



Republic of the Philippines
Supreme Court
Manila

EN BANC

SECURITIES AND EXCHANGE
COMMISSION,

G.R. No. 198425

Petitioner,

-versus-

HON. RODOLFO R. BONIFACIO, in his capacity as the Presiding Judge of the Regional Trial Court, Branch 159, Pasig City, PHILIPPINE ASSOCIATION OF SECURITIES BROKERS AND DEALERS, INC. (PASBDI), MA. VIVIAN YUCHENGCO, ISMAEL G. CRUZ, NESTOR S. AGUILA, and MARITA A. LIMLINGAN, PHILIPPINE STOCK EXCHANGE (PSE) PSE's 2009 NOMINATIONS AND ELECTIONS COMMITTEE (NOMELEC),

Respondents.

X-----X

SECURITIES AND EXCHANGE
COMMISSION,

G.R. No. 201174

Petitioner,

- versus -

HON. RODOLFO R. BONIFACIO, in his capacity as the Presiding Judge of the Regional Trial Court, Branch 159, Pasig City, PHILIPPINE ASSOCIATION OF SECURITIES BROKERS AND DEALERS, INC. (PASBDI), MA. VIVIAN YUCHENGCO, ISMAEL G. CRUZ, NESTOR S. AGUILA, and MARITA A. LIMLINGAN,

**PHILIPPINE STOCK EXCHANGE
(PSE) PSE's 2009 NOMINATIONS AND
ELECTIONS COMMITTEE
(NOMELEC),**

Respondents.

X-----X

**SECURITIES AND EXCHANGE
COMMISSION,**

Petitioner,

G.R. No. 244462

Present:

GESMUNDO, C.J.,
LEONEN,
CAGUIOA,
HERNANDO,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.,*
GAERLAN,
ROSARIO,
LOPEZ, J.,
DIMAAMPAO,
MARQUEZ,
KHO, JR., and
SINGH, JJ.

- versus -

**PHILIPPINE ASSOCIATION OF
SECURITIES BROKERS and
DEALERS, INC. (PASBDI), MA.
VIVIAN YUCHENGCO, ISMAEL G.
CRUZ, NESTOR S. AGUILA, and
MARITA A. LIMLINGAN,**

Respondents.

Promulgated:

January 30, 2024

X-----X

DECISION

LOPEZ, J., J.:

Cast against a similar factual backdrop are three consolidated Petitions filed by the Securities and Exchange Commission (SEC) assailing the jurisdiction of the Regional Trial Court (RTC) with respect to the acts of the SEC in the exercise of its quasi-legislative powers as well as the propriety of the writ of preliminary injunction granted by it, which allowed the Philippine Association of Securities Brokers and Dealers, Inc. (PASBDI) to

* No part.

9

vote their entire shareholdings in the 2010 and 2011 Annual Stockholders' Meeting.

In particular, the Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court in G.R. No. 198425 filed by the SEC assailed the Decision² and the Resolution³ of the Court of Appeals (CA), which dismissed the SEC's Petition for *Certiorari* of the Order⁴ allowing all the brokers shareholdings to vote with their entire shareholdings in the 2010 Annual Stockholders' Meeting of the Philippine Stock Exchange (PSE).

Meanwhile, the Petition for *Certiorari*⁵ under Rule 65 of the Rules of Court in G.R. No. 201174 filed by the SEC assailed the Order,⁶ which granted the Urgent Motion for Issuance of a Writ of Preliminary Injunction⁷ filed by the PASBDI, Ma. Vivian Yuchengco, Ismael G. Cruz, Nestor S. Aguila, and Marita A. Limlingan (PASBDI et al.) The writ similarly allowed all the brokers to vote to the extent of their entire shareholdings in the 2011 Annual Stockholders' Meeting of the PSE.

Finally, the Petition for Review on *Certiorari*⁸ under Rule 45 of the Rules of Court in G.R. No. 244462 filed by the SEC assailed the Decision⁹ of the CA, which denied its appeal of the Decision¹⁰ rendered by the RTC. The RTC Decision permanently enjoined the SEC and the PSE from imposing any limitation or restriction on the voting rights of PASBDI and the individual shareholders.

The Antecedents

On December 23, 1992, the Makati Stock Exchange and Manila Stock Exchange merged to what is now the PSE. Pursuant to then Batas Pambansa

¹ *Rollo* (G.R. No. 198425), pp. 8–74.

² *Id.* at 76–88. The April 11, 2011 Decision in CA-G.R. SP No. 114413 was penned by Associate Justice Manuel M. Barrios and concurred in by Associate Justices Mario L. Guarifia III and Apolinario D. Bruselas, Jr. of the Eighth Division, Court of Appeals, Manila.

³ *Id.* at 90. The September 1, 2011 Resolution in CA-G.R. SP No. 114413 was penned by Associate Justice Manuel M. Barrios and concurred in by Associate Justices Mario L. Guarifia III and Apolinario D. Bruselas, Jr. of the Eighth Division, Court of Appeals, Manila.

⁴ *Rollo* (G.R. No. 201174), pp. 202–207. The April 28, 2010 Order in SEC Case No. 10-139 was penned by Judge Rodolfo R. Bonifacio of Branch 159, Regional Trial Court, Pasig City.

⁵ *Id.* at 14–93.

⁶ *Id.* at 94–100. The May 5, 2011 Order in SEC Case No. 10-139 was penned by Judge Rodolfo R. Bonifacio of Branch 159, Regional Trial Court, Pasig City.

⁷ *Id.* at 284–298.

⁸ *Rollo* (G.R. No. 244462), pp. 18–67.

⁹ *Id.* at 69–78. The January 23, 2019 Decision in CA-G.R. CV No. 103548 was penned by Associate Justice Zenaida T. Galapate-Laguilles and concurred in by Associate Justices Mario V. Lopez (now a Member of the Court) and Geraldine C. Fiel-Macaraig of the Special Fourteenth Division, Court of Appeals, Manila.

¹⁰ *Id.* at 205–213. The April 23, 2014 Decision in SEC Case No. 10-139 was penned by Judge Rodolfo R. Bonifacio of Branch 159, Regional Trial Court, Pasig City.

Bilang 178 (Batas Pambansa Blg. 178), otherwise known as the Revised Securities Act,¹¹ only member-brokers of PSE were allowed to trade in the securities listed therein.¹²

On August 8, 2000, Republic Act No. 8799, also known as The Securities Regulation Code, was passed into law, repealing Batas Pambansa Blg. 178. Under Section 4, the SEC was mandated to administer Republic Act No. 8799 as a collegial body, "composed of a chairperson and four (4) Commissioners[.]"¹³ At the same time, Section 33.2(c) of Republic Act No. 8799 decreed that a stock exchange must be organized as a stock corporation and registered with the SEC. Consequently, the PSE was reorganized and transformed into a stock corporation and was publicly listed.¹⁴ Section 33.2 of Republic Act No. 8799 pertinently provides:

SECTION 33. *Registration of Exchanges.* –

....

33.2. Registration of an Exchange shall be granted upon compliance with the following provisions:

....

(c) Where the Exchange is organized as a stock corporation, that no person may beneficially own or control, directly or indirectly, more than five percent (5%) of the voting rights of the Exchange and no industry or business group may beneficially own or control, directly or indirectly, more than twenty percent (20%) of the voting rights of the Exchange: *Provided, however,* That the Commission may adopt rules, regulations or issue an order, upon application, exempting an applicant from this prohibition where it finds that such ownership or control will not negatively impact on the exchange's ability to effectively operate in the public interest[.] (Emphasis in the original)

On September 23, 2005, the SEC issued a letter¹⁵ to the PSE, instructing its compliance with the requirements of Section 33.2(c). According to the SEC, brokers are considered as a business industry. More, their records confirmed that at least 35.33% of the outstanding shares of the PSE were owned by such brokers. For exceeding the statutory limit of 20%, and for violating Republic Act No. 8799, the SEC required the PSE to submit an action plan for purposes of compliance with the industry ownership limit.

¹¹ (1982).

¹² *Rollo* (G.R. No. 198425), p. 78.

¹³ Republic Act No. 8799 (2000), sec. 4.

¹⁴ *Rollo* (G.R. No. 198425), p. 78.

¹⁵ *Rollo* (G.R. No. 201174), p. 107.

On July 10, 2006, the PSE informed the SEC that it had undertaken several steps to comply with the provisions of Republic Act No. 8799. Woefully, such steps proved insufficient to reduce the ownership and control of the brokers.¹⁶ Thus, the PSE was constrained to request exemption from the coverage of Section 33.2(c).¹⁷

On July 20, 2006, the SEC granted the PSE's application for exemptive relief, giving it one year, or until July 20, 2007, to fully comply with the industry ownership limit.¹⁸

On September 5, 2006, the PSE requested for permanent exemption from the industry ownership limit pertaining to its brokers, as their present level of ownership does not negatively impact on the exchange's ability to effectively operate in the public interest.¹⁹ The SEC denied the request for a permanent exemption.²⁰

Unperturbed, the PSE requested for another year from July 20, 2007 within which to comply with the SEC's directive. The request for extension was similarly denied by the SEC.²¹

Upon the lapse of the reglementary period to comply, the PSE failed to file any report of compliance. Consequently, the SEC requested the PSE's transfer agent, RCBC Stock Transfer Department, to submit data concerning the brokers' stock ownership. The report disclosed that the brokers, as an industry group, beneficially owned and controlled 6,457,548 shares or 42.27% of the total outstanding capital stock of the PSE.²² Given its non-compliance with the industry ownership limit, PSE was meted a fine of PHP 101,100.00. Further, it was directed by the SEC to impose a limit on the voting stock of brokers as a group to 20% of the total outstanding stock in the next stockholders' meeting and election, and until such time that the said limit would be complied with.²³

The PSE sought reconsideration²⁴ with regard to the imposition of the fine, contending that it would be unfair to impose sanctions considering that it had undertaken all available steps in good faith to reduce broker ownership.²⁵ Such reconsideration was denied by the SEC, while directing

¹⁶ *Id.* at 113–117.

¹⁷ *Id.* at 116.

¹⁸ *Id.* at 118.

¹⁹ *Id.* at 30.

²⁰ *Id.* at 119.

²¹ *Id.* at 125.

²² *Id.* at 126.

²³ *Id.*

²⁴ *Id.* at 127–130.

²⁵ *Id.* at 130.

the PSE to submit not later than February 29, 2008 a list of implementing guidelines to enforce the limit on the voting rights of brokers as an industry group to 20% of the total capital stock.²⁶

As a last-ditch effort, the PSE sought a deferment of the SEC's instructions as to the industry ownership limit. On March 28, 2008, the SEC granted the deferment, subject to the condition that PSE would submit certain requirements such as an ownership restructuring plan and the submission of progress reports to allow the SEC to effectively monitor its activities.²⁷ Resultantly, the brokers were able to fully exercise their voting rights over their respective shares during the conduct of the PSE's 2008 Annual Stockholders' Meeting.²⁸

In 2009, the SEC, upon the PSE's request, agreed to again defer the implementation of the industry ownership limit.²⁹ The SEC also approved the proposed 2009 Nominations and Elections Committee (NOMELEC) Rules of the PSE on the condition that its approval would only cover the 2009 Annual Stockholders' Meeting. Thus, the brokers were again able to vote in accordance with their respective shares without any limitation during the 2009 Annual Stockholders' Meeting.³⁰

In light of the anticipated Stockholders' Meeting to be held on May 1, 2010, the SEC directed the PSE to submit its NOMELEC Rules, which expressly limited the voting rights of individuals to no more than 5% of shareholdings, and industry groups to not more than 20% shareholdings of the PSE.³¹ Given that the total shareholdings of its brokers amounted to 35%, the PSE wrote a letter to the SEC requesting clarification on the mechanism and effects of enforcing the limitations upon the voting.³²

The SEC issued Resolution No. 86, Series of 2010³³ which effectively granted exemptive reliefs from certain institutional stockholders from the industry ownership limit, namely: The Government Service Insurance System (GSIS), Philippine Long Distance Telephone (PLDT) Company Beneficial Trust Fund, San Miguel Corporation Retirement Plan, and Premier Capital Venture Corporation.

²⁶ *Id.* at 131.

²⁷ *Id.* at 132-133.

²⁸ *Id.* at 134-137.

²⁹ *Id.* at 138.

³⁰ *Id.*

³¹ *Id.* at 140.

³² *Id.* at 143-145.

³³ *Id.* at 163.

4

In the same resolution, the SEC reiterated that the 20% voting limitation on industry or business groups under Section 33.2(c) of Republic Act No. 8799 should be applied to brokers.³⁴ Said limitation was relayed to the PSE in a letter,³⁵ thus:

Please be informed that in its meeting held on 25 February 2010, the Commission resolved to direct the Exchange to limit, starting this year and every year thereafter, the voting rights of brokers as an industry group to twenty percent (20%) of the total outstanding capital stock of the PSE as provided under Section 33.2(c) of the Securities Regulation Code.

For compliance.³⁶

Abiding by Resolution No. 86, the PSE, through its NOMELEC, issued "Rules of the NOMELEC" for the conduct of its 2010 Annual Stockholders' Meeting.³⁷ Rule 2 of such Rules provides:

Pursuant to the directive of the Securities and Exchange Commission (SEC) dated 9 March 2010, the voting rights of brokers shall be limited to 20% of their total shareholdings. Thus, the number of broker directors in the board shall be limited to three (3).³⁸

The Philippine Association of Securities Brokers and Dealers, Inc. (PASBDI), whose members are stockholders of the PSE, wrote the PSE, demanding that Rule 2, as well as all rules, measures, initiatives or procedures intended to limit the voting rights of its members at the May 1, 2010 PSE Annual Stockholders' Meeting be revoked.³⁹ It justified that the ownership of a share of stock carries with it the right to share in the management of the corporation through its voting rights. Thus, any rule that deprives a stockholder of their lawful right should be struck down.⁴⁰

The PSE refused to heed such demands as it was merely complying with the SEC's instructions.⁴¹

*Proceedings leading to the filing of
the Petition for Review docketed as
G.R. No. 198425*

³⁴ *Id.*

³⁵ *Id.* at 164.

³⁶ *Id.*

³⁷ *Rollo* (G.R. No. 198425), p. 723.

³⁸ *Id.*

³⁹ *Id.* at 760-762.

⁴⁰ *Id.* at 761.

⁴¹ *Id.* at 724.

On April 21, 2010, the PASBDI, along with Ma. Vivian Yuchengo, Ismael G. Cruz, Nestor S. Aguila, and Marita A. Limlingan, in their capacity as stockholders, filed a Petition for Injunction⁴² with the RTC to restrain the SEC, the PSE and the 2009 NOMELEC from implementing Resolution No. 86 as it explicitly limited the brokers' voting rights. The case was docketed as SEC Case No. 10-139.

The RTC issued an Order⁴³ and a corresponding writ of preliminary injunction directing the SEC, the PSE, and the 2009 NOMELEC to allow all brokers-stockholders to vote with their entire shareholdings during the May 1, 2010 Annual Stockholders' Meeting. The dispositive portion reads:

WHEREFORE, there being legal issues that need to be resolved and so as not to render this petition moot and academic, respondents SEC and PSE, through its NOMELEC, is hereby directed to **ALLOW** all brokers shareholders to **VOTE** on May 1, 2010 to the extent of their present shareholdings in accordance with the NOMELEC Rules then prevailing during the 2009 elections. This shall be effective for the May 1, 2010 election **ONLY**. Accordingly, let a writ be issued upon petitioners' posting of a bond in the amount of **ONE HUNDRED THOUSAND PESOS ([PHP] 100,000.00)** which will answer for any damages that respondents may suffer as a result of the issuance of this Order.

SO ORDERED.⁴⁴ (Emphasis in the original)

In compliance with the said Order and Writ of Preliminary Injunction, the PSE allowed the brokers-stockholders to vote all their shareholdings in the May 1, 2010 Annual Stockholders' Meeting.⁴⁵

Subsequently, the SEC filed a Petition for *Certiorari* and Prohibition (with application for the issuance of a temporary restraining order and/or writ of preliminary injunction)⁴⁶ before the CA, assailing the Order of the RTC which granted the writ of preliminary injunction. The case was docketed as CA-G.R. SP No. 114413.

In its Decision,⁴⁷ the CA dismissed the petition for *certiorari* and prohibition and affirmed the RTC Order granting the writ of injunction. The SEC moved for reconsideration of the Decision, but the motion was denied.⁴⁸

⁴² *Id.* at 153-189.

⁴³ *Rollo* (G.R. No. 201174), pp. 202-207.

⁴⁴ *Id.* at 207.

⁴⁵ *Rollo* (G.R. No. 198425), p. 83.

⁴⁶ *Id.* at 202-268.

⁴⁷ *Id.* at 76-88.

⁴⁸ *Id.* at 90.

The CA Decision and its Resolution are now the subject of the instant Petition for Review on *Certiorari* docketed as G.R. No. 198425.

*Proceedings leading to the filing of
the Petition for Certiorari docketed
as G.R. No. 201174*

For the 2011 Annual Stockholders' Meeting, the SEC directed the PSE to incorporate in the 2011 NOMELEC Rules the provision limiting the voting rights of brokers as an industry group to 20% of the total outstanding capital stock, as provided under Section 33.2(c) of Republic Act No. 8799:

1. To limit the voting rights of brokers as an industry group to twenty (20%) of the total outstanding capital stock of the PSE as provided under Section 33.2(C) of the Securities Regulation Code, and broker stockholders may issue a proxy in favor of another broker stockholder or in favor of a non-broker stockholder subject to the 20% voting limit.⁴⁹

In response, the PASBDI filed with the RTC an urgent motion for issuance of a writ of preliminary injunction to restrain the PSE and the SEC from imposing the 20% limit specifically pertaining to the 2011 Annual Stockholders' Meeting of the PSE.⁵⁰ The case was docketed as SEC Case No. 10-139.

The SEC approved the 2011 NOMELEC Rules of the PSE which incorporated the 20% limitation for brokers,⁵¹ to wit:

Rule 2: Pursuant to the directive of the Securities and Exchange Commission (SEC) dated 3 February 2011, the voting rights of brokers shall be limited to twenty percent (20%) of the total outstanding stock of the PSE. Thus, broker directors are entitled to three (3) seats, subject to the Rule on Open Seats.⁵²

The RTC issued an Order⁵³ granting the writ of preliminary injunction, thus:

WHEREFORE, premises considered, the Urgent Motion for the Issuance of a Writ of Preliminary Injunction filed by PASBDI and individual petitioners is hereby **GRANTED**. Respondents SEC, PSE, and its NOMELEC are enjoined from imposing the 20% ownership limitation

⁴⁹ *Rollo* (G.R. No. 201174), p. 275. See Letter dated February 3, 2011.

⁵⁰ *Id.* at 284-298.

⁵¹ *Rollo* (G.R. No. 198425), p. 629. Letter dated April 14, 2011.

⁵² *Id.* at 633.

⁵³ *Rollo* (G.R. No. 201174), pp. 94-100.

under the SRC until such time that the vital issues in this petition are resolved. The cash bond posted on April 29, 2010 by petitioners shall continue to serve as bond which will answer for any damages that may accrue to respondents as a result of this issuance. Accordingly, the Clerk of Court is hereby directed to issue the corresponding writ.

.....
SO ORDERED.⁵⁴ (Emphasis in the original)

The SEC sought reconsideration of the Order but it was denied.⁵⁵

The Order is now being assailed in the instant Petition for *Certiorari*⁵⁶ docketed as G.R. No. 201174.

*Proceedings leading to the filing of
the Petition for Certiorari docketed
as G.R. No. 244462*

The RTC rendered a Decision⁵⁷ in SEC Case No. 10-139 permanently enjoining the SEC, the PSE, and its NOMELEC, from imposing any limitation or restriction on the voting rights of PASBDI and the individual respondents. The dispositive portion reads as follows:

WHEREFORE, all foregoing premises considered, the Petition for Injunction filed by PASBDI and individual petitioners is hereby **GRANTED**. The Writs of Preliminary Injunction issued are hereby declared **PERMANENT**. Respondents Securities and Exchange Commission, Philippine Stock Exchange and PSE Nomination and Election Committee are enjoined from imposing any limitation or restriction on the right of PASBDI and individual petitioners to vote their entire shareholdings, without a determination by the SEC after proper notice and hearing that the level of shareholdings by the brokers adversely affects the PSE's ability to operate in the public interest.

SO ORDERED.⁵⁸ (Emphasis in the original)

The SEC filed a Motion for Reconsideration of the Decision. However, it was denied by the RTC.⁵⁹

⁵⁴ *Id.* at 100.

⁵⁵ *Id.* at 101-102.

⁵⁶ *Id.* at 14-93.

⁵⁷ *Rollo* (G.R. No. 244462), pp. 205-215.

⁵⁸ *Id.* at 213.

⁵⁹ *Id.* at 36.

The SEC appealed the RTC Decision and its Order to the CA. In its Decision,⁶⁰ the CA, in CA-GR. CV No. 103548, denied the appeal of SEC.

The CA Decision is now being assailed in the instant Petition for Review on *Certiorari*⁶¹ docketed as G.R. No. 244462.

In a Resolution,⁶² this Court required the parties to move in the premises to determine whether supervening events transpired in the case, and to help this Court in its immediate disposition of the case.

On November 28, 2023, the SEC filed a Compliance⁶³ pursuant to the directive of this Court. The SEC stated that based on the report of the PSE, the total shareholdings with voting rights in the PSE from January to September 2023 had continually complied with the 20% industry ownership limit under Section 33.2(c),⁶⁴ to wit:

As of	Total Broker Shareholdings with Voting Rights (in %)
31 January 2023	18.77%
28 February 2023	18.75%
31 March 2023	18.72%
30 April 2023	18.71%
31 May 2023	18.71%
30 June 2023	18.67%
31 July 2023	18.36%
31 August 2023	18.34%
30 September 2023	18.26% ⁶⁵

The SEC additionally submits that such continuing compliance by the PASBDI and the PSE with the 20% statutory limit only strengthens its position that the same was mandatory.⁶⁶

On the other hand, the PASBDI, in their Compliance,⁶⁷ maintains that since voting rights of the brokers have been reduced to less than 20% of the outstanding capital stock of the PSE, no more reason exists for the SEC to harp on the assailed orders and Decisions of the RTC and the CA. Despite raising the mootness of the instant case, the PASBDI still seeks the

⁶⁰ *Id.* at 69–78.

⁶¹ *Id.* at 18–67.

⁶² *Rollo* (G.R. No. 198425), p. 1287.

⁶³ *Id.* at 1303–1306.

⁶⁴ *Id.* at 1304.

⁶⁵ *Id.*

⁶⁶ *Id.* at 1304–1305.

⁶⁷ *Id.* at 1337–1345.

affirmance of the Decisions and Resolutions of the CA, as it involves property rights that are protected by no less than the Constitution.⁶⁸

Issues

Petitioner SEC raises the following grounds in support of its consolidated petitions:

G.R. No. 198425

I.

THE COURT OF APPEALS GRAVELY ERRED IN HOLDING THAT THE RTC IN PASIG CITY HAS JURISDICTION OVER THE SUBJECT MATTER OF THE PETITION FOR INJUNCTION FILED BY RESPONDENT PASBDI AND THE INDIVIDUAL RESPONDENTS.

II.

THE COURT OF APPEALS DECIDED THE CASE NOT IN ACCORD WITH LAW AND ESTABLISHED JURISPRUDENCE CONSIDERING THAT RESPONDENT PASBDI AND THE INDIVIDUAL RESPONDENTS HAVE NOT SHOWN THEIR ENTITLEMENT TO THE ISSUANCE OF AN INJUNCTIVE WRIT.⁶⁹

G.R. No. 201174

I.

RESPONDENT JUDGE HAS NO JURISDICTION OVER THE SUBJECT MATTER OF THE PETITION FOR INJUNCTION FILED BY PRIVATE RESPONDENT PASBDI AND THE INDIVIDUAL PRIVATE RESPONDENTS.

II.

ASSUMING *ARGUENDO* THAT THE TRIAL COURT HAS JURISDICTION OVER THE SAID PETITION FOR INJUNCTION, RESPONDENT JUDGE ACTED WITH GRAVE ABUSE OF DISCRETION IN ISSUING A WRIT OF PRELIMINARY INJUNCTION BECAUSE BY DOING SO, HE GRANTED A RELIEF WHICH WAS NOT PRAYED FOR BY PRIVATE RESPONDENT PASBDI AND THE INDIVIDUAL PRIVATE RESPONDENTS.

III.

ASSUMING *ARGUENDO* THAT THE TRIAL COURT HAS JURISDICTION OVER THE SAID PETITION FOR INJUNCTION, RESPONDENT JUDGE ACTED WITH GRAVE ABUSE OF

⁶⁸ *Id.* at 1342.

⁶⁹ *Id.* at 38.

DISCRETION IN ISSUING A WRIT OF PRELIMINARY INJUNCTION AGAINST PETITIONER DESPITE THE GLARING ABSENCE OF A RIGHT *IN ESSE* ON THE PART OF PRIVATE RESPONDENT PASBDI AND THE INDIVIDUAL PRIVATE RESPONDENTS.⁷⁰

G.R. No. 244462

I.

THE PETITION RAISES PURE QUESTIONS OF LAW.

II.

THE RTC HAS NO JURISDICTION OVER THE PETITION FOR INJUNCTION, WHICH SEEKS TO COMPEL PETITIONER TO GRANT RESPONDENTS THE EXEMPTION FROM THE LIMITATION ON OWNERSHIP OR CONTROL OF VOTING RIGHTS UNDER SECTION 33.2(C) OF THE SRC.

A. THE SEC IS VESTED WITH JURISDICTION TO GRANT RESPONDENTS PASBDI AND INDIVIDUAL RESPONDENTS' EXEMPTION FROM THE VOTING RIGHTS REQUIREMENT UNDER SECTION 33.2(C) OF THE SRC.

B. THE PETITION FOR INJUNCTION IS NOT A DIRECT ATTACK ON THE CONSTITUTIONALITY OF SECTION 33.2 OF THE SRC.

III.

IMPLEMENTING THE 20% INDUSTRY OWNERSHIP LIMITATION AGAINST RESPONDENT PASBDI AND THE INDIVIDUAL RESPONDENTS IS NOT CONFISCATORY.

A. RESPONDENTS, NOT THE SEC, HAVE THE BURDEN OF PROVING THAT THEIR OWNERSHIP OR CONTROL OF SHAREHOLDINGS BEYOND THE 20% INDUSTRY OWNERSHIP LIMITATION UNDER SECTION 33.2(C) OF THE SRC DOES NOT HAVE NEGATIVE IMPACT ON PUBLIC INTEREST.

B. THE SEC CANNOT GRANT EXEMPTIVE RELIEF TO RESPONDENT PASBDI AND/OR THE INDIVIDUAL RESPONDENTS BECAUSE THEY DID NOT FILE ANY APPLICATION FOR EXEMPTION.⁷¹

Distilling the grounds presented, this Court shall resolve the following core issues:

⁷⁰ *Rollo* (G.R. No. 201174), p. 47.

⁷¹ *Rollo* (G.R. No. 244462), pp. 37-38.

First, whether the RTC has jurisdiction to hear and decide the petition for injunction filed by the PASBDI and the individual respondents before the RTC docketed as SEC Case No. 10-139.

Second, whether the RTC committed grave abuse of discretion in issuing the writ of preliminary injunction and declaring the same as permanent in its Decision.

This Court's Ruling

To begin with, this Court holds that pursuant to the parties' manifestations in their respective compliances, the issues arising from the consolidated petitions are moot and academic. It must be stressed, however, that PASBDI itself insists on the resolution of the case and maintains the validity of the assailed injunction orders.

For argument's sake, while it is recognized that this Court usually stays its hand from resolving a case that has been rendered moot and academic by reason of supervening events, it nevertheless assumes jurisdiction over a case when it is capable of repetition, yet evading review.⁷²

Records of the PSE show that while the voting rights of brokers and shareholders have been compliant with the 20% ownership limit for January to September 2023, such period of compliance was all too narrow, i.e., a mere nine months for the year 2023. Here, no evidence of compliance or explanation was given for the years 2012 to 2022. There was also no submission of the succeeding NOMELEC Rules to verify if the proper interpretation of Section 33.2(c) was reflected therein. Also, with the continuous exchanges in the PSE, there is no guarantee that the shareholdings of the brokers as stated in the parties' compliance would remain as it is.

Taken together, such pieces of evidence are by no means conclusive to ensure that the erroneous interpretation and implementation of Section 33.2(c) by the PSE would never again arise. Thus, there is much significance and practical value for this Court to resolve the issues invoked in this case, if only to prevent similar questions from re-emerging. Aside from laying down the proper interpretation and implementation of Section 33.2(c), this Court lays down a definitive delineation as to the jurisdiction of the RTC on questions regarding the quasi-legislative functions vis-à-vis the quasi-judicial functions of administrative agencies.

⁷² *Rep. of the Phils. v. Moldex Realty, Inc.*, 780 Phil. 553, 561 (2016) [Per J. Leonen, Second Division].

After a circumspect study of the consolidated petitions and its records, this Court finds them partly meritorious. The issues shall be tackled in *seriatim*.

I.

In its petitions, the SEC argues that while PASBDI filed a petition for injunction, a simple reading of the allegations therein would readily reveal that PASBDI, along with other individual stockholders, are actually seeking exemption from the restriction of voting rights. Pursuant to Section 33.2(c) of Republic Act No. 8799, the SEC has sole authority to exempt any member from complying with voting restrictions thereto. Resultantly, it is the SEC, and not the RTC, which has jurisdiction to act on the grounds raised in the petition for injunction.⁷³

In its Comment in G.R. Nos. 198425⁷⁴ and 201174,⁷⁵ PASBDI et al. echoed the explanation of the CA in its Decision dated April 11, 2011 in CA-G.R. SP No. 114413. The CA held that the RTC had jurisdiction to decide on the petition, as what determines jurisdiction of the action are the allegations in the complaint and the character of the reliefs sought. As the petition challenges the validity of the SEC's Order and the 2010 NOMELEC Rules which would constitute a deprivation of their property rights, the same may be the subject of an injunction. Further, PASBDI et al. invokes the rule held in *British American Tobacco v. Sec. Camacho*:⁷⁶ “[w]here what is assailed is the validity or constitutionality of a law, or a rule or regulation issued by the administrative agency in the performance of its quasi-legislative function, the regular courts have jurisdiction to pass upon the same.”⁷⁷ Appropriately then, the action of the SEC as an agency of the national government in issuing rules and regulations is clearly within the purview of the RTC.⁷⁸

Finally, in its Comment⁷⁹ in G.R. No. 244462, PASBDI et al. additionally insist that the RTC is imbued with judicial power, which includes the authority of courts to determine in an appropriate action the validity of the acts of the political departments, as in the case of the SEC, in issuing the restrictions and limitations on voting rights.⁸⁰

⁷³ *Rollo* (G.R. No. 198425), pp. 44-47; *rollo* (G.R. No. 201174), pp. 52-53; *rollo* (G.R. No. 244462), pp. 43-44.

⁷⁴ *Rollo* (G.R. No. 198425), pp. 774-794.

⁷⁵ *Rollo* (G.R. No. 201174), pp. 613-636.

⁷⁶ 584 Phil. 489 (2008) [Per J. Ynares-Santiago, *En Banc*].

⁷⁷ *Id.* at 511.

⁷⁸ *Rollo* (G.R. No. 198425), pp. 785-787; *rollo* (G.R. No. 201174), pp. 625-627.

⁷⁹ *Rollo* (G.R. No. 244462), pp. 114-156.

⁸⁰ *Id.* at 143.

The RTC is vested with jurisdiction to hear and decide the petition for injunction

To address the peculiar and sophisticated problems that the legislature cannot reasonably foresee, administrative agencies are delegated with certain powers by Congress. Seen as “experts in the particular fields assigned to them,” administrative agencies are appropriated with certain powers to enforce solutions and resolve problems that Congress cannot otherwise undertake, given its limited competence.⁸¹ In *Holy Spirit Homeowners Association, Inc. v. Sec. Defensor*,⁸² this Court defined and laid out a distinction between such powers:

Administrative agencies possess quasi-legislative or rule-making powers and quasi-judicial or administrative adjudicatory powers. Quasi-legislative or rule-making power is the power to make rules and regulations which results in delegated legislation that is within the confines of the granting statute and the doctrine of non-delegability and separability of powers.⁸³ (Citation omitted)

With regard to questions concerning the exercise of quasi-legislative powers, *Smart Communications, Inc. v. Nat'l Telecommunications Commission*⁸⁴ illumines that regular courts have jurisdiction over the same: “where what is assailed is the validity or constitutionality of a rule or regulation issued by the administrative agency in the performance of its quasi-legislative function, the regular courts have jurisdiction to pass upon the same.”⁸⁵ In the more recent case of *Alliance of Non-Life Insurance Workers of the Philippines v. Sec. Mendoza*⁸⁶ it was similarly settled that courts have the jurisdiction to resolve actual cases or controversies involving administrative actions done in the exercise of their quasi-legislative functions.⁸⁷

In connection, this Court entrenched certain guideposts in *The Provincial Bus Operators Assn. of the Phils. v. DOLE*⁸⁸ to aid the courts in reviewing the validity of administrative functions:

As the name implies, quasi-legislative or rule-making power is the power of an administrative agency to make rules and regulations that have the force and effect of law so long as they are issued “within the confines of the

⁸¹ *Eastern Shipping Lines, Inc. v. Philippine Overseas Employment Administration*, 248 Phil. 762, 773, 775–776 (1988) [Per J. Cruz, First Division].

⁸² 529 Phil. 573 (2006) [Per J. Tinga, *En Banc*].

⁸³ *Id.* at 585.

⁸⁴ 456 Phil. 145 (2003) [Per J. Ynares-Santiago, First Division].

⁸⁵ *Id.* at 158.

⁸⁶ 879 Phil. 574 (2020) [Per J. Leonen, Third Division].

⁸⁷ *Id.* at 601.

⁸⁸ 836 Phil. 205 (2018) [Per J. Leonen, *En Banc*].

granting statute.” The enabling law must be complete, with sufficient standards to guide the administrative agency in exercising its rule-making power. As an exception to the rule on non-delegation of legislative power, administrative rules and regulations must be “germane to the objects and purposes of the law, and be not in contradiction to, but in conformity with, the standards prescribed by law.”⁸⁹ (Citations omitted)

The factual antecedents of *British American Tobacco*⁹⁰ are similar to the case at bench. In that case, the SEC filed a petition for injunction to enjoin the implementation of then Section 145 of National Internal Revenue Code and several Revenue Regulations and Revenue Memorandum Order as they discriminate against its new cigarette brands. In ruling that the RTC was clothed with jurisdiction to decide on the petition for injunction, this Court ratiocinated in this wise:

*The determination of whether a specific rule or set of rules issued by an administrative agency contravenes the law or the constitution is within the jurisdiction of the regular courts. Indeed, the Constitution vests the power of judicial review or the power to declare a law, treaty, international or executive agreement, presidential decree, order, instruction, ordinance, or regulation in the courts, including the regional trial courts. This is within the scope of judicial power, which includes the authority of the courts to determine in an appropriate action the validity of the acts of the political departments. Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.*⁹¹ (Emphasis supplied, citation omitted)

In the instant case, the SEC is an administrative agency of the national government as expressly held in *Gimenez Stockbrokerage and Co., Inc. v. SEC*.⁹² Further, it is the primary and only agency entrusted with administering the provisions of the Republic Act No. 8799 pursuant to Section 4, viz.:

CHAPTER II SECURITIES AND EXCHANGE COMMISSION

Section 4. Administrative Agency. – 4.1. This Code shall be administered by the Security and Exchange Commission (hereinafter referred to as the “Commission”) as a collegial body, composed of a Chairperson and four (4) Commissioners, appointed by the President for a term of seven (7) years each and who shall serve as such until their successor shall have been appointed and qualified. A Commissioner appointed to fill a vacancy

⁸⁹ *Id.* at 233.

⁹⁰ 584 Phil. 489 (2008) [Per J. Ynares-Santiago, *En Banc*].

⁹¹ *Id.* at 511.

⁹² 218 Phil. 792 (1984) [Per J. Aquino, *En Banc*].

occurring prior to the expiration of the term for which [their] predecessor was appointed, shall serve only for the unexpired portion of such term. The incumbent Chairperson and Commissioners at the effectivity of this Code, shall serve the unexpired portion of their terms under Presidential Decree No. 902-A. Unless the context indicates otherwise, the term "Commissioner" includes the Chairperson.

By virtue of its quasi-legislative powers, the SEC can "formulate policies and recommendations on issues concerning the securities market" as well as "prepare, approve, amend or repeal rules, regulations and orders," as well as to "provide guidance on and supervise compliance with such rules, regulations and orders[.]"⁹³

Accordingly, the SEC issued Resolution No. 86, s. of 2010⁹⁴ and sent a letter⁹⁵ relaying the same to PSE for purposes of imposing Section 33.2(c) for the 2010 Annual Stockholders' Meeting insofar as the limitation on voting rights of the brokers are concerned. Echoing this directive, SEC instructed the PSE to incorporate the same limitation in the rules for the conduct of its 2011 Annual Stockholders' Meeting.⁹⁶

Arguing that such limitation imposed by the SEC was an undue curtailment of their proprietary rights as shareholders, PASBDI and other individual stockholders were constrained to file the instant petition for injunction, praying to restrain the PSE, the NOMELEC, and the SEC from implementing the latter's directive.⁹⁷ Further it prayed that judgment be rendered, thus:

- a. Upholding the brokers' right to 49% of the PSE Board pursuant to Section 33.2(f) [of the Securities Regulation Code];
- b. Declaring the NOMELEC Rules as *ultra vires*, insofar as it limits the voting rights of [PASBDI et al.] to twenty percent (20%) of the total outstanding capital stock of the PSE, and limits the number of brokers-directors in the board to only three (3) board seats;
- c. Declaring the writ of preliminary injunction enjoining the PSE, NOMELEC, any and all persons acting under them from implementing Section 33.2(c) and the questioned Rules 2 and 4 of the 2010 NOMELEC Rules, permanent[.]⁹⁸

⁹³ Republic Act No. 8799 (2000), sec. 5(b) and (g).

⁹⁴ *Rollo* (G.R. No. 201174), p. 163.

⁹⁵ *Id.* at 164.

⁹⁶ *Id.* at 275. See Letter dated February 3, 2011.

⁹⁷ *Rollo* (G.R. No. 198425), pp. 186-187.

⁹⁸ *Id.* at 187.

It is evident that the Petition for Injunction filed by PASBDI and individual stockholders before the RTC assails the validity of the SEC's directive to the PSE to impose the 20% limitation on voting rights for the brokers-stockholders, which was incorporated in the 2010 and 2011 Annual Stockholders' Meeting. Elsewise stated, what is essentially questioned by PASBDI et al. is the validity of the rule or regulation issued by SEC as an administrative agency in the performance of its quasi-legislative functions. Clearly then, the question is within the province of the RTC, and not the SEC, to resolve.

At any rate, this Court adheres to the well-settled jurisprudential precept espoused in *De Guzman-Fuerte v. Sps. Estomo*⁹⁹ where it held:

[J]urisdiction over the subject matter of a case is conferred by law and determined by the allegations in the complaint which comprise a concise statement of the ultimate facts constituting the plaintiff's cause of action. The nature of an action, as well as which court or body has jurisdiction over it, is determined based on the allegations contained in the complaint of the plaintiff, irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein. The averments in the complaint and the character of the relief sought are the ones to be consulted.¹⁰⁰

A perusal of the allegations of the petitions before the RTC clearly make out a case for injunction. This Court quotes with approval the disquisitions of the CA in the assailed Decision, to wit:

At the outset, We hold that respondent court has competent jurisdiction to entertain the instant petition. What determines the nature of the action and the court which has jurisdiction over it are the allegations in the complaint and the character of the relief sought. In their petition for Injunction filed in court and docketed as SEC Case No. 10-139, PASBDI specifically challenged the validity of the petitioner SEC's Order dated 08 March 2010 as well as the 2010 NOMELEC Rules specifically Rules 2 and 4 thereof which were adopted in compliance with the said directive. PASBDI argued that the 20% limitation constitutes a deprivation of property rights which is protected by the Constitution and prayed that a writ of injunction be issued restraining petitioner, PSE and NOMELEC, from implementing the 08 March 2010 directive and the 2010 NOMELEC Rules.¹⁰¹

On a related matter, while the RTC retains jurisdiction on issues surrounding SEC's quasi-legislative functions, this Court is aware that the SEC maintains its authority, at its discretion, to grant exemptive relief from

⁹⁹ 830 Phil. 653 (2018) [Per J. Peralta, Second Division].

¹⁰⁰ *Id.* at 660-661.

¹⁰¹ *Rollo* (G.R. No. 198425), p. 84.

the limitations on voting rights of individuals and industry or business groups. Section 33.2(c) of Republic Act No. 8799 is crystal clear:

33.2. Registrations of an Exchange shall be granted upon compliance with the following provisions:

.....

(c) Where the Exchange is organized as a stock corporation, that no person may beneficially own or control, directly or indirectly, more than five percent (5%) of the voting rights of the Exchange and no industry or business group may beneficially own or control, directly or indirectly, more than twenty percent (20%) of the voting rights of the Exchange: *Provided, however, That the Commission may adopt rules, regulations or issue an order, upon application, exempting an applicant from this prohibition where it finds that such ownership or control will not negatively impact on the exchange's ability to effectively operate in the public interest.* (Emphasis supplied)

In conjunction, Section 72.1 of Republic Act No. 8799 corroborates the SEC's authority to grant exemptions to any person or classes of persons from any or all of its provisions, thus:

Section 72. Rules and Regulations; Effectivity. – 72.1. This Code shall be self-executory. To effect the provisions and purposes of this Code, the Commission may issue, amend, and rescind such rules and regulations and orders necessary or appropriate, including rules and regulations defining accounting, technical, and trade terms used in this Code, and prescribing the form or forms in which information required in registration statements, applications, and reports to the Commission shall be set forth. For purposes of its rules or regulations, the Commission may classify persons, securities, and other matters within its jurisdiction, prescribe different requirements for different classes of persons, securities, or matters, and by rule or order, conditionally or unconditionally exempt any person, security, or transaction, or class or classes of persons, securities or transactions, from any or all provisions of this Code.

Be that as it may, the SEC's argument that the RTC extended exemptive relief to PASBDI and the individual respondents from complying with the provision of Section 33.2(c) of the Republic Act No. 8799¹⁰² must be rejected.

In the first place, and by SEC's own admission,¹⁰³ PASBDI has yet to submit an application for the grant of exemptive relief, similar to those submitted to the PSE by the institutional stockholders which were granted

¹⁰² *Rollo* (G.R. No. 198425), p. 44-47; *rollo* (G.R. No. 201174), pp. 52-53; *rollo* (G.R. No. 244462), pp. 43-44.

¹⁰³ *Rollo* (G.R. No. 244462), pp. 54-55.

such relief, such as the GSIS, PLDT Company Beneficial Trust Fund, San Miguel Corporation Retirement Fund, and Premier Capital Venture Corporation. In effect, SEC has not adjudicated on the issue of whether PASBDI is qualified for exemptive relief, given that no such application was submitted. Instead of requesting for such exemptive relief, PASBDI went straight to the trial court to seek redress.¹⁰⁴

In any case, courts are not precluded from reviewing all acts and decisions of any branch or instrumentality of the government even if they are conducted in the exercise of its regulatory powers, to ensure that no grave abuse of discretion amounting to lack or excess of jurisdiction is committed.¹⁰⁵ Thus, while the grant of exemptive relief clearly falls within the authority of the SEC, the same can still be reviewed by the courts if it violates the provisions of Republic Act No. 8799, it infringes on due process, or it was issued with grave abuse of discretion. Essentially, when the courts take cognizance of the case, it is not substituting its own judgment or usurping the authority of the SEC to grant exemptive relief; rather, it merely looks whether the exercise of such power is within the metes and bounds of the law.

In synthesis, the RTC is clothed with jurisdiction to entertain and resolve issues concerning the validity or constitutionality of a rule or regulation issued by the administrative agency, in this case, the SEC, in the performance of its *quasi-legislative functions*.

With regard to SEC's quasi-judicial functions, however, the rule markedly differs.

Aside from its quasi-legislative functions, the SEC simultaneously partakes of the nature of a quasi-judicial agency. As declared by this Court in *Cosmos Bottling Corporation v. Commission En Banc of the Securities and Exchange Commission*,¹⁰⁶ the SEC is an "administrative agency with both regulatory and adjudicatory functions."¹⁰⁷

In *Metro Construction, Inc. v. Chatham Properties, Inc.*,¹⁰⁸ a quasi-judicial agency was defined as follows:

A quasi-judicial agency or body has been defined as an organ of government other than a court and other than a legislature, which affects the rights of

¹⁰⁴ *Rollo* (G.R. No. 198425), p. 62; *rollo* (G.R. No. 201174), pp. 74–75.

¹⁰⁵ *Alliance for the Family Foundation, Philippines, Inc. v. Hon. Garin*, 793 Phil. 831, 849 (2016) [Per J. Mendoza, Second Division].

¹⁰⁶ 746 Phil. 800 (2014) [Per J. Del Castillo, Second Division].

¹⁰⁷ *Id.* at 806. (Citation omitted)

¹⁰⁸ 418 Phil. 176 (2001) [Per CJ. Davide, Jr., First Division].

private parties through either adjudication or rule-making. The very definition of an administrative agency includes its being vested with quasi-judicial powers. The ever increasing variety of powers and functions given to administrative agencies recognizes the need for the active intervention of administrative agencies in matters calling for technical knowledge and speed in countless controversies which cannot possibly be handled by regular courts.¹⁰⁹ (Citations omitted)

By virtue of Republic Act No. 8799, the SEC shall have the following powers and functions which are invariably quasi-judicial in nature, to wit:

Section 5. Powers and Functions of the Commission. — . . .

(a) Have jurisdiction and supervision over all corporations, partnership or associations who are the grantees of primary franchises and/or a license or a permit issued by the Government;

....

(c) Approve, reject, suspend, revoke or require amendments to registration statements, and registration and licensing applications;

....

(f) Impose sanctions for the violation of laws and rules, regulations and orders and issued pursuant thereto;

....

(i) Issue cease and desist orders to prevent fraud or injury to the investing public;

(j) Punish for the contempt of the Commission, both direct and indirect, in accordance with the pertinent provisions of and penalties prescribed by the Rules of Court;

(k) Compel the officers of any registered corporation or association to call meetings of stockholders or members thereof under its supervision;

(l) Issue subpoena duces tecum and summon witnesses to appear in any proceedings of the Commission and in appropriate cases, order the examination, search and seizure of all documents, papers, files and records, tax returns and books of accounts of any entity or person under investigation as may be necessary for the proper disposition of the cases before it, subject to the provisions of existing laws;

(m) Suspend, or revoke, after proper notice and hearing the franchise or certificate of registration of corporations, partnerships or

¹⁰⁹ *Id.* at 202-203. (Citations omitted)

associations, upon any of the grounds provided by law[.] (Emphasis in the original)

Hence, in cases of appeals from judgments and final orders from the SEC in the exercise of its quasi-judicial functions, it is the CA which has jurisdiction to resolve the same via a petition for review in conformity to Rule 43 of the Rules of Court, which was precisely formulated to provide a uniform and consistent rule of appellate procedure for quasi-judicial agencies.¹¹⁰ As expressly worded in Rule 43, Section 1, viz.:

Section 1. Scope. — This Rule shall apply to appeals from judgments or final orders of the Court of Tax Appeals and from *awards, judgments, final orders or resolutions of or authorized by any quasi-judicial agency in the exercise of its quasi-judicial functions*. Among these agencies are the Civil Service Commission, Central Board of Assessment Appeals, *Securities and Exchange Commission*, Office of the President, Land Registration Authority, Social Security Commission, Civil Aeronautics Board, Bureau of Patents, Trademarks and Technology Transfer, National Electrification Administration, Energy Regulatory Board, National Telecommunications Commission, Department of Agrarian Reform under Republic Act No. 6657, Government Service Insurance System, Employees Compensation Commission, Agricultural Invention Board, Insurance Commission, Philippine Atomic Energy Commission, Board of Investments, Construction Industry Arbitration Commission, and voluntary arbitrators authorized by law[.] (Emphasis supplied)

In this case, the subject of the petition before the RTC concerned the exercise of the SEC's quasi-legislative powers.

Hence, the RTC properly took cognizance of the case.

II.

In its petition in G.R. No. 198425, the SEC contends that PASBDI has no right that needs to be protected by an injunctive writ, since the restriction imposed by Section 33.2(c) of the Republic Act No. 8799 is a valid exercise of police power. Necessarily, the proprietary right of the stockholders must yield to the State's exercise of police power.¹¹¹ In its petition in G.R. No. 244462, the SEC adds that the enforcement of the provisions of Republic Act No. 8799 cannot amount to a confiscation of property, given that Section 33.2(c) thereof remains valid and effective and was never even assailed by PASBDI et al.¹¹² Undeniably then, the issuance of a writ of preliminary injunction by the RTC constitutes grave abuse of discretion.

¹¹⁰ *Fabian v. Hon. Desierto*, 356 Phil. 787, 804 (1998) [Per J. Regalado, *En Banc*].

¹¹¹ *Rollo* (G.R. No. 198425), pp. 53-54.

¹¹² *Rollo* (G.R. No. 244462), p. 56.

9

PASBDI, in its Comment in G.R. No. 198425, invokes the exception in Section 33.2(c). It construed the same to mean that the SEC may only impose the 20% restriction pertaining to industry or business groups if such ownership would negatively impact on the ability of the stock exchange to effectively operate in the public's interest. Here, there were no allegations in the instant petitions pertaining to the negative impact of the brokers' ownership on PSE's ability to operate. Without any reason proffered to hamper the exercise of the brokers' voting rights, the issuance of the writs of preliminary injunction by the RTC was justified.¹¹³ In G.R. No. 244462, PASBDI also points out that PSE and the NOMELEC explicitly admitted that they do not have the power to unduly interfere with, curtail, restrict, diminish, or in any manner, limit the property rights of its shareholders, particularly the right to fully vote its shares. Thus, it acted outside of its province when it infringed on the stockholders' rights by issuing the 2010 and 2011 rules that limited such ownership rights.¹¹⁴ Finally, the PSE and the NOMELEC, in its Comment in G.R. No. 201174 also asserts that the SEC failed to show that irreparable damage had inured or would inure to it to justify the denial of the injunction.¹¹⁵

The RTC gravely abused its discretion in issuing an injunction against SEC. With regard to PSE and the NOMELEC, the RTC rightfully granted the injunction in G.R. No. 198425, but gravely erred in issuing the same in G.R. No. 201174

Rule 58, Section 3 of the Revised Rules on Civil Procedure provides the grounds for the issuance of preliminary injunction, to wit:

Section 3. *Grounds for issuance of preliminary injunction.* — A preliminary injunction may be granted when it is established:

- (a) That the applicant is entitled to the relief demanded, and the whole or part of such relief consists in restraining the commission or continuance of the act or acts complained of, or in requiring the performance of an act or acts either for a limited period or perpetually;
- (b) That the commission, continuance or non-performance of the act or acts complained of during the litigation would probably work injustice to the applicant; or
- (c) That a party, court, agency, or a person is doing, threatening, or is attempting to do, or is procuring or suffering to be done

¹¹³ *Rollo* (G.R. No. 198425), pp. 789–790.

¹¹⁴ *Rollo* (G.R. No. 244462), p. 144.

¹¹⁵ *Rollo* (G.R. No. 201174), p. 630.

some act or acts probably in violation of the rights of the applicant respecting the subject of the action or proceeding, and tending to render the judgment ineffectual.

In *Los Baños Rural Bank, Inc. v. Africa*,¹¹⁶ this Court ruled that an injunction is a preservative remedy aimed to protect the complainant's substantive rights and interests during the pendency of the principal action:

A preliminary injunction, as the term itself suggests, is merely temporary. It is to be resorted to only when there is a pressing necessity to avoid injurious consequences that cannot be remedied under any standard of compensation.

Moreover, injunction, like other equitable remedies, should be issued only at the instance of a suitor who has sufficient interest in or title to the right or the property sought to be protected. It is proper only when the plaintiff appears to be entitled to the relief demanded in the complaint.¹⁸ In particular, the existence of the right and the violation thereof must appear in the allegations of the complaint and must constitute at least a *prima facie* showing of a right to the final relief. Thus, there are two requisite conditions for the issuance of a preliminary injunction, namely, (1) the right to be protected exists *prima facie*, and (2) the acts sought to be enjoined are violative of that right. It must be proven that the violation sought to be prevented would cause an irreparable injustice.

Further, while a clear showing of the right is necessary, its existence need not be conclusively established. In fact, the evidence required to justify the issuance of a writ of preliminary injunction in the hearing thereon need not be conclusive or complete. The evidence need only be a "sampling" intended merely to give the court an idea of the justification for the preliminary injunction, pending the decision of the case on the merits. Thus, to be entitled to the writ, respondents are only required to show that they have the ostensible right to the final relief prayed for in their Complaint.¹¹⁷ (Emphasis supplied, citations omitted)

Thus, a writ of preliminary injunction is warranted where there is a showing that there exists a right to be protected and that the acts against which the writ is to be directed violate an established right. In other words, for a court to decide on the propriety of issuing a TRO and/or a WPI, it must only inquire into the existence of two things: (1) a clear and unmistakable right that must be protected; and (2) an urgent and paramount necessity for the writ to prevent serious damage.¹¹⁸

In order to ascertain the propriety of the injunction granted by the RTC, this Court finds it necessary to lay down certain distinctions.

¹¹⁶ 433 Phil. 930 (2002) [Per J. Panganiban, Third Division].

¹¹⁷ *Id.* at 940-941.

¹¹⁸ *Borlongan v. Banco de Oro*, 808 Phil. 505, 516 (2017).

For context, the writs of preliminary injunction in G.R. Nos. 198425 and 201174 were directed towards *first*, the SEC and, *second*, the PSE and its NOMELEC to enjoin the implementation of the 20% ownership limitation under the Republic Act No. 8799. The writs were then declared permanent in G.R. No. 244462.

Particularly, PASBDI sought to enjoin the SEC from implementing the following: (1) Resolution No. '86 for the conduct of the 2010 Annual Stockholders' Meeting and (2) the Order dated February 3, 2011 echoing such instructions for the 2011 Annual Stockholders' Meeting. To further reinforce its Order, it approved the 2011 NOMELEC Rules on April 7, 2011.

On the other hand, PSE and the NOMELEC were prevented from implementing the rules governing the 2010 and 2011 Annual Stockholders' Meeting.

With regard to SEC, the RTC gravely abused its discretion when it granted the subject writs of preliminary injunction, and subsequently declared the same permanent.

As the agency entrusted to administer the provisions of Republic Act No. 8799, there was nothing erroneous on the part of SEC in issuing Resolution No. 86 and the Order dated February 3, 2011 for purposes of limiting the voting rights of stockbrokers in the 2010 and the 2011 Stockholders' Meeting respectively. To further reinforce the validity of SEC's issuances, a careful examination thereof reflects the exact wording and language of the limitation sanctioned by Section 33.2(c). The provision provides:

SECTION 33. *Registration of Exchanges.* –

.....

33.2. Registration of an Exchange shall be granted upon compliance with the following provisions:

.....

(c) Where the Exchange is organized as a stock corporation, that no person may beneficially own or control, directly or indirectly, more than five percent (5%) of the voting rights of the Exchange and *no industry or business group may beneficially own or control, directly or indirectly, more than twenty percent (20%) of the voting rights of the Exchange: Provided, however,* That the Commission may adopt rules, regulations or issue an order, upon application, exempting an applicant from this prohibition where it finds that such ownership or control will not negatively impact on the exchange's ability to effectively operate in the public interest[.] (Emphasis supplied)

The pertinent portion of Resolution No. 86, Series of 2010 reads:

RESOLVED FURTHER, To *REITERATE* that the 20% voting limitation on industry or business groups under Section 33.2 (c) of the SRC shall be applied to brokers.¹¹⁹ (Emphasis supplied)

Such instructions were elaborated in SEC's letter¹²⁰ addressed to PSE dated March 8, 2010, thus:

Please be informed that in its meeting held on 25 February 2010, the Commission resolved to direct the Exchange to limit, starting this year and every year thereafter, *the voting rights of brokers as an industry group to twenty percent (20%) of the total outstanding capital stock of the PSE as provided under Section 33.2(c) of the Securities Regulation Code.*

For compliance.¹²¹ (Emphasis supplied)

For the following year, the SEC issued an Order¹²² bearing the same limitations as prescribed by Republic Act No. 8799, *viz.*:

1. To limit the voting rights of brokers as an industry group to *twenty (20%) of the total outstanding capital stock of the PSE as provided under Section 33.2(c) of the Securities Regulation Code*, and broker stockholders may issue a proxy in favor of another broker stockholder or in favor of a non-broker stockholder subject to the 20% voting limit.¹²³ (Emphasis supplied)

A closer examination of Section 33.2(c) of Republic Act No. 8799 and the SEC issuances would show that it viewed brokers as an industry group, and not individually based on their respective shareholdings. The 20% limitation is thus imposed not on the shareholdings owned by a broker, but to the totality of the shareholdings of the brokers in the PSE. Based on the individual shares of brokers, they must be allowed to exercise voting rights whether in full or proportionally apportioned within the 20% limitation.

Certainly, the implementation of rules and regulations pursuant to valid provisions of a statute is well-within the authority of an administrative agency. "Congress may validly delegate to administrative agencies the authority to promulgate rules and regulations to implement a given legislation and effectuate its policies."¹²⁴ Further, a circumspect analysis of

¹¹⁹ *Rollo* (G.R. No. 201174), p. 163.

¹²⁰ *Id.* at 164.

¹²¹ *Id.*

¹²² *Rollo* (G.R. No. 201174), p. 275. See Letter dated February 3, 2011.

¹²³ *Id.*

¹²⁴ *Vda. de Pineda v. Hon. Peña*, 265 Phil. 23, 31 (1990) [Per J. Cortes, Third Division].

Republic Act No. 8799's congressional deliberations indicate that the rationale behind the provision is to prevent abuses that an individual or industry may perpetrate on the PSE, should they be given a foothold to gain majority control:

But in our country there is only one exchange. And what we want to ensure is that nobody is shut out from the capital markets because of the old boy network. And you must admit that there is an old boy network in all organizations, in Congress as well as in the PSE. So this old boy network, ah, old girl network (laughter), okay, only one, may serve to hinder or to prevent access, legitimate access to the capital markets by any one company.¹²⁵

The intention to decentralize the control of the PSE was further cemented in the desire to limit the participation of brokers as part of its Board of Directors:

REP. BELMONTE . . .

But let me just go to newer—well, to other topics Your Honor. The phrase “the old boy clique” has been coming out in the newspapers. What is the meaning of that, Your Honor?

REP. FAJARDO. Well, on my own definition, Your Honor, “old boys club” or “old boys clique” are all those who are really very interested and very, very familiar with the business in the Philippine Stock Exchange.

REP. BELMONTE. Would you say that they are referring actually to very well-entrenched brokers who control most of the activities, buying and selling, in the PSE?

REP. FAJARDO. Yes, Your Honor.

REP. BELMONTE. And who, because of long familiarity with one another, if not outright collusion, seems to do, seems to operate under circumstances that are not the most desirable circumstances.

REP. FAJARDO. Yes, Your Honor.

....

REP. BELMONTE. Right, right, Your Honor. So this bill, another principle here is to beef up the rules against unfair practices including price manipulation, including insider trading and so forth. But these rules exist even now, Your Honor.

REP. FAJARDO. Well, some of them. But we are strengthening them, Your Honor, under this bill, Your Honor, in the amendment.

¹²⁵ House Committee Report (1999), 11th Congress, Committee on Banks and Financial Intermediaries, p. 11.

REP. BELMONTE. Well, all right, Your Honor. I just wanted to be sure that we understood that within the context of rules that are already in place regarding behavior of people who are insiders in the market—not insiders information but insiders in the market—within that system, it was still possible to develop an old boy’s clique which were people in effect helping one another in various transactions. Is that correct, Your Honor?

REP. FAJARDO. Yes, that is a possibility, Your Honor.

REP. BELMONTE. So, therefore, all sorts of ideas have come out, not only with respect to the SEC but also with respect to the PSE, the most radical of which was, of course, the proposal made by the Speaker in the newspapers today where he wanted an entirely new body to take over the exchange functions.

REP. FAJARDO. Well, initially, Your Honor. It is embodied in our amendment that the board of directors of the PSE, majority of which will be non-brokers, Your Honor, let us say on an eight to seven basis. If it is 15, Your Honor, initially.¹²⁶

Finally, this Court observes that the purposeful limitation on ownership and control of certain individuals and groups personified in the assailed Section 33.2(c) of Republic Act No. 8799 is in consonance with the declared policy of Republic Act No. 8799 to “establish a socially conscious, free market that regulates itself, encourage the widest participation of ownership in enterprises, enhance the democratization of wealth, promote the development of the capital market, protect investors”¹²⁷ and to minimize if not totally eliminate “fraudulent or manipulative devices and practices which create distortions in the free market.”¹²⁸

Withal, with the validity of Section 33.2(c) being well-settled, the only recourse to enjoin the SEC from enforcing such provision is to strike it down as unconstitutional.

To be sure, every statute, along with the provisions embodied has the benefit of being presumed valid.¹²⁹ Such presumption rests on the principle that the “legislature intended to enact a valid, sensible[,] and just law[,] and one which operates no further than may be necessary to effectuate the specific purpose of the law.”¹³⁰ In order to nullify a statute, the ruling in *Lawyers Against Monopoly and Poverty (LAMP) v. The Secretary of Budget and Management*¹³¹ is instructive:

¹²⁶ Plenary Hearing on the Consideration of H.B. 8015, March 22, 2000, pp. 769–771.

¹²⁷ Republic Act No. 8799 (2000), sec. 2.

¹²⁸ *Id.*

¹²⁹ *Goldenway Merchandising Corp. v. Equitable PCI Bank*, 706 Phil. 427, 437 (2013) [Per J. Villarama, Jr., First Division].

¹³⁰ *Fariñas v. The Executive Secretary*, 463 Phil. 179, 197 (2003) [Per J. Callejo, Sr., *En Banc*]. (Citation omitted)

¹³¹ 686 Phil. 357 (2012) [Per J. Mendoza, *En Banc*].

To justify the nullification of the law or its implementation, there must be a clear and unequivocal, not a doubtful, breach of the Constitution. In case of doubt in the sufficiency of proof establishing unconstitutionality, the Court must sustain legislation because “to invalidate a law based on [. . .] baseless supposition is an affront to the wisdom not only of the legislature that passed it but also of the executive which approved it.” This presumption of constitutionality can be overcome only by the clearest showing that there was indeed an infraction of the Constitution, and only when such a conclusion is reached by the required majority may the Court pronounce, in the discharge of the duty it cannot escape, that the challenged act must be struck down.¹³² (Citations omitted)

Differently stated, a law may only be nullified if there is a showing of a clear and unequivocal breach of the Constitution. Those seeking recourse to this Court by declaring a law, or parts thereof, unconstitutional “must clearly establish the basis therefor. Otherwise, the petition must fail.”¹³³

The instant petitions are wanting in this regard. In the first place, there was not even an attempt on the part of respondents to assail the validity of Section 33.2(c). In lieu, they resorted to filing an injunction to enjoin the SEC from enforcing the same. This method of filing an injunction seems to circumvent the requirement of assailing a law’s constitutionality in order to proscribe its enforcement. Seen in its true light, the instant petitions are no more than a collateral attack on the provision, which is proscribed and must be thwarted. During the deliberations of this case, Senior Associate Justice Leonen observed that since the SEC’s directive is based on a statute, the same cannot be collaterally attacked. Thus, questions regarding the restriction on the right of PASBDI et al. should have been raised as a direct attack on the validity of Section 33.2(c). Failing to do so, the soundness of the provision must be sustained. As further enunciated in *Vivas v. The Monetary Board of the Bangko Sentral ng Pilipinas*,¹³⁴ “a collateral attack on a presumably valid law is not permissible. Unless a law or rule is annulled in a direct proceeding, the legal presumption of its validity stands.”¹³⁵

Without any clear violation on the rights of PASBDI and the individual respondents, this Court is hard-pressed to conclude that the RTC acted in grave abuse of discretion in granting the injunction against the SEC.

This Court now turns to the injunction against PSE and the NOMELEC.

¹³² *Id.* at 373.

¹³³ *Beltran v. Secretary of Health*, 512 Phil. 560, 588 (2005) [Per J. Azcuna, *En Banc*].

¹³⁴ 716 Phil. 132 (2013) [Per J. Mendoza, Third Division].

¹³⁵ *Id.* at 153. (Citation omitted)

PASBDI and the individual respondents are entitled to the remedy of injunction with regard to the 2010 rules of the Annual Stockholders' Meeting assailed under G.R. No. 198425. Such right is anchored on the restrictions under the aforementioned rules, which markedly differ from the limitations imposed by the SEC. To reiterate, the SEC, in its letter¹³⁶ dated March 8, 2010, stipulated that the voting rights of brokers are limited to *20% of the total outstanding capital stock* of PSE, as provided under Section 33.2(c) of Republic Act No. 8799:

Please be informed that in its meeting held on 25 February 2010, the Commission resolved to direct the Exchange to limit, starting this year and every year thereafter, *the voting rights of brokers as an industry group to twenty percent (20%) of the total outstanding capital stock of the PSE* as provided under Section 33.2(c) of the Securities Regulation Code.

For compliance.¹³⁷ (Emphasis supplied)

Conversely, PSE through NOMELEC, issued "Rules of the NOMELEC" for the conduct of its 2010 Annual Stockholders' Meeting¹³⁸ which limited the voting rights of brokers to *20% of their total shareholdings*. The pertinent provision states:

Pursuant to the directive of the Securities and Exchange Commission (SEC) dated 9 March 2010, *the voting rights of brokers shall be limited to 20% of their total shareholdings*. Thus, the number of broker-directors in the board shall be limited to three (3).¹³⁹ (Emphasis supplied)

As pointed out by Senior Associate Justice Leonen, the measure imposed by PSE is inconsistent with the limitation envisaged under Section 33.2(c). Applying the law, the limitation under Section 33.2(c) makes no qualification as to the voting rights of industry groups; thus, it seems to permit brokers to vote with their entire shareholdings so long as it does not go beyond the 20% threshold for industry groups, of the total outstanding capital stock of the PSE. Regrettably, should the 2010 rules by the PSE be given life, it would appear that brokers may only exercise a meager 20% of their respective shareholdings, regardless of whether it abides by the 20% outstanding capital stock ceiling of the PSE. In fine, such narrowly drawn interpretation of the voting limits of brokers finds no legal mooring and is tantamount to a violation of their right *in esse*. Fittingly, such right may be protected by an injunction order. In *Lim v. BPI Agricultural Development Bank*,¹⁴⁰ this Court held:

¹³⁶ *Rollo* (G.R. No. 201174), p. 164.

¹³⁷ *Id.*

¹³⁸ *Rollo* (G.R. No. 198425), p. 723.

¹³⁹ *Id.*

¹⁴⁰ 628 Phil. 601 (2010) [Per J. Carpio Morales, First Division].

One of the requisites for the issuance of a writ of preliminary injunction is that the applicant must have a right *in esse*. A right *in esse* is a clear and unmistakable right to be protected, one clearly founded on or granted by law or is enforceable as a matter of law. The existence of a right to be protected, and the acts against which the writ is to be directed are violative of said right must be established.¹⁴¹ (Emphasis in the original)

In this case, the brokers of the PASBDI and the individual respondents have a clear and unmistakable right that must be protected as owners of PSE shares. As recognized by jurisprudence:

One of the rights of a stockholder is the right to participate in the control and management of the corporation that is exercised through [their] vote. The right to vote is a right inherent in and incidental to the ownership of corporate stock, and as such is a property right. The stockholder cannot be deprived of the right to vote [their] stock nor may the right be essentially impaired, either by the legislature or by the corporation, without [their] consent, through amending the charter, or the by-laws.¹⁴² (Citation omitted)

Such right also finds support under Section 23 of the Revised Corporation Code, which provides that in stock corporations, stockholders who are eligible to vote shall have the right to vote the number of shares of stock standing in their own names in the stock books of the corporation at the time fixed in the bylaws or where the bylaws are silent, at the time of the election. Thus:

SEC. 23. Election of Directors or Trustees. — . . .

In stock corporations, stockholders entitled to vote shall have the right to vote the number of shares of stock standing in their own names in the stock books of the corporation at the time fixed in the bylaws or where the bylaws are silent, at the time of the election. The said stockholder may: (a) vote such number of shares for as many persons as there are directors to be elected; (b) cumulate said shares and give one (1) candidate as many votes as the number of directors to be elected multiplied by the number of the shares owned; or (c) distribute them on the same principle among as many candidates as may be seen fit: *Provided*, That the total number of votes cast shall not exceed the number of shares owned by the stockholders as shown in the books of the corporation multiplied by the whole number of directors to be elected[.] (Emphasis in the original)

In this case, what is sought to be protected from irreparable damage is the right of PASBDI and the individual respondents to participate in the control and management of respondent PSE to the full extent of their

¹⁴¹ *Id.* at 607. (Citations omitted)

¹⁴² *Castillo v. Balinghasay*, 483 Phil. 470, 481 (2004) [Per J. Quisumbing, First Division].

shareholdings via their voting rights, *subject* to the limitation under Section 33.2(c). Acting in direct contravention with Republic Act No. 8799, PSE unduly interfered with and restricted the property rights of its shareholders by issuing the 2010 rules. Consequently, such restriction is *ultra vires* for effectively diluting the brokers' ownership, management, and control of the corporation, even if their voting rights comply with the statutory limit prescribed by Section 33.2(c).

Given the clear right that was violated by the PSE and the NOMELEC, this Court finds that no grave abuse of discretion can be imputed to the RTC in issuing the writ of preliminary injunction. It is settled that:

Grave abuse of discretion in the issuance of writs of preliminary injunction implies a capricious and whimsical exercise of judgment that is equivalent to lack of jurisdiction, or where the power is exercised in an arbitrary or despotic manner by reason of passion, prejudice or personal aversion amounting to an evasion of positive duty or to a virtual refusal to perform the duty enjoined, or to act at all in contemplation of law.¹⁴³

Lastly, the injunction pertaining to the 2011 rules of the Annual Stockholders' Meeting in G.R. No. 201174, was not proper. To recapitulate, the SEC issued an Order¹⁴⁴ directing the PSE to adopt Section 33.2(c) of Republic Act No. 8799:

1. *To limit the voting rights of brokers as an industry group to twenty (20%) of the total outstanding capital stock of the PSE as provided under Section 33.2(C) of the Securities Regulation Code, and broker stockholders may issue a proxy in favor of another broker stockholder or in favor of a non-broker stockholder subject to the 20% voting limit[.]*¹⁴⁵ (Emphasis supplied)

In complete obeisance to such Order, PSE, through its NOMELEC, issued the 2011 NOMELEC Rules of the PSE which included *in toto* the 20% limitation for brokers,¹⁴⁶ to wit:

Rule 2: Pursuant to the directive of the Securities and Exchange Commission (SEC) dated 3 February 2011, *the voting rights of brokers shall be limited to twenty percent (20%) of the total outstanding stock of the PSE.* Thus, broker directors are entitled to three (3) seats, subject to the Rule on Open Seats.¹⁴⁷ (Emphasis supplied)

¹⁴³ *Sps. Lim v. Court of Appeals*, 763 Phil. 328, 337 (2015) [Per J. Peralta, Third Division]. (Citation omitted)

¹⁴⁴ *Rollo* (G.R. No. 201174), p. 275. See Letter dated February 3, 2011.

¹⁴⁵ *Id.*

¹⁴⁶ *Rollo* (G.R. No. 198425), p. 629. Letter dated April 14, 2011.

¹⁴⁷ *Id.* at 633.

Contrasted to the differing limitations and wordings in the 2010 rules *vis-à-vis* Section 33. 2(c), the same cannot be said of the 2011 rules. A closer look thereof indubitably proves that PSE and the NOMELEC merely adapted SEC's Order which enjoins the latter to include the exact wording of Section 33. 2(c) without qualification. Having put to rest the validity of the foregoing provision, there was "no error on the part of PSE and the NOMELEC in implementing the same.

Given that no rights were infringed or trampled upon in light of the valid restrictions imposed on the brokers' voting rights, the grant of injunctive relief was not proper. Hence, the RTC had no basis to grant the writ of preliminary injunction in G.R. No. 201174, moreso to declare the same permanent in G.R. No. 244462.

ACCORDINGLY, the Petition for Review on *Certiorari* in **G.R. No. 198425** is **PARTLY GRANTED**. The assailed Court of Appeals April 11, 2011 Decision in CA-G.R. SP No. 114413, insofar as it grants the petition for a writ of preliminary injunction against the Securities and Exchange Commission, is **REVERSED and SET ASIDE**. However, the grant of the writ of preliminary injunction as against the Philippine Stock Exchange and the Nominations and Elections Committee is **AFFIRMED**.

The Petition for *Certiorari* in **G.R. No. 201174** is **GRANTED**. The May 5, 2011 Order issued in SEC Case No. 10-139 granting the Urgent Motion for Issuance of a Writ of Preliminary Injunction against the Securities and Exchange Commission, the Philippine Stock Exchange, and the Nominations and Elections Committee is **REVERSED and SET ASIDE**.

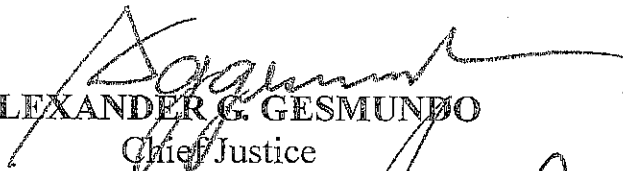
The Petition for Review on *Certiorari* in **G.R. No. 244462** is **PARTLY GRANTED**. The assailed Court of Appeals January 23, 2019 Decision in CA-G.R. CV No. 103548, insofar as it grants the petition for a writ of preliminary injunction against the (1) Securities and Exchange Commission, and (2) the Philippine Stock Exchange and the Nominations and Elections Committee with regard to Rule 2 of the 2011 Nominations and Elections Committee Rules, is **REVERSED and SET ASIDE**. However, the grant of the writ of preliminary injunction against the Philippine Stock Exchange and the Nominations and Elections Committee with regard to Rule 2 of the 2010 Nominations and Elections Committee Rules is **AFFIRMED**.

The Philippine Stock Exchange and its Nominations and Elections Committee are enjoined from limiting the voting rights of brokers to 20% of their total shareholdings so long as the voting rights of brokers as an industry group, do not exceed 20% of the total outstanding capital stock of the Philippine Stock Exchange. A shareholder seeking for exemption from the 20% limitation on the voting rights of brokers, as an industry group, must file the corresponding application with the Securities and Exchange Commission.

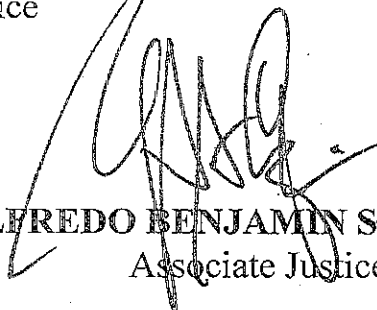
SO ORDERED.

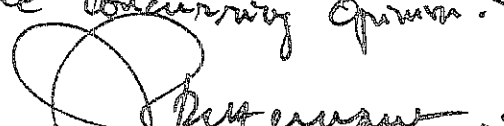

JOSE P. LOPEZ
Associate Justice


WE CONCUR:



ALEXANDER G. GESMUNDO
Chief Justice



MARVIC M.V.F. LEONEN
Senior Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


See Concurring Opinion.

RAMON PAUL L. HERNANDO
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice

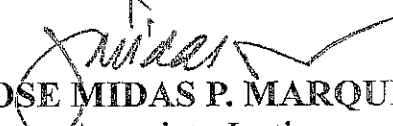
No part
MARIO V. LOPEZ
Associate Justice


SAMUEL H. GAERLAN
Associate Justice

8


RICARDO R. ROSARIO
Associate Justice


JAHAR B. DIMAAMPAO
Associate Justice

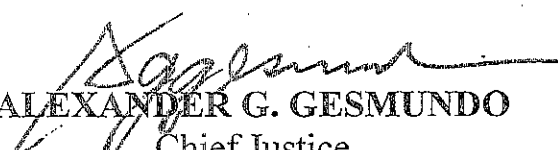

JOSE MIDAS P. MARQUEZ
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice


MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, 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.


ALEXANDER G. GESMUNDO
Chief Justice

EN BANC

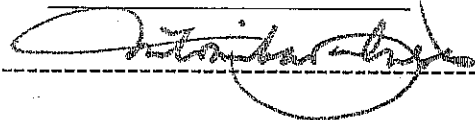
G.R. No. 198425 – SECURITIES AND EXCHANGE COMMISSION v. PHILIPPINE ASSOCIATION OF SECURITIES BROKERS AND DEALERS, INC. [PASBDI], et al.

G.R. No. 201174 – SECURITIES AND EXCHANGE COMMISSION v. HON. RODOLFO R. BONIFACIO, in his capacity as the Presiding Judge of the Regional Trial Court, Branch 159, Pasig City, et al.

G.R. No. 244462 – SECURITIES AND EXCHANGE COMMISSION v. PHILIPPINE ASSOCIATION OF SECURITIES BROKERS AND DEALERS, INC., et al.

Promulgated:

January 30, 2024



X-----X

CONCURRING OPINION

HERNANDO, J.:

The issue before Us is whether Securities and Exchange Commission (SEC) Resolution No. 86, series of 2010, and the directives issued pursuant thereto, can be subject of an appeal under Rule 43 to the Court of Appeals (CA), instead of an action for injunction before the Regional Trial Court (RTC).

Below is a brief summary of the case:

A petition for injunction was filed before the RTC by the Philippine Association of Securities Brokers and Dealers, Inc. (PASBDI) and its several brokers (respondents), which own voting shares in the Philippine Stock Exchange (PSE), enjoining the implementation of Resolution No. 86, as well as the SEC's orders and directives to the PSE pursuant to said resolution.

Resolution No. 86 granted exemption to certain companies/industries from the limitation of voting rights under Republic Act No. 8799,¹ otherwise known as the Securities Regulation Code (SRC), specifically Section 33.2 (c); however, it maintained that brokers are not exempt and are thus subject to the limitation. The pertinent provisions of Section 33.2 (c) are as follows:

33.2 Registration of an Exchange shall be granted upon compliance with the following provisions:

¹ SECURITIES CODE (2000).

.....

(c) Where the Exchange is organized as a stock corporation, that no person may beneficially own or control, directly or indirectly, more than five percent (5%) of the voting rights of the Exchange and no industry or business group may beneficially own or control, directly or indirectly, more than twenty percent (20%) of the voting rights of the Exchange: *Provided, however,* That the Commission may adopt rules, regulations, or issue an order, upon application, exempting an applicant from this prohibition where it finds that such ownership or control will not negatively impact on the exchange's ability to effectively operate in the public interest.

In consonance with Section 33.2 (c), the SEC had previously advised the PSE that brokers are considered as industry groups that are subject to the 20% limitation. The PSE submitted several requests for deferment and eventually, an application for exemption from the provisions of Section 33.2 (c). In the questioned Resolution, the SEC reiterated the application of the 20% limitation on brokers; it also issued directives to the PSE to implement this Resolution in the latter's 2010 and 2011 Annual Stockholders' Meeting. In response thereto, the PSE issued its 2010 and 2011 Nominations and Elections Committee (NOMELEC) Rules which imposed the voting rights limitation on its brokers.

In the injunction case filed by respondents, they prayed for the RTC to permanently enjoin the SEC from implementing Resolution No. 86 and the directives issued pursuant thereto as these allegedly encroach upon their proprietary rights as shareholders. One of the issues for resolution was whether the RTC has jurisdiction over the petition. Both the RTC and the CA decided in the affirmative and also granted the injunction prayed for.

For the purpose of determining whether the assailed Resolution and the SEC directives may be subject of an appeal under Rule 43 of the Rules of Court (Rules) before the CA, instead of an injunction before the RTC, it is imperative to determine whether these were issued by the SEC pursuant to its quasi-judicial/adjudicative or quasi-legislative/regulatory function.

The powers of an administrative body are classified into *quasi-legislative* and *quasi-judicial*.²

Quasi-legislative power, otherwise known as the power of subordinate legislation, has been defined as the authority delegated by the lawmaking body to the administrative body to adopt rules and regulations intended to carry out the provisions of law and implement legislative policy.³ “[A] legislative rule is in the nature of subordinate legislation, designed to implement a primary legislation by providing the details thereof.”⁴

² *Alliance for the Family Foundation, Philippines, Inc. v. Garin*, 809 Phil. 897, 917 (2017) [Per J. Mendoza, Special Second Division].

³ *Id.*, citing Cruz, *Philippine Administrative Law*, p. 29 (2007 Edition).

⁴ *Id.*, citing *Commissioner of Customs v. Hypermix Feeds Corporation*, 680 Phil. 681, 689 (2012) [Per J. Sereno, Second Division], citing further *Misamis Oriental Association of Coco Traders, Inc. v. Department of Finance Secretary*, 308 Phil. 63, 71 (1994) [Per J. Mendoza, Second Division].

Quasi-judicial power, on the other hand, is known as the power of the administrative agency to determine questions of fact to which the legislative policy is to apply, in accordance with the standards laid down by the law itself.⁵

In *Securities and Exchange Commission v. Universal Rightfield Property Holdings, Inc.*⁶ the Court held that the SEC has both regulatory and adjudicative functions, thus:

Under its regulatory responsibilities, the SEC may pass upon applications for, or may suspend or revoke (after due notice and hearing), certificates of registration of corporations, partnerships and associations (excluding cooperatives, homeowners associations, and labor unions); compel legal and regulatory compliances; conduct inspections; and impose fines or other penalties for violations of the Revised Securities Act, as well as implementing rules and directives of the SEC, such as may be warranted.

Relative to its adjudicative authority, the SEC has original and exclusive jurisdiction to hear and decide controversies and cases involving -

- a. Intra-corporate and partnership relations between or among the corporation, officers and stockholders and partners, including their elections or appointments;
- b. State and corporate affairs in relation to the legal existence of corporations, partnerships and associations or to their franchises; and
- c. Investors and corporate affairs particularly in respect of devices and schemes, such as fraudulent practices, employed by directors, officers, business associates, and/or other stockholders, partners, or members of registered firms; . . .⁷

In *Universal*, the Court considered the revocation of registration of securities and permit to sell them to the public as an exercise of the SEC's regulatory power, and not of its quasi-judicial power. It explained that a "quasi-judicial function" is a term which applies to the action, discretion, etc., of public administrative officers or bodies, who are required to investigate facts, or ascertain the existence of facts, hold hearings, and draw conclusions from them, as a basis for their official action and to exercise discretion of a judicial nature.⁸ In addition, the Court explained that although Sec. 13.1 of the SRC requires due notice and hearing before issuing an order of revocation, the SEC does not perform such quasi-judicial functions and exercise discretion of a judicial nature in the exercise of such regulatory power. It neither settles actual controversies involving rights which are legally demandable and enforceable, nor adjudicates private rights and obligations in cases of adversarial nature. Rather, when the SEC exercises its incidental power to conduct administrative hearings and make decisions, it does so in the course of the performance of its regulatory and law enforcement function.⁹

⁵ *Id.*, citing Cruz, Philippine Administrative Law, p. 67 (2007 Edition).

⁶ 764 Phil. 267 (2015) [Per J. Peralta, Third Division].

⁷ *Id.* at 286-287, citing *Gamboa v. Finance Secretary*, 668 Phil. 1, 67 (2011) [Per J. Carpio, *En Banc*].

⁸ *Id.* at 287, citing *United Coconut Planters Bank v. E Ganzon, Inc.*, 609 Phil. 104, 122 (2009) [Per J. Chico-Nazario, Third Division].

⁹ *Id.*

Applying the foregoing, it is submitted that the instant assailed Resolution and the directives to the PSE were issued pursuant to the SEC's quasi-legislative/regulatory functions. The directives were made to regulate the activities of the PSE and its shareholders to ensure compliance with the law, i.e., 20% limitation provided under Section 33.2 (c) of the SRC. This is in consonance with Section 5 of the SRC which provides that the SEC is vested with the power and function to regulate, investigate or supervise the activities of persons to ensure compliance;¹⁰ impose sanctions for the violations of laws and the rules, regulations and orders issued pursuant thereto;¹¹ and prepare rules, regulations and orders, and issue opinions and provide guidance on and supervise compliance with such rules, regulations and orders.¹²

In resolving PSE's application for deferment or exemption from the voting rights limitation, the SEC exercised its regulatory, and not its adjudicative, powers. There was no actual controversy which would prompt the SEC to investigate or ascertain a set of facts, adjudicate demandable or enforceable private rights and obligations, conduct hearings and make conclusions based on the parties' respective positions, and exercise discretion of a judicial nature. Rule 43, Sec. 1 of the Rules is clear that only decisions of a quasi-judicial agency in the exercise of its quasi-judicial functions (except judgments or final orders issued under the Labor Code of the Philippines) can be appealed to the CA under this rule. Thus, the said SEC issuances may not be subject of an appeal under Rule 43.

As to which Court has jurisdiction over the petition for injunction, I submit that the RTC has jurisdiction over it.

In *British American Tobacco v. Camacho*,¹³ the Court considered the petition for injunction filed therein as a direct attack on the constitutionality or validity of a law or its implementing rules and regulations, and thus upheld the jurisdiction of the RTC over the same, thus:

Where what is assailed is the validity or constitutionality of a law, or a rule or regulation issued by the administrative agency in the performance of its quasi-legislative function, the regular courts have jurisdiction to pass upon the same. The determination of whether a specific rule or set of rules issued by an administrative agency contravenes the law or the constitution is within the jurisdiction of the regular courts. Indeed, the Constitution vests the power of judicial review or the power to declare a law, treaty, international or executive agreement, presidential decree, order, instruction, ordinance, or regulation in the courts, including the regional trial courts.¹⁴

¹⁰ SECURITIES CODE (2000), sec. 5(d).

¹¹ SECURITIES CODE (2000), sec. 5(f).

¹² SECURITIES CODE (2000), sec. 5(g).

¹³ 584 Phil. 489 (2008) [Per J. Ynares-Santiago, *En Banc*].

¹⁴ *Id.* at 511, citing *Smart Communications, Inc. v. National Telecommunications Commission*, 456 Phil. 145, 159 (2003) [Per J. Ynares-Santiago, First Division].

It echoed the ruling in *Smart Communications, Inc. v. National Telecommunications Commission*¹⁵ where the Court held that petitioners were justified in invoking the judicial power of the RTC in assailing the constitutionality and validity of the questioned issuances which were issued in the exercise of NTC's quasi-legislative powers, viz.:

The rules and regulations that administrative agencies promulgate, which are the product of a delegated legislative power to create new and additional legal provisions that have the effect of law, should be within the scope of the statutory authority granted by the legislature to the administrative agency. It is required that the regulation be germane to the objects and purposes of the law, and be not in contradiction to, but in conformity with, the standards prescribed by law. They must conform to and be consistent with the provisions of the enabling statute in order for such rule or regulation to be valid. Constitutional and statutory provisions control with respect to what rules and regulations may be promulgated by an administrative body, as well as with respect to what fields are subject to regulation by it. It may not make rules and regulations which are inconsistent with the provisions of the Constitution or a statute, particularly the statute it is administering or which created it, or which are in derogation of, or defeat, the purpose of a statute. In case of conflict between a statute and an administrative order, the former must prevail.

.....

In questioning the validity or constitutionality of a rule or regulation issued by an administrative agency, a party need not exhaust administrative remedies before going to court. This principle applies only where the act of the administrative agency concerned was performed pursuant to its quasi-judicial function, and not when the assailed act pertained to its rule-making or quasi-legislative power. . .

.....

[W]here what is assailed is the validity or constitutionality of a rule or regulation issued by the administrative agency in the performance of its quasi-legislative function, the regular courts have jurisdiction to pass upon the same. The determination of whether a specific rule or set of rules issued by an administrative agency contravenes the law or the constitution is within the jurisdiction of the regular courts. Indeed, the Constitution vests the power of judicial review or the power to declare a law, treaty, international or executive agreement, presidential decree, order, instruction, ordinance, or regulation in the courts, including the regional trial courts. . .

.....


In the case at bar, the issuance by the NTC of Memorandum Circular No. 13-6-2000 and its Memorandum dated October 6, 2000 was pursuant to its quasi-legislative or rule-making power. As such, petitioners were justified in invoking the judicial power of the Regional Trial Court to assail the constitutionality and validity of the said issuances. . .¹⁶

¹⁵ 456 Phil. 145 (2003) [Per J. Ynares-Santiago, First Division].

¹⁶ *Id.* at 156-159.

W

SEC Resolution No. 86 and its directives having been issued in the SEC's quasi-legislative or regulatory function, it is respectfully submitted that the RTC has jurisdiction over the petition for injunction filed by respondents in the instant case.



RAMON PAUL L. HERNANDO
Associate Justice