⁵ *Id.*

⁶ *Id.* at 47-48.

requirement, thereby violating the doctrine of non-delegation of legislative power. Plagued with manpower problems and serious business losses, respondents sought for the suspension of the DO and relevant circulars.⁷

In their Answer, petitioners maintained that compliance with DO No. 27-06 is based on yearly assessment, depending on the insurance company's net worth and equity structure. Contrary to the contentions of the respondents, DO No. 27-06 is not oppressive because it is germane to the purpose for which it was created, that is, to keep the solvency of the insurance companies and protect the interest of the public.⁸

In a Resolution⁹ dated July 20, 2012, the Regional Trial Court (RTC) of Quezon City, Branch 98, denied the application for TRO and WPI for failure of respondents to fully substantiate grounds for the issuance of an injunctive writ. It upheld the validity of the issuance of DO No. 27-06 and relevant memoranda as the Insurance Code expressly grants the Secretary of Finance and the Insurance Commissioner the power to regulate the insurance business in the Philippines.

However, on August 31, 2012, the sitting judge of the RTC, Branch 98, inhibited from the case. The case was then returned to the Office of the Executive Judge for re-raffle.¹⁰

A supplemental complaint was filed by respondents in view of the passage of DO No. 15-2012 which required the insurance companies to further increase their paid-up capital from ₱250 Million to ₱1 Billion beginning 2012.¹¹

After the re-raffling of the case, an Order dated December 5, 2012, granting the application for the issuance of a WPI, was issued. While the trial court recognized the constitutionality of the DOs, it recognized the need to determine the reasonableness of the minimum paid-up capital requirement found therein; more so when Circular Letter No. 18-2012 excluded three respondents as having valid certificates of authority.¹²

Petitioners filed a Motion for Reconsideration, which was denied in an Order dated February 15, 2013.¹³

Aggrieved, petitioners filed a Petition for *Certiorari*, ascribing grave abuse of discretion on the part of RTC in issuing an injunctive writ, before the CA.¹⁴

⁷ Id.

⁸ Id. at 48.

⁹ Penned by Presiding Judge Evelyn Corpus-Cabochan; id. at 157-160.

¹⁰ Id. at 161.

¹¹ Id. at 49.

¹² Id. at 50.

¹³ Id.

¹⁴ Id.

In a Decision¹⁵ dated May 15, 2015, the CA denied the petition for lack of merit. In upholding the issuance of a WPI, the CA maintained that respondents have established that they were in a clear danger of closing down should the amount of the paid-up capital mandated under DO No. 15-2012, be implemented, thus:

WHEREFORE, premises considered, the instant petition is hereby **DISMISSED** for lack of merit. Accordingly, the assailed Orders of Branch 80 of the Regional Trial Court of Quezon City dated December 5, 2012 and February 15, 2013, respectively, are **AFFIRMED**.

SO ORDERED.¹⁶

To this, petitioners filed a Motion for Reconsideration, which was denied for lack of merit in a Resolution¹⁷ dated February 29, 2016.

Undaunted, petitioners seek relief from this Court *via* a Petition for Review on *Certiorari*.

The Issue

Summarily, the issue to be determined is the propriety of the issuance of a WPI.

The Court's Ruling

On August 15, 2013, Republic Act (R.A.) No. 10607 or the Amended Insurance Code was signed into law. Among others, it provides for the new capitalization requirement for all life and non-life insurance companies, to wit:

Section 194. Except as provided in Section 289, no new domestic life or non-life insurance company shall, in a stock corporation, engage in business in the Philippines unless possessed of a paid-up capital equal to at least One billion pesos (₱1,000,000,000.00): *Provided*, That a domestic insurance company already doing business in the Philippines shall have a net worth by June 30, 2013 of Two hundred fifty million pesos (₱250,000,000.00). Furthermore, said company must have by December 31, 2016, an additional Three hundred million pesos (₱300,000,000.00) in net worth; by December 31, 2019, an additional Three hundred fifty million pesos (₱350,000,000.00) in net worth; and by December 31, 2022, an additional Four hundred million pesos (₱400,000,000.00) in net worth.

Thus, it is clear that the issuance of DO No. 27-06 and DO No. 15-2012 as regards the capitalization requirement has been rendered moot and academic by the passage of the aforementioned law.

¹⁵ Supra note 2.

¹⁶ *Rollo*, p. 54.

¹⁷ *Id.* at 57-58.

“A case or issue is considered moot and academic when it ceases to present a justiciable controversy by virtue of supervening events, so that an adjudication of the case or a declaration on the issue would be of no practical value or use.”¹⁸ No less than the Constitution requires that the exercise of judicial power includes the duty of the courts to settle *actual* controversies, *viz.*:

The Constitution provides that judicial power ‘includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable.’ The exercise of judicial power requires an actual case calling for it. The courts have no authority to pass upon issues through advisory opinions, or to resolve hypothetical or feigned problems or friendly suits collusively arranged between parties without real adverse interests. Furthermore, courts do not sit to adjudicate mere academic questions to satisfy scholarly interest, however intellectually challenging. As a condition precedent to the exercise of judicial power, an actual controversy between litigants must first exist. An actual case or controversy involves a conflict of legal rights, an assertion of opposite legal claims susceptible of judicial resolution, as distinguished from a hypothetical or abstract difference or dispute. There must be a contrariety of legal rights that can be interpreted and enforced on the basis of existing law and jurisprudence.¹⁹ (Emphases in the original omitted)

It must be highlighted that even the petitioners and respondents in this case recognize the mootness of the issues raised in the petition before us in their Petition and Comment, respectively.

Hence, this Court, deems it proper to abstain from ruling on the merits of the case.

WHEREFORE, premises considered, the petition is **DISMISSED** for being moot and academic.

Let entry of final judgment be issued immediately.

SO ORDERED.


JOSE C. REYES, JR.
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Senior Associate Justice
Chairperson

¹⁸ *Peñafrancia Sugar Mill, Inc. v. Sugar Regulatory Administration*, 728 Phil. 535, 540 (2014).

¹⁹ *Republic of the Philippines v. Principalia Management and Personnel Consultants, Inc.*, 768 Phil. 334, 343 (2015), citing *Sps. Arevalo v. Planters Development Bank*, 686 Phil. 236, 248-249 (2012).

(On Official Leave)
ESTELA M. PERLAS-BERNABE
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



LUCAS P. BERSAMIN
Chief Justice

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