



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **January 25, 2023** which reads as follows:*

“G.R. No. 258999 – (THE OFFICE OF THE SECRETARY OF TRADE AND INDUSTRY, Petitioner, v. HYUNDAI PASIG [BONIFACIO MOTORS], INC., Respondent). – This Petition for Review on *Certiorari* assails the following dispositions of the Court of Appeals in CA-G.R. SP No. 154678:

1. Decision¹ dated August 24, 2020, which struck down Section 3, Article IV of Department Administrative Order No. 06, Series of 2007 (DAO 06-07) of the Department of Trade and Industry (DTI) and nullified the Decision² dated January 23, 2018 of the DTI Secretary insofar as it imposed on respondent Hyundai Pasig (Bonifacio Motors), Inc. (Hyundai Pasig) an administrative fine, the amount of which was ordered to correspond to the amount of its business capitalization; and

2. Resolution³ dated October 5, 2021 which denied petitioner’s subsequent partial motion for reconsideration.

Redentor Torreno (Torreno) purchased a brand new Hyundai Grand Starex van from Hyundai Pasig under a Hyundai New Vehicle Limited Warranty.⁴

But after only posting a 1,000 kilometer mileage, the vehicle got stalled twice already. Hyundai Pasig blamed it on the set of Nikko brand horns which Torreno himself allegedly requested to be installed in the vehicle. Since this accessory was not a genuine Hyundai accessory, the same was not covered by the warranty.⁵

¹ *Rollo*, p. 69-85. Penned by Associate Justice Eduardo B. Peralta, Jr. and concurred in by Associate Justices Remedios A. Salazar-Fernando and Louis P. Acosta of the First Division, Court of Appeals, Manila.

² *Id.* at 72.

³ *Id.* at 88-92.

⁴ *Id.* at 45.

⁵ *Id.*

Despite running several tests on the vehicle though, the defect was not resolved. Thus, Torreno demanded for a brand-new vehicle as replacement. When Hyundai Pasig refused, he filed a complaint before the DTI for violation of Republic Act No. 7394 or The Consumer Act of the Philippines.⁶

After due proceedings, DTI found Hyundai Pasig liable for violation of the Consumer Act.⁷ On appeal, the DTI Appeals Committee set aside the aforesaid ruling and referred the case to the Adjudication Officer for the purpose of having the vehicle tested by an independent expert, and the case, resolved anew.⁸

In compliance, the Adjudication Officer designated Freddie Ocato (Ocato), a DTI technical expert, to do the tests on the car. After the procedure, Ocato opined that it was the defective installation of the Nikko horns which caused the vehicle to often stall. Obviously, Hyundai Pasig technicians failed to install the correct cord wiring to accommodate the increased power supply required by the Nikko horns. Thus, under Resolution dated November 11, 2014,⁹ the Adjudication Officer directed Hyundai Pasig to correct the erroneous installation at no cost to Torreno.¹⁰ But since Torreno insisted on the replacement of the vehicle, he appealed to the Office of the DTI Secretary.¹¹

Ruling of the DTI Secretary

By Decision¹² dated January 23, 2018, the DTI Secretary resolved, as follows, *viz*:

WHEREFORE, premises considered, the assailed Decision is hereby modified to state as follows:

“WHEREFORE, the above premises considered, this Office rules in favor of the Complainant. Respondent BMI is hereby liable to render proper performance in the installation of the Nikko horns without further costs to the Complainant except for cost of materials. Pursuant to Article 102 of the Consumer Act, reperformance of services may be entrusted to duly qualified third parties at Respondent BMI’s risk and cost.

Hence, Respondent BMI is hereby ordered to return the Subject Vehicle to the Complainant without cost after rendering the proper performance in the installation of the Nikko horns.

⁶ Id.

⁷ Id. at 46.

⁸ Id.

⁹ Id.

¹⁰ Id.

¹¹ Id.

¹² Id. at 72.

Moreover, the parties shall bear their own expenses for the cost of actual inspection conducted on 16 May 2014.

Further, due to the violation of Articles 99 and 102 of the Consumer Act by Respondent BMI, Respondent BMI is directed to submit its latest Articles of Incorporation or equivalent evidence indicating its capitalization within fifteen (15) days from receipt hereof due to the fact that administrative fines are based on capitalization pursuant to Department Administrative Order No. 06, Series of 2007, should Respondent BMI fail to do so within the directed fifteen (15) day period, it shall be liable to pay the maximum administrative fine of Php 300,000.00.”

SO ORDERED.

Aggrieved, Hyundai Pasig filed with the Court of Appeals a petition for *certiorari* charging the DTI Secretary with grave abuse of discretion when he: (1) affirmed that the company committed a mistake in the installation of the Nikko horns; and (2) imposed an administrative fine in proportion to the amount of its business capitalization pursuant to the invalid provision of Section 3, Article IV of DAO 06-07, *viz.*:¹³

Section 3. Schedule of fines for violation of the Consumer Act of the Philippines. In addition to all other requirements provided in this Order, the following schedule shall be applied in cases of violation of the (sic) R.A. 7394 as provided in Section 1, Article IV, except (1), and its implementing rules.

	Range of Capitalization (Php)	MINIMUM (Php)	MEDIUM (Php)	MAXIMUM (Php)
RETAILER	a. Below 20,000.00	500.00	1,000.00	1,500.00
	b. 20,000.00 to 100,000.00	20,000.00	30,000.00	40,000.00
	c. Above 100,000.00 to 300,000.00	40,000.00	50,000.00	60,000.00
	d. Above 300,000.00 to 500,000.00	60,000.00	70,000.00	80,000.00
	e. Above 500,000.00 to 1 Million	100,000.00	140,000.00	180,000.00
	f. Above 1 Million to 5 Million	120,000.00	160,000.00	200,000.00
	g. Above 5 Million to 10 Million	240,000.00	260,000.00	280,000.00
	h. Above 10 Million	280,000.00	290,000.00	300,000.00

¹³ Id. at 80.

WHOLESALE, DISTRIBUTOR, MANUFACTURER, IMPORTER	a. Below 500,000.00	60,000.00	70,000.00	80,000.00
	b. Above 500,000.00 to 1 Million	100,000.00	140,000.00	180,000.00
	c. Above 1 Million to 5 Million	120,000.00	160,000.00	200,000.00
	d. Above 5 Million to 10 Million	240,000.00	260,000.00	280,000.00
	e. Above 10 Million	280,000.00	290,000.00	300,000.00

This provision allegedly contravened Article 164(e) of the Consumer Act, which states:

ARTICLE 164. Sanctions. — After investigation, any of the following administrative penalties may be imposed even if not prayed for in the complaint:

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e) the imposition of administrative fines in such amount as deemed reasonable by the Secretary, which shall in no case be less than Five hundred pesos (P500.00) nor more than Three hundred thousand pesos (P300,000.00) depending on the gravity of the offense, and an additional fine of not more than One thousand pesos (P1,000.00) or each day of continuing violation.

Meanwhile, DTI riposted that a special civil action for *certiorari* is not the proper remedy to impugn the exercise of a quasi-legislative power of an administrative department. Too, the DTI Secretary's directive for the installation of the Nikko horns was within its powers under DAO No. 2, Series of 1993 pertinent to Hyundai Pasig's liability for service quality imperfection.¹⁴

Ruling of the Court of Appeals

By its assailed Decision¹⁵ dated August 24, 2020, the Court of Appeals ruled, thus:

¹⁴ DTI Department order No. 2, Series of 1993, Rule VII, Sec. 3 provides:

Rule VII. Liability for Service Quality Imperfection

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Section 3. Remedies of Consumers in Cases of Service Quality Imperfections and Improper Services.
– The consumer shall have the right to demand alternatively at his option the following from the supplier:

3.1 Proper performance of the service, where applicable without additional cost to the consumer;

¹⁵ *Rollo*, pp. 69-85.

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It will be readily observed that public respondent DTI, in implementing the relevant provision of RA 7394 on the imposition of administrative fines, pegged the amount thereof on business capitalization when the delegating law itself did not envisage a similar imposition as in fact the wording of Article 164 (e) of RA 7394 was so perspicuous that the penalty of fine was dependent solely on the gravity of the offense committed. And in the process of effecting execution of RA 7394, Article IV, Section 3 of DAO 06-07 **essentially concocted a novel classification based on business capitalization that was not otherwise contemplated in the very same statute it sought to interpret and implement.** Consequently, public respondent overshot the limits of its authority to promulgate and enforce rules and regulations by stretching the limpid language of RA 7394 on the imposition of administrative fines. It follows, as a necessary corollary, that Article IV, Section 3 of DAO 06-07 should be struck down as it obviously clashed with Article 164 (e) RA 7394. (emphasis supplied)

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WHEREFORE, premises considered, the instant Petition for Certiorari is **PARTLY GRANTED**. Hence, the DTI Secretary's Decision dated January 23, 2018 is hereby **ANNULLED** only insofar as DAO 06-07's imposition of an administrative fine based on business capitalization which directive is hereby declared **INVALID**.

SO ORDERED. ¹⁶

Petitioner's motion for partial reconsideration was subsequently denied under Resolution dated October 5, 2021.¹⁷

The Present Petition

The DTI now seeks affirmative relief insofar as the assailed dispositions nullified Section 3 of DAO 06-07 for being allegedly inconsistent with Article 164(e) of the Consumer Act.

First. Hyundai Pasig resorted to an improper remedy when it filed a petition for special civil action for *certiorari* before the Court of Appeals to nullify DAO 06-07. As a regulation issued by DTI in the performance of its quasi-legislative function, it should have been directly assailed in a proper judicial proceeding.¹⁸

¹⁶ Id. at 85.

¹⁷ Id. at 88-92.

¹⁸ Id. at 49.

Second. The direct resort to the Court of Appeals is a violation of the doctrine of hierarchy of courts.¹⁹

Third. Hyundai Pasig failed to file the requisite motion for reconsideration under Rule 65.²⁰

Finally. DTI issued DAO 06-07 in the exercise of its rule-making power under Section 3,²¹ Chapter 1, Title X of Executive Order No. 292 (EO 292).²²

In its Comment,²³ Hyundai Pasig defends the assailed dispositions of the Court of Appeals ruling. Nowhere in the Consumer Act provides that the penalty of fine should be determined based on the business capitalization of the company charged with the violation.

Our Ruling

We affirm.

At the threshold, Hyundai Pasig correctly availed of the special civil action for *certiorari* when it sought to nullify the assailed Decision of the DTI Secretary in accordance with Section 2, Rule XV of DTI DAO 07-06, *viz.*:

Section 2. Decision on Appeal. -- The Secretary shall decide the said appeal within thirty (30) days from receipt hereof. His decision on the appeal shall become final and executory if no further appeal is made within the reglementary period provided by law, as follows:

- a. If the case falls under the **Consumer Act** (where the complainant is a consumer), the **further appeal shall be by way of certiorari to the Court of Appeals, pursuant to Section 4, Rule 65 of the Revised Rules of Court**, which must be filed by the appellant within sixty (60) days from receipt of the decision to be assailed in the Court of Appeals.

¹⁹ Id. at 53.

²⁰ Id. at 49.

²¹ **SECTION 3. Powers and Functions.** — The Department of Trade and Industry shall:

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(18) Prescribe and enforce compliance with such rules and regulations as may be necessary to implement the intent and provisions of this Code, which rules and regulations shall take effect fifteen (15) days following their publication in the Official Gazette; and

(19) Perform such other functions as may be necessary or incidental in carrying into effect the provisions of this Code and as may be provided by law.

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²² *Rollo*, p. 56.

²³ Comment (To Petition for Review on *Certiorari* dated September 30, 2022), pp. 1–5.

- b. If the case falls under any Trade and Industry Law (E.O. 913) or under the Price Act and its IRR, the further appeal shall be made to either:
 1. The Office of the President; or the
 2. Court of Appeals under Rule 43 of the Revised Rules of Court. (Emphasis supplied)

Too, the issue raised before the Court of Appeals whether Section 3, Article IV of DAO 06-07 contravenes the Consumers Act is a question of law. Hence, a motion for reconsideration was not a condition *sine qua non* to the filing of the petition for *certiorari* in this case.²⁴ More, since the petition was filed with the Court of Appeals in accordance with DAO 07-06, there is no violation of the principle of the hierarchy of courts.

Finally, the Court of Appeals had jurisdiction to pass upon the validity of Section 3, Article IV of DAO 06-07.

Aside from DAO 07-06, Section 1, Article VIII of the Constitution ordains:

Section 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

The Court of Appeals, therefore, is statutorily and constitutionally mandated to review the validity of Section 3, Article IV of DAO 06-07 as an administrative issuance. As it was, Hyundai Pasig questioned the validity of Section 3, Article IV of DAO 06-07 for the first time on *certiorari* before the Court of Appeals. Consistent with prevailing jurisprudence though, such is deemed a direct action, not just a collateral attack.

In *Palencia v. People*,²⁵ petitioner questioned the constitutionality of Section 11 of the Comprehensive Dangerous Drugs Act of 2002 and Section 21 (a) of its Implementing Rules and Regulations. He claimed that the implementing rules “trivialized the rigid requirements of the ‘chain of custody’ rule.” Nonetheless, the Court considered the petition assailing the constitutionality of the said provisions of the law, though raised for the first time on appeal, to be a proper and timely direct action.

²⁴ *Steelweld Construction v. Echano*, G.R. No. 200986, September 29, 2021.

²⁵ G.R. No. 219560, July 1, 2020, citing *Tan v. Bausch & Lomb, Inc.*, 514 Phil. 307 (2005) [Per *J. Corona*, Third Division].

On this score, the DTI itself does not refute the fact that Section 3 of DAO 06-07, insofar as it fixes the amounts of fine based on the business capitalization of the erring service or product provider, substantially varies from the amounts of fine fixed by Article 164(e) of the Consumer Act based on the gravity of the offense. Indeed, there is no question as to the rule-making power of DTI pursuant to EO 292. It, nonetheless, committed grave abuse of discretion when it came out with Section 3 of DAO 06-07 prescribing its own schedule of fines based on an entirely different standard than that prescribed by law. Hence, the Court of Appeals correctly ruled that Section 3 of DAO 06-07 is void for being *ultra vires*.

Laws, as well as issuances promulgated to implement them, enjoy the presumption of validity. **Administrative regulations that alter or amend the statute or enlarge or impair its scope, however, are void, and courts not only may, but it is their obligation to strike down such regulations.**²⁶

In *DAR v. Carriedo*,²⁷ the Court declared as void for being *ultra vires* Item No. 4 of DAR AO 05-06 governing the acquisition and distribution of agricultural lands subject of conveyances. It ruled that this provision attempted to defeat certain provisions of Republic Act No. 6657, specifically Sections 6 and 70 of the same law.

All told, the Court of Appeals did not commit reversible error when it nullified Section 3 of DAO 06-07 insofar as it invalidly prescribes a schedule of fines based on business capitalization, as well as the assailed Decision dated January 23, 2018 imposing such fine on Hyundai Pasig.

FOR THESE REASONS, the petition is **DENIED**. The Decision dated August 24, 2020 and Resolution dated October 5, 2021 of the Court of Appeals in CA-G.R. SP No. 154678 are **AFFIRMED**.

The copies of the Resolution dated July 18, 2022 and September 19, 2022 sent to GC Law which were returned to the Court with notation "Return to Sender, Deceased" are both deemed served.

SO ORDERED."

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court
22 NOV 2023

²⁶ *Department of Agrarian Reform v. Carriedo*, 778 Phil. 656, 631 (2016).

²⁷ *Id.*

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