



Republic of the Philippines
Supreme Court
Manila

EN BANC

**ROBINSONS APPLIANCES
CORPORATION (ROBINSONS
FORUM),**

Petitioner,

— versus —

**HON. SECRETARY OF THE
DEPARTMENT OF TRADE AND
INDUSTRY, HON.
UNDERSECRETARY ROWEL S.
BARBA AND DTI-FAIR TRADE
AND ENFORCEMENT BUREAU
DIVISION**

Respondents.

G.R. No. 264196

Present:

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

Promulgated:

May 28, 2024

X-----X

DECISION

LOPEZ, J., J.:

* No part.

This Court resolves the Petition for Review on *Certiorari*¹ filed by Robinsons Appliances Corporation, Robinsons Forum Branch (Robinsons Appliances), seeking the reversal of the Decision² and Resolution³ of the Court of Appeals (CA). The CA dismissed the Petition for *Certiorari*⁴ filed by Robinsons Appliances that assailed the Decision⁵ of the Department of Trade and Industry (DTI), Office of the Secretary (DTI Secretary), which affirmed the Decision⁶ of the DTI Fair Trade and Enforcement Bureau (DTI-FTEB). The DTI-FTEB found Robinsons Appliances liable for violating Sections 6.1.1 and 6.2.1 of Department Administrative Order No. 2, Series of 2007 (DAO No.2-2007). Accordingly, the DTI-FTEB imposed a fine of PHP 25,000.00 against Robinsons Appliances and ordered the forfeiture of 15 sets of Hanabishi flat iron being sold by Robinsons Appliances in favor of the government.⁷

Facts

Robinsons Appliances Corporation is a domestic corporation that owns and operates Robinsons Appliances, Robinsons Forum branch located in Mandaluyong City, the store subject of this case.⁸

On January 29, 2016, pursuant to Bureau Order Nos. 16-09, 16-10, 16-11 and 16-12, Series of 2016, the DTI-FTEB conducted an inspection and investigation on the business premises of Robinsons Appliances. The purpose of the investigation was to determine the store's compliance with the Mandatory Philippine National Standard (PNS) pursuant to Republic Act No. 4109, or An Act to Convert the Division of Standards Under the Bureau of Commerce into a Bureau of Standards, to Provide for the Standardization and/or Inspection of Products and Imports of the Philippines and for Other Purposes.⁹

In the course of its inspection, the DTI-FTEB discovered 15 sets of flat iron bearing the Hanabishi brand for sale at Robinsons Appliances with the Philippine Standard (PS) Mark but without the required PS License Number.¹⁰

¹ *Rollo*, pp. 3–23.

² *Id.* at 30–40. The February 15, 2021 Decision in CA-G.R. SP No. 157330 was penned by Associate Justice Florencio M. Mamauag, Jr. and concurred in by Associate Justices Japar B. Dimaampao (now a member of this Court) and Pedro B. Corales of the Third Division, Court of Appeals, Manila.

³ *Id.* at 42–43. The October 19, 2022 Resolution in CA-G.R. SP No. 157330 was penned by Associate Justice Florencio M. Mamauag, Jr. and concurred in by Associate Justices Pedro B. Corales and Pablito A. Perez of the Special Former Third Division, Court of Appeals, Manila.

⁴ *Id.* at 155–181.

⁵ *Id.* at 44–48. The May 28, 2018 Decision in Appeal Case No. 2017-44 was penned by Undersecretary Rowel S. Barba of the Department of Trade and Industry.

⁶ *Id.* at 49–57. The February 3, 2017 Decision in FTEB Admin Case No. 16-059 was penned by Adjudication Officer Glenda C. Ibay of the Department of Trade and Industry Fair Trade and Enforcement Bureau.

⁷ *Id.* at 56.

⁸ *Id.* at 30–31, 80.

⁹ *Id.* at 31.

¹⁰ *Id.* at 78–79.

As a result, a Formal Charge with Prayer for the Issuance of a Preventive Measure Order¹¹ was filed against Robinsons Appliances before the DTI-FTEB Adjudication Division for violation of Sections 3.5,¹² 5.1,¹³ 6.1.1¹⁴ and 6.2.1¹⁵ of DAO No. 2-2007, in relation to Section 4, DAO No. 4, Series of 2008 (DAO No. 4-2008) and its Implementing Rules and Regulations (IRR), in relation to PNS 254-1:1994 Amd. 01:2000, pursuant to Republic Act No. 4109.¹⁶

In its Answer,¹⁷ Robinsons Appliances countered that the products subject of the formal charge were merely supplied to it under a consignment agreement with Fortune Buddies Corporation (Fortune Buddies), which is the manufacturer and/or principal distributor of the 15 Hanabishi flat irons. It averred that Fortune Buddies is solely responsible for ensuring that its products comply with the PNS on the required markings. Robinsons Appliances also questioned the authority of the DTI-FTEB in conducting the inspection and investigation.¹⁸

After due proceedings, the DTI-FTEB Adjudication Division rendered a Decision¹⁹ with the following dispositive portion:

WHEREFORE, premises considered, this Office rules in favor of the Complainant. Judgment is hereby rendered ordering respondent to pay the total amount of Twenty[-]Five Thousand Pesos ([PHP] 25,000.00) as fine for violation of Sections 6.1.1 and 6.2.1 of Department Administrative Order No. 2 Series of 2007 at the Cashier's Office, Ground Floor UPRC Building, 315 Senator Gil Puyat Avenue, Makati City upon finality of this Decision and the subject products are deemed FORFEITED in favor of the government for safekeeping until its eventual disposal.

¹¹ *Id.* at 60–65.

¹² Section 3.5 of DTI Department Administrative Order No. 2-2007 provides:

3.5 Importers, distributors, wholesalers, retailers, and those who offer for sale a product covered by mandatory product certification shall sell or offer for sale only such products that complied with the requisite Philippine National Standard and with the required PS Mark, or with a valid ICC in the case of imported products.

¹³ Section 5.1 of DTI Department Administrative Order No. 2-2007 provides:

5.1 As a rule, all products or services conducted by service provider on particular products covered by Philippine Standard Certification Mark Schemes must carry and display on the product itself all necessary product or service identification marks required by and in the manner specified in the applicable Philippine National Standard.

¹⁴ Section 6.1.1 of DTI Department Administrative Order No. 2-2007 provides:

6.1.1 Distribution, sale, or offer for sale of any product covered by Philippine Standard Certification Mark Schemes which does not conform to the required and applicable PNS quality or safety standards.

¹⁵ Section 6.2.1 of DAO No. 2-2007 provides:

6.2.1 Importation, distribution, sale, offer for sale or manufacture of any product covered by mandatory product certification which does not bear the BPS required identification and product markings.

¹⁶ *Rollo*, pp. 31–32.

¹⁷ *Id.* at 80–91.

¹⁸ *Id.* at 32.

¹⁹ *Id.* at 49–57.

The decision of this Office shall serve as a warning for a more severe penalty to be imposed should a similar violation is committed by the same respondent.

SO ORDERED this 3rd of February 2017, issued at Makati City, Philippines.²⁰

The DTI-FTEB ruled that the questioned inspection and investigation conducted by its enforcement team was legally permissible under Republic Act No. 7394, DTI Department Order No. 48, series of 2008 and the implementing guidelines on the mandatory certification of flat irons. Further, based on Executive Order (E.O.) No. 366, it is clear that the enforcement or monitoring functions of the concerned DTI Region belong to the DTI-FTEB, being the enforcement arm of the former.²¹

As to Robinsons Appliances' defense that it was merely a retailer of the Hanabishi flat irons, the DTI-FTEB did not find such argument persuasive. First, Robinsons Appliances failed to provide any documentary evidence to substantiate its argument. Second, even retailers are made explicitly liable for violations of DAO No. 2-2007 by the said administrative order. Hence, while the flat irons were covered by product certification and were found bearing the required PS Markings under Section 6.1.1, Robinsons Appliances was still found liable to pay a fine, as the items did not bear the license number at the bottom of the PS Mark, constituting a violation of Section 6.2.1 of DAO No. 2-2007.²²

Aggrieved, Robinsons Appliances appealed the ruling to the DTI Secretary through a Notice of Appeal.²³

In its Memorandum of Appeal,²⁴ Robinsons Appliances argued that the DTI-FTEB encroached upon the authority of the Bureau of Product Standards (BPS) Director and/or the DTI Regional or Provincial/Area Director to issue authority for the conduct of monitoring and enforcement authority under Section 7.3 of DAO No. 2-2007. Additionally, the required authorization must pertain to a particular business establishment, rather than a mere general statement to inspect any business establishment, which is absent in the case.²⁵ The DTI-FTEB also committed grave abuse of discretion in ruling against Robinsons Appliances despite the lack of substantial evidence to prove its violation of Section 6.2.1 of DAO No. 2-2007.²⁶ Nonetheless, it reiterated that as a mere retailer of the Hanabishi flat irons, it can only rely in good faith on the warranty given by Fortune Buddies, which has the sole responsibility

²⁰ *Id.* at 56-57.

²¹ *Id.* at 52-55.

²² *Id.* at 54-56.

²³ *Id.* at 117-119.

²⁴ *Id.* at 120-140.

²⁵ *Id.* at 126-128.

²⁶ *Id.* at 131-134.

of ensuring that the products are properly packed and labeled in compliance with the applicable mandatory certification.²⁷

Subsequently, the DTI Secretary, through Undersecretary Rowel S. Barba, rendered a Decision affirming the DTI-FTEB ruling.²⁸ The dispositive portion reads:

WHEREFORE, premises considered, the Decision dated 03 February 2017 is AFFIRMED *in toto*.

SO ORDERED.²⁹

The DTI Secretary based his denial of Robinsons Appliances' appeal on the following grounds: (a) the clear authority granted to the DTI-FTEB to conduct the inspection; (b) the clarification of DAO No. 4-2008 that the PS License Number must be indicated at the bottom of the Philippine Mark; and (c) the liability of persons engaged in the sale and offer of sale of noncompliant products found under Sections 6.1.1, 6.2.1, and 6.3.1 of DAO No. 2-2007.³⁰

The foregoing ruling of the DTI Secretary prompted Robinsons Appliances to file a Petition for *Certiorari*,³¹ under Rule 65 of the Rules of Court before the CA, ascribing grave abuse of discretion on the DTI Secretary for upholding the DTI-FTEB's conduct of inspection and decision to hold Robinsons Appliances liable for violating Sections 5.1, 6.1.1 and 6.2.1 of DAO No. 2-2007 and DAO No. 4-2008.³²

On February 15, 2021, the CA rendered the assailed Decision, ultimately disposing the case as follows:

WHEREFORE, premises considered, the petition is DISMISSED.

SO ORDERED.³³

In so ruling, the CA found the Rule 65 Petition to be the wrong remedy to assail the DTI Secretary's Decision. It held that based on Rule 43 of the Rules of Court, Robinsons Appliances should have filed a petition for review

²⁷ *Id.* at 134–138.

²⁸ *Id.* at 44–48.

²⁹ *Id.* at 48.

³⁰ *Id.* at 47–48.

³¹ *Id.* at 155–181.

³² *Id.* at 163.

³³ *Id.* at 39.

instead. However, even if the CA were to treat the Petition as one filed under Rule 43, it would still be dismissible for being belatedly filed.³⁴

To assail the dismissal of its Petition, Robinsons Appliances filed a Motion for Reconsideration.³⁵ On October 19, 2022, the CA issued the assailed Resolution denying the Motion for lack of merit.³⁶

Hence, Robinsons Appliances filed the instant Petition,³⁷ questioning the CA rulings for holding that it should have filed an appeal under Rule 43 instead of a Rule 65 petition. Robinsons Appliances contends that an appeal was not a plain, speedy and adequate remedy in the ordinary course of law and under the present circumstances. It also insists that there is nothing in DAO No. 2-2007, and DAO No. 4-2008 which required the indication of the PS License Number at the bottom of the product's PS Mark. Finally, it submitted that the retailer should not be held liable for the infractions and noncompliance attributable to the manufacturer, which is Fortune Buddies.³⁸

In response to the Petition, the DTI Secretary filed a Comment/Opposition³⁹ on July 17, 2023. In his Comment, the DTI Secretary maintained that Robinsons Appliances was correctly found liable for not indicating the required PS License Number on the products offered for sale. The DTI Secretary emphasized that administrative regulations enacted by administrative agencies to implement and interpret the law which they are entrusted to enforce, partake the nature of a statute and have the force and effect of law. Finally, both DAO No. 2-2007 and DAO No. 4-2008 make it clear that the retailer is equally liable for selling or offering for sale products that do not comply with the marking requirements.⁴⁰

Issue

Whether the CA erred in dismissing the Petition for *Certiorari* filed by Robinsons Appliances when it assailed the ruling of the DTI-FTEB that found it liable for violating 5.1, 6.1.1 and 6.2.1 of DAO No. 2-2007 and DAO No. 4-2008.

This Court's Ruling

The Petition should be denied for lack of merit.

³⁴ *Id.* at 37–38.

³⁵ *Id.* at 222–233.

³⁶ *Id.* at 42–43.

³⁷ *Id.* at 3–23.

³⁸ *Id.* at 12–21.

³⁹ *Id.* at 279–314.

⁴⁰ *Id.* at 308–312.

The CA properly dismissed the Petition for Certiorari for being the wrong remedy and for its belated filing

It is settled that the special civil action for *certiorari* under Rule 65 of the Rules of Court is intended to correct errors of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction.⁴¹ Section 1 mandates that a Rule 65 petition may only be resorted to when there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law. While Our ruling in *Carpio-Morales v. Court of Appeals*⁴² recognized exceptions to the general rule that a petition for *certiorari* would not prosper if there existed a plain, speedy, and adequate remedy, none of the enumerated exceptions⁴³ are present in this case.

Here, Robinsons Appliances could have filed a petition for review under Rule 43 of the Rules of Court to appeal the judgment of the DTI. Section 1 of Rule 43 provides the remedy of an appeal from the judgment or order of a quasi-judicial agency in the exercise of its quasi-judicial functions, such as the DTI. Due to the availability of the remedy of an appeal via Rule 43, this Court agrees with the CA that the filing of a Petition for *Certiorari* to assail the DTI Secretary's Decision was the wrong remedy.

Robinsons Appliances argues that the ruling of the DTI Secretary is appealable via a petition for *certiorari* before the proper court, citing Article 166 of Republic Act No. 7394. According to Robinsons Appliances, Article 166, which provides that the decision of the DTI Secretary becomes final 15 days from receipt unless a petition for *certiorari* is filed with the proper court, does not distinguish between administrative cases initiated by a consumer and those initiated by the DTI or its offices *motu proprio*. Thus, as the instant case was initiated by the DTI-FTEB, it still falls within the ambit of Article 166, contrary to the CA's ruling.⁴⁴

⁴¹ *Julie's Franchise Corporation v. Judge Ruiz*, 614 Phil. 108, 16 (2009) [Per J. Carpio, First Division].

⁴² 772 Phil. 672 (2015) [Per J. Perlas-Bernabe, *En Banc*].

⁴³ The exceptions to the general rule requiring a prior motion for reconsideration before the filing of a petition for *certiorari* are: (a) where the order is a patent nullity, as where the court *a quo* has no jurisdiction; (b) where the questions raised in the *certiorari* proceedings have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court; (c) where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government or of the petitioner or the subject matter of the action is perishable; (d) where, under the circumstances, a motion for reconsideration would be useless; (e) where petitioner was deprived of due process and there is extreme urgency for relief; (f) where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable; (g) where the proceedings in the lower court are a nullity for lack of due process; (h) where the proceedings were *ex parte* or in which the petitioner had no opportunity to object; and (i) where the issue raised is one purely of law or where public interest is involved.

⁴⁴ *Rollo*, pp. 14–15.

The argument fails to impress.

First, the instant case does not involve an alleged violation of Republic Act No. 7394, or the Consumer Act of the Philippines, which is a special law, applying specifically to its purported violations. In any case, Rule 43 is the uniform mode of appeal to the CA of any decision promulgated by the DTI in the exercise of its quasi-judicial functions, as pointed out by Associate Justice Alfredo Benjamin S. Caguioa. He keenly noted that while Republic Act No. 7394 may provide the right to appeal decisions of the DTI Secretary, only this Court has the sole and exclusive prerogative to control how the appeal is taken. In other words, the right to appeal is a substantive right that is provided by the Legislature, whereas the implementation of that right deals with procedure, which directly falls within the province of this Court.⁴⁵ Thus, We concur with the CA that the correct course of action for Robinsons Appliances to assail the Decision of the DTI Secretary was to file a petition for review under Rule 43 of the Rules of Court before the CA. Accordingly, the availability of an appeal rendered Robinsons Appliances' Petition for *Certiorari* dismissible for being the wrong remedy.

Nevertheless, the dismissal of Robinsons Appliances' Petition for *Certiorari* is likewise proper for having been belatedly filed. Noteworthy is the observation of the CA that it was filed 52 days from receipt of the DTI Secretary's Decision, which is already way beyond the 15-day reglementary period for filing an appeal under Rule 43 of the Rules of Court.⁴⁶

The DTI Secretary correctly ruled that the 15 Hanabishi flat irons must bear the PS license number

Even if We brush aside the procedural infirmities of the instant Petition, it would still warrant denial for failing to establish any error in the assailed CA rulings.

In its Petition, Robinsons Appliances does not dispute that the 15 sets of Hanabishi flat iron it was selling or offering for sale did not bear the PS Certification Mark License Number. Instead, it argues that neither DAO No. 2-2007 nor DAO No. 4-2008 require the PS License Number to be indicated on covered products. Thus, no penalty should be imposed against Robinsons Appliances lest its right to due process be greatly impaired.⁴⁷

We are not persuaded.

⁴⁵ Reflections of Associate Justice Alfredo Benjamin S. Caguioa.

⁴⁶ *Rollo*, p. 38.

⁴⁷ *Id.* at 17-19.

Products such as electronic irons are covered by mandatory certification.⁴⁸ In this regard, the BPS implements two Mandatory Product Certification Schemes: (1) the PS Quality and/or Safety Certification Mark Licensing Scheme; and (2) the Import Commodity Clearance Certification (ICC) Scheme. Hence, whether locally manufactured or imported, items covered by mandatory certification are not allowed to be distributed without the necessary PS or ICC marks.⁴⁹

Under the PS Quality and/or Safety Certification Mark Licensing Scheme, Sections 5.1, 6.1.1 and 6.2.2 of DAO No. 2-2007 provide that products must carry and display all the necessary product or service identification marks required by the applicable PNS. Any product which does not conform to the required PNS quality or safety standard, or bear the BPS required identification and product markings may not be distributed, sold, or offered for sale:

SECTION 5. Requisite Markings

5.1 As a rule, all products or services conducted by service provider on particular products covered by Philippine Standard Certification Mark Schemes must carry and display on the product itself all necessary product or service identification marks required by and in the manner specified in the applicable Philippine National Standard.

....

SECTION 6. Prohibited Acts

The following are the acts prohibited under this DAO:

6.1 License Related

6.1.1 Distribution, sale or offer for sale of any product covered by Philippine Standard Certification Mark Schemes which does not conform to the required and applicable PNS quality or safety standards.

....

6.2. Product Related

6.2.1 Importation, distribution, sale, offer for sale or manufacture of any product covered by mandatory product certification which does not bear the BPS required identification and product markings.

⁴⁸ DTI Administrative Order No. 4 (2011) and DTI Administrative Order No. 3 (2018).

⁴⁹ *Id.*; Product Certification Schemes, <https://bps.dti.gov.ph/product-certification/product-certification-schemes> (last accessed on September 25, 2023).

In addition to DAO No. 2-2007, DAO No. 4-2008 states that the PS Quality and/or Safety Certification Mark shall be affixed on the product covered by the license:

4. THE PHILIPPINE STANDARD (PS) QUALITY AND/OR SAFETY CERTIFICATION MARK

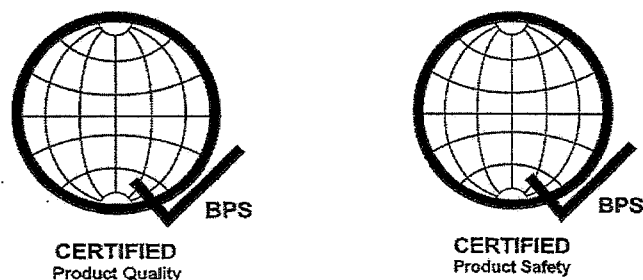
4.1. The design of the PS Quality and/or Safety Certification Mark shall be in accordance with the illustration in Annex 1.

4.2. The PS Quality and/or Safety Certification Mark shall be affixed on the product covered by the license. In case marking or stamping of the PS Quality and/or Safety Certification Mark on the product is not possible, the Mark shall appear on the package of the product.

4.3. The PS Quality and/or Safety Certification Mark affixed on a product or its package may be enlarged or reduced to an appropriate size, provided that its dimensions conform to the specifications in Annex 1.

ANNEX 1

Product Certification Marks



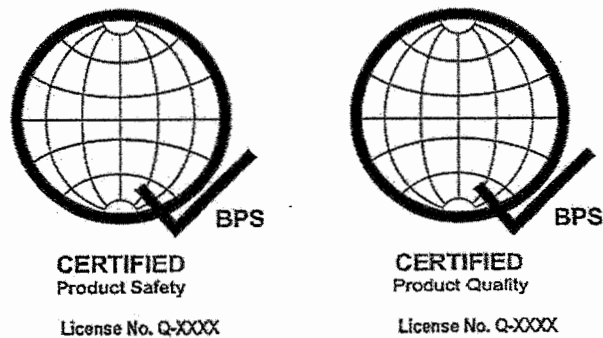
The foregoing requirement is further elaborated in Section 4 of the IRR of DAO No. 4-2008, which provides that the PS Quality and/or Safety Certification Mark shall also indicate the PS Certification Mark License Number:

4. The Philippine Standard (PS) Quality and/or Safety Certification Mark.

The provisions under clause 4 of DAO 04 series of 2008 including sub-clauses 4.1 to 4.3 shall apply. The PS Certification Mark License No. shall be indicated at the bottom of the PS Mark. See illustration at Annex C.

Annex C

PS Certification Marks
(PS Certification Mark Logo with License No.)



On this score, the contention of Robinsons Appliances that DAO No. 2-2007 and DAO No. 4-2008 do not require the PS License Number to be indicated in products covered by mandatory certification, is of no moment. As gleaned above, the license number in the PS Quality and/or Safety Certification Mark is required to be indicated under Section 4 of the IRR of DAO No. 4-2008.

In *Abakada Guro Party List v. Purisima*,⁵⁰ this Court held that the rules and regulations enacted by administrative agencies to implement and interpret the law which they are entrusted to enforce have the force of law and are entitled to respect. In fact, these regulations partake the nature of a statute and are just as binding as if they had been written in the statute itself:

Administrative regulations enacted by administrative agencies to implement and interpret the law which they are entrusted to enforce have the force of law and are entitled to respect. Such rules and regulations partake of the nature of a statute and are just as binding as if they have been written in the statute itself. As such, they have the force and effect of law and enjoy the presumption of constitutionality and legality until they are set aside with finality in an appropriate case by a competent court. Congress, in the guise of assuming the role of an overseer, may not pass upon their legality by subjecting them to its stamp of approval without disturbing the calculated balance of powers established by the Constitution. In exercising discretion to approve or disapprove the IRR based on a determination of whether or not they conformed with the provisions of RA 9335, Congress arrogated judicial power unto itself, a power exclusively vested in this Court by the Constitution.⁵¹ (Citations omitted)

⁵⁰ 584 Phil. 246 (2008) [Per J. Corona, *En Banc*].

⁵¹ *Id.* at 283–284.

At this juncture, it bears stressing that Chapter 1, Section 3, Title X of E.O. No. 292, series of 1987, also known as the Administrative Code of 1987, conferred broad rule-making powers to the DTI, mandating the Department to “formulate and implement policies, plans and programs relative to the development, expansion, promotion and regulation of trade, industry, and investments.” Concurrent with such duty of the DTI is the ample authority vested in the Minister or Secretary of Trade and Industry to “promulgate rules and regulations to implement the provision and intent of [t]rade and industry law[s]”, under Article II, Section 2 of E.O. No. 913, series of 1983.

Without a doubt, the rules and regulations subject of this case, i.e., DAO No. 2-2007, DAO No. 4-2008, and the IRR of DAO No. 4-2008, were all issued as a result of the vast rule-making authority of the DTI. Further, these regulations were issued in view of DTI’s implementation of the following laws: (1) Republic Act No. 4109, which aimed for the standardization and/or inspection of products in the Philippines; and (2) Republic Act No. 7394, which mandated the DTI to establish consumer product quality and safety standards.⁵² Perforce, DAO No. 2-2007 and DAO No. 4-2008, together with its IRR, are deemed to have the force and effect of law.

While indeed, the license number in the PS Quality and/or Safety Certification Mark was only specifically mentioned in the IRR of DAO No. 4-2008, the assailed IRR, which was adopted pursuant to the law, is itself law.⁵³ It also does not escape our attention that the BPS, which issued the IRR, had been duly authorized under Section 3.3 of DAO No. 4-2008 to “[p]romulgate [p]rograms, guidelines and procedures for the implementation of PS Quality and/or Safety Certification Mark Scheme.” Thus, the IRR of DAO No. 4-2008, which prescribes guidelines and procedures in employing the PS Quality and/or Safety Certification Mark Scheme, appropriately obligates Robinsons Appliances to display the PS License Number on the electronic irons it was selling or offering for sale.

At any rate, the IRR of DAO No. 4-2008 having the force and effect of law, enjoys the presumption of constitutionality and legality until it is set aside with finality in an appropriate case by a competent court.⁵⁴ As such, the validity and constitutionality thereof cannot be collaterally attacked in the present Rule 45 Petition. A direct proceeding must be filed questioning the validity of the IRR, and without such, the presumption of its validity stands.⁵⁵

All told, the PS Certification Mark License Number is required to be displayed on the 15 sets of Hanabishi flat iron, as the License Number is a

⁵² *Rollo*, pp. 303–305.

⁵³ *See Lokin, Jr. v. COMELEC, et al.*, 635 Phil. 372, 401 (2010) [Per J. Bersamin, *En Banc*].

⁵⁴ *See Abakada Guro Party List v. Purisima*, 584 Phil. 246, 283 (2008) [Per J. Corona, *En Banc*].

⁵⁵ *See Colmenares v. Energy Regulatory Commission*, G.R. Nos. 210245, 210255 & 210502, August 3, 2021 [Per J. J. Lopez, *En Banc*].

product identification mark necessitated by Sections 5.1, 6.1.1 and 6.2.2 of DAO No. 2-2007, and Section 4 of DAO No. 2008, in relation to Section 4 of the IRR of DAO No. 4-2008.

As a retailer, Robinsons Appliances is liable for noncompliance with DAO No. 2-2007, DAO No. 4-2008 and its IRR

To reiterate, Section 5.1 of DAO No. 2-2007 provides that all products covered by PS Certification Mark Schemes must carry and display all the necessary product identification marks required by the applicable PNS. On the other hand, Section 6 states that the distribution, sale or offer for sale of any product which does not conform to the required and applicable PNS quality and safety standards or bear the BPS-required identification and product markings is prohibited. In the determination of products that are for sale or offered for sale, Section 6.1.1.1 provides that an article or product is “presumed for sale or offered for sale if it is found in the premises of the importer, distributor, dealer, wholesaler, retailer, service providers or their agents.”

In the instant case, Robinsons Appliances does not deny selling or offering for sale the 15 sets of Hanabishi flat iron that did not bear the required PS License Number. Neither does it dispute that the seized flat iron sets were found in its premises as the retailer of the said items during the January 29, 2016 inspection of the DTI. However, Robinsons Appliances argues that a mere retailer should not be held liable for the infractions of the manufacturer or supplier.⁵⁶

The argument deserves scant consideration.

Section 3.5 of DAO No. 2-2007 instructs “[i]mporters, distributors, wholesalers, retailers and those who offer for sale a product covered by mandatory product certification [to] sell, or offer for sale only such products that complied with the requisite PNS and with the required PS Mark, or with a valid ICC in the case of imported products[,]” as the case may be. The explicit mention of retailers removes any doubt that DAO No. 2-2007 holds retailers, such as Robinsons Appliances, responsible as well for the nondisplay of the required PS Quality and/or Safety Certification Mark.

Equally bereft of merit is the argument of Robinsons Appliances that the IRR of DAO No. 4-2008 does not specify which provisions merit a penalty in case of violation.⁵⁷ Section 10.1 unequivocally provides that “[a]ny

⁵⁶ *Rollo*, pp. 17-21.

⁵⁷ *Id.* at 19.

violation of [the IRR] shall be subject to the administrative actions as provided for by the applicable Rules and Regulations or Orders issued by the DTI,” among others. Here, the penalties imposed by the DTI, i.e., the fine in the amount of PHP 25,000.00 and the forfeiture of the subject Hanabishi flat irons, are all in accordance with Section 10 of DAO No. 2-2007, which provided for the following penalties and sanctions:

SECTION 10. Penalties and Sanctions

After investigation and hearing, any of the following administrative penalties in series of DAO 7, series of 2006 may be imposed even if not prayed for in the Complaint:

....

- 10.3 The seizure, forfeiture or condemnation of the products which are the subject of the offense, as well as the proceeds of the offense;
- 10.4 The seizure, forfeiture or of the paraphernalia and all properties, real or personal, which have been used in the commission of the offense;
- 10.5 The imposition of an administrative fine in such amount as deemed reasonable by the Adjudication Officer, which shall in no case be less than Five Hundred Pesos ([PHP]500.00) nor more than One Hundred Fifty Thousand Pesos ([PHP]150,000.00), and not more than Three Hundred Thousand Pesos ([PHP]300,000.00) for consumer complaints, plus the additional administrative fine of not more than One Thousand Pesos ([PHP]1,000.00) for each day of continuing violation;

Fines are likewise meted out on a per violation of type/size/PS license/ICC certificate basis. Provided further, that this administrative fine shall be imposed and collected for each case of apprehension, applied to each and every respondent found guilty of the violation. The manufacturer and or importer of such volatile product shall likewise be imposed the corresponding administrative fine. The frequency of the violation shall be determined on a per region basis.

For consistency of imposing administrative fines, Annex 1 (Table of Fines) or it (sic) future amendments shall be used as the basis to be imposed to violators. The fines to be imposed are based on the nature of the offense and the frequency of violation, considering among others the attendant aggravating or mitigating circumstance, size of the industry or of the business establishment[.]

In the Table of Fines attached to DAO No. 2-2007 as *Annex A*,⁵⁸ a wholesaler, retailer, dealer or agent is imposed a basic fine of PHP 25,000.00 for the first violation of Section 6.1.1 of DAO No. 2-2007, or the “[d]istribution, sale, or offer for sale of any product covered by Philippine Standard Certification Mark Schemes which does not conform to the required

⁵⁸ DTI Department Administrative Order No. 2-2007, Annex A - Table of Fines.

and applicable PNS quality or safety standards”; and of Section 6.2.1 of DAO No. 2-2007, or the “[i]mportation, distribution, sale or offer for sale or manufacture of any product covered by mandatory product certification which does not bear the BPS required identification and product marking.”


Applying these rules and regulations to the case at bar, the DTI Secretary correctly upheld the Decision of the DTI-FTEB Adjudication Division, finding Robinsons Appliances liable to pay the total amount of PHP 25,000.00 as fine for violating Sections 6.1.1 and 6.2.1 of DAO No. 2-2007, as the violation was not attended by any mitigating or aggravating circumstance which would modify the imposable penalty. It was also proper for the DTI to order the forfeiture of the noncomplying sets of Hanabishi flat irons in favor of the government, pursuant to Sections 10.3 and 10.4 of DAO No. 2-2007.

On a final note, this Court recognizes that the DTI is in the best position to formulate and interpret its own rules, regulations, and guidelines, being the government agency entrusted with the regulation of activities coming under its special and technical forte and possessing the necessary rule-making power to implement its objectives. We thus yield and accord great respect to its interpretation of its own rules, unless there is an error of law, abuse of power, lack of jurisdiction or grave abuse of discretion clearly conflicting with the letter and spirit of the law.⁵⁹ Unfortunately, in selling or offering for sale the subject Hanabishi flat irons, Robinsons Appliances failed to establish any error in the acts of the DTI that would justify its noncompliance with Sections 5 and 6 of DAO No. 2-2007 and Section 4 of DAO No. 2008, in relation to Section 4 of the IRR of DAO No. 4-2008.

ACCORDINGLY, the Petition for Review on *Certiorari* is **DENIED**. The Decision dated February 15, 2021 and the Resolution dated October 19, 2022 of the Court of Appeals in CA-G.R. SP No. 157330 are **AFFIRMED**. Robinsons Appliances Corporation, Robinsons Forum Branch is liable to **PAY** PHP 25,000.00 as fine for its violation of Sections 5.1, 6.1.1, and 6.2.1 of Department Administrative Order No. 2, series of 2007, and Section 4 of Department Administrative Order No. 4, series of 2008, in relation to Section 4 of its Implementing Rules and Regulations. The 15 sets of Hanabishi flat irons are deemed **FORFEITED** in favor of the government for safekeeping until its eventual disposal.


SO ORDERED.

⁵⁹ See *Bonifacio Communications Corp. v. National Telecommunications Commission*, G.R. No. 201944, April 19, 2023 [Per J. Hernando, First Division], at 22–23. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

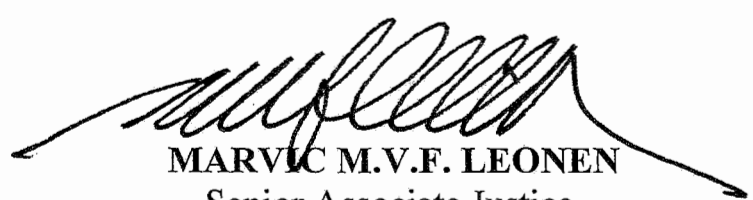


JHOSEP V. LOPEZ
Associate Justice

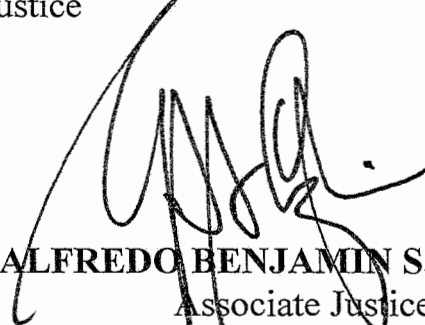
WE CONCUR:




ALEXANDER G. GESMUNDO
Chief Justice




MARVIC M.V.F. LEONEN
Senior Associate Justice




ALFREDO BENJAMIN S. CAGUIOA
Associate Justice




RAMON PAUL L. HERNANDO
Associate Justice



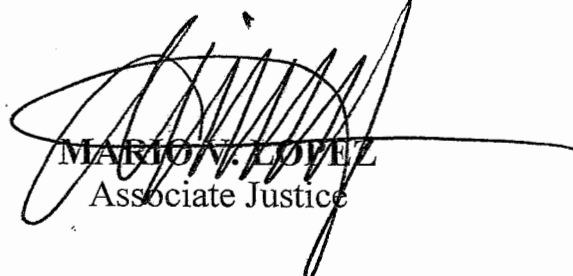
AMY C. LAZARO-JAVIER
Associate Justice




HENRI JEAN PAUL B. INTING
Associate Justice



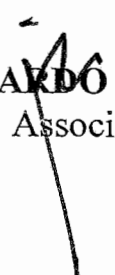
RODIL V. ZALAMEDA
Associate Justice



MARIÓN V. LOPEZ
Associate Justice



SAMUEL H. GAERLAN
Associate Justice




RICARDO R. ROSARIO
Associate Justice

No part
JAPAR B. DIMAAMPAO
Associate Justice


No part
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

