Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

ALLIANCE OF NON-LIFE INSURANCE WORKERS OF THE PHILIPPINES, REPRESENTED BY JUBERT MAUN AS PRESIDENT, BUKLURAN NG MANGGAGAWA NA UMAASA SA INDUSTRIYA NG SEGURO (BMIS) INC., REPRESENTED BY SALVADOR NAVIDAD AS PRESIDENT, MOVEMENT FOR THE UPLIFTMENT OF NON-LIFE INSURANCE, INC. (MUNLI), REPRESENTED BY JESUS S. SEVILLA AS CHAIRMAN OF THE BOARD,

Petitioners,

-versus-

HON. LEANDRO R. MENDOZA, AS SECRETARY, DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS, HON. REYNALDO I. BERROYA AS FORMER CHIEF, LAND TRANSPORTATION OFFICE, HON. ALBERTO SUANSING AS CHIEF, LAND TRANSPORTATION OFFICE, AND STRADCOM CORPORATION,

Respondents.

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G.R. No. 206159

Present:

LEONEN, *J., Chairperson,*
GESMUNDO,
CARANDANG,
ZALAMEDA, and
GAERLAN, *JJ.*

Promulgated:
August 26, 2020

DECISION

LEONEN, *J.*:

An implied repeal will only be sustained upon a showing of a law-making body's manifest intention that the later regulation supersedes an earlier one. Necessarily, the enactment of the superseding regulation which repeals an earlier regulation subject of a court action moots the case.

This resolves the Petition for Review on Certiorari[1] filed by Alliance of Non-Life Insurance Workers of the Philippines (Alliance), Bukluran ng Manggagawa na Umaasa sa Industriya ng Seguro Inc. (BMIS), and Movement for the Upliftment of Non-Life Insurance, Inc. (MUNLI) assailing the Court of Appeals' dismissal[2] of their Petition for Certiorari, and questioning the validity of Department of Transportation and Communications (DOTC) Department Order No. 2007-28 providing for the integration of the issuance and payment of Compulsory Third Party Liability Insurance (CTPL Insurance) with the Land Transportation Office (LTO).

On July 5, 2007, DOTC issued Department Order No. 2007-28 (DO No. 2007-28) entitled "Rules and Regulations on the Integration of the Issuance and Payment of Compulsory Third Party Liability Insurance with the Land Transportation Office."

The department order sought to eliminate the proliferation of fake and fraudulent CTPL Insurance involved in the registration of motor vehicles. DO No. 2007-28 was published on July 6, 2007 and a copy of it was then filed before the University of the Philippines Law Center.[3]

Under DO No. 2007-28, the CTPL Insurance is automatically issued upon the registration of a motor vehicle or its renewal in the LTO. The issuance and payment of the CTPL Insurance is integrated with the Land Transportation Office Information Technology (LTO IT) System created by Stradcom Corporation (Stradcom):

> 1.0. SCOPE
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> 1.1. This Department Order promulgates the rules and regulations covering the integration of the issuance and payment of CTPL insurance with the LTO IT Project's systems and database. This program

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1 *Rollo*, pp. 31–91.

2 Id. at 11–23. The May 24, 2012 Decision was penned by Associate Justice Socorro B. Inting and concurred in by Associate Justices Fernanda Lampas Peralta and Mario V. Lopez of the Eleventh Division of the Court of Appeals, Manila.

3 Id. at 394.

shall otherwise be known as the "INTEGRATED CTPL INSURANCE PROGRAM."

> 1.2. These rules and regulations describe the objectives, criteria, structure, guidelines and procedures primarily designed to ensure the efficient and effective implementation of the INTEGRATED CTPL INSURANCE PROGRAM.

. . . .

4.0. APPLIED CRITERIA IN THE ESTABLISHMENT OF THE INTEGRATED CTPL INSURANCE PROGRAM

To assure the public that the foregoing objectives for the establishment of the INTEGRATED CTPL INSURANCE PROGRAM are fully satisfied, LTO IT System through STRADCOM is hereby directed to apply the following criteria:

> 4.1. Online and real-time interconnection with the LTO IT Project's Motor Vehicle Registration System (MVRS) and Revenue Collection System (RCS), and their corresponding database;
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> 4.2. There shall be no human intervention in computing the CTPL Insurance. Likewise, the system must not have an edit [sic] capability to edit the computation of CTPL insurance premiums.
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> 4.3. The system shall be capable of computing taxes due on CTPL insurance policies such as Value Added Tax (VAT), Documentary Stamp Tax (DST), and business taxes imposed by local government units.
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> 4.4. Period of validity of the CTPL shall be displayed in LTO official receipt (OR) to ensure that the registered vehicles are covered by authentic insurance policies.
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> 4.5. The system shall be capable of generating reports related to the CTPL insurance transactions.
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> 4.6. The system shall be capable of generating fixed length text file that will be uploaded to the Insurance Provider. The text file shall contain insurance data to be used in processing of claims.

5.0. IMPLEMENTATION OF THE INTEGRATED CTPL INSURANCE PROGRAM

> 5.1. The DOTC/LTO shall be the lead agency in the implementation of the Integrated CTPL Insurance Program nationwide. It shall formulate and prescribe policy guidelines for the transparent, efficient and effective implementation of the Integrated CTPL Insurance Program.
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> 5.2. The Integrated CTPL Insurance Program shall be implemented wherein the issuance and payment of CTPL

Insurance is integrated with the LTO IT Project's Motor Vehicle Registration System (MVRS) and Revenue Collection System (RCS).

5.3. STRADCOM, being the proponent for the LTO IT Project, shall be tasked with developing, implementing, operating and maintaining the online and real-time interconnection of the Insurance Provider with the LTO IT Project's MVRS, RCS and their corresponding database (the "Interconnectivity"). STRADCOM shall also provide necessary technical support in the implementation of the INTEGRATED CTPL INSURANCE PROGRAM.

5.3.1. In consideration for the Interconnectivity, STRADCOM shall be entitled to collect and be paid an Interconnectivity Fee for each CTPL insurance issued for the entire duration or effectivity of its agreement with the DOTC/LTO and the Insurance Provider. The Interconnectivity Fee shall be mutually agreed upon by the Insurance Provider and STRADCOM. The sharing scheme for Interconnectivity Transactions shall be mutually agreed upon by DOTC/LTO and STRADCOM.

5.3.2. DOTC/LTO, the Insurance provider, and STRADCOM shall jointly agree on the manner of remittance of all collections relative to the paid CTPL insurance policies.

5.4. In order to satisfy the objectives set forth in Section 3.0; and, applying the criteria provided for in Section 4.0 hereof, the following guidelines and procedures shall be observed:

5.4.1. Issuance of CTPL Insurance Policy

1. CTPL insurance policies are automatically issued at the LTO District Officers using the LTO IT Project's MVRS during registration or renewal of registration. This eliminates work step for the transacting public which no longer have to purchase CTPL insurance policy separately.

2. A motor vehicle registrant will no longer be required to present a policy since purchase of CTPL insurance is simultaneously processed during motor vehicle registration.

3. The effectivity and validity of CTPL insurance must conform to the existing rules and regulations of the LTO and the

Insurance Code.

5.4.2. Premium Computation

To safeguard against risk of buying wrong policy or overpaying premiums, computation of the cost of CTPL insurance premium shall be automatically computed by the LTO IT Project's MVRS based on the following:

1. Motor vehicle description such as, but not limited to, gross vehicle weight, classification, and type; and,

2. Insurance Commission approved motor rates, terms and conditions.

5.4.3. Payment of Insurance Premium

1. The LTO cashier collects the insurance premium together with the registration fees using the LTO IT Project's RCS during registration or renewal of registration.

2. Proof of insurance coverage shall be indicated in the LTO Official Receipt (OR) of Registration. This ensures that registered vehicles are covered by valid and authentic insurance policies and thus assure protection of the public from fake or duplicate CTPL insurance policies.

3. LTO OR shall also indicate the period of validity of the insurance.

5.4.4. Tax Computation and Collection

1. The computation of applicable national and local government taxes on CTPL insurance policies must be consistent with the existing laws, rules and regulations.

2. Taxes due on CTPL insurance policies corresponding to the Value Added Tax (VAT) and Documentary Stamp Tax (DST), as well as business taxes imposable by local government units under the Local Government Code on insurance premiums, shall be automatically computed by the LTO IT Project's MVRS.

3. In addition to the insurance premium and the registration fees, the LTO cashier

collects taxes due on CTPL insurance policies/premiums using the LTO IT Project's RCS.

5.4.5. Premium and Taxes Remittance

1. Taxes due on CTPL insurance policies corresponding to the VAT and DST shall be deposited directly to the depository account of the Bureau of Internal Revenue (BIR) which shall be considered upon fact of deposit as paid. This ensures proper collection and remittance of correct taxes to the national government.

2. Local Government taxes imposed by local government units under the Local Government Code on insurance premiums shall be deposited directly to the depository account of the Insurance Provider, who will be responsible for its remittance to the appropriate authority.

5.4.6. Claims Process and Assistance

1. To ensure ready access to claims service, the Insurance Provider shall provide and make available 24/7 a facility to receive notices of claim either by call or through Short Messaging Service (SMS) and to assign an accredited adjuster closest to the location of the claimant. Claims may also be filed and settled at all branches of the Insurance Provider and its nationwide offices at standard documentation and claims procedure.

2. The Insurance Provider shall be responsible in disseminating to the public all of the proper steps of procedures in applying for CTPL insurance claims.[4]

On July 7, 2008, Alliance, BMIS, and MUNLI filed a Petition before the Court of Appeals docketed as CA-G.R. SP No. 104211, which is the precedent of the present case.

On September 1, 2008, the Government Insurance Service System (GSIS) intervened and filed its Comment. It alleged that aside from the present petition, at least five (5) different cases have been filed in other courts:[5]

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4 Id. at 169–175.
5 Id. at 15–16.

Case No.	Petitioners/Complainants	Respondents	Status
Petition for Certiorari with prayer for issuance of TRO docketed as CA G.R. SP No. 99791[6]	Alliance, BMIS, Florita L. Suba, Miraflor C. Garcia	DOTC Secretary Leandro R. Mendoza (Secretary Mendoza), LTO Chief Reynaldo Berroya (Chief Berroya), GSIS President Winston Garcia (President Garcia), Stradcom	Petition was withdrawn[7] which was approved by the Court of Appeals on August 31, 2007.[8]
Petition for Certiorari and Prohibition with prayer for TRO and WPI docketed SCA No. 07-673 in RTC Makati City, Branch 45[9]	Philippine Insurers and Reinsurers Association Incorporated (PIRA)	DOTC, LTO, Insurance Commission, GSIS as intervenor	Petition was dismissed in the Order dated June 24, 2008 for being improperly filed under Rule 65 of the Rules of Court.[10]
Petition for Certiorari and Prohibition with prayer for TRO and WPI docketed as CA G.R. SP No. 99992[11]	MUNLI	DOTC Secretary Mendoza and LTO Chief Berroya	Dismissed in the Resolution dated August 13, 2007 for failure to exhaust administrative remedies[12]
Civil Case No. MC-08-3660 before RTC	Belinda Martizano	DOTC, LTO, GSIS, Stradcom, Insurance	Dismissed for *litis pendentia*,

6 Id. at 424–446.
7 Id. at 449–450.
8 Id. at 451–453.
9 *See rollo* pp. 454–462.
10 Id. at 454–462.
11 Id. at 463–498.
12 Id. at 499–500.

Mandaluyong City[13]		Commission	pending review before the Court of Appeals docketed as CA G.R. SP No. 105674[14]
Petition for Declaration of Nulity filed before RTC Pasay City Branch 117 and docketed as SCA R-PSY-08-06714-CV[15]	Marissa I. Rafael	DOTC Secretary Mendoza, LTO Chief Alberto Suansing (Chief Suansing), GSIS President Garcia, Stradcom	The case was dismissed for failure to exhaust administrative remedies.[16]

On September 22, 2008, the Office of Solicitor General filed its Comment.[17]

On October 24, 2008, the Court of Appeals granted a writ of preliminary injunction against the implementation of DO No. 2007-28 in CA G.R. SP No. 104211.[18]

On November 6, 2008, DOTC, through Secretary Mendoza, filed a Petition for Certiorari before this Court, assailing the issuance of the writ of preliminary injunction on the implementation of DO No. 2007-28.[19]

On May 24, 2012, the Court of Appeals eventually dismissed the Petition for Certiorari after finding the existence of forum shopping, prematurity, and lack of cause of action.[20]

The Court of Appeals noted other pending cases filed before the Regional Trial Court of Makati. It held that all the elements of forum shopping existed. Alliance and MUNLI are parties in the cases docketed as

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13 Id. at 765.
14 Id.
15 Id. at 766.
16 Id.
17 Id. at 17.
18 Id. at 18.
19 Id.
20 Id. at 11–24. The May 24, 2012 Decision was penned by Associate Justice Socorro B. Inting and concurred in by Associate Justices Fernanda Lampas Peralta and Mario V. Lopez (now a Member of this Court) of the Eleventh Division of the Court of Appeals, Manila.

CA G.R. SP. No. 99791 and CA G.R. SP. No. 99992 pending before the Court of Appeals.[21]

Further, Alliance also shares a "common interest" with PIRA in a case that it filed before the Makati City Regional Trial Court, and docketed as SCA 07-673.[22] In these cases, Alliance and MUNLI "sought for the nullification of DO No. 2007-28" using the same grounds they used in the Petition before the Court of Appeals.[23]

Both parties asserted the same rights and prayed for the reliefs in all these cases. Thus, judgment in any of the foregoing cases will amount to *res jusdicata*.

The Court of Appeals also held that petitioners Alliance, BMIS, and MUNLI availed of the wrong remedy in filing a Petition for Certiorari, because DO No. 2007-28 was issued pursuant to the DOTC's quasi-legislative powers. The proper remedy is an appeal before the Office of the President prior to seeking relief from the courts.[24]

On March 1, 2013, the Court of Appeals also denied their Motion for Reconsideration.[25]

On April 25, 2013, petitioners filed the present Petition.[26]

In a June 26, 2013 Resolution,[27] this Court: (1) noted the entry of appearance of Atty. Raymundo L. Apuhin as counsel for petitioners; (2) granted an extension of 30 days to file the instant Petition; and (3) required petitioners to submit their compliance.

On August 14, 2013, respondents' counsel filed a Notice of Change of Address.[28] On the same day, respondent Stradcom filed its Comment on the Petition.[29]

On September 10, 2013, petitioners submitted their Compliance with the June 26, 2013 Resolution, which this Court noted on September 25,

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21 Id. at 19.
22 Id.
23 Id. at 19–20.
24 Id. at 20–22.
25 Id. at 25–26. The March 1, 2013 Resolution was penned by Associate Justice Socorro B. Inting and concurred in by Associate Justices Fernanda Lampas Peralta and Mario V. Lopez of the Eleventh Division of the Court of Appeals.
26 Id. at 31–91.
27 Id. at 258.
28 Id. at 264–266.
29 Id. at 267–298.

2013.[30]

On October 18, 2013, the Office of the Solicitor General filed its Comment,[31] which this Court noted on January 13, 2014.[32]

On May 2, 2014, petitioners filed their Consolidated Reply,[33] which this Court noted on November 12, 2014.[34]

On June 22, 2015, this Court required the parties to file their respective memoranda.[35]

On September 8, 2015, respondent Stradcom submitted its memorandum.[36]

On October 6, 2015, petitioners filed their memorandum.[37]

On October 13, 2015, the Office of Solicitor General submitted respondents' memorandum.[38]

On November 9, 2015, this Court noted respondent Stradcom's submission of its memorandum.[39]

On March 9, 2016, GSIS filed a manifestation and motion for intervention, attaching its memorandum,[40] which this Court granted on May 30, 2016.[41]

On January 9, 2017, the Petition was transferred from the Second Division to the First Division.[42]

On July 31, 2017, the instant Petition was referred to the Raffle Committee.[43]

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30 Id. at 383–385.
31 Id. at 386–423.
32 Id. at 560.
33 Id. at 571–589.
34 Id. at 591–592.
35 Id. at 596–598.
36 Id. at 616–654.
37 Id. at 660–714.
38 Id. at 715–752.
39 Id. at 792.
40 Id. at 761–791.
41 Id. at 794–795.
42 Id. at 798.
43 Id. at 804.

On July 3, 2019, the instant Petition was again referred to the Raffle Committee after Associate Justice Henri Jean Paul B. Inting's inhibition.[44]

During the pendency of the present case, the Department of Transportation (DOTr) issued Department Order No. 020-18 on August 24, 2018 entitled, "Revised Guidelines on Mandatory Insurance Policies for Motor Vehicles and Personal Passenger Accident Insurance for Public Utility Vehicles" (Revised Guidelines). It issued the Revised Guidelines to "revamp the existing guidelines"[45] and recognize the sole and exclusive authority of the Insurance Commission in determining qualified insurance providers of Compulsory Motor Vehicle Liability Insurance and Passenger Personal Accident Insurance.[46]

The Revised Guidelines provides:

> SECTION 1. *Assessment & Evaluation.* — The determination, assessment and evaluation of the qualifications and requirements of insurance companies, joint ventures, or consortiums that are willing and capable to issue the Insurance Policies will henceforth be under the sole and exclusive authority of the Commission.
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> SECTION 2. *List of Qualified Insurers.* — Subject to existing guidelines, the LTO and LTFRB shall secure from the Commission the list of all qualified insurance companies, joint ventures, or consortiums (the "Qualified Insurers") which are authorized to issue the Insurance Policies in accordance with the insurance requirements set by LTO and LTFRB. The LTO and LTFRB shall secure an updated list of Qualified Insurers regularly and on a quarterly basis.
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> SECTION 3. *Posting of List & Issuance of Insurers.* — The LTO and LTFRB will post the list of Qualified Insurers in conspicuous places within the premises of their respective offices. The applicants are free to choose and secure the Insurance Policies from any of the Qualified Insurers, and all insurance premiums shall be strictly paid in the offices or authorized collection sites of the Qualified Insurers. The LTO and LTFRB will not issue any Certificate of Registration (COR) and/or Certificate of Public Convenience (CPC) unless the applicant has sufficiently shown that the Insurance Policies were secured only from the Qualified Insurers.
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> SECTION 4. *Prohibited Activities by Qualified Insurers.* — All Qualified Insurers are strictly prohibited —

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44 Id. at 805.

45 DOTr Department Order No. 20-18 (2018), Whereas Clauses.

46 The final perambulatory clause of Department Order No. 020-18 states:

> WHEREAS, in order to eradicate the foregoing unlawful practices, to remove the perception that LTO and LTFRB personnel are involved in illegal and corrupt activities, to finally rid the LTO and LTFRB from any form of proprietary interests arising from the issuance of the Insurance Policies, and to further serve the interest of public service, the Department of Transportation (DOTr) deems it best to revamp the existing guidelines and decide that the determination of duly qualified insurers who can provide the Insurance Policies be placed under the sole and exclusive authority of the Insurance Commission (the "Commission").

i.) To put up, establish or maintain any office, satellite or otherwise, inside the premises of the LTO and LTFRB;

ii.) To designate, appoint or maintain any officer, agent, representative or personnel tasked with selling insurance covers or collecting insurance premiums inside LTO and LTFRB premises; and

iii.) To give, distribute or display, inside the premises of the LTO and LTFRB, any form of giveaways or other propaganda materials, such as, but not limited to, calendars, journals, ballpens, brochures, cards, etc., that tend to advertise their respective insurance businesses.

SECTION 5. *Prohibited Activities by Government Personnel.* — All officers, employees or personnel of the DOTr, LTO and LTFRB are strictly prohibited —

i.) To allow, aid or abet, directly or indirectly, the commission of any of the prohibited activities under Sec. 4;

ii.) To endorse, favor or give any form of recommendation to applicants in behalf of any Qualified Insurer;

iii.) To sell insurance policies or collect premiums in behalf of any Qualified Insurer; and

iv.) To issue or furnish applicants with any list or document containing the names of insurers, other than the list of Qualified Insurers issued by the Commission.

SECTION 6. *Sanctions.* — Any Qualified Insurer who is found to have violated Sec. 4 will be permanently blacklisted from issuing the Insurance Policies, whether directly or indirectly, and will be disqualified from participating in other programs of the DOTr, LTO and LTFRB.

Any officer, employee or personnel of the DOTr, LTO and LTFRB who is found to have violated Sec. 5 will be held liable for Serious Misconduct under the 2017 Rules on Administrative Cases in the Civil Service, without prejudice to other administrative or criminal liability.

SECTION 7. *Implementing Guidelines.* — The LTO and LTFRB will issue guidelines for the effective implementation of this Department Order.

SECTION 8. *Separability Clause.* — If any part or provision of this Department Order is held unconstitutional or invalid, other parts of provisions which are not affected will continue to remain in full force and effect.

SECTION 9. *Repealing Clause.* — All other Department Orders, Circulars, Special Orders, Office Orders, and/or other issuances

inconsistent herewith are hereby superseded or modified accordingly.[47]

Petitioners argue that the Court of Appeals committed grave abuse of discretion and that its judgment was based on misapprehension of facts.

The dispositive portion of the assailed Resolution stated that it is dismissing an "appeal," and not the Petition for Certiorari filed before it.[48] This is also shown in the erroneous caption of the Resolution dismissing the motion for reconsideration. While the case number in the Resolution was correct, respondents in the caption read as "Hon. Cesar O. Untalan, in his capacity as Presiding Judge of the Regional Trial Court of Makati City (designated as Commercial Court) and Lorna F. Cillan[.]"[49]

Petitioners allege that there is no forum shopping because there are no cases which would operate as *litis pendentia* to the instant petition. Particularly, petitioners withdrew CA G.R. SP. No. 99791, while SCA 07-673 and CA G.R. SP. No. 99992 were dismissed for failure to exhaust administrative remedies. Petitioners allege that they should not be faulted for re-filing a replica of a petition which they have previously withdrawn and dismissed at their instance.[50]

Further, petitioners allege that the doctrine of exhaustion of administrative remedies does not apply to actions assailing the exercise of quasi-legislative powers. Since the DOTC is the President's alter ego, it is directly acting on its behalf; thus, there was no other plain and speedy remedy for petitioners. In any event, the issues raised in their Petition are purely questions of law and matters of public interest.[51]

The enactment of DO No. 2007-28 is an *ultra vires* act because the DOTC does not have the power to regulate the insurance business under Section 3 of the Administrative Code.[52]

Further, DO No. 2007-28 amends Sections 49-51 of the Insurance Code as to the form of insurance contracts, and Sections 186 and 387, as it allows the DOTC or the LTO to transact the business of insurance as agents without the required certification from the Insurance Commissioner. It removes the motorist's freedom to choose a CTPL Insurance under Section 376-377. Finally, DO No. 2007-28 intrudes on the power of the Insurance Commissioner to regulate the business of insurance.[53]

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47 DOTr, Department Order No. 20-18 (2018), secs. 1–9.
48 *Rollo*, pp. 61–63.
49 Id. at 25.
50 Id. at 64.
51 Id. at 66–70.
52 Id. at 79.
53 Id. at 79–83.

DO No. 2007-28 is a form of an invalid take-over of private businesses in violation of Article 12, Section 17 of the Constitution.[54] The designation of GSIS to be the sole CTPL provider is an invasion of private businesses done without due process and consultation with the affected parties.[55]

Since DO No. 2007-28 has a great adverse impact on the insurance business, it is also violative of Article 2, Sections 9 and 18 of the Constitution.[56] DOTC and the LTO directly contracted with respondent Stradcom without public bidding in violation of procurement laws.[57]

Respondent Stradcom alleges that the Petition should be dismissed for wilful and deliberate forum shopping. Aside from this, petitioners should be sanctioned and cited in direct contempt for filing multiple cases before the lower courts.[58]

Certiorari and prohibition are not the proper remedies to assail DO 2007-28.[59] It was also filed in violation of the doctrine of hierarchy of courts.[60]

There is allegedly no actual case or controversy ripe for judicial adjudication because DO No. 2007-28 is not self-executing, and the guidelines for its implementation have yet to be issued by the DOTC.[61]

Respondent Stradcom defends DO No. 2007-28 as constitutional and a valid exercise of police power enacted to remove spurious CTPL insurance.[62] The DOTC was clothed with rule and policy making powers under Sections 2, 3, and 5 of the Administrative Code in enacting DO No. 2007-28.[63]

DO No. 2007-28 does not violate procurement laws. Respondent Stradcom's designation was brought about by the Build-Own-Operate Agreement of DOTC or LTO for the design, construction, and operation of its IT system. The Agreement was signed on March 26, 1998 and had a concession period of 10 years from the in-service date.[64]

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54 Id. at 56.
55 Id. at 84.
56 Id. at 57–58.
57 Id. at 85.
58 Id. at 271–277.
59 Id. at 278–281.
60 Id. at 283–284.
61 Id. at 285–287.
62 Id. at 292–294.
63 Id. at 287–292.
64 Id. at 268.

Moreover, Section 4.1 of this Agreement provided respondent Stradcom the exclusive right to provide services to DOTC and LTO during this period, which is subject to renewal.[65] This agreement allegedly bears the approval of the President of the Philippines under Republic Act No. 6957 and its implementing rules and regulations.[66]

Finally, there is no basis in petitioners' allegation of monopoly, because nowhere in DO No. 2007-28 does it provide that GSIS will solely provide the CTPL insurance. It cites two (2) other models aside from GSIS, including PIRA and Road Accident Managed Services, Inc. (RAMSI), the rules of which have yet to be promulgated.[67]

Respondents, through the Office of the Solicitor General, allege that the Petition is barred by a prior resolution in CA-G.R. 99992, a case filed by petitioner MUNLI. The case was dismissed for failure to exhaust administrative remedies.[68] Since there was no appeal on the dismissal of CA-G.R. 99992, the judgment attained finality and binding on petitioner MUNLI. Respondents also noted that the instant petition is almost a verbatim reproduction of CA-G.R. 99992.[69]

In addition, petitioners Alliance and BMIS are guilty of forum-shopping, as both filed CA-G.R. No. 99791 even after it was withdrawn due to the pendency of SCA No. 07–673 in the Regional Trial Court.[70]

Petitioners availed of the wrong remedy of certiorari and prohibition because DO No. 2007-28 was enacted pursuant to the exercise of DOTC's quasi-legislative powers.[71]

Petitioners are not the real-parties-in-interest, since it is the insurance company owners who have the legal standing to file the case. Moreover, the petition is premature, as DOTC and LTO have yet to implement the guidelines of DO No. 2007-28.[72] Even assuming that GSIS is the CTPL insurance provider, insurance companies can still operate by providing other types of insurance. Finally, the DOTC has the authority to enact DO No. 2007-28 under Section 5 of the Administrative Code.[73]

Intervenor GSIS alleges that the project is pursuant to its mandate to grow the funds entrusted to it.[74] It alleges that the Petition should be

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65 Id. at 269.
66 Id.
67 Id. at 294–295.
68 Id. at 398.
69 Id. at 399.
70 Id. at 400–404.
71 Id. at 405–409.
72 Id. at 409–412.
73 Id. at 412–418.
74 Id. at 762.

dismissed, because it was filed out of time since DO No. 2007-28 took effect in July 2007 and the Petition was filed only a year later, thus violating Rule 65 of the Rules of Court.[75]

Further, the remedy availed of is incorrect considering that DOTC exercised quasi-legislative powers in enacting DO 2007-28. Petitioners also failed to exhaust administrative remedies for their inability to give DOTC the opportunity to reconsider DO No. 2007-28.[76]

Intervenor GSIS reiterated its comment-in-intervention and manifested the six (6) pending cases filed by petitioners all of whom had common interests, the same cause of action, and reliefs prayed for in these cases.[77]

The issues to be resolved by this Court are as follows:

1. Whether or not a petition for certiorari and prohibition is the correct remedy;

2. Whether or not petitioners have legal standing to bring the Petition;

3. Whether or not the enactment of Department Order No. 020-18 mooted the petition; and

4. Whether or not petitioners are guilty of forum shopping.

We resolve to deny the Petition.

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Respondents allege that the Petition must be dismissed because a Petition for Certiorari under Rule 65 of the Rules of Court is only limited to questions arising from quasi-judicial acts. In promulgating DO No. 2007-28, the DOTC exercised its quasi-legislative powers and is thus outside the scope of judicial review under Rule 65 of the Rules of Court.[78]

Moreover, petitioners initially argued that courts have jurisdiction to rule upon the quasi-legislative acts under the principle of separation of powers, however, in its Reply, they changed theory and alleged that DO No. 2007-28 was done in the exercise of DOTC's quasi-judicial powers.[79]

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75 Id. at 764.
76 Id. at 766.
77 Id. at 765–766.
78 Id. at 405–409.
79 Id. at 576–579.

Petitioners availed the correct remedy.

Rule 65, Section 1 of the Rules of Court provides:

> SECTION 1. *Petition for certiorari.* — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.
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> The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.

This should be read in conjunction with Article 8, Section 1 of the Constitution, which provides the expanded scope of judicial review:

> 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.

It is then settled that courts have the jurisdiction to resolve actual cases or controversies involving administrative actions done in the exercise of their quasi-judicial and quasi-legislative functions.[80] In *Provincial Bus Operators Association of the Philippines (PBOAP) v. DOLE*,[81] this Court laid out the distinction between quasi-judicial and quasi-legislative acts and the requirements of judicial review for each one:

> Administrative actions reviewable by this Court, therefore, may either be quasi-legislative or quasi-judicial. As the name implies, quasi-legislative or rule-making power is the power of an administrative agency to make rules and regulations that have the force and effect of law so long as they are issued "within the confines of the granting statute." The enabling law must be complete, with sufficient standards to guide the

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80 *Provincial Bus Operators Association of the Philippines (PBOAP) v. DOLE*, G.R. No. 202275, July 17, 2018, 872 SCRA 50 [Per J. Leonen, En Banc].

81 G.R. No. 202275, July 17, 2018, 872 SCRA 50 [Per J. Leonen, En Banc].

administrative agency in exercising its rule-making power. As an exception to the rule on non-delegation of legislative power, administrative rules and regulations must be "germane to the objects and purposes of the law, and be not in contradiction to, but in conformity with, the standards prescribed by law." In *Pangasinan Transportation Co., Inc. v. The Public Service Commission,* this Court recognized the constitutional permissibility of the grant of quasi-legislative powers to administrative agencies, thus:

> One thing, however, is apparent in the development of the principle of separation of powers and that is that the maxim of *delegatus non potest delegari* or *delegata potestas non potest delegari,* attributed to Bracton (De Legibus et Consuetedinious Angliae, edited by G .E. Woodbine, Yale University Press, 1922, vol. 2, p. 167) but which is also recognized in principle in the Roman Law (D. 17.18.3), has been made to adapt itself to the complexities of modern governments, giving rise to the adoption, within certain limits, of the principle of "subordinate legislation," not only in the United States and England but in practically all modem governments. (*People vs. Rosenthal and Osmeña*, G. R. Nos. 46076 and 46077, promulgated June 12, 1939.) Accordingly, with the growing complexity of modern life, the multiplication of the subjects of governmental regulation, and the increased difficulty of administering the laws, there is a constantly growing tendency toward the delegation of greater powers by the legislature, and toward the approval of the practice by the courts. (*Dillon Catfish Drainage Dist. v. Bank of Dillon*, 141 S. E. 274, 275, 143 S. Ct. 178; *State v. Knox County*, 54 S. W. 2d. 973, 976, 165 Tenn. 319.) In harmony with such growing tendency, this Court, since the decision in the case of Compañia General de Tabacos de Filipinas *vs.* Board of Public Utility Commissioners (34 Phil., 136), relied upon by the petitioner, has, in instances, extended its seal of approval to the "delegation of greater powers by the legislature." (*Inchausti Steamship Co. vs. Public Utility Commissioner*, 44 Phil., 366; *Alegre vs. Collector of Customs*, 53 Phil., 394; *Cebu Autobus Co. vs. De Jesus*, 56 Phil., 446; *People vs. Fernandez & Trinidad*, G. R. No. 45655, promulgated June 15, 1938; *People vs. Rosenthal & Osmeña*, G. R. Nos. 46076, 46077, promulgated June 12, 1939; and *Robb and Hilscher vs. People*, G.R. No. 45866, promulgated June 12, 1939.)

On the other hand, quasi-judicial or administrative adjudicatory power is "the power to hear and determine questions of fact to which the legislative policy is to apply and to decide in accordance with the standards laid down by the law itself in enforcing and administering the same law." The constitutional permissibility of the grant of quasi-judicial powers to administrative agencies has been likewise recognized by this Court. In the 1931 case of *The Municipal Council of Lemery, Batangas* v. *The Provincial Board of Batangas*, this Court declared that the power of the Municipal Board of Lemery to approve or disapprove a municipal resolution or ordinance is quasi-judicial in nature and, consequently, may be the subject of a *certiorari* proceeding.

> Determining whether the act under review is quasi-legislative or quasi-judicial is necessary in determining *when* judicial remedies may properly be availed of. Rules issued in the exercise of an administrative agency's quasi-legislative power may be taken cognizance of by courts *on the first instance* as part of their judicial power, thus:
>
> . . . .
>
> However, in cases involving quasi-judicial acts, Congress may require certain quasi-judicial agencies to first take cognizance of the case before resort to judicial remedies may be allowed. This is to take advantage of the special technical expertise possessed by administrative agencies. *Pambujan Sur United Mine Workers v. Samar Mining Company, Inc.* explained the doctrine of primary administrative jurisdiction, thus:
>
> > That the courts cannot or will not determine a controversy involving a question which is within the jurisdiction of an administrative tribunal prior to the decision of that question by the administrative tribunal, where the question demands the exercise of sound administrative discretion requiring the special knowledge, experience, and services of the administrative tribunal to determine technical and intricate matters of fact, and a uniformity of ruling is essential to comply with the purposes of the regulatory statute administered.[82] (Citations omitted)

It is also settled that petitions for certiorari and prohibition are proper remedies to correct acts tainted with grave abuse of discretion:[83]

> In *Araullo v. Aquino III,* it was held that petitions for *certiorari* and prohibition filed before the Court "are the remedies by which the grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government may be determined under the Constitution." It was explained that "[w]ith respect to the Court, the remedies of *certiorari* and prohibition are necessarily broader in scope and reach, and the writ of *certiorari* or prohibition may be issued to correct errors of jurisdiction committed not only by a tribunal, corporation, board or officer exercising judicial, quasi-judicial or ministerial functions, but **also to set right, undo[,] and restrain any act of grave abuse of discretion amounting to lack or excess of jurisdiction by any branch or instrumentality of the Government, *even if the latter does not exercise judicial, quasi-judicial or ministerial functions.*** This application is expressly authorized by the text of the second paragraph of Section 1, [Article VIII of the 1987 Constitution cited above]."[84] (Emphasis in the original, citations omitted)

Intervenor GSIS alleges that petitioners failed to exhaust administrative remedies because it should have given DOTC the opportunity

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82 Id. at 85–88.

83 *Samahan ng mga Progresibong Kabataan (SPARK) v. Quezon City*, 815 Phil. 1067 (2017) [Per J. Perlas-Bernabe, En Banc].

84 Id. at 1087–1088.

to reconsider its own issuance.[85]

However, it is settled that the doctrine of exhaustion of administrative remedies finds no application when a questioned act was done in the exercise of quasi-legislative powers:[86]

> In questioning the validity or constitutionality of a rule or regulation issued by an administrative agency, a party need not exhaust administrative remedies before going to court. This principle applies only where the act of the administrative agency concerned was performed pursuant to its quasi-judicial function, and not when the assailed act pertained to its rule-making or quasi-legislative power. In *Association of Philippine Coconut Desiccators v. Philippine Coconut Authority,* it was held:
>
> > The rule of requiring exhaustion of administrative remedies before a party may seek judicial review, so strenuously urged by the Solicitor General on behalf of respondent, has obviously no application here. The resolution in question was issued by the PCA in the exercise of its rule-making or legislative power. However, only judicial review of decisions of administrative agencies made in the exercise of their quasi-judicial function is subject to the exhaustion doctrine.[87] (Citation omitted)

The pertinent powers of the DOTC are enumerated under Section 5 of Executive Order No. 125 as amended:

> SECTION 5. *Powers and Functions.* — To accomplish its mandate, the Department shall have the following powers and functions:
>
> (a) Formulate and recommend national policies and guidelines for the preparation and implementation of integrated and comprehensive transportation and communications systems at the national, regional and local levels;
>
> (b) Establish and administer comprehensive and integrated programs for transportation and communications, and for this purpose, may call on any agency, corporation, or organization, whether public or private, whose development programs include transportation and communications as an integral part thereof, to participate and assist in the preparation and implementation of such program;
>
> (c) Assess, review and provide direction to transportation and communications research and development programs of the government in coordination with other institutions concerned;
>
> (d) Administer and enforce all laws, rules and regulations in the field of transportation and communications;

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85 *Rollo*, p. 766.

86 *Smart Communications, Inc. (Smart) v. NTC*, 456 Phil. 145 (2003) [Per J. Ynares-Santiago, First Division].

87 Id. at 157.

. . . .

(m) Establish and prescribe rules and regulations for the inspection and registration of air and land transportation facilities, such as motor vehicles, trimobiles, railways and aircrafts;

. . . .

(o) Establish and prescribe the corresponding rules and regulations for the enforcement of laws governing land transportation, air transportation and postal services, including the penalties for violations thereof, and for the deputation of appropriate law enforcement agencies in pursuance thereof;

. . . .

(s) Perform such other powers and functions as may be prescribed by law, or as may be necessary, incidental, or proper to its mandate or as may be assigned from time to time by the President of the Republic of the Philippines.

DO No. 2007-28 was issued pursuant to DOTC's exercise of its delegated legislative power under the foregoing provision. Its issuance was done pursuant to its quasi-legislative powers. Thus, the doctrine of exhaustion of administrative remedies does not apply in this case.

II

Even if the correct remedy has been availed, the Petition must be dismissed, there being no justiciable controversy involved since petitioners do not have legal standing to bring the case on behalf of their members.

In *Provincial Bus Operators Association of the Philippines v. DOLE*:[88]

As a rule, "*the constitutionality of a statute will be passed on only if, and to the extent that, it is directly and necessarily involved in a justiciable controversy and is essential to the protection of the rights of the parties concerned.*" A controversy is said to be justiciable if: first, there is an actual case or controversy involving legal rights that are capable of judicial determination; second, the parties raising the issue must have standing or *locus standi* to raise the constitutional issue; third, the constitutionality must be raised at the earliest opportunity; and fourth, resolving the constitutionality must be essential to the disposition of the case.

An actual case or controversy is "one which involves a conflict of legal rights, an assertion of opposite legal claims susceptible of judicial resolution." A case is justiciable if the issues presented are "definite and

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[88] G.R. No. 202275, July 17, 2018, 872 SCRA 50 [Per J. Leonen, *En Banc*].

concrete, touching on the legal relations of parties having adverse legal interests." The conflict must be ripe for judicial determination, not conjectural or anticipatory; otherwise, this Court's decision will amount to an advisory opinion concerning legislative or executive action. In the classic words of *Angara v. Electoral Commission*:

> [T]his power of judicial review is limited to actual cases and controversies to be exercised after full opportunity of argument by the parties, and limited further to the constitutional question raised or the very *lis mota* presented. Any attempt at abstraction could only lead to dialectics and barren legal questions and to sterile conclusions unrelated to actualities. Narrowed as its function is in this manner, the judiciary does not pass upon questions of wisdom, justice or expediency of legislation. More than that, courts accord the presumption of constitutionality to legislative enactments, not only because the legislature is presumed to abide by the Constitution but also because the judiciary in the determination of actual cases and controversies must reflect the wisdom and justice of the people as expressed through their representatives in the executive and legislative departments of the governments.

Even the expanded jurisdiction of this Court under Article VIII, Section 1 does not provide license to provide advisory opinions. An advisory opinion is one where the factual setting is conjectural or hypothetical. In such cases, the conflict will not have sufficient concreteness or adversariness so as to constrain the discretion of this Court. After all, legal arguments from concretely lived facts are chosen narrowly by the parties. Those who bring theoretical cases will have no such limits. They can argue up to the level of absurdity. They will bind the future parties who may have more motives to choose specific legal arguments. In other words, for there to be a real conflict between the parties, *there must exist actual facts from which courts can properly determine whether there has been a breach of constitutional text.*[89] (Emphasis in the original, citations omitted)

Petitioners ground their constitutional challenge against DO No. 2007-28, arguing that in adopting the GSIS model, the DOTC and LTO engaged in a form of take-over of private insurance businesses in violation of Article 12, Section 17 of the Constitution.[90]

Further, the designation of GSIS as the sole CTPL Insurance provider is an invasion of private businesses done without due process and consultation with affected parties.[91] Since DO No. 2007-28 has a great adverse impact on the insurance business, it is also violative of Article 2, Sections 9 and 18 of the Constitution.[92]

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89 Id. at 98–100.
90 *Rollo*, p. 56.
91 Id at 84.
92 Id ay 57–58.

This Court will not pass upon Constitutional issues raised in a case when it is not the *lis mota*. More so when it can be resolved on some other ground.[93]

The foregoing constitutional issues are not material to the resolution of the case. This Court resolves to dismiss the case for petitioners' failure to establish all the requisites of judicial review.

We rule that petitioners failed to establish their legal standing.

Petitioners assert their standing as "associations of non-life insurance managers, agents, underwriters, brokers[,] and workers representing member[s] who are licensed agents, brokers[,] and workers. . . as citizens and taxpayers[.]"[94] They also advance the interests of their members who are insurance agents and their fiduciary duty to the public to ensure compliance with the Insurance Code.[95]

In *Provincial Bus Operators Association of the Philippines v. DOLE*,[96] this Court traced the requirements of legal standing where associations may bring a case on behalf of its members:

> Associations were likewise allowed to sue on behalf of their members.
>
> In *Pharmaceutical and Health Care Association of the Philippines v. Secretary of Health*, the Pharmaceutical and Health Care Association of the Philippines, "representing its members that are manufacturers of breastmilk substitutes," led a petition for *certiorari* to question the constitutionality of the rules implementing the Milk Code. The association argued that the provisions of the implementing rules prejudiced the rights of manufacturers of breastmilk substitutes to advertise their product.
>
> This Court allowed the Pharmaceutical and Health Care Association of the Philippines to sue on behalf of its members. "[A]n association," this Court said, "has the legal personality to represent its members because the results of the case will affect their vital interests." In granting the Pharmaceutical and Health Care Association legal standing, this Court considered the amended articles of incorporation of the association and found that it was formed "to represent directly or through approved representatives the pharmaceutical and health care industry before the Philippine Government and any of its agencies, the medical professions and the general public." Citing *Executive Secretary v. Court of Appeals*, this Court declared that "the modern view is that an association has standing to complain of injuries to its members." This Court continued:

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93 *Garcia v. Executive Secretary*, 602 Phil. 64 (2009) [Per J. Brion, En Banc].
94 *Rollo*, p. 582.
95 Id at 582–586.
96 G.R. No. 202275, July 17, 2018, 872 SCRA 50 [Per J. Leonen, *En Banc*.]

> [This modern] view fuses the legal identity of an association with that of its members. An association has standing to file suit for its workers despite its lack of direct interest if its members are affected by the action. An organization has standing to assert the concerns of its constituents.
>
> xxx xxx xxx
>
> . . . We note that, under its Articles of incorporation, the respondent was organized. . . to act as the representative of any individual, company, entity or association on matters related to the manpower recruitment industry, and to perform other acts and activities necessary to accomplish the purposes embodied therein. The respondent is, thus, the appropriate party to assert the rights of its members, because it and its members are in every practical sense identical . . . The respondent [association] is but the medium through which its individual members seek to make more effective the expression of their voices and the redress of their grievances.

In *Holy Spirit Homeowners Association, Inc. v. Defensor*, the Holy Spirit Homeowners Association, Inc. led a petition for prohibition, praying that this Court enjoin the National Government Center Administration Committee from enforcing the rules implementing Republic Act No. 9207. The statute declared the land occupied by the National Government Center in Constitution Hills, Quezon City distributable to *bona fide* beneficiaries. The association argued that the implementing rules went beyond the provisions of Republic Act No. 9207, unduly limiting the area disposable to the beneficiaries.

The National Government Center Administration Committee questioned the legal standing of the Holy Spirit Homeowners Association, Inc., contending that the association "is not the duly recognized people's organization in the [National Government Center]."

Rejecting the National Government Center Administration Committee's argument, this Court declared that the Holy Spirit Homeowners Association, Inc. "ha[d] the legal standing to institute the [petition for prohibition] whether or not it is the duly recognized association of homeowners in the [National Government Center]." This Court noted that the individual members of the association were residents of the National Government Center. Therefore, "they are covered and stand to be either benefited or injured by the enforcement of the [implementing rules], particularly as regards the selection process of beneficiaries and lot allocation to qualified beneficiaries."

In *The Executive Secretary v. The Hon. Court of Appeals,* cited in the earlier discussed *Pharmaceutical and Health Care Association of the Philippines*, the Asian Recruitment Council Philippine Chapter, Inc. led a petition for declaratory relief for this Court to declare certain provisions of Republic Act No. 8042 or the Migrant Workers and Overseas Filipinos Act of 1995 unconstitutional. The association sued on behalf of its members who were recruitment agencies.

> This Court took cognizance of the associations' petition and said that an association "is but the medium through which its individual members seek to make more effective the expression of their voices and the redress of their grievances." It noted that the board resolutions of the individual members of the Asian Recruitment Council Philippine Chapter, Inc. were attached to the petition, thus, proving that the individual members authorized the association to sue on their behalf.
>
> The associations in *Pharmaceutical and Health Care Association of the Philippines*, *Holy Spirit Homeowners Association, Inc.*, and *The Executive Secretary* were allowed to sue on behalf of their members because they sufficiently established who their members were, that their members authorized the associations to sue on their behalf, and that the members would be directly injured by the challenged governmental acts.
>
> The liberality of this Court to grant standing for associations or corporations whose members are those who suffer direct and substantial injury depends on a few factors.
>
> In all these cases, there must be an actual controversy. Furthermore, there should also be a clear and convincing demonstration of special reasons why the truly injured parties may not be able to sue.
>
> Alternatively, there must be a similarly clear and convincing demonstration that the representation of the association is more efficient for the petitioners to bring. They must further show that it is more efficient for this Court to hear only one voice from the association. In other words, the association should show special reasons for bringing the action themselves rather than as a class suit, allowed when the subject matter of the controversy is one of common or general interest to many persons. In a class suit, a number of the members of the class are permitted to sue and to defend for the benefit of all the members so long as they are sufficiently numerous and representative of the class to which they belong.
>
> In some circumstances similar to those in *White Light*, the third parties represented by the petitioner would have special and legitimate reasons why they may not bring the action themselves. Understandably, the cost to patrons in the *White Light* case to bring the action themselves — i.e., the amount they would pay for the lease of the motels — will be too small compared with the cost of the suit. But viewed in another way, whoever among the patrons files the case even for its transcendental interest endows benefits on a substantial number of interested parties without recovering their costs. This is the free rider problem in economics. It is a negative externality which operates as a disincentive to sue and assert a transcendental right.
>
> In addition to an actual controversy, special reasons to represent, and disincentives for the injured party to bring the suit themselves, there must be a showing of the transcendent nature of the right involved.[97]

In that case, Provincial Bus Operators Association of the Philippines, representing public utility bus operators, filed a petition for certiorari assailing DOLE's Department Order No. 118-12 which requires certificates

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[97] Id. at 107–111.

of labor standards compliance as a prerequisite of issuance and renewal of their certificates of public convenience. This Court held that in order for an association to have legal standing, it must establish the identity of its members, and present proof of its authority to bring the suit for and on behalf of its members.[98]

In the present case however, petitioners failed to establish their legal standing as an association suing on behalf of their members. While they presented their respective Certificates of Incorporation,[99] there was no showing that the associations were authorized to represent its members in the protection of their insurance business.

Petitioners generally averred that their membership was composed of non-life insurance agents and underwriters. However, they failed to present proof that their members were actually engaged in providing CTPL Insurance, and hence will be directly injured with the enactment of DO No. 2007-28.

Aside from this, petitioners also failed to submit proof that they were authorized to file the case on behalf of their members. Petitioners BMIS and MUNLI attached their respective Secretary's Certificates authorizing their respective chairpersons to represent the association in petitions for certiorari against the DOTC and LTO.[100]

A reading of the certificates, however, does not show that the association has been authorized by its members to file the petition on their behalf. Instead, the certificates show only the authority of their respective chairpersons to file the case for and on behalf of the association.[101]

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98 Id.

99 *Rollo*, pp. 131–164.

100 Id. at 158 and 165.

101 BMIS, Resolution No. 07, July 20, 2007 states:
BE IT RESOLVED, as it is hereby resolved, to authorize MR. SALVADOR NAVIDAD to cause the preparation by the lawyer whose legal service have been engaged by the Association, if a petitioner (sic) certiorari on other appropriate proceedings against the responsible officials of the DOTC/LTO and other necessary parties, covering DOTC MEMO No. 28 dated July 5, 2007 and to sign the same for and in behalf of the ASSOCIATION, including such other all pertinent papers as may be required or necessary in connection therewith. (*Rollo*, p. 157)
Secretary's Certificate dated July 3, 2007 of MUNLI states:
RESOLVED, AS IT IS HEREBY RESOLVED to authorize the association Chairman of the Board, Jesus P. Sevilla, to initiate, prosecute, sign, execute, verify and certify all initiatory pleadings, motions, and other documents and/or to represent MUNLI in any and all hearings or proceedings in connection with the Petition to be filed by MUNLI against Secretary Leandro R. Mendoza and Department of Transportation and Communication and Communication and Asst. Secretary Reynaldo I. Berroya, Hon. Alberto Suansing and STRADCOM Corp., including the possibility of obtaining stipulations or admissions, the simplification of issues, and entering into settlements and compromise agreement.
RESOLVED FURTHER, to give and grant to said Mr. Jesus P. Sevilla full power and authority whatsoever requisite or necessary and proper to be done in and about the premises fully to all intents and purposed as the Board of Trustee might or could lawfully do if personally present, with power of substitution and revocation, and hereby satisfying and confirming all that said Mr. Sevilla shall lawfully do or cause to be done under and by virtue of this resolution. (*Rollo*, p. 165)

As regards petitioner Alliance's Secretary Certificate, respondents point to an irregularity: similarly worded certificates are purportedly issued on the same day and are referring to the same meeting, but are pertaining to different persons authorized to file a case for the corporation.[102]

In response, petitioner Alliance clarified that this was an error which the Court of Appeals allowed to be rectified in the proceedings below.[103] However, a copy of the resolution was not attached in any of the pleadings submitted by petitioner.

The foregoing secretary's certificates do not show that the association members authorized petitioners to bring the petition on their behalf. Without the required authorization of its members, an association is bereft of legal personality to bring a representative suit.

Petitioners also assert their members' standing as citizens and taxpayers.[104]

In *David v. Arroyo*,[105] this Court summarized the requirements where taxpayers and concerned citizens have the legal standing to sue:

> (1) the cases involve constitutional issues;
> (2) for taxpayers, there must be a claim of illegal disbursement of public funds or that the tax measure is unconstitutional;
> (3) for voters, there must be a showing of obvious interest in the validity of the election law in question;
> (4) for concerned citizens, there must be a showing that the issues raised are of transcendental importance which must be settled early; and
> (5) for legislators, there must be a claim that the social action complained of infringes upon their prerogatives as legislators[106]

In *Mamba v. Lara*,[107] this Court discussed the requirements of a taxpayer's suit:

> A taxpayer is allowed to sue where there is a claim that public funds are illegally disbursed, or that the public money is being deflected to any improper purpose, or that there is wastage of public funds through the enforcement of an invalid or unconstitutional law. A person suing as a taxpayer, however, must show that the act complained of directly involves the illegal disbursement of public funds derived from taxation. He must also prove that he has sufficient interest in preventing the illegal expenditure of money raised by taxation and that he will sustain a direct injury because of the enforcement of the questioned statute or contract. In

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102 *Rollo*, pp. 404–405.
103 Id. at 576.
104 Id. at 582.
105 522 Phil. 705 (2006) [Per J. Sandoval-Gutierrez, En Banc].
106 Id. at 760.
107 623 Phil. 63 (2009) [Per J. Del Castillo, Second Division].

> other words, for a taxpayer's suit to prosper, two requisites must be met: **(1) public funds derived from taxation are disbursed by a political subdivision or instrumentality and in doing so, a law is violated or some irregularity is committed and (2) the petitioner is directly affected by the alleged act.**[108] (Citations omitted, emphasis supplied)

The present case is not a taxpayer's suit. There has been no illegal disbursement of public funds, as guidelines for the implementation of DO No. 2007-28 has not yet been implemented. Consistently, petitioners invoke their legal standing to sue for and on behalf of its members. It was only due to an afterthought that petitioners made an effort to establish their legal standing as citizens and taxpayers.

Further, there was no showing why non-life insurance agents, underwriters, and their alleged members cannot file the case for themselves. There was also no showing that it was more efficient for the members of petitioners to bring the case by themselves, rather than be represented by their respective associations. Based on the parameters of *Provincial Bus Operators Association of the Philippines v. DOLE*,[109] petitioners failed to establish their legal standing.

More importantly, there is no transcendental right involved, since the Constitutional issues advanced by petitioners are not essential to the resolution of the case. Worse, Petitioners trifled with this Court's processes and filed multiple cases seeking for the same reliefs, which will be discussed below. There is no reason for the Court to examine the Constitutional issues raised in the Petition.

III

One of the tenets of judicial review is that this Court will not rule on moot and academic cases because judicial power is grounded on actual controversies.[110] A case becomes moot and academic when it "ceases to present a justiciable controversy because of supervening events so that a declaration thereon would be of no practical use or value."[111]

In *Land Bank of the Philippines v. Fastech Synergy Philippines, Inc.*,[112] this Court reiterated the exceptions to this rule:

> In *Timbol v. Commission on Elections*:

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108 Id. at 76–77.

109 G.R. No. 202275, July 17, 2018, 872 Phil. 50 [Per J. Leonen, *En Banc*].

110 CONST., art. VIII, sec. 1.

111 *Land Bank of the Philippines v. Fastech Synergy Philippines, Inc.*, 816 Phil. 422, 443–444 (2017) [Per J. Leonen, Second Division] citing *Timbol v. Commission on Elections*, 754 Phil. 578 (2015) [Per J. Leonen, En Banc].

112 816 Phil. 422 (2017) [Per J. Leonen, Second Division].

> A case is moot and academic if it "ceases to present a justiciable controversy because of supervening events so that a declaration thereon would be of no practical use or value." When a case is moot and academic, this court generally declines jurisdiction over it.
>
> There are recognized exceptions to this rule. This court has taken cognizance of moot and academic cases when:
>
> > (1) there was a grave violation of the Constitution; (2) the case involved a situation of exceptional character and was of paramount public interest; (3) the issues raised required the formulation of controlling principles to guide the Bench, the Bar and the public; and (4) the case was capable of repetition yet evading review.
>
> In *Republic v. Moldez Realty, Inc.*:
>
> A case becomes moot and academic when, by virtue of supervening events, the conflicting issue that may be resolved by the court ceases to exist. There is no longer any justiciable controversy that may be resolved by the court. This court refuses to render advisory opinions and resolve issues that would provide no practical use or value. Thus, courts generally decline jurisdiction over such case or dismiss it on ground of mootness.[113] (Citations omitted)

Respondents allege that there is no actual case or controversy ripe for judicial adjudication, because DO No. 2007-28 is not self-executing, and because the guidelines for its implementation have yet to be issued by the DOTC.[114] They argue that the Petition is premature.[115]

We rule otherwise. The supervening enactment of DOTr Department Order No. 020-18,[116] issued last August 24, 2018, has mooted the instant Petition.

Under DO No. 020-18, the DOTr acknowledges the sole and exclusive authority of the Insurance Commission to determine which can provide Compulsory Motor Vehicle Liability Insurance and Passenger Personal Accident Insurance (Insurance Policies).[117]

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113 Id. at 443–444.
114 Id. at 285–287.
115 Id. at 411.
116 Department Order No. 020-18 (2018), Revised Guidelines on Mandatory Insurance Policies for Motor Vehicles and Personal Passenger Accident Insurance for Public Utility Vehicles.
117 Department Order No. 020-18 (2018), Whereas Clause states:
WHEREAS, in order to eradicate the foregoing unlawful practices, to remove the perception that LTO and LTFRB personnel are involved in illegal and corrupt activities, to finally rid the LTO and LTFRB from any form of proprietary interests arising from the issuance of the Insurance Policies, and to

DOTr imposes on its line agencies, the LTO and the Land Transportation Franchising and Regulatory Board (LTFRB), the duty to "secure from the Commission the list of all qualified insurance companies, joint ventures, or consortiums. . . which are authorized to issue Insurance Policies in accordance with the insurance requirements set by LTO and LTFRB."[118]

The list of qualified insurance providers shall be posted in the premises of LTO and LTFRB, to which the applicants are free to choose from:

> SECTION 3. *Posting of List & Issuance of Insurers.* — The LTO and LTFRB will post the list of Qualified Insurers in conspicuous places within the premises of their respective offices. The applicants are free to choose and secure the Insurance Policies from any of the Qualified Insurers, and all insurance premiums shall be strictly paid in the offices or authorized collection sites of the Qualified Insurers. The LTO and LTFRB will not issue any Certificate of Registration (COR) and/or Certificate of Public Convenience (CPC) unless the applicant has sufficiently shown that the Insurance Policies were secured only from the Qualified Insurers.[119]

Sections 4, 5 and 6 of DO 020-18 also lists prohibited activities of both the qualified insurers and government personnel, and the appropriate sanctions:

> SECTION 4. *Prohibited Activities by Qualified Insurers.* — All Qualified Insurers are strictly prohibited —
>
> i.) To put up, establish or maintain any office, satellite or otherwise, inside the premises of the LTO and LTFRB;
>
> ii.) To designate, appoint or maintain any officer, agent, representative or personnel tasked with selling insurance covers or collecting insurance premiums inside LTO and LTFRB premises; and
>
> iii.) To give, distribute or display, inside the premises of the LTO and LTFRB, any form of giveaways or other propaganda materials, such as, but not limited to, calendars, journals, ballpens, brochures, cards, etc., that tend to advertise their respective insurance businesses.
>
> SECTION 5. *Prohibited Activities by Government Personnel.* — All officers, employees or personnel of the DOTr, LTO and LTFRB are strictly prohibited —

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further serve the interest of public service, the Department of Transportation (DOTr) deems it best to revamp the existing guidelines and decide that the determination of duly qualified insurers who can provide the Insurance Policies be placed under the sole and exclusive authority of the Insurance Commission (the "*Commission*").

118 Department Order No. 020-18 (2018), sec. 2.

119 Department Order No. 020-18 (2018), sec. 3.

> i.) To allow, aid or abet, directly or indirectly, the commission of any of the prohibited activities under Sec. 4;
>
> ii.) To endorse, favor or give any form of recommendation to applicants in behalf of any Qualified Insurer;
>
> iii.) To sell insurance policies or collect premiums in behalf of any Qualified Insurer; and
>
> iv.) To issue or furnish applicants with any list or document containing the names of insurers, other than the list of Qualified Insurers issued by the Commission.
>
> SECTION 6. *Sanctions*. — Any Qualified Insurer who is found to have violated Sec. 4 will be permanently blacklisted from issuing the Insurance Policies, whether directly or indirectly, and will be disqualified from participating in other programs of the DOTr, LTO and LTFRB. Any officer, employee or personnel of the DOTr, LTO and LTFRB who is found to have violated Sec. 5 will be held liable for Serious Misconduct under the 2017 Rules on Administrative Cases in the Civil Service, without prejudice to other administrative or criminal liability.

Finally, DO No. 020-18 repeals all other department orders, circulars, special orders, office order, and/or other inconsistent issuances.[120] This is in the nature of a general repealing provision:[121]

> The question that should be asked is: What is the nature of this repealing clause? It is certainly not an express repealing clause because it fails to identify or designate the act or acts that are intended to be repealed. Rather, it is an example of a general repealing provision, as stated in Opinion No. 73, S. 1991. *It is a clause which predicates the intended repeal under the condition that a substantial conflict must be found in existing and prior acts*. The failure to add a specific repealing clause indicates that the intent was not to repeal any existing law, unless an irreconcilable inconsistency and repugnancy exist in the terms of the new and old laws. This latter situation falls under the category of an implied repeal.
>
> Repeal by implication proceeds on the premise that where a statute of later date clearly reveals an intention on the part of the legislature to abrogate a prior act on the subject, that intention must be given effect. Hence, before there can be a repeal, there must be a clear showing on the part of the lawmaker that the intent in enacting the new law was to abrogate the old one. The intention to repeal must be clear and manifest; otherwise, at least, as a general rule, the later act is to be construed as a continuation of, and not a substitute for, the first act and will continue so far as the two acts are the same from the time of the first enactment.
>
> *There are two categories of repeal by implication. The first is where provisions in the two acts on the same subject matter are in an irreconcilable conflict,* the later act to the extent of the conflict constitutes

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[120] Department Order No. 020-18 (2018), sec. 9 states:
SECTION 9. *Repealing Clause.* — All other Department Orders, Circulars, Special Orders, Office Orders, and/or other issuances inconsistent herewith are hereby superseded or modified accordingly.

[121] *Mecano v. Commission on Audit*, 209-A Phil. 272 (1992) [Per J. Campos, En Banc].

an implied repeal of the earlier one. *The second is if the later act covers the whole subject of the earlier one and is clearly intended as a substitute, it will operate to repeal the earlier law.*

Implied repeal by irreconcilable inconsistency takes place when the two statutes cover the same subject matter; they are so clearly inconsistent and incompatible with each other that they cannot be reconciled or harmonized; and both cannot be given effect, that is, that one law cannot he enforced without nullifying the other.[122] (Emphasis supplied, citations omitted)

Implied repeals are not favored, because it is presumed that a law-making body considers all existing laws, and thus could not have made conflicting rules:

It is a well-settled rule of statutory construction that repeals by implication are not favored. The rationale behind the rule is explained as follows:

> Repeal of laws should be made clear and expressed. Repeals by implication are not favored as laws are presumed to be passed with deliberation and full knowledge of all laws existing on the subject. Such repeals are not favored for a law cannot be deemed repealed unless it is clearly manifest that the legislature so intended it. The failure to add a specific repealing clause indicates that the intent was not to repeal any existing law, unless an irreconcilable inconsistency and repugnancy exist in the terms of the new and old laws.

Likewise, in another case, it was held:

> Well-settled is the rule that repeals of laws by implication are not favored, and that courts must generally assume their congruent application. The two laws must be absolutely incompatible, and a clear finding thereof must surface, before the inference of implied repeal may be drawn. The rule is expressed in the maxim, *interpretare et concordare leqibus est optimus interpretendi*, *i.e.*, every statute must be so interpreted and brought into accord with other laws as to form a uniform system of jurisprudence. The fundament is that the legislature should be presumed to have known the existing laws on the subject and not have enacted conflicting statutes. Hence, all doubts must be resolved against any implied repeal, and all efforts should be exerted in order to harmonize and give effect to all laws on the subject.[123] (Citations omitted)

This Court holds that DO No. 020-18 impliedly repealed DO No. 2007-28 for their irreconcilable inconsistencies.

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[122] Id. at 279–281.

[123] *Magkalas v. National Housing Authority*, 587 Phil. 152, 166–167 (2008) [Per J. Leonardo De Castro, First Division].

Under DO No. 2007-28, the issuance of CTPL Insurance was envisioned to be integrated with every motor vehicle registration and their renewal. The objectives of DO No. 2007-28 are as follows:

> **3.0. Objectives for the establishment of the Integrated CTPL Insurance Program are as follows**:
>
> 3.1. To promote greater efficiency in the collection and remittance of correct taxes to the national and local governments;
>
> 3.2. To ensure that registered vehicles comply with regulatory requirements by enabling the LTO to ascertain that only vehicles with valid and authentic CTPL insurance would be registered;
>
> 3.3. To minimize manual intervention in motor vehicle registration;
>
> 3.4. To eliminate the opportunities for graft and corrupt practices vis-à-vis the procurement of CTPL insurance;
>
> 3.5. To ensure that the purchase of CTPL insurance is easily accessible to the public;
>
> 3.6. To ensure the protection of the vehicle registering public against over pricing/predatory pricing of CTPL insurance policies;
>
> 3.7. To ensure the welfare and protection of the public from fake or duplicate CTPL insurance policies; and
>
> 3.8. To ensure ready access to claims service.[124] (Emphasis in the original)

Under DO No. 2007-28, in the Integrated CTPL Insurance Program, the LTO collects the premium, taxes, and registration fees. The proof of CTPL Insurance coverage is automatically reflected in the LTO Official Receipt of Registration.[125]

The proposed system is made possible with LTO's online and real-time interconnection of its LTO IT Project's MVRS and Revenue Collection System, which is facilitated by respondent Stradcom.[126] In exchange for respondent Stradcom's service, it will be paid an interconnectivity fee for each CTPL insurance issued for the duration of its contract with DOTC and LTO.

However, on August 24, 2018, the DOTr enacted Department Order No. 020-18, which revised existing guidelines on CTPL Insurance. Section 3 of Department Order No. 020-18 provides that applicants for registration

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[124] *Rollo*, p. 171.
[125] Id. at 13.
[126] Id. at 172.

are responsible for procuring CTPL Insurance from the list of qualified insurers issued by the Insurance Commission:

> SECTION 3. *Posting of List & Issuance of Insurers.* — The LTO and LTFRB will post the list of Qualified Insurers in conspicuous places within the premises of their respective offices. *The applicants are free to choose and secure the Insurance Policies from any of the Qualified Insurers, and all insurance premiums shall be strictly paid in the offices or authorized collection sites of the Qualified Insurers.* The LTO and LTFRB will not issue any Certificate of Registration (COR) and/or Certificate of Public Convenience (CPC) unless the applicant has sufficiently shown that the Insurance Policies were secured only from the Qualified Insurers. (Emphasis supplied)

The provisions of Department Order No. 2007-28 cannot be harmonized with the provisions of the supervening regulation: Department Order No. 020-18. This is because the issuances and payments of CTPL Insurance are no longer integrated with the LTO IT System. This is markedly different from what its predecessor, the DOTC, envisioned under Department Order No. 2007-28.

Moreover, the intention of the DOTr to repeal Department Order No. 2007-28 is evident in the preambulatory clause of Department Order No. 020-18:

> WHEREAS, in order to eradicate the foregoing unlawful practices, to remove the perception that LTO and LTFRB personnel are involved in illegal and corrupt activities, to finally rid the LTO and LTFRB from any form of proprietary interests arising from the issuance of the Insurance Policies, and to further serve the interest of public service, the Department of Transportation (DOTr) *deems it best to revamp the existing guidelines and decide that the determination of duly qualified insurers who can provide the Insurance Policies be placed under the sole and exclusive authority of the Insurance Commission* (the "Commission"). (Emphasis supplied)

The intent to repeal is reiterated in Section 9 where all other issuances which are inconsistent with the Department Order, are superseded or modified accordingly. Necessarily, DOTr Department Order No. 020-18 superseded DOTC's Department Order No. 2007-28.

Further, under the supervening regulation, the DOTr and LTO are no longer "the lead agency in the implementation of the Integrated CTPL Insurance Program nationwide."[127] This is because the DOTr recognized the "sole and exclusive authority of the Insurance Commission"[128] in the determination of duly qualified CTPL insurers. Under the supervening

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[127] Id. at 172.

[128] DOTr, Department Order No. 20-18 (2018), sec. 1.

regulations, LTO will no longer issue CTPL Insurance and receive payment for its premiums. Its role, as regards to CTPL Insurance, is checking whether the CTPL procured by an applicant is included in the list of qualified insurers provided by the Insurance Commissioner.

Thus, the the present petition has become moot and academic with the issuance of DO No. 020-18. There are no circumstances present, which allows this Court to rule on the other substantive issues raised by the parties.

IV

Aside from the Petition's failure to comply with the requirements of justiciability, the Court of Appeals correctly dismissed the case for petitioners' deliberate forum-shopping.

Respondents allege that petitioners Alliance and BMIS engaged in forum shopping. Previously, they filed a Petition before the Court of Appeals docketed as CA-G.R. SP No. 99791, which they withdrew due to a pending case filed by PIRA before the Regional Trial Court of Makati docketed as SCA Case No. 673.[129] Respondents impute bad faith on petitioners for refiling the similarly worded petition in CA-G.R. SP No. 99791, which is now the subject of the present petition.

Further, respondents allege that the present petition is barred by the Court of Appeals Resolution in CA-G.R. SP No. 99992, dismissing a similarly worded petition filed by petitioner MUNLI for its failure to exhaust administrative remedies. Supposedly, petitioner MUNLI did not move for its reconsideration, and thus barred from filing the present case.[130]

We agree with respondents.

A review of the timeline of the filing of these petitions shows the nefarious scheme of petitioners in filing multiple cases in different tribunals. This shows their intention to seek a judgment favorable to them.

On July 23, 2007, Petitioners Alliance and BMIS filed CA G.R. SP No. 99791 before the Court of Appeals.[131] Four (4) days later, or on July 27, 2007, PIRA filed a Petition before the Regional Trial Court Makati.[132] An injunction was then issued by the Makati Regional Trial Court against the implementation of DO No. 2007-28.[133]

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129 Id. at 402.
130 Id. at 398–399.
131 Id. at 765.
132 Id.
133 Id. at 402.

Thereafter, petitioners withdrew CA G.R. SP No. 99791, citing the pendency of the Makati Regional Trial Court case filed by PIRA.[134] This was done despite petitioners not being parties to the case, and despite the petition not having been filed earlier than that of the lower courts.

On June 24, 2008, the Makati Regional Trial Court dissolved the injunction and dismissed the case.[135]

On July 7, 2008, petitioners filed a Petition for Certiorari, which was the precedent of the Petition for Review before the Court of Appeals docketed as CA G.R. SP No. 104211.[136]

Worse, the present Petition for Certiorari is an almost *verbatim* reproduction of the August 1, 2007 petition filed by petitioner MUNLI in CA G.R. SP No. 99992. To recall, CA G.R. SP No. 99992 was dismissed on August 13, 2007 for non-exhaustion of administrative remedies.[137] Petitioner MUNLI also tried to withdraw CA G.R. SP No. 99992, one (1) day after it was dismissed.

Petitioners admit that CA G.R. SP No. 104211 is almost a *verbatim* reproduction of the petition in CA G.R. SP No. 99992. However, they contend that there is "no rule nor any law which prohibits similar petitions to be filed and refiled neither bars a lawyer to handle cases of similar circumstances, especially on cases which are legally withdrawn and dismissed at the instance of the petitioners."[138]

Petitioners are gravely mistaken.

Section 5, Rule 7 of the Rules of Court prohibits forum shopping:

> SECTION 5. *Certification against forum shopping.* — The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory

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134 Id. at 449–450.
135 Id. at 454–462.
136 Id. at 501–538.
137 Id. at 499–500.
138 Id at 575.

pleading has been filed.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions. (n)

In *City of Taguig v. City of Makati*,[139] this Court extensively discussed the modes of commission of forum shopping and its requisites:

Jurisprudence has recognized that forum shopping can be committed in several ways:

> (1) filing multiple cases based on the same cause of action and with the same prayer, the previous case not having been resolved yet (where the ground for dismissal is *litis pendentia*); (2) filing multiple cases based on the same cause of action and the same prayer, the previous case having been finally resolved (where the ground for dismissal is *res judicata*); and (3) filing multiple cases based on the same cause of action but with different prayers (splitting of causes of action, where the ground for dismissal is also either *litis pendentia* or *res judicata*).

Similarly, it has been recognized that forum shopping exists "where a party attempts to obtain a preliminary injunction in another court after failing to obtain the same from the original court."

The test for determining forum shopping is settled. In *Yap v. Chua, et al.*:

> To determine whether a party violated the rule against forum shopping, the most important factor to ask is whether the elements of *litis pendentia* are present, or whether a final judgment in one case will amount to *res judicata* in another; otherwise stated, the test for determining forum shopping is whether in the two (or more) cases pending, there is identity of parties, rights or causes of action, and reliefs sought.

For its part, *litis pendentia* "refers to that situation wherein another action is pending between the same parties for the same cause of action, such that the second action becomes unnecessary and vexatious." For *litis pendentia* to exist, three (3) requisites must concur:

The requisites of *litis pendentia* are: (a) the identity of

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[139] 787 Phil. 367 (2016) [Per J. Leonen, Second Division].

> parties, or at least such as representing the same interests in both actions; (b) the identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (c) the identity of the two cases such that judgment in one, regardless of which party is successful, would amount to *res judicata* in the other.

On the other hand, *res judicata* or prior judgment bars a subsequent case when the following requisites are satisfied:

> (1) the former judgment is final; (2) it is rendered by a court having *jurisdiction* over the subject matter and the parties; (3) it is a judgment or an order *on the merits*; (4) there is — between the first and the second actions — *identity* of parties, of subject matter, and of causes of action. (Emphasis in the original)

These settled tests notwithstanding:

> Ultimately, what is truly important to consider in determining whether forum-shopping exists or not is the vexation caused the courts and parties litigant by a party who asks different courts and/or administrative agencies to rule on the same or related causes and/or to grant the same or substantially the same reliefs, in the process creating the possibility of conflicting decisions being rendered by the different fora upon the same issue.[140] (Citations omitted)

In *Fil-Estate Golf and Development, Inc. v. Court of Appeals*,[141] complainant Felipe Layos filed a complaint for injunction and damages with application for Preliminary Injunction against Fil-Estate Realty Corporation, (FERC) before the Regional Trial Court of Biñan, Laguna. Since he impleaded the wrong defendant, he filed a similarly worded complaint against FERC's sister company, Fil-Estate Golf and Development, Inc. (FEGDI) before another Regional Trial Court in San Pedro, Laguna. Both actions were dismissed for deliberate and wilful forum shopping:

> As clearly demonstrated above, the willful attempt by private respondents to obtain a preliminary injunction in another court after it failed to acquire the same from the original court constitutes grave abuse of the judicial process. Such disrespect is penalized by the summary dismissal of both actions as mandated by paragraph 17 of the Interim Rules and Guidelines issued by this Court on 11 January 1983 and Supreme Court Circular No. 28-91. In *Bugnay Construction & Development Corporation v. Laron*, we declared:
>
> > Forum-shopping, an act of malpractice, is proscribed and condemned as trifling with the courts and abusing their process es. It is improper conduct that degrades the administration of justice. The rule has been formalized in Paragraph 17 of the Interim Rules and

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[140] Id. at 386–388.

[141] 333 Phil. 465 (1996) [Per J. Kapunan, First Division].

> Guidelines issued by this Court on January 11, 1983, in connection with the implementation of the Judiciary Reorganization Act. Thus, said Paragraph 17 provides that no petition may be led in the then Intermediate Appellate Court, now the Court of Appeals "if another similar petition has been filed or is still pending in the Supreme Court" and vice-versa. The Rule ordains that "(a) violation of the rule shall constitute a contempt of court and shall be a cause for the summary dismissal of both petitions, without prejudice to the taking of appropriate action against the counsel or party concerned."
>
> This rule has been equally applied in the recent case of *Limpin, Jr. et al. v. Intermediate Appellate Court, et al.,* where the party having led an action in one branch of the regional trial court shops for the same remedies of a restraining order and a writ of preliminary injunction in another branch of the same court. We ruled therein that:
>
> "So, too, what has thus far been said more than amply demonstrates Sarmiento's and Basa's act of forum-shopping. Having failed to obtain the reliefs to which they were not entitled in the first place from the "Solano Court," the Court of Appeals, and the Supreme Court, they subsequently instituted two (2) actions in the 'Beltran Court' for the same purpose, violating in the process the ruling against splitting causes of action. The sanction is inescapable: dismissal of both actions, for gross abuse of judicial processes." [142] (Citations omitted)

In this case, we agree with respondents that petitioners Alliance and BMIS withdrew CA G.R. SP No. 99791 to avoid being issued an unfavorable decision by Court of Appeals, because an injunction has already been issued by the trial court in SCA Case No. 673.[143]

This Court also finds merit in respondents' contention that in withdrawing CA G.R. SP No. 99791, petitioners Alliance and BMIS admitted the commonality of their interest with PIRA, the petitioner in SCA Case No. 673. This admission is expressly stated in the Board of Resolution No. 2007-02 filed in connection with the Motion for Withdrawal of CA G.R. SP No. 99791:

> WHEREAS, on July 23, 2007, Alliance and BMIS filed a case of Certiorari with prayer for the issuance of a Temporary Restraining Order (TRO) against the Secretary of the Department of Transportation and Communication, et al. before the Court of Appeals, Manila docketed as CA-G.R. No. 99791 to restrain respondents from implementing DOTC Department Order No. 2007-28 dated July 5, 2007;
>
> WHEREAS, on July 2007, the Philippine Insurers and Reinsurers Association (PIRA) also filed a case before the Regional Trial Court of Makati, Branch 145 against the same respondents to the case filed by

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142 Id. at 486–487.

143 *Rollo*, p. 402.

> Alliance and BMIS seeking the same relief, docketed as SCA Case No. 673;
>
> ***WHEREAS, a TRO has already been issued by the RTC of Makati while the case in the Court of Appeals is still to be heard and procedural problems may arise which may confuse the issues and might jeopardize the common interest of all who seeks the same relief***;
>
> WHEREAS, Alliance and BMIS realize the duplicity of the action it took and may pre-empt any decision of the Court of Appeals hence, it decided to withdraw the certiorari case before the Court of Appeals;
>
> NOW THEREFORE, be it resolved as it is hereby resolved that the certiorari case docketed as CA G.R. No. 99791 pending before the Court of Appeals be withdrawn for all legal intents and purposes.[144] (Emphasis supplied)

Aside from these Petitions, petitioner MUNLI filed a Petition before the Court of Appeals docketed as CA G.R. No. 99992. On August 13, 2007, the Court of Appeals dismissed it for failure to exhaust administrative remedies.[145]

It is significant to note that petitioner MUNLI also admitted to the commonality of its interest with PIRA in SCA Case No. 673, in seeking to withdraw its petition docketed as CA G.R. SP No. 99992:

> 1. Various petitions were filed in RTC and Court of Appeals of similar issues and remedies invoked of different, which fact was served notice to the Honorable Court on 13 August 2007.
>
> 2. It was resolved during the meeting of the various petitioners that a single case be pursued instead and to give way for the case to proceed that which is pending before RTC Brach 145, Makati City docketed under SCA Case No. 673.
>
> 3. Abiding with the consensus had, henceforth, the withdrawal of this case is effected *in the interest of justice for all concerned similarly situated.*[146] (Emphasis supplied)

Thus, all petitioners in the instant case admitted to the commonality of their interests and similarity of the issues in their respective petitions in SCA Case No. 673.

It was only after the lifting of the injunction in the Makati Regional Trial Court in SCA Case No. 673, and the withdrawal of the Petitions in CA G.R. No. 99992 and CA G.R. No. 99791, that petitioners filed the precedent of the instant Petition before the Court of Appeals docketed as CA G.R. No.

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144 Id. at 541.
145 Id. at 499–500.
146 Id. at 539.

104211 on July 7, 2008.

Petitioners cannot hide behind the seeming non-similarity of parties, considering they admitted to the commonality of interests and issues in SCA Case No. 673.

In *Grace Park International v. Eastwest Banking*,[147] this Court clarified that absolute identity is not crucial because the parties' shared identity of interests will suffice for determination of the existence of forum-shopping:

> Anent the first requisite of forum shopping, "[t]here is identity of parties where the parties in both actions are the same, or there is privity between them, or they are successors-in-interest by title subsequent to the commencement of the action, litigating for the same thing and under the same title and in the same capacity. Absolute identity of parties is not required, shared identity of interest is sufficient to invoke the coverage of this principle. Thus, *it is enough that there is a community of interest between a party in the first case and a party in the second case even if the latter was not impleaded in the first case*."
>
> With respect to the second and third requisites of forum shopping, "[h]ornbook is the rule that identity of causes of action does not mean absolute identity; otherwise, a party could easily escape the operation of res judicata by changing the form of the action or the relief sought. The test to determine whether the causes of action are identical is to ascertain whether the same evidence will sustain both actions, or whether there is an identity in the facts essential to the maintenance of the two actions. If the same facts or evidence would sustain both, the two actions are considered the same, and a judgment in the first case is a bar to the subsequent action. *Hence, a party cannot, by varying the form of action or adopting a different method of presenting his case, escape the operation of the principle that one and the same cause of action shall not be twice litigated between the same parties or their privies.* Among the several tests resorted to in ascertaining whether two suits relate to a single or common cause of action are: (1) whether the same evidence would support and sustain both the first and second causes of action; and (2) whether the defenses in one case may be used to substantiate the complaint in the other. Also fundamental is the test of determining whether the cause of action in the second case existed at the time of the filing of the first complaint."[148] (Citations omitted, emphasis supplied)

There is an identity of parties, and an established shared identity of interests. The petitions they filed and withdrawn have identical causes of action with the same reliefs that they filed in multiple *fora*.

The judgments of the lower courts in SCA Case No. 673 and CA G.R. SP. No. 99992 operate as either *litis pendentia* or *res judicata* depending on

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147 791 Phil. 570 (2016) [Per J. Bernabe, First Division].
148 Id. at 578–579.

their status. Even if petitioners are not impleaded before SCA Case No. 673, they expressly recognized the commonality of their interests with the petitioners in SCA Case No. 673. Thus, its resolution bars the filing of the present Petition. Necessarily, all the requisites of forum-shopping are present.

Petitioners' act of successively filing at least four (4) Petitions in various *fora* is the very act of forum-shopping:

> Forum shopping consists of filing multiple suits involving the same parties for the same cause of action, either simultaneously or successively for the purpose of obtaining a favorable judgment. It exists when, as a result of an adverse opinion in one forum, a party seeks a favorable opinion in another, or when he institutes two or more actions or proceedings grounded on the same cause, on the gamble that one or the other court would make a favorable disposition. There certainly is all the opportunity to accomplish the wrong intended by forum-shopping through the filing of two petitions for review with a collegiate court such as the Court of Appeals, as each petition would be docketed separately and assigned to a division of that court, thus allowing two different divisions to act independently as each considers and treats the petition. Thus, no petition for review on certiorari may be filed in the Court of Appeals if there is already a similar petition already filed or pending with that same court.[149]

After trifling with court processes to secure a favourable judgment, petitioners have the audacity to invoke a non-fatal error committed by the Court of Appeals. The names of respondents were incorrectly placed in the caption of the Resolution denying petitioners' Motion for Reconsideration.[150] From this apparent error, petitioners conclude that the judgment is based on a misapprehension of facts, which this Court should correct.[151]

In *Oasis Park Hotel v. Navaluna*,[152] the inclusion of the names of parties in the caption of a pleading is only a formal requirement. What is controlling are the allegations contained within:

> (c) The failure of petitioner to implead the complete names of all private respondents in the caption of the Petition did not warrant the dismissal of said Petition, especially when all the names and circumstances of the parties were stated in the body of the Petition, under "PARTIES. As the Court held in *Genato v. Viola*: "It is not the caption of the pleading but the allegations therein that are controlling. The inclusion of the *names of all the parties in the title of a complaint is a formal requirement under Section [1], Rule 7 of the Rules of Court*. However, the rules of pleadings require courts to pierce the form and go into the

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149 *Mega-Land Resources and Development Corporation v. C-E Construction Corporation*, 555 Phil. 581, 590–591 (2007) [Per J. Tinga, Second Division].

150 *Rollo*, pp. 61–62.

151 Id. at 62.

152 800 Phil. 244 (2016) [Per J. Leonardo-De Castro, First Division].

> substance. The non-inclusion of one or some of the names of all the complainants in the title of a complaint, is not fatal to the case, provided there is a statement in the body of the complaint indicating that such complainant/s was/were made party to such action."[153] (Emphasis supplied, citation omitted)

This Court finds that the error within the title's caption in the Resolution dismissing petitioners' Motion for Reconsideration is not equivalent to misapprehension of facts. The body of the decision pertains to a May 24, 2012 Decision issued by the Court of Appeals in CA-G.R. SP No. 10421. If at all, the confusion was brought about by the multiple petitions filed by petitioners before the Court of Appeals.

Finally, the act of deliberate and wilful forum shopping warrants the summary dismissal with prejudice of the instant Petition and all other cases pending in lower courts, if any. By abusing court processes, forum shopping constitutes direct contempt of this Court:

> Thus, the CA did not commit an error in outrightly dismissing petitioner's petition. It must be remembered that the acts of a party or his counsel, clearly constituting willful and deliberate forum shopping shall be ground for the summary dismissal of the case with prejudice, and shall constitute direct contempt, as well as be a cause for administrative sanctions against the lawyer. Also, SC Circular No. 28-91 states that the deliberate ling of multiple complaints by any party and his counsel to obtain favorable action constitutes forum shopping and shall be a ground for summary dismissal thereof and shall constitute direct contempt of court, without prejudice to disciplinary proceeding against the counsel and the ling of a criminal action against the guilty party. In *Spouses Arevalo v. Planters Development Bank*, this Court further reiterated that once there is a finding of forum shopping, the penalty is summary dismissal not only of the petition pending before this Court, but also of the other case that is pending in a lower court.[154] (Citations omitted)

Thus, petitioners and their respective counsels, Atty. Raymundo L. Apuhin,[155] Atty. Larry M. Villabroza, and Atty. Maverick S. Sevilla, from the Law Firm of Villabroza and Associates,[156] and Atty. Marciano J. Cagatan,[157] should be ordered to show cause within 15 days from receipt of this Decision, why they should not be held in contempt for availing of multiple judicial remedies founded on similar facts, and raising substantially similar reliefs from different courts.

WHEREFORE, the Petition is **DENIED** for being **MOOT AND ACADEMIC** with the issuance of Department of Transportation

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153 Id. at 261–262.

154 *Zamora v. Quinan*, G.R. No. 216139, December 29, 2017, 847 SCRA 251, 264–265 [Per J. Peralta, Second Division].

155 *Rollo*, pp. 3–5, Entry of Appearance dated March 25, 2013.

156 Id. at 127 and 496.

157 Id. at 442.

Department Order No. 028-18 on August 24, 2018 which effectively superseded Department Order No. 2007-28.

Petitioners and their respective counsels, Atty. Raymundo L. Apuhin, Atty. Larry M. Villabroza, and Atty. Maverick S. Sevilla, from the Law Firm of Villabroza and Associates, and Atty. Marciano J. Cagatan, are directed to **SHOW CAUSE,** within 15 days from receipt of this Decision, why they should not be held in direct contempt for willful and deliberate forum shopping.

SO ORDERED.

MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:

ALEXANDER G. GESMUNDO
Associate Justice

ROSMARI D. CARANDANG
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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's Division.

DIOSDADO M. PERALTA
Chief Justice

CERTIFIED TRUE COPY

MISAEL DOMINGO C. BATTUNG III
Division Clerk of Court
Third Division

FEB 11 2021