Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

DEPARTMENT OF HEALTH, represented by its Secretary, *Petitioner,*	**G.R. No. 244242** Present:
- versus -	PERLAS-BERNABE, *J.*, Chairperson, HERNANDO, INTING, DELOS SANTOS, and BALTAZAR-PADILLA,* *JJ.*
NESTLE PHILIPPINES, INC., *Respondent.*	Promulgated: SEP 14 2020

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D E C I S I O N

DELOS SANTOS, *J.*:

This is a Petition for Review on *Certiorari*[1] filed under Rule 45 of the Rules of Court assailing the Decision[2] dated October 19, 2018 and the Resolution[3] dated January 17, 2019 of the Court of Appeals (CA) in CA-G.R. SP No. 153068, which reversed and set aside the Decision[4] dated April 17, 2017 and the Resolution[5] dated September 11, 2017 of the Department of Health (DOH).

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* On leave.
1 *Rollo*, pp. 35-54.
2 Penned by Associate Justice Stephen C. Cruz, with Associate Justices Jhosep Y. Lopez and Geraldine C. Fiel-Macaraig, concurring; id. at 55-64.
3 Id. at 65-66.
4 Rendered by Secretary of Health Paulyn Jean B. Rosell-Ubial; id. at 67-78.
5 Id. at 79-81.

The Facts

On October 16, 2007, Myrnanette M. Jarra (Jarra) bought one (1) Nestle Bear Brand Powdered Filled Milk, 150 grams, from Joy Store located along West Riverside, San Francisco Del Monte, Quezon City. When Jarra opened the foil pack, she noticed objects inside it, which appeared to be larvae, and the powder therein looked yellowish and lumpy. On the following day, Jarra filed a complaint before the DOH Consumer Arbitration Office of the National Capital Regional Office (CAO-NCR). During the conciliation proceedings, the Acting Consumer Arbitration Officer requested the Bureau of Food and Drugs (BFAD) for a laboratory test on the subject product.[6]

The BFAD issued Report of Analysis No. FCM07-10-18-151[7] dated October 22, 2007, finding that the sample specimen had live insect larvae and that the cream powder has a strong stale odor rendering it unfit for human consumption.

On January 11, 2016, the CAO-NCR issued a Resolution[8] in favor of Jarra and found that the substantial evidence on record proved that there is clear violation of Republic Act No. (RA) 7394, otherwise known as the Consumer Act of the Philippines, which prohibits the manufacture, importation, exportation, sale, offering for sale, distribution or transfer of any food, drug, devise or cosmetics that is adulterated. The dispositive portion of the Resolution reads:

> IN VIEW OF THE FOREGOING, this Office finds for the complainant. Pursuant to Article 164 of RA 7394, respondent is hereby ordered as follows:
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> 1. To pay the administrative fine of Php20,000.00;
> 2. To make an assurance to comply with the provisions of RA 7394 and its implementing rules and regulations;
> 3. To restitute complainant of two (2) bottles of RC Cola, or alternatively to reimburse the value thereof, at the option of the complainant;
> 4. To pay complainant Php5,000.00, representing expenses in making or pursuing the complaint;
> 5. The condemnation of the subject product.
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> SO ORDERED.[9]

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6 Id. at 82-83, 87.
7 Id. at 84.
8 Id. at 87-88.
9 Id. at 88.

Nestle Philippines, Inc. (Nestle) moved for reconsideration of the Resolution, which was denied in an Order[10] dated June 8, 2016. Thus, Nestle appealed the case before the Office of the Secretary of the DOH.

The Ruling of the Office of the Secretary

On April 17, 2017, the Secretary of Health issued a Decision[11] affirming with modification the assailed Resolution of the CAO-NCR. The dispositive portion of the Decision is hereby reproduced, thus:

> **WHEREFORE**, premises considered, the present appeal is hereby **DENIED**. The assailed Resolution of ACAO-NCR dated December 14, 2015 in BFAD Case No. C-NCR-09-077 for violation of RA 7394 is hereby **AFFIRMED with MODIFICATION**. The award of Php5,000.00 representing expenses in pursuing the complaint as actual damages is hereby deleted. Number three (3) of the dispositive portion of CAO-NCR Resolution dated January 11, 2016 is rephrased as above written.
>
> SO ORDERED.[12]

The Secretary of Health opined that in the absence of clear and convincing proof that there was grave abuse of discretion on the part of the Acting Consumer Arbitration Officer in giving credence to the findings of the BFAD, the findings that the subject product is adulterated shall be upheld. The BFAD is presumed to possess technical expertise and its findings should be accorded great weight and credence.

Nestle's motion for reconsideration of the Decision was denied by the Secretary of Health through Resolution[13] dated September 11, 2017. Thus, Nestle elevated the case before the CA *via* a Petition for *Certiorari*[14] under Rule 65 of the Rules of Court ascribing grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the DOH.

The Ruling of the CA

In its Decision[15] dated October 19, 2018, the CA ruled in favor of Nestle and reversed and set aside the questioned Decision dated April 17, 2017 and the Resolution dated September 11, 2017 of the DOH.

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[10] Id. at 89.
[11] Id. at 67-78.
[12] Id. at 77.
[13] Id. at 79-81.
[14] Id. at 109-133.
[15] Id. at 55-64.

The CA held that the BFAD Report of Analysis did not state whether the sample tested was adulterated while in the custody of Jarra or on account of its defective or unsanitary manufacturing process. It could be assumed that the infestation occurred while in transit or at the time when the product was purchased, packed and transported or when the product was stored or kept in stock by the vendor. The CA ratiocinated that the infestation of the milk product could not have been caused by Nestle's defective handling but by some other unknown reasons.

With the denial of its Motion for Reconsideration[16] of the CA Decision, the DOH elevated the case before the Court *via* Rule 45 of the Rules of Court submitting the following issues for the Court's resolution:

> I
>
> PETITIONER DOH DID NOT ACT WITH GRAVE ABUSE OF DISCRETION IN AFFIRMING THE DECISION OF THE CONSUMER ARBITRATION OFFICE.
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> II
>
> THE CONSUMER ARBITRATION OFFICER PROPERLY FOUND [NESTLE] LIABLE FOR VIOLATION OF R.A. 7394 ON THE DISTRIBUTION OF ADULTERATED PRODUCTS ON THE BASIS OF SUBSTANTIAL EVIDENCE.[17]

The DOH's Position

In its petition, the DOH asserts that the CA decision and resolution, which reversed the findings and conclusions of the DOH, only relied on mere errors of judgment, which cannot be a proper basis in the issuance of a writ of *certiorari*. There was no finding that the DOH or the CAO-NCR acted with grave abuse of discretion amounting to lack or excess of jurisdiction to justify the grant of a petition for *certiorari*. Also, the CAO-NCR and the DOH based their rulings on substantial evidence, which pointed to the violation of Nestle of RA 7394.

Nestle's Position

In its Comment,[18] Nestle argued that the courts are not bound by the findings of fact of administrative agencies, when there is no evidence in support thereof or when there is clear showing that the administrative agency acted arbitrarily or with grave abuse of discretion, such as in the instant case.

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[16] Id. at 135-144.
[17] Id. at 41.
[18] Id. at 157-162.

The Court's Ruling

In the case at bench, the Decision of the DOH was assailed through a petition for *certiorari* before the CA. A petition for *certiorari* is governed by Rule 65 of the Revised Rules of Court, which reads as follows:

> 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 its or his 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.

As such, a writ of *certiorari* may only issue to correct errors in jurisdiction or when there is grave abuse of discretion amounting to lack or in excess of jurisdiction. The nature of a grave abuse of discretion that justifies the grant of *certiorari* is one that involves a defect of jurisdiction brought about, among others, by an indifferent disregard for the law, arbitrariness and caprice, an omission to weigh pertinent considerations, or a decision arrived at without rational deliberation — due process issues that rendered the decision or ruling void.[19] A writ of *certiorari*'s main function is limited to keeping the lower courts or quasi-judicial bodies within their jurisdiction, thus, it cannot be issued for any other purpose.[20]

In *Spouses Leynes v. CA*,[21] the Court explained that:

> The supervisory jurisdiction of a court over the issuance of a writ of *certiorari* cannot be exercised for the purpose of reviewing the intrinsic correctness of a judgment of the lower court – on the basis either of the law or the facts of the case, or of the wisdom or legal soundness of the decision. Even if the findings of the court are incorrect, as long as it has jurisdiction over the case, such correction is normally beyond the province of *certiorari*.[22]

The limitations in the resolution of a petition for *certiorari* under Rule 65 will affect the Court's scope when presented with a petition for review on *certiorari* under Rule 45, seeking the reversal of a CA decision, which pertained to grave abuse of discretion on the part of a quasi-judicial or administrative body, as in this case the DOH. The Court will have to review

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[19] See Separate Opinion by Justice Arturo D. Brion in *Risos-Vidal v. Commission on Elections*, 751 Phil. 479, 570 (2015).

[20] *Bugaoisan v. OWI Group Manila*, G.R. No. 226208, February 7, 2018, 855 SCRA 201, 213.

[21] 655 Phil. 25 (2011).

[22] Id. at 41-42.

the CA decision from the perspective of whether it correctly determined the presence or absence of grave abuse of discretion in the DOH decision before it and not on the basis of whether the DOH decision, on the merits of the case, was correct.[23]

Likewise, as a general rule, a petition for review on *certiorari* is only limited to questions of law.

Hence, the question of law that will be resolved in the present petition is: *whether the CA properly ruled that the DOH committed grave abuse of discretion amounting to lack or excess of jurisdiction.*

Again, in the resolution of a petition for *certiorari*, it is not within the ambit of the CA's jurisdiction to inquire into the correctness of the DOH's evaluation of evidence, unless such was done with grave abuse of discretion. However, a cursory reading of the now assailed CA Decision would show that the CA has no clear findings if the DOH committed grave abuse of discretion warranting the grant of the petition for *certiorari*. In granting the petition for *certiorari*, the CA ratiocinated in this manner:

> By comparison, the BFAD Report which became the sole basis of the decision of the CAO and the DOH is localized to the presence of contamination but nowhere near the exact time or conditions under which the product was exposed to. The document is therefore too ambiguous or incomplete to support the conclusion that the subject milk product was exposed to various contaminants either because of the manufacturer's negligence or because of its unreliable processes. If, as found by the DOH, the subject pack of milk was exposed to adulterants while in petitioner's care, then it is possible that others were handled similarly and therefore exposed to infestation as well. However, no incidents of such nature have been reported since or around the same time as private respondent's discovery of the spoiled product. It is then safe to say that the problem was not borne out of petitioner's defective handling of its products but by some other reason which We know nothing about.[24]

Nestle avers that the CA has the authority to make its own factual determination when the findings of the administrative officials are arrived at arbitrarily or in disregard of evidence. From the foregoing, it is apparent that the CA proceeded in evaluating the evidence on record and dwelt on errors in judgment committed by the DOH instead of errors of jurisdiction as required in a special civil action for *certiorari*. Notably, the CA has no clear and distinct findings as to the presence of grave abuse of discretion on the part of the DOH.

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[23] See *Montoya v. Transmed Manila Corporation*, 613 Phil. 696, 707 (2009).
[24] *Rollo*, pp. 62-63.

Nonetheless, the Court evaluated the records of this case and finds that, contrary to the findings of the CA, the evidence available before the DOH and the CAO-NCR were sufficient and substantial to hold Nestle liable, to wit: (a) the Complaint filed by complainant Jarra; and (b) the BFAD Report of Analysis which affirmed Jarra's complaint that the milk product contained live larvae and that the milk powder was stale and unfit for human consumption.

The DOH affirmed the findings of the CAO-NCR that Nestle violated Article 23 (3) of RA 7394 and is thus, liable under Article 40 (a) of the same law.

Article 23 (3) and Article 40 (a) of RA 7394 state that:

> ARTICLE 23. *Adulterated Food.* – A food shall be deemed to be adulterated:
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> x x x x
>
> 3) if it consists in whole or in part of any filthy, putrid or decomposed substance, or if it is otherwise unfit for food;
>
> x x x x
>
> ARTICLE 40. *Prohibited Acts.* – The following acts and the causing thereof are hereby prohibited:
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> a) the manufacture, importation, exportation, sale, offering for sale, distribution or transfer of any food, drug, device or cosmetic that is adulterated or mislabeled[.]

Under the doctrine of conclusiveness of administrative findings of fact, the courts accord great weight and respect, if not finality and conclusiveness, to findings of fact of administrative bodies when such are supported by substantial evidence.[25] The reason behind this is that administrative bodies are deemed specialists in their respective fields and can thus resolve the cases before them with more expertise and dispatch.[26]

Simply put, a findings of fact of an administrative body is binding to the courts if they are duly supported by substantial evidence. Substantial evidence *is more than a mere scintilla but is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, would suffice to hold one administratively liable.*[27]

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[25] See *Miro v. Mendoza*, 721 Phil. 772, 784 (2013).

[26] See *Galindez v. Firmalan*, G.R. No. 187186, June 6, 2018, citing *Solid Homes v. Payawal*, 257 Phil. 914, 921 (1989).

[27] *Lim v. Fuentes*, G.R. No. 223210, November 6, 2017, 844 SCRA 60, 70.

In the instant case, there is no doubt that the subject milk product was one of the manufactured and distributed products of Nestle. Upon examination of the BFAD, such milk product was found to be adulterated. Although Nestle presented a Report from its Quality Assurance Department, the CAO-NCR and the DOH gave more credence on the allegations of Jarra and the BFAD Report of Analysis. The DOH held that the BFAD is presumed to possess technical expertise on the given field and its findings cannot be peremptorily set aside. The DOH likewise held that the welfare of the consumers or the "unsuspecting public" is of paramount importance as against the right of the manufacturer. Upon perusal, other than the defense of denial and its self-serving postulations that the infestation could have been caused by other factors, such as the mishandling of the retail store or from Jarra herself, Nestle failed to muster the required burden of proof to persuade the Court that it is not responsible for the spoilage or adulteration of the milk product. Hence, no grave abuse of discretion can be attributed to the DOH in giving more weight on the account of Jarra and the findings of the BFAD over the denials and suppositions of Nestle.

To emphasize, the findings of the DOH may only be set aside *via* a petition for *certiorari*, if there was grave abuse of discretion in the rendering thereof. A judicious review by the Court of the records of the case reveals that there is no grave abuse of discretion on the part of the DOH and its decision is supported by substantial evidence and within the bounds of law. Perforce, the present petition must be granted.

However, the Court finds it necessary to modify the order of restitution rendered by the CAO-NCR, which is affirmed by the DOH. In its Resolution dated January 11, 2016, the CAO-NCR ordered Nestle, among others, to restitute Jarra with two (2) bottles of RC Cola, or alternatively to reimburse the value thereof, at the option of Jarra. Considering that the product in question in the present case is one Bear Brand Powdered Filled Milk (150g pack), it is but equitable to order Nestle to restitute Jarra with the same product.

WHEREFORE, in view of the foregoing, the Petition for Review on *Certiorari* is **GRANTED**. The Decision dated October 19, 2018 and the Resolution dated January 17, 2019 of the Court of Appeals in CA-G.R. SP No. 153068 are **REVERSED**. The Decision dated April 17, 2017 and the Resolution dated September 11, 2017 of the Department of Health are **REINSTATED** with **MODIFICATION** in that respondent Nestle Philippines, Inc. is hereby ordered as follows:

1) To pay an administrative fine of ₱20,000.00;

2) To make an assurance to comply with the provisions of Republic Act No. 7394 and its implementing rules and

regulations;

3) To restitute complainant Myrnanette M. Jarra with one (1) Bear Brand Powdered Filled Milk (150g pack), or alternatively to reimburse the value thereof at the option of the complainant; and

4) The condemnation of the subject product.

SO ORDERED.

EDGARDO L. DELOS SANTOS
Associate Justice

WE CONCUR:

ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

RAMON PAUL L. HERNANDO
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

(On Leave)
PRISCILLA J. BALTAZAR-PADILLA
Associate Justice

ATTESTATION

I attest 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.

ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson, Second Division

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