EN BANC

G.R. No. 242957 — THE BOARD OF COMMISSIONERS OF THE BUREAU OF IMMIGRATION AND THE JAIL WARDEN, BUREAU OF IMMIGRATION DETENTION CENTER, *petitioner*, ***versus*** **YUAN WENLE,** *respondent.*

Promulgated:

February 28, 2023

x----------x

CONCURRING AND DISSENTING OPINION

CAGUIOA, *J.*:

This case stemmed from the Summary Deportation Order[1] (SDO) dated July 26, 2018, which the Board of Commissioners (BOC) of petitioner Bureau of Immigration (BI) issued against several Chinese citizens, including respondent Yuan Wenle (Wenle). The SDO was issued following the BI's receipt of an official communication from the Embassy of the People's Republic of China (Chinese Embassy), naming Wenle and the other individuals as wanted fugitives in China. For their involvement in crimes committed in China, the Chinese Embassy informed the BI that the Chinese government had already cancelled the passports of Wenle and the other named individuals.

Under the SDO, Wenle was considered an undocumented foreigner, whose presence in the Philippines posed a risk to public interest. He was ordered deported to his country of origin, and his name was included in the BI's Blacklist.[2] Wenle was later apprehended at the airport and turned over to the BI Legal Division.[3] Aggrieved, he filed a petition for *habeas corpus* before Branch 16, Regional Trial Court of Manila (RTC) and challenged the legality of his detention by arguing that the SDO violated his constitutional right to due process.[4] The RTC found this argument meritorious and declared the SDO null and void in a Resolution dated October 22, 2018.[5]

From the RTC's October 22, 2018 Resolution striking down the SDO, the BI directly filed the present Petition for Review on *Certiorari* with the Court. The BI maintains that the SDO is valid, arguing that alien fugitives are accorded an opportunity to be heard post-apprehension.[6] More importantly, Wenle did not deny that he is the same person identified in the Chinese

---

1 *Rollo*, p. 53.
2 Id. at 53-54.
3 Id. at 55-56, Incident Report dated August 22, 2018.
4 Id. at 58-68, Petition for *Habeas Corpus* with Preliminary Injunction and/or Temporary Restraining Order dated September 10, 2018.
5 Id. at 34-46.
6 BI OMNIBUS RULES OF 2015, Rule 10, Sec. 7, cited in the Petition, id. at 23.

Embassy's letter. As such, his detention on the basis of the Charge Sheet and the SDO was lawful.[7]

The *ponencia* nullifies the October 22, 2018 Resolution of the RTC, and ultimately holds that the practice of issuing SDOs does not violate the due process rights of aliens.[8]

In addition, the *ponencia*, by virtue of the antecedent facts concerning the arrest and deportation of a foreigner deemed a fugitive from justice, proposes guidelines for the issuance of warrants by administrative agencies. These guidelines are formulated to safeguard the right to due process against unwarranted intrusions, by drawing boundaries on an administrative agency's exercise of its quasi-judicial powers.[9]

I concur in the result, particularly with respect to the nullification of the assailed October 22, 2018 Resolution of the RTC granting Wenle's petition for *habeas corpus*. I also agree with the *ponencia*'s guidelines insofar as they seek to guard against the arbitrary exercise by an administrative tribunal of its authority.

That said, and with due respect, I do not concur with the *ponencia* insofar as it premises the guidelines on the authority of administrative agencies to issue warrants. While these "administrative warrants," to a lesser and limited degree, may likewise encroach on protected liberties, the Constitution draws a very bright line against the issuance of warrants of arrest, and warrants for searches and seizures by officers other than judges. The guidelines laid down in this case erroneously fail to concede the exclusive role of the Judiciary in the issuance of warrants, in accordance with Section 2, Article III of the 1987 Constitution. As well, the "administrative arrest warrants" referred to in this case cannot serve as a precursor for recognizing the validity of search and arrest warrants that are issued by any authority other than a judge. Thus, I respectfully submit this Concurring and Dissenting Opinion to further contextualize the concept of these "administrative warrants."

To be sure, the exercise of adjudicative or administrative functions by administrative agencies may, at times, also result in the compulsion of persons or distraint of property, such as in the case of the BI Commissioner's issuance of an arrest warrant. As well, there may be instances when a quasi-judicial agency vested with contempt powers may direct the imprisonment of a contumacious witness. In recognition that, under these strictly limited circumstances, due process rights are not any less vulnerable to being violated, I respectfully opine that the guidelines in this case should be viewed within these parameters — as safeguards to the right to due process.

---

7 Id. at. 24-27.

8 *Ponencia*, p. 62.

9 Id. at 20.

I.

The text of Section 2, Article III of the 1987 Constitution explicitly and unequivocally states that the issuance of a search warrant or warrant of arrest requires the exercise of judicial discretion. Thus, only a judge may determine probable cause for the purpose of issuing a warrant. This is a significant departure from the previous text of the 1973 Constitution which allowed "such other responsible officers as may be authorized by law"[10] to issue search and arrest warrants.

The Records of the 1986 Constitutional Commission further establish the deliberate intention of the Framers to discard the phrase "such other responsible officers as may be authorized by law" in the current iteration of the provision on the right against unreasonable searches and seizures. Fr. Joaquin G. Bernas (Fr. Bernas), the sponsor of the Article on Bill of Rights, explained that the provision reverts to the old phraseology in the 1935 Constitution, **thus limiting to *judges* the authority to issue warrants**:

> **FR. BERNAS:** x x x
>
> First, the general reflections: The protection of fundamental liberties in the essence of constitutional democracy. Protection against whom? Protection against the state. The Bill of Rights governs the relationship between the individual and the state. Its concern is not the relation between individuals, between a private individual and other individuals. What the Bill of Rights does is to declare some forbidden zones in the private sphere inaccessible to any power holder.
>
> x x x x
>
> The provision on Section 3[11] reverts to the 1935 formula by eliminating the 1973 phrase "or such other responsible officer as may be authorized by law," and also adds the word PERSONALLY on line 18. **In other words, warrants under this proposal can be issued only by judges.** I think one effect of this would be that, as soon as the Constitution is approved, the PCGG will have no authority to issue warrants, search and seizure orders, because it is not a judicial body. So, proposals with respect to clipping the powers of the PCGG will be almost unnecessary if we approve this. We will need explicit provisions extending the power of the PCGG if it wants to survive.[12] (Emphasis and underscoring supplied)

Furthermore, prior deliberations of the Framers reveal that the wisdom behind deleting the subject phrase is to completely remove from the Executive Branch the power to issue warrants. The Framers recognized that the 1973

---

[10] SECTION 3. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall not be violated, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined by the judge, or such other responsible officer as may be authorized by law, after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched, and the persons or things to be seized. (The 1973 CONSTITUTION [Amended], Art. IV)

[11] *N.B.* Under Proposed Resolution No. 486 (Resolution to Incorporate in the New Constitution An Article on the Bill of Rights), Section 3 refers to the right against unreasonable searches and seizures, now found in Section 2 of Article III of the Constitution.

[12] II RECORD, CONSTITUTIONAL COMMISSION 674-675 (July 17, 1986).

version was objectionable because it granted officers other than judges the authority to issue search warrants and warrants of arrest, resulting in the much-abused executive warrants that gravely eroded the protections of the Bill of Rights during Martial Law:

> MR. PADILLA: x x x
>
> x x x x
>
> I recall that the President of the Convention, former President Diosdado Macapagal, had sponsored, if not actively supported, a motion or a resolution prohibiting reelection, and that was considered by Malacañang as directly pointed against Mr. Marcos. When the voting came after lengthy debate, the proposal against reelection was lost, which proved that Mr. Marcos had more members supporting him in the 1971 Constitutional Convention than those who had elected Macapagal as President, after its first President, Carlos P. Garcia. For President Macapagal to continue in office as President of the Convention, he had to count on the support of the Marcos members. Indeed, that was a very sad situation. **The proceedings went on towards the drafting of the 1973 Constitution, where a number of objectionable provisions**, particularly the transitory provisions, **were inserted** in the 1935 Constitution. I will only mention one — that in the Bill of Rights against warrants of arrest and/or unreasonable searches and seizures, which are essentially judicial in nature to be determined by the judge upon examination of the complainant and the witnesses he may produce. **The 1971 Convention inserted the objectionable phrase "or any other officer authorized by law," which means that the Executive, like Mr. Marcos, or the Minister of Defense or any other executive officer, if authorized, could issue warrants of arrest. And that unfortunate insertion in the Bill of Rights led to and justified the Arrest, Search and Seizure Orders (ASSO), Presidential Commitment Order (PCO) and even the last Presidential Detention Action (PDA).**[13] (Emphasis supplied)

Evidently, aside from the clear and unequivocal text of Section 2, Article III of the present Constitution, the Records of the 1986 Constitutional Commission plainly reveal that the present Constitution does not sanction the issuance of warrants by any other officer aside from judges.

In the very recent case of *Calleja v. Medialdea*[14] (*Calleja*), the Court also referenced the deliberate intention of the Framers in deleting the phrase "or such other responsible officers as may be authorized by law:"

> An examination of the history of the Constitution's phraseology of the right protected under Section 2, Article III would show **a clear intention to limit the authority of issuing warrants of arrests to the courts**. Section 1 (3), Article III of the 1935 Constitution categorically stated that only judges can issue warrants of arrest:

---

[13] I RECORD, CONSTITUTIONAL COMMISSION 50-51 (June 4, 1986).

[14] G.R. Nos. 252578, 252579, 252580, 252585, 252613, 252623, 252624, 252646, 252702, 252726, 252733, 252736, 252741, 252747, 252755, 252759, 252765, 252767, 252768, 16663, 252802, 252809, 252903, 252904, 252905, 252916, 252921, 252984, 253018, 253100, 253118, 253124, 253242, 253252, 253254, 254191 & 253420, December 7, 2021, accessed at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67914>.

x x x x

A significant shift in this policy was introduced in the 1973 Constitution, wherein "such other responsible officer[s]" were also authorized to issue warrants of arrest:

x x x x

When asked which officers were authorized by law to issue warrants, Delegate Rodolfo A. Ortiz answered "that the provision contemplated the 'situation where the law may authorize the fiscals to issue search warrants or warrants of arrest.'" It was not until the most notable use of this provision, however, did the danger of allowing other officers authorized by law was realized; for, this provision became the basis for the issuance of the notorious and the much-abused Arrest, Search and Seizure Orders (ASSOs) by the Secretary of National Defense during Martial Law.

More aware of the dangers of extending the power to issue warrants of arrest to executive officials, and having traumatically experienced its grievous implementation to the detriment of fundamental rights, the framers of the 1987 Constitution decided to discard the phrase "or such other responsible officer as may be authorized by law" from the provision to be adopted under the new Constitution. x x x

x x x x

That the Constitution only permits a judge to issue warrants of arrest — not an officer of the legislative or the executive department — is not an accident. **It is corollary to the separation of powers and the mandate under Section 1, Article III of the Constitution that no person should be deprived of his [or her] property or liberty without due process of law.** The Fourth Amendment of the U.S. Constitution, on which Section 2, Article III of our Constitution is based, was borne out of colonial America's experience with "writs of assistance" issued by the British authorities in favor of revenue officers, empowering them to search suspected places of smuggled goods based only on their discretion. It has been described as "the worst instrument of arbitrary power, the most destructive of English liberty, and the fundamental principles of law, that ever was found in an English law book" since they placed "the liberty of every man in the hands of every petty officer." **It is because of this that the Court vigilantly guards against any attempt to remove or reallocate the judiciary's exclusive power to issue warrants of arrest.**[15] (Emphasis supplied)

In this connection, I respectfully take exception to the *ponencia*'s interpretation of the Framers' deliberations that there was a recognition on their part that administrative warrants may be issued with respect to matters concerning national security, public safety, and public health.[16] The portion of the deliberations quoted by the *ponencia*, which was cited to lend support to its conclusion, actually refers to the Framers' discussion concerning the provision on the liberty of abode and travel — not Section 2, Article III of the 1987 Constitution. Thus, when Commissioner Jose Nolledo (Commissioner

---

15 Id.

16 *Ponencia*, p. 18.

Nolledo) asked whether administrative authorities are the ones who determine the presence of interests involving national security, public safety, or public health, he was asking the question to clarify the limits of the liberty of abode and the right to travel. In this regard, Fr. Bernas' affirmative answer to Commissioner Nolledo's query cannot be interpreted to mean, as the *ponencia* posits, that "administrative warrants cannot be disregarded in [their] entirety."[17]

From these premises, it is clear that administrative agencies cannot issue warrants of arrest, and searches and seizures warrants within the contemplation of Section 2, Article III of the 1987 Constitution. The Constitution textually commits only to judges the power and authority to issue arrest and search warrants upon a finding of probable cause. Any warrant emanating from a non-judicial officer that directs an arrest, a search, or a seizure of persons or property is therefore constitutionally infirm.[18]

In this regard, these guidelines cannot therefore be regarded to be, as they are not, *carte blanche* for administrative agencies to arrogate unto themselves the power to order the arrest of persons, or the search and seizure of persons or property. Neither do these guidelines sanction or imply a statutory grant of these powers to administrative agencies. To be clear, the appropriate action for the Court under these circumstances is to strike down these warrants, or the statutory grant of such power, for violating the Constitution.

II.

Furthermore, subject to my Separate Opinion in *Calleja*,[19] a survey of the functions delegated to several administrative agencies reveals that the BI Commissioner is the only agency explicitly granted the authority to issue an arrest warrant, albeit to a limited degree. The boundaries of the warrant issued by the BI Commissioner under Section 37(a)[20] of the Philippine Immigration Act of 1940,[21] as amended, is narrowly confined — *i.e.*, to merely carry out a deportation order that has already become final.

Thus, in *Qua Chee Gan v. Deportation Board*[22] (*Qua Chee Gan*), the Court held that the BI Commissioner cannot issue warrants of arrest in aid of

---

17 *Ponencia*, p. 19.

18 *See Calleja v. Medialdea*, supra note 14, where the Court ruled that there was a deliberate intention of the Framers in deleting the phrase "or such other responsible officers as may be authorized by law." See also *Salazar v. Achacoso*, 262 Phil. 160, 170 (1990).

19 Separate Opinion of Associate Justice Alfredo Benjamin S. Caguioa in *Calleja v. Medialdea*, supra note 14, in which it was argued that the written authority issued by the Anti-Terrorism Council under Sec. 29 of the Anti-Terrorism Act is a disguised judicial warrant because it authorizes the detention of a person suspected of committing terrorism.

20 SECTION 37. (a) The following aliens shall be arrested upon the warrant of the Commissioner of Immigration or of any other officer designated by him for the purpose and deported upon the warrant of the Commissioner of Immigration after a determination by the Board of Commissioners of the existence of the ground for deportation as charged against the alien x x x.

21 Commonwealth Act No. 613 titled AN ACT TO CONTROL AND REGULATE THE IMMIGRATION OF ALIENS INTO THE PHILIPPINES, dated August 26, 1940.

22 118 Phil. 868 (1963).

his or her investigatory power, but only for the purposes of carrying out a deportation order that has already become final:

> As observed by the late Justice Laurel in his concurring opinion in the case of Rodriguez, et al. *vs*. Villamiel, et al. (65 Phil. 230, 239), this provision is not the same as that contained in the Jones Law wherein this guarantee is placed among the rights of the accused. Under our Constitution, the same is declared a popular right of the people and, of course, indisputably it equally applies to both citizens and foreigners in this country. Furthermore, a notable innovation in this guarantee is found in our Constitution in that it specifically provides that the probable cause upon which a warrant of arrest may be issued, must be determined by the judge after examination under oath, etc., of the complainant and the witnesses he [or she] may produce. This requirement — "to be determined by the judge" — is not found in the Fourth Amendment of the U. S. Constitution, in the Philippine Bill or in the Jones Act, all of which do not specify who will determine the existence of a probable cause. Hence, under their provisions, any public officer may be authorized by the legislature to make such determination, and thereafter issue the warrant of arrest. Under the express terms of our Constitution, it is, therefore, even doubtful whether the arrest of an individual may be ordered by any authority other than the judge if the purpose is merely to determine the existence of a probable cause, leading to an administrative investigation. The Constitution does not distinguish between warrants in a criminal case and administrative warrants in administrative proceedings. And, if one suspected of having committed a crime is entitled to a determination of the probable cause against him [or her], by a judge, why should one suspected of a violation of an administrative nature deserve less guarantee? **Of course it is different if the order of arrest is issued to carry out a final finding of a violation, either by an executive or legislative officer or agency duly authorized for the purpose, as then the warrant is not that mentioned in the Constitution which is issuable only on probable cause. Such, for example, would be a warrant of arrest to carry out a final order of deportation, or to effect compliance of an order of contempt.**[23] (Emphasis supplied)

While *Qua Chee Gan* was promulgated during the 1935 Constitution, it should be emphasized that the provision against unreasonable searches and seizures under the 1935 Constitution is similar to that of Section 2, Article III of the 1987 Constitution — "such other responsible officers as may be authorized by law" are not authorized to issue warrants. Just the same, the Court did not deviate from this ruling even after the ratification of the 1987 Constitution. In *Salazar v. Achacoso*[24] (*Salazar*), the Court reiterated that the President or the BI Commissioner may order the arrest of "illegal and undesirable aliens x x x [only] following a final order of deportation, for the purpose of deportation."[25] Likewise, in *Board of Commissioners (Commission on Immigration and Deportation) v. Dela Rosa*,[26] the Court clarified that if the BI Commissioner issues a warrant for the ostensible purpose of investigating suspected individuals, the warrant is null and void for being unconstitutional:

---

23 Id. at 877-878.

24 Supra note 18.

25 Id. at 171. See also *Calacday v. Vivo*, 144 Phil. 277, 282 (1970).

26 274 Phil. 1157 (1991).

> From a perusal of the above provision, it is clear that in matters of implementing the Immigration Act insofar as deportation of aliens are concerned, the Commissioner of Immigration may issue warrants of arrest only after a determination by the Board of Commissioners of the existence of the ground for deportation as charged against the alien. **In other words, a warrant of arrest issued by the Commissioner of Immigration, to be valid, must be for the sole purpose of executing a final order of deportation.** A warrant of arrest issued by the Commissioner of Immigration for purposes of investigation only, as in the case at bar, is null and void for being unconstitutional (Ang Ngo Chiong *v.* Galang, 67 SCRA 338 [1975] citing Po Siok Pin *v.* Vivo, 62 SCRA 363 [1975]; Vivo *v.* Montesa, 24 SCRA 155; Morano *v.* Vivo, 20 SCRA 562; Qua Chee Gan *v.* Deportation Board, 9 SCRA 27 [1963]; Ng Hua To *v.* Galang, 10 SCRA 411); see also Santos *v.* Commissioner of Immigration, 74 SCRA 96 [1976]).[27] (Emphasis and underscoring supplied)

On this point, it must be emphasized that the warrant in this case at bar, which the *ponencia* refers to or describes as an administrative warrant, does not involve any exercise of discretion on the part of the BI Commissioner. To be sure, the warrant issued by the BI Commissioner in this case was preceded by a prior determination that the alien is undesirable and a threat to public safety. Simply put, it is not the BI Commissioner that makes a personal determination of probable cause prior to issuing the warrant. Rather, the BI Commissioner's issuance of an arrest warrant was merely to implement a final order of deportation. This situation clearly distinguishes this from the definition of the term "arrest" under the Rules of Criminal Procedure, to wit:

> SECTION 1. *Definition of Arrest.* — Arrest is the taking of a person into custody in order that he may be bound to answer for the commission of an offense.[28]

As may be gleaned from this definition, an arrest involves effecting a restraint on a person in order that he or she may answer for the commission of an offense. In contrast, the warrant here issued by the BI Commissioner is only a preliminary step or preparatory to the deportation of the undesirable alien.

To be sure, the BI Commissioner may issue warrants for the arrest of undesirable aliens.[29] This authority is integral to the State's sovereign power to exclude non-Filipino citizens from its territory upon such grounds it may deem proper for the public interest. As the Court clarified in *Salazar*, the power of the President to order the arrest of aliens for the sole purpose of deportation is the exception, rather than the general rule. This authority is valid only because of the recognized supremacy of the Executive in matters involving foreign affairs. **Needless to state therefore, as a function *peculiar to the BI*, recognition of the BI Commissioner's limited authority cannot extend to other administrative agencies or executive departments.** Again,

---

27 Id. at 1197-1198.

28 RULES OF CRIMINAL PROCEDURE, Rule 113, Sec. 1.

29 *Morano v. Vivo*, 126 Phil. 928, 934-936 (1967).

there is no showing of any other agency that has the same function or has been granted the authority to issue warrants of a similar nature.

As well, a survey of the powers of administrative agencies reveals that there are administrative agencies vested with contempt powers as a consequence of their quasi-judicial powers. A witness cited in contempt may be punished with imprisonment, or a fine, or both.[30] But similar to the very narrow context in which the arrest warrant of the BI Commissioner is issued, the contempt power granted to quasi-judicial agencies is limited only to "making effective the power to elicit testimony."[31] More importantly, since an administrative agency derives its authority from the enabling statute, there should be an explicit grant of the power to punish for contempt.[32]

Based on the foregoing, administrative warrants clearly do not function in the same manner as judicial warrants. The legislature cannot confer purely judicial powers to an administrative agency, and the Court should not sanction any encroachment on its exclusive authority.

III.

All that being said, in line with the objective of formulating guard rails to ensure against arbitrary intrusions of administrative agencies into private rights, I concur with the guidelines in the *ponencia*.

Indeed, there are instances when the exercise of an administrative agency's authority results in some form of intrusion into the protected guarantees of liberty and property. This may stem from the exercise of its quasi-legislative power, as when agencies prescribe rules or regulations pursuant to a statutory delegation; or its quasi-judicial power, as when agencies conduct hearings to determine questions of fact and decide in accordance with the standards laid down in the relevant statute.[33]

To be sure, administrative agencies necessarily require information pertinent to the exercise of their mandate.[34] Thus, corollary to the exercise of an administrative agency's adjudicatory function, it has inquisitorial or investigatory power "to inspect the records and premises, and investigate the activities, of persons or entities coming under its jurisdiction, or to require disclosure of information by means or accounts, records, reports, testimony

---

30 Among these agencies are: (1) the Department of Agrarian Reform (DAR), through the DAR Adjudication Board (DARAB), the Regional Agrarian Reform Adjudicator (RARAD), and the Provincial Agrarian Reform Adjudicator (PARAD); (2) the Human Settlements Adjudication Commission under the Department of Human Settlements and Urban Development; (3) the Department of Migrant Workers; (4) the Securities and Exchange Commission.

31 *Guevara v. Commission on Elections*, 104 Phil. 268, 278 (1958).

32 See *Negros Oriental II Electric Cooperative, Inc. v. Sangguniang Panlungsod of Dumaguete*, 239 Phil. 403, 412-413. See also *Masangcay v. Commission on Elections*, 116 Phil. 355, 357-358 (1962).

33 *Smart Communications, Inc. v. National Telecommunications Commission*, 456 Phil. 145, 156-157 (2003).

34 Hector S. De Leon & Hector M. De Leon, Jr., ADMINISTRATIVE LAW: TEXT AND CASES (2016 ed), pp. 88-89.

of witnesses, production of documents, or otherwise."[35] Inasmuch as rights of specific persons are affected in the proper exercise of quasi-judicial power, safeguarding the right to due process all the more becomes imperative.

This is the prism through which the guidelines should be properly viewed. As in *Ang Tibay v. Court of Industrial Relations*[36] (*Ang Tibay*), any standard for administrative agencies in the exercise of its adjudicatory function should be predicated on the right to due process guaranteed under Section 1, Article III of the 1987 Constitution.[37] The exercise of an administrative agency's quasi-judicial power affects the rights of specific persons, and as such, there should be no doubt that due process must be observed in the conduct of the proceedings.[38] Furthermore, since the requirements in *Ang Tibay* are limited to the procedural aspect of due process, the *ponencia*'s proposed guidelines, which also provide for the protection of substantive due process, are appropriate.

Again, I respectfully reiterate that administrative agencies cannot be authorized to issue search and arrest warrants by law. This inference plainly contravenes the constitutional precept that only judges may issue warrants. Jurisprudence is replete with cases that upholds the exclusive role of judges in issuing warrants. In such cases, the Court does not hesitate to strike down such warrants or the authority to issue the same, as this runs counter to the Constitution.[39]

Framing the guidelines on the protection of the right to due process is, to my mind, essential in maintaining the separation between the powers strictly committed to the courts, and those that Congress may validly grant to administrative bodies. In this way, the Judiciary is not, by any means, delegating the function of issuing warrants under Section 2, Article III of the Constitution to administrative tribunals.

There is no argument that administrative agencies are mandated to implement the law within their specialized competencies. While they cannot exceed the limits of the enabling statute, it is recognized that they may also exercise such powers as may be necessary to discharge their assigned statutory duties.[40] For this purpose, some administrative agencies may be granted with adjudicative powers with the corollary power to investigate. Administrative agencies may likewise issue writs or warrants, as contemplated by the *ponencia*, pursuant to their powers.

---

35 *Secretary of Justice v. Lantion*, 379 Phil. 165. 198 (2000); see also *Smart Communications, Inc. v. National Telecommunications Commission*, supra note 33, at 157.

36 69 Phil. 635 (1940), cited in the Concurring Opinion of Associate Justice Amy C. Lazaro Javier, p. 1.

37 "No person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the laws."

38 *DOLE Phils., Inc. v. Esteva*, 538 Phil. 817, 860-861 (2006), citing *Commissioner of Internal Revenue v. Court of Appeals*, 329 Phil. 987, 1018-1019 (1996).

39 See *Presidential Anti-Dollar Salting Task Force v. Court of Appeals*, 253 Phil. 344 (1989); *Ponsica v. Ignalaga*, 236 Phil. 691 (1987); *Salazar v. Achacoso*, supra note 18. See also *Calleja v. Medialdea*, supra note 14.

40 *Solid Homes, Inc. v. Payawal*, 275 Phil. 914, 921 (1989). See *Antipolo Realty Corporation v. NHA*, 237 Phil. 389, 395-396 (1987).

That administrative agencies may conduct inspections, issue cease and desist orders, seize items that may be harmful to public,[41] or otherwise burden property rights,[42] does not necessarily empower them under the Constitution with the authority to issue arrest and search warrants. Rather, they do so only to fulfill their mandate under their respective charters, and only to ensure the faithful execution of the laws they are designated to implement.[43] Outside of the express and implied powers granted to them, they cannot unduly encroach on judicial functions such as the issuance of arrest and search warrants.

In other words, the Court cannot concede that administrative agencies may issue warrants in the same manner as judges merely because these administrative warrants, as referred to in the *ponencia*, may, to a lesser degree, produce the same effect as arrest or search warrants.[44] The orders or administrative warrants are primarily circumscribed by the enabling act, the policies of which these agencies are tasked to execute. These are not within the contemplation of Section 2, Article III of the 1987 Constitution, as the warrants therein partake the nature of a criminal process.[45] **All things considered, the limits of an administrative agency's exercise of quasi-judicial functions necessarily include the prohibition against the issuance of warrants of arrest, search, or seizure, or any writ analogous thereto.**

Bearing these in mind, I respectfully agree with the guidelines of the *ponencia*, as long as they do not venture into the realm of searches and seizures.

In all, I agree with the stated purpose of the *ponencia* to define the boundaries of an administrative agency's exercise of its quasi-judicial power. As well, I agree that the Court should exercise an active role in the protection of the due process rights of individuals. It should be emphasized, however, that the text of Section 2, Article III of the Constitution, the Framers'

---

41 *See* Republic Act (R.A.) No. 7394 titled THE CONSUMER ACT OF THE PHILIPPINES, dated April 13, 1992, where Art. 10 allows the concerned departments to, after due notice and hearing, order the recall, prohibition, and seizure of injurious, unsafe, or dangerous consumer products.

42 *See* R.A. No. 9160 titled AN ACT DEFINING THE CRIME OF MONEY LAUNDERING, PROVIDING PENALTIES THEREFOR AND FOR OTHER PURPOSES, or the Anti-Money Laundering Act of 2001 dated July 23, 2001, as amended by R.A. No. 11521 titled AN ACT FURTHER STRENGTHENING THE ANTI-MONEY LAUNDERING LAW, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9160, OTHERWISE KNOWN AS THE "ANTI-MONEY LAUNDERING ACT OF 2001", AS AMENDED, dated January 29, 2021, in which Sec. 7(15) grants the Anti-Money Laundering Council the authority to *ex parte* freeze all funds and assets by individuals under the United Nations Security Council Resolution Numbers 1718 of 2006 and 2231 of 2015 and their successor resolutions as well as any binding resolution of the Security Council; *See also* R.A. No. 4136 titled AN ACT TO COMPILE THE LAWS RELATIVE TO LAND TRANSPORTATION AND TRAFFIC RULES, TO CREATE A LAND TRANSPORTATION COMMISSION AND FOR OTHER PURPOSES, or the Land Transportation and Traffic Code, approved on June 20, 1964, wherein Sec. 60 authorizes the Land Transportation Commission to issue a warrant for constructive or actual distraint or levy to any owner of a motor vehicle with unpaid balance for registration.

43 *N.B.* For instance, the Optical Media Board (OMB) is specifically vested with the power to "apply for or obtain search warrants from any court of law" [R.A. No. 9239, Sec. 10(e), dated February 10, 2004] and to "act as complainant in the criminal prosecution of violators of the [Optical Media Act]" [R.A. No. 9239, Sec. 10(f)]. These powers are consistent with the OMB's mandate to protect and promote intellectual property rights, by regulating the manufacture, mastering, replication, importation, and exportation of optical media.

44 *Ponencia*, p. 71.

45 See *Malaloan v. Court of Appeals*, 302 Phil. 273, 285 (1994).

deliberations, and the related jurisprudence on this matter, have drawn a very bright line so as to exclude the Executive Branch, its agencies, or instrumentalities from issuing warrants for the arrest, search, or seizure of a person or property. It is not within the Court's authority to modify the text of the Constitution or construe its provisions in a manner that deviates from its true meaning. Rather, it is the Court's solemn duty under the Constitution to ensure that the delimitations of powers between the different branches of government remain sacrosanct.

From these premises, I **CONCUR** only in the result. I **DISSENT** insofar as the *ponencia* implies the authority of administrative agencies to issue warrants of arrest, and warrants for searches and seizures.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice