EN BANC

G.R. No. 211146 – SECRETARY PROCESO J. ALCALA, AS SECRETARY OF THE DEPARTMENT OF AGRICULTURE, AND AS CHAIRMAN OF THE NATIONAL FOOD AUTHORITY COUNCIL, AND THE BUREAU OF CUSTOMS, REPRESENTED BY COMMISSIONER JOHN PHILLIP P. SEVILLA, *petitioners*, ***versus*** **HONORABLE JUDGE EMMANUEL C. CARPIO, IN HIS CAPACITY AS PRESIDING JUDGE OF BRANCH 16, REGIONAL TRIAL COURT IN DAVAO CITY, AND JOSEPH MANGUPAG NGO,** *respondents*.

G.R. No. 211375 – SECRETARY PROCESO J. ALCALA, AS SECRETARY OF THE DEPARTMENT OF AGRICULTURE, AND AS CHAIRMAN OF THE NATIONAL FOOD AUTHORITY COUNCIL, AND THE BUREAU OF CUSTOMS, REPRESENTED BY COMMISSIONER JOHN PHILLIP P. SEVILLA, *petitioners*, ***versus*** **HONORABLE JUDGE CICERO D. JURADO, JR., IN HIS CAPACITY AS PRESIDING JUDGE OF BRANCH 11, REGIONAL TRIAL COURT IN MANILA, DANILO G. GALANG, DOING BUSINESS UNDER THE NAME AND STYLE ST. HILDEGARD GRAINS ENTERPRISES, AND IVY M. SOUZA, DOING BUSINESS UNDER THE NAME AND STYLE BOLD BIDDER MARKETING AND GENERAL MERCHANDISE,** *respondents*.

Promulgated:

April 11, 2023

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DISSENTING OPINION

CAGUIOA, *J.*:

The *ponencia* grants the consolidated Petitions based on its finding that respondent judges Honorable Emmanuel C. Carpio (Judge Carpio), as presiding judge of Branch 16 of the Regional Trial Court (RTC) of Davao City, and Honorable Cicero D. Jurado, Jr. (Judge Jurado), as presiding judge of Branch 11 of the RTC of Manila City, gravely abused their discretion amounting to lack or excess of jurisdiction when they respectively granted and issued writs of preliminary injunction (WPI) in favor of private respondents Joseph M. Ngo (private respondent Ngo) and Danilo G. Galang (private respondent Galang) (collectively, private respondents), for the release of private respondents' rice shipments from customs custody.

I respectfully submit that the foregoing ruling be revisited and reconsidered, and that the consolidated Petitions should be dismissed for lack of merit.

First, the preliminary nature of the injunctive writs required respondent judges to determine the existence of the requirements for the issuance of a WPI based only on a sampling of evidence. As such, the issuance of said writs was not, as they were not meant to be, conclusive on the resolution of the principal action involving the issue of whether the subject rice imports may be held on the basis of the National Food Authority's (NFA) Memorandum Circular No. AO-2K13-03-003 (NFA MC) on quantitative restrictions.

Second, taking into account the sampling of evidence evaluated by respondent judges, they cannot be held to have gravely abused their discretion in making the preliminary finding that private respondents had a clear and unmistakable right to import the subject rice shipments.

Third, the district collectors did not have any legal basis to bar the subject rice shipments as there was, at the time, no subsisting exemption to the World Trade Organization (WTO) Agriculture Agreement.

Finally, considering the passage of a rice tariffication law, and the issue of the NFA MC's validity being one of first impression, the finding that the NFA MC is invalid for contravening the Philippines' obligations under the said Agriculture Agreement should be made *pro hac vice*.

I.

A brief restatement of the factual circumstances surrounding this case is in order.

To recall, the crux of the controversy centers on the Philippines' commitments under the WTO Agreement. Among the annexes to the WTO Agreement is the Agreement on Agriculture (Agriculture Agreement) which enjoins Member-States from maintaining, resorting to, or reverting to trade restrictive measures.[1] Specifically, as provided for in the footnote of Part III, Article 4(2) of the Agriculture Agreement, these measures pertain to quantitative import restrictions, variable import levies, minimum import prices, discretionary import licensing, non-tariff measures maintained through state-trading enterprises, voluntary export restraints, and similar border measures, **which have been required to be converted into ordinary customs duties**. At the same time, however, Part III, Article 4(2) provides for exceptions, one of which pertains to Annex 5 of the Agriculture Agreement. Annex 5 contains mechanisms by which Member-States may request that certain agricultural products be temporarily exempted from their general free

[1] World Trade Organization, *Agriculture Agreement, Part III: Article 4(2) Market Access*, available at <https://www.wto.org/english/docs_e/legal_e/14-ag_01_e.htm#articleIV>.

trade commitments. **One of these mechanisms permits Member-States to request for exemption with respect to primary agricultural products which are deemed "predominant staples" in the Member-States' traditional diet.**[2] This is the mechanism the Philippines itself availed of in its application for exemption from its general free trade commitments in the WTO.

The Philippines secured its first exemption on January 1, 1995, when the WTO Agreement was established and upon the Philippines' accession thereto.[3] Said exemption covered a period of ten (10) years and expired on December 31, 2004.[4] The Philippines was later granted a second exemption which was set to expire on July 30, 2012.[5] Prior to the expiration of the second exemption, the Philippines applied for a third exemption.[6] However, said application was granted only on July 24, 2014.[7] **In other words, there was no exemption in effect for the two (2)-year period between June 30, 2012 and July 24, 2014.**

During this period, private respondents separately imported rice in the ports of Davao and Manila, respectively.[8] These rice shipments were seized by the district collectors for being imported without the licenses required by NFA MC. Aggrieved, they filed separate complaints for injunction before the RTC Davao and RTC Manila, respectively. Private respondents' complaints respectively alleged that the district collectors of Davao and Manila unlawfully seized their rice shipments. Specifically, private respondents argued that the Philippines' second exemption under the WTO Agreement had already expired at the time their rice shipments were seized. Hence, the district collectors no longer had any authority to enforce the license requirement imposed by the NFA MC.

Acting on private respondent Ngo's complaint, Judge Carpio of RTC Davao issued a WPI enjoining and restraining the district collector of Davao and all those acting in the latter's behalf from seizing and holding private respondent Ngo's rice shipments.[9] A similar WPI was issued by Judge Jurado of RTC Manila in connection with private respondent Galang's rice shipments.[10]

Aggrieved, the NFA and the Bureau of Customs (BOC) filed separate petitions for *certiorari* docketed as G.R. Nos. 211146 and 211375, claiming

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2 Annex 5, Section B(7) of the Agriculture Agreement.
3 *Ponencia*, p. 3.
4 *Id.* at 4.
5 *Id.*
6 *Id.*
7 *Id.* at 5.
8 *Id.* at 6–9.
9 *Id.* at 8.
10 *Id.* at 9.

that the WPI had been issued with grave abuse of discretion.[11] The Court issued two (2) separate resolutions suspending the enforcement of the WPI in question, and later ordered the consolidation of G.R. Nos. 211146 and 211375.[12]

During the pendency of the consolidated Petitions, specifically, on July 24, 2014, the WTO granted the Philippines' third exemption, allowing it to impose trade restrictions on rice until June 30, 2017.[13] Later still, on February 14, 2019, President Rodrigo Duterte signed into law Republic Act (R.A.) No. 11203, otherwise known as *An Act Liberalizing the Importation, Exportation and Trading of Rice, Lifting for the Purpose the Quantitative Restriction on Rice, and for Other Purposes*.[14] Under R.A. No. 11203, the quantitative restrictions on rice imports were finally lifted, and in lieu thereof, tariff measures were imposed.

Since the rice shipments subject of the injunction cases before the trial court were imported into the Philippines during the intervening period—*i.e.*, after the second exemption expired and before the third exemption was granted—private respondents argue that the NFA cannot implement the quantitative restrictions on rice by requiring the import permit. Further, private respondent Ngo asserts that the duties payable on the subject rice shipments were paid, and as such, he has the right to their release.[15] Private respondent Galang, on the other hand, manifested that the imported rice were not concealed from the NFA or from the BOC, as in fact, he was willing to pay the correct taxes thereon.[16]

Thus, there being no subsisting exemption from the WTO Agreement, private respondents argue that there should be no legal impediment to the importation of rice, even beyond the import quotas imposed by the NFA. Having complied with the payment of the applicable taxes on the subject rice shipments, the district collectors in the Ports of Manila and Davao may not continue to hold them on the basis of the absent NFA import permit.

The *ponencia* disagrees with private respondents and grants the Petitions. It finds that private respondents were not entitled to the issuance of an injunctive writ because there is no right *in esse* to import goods.[17] Verily, respondent judges were deemed to have gravely abused their discretion in issuing the assailed orders, as private respondents failed to overcome the requisites for an injunctive writ.[18]

I disagree.

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11 *Id.* at 10.
12 *Id.*
13 *Id.* at 11.
14 *Id.*
15 *Rollo* (G.R. No. 211146), Vol. II, p. 465.
16 *Rollo* (G.R. No. 211375), Vol. I, p. 290.
17 *Ponencia*, pp. 17–19.
18 *Id.* at 31–32.

The evidence clearly shows that private respondents were able to establish the requirements for the issuance of an injunctive writ. To be more specific, at the time of the importation of the rice, the Philippines was no longer enjoying the special treatment granted in favor of rice, and as such, it could not impose non-tariff measures for its importation. In this regard, private respondents may import the subject rice shipments without the need for a license from the NFA, as this license is intended to implement quantitative restrictions on rice.

In the same manner, respondent judges could legitimately rely, as they did, on the expiration of the period for special treatment in evaluating the merits of private respondents' applications for an injunctive writ. As a provisional remedy, the issuance of the WPI in their favor did not preclude respondent judges from making a final determination on the NFA's authority to continue imposing non-tariff measures for rice. Being a difficult question of law—that even the Members of the Court have diverging views on, there should be some measure of forbearance extended to respondent judges in having issued the assailed orders.

I expound on these points below.

II.

There is a right in esse to import rice in the absence of any law prohibiting it

The *ponencia* says that the right to import is not a fundamental right. While private respondents were able to establish their ownership to the questioned goods, according to the *ponencia*, their right remains subject to the limitations of public law and the rights of other individuals.[19] Citing *Southern Luzon Drug Corporation v. DSWD*,[20] the *ponencia* explains that the right to property has a social dimension that, when so demanded by the legislature, must bow to the primacy of police power.[21] Moreover, according to the *ponencia*, even a review of the statutes involved, particularly the WTO provisions, would negate the establishment of such right under the law. To buttress this assertion, the *ponencia* discusses Article 4 of the Agriculture Agreement, which recognizes instances where market access may be increased, hence, effectively restricting the importation of certain goods.[22]

The *ponencia* further explains that the Philippine regulation of rice importation operates within the framework of the WTO Agreement[23] and in order to obtain a concession from a Member-State's obligations under the Agriculture Agreement, Member-States like the Philippines are required to

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19 *Id.* at 29.
20 809 Phil. 315 (2017).
21 *Ponencia*, pp. 29–30.
22 *Id.* at 25–29.
23 *Id.* at 19–28.

undergo complex, collegial negotiations and decision-making processes as required by Section B of Annex 5 of the Agriculture Agreement. These observations led the *ponencia* to conclude that there is nothing that *per se* confers a right to import to individual citizens of Member-States, more so a clear and unmistakable one as required in injunction proceedings.

I respectfully register a strong disagreement with this position.

The right to import is a property right exercisable by any citizen. It does not cease to be a right *in esse* simply because it is not a fundamental right.[24] To recall, 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. As can be gleaned, the right *in esse* contemplated under the Rules of Court does not require such right to be a *fundamental* one. In fact, true to its translation, a right *in esse* need only exist.[25] That a right is normally subjected to limitations due to policy considerations under the Constitution[26] and Statutes[27] does not negate the existence of such right.

Therefore, while it is true that importation of goods is a highly regulated activity, in the absence of any express prohibition by law, then it cannot be successfully argued that there is no right to import. As applied specifically in this case, if there is no law that prohibits the importation of rice, then anyone has the right to do so, including private respondents. To be clear, this does not imply that the State may not impose restrictions on importation, or that anyone may import rice or other products without having to comply with the applicable rules and regulations. But once it is shown that the applicant to the injunctive writ has complied with these regulations, as private respondents were able to successfully establish in this case, then it is untenable to rule that there is still no clear and unmistakable right. It is simply irrational and illogical to deprive a person of one's property and the fruits thereof because property rights do not enjoy the same level of protection as fundamental rights.

Associate Justice Maria Filomena D. Singh raises the point that private respondents did not comply with the NFA MC nor did they obtain a Grains Business License.[28] Justice Singh posits that, as a consequence of these omissions, private respondents have failed to prove their clear and unmistakable right to the importation of their goods into the country.

It is true that private respondents are required to obtain a grains business license as provided in Regulation II of the Revised Rules and Regulations of the NFA in Grains Businesses. As to private respondent Galang, he has demonstrated that he complied with this requirement in 2013.[29] That said,

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[24] *Id.* at 30–31.
[25] *In esse*, BLACK'S LAW DICTIONARY (2nd ed.).
[26] CONST. (1987), Art. VI, Sec. 28.
[27] See TARIFF CODE.
[28] Concurring Opinion of Associate Justice Maria Filomena D. Singh, p. 3.
[29] *Rollo* (G.R. No. 211375), Vol. I, p. 83, RTC Order.

compliance with this requirement relates to the regulation of the rice business and does not pertain to the requirements for the *importation* of rice into the Philippines—which is the issue pertinent to this case.

To stress, petitioners' main point of contention is the absence of an NFA import license for the subject rice shipments. **Petitioners do not dispute private respondents' compliance with the general requirements of importation as enumerated in the Department of Trade and Industry (Bureau of Import Services)**, to wit:

> Unless and until the Bureau is operating in a paperless environment, the printout of the Single Administrative Document (SAD) which is signed by the declarant and the customs broker, if any, and duly notarized must be submitted to the Formal Entry Division (FED) or its equivalent office or unit, together with the following documents:
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> 1. Duly endorsed Bill of Lading or Airway Bill, or certification by the carrier or agent of the vessel or aircraft;
> 2. Commercial Invoice, Letter of Credit or any other verifiable commercial document evidencing payment; in cases where there is no sale for export, by any commercial document indicating the commercial value of the goods;
> 3. Packing List;
> 4. Duly notarized Supplemental Declaration on Valuation (SDV);
> 5. Documents as may be required by rules and regulations, such as:
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>   1. Import Permit or Clearance;
>   2. Authority to Release Imported Goods (ATRIG);
>   3. Proof of Origin for Free Trade Agreements (FTAs);
>   4. Copy of an Advance Ruling, if the ruling was used in the goods declaration;
>   5. Load Port Survey Reports or Discharge Port Survey Reports for bulk or break bulk importations;
>   6. Document evidencing exemption from duties and taxes;
>   7. Others, e.g., Tax Credit Certificate (TCC) or Tax Debit Memo (TDM).[30]

It bears to emphasize anew that **at the time the rice importations were made by private respondents, there was no exemption in effect for the two (2)-year period between July 30, 2012 and July 24, 2014**. Stated simply, when private respondents imported the subject rice shipments, the Philippines was duty-bound to remove non-tariff measures on its agricultural products. Since the Philippines was then unable to secure an exemption from its obligations under the Agriculture Agreement with respect to rice, private respondents were not prohibited from importing rice, and neither were they required to secure an NFA import license. To be sure, when the *ponencia* states that private respondents' ownership over the rice shipments must adhere

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[30] Department of Trade and Industry, *Import Facilitation*, available at <https://www.dti.gov.ph/negosyo/imports/import-facilitation>.

to the Philippines' regulation of rice importation which operates within the framework of the WTO[31]—**that is precisely the situation that happened here.**

III.

The NFA, by virtue of the NFA MC, cannot impose quantitative restrictions on rice after the expiration of the second exemption

Having established that a right *in esse* need not be a fundamental right, I now turn to the issue of whether the NFA may continue to impose import quotas despite the absence of a subsisting special treatment.

Petitioners argue, in the main, that the subject rice shipments should not be released because private respondents failed to comply with the required NFA import permit under the NFA MC. Private respondents, on the other hand, assert that the second concession allowing the Philippines to impose quantitative restrictions on rice, by virtue of the import permits, had already expired at the time the subject rice shipments were imported. There being no extension of the special concession, it was not necessary for them to secure import permits from the NFA.[32]

The *ponencia* upholds the authority of the NFA, as R.A. No. 8178,[33] or the *Agricultural Tariffication Act*, purportedly empowers the NFA to regulate rice importation.[34]

Again, I register my disagreement with the *ponencia.*

With the Philippines' membership in the WTO on January 1, 1995, it acceded to several trade agreements, including the Agriculture Agreement. The Agriculture Agreement was crafted with the intention of reforming trade in the agricultural sector by minimizing distortion[35] resulting from non-tariff measures such as import quotas and export subsidies.[36] Thus, parties to the agreement committed to convert non-tariff measures on agricultural products into tariffs.

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31 *Ponencia*, pp. 16–27.

32 *Id.* at 12–13.

33 March 28, 1996.

34 *Ponencia*, pp. 22–28.

35 *N.B.* Distortion refers to a situation where "prices are higher or lower than normal, and if quantities produced, bought, and sold are also higher or lower than normal – *i.e.*, than the levels that would usually exist in a competitive market." World Trade Organization, *Chapter 2: The Agreements*, available at <https://www.wto.org/english/thewto_e/whatis_e/tif_e/utw_chap2_e.pdf>.

36 World Trade Organization, *Understanding the WTO: The Agreements, Agriculture: Fairer Markets for Farmers*, available at <https://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm3_e.htm>.

Member-States to the WTO agreed to implement the tariffication of agricultural trade over a period of time. Developing countries, in particular, were granted a longer period of ten (10) years from 1995 to implement the tariffication of agricultural trade.[37]

The Philippines, however, invoked the "special treatment" provision in Annex 5, Section B of the Agriculture Agreement with respect to rice—being a predominant staple in the traditional diet of a developing country. The duration of this special treatment is set out in paragraphs 8 to 10 of Annex 5, Section B:

> 8. Any negotiation on the question of whether there can be a continuation of the special treatment as set out in paragraph 7 after the end of the 10th year following the beginning of the implementation period shall be initiated and completed within the timeframe of the 10th year itself following the beginning of the implementation period.
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> 9. If it is agreed as a result of the negotiation referred to in paragraph 8 that a Member may continue to apply the special treatment, such Member shall confer additional and acceptable concessions as determined in that negotiation.
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> 10. In the event that special treatment under paragraph 7 is not to be continued beyond the 10th year following the beginning of the implementation period, the products concerned shall be subject to ordinary customs duties, established on the basis of a tariff equivalent to be calculated in accordance with the guidelines prescribed in the attachment hereto, which shall be bound in the Schedule of the Member concerned. In other respects, the provisions of paragraph 6 shall apply as modified by the relevant special and differential treatment accorded to developing country Members under this Agreement.

A cursory examination of the terms of the Agriculture Agreement reveals that, unless a special treatment is expressly conferred on the Member-State, parties to the agreement "shall not maintain, resort to, or revert to any measures of the kind which have been required to be converted into ordinary customs duties".[38] Further, any extension of the special treatment is subject to negotiation, as the Member-State seeking the same is bound to confer additional and acceptable concessions as a result thereof.

Following its commitment as a Member-State of the WTO, the Philippines agreed to phase out non-tariff measures on rice, particularly import quotas, by 2005. But after the expiration of the initial period for special treatment on December 31, 2004, the Philippines negotiated for its

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[37] *Id.*; *N.B.* Developed countries agreed to implement the Agriculture Agreement within six (6) years.

[38] WTO Agreement on Agriculture, Part III, Article 4, par. 2.

extension.[39] A seven (7)-year extension was granted, or until June 30, 2012.[40] The extension of the special treatment beyond June 30, 2012 was explicitly "contingent on the outcome of the Doha Development Agenda (DDA) negotiations."[41]

Based on the foregoing, any concession on the commitments of a Member-State after this period should be explicitly agreed upon. The Member-State invoking the special treatment cannot simply presume that it is automatically extended upon the expiration of the period specified in paragraph 8 of Section B, Annex 5. **In the same manner, neither should it presume that it may continue to implement non-tariff measures during the intervening time between the expiration of the special treatment and the decision extending the period. As soon as the period for the special treatment expires, the Member-State must abide by its commitment to convert its non-tariff measures to ordinary customs duties in accordance with Article 4, paragraph 2 of the Agriculture Agreement.**

That the WTO Agreement was enacted in a matter that was mindful of developing nations,[42] as the *ponencia* posits, is true; but this observation is inaccurately applied in this case. Indeed, the Agriculture Agreement, in particular, allows some flexibility in the way commitments are implemented. Developing countries do not have to cut their subsidies or lower their tariffs as much as developed countries, and they are given extra time to complete their obligations.[43] Thus, in the case of products which are granted special treatment, it should be emphasized that the duration specified in Annex 5, Section B **coincides with and clearly incorporates** the ten (10)-year implementation period under the Agriculture Agreement, thus:

> *Section B*
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> 7. The provisions of paragraph 2 of Article 4 shall also not apply with effect from the entry into force of the WTO Agreement to a primary agricultural product that is the predominant staple in the traditional diet of a developing country Member and in respect of which the following conditions, in addition to those specified in paragraph 1(a) through 1(d), as they apply to the products concerned, are complied with:
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> > (a) minimum access opportunities in respect of the products concerned, as specified in Section I-B of Part I of the Schedule of the developing country Member concerned, correspond to 1 per cent of base period domestic consumption of the products concerned from the beginning of the first year of the implementation period

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39 *Rollo* (G.R. No. 211146), Vol. I, p. 11; *See also* World Trade Organization, *Trade Policy Review: The Philippines* (July 2005), available at <https://www.wto.org/english/tratop_e/tpr_e/s149-3_e.doc>.

40 World Trade Organization, *WTO documents G/MA/TAR/RS/99/Rev.1* (December 27, 2006) and *WT/Let/562* (February 8, 2007), available at <https://goods-schedules.wto.org/system/files/WTO_import/Drive/WT-Let_English/562.pdf>.

41 *Id.*

42 *Ponencia*, pp. 23–28.

43 World Trade Organization, *Understanding The WTO: The Agreements, Agriculture: Fairer Markets for Farmers*, available at <https://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm3_e.htm>.

> and are increased in equal annual instalments to 2 per cent of corresponding domestic consumption in the base period at the beginning of the fifth year of the implementation period. From the beginning of the sixth year of the implementation period, minimum access opportunities in respect of the products concerned correspond to 2 per cent of corresponding domestic consumption in the base period and are increased in equal annual instalments to 4 per cent of corresponding domestic consumption in the base period until the beginning of the 10th year. Thereafter, the level of minimum access opportunities resulting from this formula in the 10th year shall be maintained in the Schedule of the developing country Member concerned;
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> (b) appropriate market access opportunities have been provided for in other products under this Agreement.
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> 8. Any negotiation on the question of whether there can be a continuation of the special treatment as set out in paragraph 7 after the end of the 10th year following the beginning of the implementation period shall be initiated and completed within the timeframe of the 10th year itself following the beginning of the implementation period.

As such, the developing country Member-State invoking the exemption is expected to take measures during this time to discontinue the implementation of quantitative restrictions on trade. **The special treatment is therefore not meant to be a perpetual exemption from the required tariffication of agricultural trade. It only postpones an obligation that the developing country Member-State is ultimately bound to implement.**

Thus, in this case, petitioners were surely not unaware that upon the inevitable lapse of the first or the second exemption, the Philippines would then be obliged to lift the import quotas on rice. Annex 5, Section B(10) of the Agriculture Agreement pertinently provides that in the event that the special treatment is discontinued beyond the 10th year following the beginning of the implementation period, the products concerned shall be subject to ordinary customs duties, established on the basis of a tariff equivalent to be calculated in accordance with the guidelines prescribed in the attachment thereto. **Petitioners, particularly, the NFA, cannot simply plug the gap by issuing a memorandum circular that unilaterally maintains the quantitative restrictions on rice imports. *This is not justified by the terms of the Agriculture Agreement, which the Philippines is obliged to fulfill following its accession to the WTO Agreement*.**

Justice Singh argues that the NFA is authorized to impose import quotas pursuant to its delegated legislative authority. According to her, the enactment of R.A. No. 8178, which explicitly excludes rice from the policy of non-tariff restrictions, reveals the intention of Congress "to maintain the power of the NFA to impose quantitative restrictions on the rice trade".[44] Justice Singh

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[44] Concurring Opinion of Associate Justice Maria Filomena D. Singh, pp. 3–4.

therefore essentially opines that a treaty should conform with national statutes on the same subject, as the authority of Congress to legislate should prevail.[45]

This argument puts the cart before the horse. R.A. No. 8178 was passed on March 28, 1996, or a year after the ratification of the WTO Agreement. This law was passed with full cognizance of the country's commitments under the WTO Agreement. This is seen from the law's declaration of policy which states that "[i]t is the policy of the State to make the country's agricultural sector viable, efficient and globally competitive." It further holds that "[t]he State adopts the use of tariffs in lieu of non-tariff import restrictions to protect local producers of agricultural products, except in the case of rice, which will continue to have quantitative import restrictions."[46] Section 5 of R.A. No. 8178 also amended Presidential Decree (P.D.) No. 4, or the enabling law of the NFA, granting the agency with the authority "[t]o establish rules and regulations governing the importation of rice and to license, impose and collect fees and charges for said importation for the purpose of equalizing the selling price of such imported rice with normal prevailing domestic prices."[47]

In other words, the authority granted to the NFA by virtue of R.A. No. 8178 cannot be detached from the factual milieu at the time of its enactment. In short, R.A. No. 8178 was passed as the domestic law that implemented WTO provisions on agriculture for the Philippines.[48]

As the Court held in *Tañada v. Angara*[49] (*Tañada*), the Senate, after deliberation and voting, voluntarily and overwhelmingly gave its consent to the WTO Agreement thereby making it "a part of the law of the land". The Court recognized this as a legitimate exercise of the Senate's sovereign duty and power.[50] To be sure, the fundamental maxim of international law, *pacta sunt servanda*, requires the Philippines, as a party to the WTO Agreement, to keep its concurrence and commitments therein in good faith.[51]

Similarly, the observance of our country's legal duties under an international obligation is also compelled by Section 2, Article II of the Constitution which provides that "[t]he Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land, and adheres to the policy of peace, equality, justice, freedom, cooperation and amity with nations". Insofar as treaties are concerned, however, the Court clarified in *Pangilinan v. Cayetano*[52] that they follow a different process to become part of the law of the land and are deliberately delineated by the framers of the 1987

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45 *Id.* at 13–15.
46 R.A. No. 8178, Sec. 2.
47 *Id.*
48 Senate Economic Planning Office, *Rice Tariffication: Why is it a necessary public policy?*, Policy Brief, (December 2017), available at <https://legacy.senate.gov.ph/publications/SEPO/PB_Rice_ Tariffication_19Dec2017.pdf>.
49 338 Phil. 546 (1997).
50 *Id.* at 605.
51 *See Secretary of Justice v. Lantion*, 379 Phil. 165, 212 (2000).
52 G.R. No. 238875, March 16, 2021.

Constitution from generally accepted principles of international law. Under Section 21, Article VII of the Constitution, no treaty or international agreement shall be valid and effective unless concurred in by at least two-thirds of all the Members of the Senate. This provision signifies that treaties and international agreements are not automatically incorporated to the Philippine legal system, but are transformed into domestic law by Senate concurrence.[53]

Hence, when the Philippines opened its agricultural market to other WTO Member-States upon its accession to the WTO in 1995, ***it established, in turn, a tariffication system through R.A. No. 8178 in 1996***.[54] Through R.A. No. 8178, all quantitative restrictions on agricultural products were converted into tariffs. Rice was excluded from the tariffication, not out of partial renunciation of the country's international obligations under the WTO Agreement—***but because the Philippines was able to negotiate for a "special treatment" of the Agriculture Agreement***.[55]

In other words, at the time of the passage of R.A. No. 8178, the Philippines had already been granted special treatment for rice imports until December 31, 2004, and was only a year into the ten (10)-year implementation period for the Agriculture Agreement. The Congress, therefore, clearly took this fact into consideration when it enacted R.A. No. 8178. Thus, to my mind, R.A. No. 8178 was not enacted to permanently carve out rice from the tariffication of agricultural products. Rather, it was meant to faithfully fulfill the Philippines' obligation as a WTO Member-State.

As well, given the factual backdrop within which R.A. No. 8178 was passed in 1996 as described above, the supposed conflict between the domestic law and the WTO Agreement in light of the expiration of the exemption is more imagined than real.

It is well-settled that because of legislative participation through the Senate, a treaty is regarded as being on the same level as a statute.[56] A valid treaty or international agreement may be effective just as a statute is effective and has the force and effect of law.[57] While a statute prevails when it is conflict with a treaty,[58] the first rule to follow is to harmonize the treaty with the statute, so as to give effect to both.

Here, harmonizing the Agriculture Agreement and R.A. No. 8178 would result in the conclusion that there really is no conflict between the two to begin with. Again, to stress, R.A. No. 8178 was enacted after the country's

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53 *Id.*

54 Senate Economic Planning Office, *Rice Tariffication: Why is it a necessary public policy?*, Policy Brief, (December 2017), *supra* note 48.

55 *Id.*

56 *Saguisag v. Ochoa*, 777 Phil. 280, 293 (2016).

57 *Pangilinan v. Cayetano*, *supra* note 52.

58 *Id.*

accession to the WTO Agreement, precisely to faithfully comply with its obligations under the Agriculture Agreement and to domestically reflect the special treatment accorded to the country under Annex 5 with respect to rice. Thus, when the exemption or such special treatment expired, this did not give rise to a conflict between the Agriculture Agreement and R.A. No. 8178, but, at best, a seeming gap in R.A. No. 8178. Specifically, a question may be raised as to what happens after the special treatment with rice expires. When harmonized, however, with the Agriculture Agreement, the clear answer is found in Annex 5, Section B(10), which, to reiterate, provides that "in the event that the special treatment is discontinued beyond the 10th year following the beginning of the implementation period, the products concerned shall be subject to ordinary customs duties, established on the basis of a tariff equivalent to be calculated in accordance with the guidelines prescribed in the attachment [t]hereto."

On another note, it is noteworthy that while Congress, under R.A. No. 8178, saw fit to provide for quantitative restrictions on rice imports, this did not preclude the enactment of a subsequent law on rice tariffication. Congress may even decide to lift these non-tariff measures on rice while the second exemption is in effect, as the agreement on the extension of the special treatment to June 30, 2012, provides that:

> 4. Country Specific Quotas (CSQ)
>
> The following country specific quotas (CSQ's) are being given on a yearly basis for the duration of the period that the Philippines implements the special treatment under Annex 5:
>
> . . . .
>
> 4.1 In case of cessation of special treatment during the implementation period or after the completion of the implementation period, the entire volume of the CSQs shall become a global quota on an MFN basis.[59]

In other words, the enactment of R.A. No. 8178 should not, as it could not, thwart the expiration of the second exemption. To be sure, waivers or exemptions are generally treated or interpreted strictly.

Accordingly, the NFA MC, having been issued in March 2013 when the second extension of the Philippines' special treatment under Annex 5 had already expired, could not have been a valid source of a right on the part of government to impose additional requirements on rice importation beyond the general requirements for importation.

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[59] World Trade Organization, *WTO documents G/MA/TAR/RS/99/Rev.1* (December 27, 2006), and *WT/Let/562* (February 8, 2007), available at <https://goods-schedules.wto.org/system/files/WTO_import/Drive/WT-Let_English/562.pdf>.

To be sure, an administrative issuance pursuant to a delegated law-making power, must comply with the following requisites: (1) its promulgation must be authorized by the legislature; (2) it must be promulgated in accordance with the prescribed procedure; (3) it must be within the scope of the authority given by the legislature; and (4) it must be reasonable.[60]

With respect, the NFA MC failed to observe all the above requisites, especially the third requisite.

While the NFA MC expressly states that it was issued pursuant to the powers granted to the NFA under P.D. No. 4, as amended, it should be noted that P.D. No. 4 and its amendments, *i.e.,* P.D. Nos. 699 and 1485, were enacted around two decades before the Philippines acceded to the WTO Agreement. After the accession, R.A. No. 8178 amended the authority of the NFA under P.D. No. 4 "to establish rules and regulations governing the importation of rice and to license, impose and collect fees and charges for said importation . . ."[61] by including a proviso that the requirement of prior consultation with the Office of the President before exercising said authority "shall not apply to the importation of rice equivalent to the Minimum Access Volume obligation of the Philippines under the WTO."[62] Therefore, our accession to the WTO Agreement, as circumscribed by the special treatment which the Philippines was able to secure, was seriously taken into account when the authority of the NFA in R.A. No. 8178 was amended.

Bearing all the foregoing in mind, the authority of the NFA to establish rules and regulations governing the importation of rice is sourced not from P.D. No. 4, as further amended by R.A. No. 8178, alone—*but from the WTO Agreement as well.* This, again, is also owing to the fact that the WTO Agreement has gained the status of a statute upon the Senate's concurrence thereto and is in equal footing with R.A. No. 8178.

At the time the NFA MC was issued in March 2013, the regime of quantitative restrictions on rice was no longer in effect as the exemption by which it operated had already expired. In its stead, ordinary customs duties took effect. Consequently, there was no longer any statutory basis for the NFA to impose the said quantitative restrictions on rice in 2013 *via* the subject NFA MC. By doing so, the issuance ran afoul with the **third requisite** for a valid administrative order—in that it must be within the scope of authority given by the legislature.

As the Court aptly held in *Executive Secretary v. Southwing Heavy Industries*,[63] an administrative issuance must not be *ultra vires* or beyond the limits of the authority conferred. It must not supplant or modify the Constitution, its enabling statute **and other existing laws**. At the pain of being repetitious, a

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60 *Executive Secretary v. Southwing Heavy Industries*, 518 Phil. 103, 117 (2006).
61 R.A. No. 8178, Sec. 5.
62 *Id.*
63 *Supra* note 60.

spring cannot rise higher than its source. To construe the source of the NFA's authority to restrict imports as limited to R.A. No. 8178 completely disregards the underlying purpose of this law—*i.e.*, ensuring that the Philippines take steps to comply with its obligations under the WTO Agreement. Surely, given this history, it is incongruous to rule that R.A. No. 8178, simply by virtue of being a later law, can supersede the very agreement it seeks to implement.

The expiration of the second exemption notwithstanding, views were expressed by some Members of the Court during the deliberations, emphasizing that herein respondent judges should not have directed the release of the rice shipments as this will cause economic ruin and worse food insecurity without the benefit of scrutiny by our political bodies.

With due respect, this is a digression from the factual circumstances and the issues surrounding this case. As the Court in *Tañada* declared, whether the Senate's concurrence to the WTO was wise, beneficial, or viable is outside the realm of judicial inquiry and review and is a matter between the elected policy makers and the people. The Court proclaimed further that "[a]s to whether the nation should join the worldwide march toward trade liberalization and economic globalization is a matter that our people should determine in electing their policy makers. After all, the WTO Agreement allows withdrawal of membership, should this be the political desire of a [M]ember-[State]."[64] In this regard, I agree with the statements in the *ponencia* that "it is not within the province of this Court to comment on the benefits and disadvantages of either of the . . . economic policies as these are dynamic issues that [are] better left to the wisdom of the Executive branch."[65] I likewise laud the attempt of the *ponencia* to focus instead on the rights involved, narrowed down to the asserted rights of private respondents as vendees of the seized rice shipments, as opposed to the right of the State to regulate markets in the interest of general welfare, as determined.[66]

Ultimately, the Philippines agreed that by the end of its special treatment, which was further extended for another seven (7) years from the implementation period, quantitative restrictions on rice imports would be phased out. To be sure, petitioners were also aware that the extension of the second exemption was contingent on the outcome of the DDA negotiations, which unfortunately, were not completed before the expiration of the second extension.[67]

As well, petitioners, fully cognizant of the ensuing termination of this special treatment, cannot now invoke the same law to rationalize its insistence in the imposition of rice import quotas, which deviates from the Philippines' commitments under the Agriculture Agreement. Consequently, while it may be argued that the lapse of the waiver extension under the WTO Agreement

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64 *Tañada v. Angara, supra* note 49, at 606.
65 *Ponencia*, p. 14.
66 *Id.*
67 *Rollo* (G.R. No. 211146), Vol. I, p. 12.

did not automatically prohibit the imposition of quantitative restrictions on rice imports, and that the NFA is empowered under P.D. No. 4 and R.A. No. 8178 to regulate the importation of rice, these should not impair the capacity of private respondents to import rice during the interregnum of the special treatment, especially when they were willing to pay, or had actually paid, the corresponding duties and taxes on the subject rice shipments.

IV.

Respondent judges did not gravely abuse their discretion in issuing the injunctive writs in favor of private respondents

It bears emphasis that the Court is not confronted here with a review of a definitive and substantive ruling from respondent judges in the main cases. The Court's discussions on the consequences of the expiration of the special treatment on private respondents' importation of rice are only necessary due to the substantial amount of time that had lapsed since the present Petitions were filed. To my mind, these discussions should therefore warrant a ruling that applies *pro hac vice*. More importantly, these discussions should be read within the context of what a proceeding for an application for a WPI merely requires before a judge rules on the same, and the high threshold a petitioner should establish in claiming that a judge has gravely abused his or her discretion.

Verily, as well, there is no practical value for the Court to remand the case back to the trial courts for the resolution of the main action for injunction. Given the considerable lapse of time since the rice shipments arrived in the port and the passage of the new tariffication law, R.A. No. 11598, the assailed orders of respondent judges have been rendered *functus officio*.

To clarify, I agree that there are interwoven matters in this case that are largely political, touching upon policy considerations about the country's participation in the liberalized global trading stage, on the one hand, and the management of the effects thereof in the local industry, on the other. I stress, however, that the Court should bear in mind that the kernel issue raised in these Petitions is **whether there was grave abuse of discretion on the part of the trial court judges in issuing the assailed orders granting the WPI in favor of private respondents**. It certainly is within the province and bounden duty of the Court to resolve this issue without improperly weighing in on the political aspects surrounding the case. With respect, I submit that the *ponencia* has unduly ventured outside this narrow path.

As a general rule, the grant or denial of a WPI in a pending case rests on the sound discretion of the court taking cognizance of the case, since the assessment and evaluation of evidence towards that end involves findings of

fact left to the said court for its conclusive determination.[68] In other words, the exercise of judicial discretion by a court in injunctive matters must not be interfered with, except when there is grave abuse of discretion.[69]

Hence, in resolving the propriety of the Order dated December 12, 2013 issued by Judge Carpio and the Order dated February 28, 2014 issued by Judge Jurado (the assailed Orders), the Court should be guided by what constitutes grave abuse of discretion.[70] In *Aurelio v. Aurelio*,[71] the Court emphasized that by grave abuse of discretion is meant the capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction.[72] Mere abuse of discretion is not enough and must be grave as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility.[73] It must be so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.[74]

Using this established standard, I submit that respondent judges were fully justified in granting the applications for WPI. A preliminary injunction is hinged only on *prima facie*, or a sampling of, evidence.[75] Such evidence need only be good and sufficient on its face, or, to reiterate, a sampling that is intended merely to give the court an evidence of justification for a preliminary injunction pending the decision on the merits of the case, and is not conclusive of the principal action which has yet to be decided.[76] The discussion in *Urbanes, Jr. v. Court of Appeals*,[77] is instructive, *viz.*:

> The evidence submitted during the hearing on an application for a writ of preliminary injunction is not conclusive or complete for only a "sampling" is needed to give the trial court an idea of the justification for the preliminary injunction pending the decision of the case on the merits. As such, the findings of fact and opinion of a court when issuing the writ of preliminary injunction are interlocutory in nature and made even before the trial on the merits is commenced or terminated. There are vital facts that have yet to be presented during the trial which may not be obtained or presented during the hearing on the application for the injunctive writ. The trial court needs to conduct substantial proceedings in order to put the main controversy to rest. It does not necessarily proceed that when a writ of preliminary injunction is issued, a final injunction will follow.[78]

In the same vein, it likewise bears emphasis that for a writ of preliminary injunction to issue, Section 3, Rule 58 of the Rules of Court does

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68 *Tiong Bi, Inc. v. Philippine Health Insurance Corporation*, G.R. No. 229106, February 20, 2019, 894 SCRA 205, 210–211.
69 *Cahambing v. Espinosa, et al.*, 804 Phil. 412, 421 (2017).
70 *See DPWH v. City Advertising Ventures Corporation*, 799 Phil. 47, 61 (2016).
71 665 Phil. 693 (2011).
72 *Id.* at 703.
73 *Id.* at 704.
74 *Id.*
75 *Urbanes, Jr. v. Court of Appeals*, 407 Phil. 856, 866 (2001).
76 *Id.* at 866.
77 *Supra* note 75.
78 *Id.* at 867.

not require that the act complained of be in clear violation of the rights of the applicant.[79] In *Hernandez v. NPC*,[80] the Court observed that indeed, what the Rules require is that the act complained of be probably in violation of the rights of the applicant. Under the Rules, probability is enough basis for injunction to issue as a provisional remedy.[81] The Court differentiated the situation from injunction as a main action where one needs to establish absolute certainty as basis for a final and permanent injunction.[82]

As such, the assailed Orders issued by Judges Carpio and Jurado were confined to their initial findings on the justifications for the granting of the WPI at that time, which need not rest on absolute certainty, and are far from being tainted with grave abuse of discretion.

For one, the factual circumstances during the filing of the petitions before the lower courts showed that private respondents were able to establish all the requisites necessary for the WPI to be issued. Specifically, private respondents had sufficiently established their rights as owners of the rice shipments.[83]

As well, there were other pieces of evidence that establish, at the very least, an ostensible right in favor of private respondents to the final relief prayed for.

First, private respondent Galang raised in his complaint for injunction that the subject NFA MC was not filed with the University of the Philippines (UP) Law Center. He further furnished the trial court with a Certification from the UP Law Center, certifying that the NFA MC was not filed with the institution.[84] Similarly, in his comment filed before the Court, private respondent Ngo submitted to the Court a Certification dated November 15, 2013 from the UP Law Center's Office of the National Administrative Register (UP-ONAR), attesting to the fact that the NFA MC had not been filed with said office as of such date.[85]

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79 *Hernandez v. NPC*, 520 Phil. 38, 40 (2006).

80 *Id.*

81 *Id.* at 48.

82 *City of Naga v. Asuncion*, 579 Phil. 781, 799 (2008).

83 Private respondent Ngo's ownership of his rice shipments is confirmed by the Agreement between respondent Ngo and his importer Starcraft. The Agreement states that title to the goods shipped shall be transferred from Starcraft to private respondent Ngo upon remittance of the down payment. In this connection, private respondent Ngo's testimony and documentary exhibits confirm that private respondent Ngo already paid for the rice shipments in full. On the other hand, private respondent Galang's ownership of his rice shipments is similarly established by the Agreement between private respondent Galang and his importer Bold Bidder Marketing and General Merchandise, as well as an acknowledgment receipt issued by the latter to the former confirming payment of the rice shipments in question. *See ponencia,* p. 29. *See also* the December 12, 2013 Order of Presiding Judge Carpio, *rollo* (G.R. No. 21146), Vol. I, pp. 78–84 and the Order dated January 23, 2014 of Presiding Judge Jurado, *rollo* (G.R. No. 211375), Vol. I, pp. 83–85.

84 *Rollo* (G.R. No. 211375), Vol. I, p. 146, Complaint for Permanent Injunction with Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction.

85 *Ponencia*, p. 13; *rollo* (G.R. No. 211146), Vol. II, p. 610, UP-ONAR Certification.

Needless to state, the effect of the non-filing of the administrative regulation with the UP-ONAR is material with respect to the case at bar.

It is settled that publication is a condition precedent to the effectivity of a law. The purpose of such condition is to fully and categorically inform the public of its contents before their rights and interests are affected by the same.[86] Similarly, it is provided under Article 2 of the Civil Code that laws shall take effect after fifteen (15) days following the completion of their publication in the Official Gazette. Meanwhile, under Section 3, Chapter 2 of Book VII of the Administrative Code of 1987, it is provided that "[e]very agency shall file with the University of the Philippines Law Center three (3) certified copies of every rule adopted by it."

It is not evident from the records if petitioners were able to rebut the Certification from the UP-ONAR. Nevertheless, I submit that the NFA MC is a regulation that comes under the rules on prior publication and filing with the UP-ONAR. After all, the exceptions to the said rule only apply to interpretative regulations, which need nothing further than their bare issuance for they give no real consequence more than what the law itself has already prescribed,[87] and those merely internal in nature, that is, regulating only the personnel of the administrative agency and not the public need not be published.[88] **The NFA MC not being under the aforementioned categories, it should have been duly filed with the UP Law Center before its provisions were carried out by the NFA. Otherwise, the NFA MC cannot have been considered in effect at all.**

Second, private respondents had adduced evidence to show that their rice shipments were made after the expiration of the Philippines' second exemption to the WTO Agreement. As discussed, this placed the district collectors' authority to seize and detain their rice shipments pursuant to the NFA MC in serious doubt, considering that the license requirement of the NFA is a mechanism for the implementation of quantitative restrictions on rice imports imposed.

It is also worth noting that petitioner Alcala was advised by then Department of Justice (DOJ) Secretary Leila De Lima that the Philippines' second concession had already expired as of June 30, 2012, and so rice import licenses could no longer be imposed.[89] The pertinent portions of the letter of former DOJ Secretary De Lima are quoted below:

> From the moment the effectivity of the special treatment under Annex 5 expired, the positive obligation or undertaking of the Philippine Government under Paragraph 2, Article 4 with respect to rice importation became effective, *i.e.* it agreed that it "shall **not** maintain, resort to, or revert

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86 *DENR Employees Union v. Secretary Florencio B. Abad*, G.R. No. 204152, January 19, 2021.
87 *Id.*, citing *Villafuerte v. Cordial, Jr.*, G.R. No. 222450, July 7, 2020, 941 SCRA 367, 368–369, 376.
88 *Id.*
89 *Ponencia*, p. 13; *rollo* (G.R. No. 211146), Vol. II, pp. 595–606, DOJ Letter.

> to any measures of the kind which have been required to be converted into ordinary custom duties."
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> . . . .
>
> Hence, since the Philippines' request for the extension of its QR on rice until 2017 is still pending, and there is thus no existing agreement to "extend" such authority (or, more accurately, grant a new one since the first one had already lapsed), the Philippine Government must honor and implement the effect of the expiration of the period granted to it, under the principle of *pacta sunt servanda*, among which is to instead subject rice importations to ordinary custom duties in accordance with Paragraph 2, Article 4 of the Agreement on Agriculture.[90] (Emphasis supplied)

Such opinion from the DOJ carries a persuasive weight upon the courts.[91] Considering that there appears to be an equivocal guidance from the Executive Department that casts doubt on the authority of the NFA to require the import licenses, respondent judges cannot be said to have gravely abused their discretion when they issued the WPI.

The injunctive writs in favor of private respondents being provisional, respondent judges are not precluded from reaching a different conclusion. To be sure, the expiration of the second waiver has several implications—not only to the rice shipment of private respondents, but to all rice imports during this period. The novelty of the issue as to what happens in the interim when a concession has expired and a new application remains pending, taking into account the fact that the Philippines has religiously abided in its commitments under the WTO Agreement, are difficult questions of law that, understandably, may not be conclusively resolved prior to the issuance of a preliminary injunction writ.

V.

In all, I respectfully submit that the novelty, peculiarity, and complexity of the facts surrounding the core issue in this case should impel the Court to resolve the present Petitions for *certiorari* through a lens that would unequivocally reveal that respondent judges had indeed abused their discretion in a grave manner. Here, however, the writs were granted upon observance of the requisites under Section 3, Rule 58 of the Rules of Court *vis-a-vis* the effects of the expiration of the exemption or special treatment granted to the Philippines under the WTO Agreement during the relevant period subject of these cases. Ergo, respondent judges did not act, and cannot reasonably be held to have acted, in a whimsical, arbitrary, or capricious manner. To the contrary, respondent judges exercised their sound discretion in issuing the challenged writs. Falling short of the threshold I stated at the outset, their assailed Orders should therefore be maintained.

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90 *Rollo* (G.R. No. 211146), Vol. II, pp. 603–605, DOJ Letter.

91 *Land Bank of the Philippines v. Estate of J. Amado Araneta*, 681 Phil. 315, 356 (2012).

As a final word, while I take the position that the NFA exceeded its authority when it issued the subject NFA MC imposing import quotas on rice while there is no subsisting special treatment, I understand that the Court's resolution of this issue has come after a substantial amount of time had considerably lapsed. Considering the difficulty of the question of law presented before the Court, and the current policy on the tariffication of rice imports, I respectfully reiterate that such a finding may be limited to the present Petitions. It should not retroactively invalidate the conduct of other district collectors who disallowed the release of rice shipments due to the absence of an NFA import license, as they only relied on a policy, which, at that time, although suspended in limbo, was carried into practice for a long time.

In view of the foregoing, I **DISSENT**. I vote to **DISMISS** the Petitions.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice