Republic of the Philippines
Supreme Court
Manila

EN BANC

UNIVERSAL ROBINA CORPORATION, Petitioner,	**G.R. No. 203353**
	Present:
-versus-	GESMUNDO, *Chief Justice,* LEONEN, CAGUIOA, HERNANDO, LAZARO-JAVIER, INTING, ZALAMEDA, LOPEZ, M., GAERLAN, ROSARIO,* LOPEZ, J., DIMAAMPAO, MARQUEZ, KHO, JR., and SINGH, *JJ.*
DEPARTMENT OF TRADE AND INDUSTRY ("DTI"), THE DTI SECRETARY, ZENAIDA C. MAGLAYA, in her capacity as DTI Undersecretary, and VICTORIO MARIO A. DIMAGIBA, in his capacity as Director for DTI's Bureau of Trade Regulations and Consumer Protection, Respondents.	**Promulgated:** February 14, 2023

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DECISION

LEONEN, *J.*:

A petition for declaratory relief is a viable remedy for questioning the constitutionality of a statute. However, just because a legal remedy is a viable procedural vehicle to assail the constitutionality of a law does not mean courts are constrained to delve into this issue when the remedy is filed. In

* On official leave.

accordance with this Court's policy of deference, the requirements of justiciability must first be met, regardless of the remedy invoked.

This Court resolves a Petition for Review on *Certiorari*[1] assailing the Decision[2] of the Regional Trial Court, which denied the Petition for Declaratory Relief filed by Universal Robina Corporation (Universal Robina) for failing to show the invalidity of the laws and executive issuances it assails, and for being premature.

On May 25, 2010, Atty. Victorio Mario A. Dimagiba (Director Dimagiba), the then director of the Bureau of Trade Regulation and Consumer Protection, wrote Universal Robina to ask why its ex-mill flour prices had not been reduced despite the decrease in certain cost factors, such as the price of wheat in the international market, freight cost, foreign exchange rate, and the imposition of zero tariff.[3]

Director Dimagiba wrote similar letters to other local flour millers, including Delta Milling Industries, Inc., Morning Star Milling Corporation, Philippine Foremost Milling Corporation, San Miguel Mills, Inc., General Milling Corporation, Liberty Flour Mills, Inc., Philmico Foods Corporation, Philippine Flour Mills, Republic Flour Milling Corporation, and Wellington Flour Mills, inquiring about their flour prices.[4]

Universal Robina responded that "the difference in the price of our flour bag within a span of three (3) years (comparing the period of Jan-May 2007 and Jan-May 2010) reflects the price movement of wheat in the world market and covers our other costs of operation, which involve increases in our labor costs."[5] Director Dimagiba replied, reminding Universal Robina that the wheat prices in the international market from January 2007 to September 2007 on one hand, and from January 2010 to May 2010 on the other, were almost the same despite the retail and ex-mill prices in 2007 being lower than the prices in 2010. He noted that the wheat price in the international market constituted 75% of flour production, while the operating cost and power constituted about 5% of the production cost.[6] He thus instructed Universal Robina to reduce its ex-mill prices to ₱630.00 to ₱680.00 per bag of flour.[7]

Later, before the Department of Trade and Industry, Director Dimagiba filed Complaints against Universal Robina and the other local flour millers for profiteering.[8] The Complaint-Affidavit against Universal Robina narrated

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[1] *Rollo*, pp. 3–50. Filed under Rule 45 of the Rules of Court.

[2] *Id.* at 51–56. The April 3, 2012 Decision was penned by Presiding Judge Nicanor A. Manalo, Jr. of the Regional Trial Court of Pasig City, Branch 161.

[3] *Id.* at 62.

[4] *Id.* at 380–381.

[5] *Id.* at 62.

[6] *Id.*

[7] *Id.*

[8] *Id.* at 85.

Director Dimagiba's exchange of letters with it and stated the basis for instructing it to reduce its ex-mill prices. It alleged that Universal Robina's flour price at ₱790.00 per bag constituted profiteering under Republic Act No. 7581, or the Price Act, for not representing the true worth of the flour per bag. It prayed that Universal Robina be fined and ordered to sell from ₱630.00 to ₱680.00 per bag.[9]

On June 15, 2010, before the hearing on the profiteering charge, Universal Robina received a copy of a Preliminary Order[10] issued by the Department of Trade and Industry adjudication officer to reduce the selling price of flour from the ₱770.00 to ₱790.00 range down to the ₱630.00 to ₱680.00 range while the case was pending. Universal Robina was also required to explain why the Preliminary Order should be revoked.[11]

The Preliminary Order was soon lifted after the Philippine Association of Flour Millers had declared to the Department of Trade and Industry that it had lowered its flour prices, and had made a press statement advising that "the flour milling industry believes it is in the consuming public's interest that the [Department of Trade and Industry's] instruction be followed."[12]

The Complaint against the local flour millers was later dismissed for lack of a certification against forum shopping.[13]

Meanwhile, the Department of Trade and Industry wrote Universal Robina, noticing that the company's ex-mill prices were higher than expected, and inviting Universal Robina to meet regarding its prices:

> It is observed that ex-mill prices of flour are increasing despite the peso appreciating trend. Your first increase of P25 on Grade 1 hard flour happened during the 2nd week of August 2010 and another increase of P50 in the 3rd week of September 2010.
>
> Using your actual importation data (copy attached), which we got from the Bureau of Import Services and the 3-month flour cycle (importation to production), BTRCP's computation for the ex-mill price of your Grade 1 hard flour is P876.34 for August 2010, P657.83 for September 2010 and P536.49 for October 2010 as against your declared ex-mill price ranging from P725.00 – P750.00 for August and September 2010 and P775.00 – P800.00 for October 2010.
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> Further, on a year to year basis the peso had appreciated by an average of 11% versus the US dollar.
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> In this connection, please submit to us within five (5) days upon receipt of

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9 *Id.* at 65–66.
10 *Id.* at 73.
11 *Id.* at 381–382.
12 *Id.* at 74.
13 *Id.* at 383.

this letter, your comment/s on the price evaluation of BTRCP.

We are ready to sit down with you to discuss the matter on an agreed date and time.[14]

In response, Universal Robina filed a Petition for Declaratory Relief[15] before the Regional Trial Court. It prayed that the following be declared invalid: (1) the provision in the Price Act prohibiting profiteering, as the Price Act failed to clearly define what it was; (2) Executive Order No. 913 and Rule IX, Section 5 of DTI Administrative Order No. 07[16] for being an invalid exercise of quasi-legislative power and violating due process; and (3) all issuances, acts, or proceedings based on these issuances.[17]

After an exchange of pleadings and the submission of Memoranda,[18] the Regional Trial Court issued a Decision[19] on April 3, 2012 dismissing the Petition. It found that no justiciable controversy existed, and that the Petition was prematurely filed:

> After a careful and judicious consideration of the arguments of the parties and the evidence presented the court finds no justiciable controversy that would justify the grant of the petition.
>
> Anent the other issues raised as to whether profiteering as defined under the price act is unconstitutional and whether Section 5 of Department [O]rder No. 7, as well as Executive Order No. 913 are invalid, is not for this court to adjudicate. Every law enjoys in its favor the presumption of constitutionality. The arguments or evidence presented by the petitioner failed to justify the invalidity of the same. Furthermore, it appears that present petition [has] been prematurely filed, there being no present or actual case or controversy between the parties herein.
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> . . . .
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> Petitioner's anticipation that the [sic] a flood gate [sic] of lawsuits against it in case of failure to abide, not only from DTI, but also from various sectors of the public which may even lead to a cessation of business operation that will affect hundred[s] of employees and the irreparable damage to [its] good will is unfounded or a mere speculation.
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> Again, in the words of Mr. Justice Leonardo A. Quisumbing in the 1999 *Garcia* case, "[a] calculus of fear and pessimism xxx does not justify the remedy petitioner seeks: that we overturn a law enacted by Congress and approved by the Chief Executive."
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> WHEREFORE, premises considered, the petition is hereby

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14 *Id.* at 81.

15 *Id.* at 83–103.

16 DTI Administrative Order No. 07 (2006). Instituting the Simplified and Uniform Rules of Procedure for Administrative Cases Filed with the Department of Trade and Industry (DTI) for Violations of the Consumer Act of the Philippines and Other Trade and Industry Laws.

17 *Rollo*, pp. 92–98.

18 *Id.* at 12.

19 *Id.* at 51–56.

denied.[20]

Universal Robina moved for reconsideration, but its Motion was denied by the Regional Trial Court in an August 28, 2012 Order.[21]

Thus, Universal Robina filed its Petition for Review on *Certiorari*[22] before this Court. Public respondent Department of Trade and Industry and its impleaded officials filed their Comment[23] through the Office of the Solicitor General. To this, petitioner filed a Reply.[24] Later, upon being required by this Court,[25] the parties filed their respective Memoranda.[26]

Petitioner argues that there is an actual legal controversy that calls for judicial review.[27] It maintains that the dismissal of the profiteering case against the local flour millers does not negate the existence of a conflict of legal right.[28] As the profiteering case was dismissed due to a technicality, petitioner says that the legal controversy created by public respondents' acts was not resolved by any competent authority, and therefore, remains an actual legal controversy.[29]

Even if the case did become moot, petitioner argues that this Court should nonetheless resolve the case since: (1) there is grave violation of the Constitution; (2) paramount public interest is involved; (3) the constitutional issue raised requires formulation of controlling principles to guide the Bench, the Bar, and the public; and (4) the matter is capable of repetition yet evading review, as the profiteering case was dismissed without prejudice to its refiling.[30]

Petitioner insists that it had the right to challenge the constitutionality of Section 5(2) of the Price Act, as it was applied when the Department of Trade and Industry initiated the Complaint against it. Thus, petitioner submits that this Court can, based on the Complaint, decide whether the act of "profiteering" is so vague that petitioner could not reasonably understand the acts it allegedly engaged in to be subject of the charge.[31] Even assuming that the provision cannot be questioned as applied, petitioner insists that the provision may also be facially challenged, as penal statutes may be nullified on a facial challenge based on vagueness.[32]

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20 *Id.* at 55.
21 *Id.* at 57.
22 *Id.* at 3–50.
23 *Id.* at 311–344.
24 *Id.* at 347–367.
25 *Id.* at 368–368-A.
26 *Id.* at 375–423, petitioner's Memorandum; 431–468, respondents' Memorandum.
27 *Id.* at 387.
28 *Id.* at 20.
29 *Id.* at 389.
30 *Id.* at 390.
31 *Id.* at 407.
32 *Id.* at 407–408.

On the substance, petitioner claims that the definition of profiteering under the Price Act, "the sale or offering for sale of any basic necessity or prime commodity at a price grossly in excess of its true worth[,]" is void for vagueness.[33] Petitioner insists that no standards and guidelines were provided to determine a commodity's "true worth," or a price grossly in excess of it.[34] Thus, it submits that a person selling basic necessities or prime commodities may be threatened with penalty under this provision, without them realizing that they are profiteering.[35] Petitioner notes that penalizing profiteering without sufficiently defining what constitutes it violates one's right to due process and the accused's right to be informed of the nature and cause of an accusation against them.[36]

Petitioner also argues that Executive Order No. 913 and Rule IX, Section 5 of DTI Administrative Order No. 07, which contain rules on the Department of Trade and Industry's issuance of preliminary orders, are invalid exercises of quasi-legislative power.[37] Pertinently, Section 10 of Executive Order No. 913 provides:

> SECTION 10. Preliminary orders. — As soon as a formal charge is instituted by the Minister, and even prior to the commencement of the formal investigation, the Minister may, *motu prop[r]io* or upon verified application of any person, issue a preliminary order requiring a person to refrain from a particular act or to perform a particular act, if the Minister is satisfied that the commission or continuance of the act complained of during the formal investigation of the non-performance thereof would probably work injustice to the complainant; or that the respondent is doing, threatens, or is about to do, or is procuring or suffering to be done, some act probably in violation of the complainant's rights respecting the subject of the formal investigation and tending to render the judgment ineffectual. The Minister shall provide by rules and regulations the other qualifications, restrictions, and procedure for the issuance of such preliminary orders.

Rule IX, Section 5 of DTI Administrative Order No. 07 provides:

> Section 5. Preliminary Order. – (a) At any time after the commencement of the action and before judgment, the Adjudication Officer may motu proprio or upon verified application by the complainant, or by the officer who signed the formal charge, issue a preliminary order requiring any person to refrain from a particular act or to perform a particular act, if the Adjudication Officer is satisfied that the commission or the continuance of the act complained of during the pendency of the action or the non-performance thereof would probably work injustice to the complainant or the general public; or that the respondent is doing, threatens or is about to do, or is procuring or suffering to be done, some act probably in violation

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[33] *Id.* at 394.
[34] *Id.*
[35] *Id.* at 398.
[36] *Id.* at 397.
[37] *Id.* at 411.

of the complainant's or the general public's rights respecting the subject of the administrative action, and tending to render the judgment ineffectual.

(b) The Adjudication Officer may require the complainant to file with the office of the Adjudication Officer, a bond executed to the respondent, in an amount to be fixed by the Adjudication Officer, to the effect that the complainant will pay to such party all damages which he may sustain by reason of the preliminary order if the Adjudication Officer should finally decide that the complainant was not entitled thereto: Provided, That no bond shall be required in cases initiated by formal charge.

(c) The preliminary order may be granted with or without prior notice and hearing on the application for issuance of preliminary order, at the sound discretion of the Adjudication Officer.

(d) The preliminary order may be dissolved fully or partially at any time by the Adjudication Officer *motu proprio*, or upon application by the respondent with or without prior notice and hearing on the application for dissolution thereof, at the sound discretion of the Adjudication Officer. The grounds for objecting to, or for a motion for dissolution, of any injunctive relief under Section 6, Rule 58 of the Rules of Court shall be applicable.

Petitioner argues that, to be valid, an administrative issuance must be: (1) "authorized by the [L]egislature"; (2) "promulgated in accordance with the prescribed procedure"; (3) "within the scope of the authority given by the [L]egislature"; and (4) reasonable.[38] Petitioner points out that the Consumer Act and the Price Act do not grant the Department of Trade and Industry the power to issue injunctive relief *motu proprio*, without notice and hearing, and without limit as to the duration of effectivity.[39] Thus, it argues that both Executive Order No. 913 and DTI Administrative Order No. 07, which may have sought to implement various trade and industry laws, were unilateral acts by the Executive[40] that exceeded the authority granted by the Legislature.[41]

Petitioner further argues that the promulgation of DTI Administrative Order No. 07 is unreasonable.[42] The power granted is *motu proprio* injunctive relief, without notice and hearing, for a duration left to the discretion of the adjudication officer.[43] Petitioner insists that this is beyond what is reasonably necessary to prevent the acts intended.[44]

Since Executive Order No. 913 and DTI Administrative Order No. 7 do not emanate from law, and no adequate guidelines or limitations determine the boundaries of the Department of Trade and Industry's power under these rules, petitioner claims that the issuances fail the completeness test and sufficient standard test.[45]

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38 *Id.* at 414.
39 *Id.* at 415.
40 *Id.* at 414.
41 *Id.* at 415.
42 *Id.* at 417.
43 *Id.*
44 *Id.* at 419.
45 *Id.* at 419–420.

Finally, assuming that Executive Order No. 913 was a legislative act that lent basis to Rule IX, Section 5 of DTI Administrative Order No. 07, petitioner claims that DTI Administrative Order No. 07 cannot apply to the implementation and enforcement of the Price Act. The Price Act, issued later than Executive Order No. 913, provides for injunctive relief in the form of a temporary restraining order for no more than 10 days, a provision that petitioner claims impliedly amended Section 10 of Executive Order No. 913.[46] Accordingly, Rule IX, Section 5 of DTI Administrative Order No. 07 is an invalid exercise of quasi-legislative power as it failed to follow the standard set by the Price Act.

On the other hand, public respondents argue that the Petition was premature since petitioner was not facing any administrative or criminal cases filed before the Department of Trade and Industry.[47] They say that petitioner was not suffering any injury under the Price Act, given that it was actually distributing flour based on its own computed flour prices.[48] They refute petitioner's claim that the case was an exception to the mootness rule.[49]

Public respondents also assert that Section 5(2) of the Price Act is presumed valid, stressing that every reasonable doubt should be resolved in favor of its constitutionality.[50] They claim that the Price Act is an exercise of police power promoting the general welfare, as it ensures the availability of a prime commodity at reasonable prices.[51]

Public respondents assert that a facial challenge against Section 5(2) is impermissible, as the overbreadth and vagueness doctrines only apply to free speech cases, and not to cases involving penal statutes.[52] Neither can it be assailed as applied, they say, as there is no actual profiteering charge against petitioner. They stress that judicial power does not contemplate speculative counseling on a statute's future effect on hypothetical scenarios.[53]

Finally, public respondents belie petitioner's claim that Section 5(2) is vague for providing no standard of what the phrase "grossly in excess of its true worth" means. To them, the words can be understood in their ordinary meaning.[54] They explain that the standard is whether the price set is so much higher than its "correct value" such that the profit or income that manufacturers, suppliers, and investors will earn is exorbitantly greater than

[46] *Id.* at 420.
[47] *Id.* at 436.
[48] *Id.* at 438.
[49] *Id.* at 439.
[50] *Id.* at 440.
[51] *Id.* at 441.
[52] *Id.* at 441–442.
[53] *Id.* at 447–448.
[54] *Id.* at 450.

what is reasonable.[55]

The issues for this Court to resolve are:

First, whether the Petition for Declaratory Relief is the proper remedy for challenging Section 5(2) of the Price Act; and

Second, whether the provision penalizing profiteering under the Price Act is void for vagueness.

We deny the Petition.

I

Under Rule 63, Section 1 of the Rules of Court, a person whose rights are affected by a statute may, before breach:

> . . . bring an action in the appropriate Regional Trial Court to determine any question of construction or validity arising, and for a declaration of his rights or duties, thereunder.

A petition for declaratory relief is a viable remedy to challenge the constitutionality of a law, provided that it meets the requisites of justiciability. That it is a viable remedy does not guarantee that relief can, or will, be granted.

I (A)

When the constitutionality of a statute is raised through a petition for declaratory relief, the standard rules of justiciability apply. Further,

> *The general rule with respect to justiciability is one of constitutional avoidance. . . .*
>
> . . . .
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> The doctrine of avoidance is palpable when we refuse to decide on the constitutional issue by ruling that the parties have not exhausted administrative remedies, or that they have violated the doctrine of respect for the hierarchy of courts. These are specific variants or corollaries of the rule that the case should be ripe for constitutional adjudication.[56] (Emphasis supplied, citations omitted)

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[55] *Id.* at 453.

[56] J. Leonen, Concurring Opinion in *Gios-Samar, Inc. v. Department of Transportation and Communications*, G.R. No. 217158, March 12, 2019 [Per J. Jardeleza, *En Banc*].

Thus, before delving into the constitutionality of a law, a court must satisfy itself that the following requisites are met:

> (1) an actual case or controversy calling for the exercise of judicial power; (2) the person challenging the act must have "standing" to challenge; he must have a personal and substantial interest in the case such that he has sustained, or will sustain, direct injury as a result of its enforcement; (3) the question of constitutionality must be raised at the earliest possible opportunity; and (4) the issue of constitutionality must be the very *lis mota* of the case.[57]

Jurisdiction over petitions for declaratory relief lie with the regional trial courts. However, such jurisdiction does not require that the court resolve the issue of the constitutionality of a statute. Courts have mechanisms of avoidance. The requisites of justiciability are themselves anchored on the well-established policy of deference, in recognition of the Judiciary's role as distinct from the political roles of the Legislative and the Executive.[58]

I (B)

An actual case or controversy exists when there are actual facts to enable courts to intelligently adjudicate the issues.[59]

There is also an actual case and controversy when there is a clear and convincing showing of a contrariety of legal rights.[60] In *Belgica v. Ochoa*,[61] this Court explained:

> Jurisprudence provides that an actual case or controversy is one which "involves a conflict of legal rights, an assertion of opposite legal claims, susceptible of judicial resolution as distinguished from a hypothetical or abstract difference or dispute." In other words, "[t]here must be a contrariety of legal rights that can be interpreted and enforced on the basis of existing law and jurisprudence."[62] (Citations omitted)

In *Calleja v. Executive Secretary*,[63] this Court explained that a contrariety of legal rights is one:

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[57] *Francisco, Jr. v. House of Representatives*, 460 Phil. 830, 892 (2003) [Per J. Carpio Morales, *En Banc*].

[58] *Parcon-Song v. Parcon*, G.R. No. 199582, July 7, 2020 [Per J. Leonen, *En Banc*]; *Tarrosa v. Gabriel C. Singson*, 302 Phil. 588 (1994) [Per J. Quiason, *En Banc*]; *Palencia v. People*, G.R. No. 219560, July 1, 2020 [Per J. Leonen, *En Banc*].

[59] *The Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*, 836 Phil. 205 (2018) [Per J. Leonen, *En Banc*]; *Southern Hemisphere Engagement Network, Inc. v. Anti-Terrorism Council*, 646 Phil. 452 (2010) [Per J. Carpio Morales, *En Banc*].

[60] *Province of North Cotabato v. Government of the Republic of the Philippines Peace Panel on Ancestral Domain*, 589 Phil. 387, 481 (2008) [Per J. Carpio Morales, *En Banc*].

[61] 721 Phil. 416, 519 (2013) [Per J. Leonen, *En Banc*].

[62] *Id.* at 519.

[63] G.R. Nos. 252578 et al., December 7, 2021 [Per J. Carandang, *En Banc*].

> . . . that can be interpreted and enforced on the basis of existing law and jurisprudence. Corollary thereto, the case must not be moot or academic, or based on extra-legal or other similar considerations not cognizable by a court of justice. All these are in line with the well-settled rule that this Court does not issue advisory opinions, nor does it resolve mere academic questions, abstract quandaries, hypothetical or feigned problems, or mental exercises, no matter how challenging or interesting they may be. Instead, case law requires that there is ample showing of *prima facie* grave abuse of discretion in the assailed governmental act in the context of actual, not merely theoretical, facts.[64] (Citations omitted)

In *Belgica*, this Court also explained that the actual-case requirement is closely related to the ripeness requirement:

> Related to the requirement of an actual case or controversy is the requirement of "ripeness," meaning that the questions raised for constitutional scrutiny are already ripe for adjudication. "A question is ripe for adjudication when the act being challenged has had a direct adverse effect on the individual challenging it. It is a prerequisite that something had then been accomplished or performed by either branch before a court may come into the picture, and the petitioner must allege the existence of an immediate or threatened injury to itself as a result of the challenged action." "Withal, courts will decline to pass upon constitutional issues through advisory opinions, bereft as they are of authority to resolve hypothetical or moot questions."[65] (Citations omitted)

Thus, in *Belgica*, where the parties asserted opposing legal claims regarding the constitutionality of the pork barrel system, this Court deemed itself satisfied that a contrariety of legal rights existed.

This was reiterated in *Roy III v. Herbosa*:[66]

> Regarding the first requisite, the Court in *Belgica v. Ochoa* stressed anew that an actual case or controversy is one which involves a conflict of legal rights, an assertion of opposite legal claims, susceptible of judicial resolution as distinguished from a hypothetical or abstract difference or dispute since the courts will decline to pass upon constitutional issues through advisory opinions, bereft as they are of authority to resolve hypothetical or moot questions. Related to the requirement of an actual case or controversy is the requirement of "ripeness," and a question is ripe for adjudication when the act being challenged has a direct adverse effect on the individual challenging it.[67] (Citation omitted)

Thus, for the exercise of judicial review, actual facts resulting from the

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[64] *Id.* at 60–61. This pinpoint citation refers to a copy of the decision uploaded to the Supreme Court website.

[65] *Belgica v. Ochoa*, 721 Phil. 416, 519–520 (2013) [Per J. Leonen, *En Banc*].

[66] 800 Phil. 459 (2016) [Per J. Caguioa, *En Banc*].

[67] *Id.* at 490–491.

assailed law, as applied, may not be absolutely necessary in all cases. A clear and convincing showing of a contrariety of legal rights may suffice.

I (C)

As an exception to the requirement of actual facts, there are three instances when a facial review of a law is permissible:

First, in cases involving freedom of expression and its cognates,[68] a facial challenge of a law may be allowed. This contemplates cases where a law: (1) exerts *prior restraint* on free speech;[69] and (2) is *overbroad*, creating a *chilling effect* on free speech.[70] Thus, where no chilling effect is alleged, courts should exercise judicial restraint.

Thus, in *Calleja*, despite the absence of actual facts, a facial review of the law was permitted because the petitioners sufficiently raised "concerns regarding the freedom of speech, expression, and its cognate rights."[71] This Court held:

> As such, the petitions present a permissible facial challenge on the ATA in the context of the freedom of speech and its cognate rights — and it is only on these bases that the Court will rule upon the constitutionality of the law. . . . In fact, the Court is mindful that several of the petitioners have already come under the operation of the ATA as they have been designated as terrorists.[72]

Second, judicial review is also proper, despite no actual facts, when a violation of fundamental rights is involved—one *so egregious* or *so imminent* that judicial restraint would mean that such fundamental rights would be violated. In *Parcon-Song v. Parcon*,[73] this Court explained:

> The violation must be so demonstrably and urgently egregious that it outweighs a reasonable policy of deference in such specific instance. The facts constituting that violation must either be uncontested or established on trial. The basis for ruling on the constitutional issue must also be clearly alleged and traversed by the parties. Otherwise, this Court will not take cognizance of the constitutional issue, let alone rule on it.[74]

"Egregiousness" pertains to how prevalent such violations of

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[68] *See* CONST., art. III, sec. 4.
[69] J. Leonen, Separate Opinion in *Disini, Jr. v. Secretary of Justice*, 727 Phil. 28 (2014) [Per J. Abad, *En Banc*].
[70] *Southern Hemisphere Engagement Network, Inc. v. Anti-Terrorism Council*, 646 Phil. 452 (2010) [Per J. Carpio Morales, *En Banc*].
[71] *Id.* at 61.
[72] *Id.* at 61–62.
[73] G.R. No. 199582, July 7, 2020 [Per J. Leonen, *En Banc*].
[74] *Id.* at 20.

fundamental rights would be. They should be so widespread that virtually any citizen, properly situated, could raise the issue. An example of a law with such wide coverage was ruled upon in *Samahan ng mga Progresibong Kabataan v. Quezon City*,[75] which reviewed curfew ordinances issued by the local governments of Quezon City, Manila, and Navotas.

Not all constitutional questions are susceptible to fall under this exception. Questions involving the allocation of power among the different branches of government, those pertaining to the constitutional framework of the Philippine economy, and those relating to the amendment and revision of the Constitution are such that this Court can and should exercise judicial restraint. Such questions can await an actual case to be properly threshed out and decided by courts.

Third, judicial review is proper, despite no actual facts, when it involves a constitutional provision invoking emergency or urgent measures, and such review can potentially be rendered moot by the transitoriness of the emergency. Thus, the questioned action would be capable of repetition, yet because of the transitoriness of the emergency involved, would evade judicial review and not allow any relief. Under such circumstances, this Court may provide controlling doctrine over the provision.

I (D)

Therefore, declaratory relief as a remedy for constitutional challenge will succeed only when: (1) there is a clear and convincing contrariety of legal rights; or (2) facial review is allowed. Where neither condition exists, declaratory relief is not available, and parties may resort to other remedies, as may be appropriate to the circumstances.

Here, there is a clear and convincing showing that a contrariety of legal rights exists between respondent, the Department of Trade and Industry, which maintains its authority to determine when profiteering has occurred, and petitioner, which maintains that the provision on profiteering is void for vagueness.

Petitioner may not be currently charged with profiteering, but it was again invited to discuss its prices and to explain its ex-mill prices to the Bureau of Trade Regulation and Consumer Protection. This invitation shows respondent's intent to hold petitioner liable for profiteering under the Price Act. Thus, notwithstanding the initial dismissal of the Complaint filed against petitioner, an actual case still exists.

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[75] 815 Phil. 1067 (2017) [Per J. Perlas-Bernabe, *En Banc*].

II

Petitioner claims that the definition of profiteering is void for vagueness[76] and violates the constitutional right of an accused to be informed of the nature and cause of an accusation against them.[77]

This Court is not convinced.

Estrada v. Sandiganbayan[78] is instructive in cases assailing penal provisions as being void for vagueness:

> The test in determining whether a criminal statute is void for uncertainty is whether the language conveys a sufficiently definite warning as to the proscribed conduct when measured by common understanding and practice. It must be stressed, however, that the "vagueness" doctrine merely requires a reasonable degree of certainty for the statute to be upheld — not absolute precision or mathematical exactitude, as petitioner seems to suggest. Flexibility, rather than meticulous specificity, is permissible as long as the metes and bounds of the statute are clearly delineated. An act will not be held invalid merely because it might have been more explicit in its wordings or detailed in its provisions, especially where, because of the nature of the act, it would be impossible to provide all the details in advance as in all other statutes.[79] (Citation omitted)

As *Estrada* teaches, flexibility is permissible in statutory provisions, for there are situations when it would be impossible for legislators to provide mathematical exactitude.

A statute is vague when:

> . . . it lacks comprehensible standards that men "of common intelligence must necessarily guess at its meaning and differ as to its application." It is repugnant to the Constitution in two respects: (1) it violates due process for failure to accord persons, especially the parties targetted [sic] by it, fair notice of the conduct to avoid; and (2) it leaves law enforcers unbridled discretion in carrying out its provisions and becomes an arbitrary flexing of the Government muscle.[80] (Citation omitted)

Here, petitioner maintains that the provision on profiteering is vague because what is grossly excessive to one may be reasonable to another.[81] The law, petitioner says, would leave open the question of whose standards should

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[76] *Rollo*, p. 394.
[77] *Id.* at 397.
[78] 421 Phil. 290 (2001) [Per J. Bellosillo, *En Banc*].
[79] *Id.* at 352–351.
[80] *People v. Nazario*, 247-A Phil. 276, 286 (1988) [Per J. Sarmiento, *En Banc*].
[81] *Rollo*, p. 396.

be used when determining whether a price is grossly excessive and what an item's true worth is.[82]

While the provision certainly could set forth more exacting standards, petitioner has not established that it is void for vagueness. Petitioner has not shown that the law enforcers have unbridled discretion to determine that profiteering has been committed. Neither has it established that it did not have fair notice of the conduct to be avoided.

Although the Price Act does not define the terms "true worth" or "price grossly in excess" of true worth, our laws recognize that a reasonable price is a question of fact that can be determined based on the circumstances.[83] Moreover, the Price Act enumerates instances when there can be a *prima facie* evidence of profiteering, namely where the product:

> (a) has no price tag; (b) is misrepresented as to its weight or measurement; (c) is adulterated or diluted; or (d) whenever a person raises the price of any basic necessity or prime commodity he sells or offers for sale to the general public by more than ten percent (10%) of its price in the immediately preceding month: Provided, that, in the case of agricultural crops, fresh fish, fresh marine products, and other seasonal products covered by this act and as determined by the implementing agency, the prima facie provisions shall not apply[.][84]

Thus, the law specifies that the 10% increase will be the basis for a *prima facie* determination of profiteering. This provides some anchor for assessing whether profiteering has occurred, though that determination is inconclusive. The increase may, at the implementing agency's discretion, be used to determine further whether the *prima facie* presumption will hold.

The purpose of the law is "to ensure the availability of basic necessities and prime commodities at reasonable prices at all times without denying legitimate business a fair return on investment."[85] The determination of prices "grossly in excess" of the "true worth" would thus be based on a product's availability, reasonable prices, and nondenial of a fair return for legitimate businesses to their investment.

Given the general circumstances before us, petitioner has not shown that the law enforcers have unbridled discretion in implementing the provision on profiteering. This Court is unconvinced that the provision is void for vagueness.

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[82] *Id.* at 397.
[83] CIVIL CODE, art. 1474.
[84] Republic Act No. 7581 (1992), sec. 5(2).
[85] Republic Act No. 7581 (1992), sec. 2.

III

Having stated that, a discussion on the rationale for prohibiting profiteering is in order.

Classical economic doctrine normally points to a direct relationship between the quantities of a good demanded and a price increase. Consumers demand fewer goods as the price increases because of a perceived incentive to substitute the demand for a particular good, for something else.

However, basic necessities and prime commodities tend to be price inelastic. They tend to have no viable substitutes without some sacrifice in utility. Sacrifice in utility can mean eating less or a decline in nutrition. As a result, the amount usually in demand by the poorer sectors of our economy is not significantly affected by a change in price.

Based on the Statistical Tables on 2015 Family Income and Expenditure Survey,[86] 41.9% of the expenditures of Filipino families across all income classes were spent on food. However, the percentage is higher for Filipino families whose total annual income was under PHP 40,000.00, with 60.8% of their annual expenditures going to food:

Region Major Expenditure Group	All Income Classes	Income class				
		Under 40,000	40,000 – 59,999	60,000 – 99,999	100,000 – 249,999	250,000 and over
Philippines Total family expenditure (in millions)	4,882,86 0	12,376	47,947	262,096	1,500,018	3,060,424
Percent to the total expenditure	100.0	100.0	100.0	100.0	100.0	100.0
Food expenditures	41.9	60.8	59.9	58.8	51.6	35.3[87]

Thus, wages in the poorer sectors remain at a constant low, and when the prices of basic commodities go up, a greater percentage of their budget must be allocated for these basic commodities. Consequently, they have less money to spend for other things they need to live. The poorer a person is, the greater the impact of price increase is.

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[86] Statistical Tables on 2015 Family Income and Expenditure Survey, <https://psa.gov.ph/content/statistical-tables-2015-family-income-and-expenditure-survey> (last accessed on March 16, 2022).

[87] Philippine Statistics Authority, *Table 9 Total Annual Family Expenditure by Major Expenditure Group, by Income Class and by Region: 2015*, PHILIPPINE STATISTICS AUTHORITY WEBSITE, <https://psa.gov.ph/sites/default/files/attachments/hsd/article/TABLE%209%20%20Total%20Annual%20Family%20%20Expenditure%20by%20Major%20Expenditure%20Group%2C%20by%20Income%20Class%20and%20by%20Region%202015.pdf> (last accessed on March 16, 2022).

This model of behavior becomes more accurate for middle- and high-income families. An increase in the price of a basic necessity, such as rice, corn, or bread, will induce them to either spend for similarly priced substitutes or to diet, without negative consequences. For them, the quantity they purchase is affected by a change in price. In other words, price is elastic.

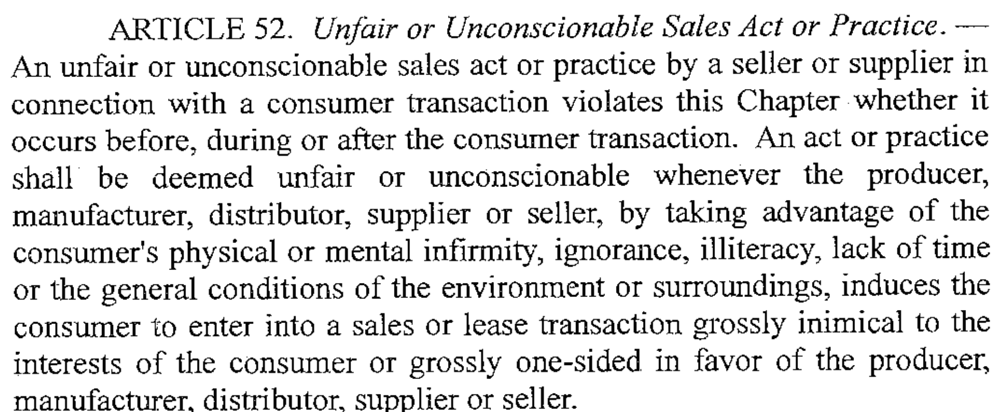
This difference in elasticity between the poorer and richer sectors has consequences on the overall structure of the Philippine economy. Constant increases in the prices of basic necessities impede the ability of the poor to create the demand for the products they need. With a price increase, they end up paying more for the same quantity of basic necessities, and their disposable income diminishes. Additional goods that they need, they cannot afford. As a result, they opt out of that market entirely. This reduces demand and signals to the producers or entrepreneurs that selling a particular good will not create revenue. On the other hand, alternatives for the middle- and higher-income classes become more attractive to producers and entrepreneurs. Luxury goods demanded by the rich, such as perfumes and cars, will still be attractive.

If this is allowed to continue unregulated, our economy will produce goods and services mostly for middle- and high-income classes, making life difficult for the poor.

Considering this, it is reasonable for the government to closely monitor the prices of basic necessities and prime commodities. This helps define productivity for the goods that matter, which, in turn, provides a better quality of life for all.

This case involves not a luxury good, but a necessity used by all income classes: flour.

Unlike neoclassical economists who imagine a perfect market, the Consumer Act recognizes some of the imperfections in the market. It recognizes that, at times, there is a power differential between the buyer and the seller. Article 52 provides:



> ARTICLE 52. *Unfair or Unconscionable Sales Act or Practice.* — An unfair or unconscionable sales act or practice by a seller or supplier in connection with a consumer transaction violates this Chapter whether it occurs before, during or after the consumer transaction. An act or practice shall be deemed unfair or unconscionable whenever the producer, manufacturer, distributor, supplier or seller, by taking advantage of the consumer's physical or mental infirmity, ignorance, illiteracy, lack of time or the general conditions of the environment or surroundings, induces the consumer to enter into a sales or lease transaction grossly inimical to the interests of the consumer or grossly one-sided in favor of the producer, manufacturer, distributor, supplier or seller.

This provision also suggests some factors to consider when determining the existence of an unfair and unconscionable act or practice:

> In determining whether an act or practice is unfair and unconscionable, the following circumstances shall be considered:
>
> a) that the producer, manufacturer, distributor, supplier or seller took advantage of the inability of the consumer to reasonably protect his interest because of his inability to understand the language of an agreement, or similar factors;
>
> b) that when the consumer transaction was entered into, the price grossly exceeded the price at which similar products or services were readily obtainable in similar transaction by like consumers;
>
> c) that when the consumer transaction was entered into, the consumer was unable to receive a substantial benefit from the subject of the transaction;
>
> d) that when the consumer transaction was entered into, the seller or supplier was aware that there was no reasonable probability or payment of the obligation in full by the consumer; and
>
> e) that the transaction that the seller or supplier induced the consumer to enter into was excessively one-sided in favor of the seller or supplier.

This provision is found in the chapter dealing with deceptive, unfair, and unconscionable sales acts or practices,[88] under which the law, in Article 48, recognizes the State policy to "promote and encourage fair, honest and equitable relations among parties in consumer transactions and protect the consumer against deceptive, unfair and unconscionable sales acts or practices."

Thus, the law recognizes that the consumer does not have the same access to information that the seller has. Leaving consumers to the predatory tactics of unscrupulous sellers would retard, rather than enhance, the benefits of an economic market. This asymmetry of information is a market imperfection that cannot be corrected without government intervention. Government intervention, then, is justified.

Profiteering is a specific, more insidious form of unscrupulous business practice in relation only to basic necessities and prime commodities. It makes its impact most heavily on the more vulnerable sectors of our economy.

Petitioner essentially believes that the threat of being charged with profiteering is a sword of Damocles to coerce sellers to cooperate with pricing demands from the Department of Trade and Industry. This allegedly violates

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[88] Republic Act No. 7394 (1992), Title III, Chapter 1.

the *laissez-faire* principle, which petitioner believes to be adopted by the Constitution.[89] Petitioner also maintains that the Department of Trade and Industry and the Bureau of Trade Regulations and Consumer Protection have no power to question the pricing of private entities.[90]

This appreciation of the Philippine legal economic framework is incorrect. The Constitution is not made up of neoclassical economics. It is the basic law.

The *laissez-faire* principle may appear to be included in Article II of the Constitution, Section 20 of which provides:

> SECTION 20. The State recognizes the indispensable role of the private sector, encourages private enterprise, and provides incentives to needed investments.

But just as the Constitution recognizes the private sector and provides incentives for private enterprise, it also gives the highest priority to social justice and human rights. Article XIII, Section 1 of the Constitution mandates Congress as such:

> SECTION 1. The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good.

Reading these provisions together reveals that the main rationale of Article II, Section 20 is not to give large and powerful actors free reign, but to acknowledge their role in achieving social justice. It is to that extent, and to that end, that the free market is considered within our legal system.

In a perfect world, as contemplated by neoclassical economists, a buyer and a seller transact based on perfect information, in a market with no structural imperfections: The price reflects the value of collective utility, collective costs, and efficiency; parties transact with the possibility of refusing the transaction and availing a substitute product.

But a perfect market does not exist. The self-correcting mechanisms of a free market are illusory: They do not take effect rapidly enough to avoid damage to the poorer sectors of an economy; they do not correct sufficiently due to market imperfections or realities in the market structure.

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[89] *Id.* at 384.

[90] *Id.* at 396.

Even the government does not have perfect information. The most it can do is correct obvious and uncontested market imperfections, or intervene during emergencies, where need and profiteering are the highest. We cannot assume that the government does not have its imperfections, or that its agents are subject to the same laws of behavior as the market.

The Constitution recognizes this reality. It is, therefore, not infected with the abstract and simplified theoretical constructs of the illusory free market, or the neoclassical economist's framework.

In *J.M. Tuason & Co., Inc. v. Land Tenure Administration*,[91] this Court extensively explained that the Constitution rejects the *laissez-faire* principle:

> The more fundamental reason though why we find ourselves unable to yield deference to such opinion of Justice Montemayor, well-written and tightly-reasoned as it is, is its undue stress on property rights. It thus appears then that it failed to take into account the greater awareness exhibited by the framers of our Constitution of the social forces at work when they drafted the fundamental law. To be more specific, they were seriously concerned with the grave problems of inequality of wealth, with its highly divisive tendency, resulting in the generous scope accorded the police power and eminent domain prerogatives of the state, even if the exercise thereof would cover terrain previously thought of as beyond state control, to promote social justice and the general welfare.
>
> This is not to say of course that property rights are disregarded. This is merely to emphasize that the philosophy of our Constitution embodying as it does what Justice Laurel referred to as its "nationalistic and socialist traits discoverable upon even a sudden dip into a variety of [its] provisions" although not extending as far as the "destruction or annihilation" of the rights to property, negates the postulate which at one time reigned supreme in American constitutional law as to their well-nigh inviolable character. This is not so under our Constitution, which rejects the doctrine of *laissez faire with its abhorrence for the least interference with the autonomy supposed to be enjoyed by the property owner. Laissez faire, as Justice Malcolm pointed out as far back as 1919, did not take too firm a foothold in our jurisprudence.* Our Constitution is much more explicit. There is no room for it for *laissez faire. So Justice Laurel affirmed not only in the above opinion but in another concurring opinion quoted with approval in at least two of our subsequent decisions.* We had occasion to reiterate such a view in the ACCFA case, decided barely two months ago.
>
> This particular grant of authority to Congress authorizing the expropriation of land is a clear manifestation of such a policy that finds expression in our fundamental law. So is the social justice principle enshrined in the Constitution of which it is an expression, as so clearly pointed out in the respective dissenting opinions of Justice J.B.L. Reyes and Chief Justice Paras in the Baylosis case. Why it should be thus is so plausibly set forth in the ACCFA decision, the opinion being penned by Justice Makalintal. We quote: "The growing complexities of modern society, however, have rendered this traditional classification of the

[91] 142 Phil. 393 (1970) [Per J. Fernando, Second Division].

functions of government quite unrealistic, not to say obsolete. The areas which used to be left to private enterprise and initiative and which the government was called upon to enter optionally, and only 'because it was better equipped to administer for the public welfare than is any private individual or group of individuals,' continue to lose their well-defined boundaries and to be absorbed within activities that the government must undertake in its sovereign capacity if it is to meet the increasing social challenges of the times. Here as almost everywhere else the tendency is undoubtedly towards a greater socialization of economic forces. Here of course this development was envisioned, indeed adopted as a national policy, by the Constitution itself in its declaration of principle concerning the promotion of social justice."[92] (Emphasis supplied, citations omitted)

Similarly, in *Philippine Association of Service Exporters, Inc. v. Drilon*,[93] this Court again said that the *laissez-faire* principle is not controlling in our jurisdiction. It alluded to the goals of social justice as the higher purposes of the State:

> The non-impairment clause of the Constitution, invoked by the petitioner, must yield to the loftier purposes targetted [sic] by the Government. Freedom of contract and enterprise, like all other freedoms, is not free from restrictions, more so in this jurisdiction, where *laissez faire has never been fully accepted as a controlling economic way of life*.
>
> This Court understands the grave implications the questioned Order has on the business of recruitment. The concern of the Government, however, is not necessarily to maintain profits of business firms. In the ordinary sequence of events, it is profits that suffer as a result of Government regulation. The interest of the State is to provide a decent living to its citizens. The Government has convinced the Court in this case that this is its intent. We do not find the impugned Order to be tainted with a grave abuse of discretion to warrant the extraordinary relief prayed for.[94] (Emphasis supplied, citation omitted)

In *Marine Radio Communications Association of the Philippines, Inc. v. Reyes*,[95] this Court explained the *laissez-faire* principle vis-à-vis the Constitution, relating the provisions on the private sector back to the requirements of social justice:

> The novel provisions of the Charter prescribing private sector participation, especially in the field of economic activity, come, indeed, no more as responses to State monopoly of economic forces which has unfairly kept individual initiative from the economic processes and has held back competitiveness in the market. The Constitution does not bar, however, the Government from undertaking its own initiatives, especially in the domain of public service, and neither does it repudiate its primacy as chief economic caretaker of the nation.

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[92] *Id.* at 412–414.
[93] 246 Phil. 393 (1988) [Per J. Sarmiento, *En Banc*].
[94] *Id.* at 406.
[95] 269 Phil. 210 (1990) [Per J. Sarmiento, *En Banc*].

The principle of *laissez faire* has long been denied validity in this jurisdiction. In 1969, the Court promulgated *Agricultural Credit and Cooperative Financing Administration v. Confederation of Unions in Government Corporations and Offices*, where it was held:

. . . .

. . . The areas which used to be left to private enterprise and initiative and which the government was called upon to enter optionally, and only "because it was better equipped to administer for the public welfare than in any private individual or group of individuals," continue to lose their well-defined boundaries and to be absorbed within activities that the government must undertake in its sovereign capacity if it is to meet the increasing social challenges of the times. Here as almost everywhere else the tendency is undoubtedly towards a greater socialization of economic forces. Here of course this development was envisioned, indeed adopted as a national policy, by the Constitution itself in its declaration of principle concerning the promotion of social justice.

The requirements of social justice and the necessity for a redistribution of the national wealth and economic opportunity find in fact a greater emphasis in the 1987 Constitution, notwithstanding the novel concepts inscribed there. And two decades after this Court wrote it, ACCFA's message remains the same and its lesson holds true as ever.[96] (Citations omitted)

Far from embracing the doctrine of *laissez-faire*, the Constitution has enshrined a policy of protecting human rights and social justice, with a view toward rising productivity, full employment,[97] and improving the quality of life of the people.[98]

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[96] *Id.* at 216–217.

[97] CONST., art. XIII, sec. 3 provides:
Labor
Section 3. The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.
It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law.
The State shall promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes, including conciliation, and shall enforce their mutual compliance therewith to foster industrial peace.
The State shall regulate the relations between workers and employers, recognizing the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns on investments, and to expansion and growth.

[98] CONST., art. XII, sec. 1 provides:
National Economy and Patrimony
Section 1. The goals of the national economy are a more equitable distribution of opportunities, income, and wealth; a sustained increase in the amount of goods and services produced by the nation for the benefit of the people; and an expanding productivity as the key to raising the quality of life for all, especially the underprivileged.
The State shall promote industrialization and full employment based on sound agricultural development and agrarian reform, through industries that make full and efficient use of human and natural resources, and which are competitive in both domestic and foreign markets. However, the State shall protect Filipino enterprises against unfair foreign competition and trade practices.
In the pursuit of these goals, all sectors of the economy and all regions of the country shall be given optimum opportunity to develop. Private enterprises, including corporations, cooperatives, and similar

Thus, while the State policy is to establish a free market, it is a free market that regulates itself and is socially conscious, among others.[99] "A 'free market' that is not a 'fair market' is not truly free."[100] Therefore, the goal of law is not only to protect the free market, but to promote efficiency and an egalitarian economic structure. The law may provide an additional set of incentives that harnesses the entrepreneurial spirit to pursue nobler goals.

This Court is aware of additional costs to business enterprises as they comply with the requirements of regulation.

Regulatory costs, or the business costs of compliance, are not per se evil. Neither are they per se inefficient. In an environment marked by disparate power between sellers and consumers, asymmetries of information, and the ever-increasing possibility for abuse of market dominance and anti-competitive behavior, regulatory costs contribute to the assurance of efficiency. It is also a cost, properly borne by its most capable market actors—the producers themselves—to assure that the economic structure is appropriate to our domestic market: evolving sustainable demand for products needed by the majority. By doing so, we come closer to the constitutional ideal of a national economy with a more equitable distribution of opportunities, income, and wealth, enjoying a sustained increase in the goods and services produced by the nation for the benefit of the people.

ACCORDINGLY, the Petition for Review on *Certiorari* is **DENIED**. The Regional Trial Court's April 3, 2012 Decision in Civil Case No. 72854 is **AFFIRMED**.

SO ORDERED.

MARVIC M.V.F. LEONEN
Senior Associate Justice

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collective organizations, shall be encouraged to broaden the base of their ownership.

99 Republic Act No. 8799 (2000), The Securities Regulation Code.

100 *Securities and Exchange Commission v. Interport Resources Corporation*, 588 Phil. 651, 723 (2008) [Per J. Chico-Nazario, *En Banc*].

WE CONCUR:

See concurring opinion

ALEXANDER G. GESMUNDO
Chief Justice

See Concurring & Dissenting

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

With Concurrence & Dissent

AMY C. LAZARO-JAVIER
Associate Justice

With concurring and dissenting opinion

HENRI JEAN PAUL B. INTING
Associate Justice

I join the Concurring Opinion of the Chief Justice.

RODIL V. ZALAMEDA
Associate Justice

MARIO V. LOPEZ
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

On official leave

RICARDO R. ROSARIO
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

JAPAR B. DIMAAMPAO
Associate Justice

JOSE MIDAS P. MARQUEZ
Associate Justice

ANTONIO T. KHO JR.
Associate Justice

MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the court.

ALEXANDER G. GESMUNDO
Chief Justice