



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

EN BANC

MANILA INTERNATIONAL
PORTS TERMINAL, INC.,¹
Petitioner,

G.R. No. 196199

- versus -

PHILIPPINE PORTS
AUTHORITY,
Respondent.

X-----X

PHILIPPINE PORTS
AUTHORITY,

G.R. No. 196252

Petitioner,

Present:

GESMUNDO,* C.J.,
PERLAS-BERNABE,
LEONEN,
CAGUIOA,
HERNANDO,
CARANDANG,**
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M. V.,
GAERLAN,
ROSARIO,
LOPEZ, J. Y.,
DIMAAMPAO,*** and
MARQUEZ, JJ.

- versus -

MANILA INTERNATIONAL
PORTS TERMINAL, INC.,
Respondent.

* No part. Handled a related case when connected with the Office of the Solicitor General.

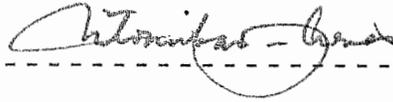
** No part. Concurred in the assailed Court of Appeals Decision.

*** On official leave.

¹ Also referred to as Manila International Port Terminal, Inc. in the records and Manila International Port Terminals, Inc., per Presidential Decree No. 634, January 7, 1995.

Promulgated:

December 7, 2021



X-----X

DECISION

HERNANDO, J.:

These consolidated petitions for review on *certiorari*² assail the September 22, 2010 Decision³ of the Court of Appeals (CA) in CA-G.R. CV No. 80775 and its March 16, 2011 Resolution,⁴ that affirmed with modification the April 30, 2003 Decision⁵ of the Regional Trial Court (RTC) of Manila, Branch 15, in Civil Case No. 86-37673, and denied the motion for reconsideration thereof, respectively. The RTC found the revocation of Manila International Port Terminal, Inc.'s (MIPTI) franchise to operate the Manila International Port Terminal Complex (MIPTC), among others, unconstitutional.

The facts, as summarized by the CA are as follows:

Defendant-Appellant Philippine Ports Authority (PPA) is a government corporation created under Presidential Decree No. 857, vested with authority, control and supervision over the Manila International Port Terminal Complex (MIPTC) at North and South Harbors in Tondo, Manila. Plaintiff-Appellee Manila International Ports Terminal, Inc. (MIPTI) is a private domestic corporation engaged in port-related services.

On 06 January 1975, former President Ferdinand E. Marcos issued Presidential Decree No. 634 granting MIPTI a franchise to construct, operate and maintain modern container terminals, bonded warehouses, storage depots, cold and refrigerated storage, cargo and transit sheds, conveyor piers, docks, landing and berthing facilities, access roads, bridges, seawalls, bulkheads and filling at North Harbor. On 16 January 1978, Presidential Decree No. 1284 amended Presidential Decree No. 634 authorizing MIPTI to operate and manage all facilities, container terminals, gantry cranes, warehouses, storage, depots, transit sheds, conveyor installations, and other structures and to render cargo-handling services in the MIPTC at North Harbor for a period of twenty-five (25) years, unless sooner modified, suspended or terminated. On 01 July 1979, MIPTI commenced operation at the MIPTC under an interim procedure promulgated by PPA.

² *Rollo* (G.R. No. 196199), pp. 8-27 and *rollo* (G.R. No. 196252), pp. 15-59.

³ *Rollo* (G.R. No. 196252, Vol. 1), pp. 64-92. Penned by Associate Justice Manuel M. Barrios and concurred in by Associate Justices Rosmari D. Carandang (now a Member of this Court) and Ramon R. Garcia.

⁴ *Id.* at 94-95.

⁵ *Id.* at 96-116. Penned by Presiding Judge Mercedes Posada Lacap.

On 01 April 1980, MIPTI and PPA executed a Memorandum of Agreement (MOA) providing for the rules in the operation and management of the MIPTC at North Harbor as well as detailing the rights and obligations of the parties under the franchise.

On 13 April 1981, PPA issued Administrative Order (AO) No. 10-81 providing for the rules and regulations in the management and operation of cargo-handling services in port terminals throughout the country.

On 02 April 1986, MIPTI was sequestered by the Presidential Commission on Good Government (PCGG). The PCGG monitored MIPTI's operations but it never interfered with its management.

Sometime [in] June 1986, Vicente T. Suazo, Jr[.], Manager of the Port of Manila, sent two (2) letters to MIPTI informing it of alleged violations in the latter's port activities, and urging it to take necessary actions in improving its deteriorating performance and equipment.

On 18 July 1986, Primitivo S. Solis, Jr., PPA's General Manger, served a letter to MIPTI notifying it about the strike being staged by various trucking and brokerage firms at North Harbor caused by its alleged poor performance and illegal practices. Solis required MIPTI to answer not later than 9:00 A.M. the next day the following illegal acts allegedly committed by it, to wit: (a) unpaid claims for short delivery, cargo losses and damages; (b) dilapidated and short supply of equipments [sic]; (c) unilateral increases in arrastre rates without consultation with port users and approval of PPA; (d) refunds from advance deposits were not returned nor honored; and (e) cargoes were not released unless incentives were given to the arrastre personnel. In said letter, Solis likewise informed MIPTI of its violations under the provisions of their MOA.

On 19 July 1986, in compliance with the PPA directive, Gregorio Oca – then MIPTI's President – submitted a reply denying all the allegations imputed against MIPTI and enumerating the acts showing its faithful compliance with its obligations under the franchise and the MOA.

On same date, then President Corazon C. Aquino issued Executive Order (EO) No. 30 revoking MIPTI's franchise due to substantial violations of the MOA, which resulted in the deterioration of port services, and authorizing PPA to undertake, on its own, the cargo-handling operation at North Harbor. Consequently, PPA sent a letter to MIPTI informing it of its plan to take over its business and properties.

On 20 July 1986, PPA issued a permit to Metrostar Port and Allied Services, Inc. (Metrostar), a private domestic corporation engaged in the business of providing cargo-handling services and operation of port complex in the country, to render cargo-handling and other port-related services at North Harbor for a period of one (1) year.

On 21 July 1986, PPA actually took over MIPTI's operations at the MIPTC and seized its equipment. PPA thereafter placed Metrostar in control of the port operations at North Harbor and in possession of the seized properties. MIPTI subsequently made an inventory of all the seized properties in the presence of representatives from PPA, Metrostar and PCGG.

On 14 August 1986, PPA sent a letter to MIPTI's President informing him that it was exercising its right to purchase the seized properties at book value pursuant to AO No. 10-81. However, MIPTI refused the offer on the ground that the price was iniquitous. Thereafter, a guarantee fund deposit was established in MIPTI's favor to secure the rental payments for the use of the seized properties.

On 23 September 1986, MIPTI filed a civil action for damages against PPA, general manager Solis and Metrostar before the RTC of Manila.

MIPTI alleged that PPA violated its rights to due process of law and non-impairment of contract when it recommended the revocation of its franchise without first conducting an investigation or inquiry on the alleged complaints of port users as well as its alleged contract violations that since its franchise was a property right, there should be a notice and hearing before the same could be suspended or revoked; and that PPA's transfer of the cargo-handling operation to Metrostar and the latter's continued use of its seized properties were illegal.

For its part, PPA maintained that the cancellation of MIPTI's franchise was valid because of services breach of its contractual undertaking which is detrimental to the efficient operations at the MIPTC; that it had the absolute right to take over the cargo-handling operations at the MIPTI in the event of violation of the MOA's provisions; that, in recommending the cancellation of the franchise, it only protected the interest of the public as being the State's agent in regulating port-related services at the port areas; that it was not required to hold an investigation before recommending the cancellation of the franchise as either Presidential Decree No. 1284 or the MOA did not provide for it; that it did not arbitrarily take over MIPTI's business as it had the sole control and authority over the MIPTC and the transfer of the cargo-handling operations to Metrostar was only incidental to its regulatory power; and that it did not violate MIPTI's right to non-impairment of contract considering that the franchise was always subject to revocation when necessity demands.

Meanwhile, on 20 July 1987, Metrostar's permit to render port services expired. PPA opted not to renew the permit and Metrostar subsequently ceased its operations. Thereafter, MIPTI moved to drop Metrostar as party-defendant in the case on the ground of the latter's non-existence and that PPA has no objections thereto. Incidentally, PCGG also filed an action for intervention claiming that MIPTI is under sequestration proceedings, but later withdrew the same.

On 19 May 1988, a new contract was executed between PPA and International Container Terminal Services, Inc. (ICTSI) for the management, operation and development of the MIPTC at North Harbor. On 12 June 1988, ICTSI took over the custody and operation of the machineries and equipment belonging to MIPTI; and on 17 July 1990, ICTSI deposited Three Million Pesos (₱3,000,000.00) in favor of MIPTI representing rental payments for the use of MIPTI's properties.

On 13 July 1992, PPA filed a third-party complaint against ICTSI before the RTC praying for reimbursement from the latter in the event the former is adjudged liable to MIPTI. In response, ICTSI filed an answer on 13 November 1992, arguing that it is only liable for the rental payments of the properties ceded to it by PPA which it had actually used or rehabilitated, and that there was no

privity of contract between it and MIPTI to warrant the payment of the latter's claims.

During trial, MIPTI presented as witnesses Noel Romualdez, Milagros Deang, Charles Lee and Zenaida Cabrera to further bolster its claims. On the other hand, during pre-trial, PPA manifested that it would present as witnesses Leonardo Yu, the Port Manager of North and South Harbor, and its Operations Manager or Finance Manager, but both failed to testify.

Romualdez testified that he was the former Assistant Operations Manager of MIPTI; that on 18 July 1986, at around 5:30 P.M., he was informed by MIPTI's Operations Manager of its alleged violations of the MOA and the complaints of port-users regarding their services, and that they were being asked by PPA to submit their answer the following morning; that he, along with MIPTI's department heads, worked overnight in finishing the reply to PPA; that, on 19 July 1986, MIPTI sent its reply to PPA, however, it remained silent as to its explanation; that, upon reporting for work on 21 July 1986, he was shocked to have seen joint security personnel from PPA and Metrostar carrying firearms within the compound; that when he entered his office, he saw all his papers scattered on the floor and there was a great commotion going on; that he saw Alex Suaniño of PPA sitting on his desk and telling him that PPA had already taken over; that [Suaniño] prevented him from taking out his belongings and later informed him that the port operations at North Harbor was already transferred to Metrostar; that PPA forcibly seized MIPTI's properties and turned over the same to Metrostar; that MIPTI was powerless to stop the take over even with PCGG's assistance; that MIPTI took the inventory of all the seized properties in the presence of representatives from PPA, Metrostar and PCGG; that, in 1988, he and his co-employee made a canvass of all the seized properties in order to ascertain their value; that the results yielded that the equipment's replacement cost was between One Hundred Seventy Million (₱170,000,000.00) to One Hundred Seventy[-] Five Million Pesos (₱175,000,000.00), as for the spare parts and office equipment, it was Eight Million Nine Hundred Thousand Pesos (₱8,900,000.00), and as for the vehicles' tires, it was One Million Five Hundred Thirty Thousand Pesos (₱1,530,000.00); that, at the time of the take over, MIPTI was earning a monthly income of Two Million (₱2,000,000.00) to Three Million Pesos (₱3,000,000.00); and that the seized properties had a monthly rental value of around Four Million Pesos (₱4,000,000.00) based on the rates provided for under the Associated Construction Equipment Lessor (ACEL) manual.

Deang testified that she was the former MIPTI's Chief Accountant; that she used to prepare, analyze and interpret MIPTI's financial statements until 31 December 1986; that PPA took over all of MIPTI's properties upon the revocation of its franchise in 1986; that among the properties seized were [straddle] carriers, forklifts, heavy and office equipment, spreader bars, vehicles, and desks; that based on MIPTI's income statements from 1982 to July 1986, MIPTI had earned the following gross revenues from its port operations at the MIPTC: in 1982, it was Fifty[-]Five Million Four Hundred Eighty[-]One Thousand Eight Hundred Forty[-]Nine Pesos and Forty[-]Six Centavos (₱55,481,849.46), in 1983, it was Sixty[-]Seven Million Eleven Thousand Three Hundred Ninety Pesos (₱67,011,390.00); in 1984, it was Sixty[-]Five Million Nine Hundred Sixty[-]Three Thousand One Hundred Eighteen Pesos (₱65,963,118.00); in 1985, it was Seventy[-]Four Million Two Hundred Seventy[-]Four Thousand Two Hundred Ninety Pesos (₱74,274,290.00), and in July 1986, it was Fifty[-]Two Million Five Hundred Seventy[-] Three Thousand Seven Hundred Twenty[-]Two Pesos and Twenty[-]Two Centavos

(₱52,573,722.22); that MIPTI had an increasing trend of revenues every year; and that if MIPTI did continue operations in 1986, it could [have] amassed an income ranging from One Hundred Million (₱100,000,000.00) to One Hundred Fifty Million Pesos (₱150,000,000.00).

Lee testified that he was the former part owner, director and treasurer of MIPTI; that he used to safeguard and monitor MIPTI's financial dealings and business transactions; that on 19 July 1986, MIPTI received a letter from PPA requiring it to answer the allegation of illegal acts it committed without reference to the specific provisions of the MOA violated; that, after submitting a reply, PPA never communicated with MIPTI regarding the possible discussions or conferences on the charges against them; that on 21 July 1986, PPA forcibly took over the port operations at the MIPTC with the aid of armed security guards; that PPA seized all of MIPTI's cargo-handling and office equipment, spare parts and other properties worth millions of pesos and turned over the same to Metrostar; that after the seizure, MIPTI proceeded with the inventory of its properties in the presence of representatives from PCGG, Metrostar and PPA; that the seized properties were in good operating conditions at the time of seizure as certified by the company's mechanics; that he demanded PPA to return the seized properties as it was more difficult to repair or replace them as years [go] by and that the company could still derive profits from them; that, in 1988, PPA offered to buy the seized properties but he refused as the prices were ridiculously low; that the replacement value of the seized properties as of 1988 was One Hundred Seventy[-]Three Million Five Hundred Sixty Thousand Pesos (₱173,560,000.00); that the monthly rental value of the seized equipment was approximately Five Million Pesos (₱5,000,000.00) based on the ACEL rates; and that MIPTI's gross profit increased yearly since 1981 until the first six (6) months of 1986 based on the company's financial statements.

Cabrera testified that she was the former Management and Audit Analyst of PCGG; that she used to file the records submitted by the Asset Monitors on sequestered companies; that PCGG sequestered MIPTI on 02 April 1986; that PCGG monitored MIPTI's operations but it never interfered with its funds or management; that MIPTI was operating normally and profitably based on the financial statements submitted to her by the Fiscal Agents; and that during the take over, a team from PCGG monitored the inventory of MIPTI's seized properties along with the representatives of PPA and Metrostar.

MIPTI and PPA presented their documentary evidence in support of their respective claims and defenses. After the principal parties' presentation of evidence, on 18 June 1997, PPA and ICTSI jointly moved to dismiss the third-party complaint on the ground that they had already executed a compromise agreement, which the trial court granted on 06 August 1997.⁶ (Citations omitted)

Ruling of the Regional Trial Court:

The RTC limited the issues into the following:

1. Whether the termination of the franchise of [MIPTI] is legal;

⁶ Id. at 66-74.

2. Whether [PPA] had the right to take over the property and equipment of MIPTI; [and]

3. Granting that the takeover was legal, the amount of just compensation of the equipment taken over. x x x ⁷

The RTC noted that Executive Order No. (EO) 30⁸ was issued on July 19, 1986, which coincided with the date Philippine Ports Authority (PPA) took over MIPTI's business operations, facilities, and properties. Based on this, the RTC concluded that at the time of the takeover, EO 30 was not yet published in the Official Gazette; neither did the 15-day publication already lapse. Thus, at the time of PPA's takeover, EO 30 had no force and effect yet.⁹ Otherwise stated, the revocation of MIPTI's franchise and PPA's takeover of its business operations, facilities, and equipment were illegal, since EO 30, which was used as the basis thereof, was unconstitutional or without legal force or effect.¹⁰ Citing *Tañada v. Tuvera*,¹¹ the RTC held that publication is necessary in order for a law to have force and effect.¹²

The RTC also ruled that the PPA did not comply with the provisions of Presidential Decree No. (PD) 634¹³ and the memorandum of agreement (MOA) in revoking MIPTI's franchise.¹⁴ In particular, PPA did not conduct any prior investigation to establish the alleged violations on the part of MIPTI as to warrant a recommendation to the President to revoke or suspend the franchise.¹⁵ As found by the RTC, PPA failed to adduce evidence to substantiate its charges against MIPTI. On the contrary, the RTC noted that the PPA acted with "undue haste and recklessness in stripping [MIPTI] of its rights granted by law and x x x arbitrarily [seized MIPTI's] equipment and properties and turning over the management and operation of [MIPTI] including the properties and equipment seized from [MIPTI] to Metrostar."¹⁶

Moreover, the RTC ruled that the PPA denied MIPTI of its fundamental right to due process. It ratiocinated that considering that the revocation of the franchise happened on the day MIPTI filed its reply, it follows that there was

⁷ Id. at 101.

⁸ Entitled "RECALLING THE FRANCHISE GRANTED TO THE MANILA INTERNATIONAL PORT TERMINALS, INC. (MIPTI) TO OPERATE AND MANAGE THE INTERNATIONAL PORT COMPLEX AT NORTH HARBOR, MANILA," dated July 19, 1986.

⁹ *Rollo* (G.R. No. 196252), p. 102.

¹⁰ Id. at 103.

¹¹ 230 Phil. 528 (1986).

¹² *Rollo* (G. R. No. 196252), p. 102.

¹³ Entitled "GRANTING THE MANILA INTERNATIONAL PORT TERMINALS, INC. A FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN FLOATING BONDED WAREHOUSES AND COLD STORAGE FACILITIES IN THE MANILA BAY AND OTHER NAVIGABLE WATERS IN THE VICINITY AND REPEALING FOR THE PURPOSE OF REPUBLIC ACT NO. 4138, AS AMENDED," dated January 7, 1975.

¹⁴ *Rollo* (G.R. No. 196252), pp. at 104-105.

¹⁵ Id.

¹⁶ Id.

no hearing conducted for the purpose.¹⁷ The RTC also found that although “EO 30 provide[d] that ‘PPA can undertake on its own’ the management and operations of the MIPTC and the cargo handling services thereat,”¹⁸ PPA immediately turned over the performance of those functions to Metrostar Port and Allied Services, Inc. (Metrostar), and subsequently to another entity, International Container Terminal Services, Inc. (ICTSI), after the contract with Metrostar expired.¹⁹

The RTC concluded that EO 30 was enacted for selfish reasons. It noted the sequence of events, from the time MIPTI “was served by x x x PPA a letter informing it of the complaint of third parties and the alleged violation of their MOA at about 5:30 P.M. of July 18, 1986 which was a Friday and requiring [MIPTI] to reply not later than 9:00 A.M. of the following day, July 19, 1986, a Saturday, which was also the day [EO 30] was issued and the same day that x x x PPA took over [MIPTI’s] business operations, facilities and properties.”²⁰

According to the RTC, PPA went beyond the authority given it by EO 30. The law never authorized PPA to take over MIPTI’s properties and equipment. Even if it was authorized, the same did not justify the arbitrary and confiscatory manner by which it carried out the takeover.²¹

In summary, the RTC concluded that EO 30 was unconstitutional and invalid, and PPA’s takeover of MIPTI’s business operations, facilities, and equipment was illegal; hence, MIPTI is entitled to the reliefs it prayed for.²² Thus, on the assumption that PPA can no longer return the equipment and properties of MIPTI in their prior serviceable condition, the RTC valued the replacement cost thereof at ₱180,000,000.00; monthly rentals thereof at ₱1,500,000.00, since during the takeover, PPA, Metrostar, and ICTSI used the equipment and earned income thereon; and ₱1,500,000.00 for lost profits per month starting from the date of takeover on July 18, 1986 until January 18, 2003. In addition, the RTC imposed interest at the rate of six percent (6%) per *annum* on the monetary awards from July 19, 1986 up to full payment, exemplary damages of ₱200,000.00, and attorney’s fees equivalent to fifteen percent (15%) of the amount recovered.²³

The dispositive portion of the RTC Decision reads:

WHEREFORE, judgment is hereby rendered:

¹⁷ Id. at 105.

¹⁸ Id.

¹⁹ Id. at 106.

²⁰ Id. at 105.

²¹ Id. at 106-107.

²² Id. at 115-116.

²³ Id.

1. Declaring Executive Order No. 30, issued on July 19, 1986 unconstitutional;

2. Declaring the takeover by defendant PPA of the properties of the plaintiff ILLEGAL;

3. Ordering defendant PPA and its incumbent general manager:

a) to return and restore into plaintiff's possession all the equipment and properties that have been taken by the PPA as listed in Exh. "G" to "G-255" and Exh. "H" to "H-4". In the event that the same cannot be returned, defendant is ordered to pay plaintiff the corresponding value thereof in the sum of [P]180,000,000.00.

b) to pay jointly and severally the plaintiff the amount of [P]1,500,000.00 a month representing actual damages for loss of income from operation and business starting July 18, 1986 until January 18, 2003;

c) to pay plaintiff jointly and severally the amount of [P]1,500,000.00 a month as rental for the use of plaintiff's properties and equipment starting July 19, 1986 until the same are returned to plaintiff or the corresponding value thereof in the amount of [P]180,000,000.00 is paid. The amount previously paid by defendant to plaintiff as rentals shall be deducted therefrom;

d) to pay plaintiff the sum of [P]200,000.00 as exemplary damages;

e) to pay plaintiff the sum of [P]500,000.00 as attorney's fees; and

f) to pay the costs.

SO ORDERED.²⁴

Ruling of the Court of Appeals:

Aggrieved, PPA appealed before the CA, which was docketed as CA-G.R. CV No. 80775. However, the CA denied the appeal and affirmed with modification the RTC Decision.²⁵ It held that MIPTI was denied due process of law when its franchise to operate port services was arbitrarily revoked and its properties and equipment unjustly seized.²⁶ *First*, EO 30, which served as basis for the revocation of MIPTI's franchise, was unconstitutional for lack of publication which is an indispensable part of due process.²⁷ *Second*, PPA made the recommendation to revoke MIPTI's franchise and promptly seized its equipment and other properties without conducting any investigation on the charges hurled against it in violation of PD 634 and the MOA.²⁸ The CA observed that there was a pre-determined plan to drive MIPTI out of business based on the swift turn of events and even categorized the same as injustice

²⁴ Id. at 115-116.

²⁵ Id. at 90-91.

²⁶ Id. at 76.

²⁷ Id.

²⁸ Id. at 77-78.

since MIPTI was never afforded any reasonable opportunity to present its defense.²⁹

Considering the foregoing, the CA found MIPTI entitled to its claims. However, since it was no longer practical to order the restoration or restitution of the equipment and other properties, the CA adjudged MIPTI entitled to actual or compensatory damages in the modified amount of ₱19,049,710.00. The CA found the amount of ₱180,000,000.00 awarded by the RTC not proper as the same was based on the current price of the equipment. On the other hand, the CA opined that depreciation of the equipment must be considered, and it also noted that MIPTI itself recorded in its financial statement ending December 31, 1986 the value of its equipment at ₱19,049,710.00.³⁰

Anent the award for lost income, the CA opined that the RTC should not have pegged the amount based on MIPTI's gross income, but on its net income after tax which specifically determines the company's profitability. Neither should the same be based on ICTSI's profitability since MIPTI and ICTSI do not stand on equal footing.³¹ Thus, as recomputed, the CA awarded MIPTI the amount of ₱250,000.00 per month representing lost profits. The CA deleted the award for rentals based on its finding that the equipment was no longer serviceable. On the other hand, the CA sustained the awards for exemplary damages, attorney's fees, and costs of suit.³²

The decretal portion of the CA Decision reads:

WHEREFORE, foregoing considered, the Decision dated 30 April 2003 of the Regional Trial Court of Manila, Branch 15, is hereby AFFIRMED WITH MODIFICATION of paragraph 3 of the dispositive portion which is hereby amended to read:

x x x x

3. Ordering defendant PPA and its incumbent general manager:

a) To pay appellee MIPTI the amount of Nineteen Million Forty[-] Nine Thousand Seven Hundred Ten Pesos (₱19,049,710.00) representing the fair and reasonable value of the x x x [equipment] and other properties seized from MIPTI, with legal interest at the rate of six percent (6%) thereof from the filing of the Complaint on 23 September 1986 up to the finality of this decision, and thereafter at the rate of twelve percent (12%) until the same is paid in full.

b) To pay appellee MIPTI the sum of Two Hundred Fifty Thousand Pesos (₱250,000.00) per month as unrealized profits for the period from 21 July 1986 when PPA arbitrarily took over the port operations from MIPTI up to the supposed end on 16 January 2003.

²⁹ Id. at 78-84.

³⁰ Id. at 87.

³¹ Id. at 87-88.

³² Id. at 89-90.

The rest of the court a quo's disposition are maintained.

SO ORDERED.³³ (Emphasis omitted)

Both parties filed their respective motions for reconsideration but they were denied by the CA in its March 16, 2011 Resolution.³⁴ Dissatisfied with the modifications made by the CA on the award of damages, MIPTI filed a petition for review,³⁵ docketed as G.R. No. 196199, raising the following errors:

I. The Honorable Court of Appeals gravely erred in modifying the decision of the trial court as to the amount to be paid by respondent PPA as replacement cost considering that the findings of the trial court [were] supported by evidence and applicable laws, in complete disregard of law and jurisprudence;

II. The Honorable Court of Appeals gravely erred in disregarding the value assigned by the trial court to the testimony of petitioner's witness Noel Romualdez and the evidence presented by the petitioner, which is contrary to law and applicable jurisprudence.

III. The Honorable Court of Appeals gravely erred in modifying or reducing the award of lost or unrealized profits in the trial court's decision considering that the award by the trial court satisfies the standard of competent proof by a reasonable degree of certainty that the law requires for a grant of compensatory damages, which Decision of the Honorable Court of Appeals is not in accordance with law and jurisprudence.

IV. The Honorable Court of Appeals erred in ignoring the evidence relied upon by the trial court to determine the replacement cost, in blatant disregard of the law and applicable jurisprudence.

V. The Honorable Court of Appeals gravely erred in deleting from its Decision the award of rentals for the use of petitioner's properties and equipment, contrary to law and applicable jurisprudence.

VI. The Honorable Court of Appeals erred in not ruling that since Executive Order No. 30 is unconstitutional in all aspects, it is only fair and equitable that petitioner's franchise be restored to or reinstated in its favor as if such order was never issued or promulgated at all.³⁶ (Italics and emphasis omitted)

Likewise, PPA filed its own petition for review,³⁷ docketed as G.R. No. 196252 assailing the ruling of the CA, with the following issues:

³³ Id. at 90-91.

³⁴ Id. at 94-95.

³⁵ *Rollo* (G.R. No. 196199), pp. 8-25.

³⁶ Id. at 13-14.

³⁷ *Rollo* (G.R. No. 196252), pp. 15-59.

I.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR OF LAW WHEN IT AFFIRMED THE FINDING OF THE LOWER COURT THAT THE MIPTI WAS DEPRIVED DUE PROCESS OF LAW WHEN ITS FRANCHISE TO OPERATE PORT SERVICES AT THE MIPTC WAS REVOKED AND ITS PROPERTIES, FACILITIES AND EQUIPMENT WERE SEIZED.

II.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERRORS OF LAW AND FACT IN AWARDING ACTUAL DAMAGES IN THE AMOUNT OF [P]19,049,710.00 REPRESENTING THE FAIR AND REASONABLE VALUE OF THE SEIZED EQUIPMENT AND OTHER PROPERTIES SEIZED FROM MIPTI, WITH LEGAL INTEREST AT THE RATE OF 6% FROM THE TIME OF THE FILING OF THE COMPLAINT ON SEPTEMBER 23, 1986.

III.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERRORS OF LAW AND FACT IN AWARDING ACTUAL DAMAGES IN THE FORM OF LOST PROFITS TO THE MIPTI AT [P]250,000.00 PER MONTH.

IV.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERRORS OF LAW AND FACT IN HOLDING THE PPA LIABLE FOR EXEMPLARY DAMAGES, ATTORNEY'S FEES AND THE COSTS OF THE SUIT.³⁸
(Emphasis omitted)

Issues

As deduced from the submissions of the parties, the issues in this case are:

1. Whether the CA correctly affirmed the unconstitutionality of EO 30;
2. Whether the CA correctly affirmed the invalidity of the seizure of MIPTI's private properties; and
3. Whether the CA correctly affirmed with modifications the award of damages.

Our Ruling

- I. EO 30 is unconstitutional for violating MIPTI's right to procedural due process.**

³⁸ Id. at 32-33.

In upholding the RTC Decision, the CA held that MIPTI was deprived of due process when its franchise was unceremoniously revoked and its properties, facilities, and equipment unjustly seized.³⁹ It noted that MIPTI was not given adequate notice of the revocation since EO 30, which was a legislative act, was not published.⁴⁰ Further, PPA recommended the revocation without conducting any investigation.⁴¹ From the swift turn of events, the CA concluded that there was a predetermined plan to drive MIPTI out of business,⁴² consistent with the trial court's finding that EO 30 was used to further and justify a selfish intention.⁴³

The CA is referring to the following undisputed sequence of events that preceded the takeover of MIPTI's operations and property:

1. On July 18, 1986, a Friday, at around 5:30 pm, PPA served MIPTI a letter informing it of its alleged violations and requiring it to reply no later than 9:00 in the morning of the following day;⁴⁴

2. On July 19, 1986, a Saturday, MIPTI submitted its reply, repudiating the allegations against it.⁴⁵ PPA then served [it] with another letter stating that the former would be taking over immediately the management, operations, properties, and equipment of MIPTI.⁴⁶ It was on this day that EO 30 was issued;⁴⁷

3. On July 20, 1986, a Sunday, PPA issued a permit to Metrostar to undertake cargo handling services in MIPTC,⁴⁸ and

4. On July 21, 1986, the following Monday, PPA actually took over the operations of MIPTC and seized MIPTI's properties.⁴⁹

First, there is no doubt that President Corazon C. Aquino (President Aquino) had the power to repeal or revoke MIPTI's franchise. As head of the revolutionary government, she was empowered by the 1986 Freedom Constitution to exercise legislative powers,⁵⁰ including the power to amend, alter, or repeal the franchise of a public utility.⁵¹ This legislative prerogative is

³⁹ *Rollo* (G.R. No. 196199), p. 41.

⁴⁰ *Id.* at 41-42.

⁴¹ *Id.* at 43.

⁴² *Id.* at 49.

⁴³ *Id.* at 72.

⁴⁴ *Id.* at 32, 36.

⁴⁵ *Id.* at 32-33.

⁴⁶ *Id.* at 33.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ CONSTITUTION (1986), Article II, Section 1 states that "[u]ntil a legislature is elected and convened under a new Constitution, the President shall continue to exercise legislative power."

⁵¹ CONSTITUTION (1986), Article I, Section 2 states that the provisions of Article XIV of the 1973 Constitution are adopted insofar as they are not inconsistent with the 1986 Freedom Constitution. CONSTITUTION (1973), Article XIV, Section 5, in turn states:

broad and plenary,⁵² stemming from the most essential, insistent, and illimitable of government powers – police power.⁵³ Thus, courts are generally reluctant to interfere with it.⁵⁴

Second, while the power to repeal a franchise is broad and plenary, it cannot be exercised arbitrarily or at whim. The Constitution expressly limits such power in that its exercise must be necessitated by “common good”⁵⁵ or “public interest.”⁵⁶

Third, as will be the focus of this Decision, the exercise of this power is further limited by the due process clause of the Constitution. Thus, a franchise cannot be revoked or forfeited without due process of law.

The revocation of franchise requires the observance of due process.

In our jurisdiction, a franchise is broadly defined as a special privilege that is not demandable as a matter of right, and when granted, is subject to amendment, alteration, or repeal by Congress:⁵⁷

Broadly speaking, “a franchise is defined to be a special privilege to do certain things conferred by government on an individual or corporation, and which does not belong to citizens generally of common right.” Insofar as the great powers of government are concerned, “[a] franchise is basically a legislative grant of a special privilege to a person.” In *Associated Communications & Wireless Services v. NTC (Associated Communications)*, the Court defined a “franchise [as] the privilege granted by the State through its legislative body x x x subject to regulation by the State itself by virtue of its police power through its administrative agencies.” On this score, Section 11, Article XII of the 1987 Constitution further states that “for the operation of a public utility,” no “such franchise or right [shall] be granted except under the

SECTION 5. No franchise, certificate, or any other form of authorization for the operation of a public utility shall be granted except to citizens of the Philippines or to corporations or associations organized under the laws of the Philippines at least sixty *per centum* of the capital of which is owned by such citizens, nor shall such franchise, certificate, or authorization be exclusive in character or for a longer period than fifty years. **Neither shall any such franchise or right be granted except under the condition that it shall be subject to amendment, alteration, or repeal by the Batasang Pambansa when the public interest so requires.** The State shall encourage equity participation in public utilities by the general public. The participation of foreign investors in the governing body of any public utility enterprise shall be limited to their proportionate share in the capital thereof. (Emphasis supplied)

⁵² See *MORE Electric and Power Corp. v. Panay Electric Co., Inc.*, G.R. Nos. 248061 & 249406, March 9, 2021, where the Court characterized the grant of franchise to MORE Electric and Power Corp. as “broad and plenary.”

⁵³ See *Lim v. Pacquing*, 310 Phil. 722, 766 (1995), where the Court noted that “a franchise is not in the strict sense a simple contract but rather it is more importantly, a mere privilege specially in matters which are **within the government’s power to regulate and even prohibit through the exercise of the police power.**” (Emphasis supplied) Further, in *Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*, 836 Phil. 205, 265 (2018), citing *Ichong v. Hernandez*, 101 Phil. 1155, 1163 (1957), the Court described police power as “most essential, insistent and illimitable” of government powers.

⁵⁴ See *Ichong v. Hernandez*, 101 Phil. 1155, 1166 (1957).

⁵⁵ CONSTITUTION (1987), Art. XII, Sec. 11.

⁵⁶ CONSTITUTION (1935), Art. XIV, Sec. 8; CONSTITUTION (1973), Art. XIV, Sec. 5.

⁵⁷ *Id.*

condition that it shall be subject to amendment, alteration, or repeal by the Congress when the common good so requires."⁵⁸ (Emphasis and citations omitted; underscoring supplied)

The signification of franchise as a special privilege can be traced to its origin as a "royal privilege" granted by the King. As a privilege and not a right, the grant of franchise was the prerogative of the monarch, *viz.* :

A franchise is a 'royal privilege, or branch of the king's prerogative, subsisting in the hands of a subject.' 2 *Bl. Com.* 37. A special privilege conferred by government on individuals and which does not belong to the citizens of the country generally by common right. x x x⁵⁹

With the advent of democracy and the change in the form of governments, the understanding of franchise as a privilege has evolved. Specifically, the traditional distinction between franchise as a "privilege" and franchise as a "property right" has faded as a result of the recognition that privileges previously granted to individuals should not be taken through the "unfettered whims of government officials."⁶⁰ As summarized by Justice Camilo D. Quiason:

But assuming that Ordinance No. 7065 is a mere privilege, **still over the years, the concept of a privilege has changed.** Under the traditional form [of] property ownership, recipients of privileges, benefits or largesse from the government may be said to have no property rights because they have no traditionally recognized proprietary interest therein. The case of *Vinco v. Municipality of Hinigaran*, 41 Phil. 790 (1917) and *Pedro v. Provincial Board of Rizal*, 56 Phil 123 (1931), holding that a license to operate cockpits is a mere privilege, belong to this vintage. **However, the right-privilege dichotomy has come to an end when the courts have realized that individuals should not be subjected to the unfettered whims of government officials to withhold privileges previously given them** (Van Alstyne, *The Demise of the Right — Privilege Distinction in Constitutional Law*, 81 Harvard L. R. 1439 [1968]). To perpetuate such distinction would leave many individuals at the mercy of government officials and threaten the liberties protected by the Bill of Rights (Nowak, Rotunda and Young, *Constitutional Law* 546 [2nd ed]).⁶¹ (Emphasis supplied)

Such development has also been attributed to the broadening understanding of "property" as protected by the due process clause, described as "purposely left to gather meaning from experience," and extending "well beyond actual ownership of real estate, chattels, or money:"⁶²

⁵⁸ *ABS-CBN Corp. v. National Telecommunications Commission*, G.R. No. 252119, August 25, 2020.

⁵⁹ *Hulbert v. Mybeck*, 220 Ind. 530 (1942); see also *Associated Communications & Wireless Services — United Broadcasting Networks v. National Telecommunications Commission*, 445 Phil. 621, 641-642 (2003), citing *Radio Communications of the Philippines, Inc. v. National Telecommunications Commission*, 234 Phil. 443, 449 (1987).

⁶⁰ Justice Camilo D. Quiason, Dissenting Opinion, *Lim v. Pacquing*, supra note 53 at 809.

⁶¹ *Id.*

⁶² *Board of Regents of State Colleges v. Roth*, 408 U.S. 564, 572-573 (1972).

“Liberty” and “property” are broad and majestic terms. They are among the “[g]reat [constitutional] concepts x x x purposely left to gather meaning from experience. . . . [T]hey relate to the whole domain of social and economic fact, and the statesmen who founded this Nation knew too well that only a stagnant society remains unchanged.” *National Ins. Co. v. Tidewater Co.*, 337 U.S. 582, 646 (Frankfurter, J., dissenting). For that reason, the Court has fully and finally rejected the wooden distinction between “rights” and “privileges” that once seemed to govern the applicability of procedural due process rights. The Court has also made clear that the property interests protected by procedural due process extend well beyond actual ownership of real estate, chattels, or money. By the same token, the Court has required due process protection for deprivations of liberty beyond the sort of formal constraints imposed by the criminal process.⁶³ (Emphasis supplied; citations omitted)

Thus, while a franchise is still characterized as a special privilege in the sense that the grant thereof is not a demandable right,⁶⁴ and that when granted, is subject to the amendment, alteration or repeal by Congress,⁶⁵ We have come to recognize franchise as a property right that cannot be revoked or forfeited without due process of law. Accordingly, in *Philippine Long Distance Telephone Co. v. National Telecommunications Commission*,⁶⁶ We did not allow a collateral attack on a franchise since “[a] franchise is a property right and cannot be revoked or forfeited without due process of law.”⁶⁷

More importantly, PLDT’s allegation partakes of a collateral attack on a franchise (Rep. Act No. 2090), which is not allowed. **A franchise is a property right and cannot be revoked or forfeited without due process of law.** The determination of the right to the exercise of a franchise, or whether the right to enjoy such privilege has been forfeited by non-user, is more properly the subject of the prerogative writ of *quo warranto*, the right to assert which, as a rule, belongs to the State “upon complaint or otherwise” (Sections 1, 2 and 3, Rule 66, Rules of Court), the reason being that the abuse of a franchise is a public wrong and not a private injury. A forfeiture of a franchise will have to be declared in a direct proceeding for the purpose brought by the State because a franchise is granted by law and its unlawful exercise is primarily a concern of Government.⁶⁸ (Citation omitted; emphasis supplied)

Further, We have also characterized the legislative power to grant and regulate franchise as being subject to due process of law. Thus, in *Divinagracia v. Consolidated Broadcasting System, Inc.*⁶⁹ while We acknowledged the power of Congress to impose restrictions on franchises, We also noted that “no enactment of Congress may contravene the Constitution and its Bill of Rights.”⁷⁰

⁶³ Id.

⁶⁴ See *ABS-CBN Corp. v. National Telecommunications Commission*, supra note 60, citing *Land Transportation Office v. City of Butuan*, 379 Phil. 887, 896 (2000), where the Court described a franchise as not belonging “to citizens generally of common right.”

⁶⁵ CONSTITUTION (1987), Art. XII, Sec. 11.

⁶⁶ 268 Phil. 784 (1990).

⁶⁷ Id. at 797.

⁶⁸ Id. at 797-798.

⁶⁹ 602 Phil. 625 (2009).

⁷⁰ Id. at 656.

Congress may very well in its wisdom impose additional obligations on the various franchisees and accordingly delegate to the NTC the power to ensure that the broadcast stations comply with their obligations under the law. Because broadcast media enjoys a lesser degree of free expression protection as compared to their counterparts in print, these legislative restrictions are generally permissible under the Constitution. **Yet no enactment of Congress may contravene the Constitution and its Bill of Rights; hence, whatever restrictions are imposed by Congress on broadcast media franchisees remain susceptible to judicial review and analysis under the jurisprudential framework for scrutiny of free expression cases involving the broadcast media.**⁷¹ (Emphasis supplied)

Also, in *MORE Electric and Power Corp. v. Panay Electric Co., Inc.*,⁷² while We described the grant of franchise as “broad and plenary,” We qualified such description as being subject to the “limitations given by the Constitution and the fundamental principle of due process.”⁷³

The power of Congress to award the franchise to MORE is broad and plenary, **subject only to limitations given by the Constitution and the fundamental principle of due process.** It is beyond the power of the Court to question the wisdom of Congress in granting the franchise to MORE. The Court cannot venture into this because that would mean violating the deep-rooted principle of separation of powers. Thus, Sections 10 and 17 of R.A. No. 11212, giving MORE the power to expropriate the distribution system of PECO, are but integral parts of the grant of the franchise by Congress. Since the exercise of eminent domain is necessary to carry out the franchise, it is prudent that the Court accords respect to the legislative will.⁷⁴ (Emphasis supplied)

Thus, even if the grant of franchise is broad and plenary, and even if courts do not ordinarily interfere with the exercise of legislative prerogatives, this is not the case when there is a “a clear, patent or palpable arbitrary and unreasonable abuse of the legislative prerogative.”⁷⁵

On the other hand, courts, although zealous guardians of individual liberty and right, have nevertheless evinced a reluctance to interfere with the exercise of the legislative prerogative. **They have done so early where there has been a clear, patent or palpable arbitrary and unreasonable abuse of the legislative prerogative.** Moreover, courts are not supposed to override legitimate policy, and courts never inquire into the wisdom of the law.⁷⁶ (Emphasis supplied)

Due process in general

The 1935, 1973, and 1987 Constitutions command that no person shall be deprived of life, liberty, or property without due process of law. This provision guarantees protection against **any form of arbitrariness** on the part of the

⁷¹ Id. at 656-657.

⁷² *MORE Electric and Power Corp. v. Panay Electric Co., Inc.*, supra note 52.

⁷³ Id.

⁷⁴ Id.

⁷⁵ *Ichong v. Hernandez*, supra note 54 at 1116.

⁷⁶ Id.

government, whether committed by the **Legislature**, Executive, or the Judiciary:

The guaranty of due process of law is a constitutional **safeguard against any arbitrariness** on the part of the Government, whether committed by the **Legislature**, the Executive, or the Judiciary. It is a protection essential to every inhabitant of the country, for, as a commentator on Constitutional Law has vividly written:

x x x If the law itself unreasonably deprives a person of his life, liberty, or property, he is denied the protection of due process. If the enjoyment of his rights is conditioned on an *unreasonable* requirement, due process is likewise violated. Whatsoever be the source of such rights, be it the Constitution itself or merely a statute, its unjustified withholding would also be a violation of due process. Any government act that militates against the ordinary norms of justice or fair play is considered an infraction of the great guaranty of due process; and this is true whether the denial involves violation merely of the procedure prescribed by the law or affects the very validity of the law itself.⁷⁷ (Italics supplied; citations omitted)

There are two components of due process. The first, **procedural due process**, pertains to the procedures that the government must follow before it deprives a person of life, liberty, or property;⁷⁸ the second, **substantive due process**, to the justification for the denial or restriction on life, liberty, or property.⁷⁹

While due process has no exact definition,⁸⁰ the standard in determining whether a person was accorded due process is whether the restriction on the person's life, liberty, or property is **consistent with fairness, reason, and justice, and free from caprice and arbitrariness**.⁸¹ This standard applies both to procedural and substantive due process.⁸² As applied to procedural due process, the question to be asked is whether the person was given sufficient notice and opportunity to be heard.⁸³ On the other hand, as applied to substantive due process, the question is whether such deprivation or restriction is necessary and fair to the affected parties.⁸⁴

⁷⁷ *Legaspi v. Cebu City*, 723 Phil. 90, 106-107 (2013), citing Cruz, *Constitutional Law*, 2007 Ed., pp. 100-101.

⁷⁸ *White Light Corp. v. City of Manila*, 596 Phil. 444, 461 (2009), citing *Lopez v. Director of Lands*, 47 Phil. 23, 32 (1924).

⁷⁹ *Id.*, citing *City of Manila v. Laguio, Jr.*, 495 Phil. 289, 311 (2005).

⁸⁰ *Saunar v. Ermita*, 822 Phil. 536, 546 (2017), citing *White Light Corp. v. City of Manila*, supra note 79 at 461.

⁸¹ Justice Marvic M.V.F. Leonen, Concurring Opinion, *Maynilad Water Services, Inc. v. Secretary of the Department of Environment and Natural Resources*, G.R. Nos. 202897, 206823 & 207969, August 6, 2019.

⁸² *Id.*, citing *Philippine Association of Free Labor Unions v. Bureau of Labor Relations*, 161 Phil. 179, 188 (1976).

⁸³ *Id.*

⁸⁴ *Id.*

We will now determine whether these standards, particularly of **procedural due process**, have been observed when MIPTI's franchise was revoked and its properties seized.

There was sufficient notice to MIPTI.

First, the CA correctly characterized EO 30 as a legislative act. This is because at the time of its issuance, the legislative power to repeal or revoke a franchise under the 1973 Constitution was vested on President Aquino.⁸⁵

This is also supported by the wherefore clause of EO 30:

WHEREFORE, I, CORAZON C. AQUINO, President of the Republic of the Philippines, **by virtue of the powers vested in me by the Constitution and the law**, do hereby **order the immediate recall of the franchise** granted to the Manila International Port Terminals, Inc. (MIPTI) and authorize the Philippine Ports Authority (PPA) to take over, manage and operate the Manila International Port Complex at North Harbor, Manila and undertake the provision of cargo handling and port related services thereat, in accordance with P.D. No. 857 and other applicable laws and regulations. (Emphasis supplied)

As cited above, the basis for the recall of MIPTI's franchise is the "Constitution," together with the "law." The 1973 Constitution granted the Legislature the power to repeal a franchise; the prevailing law (PD 1284) granted PPA the power to recommend the said revocation. From this, it can be seen that President Aquino's revocation of MIPTI's franchise upon PPA's recommendation was an exercise of the legislative power to repeal a franchise, in accordance with PPA's exercise of its own power to recommend the revocation under PD 1284.

Second, having established that EO 30 is a legislative act, it is required to be published to satisfy the requirement of notice as part of procedural due process:

Publication is a necessary component of procedural due process to give as wide publicity as possible so that all persons having an interest in the proceedings may be notified thereof. The requirement of publication is intended to satisfy the basic requirements of due process. It is imperative for it will be the height of injustice to punish or otherwise burden a citizen for the transgressions of a law or rule of which he had no notice whatsoever.⁸⁶ (Citations omitted)

⁸⁵ CONSTITUTION (1986), Article II, Section 1, states that "[u]ntil a legislature is elected and convened under a new Constitution, the President shall continue to exercise legislative power."

⁸⁶ *Arroyo v. Department of Justice*, 695 Phil. 302, 353-354 (2012).

In *Tañada v. Tuvera*,⁸⁷ the Court held that all statutes, including those of local application and private laws, must be published for their effectivity.⁸⁸ Included in these are “presidential decrees and executive orders promulgated by the President in the exercise of legislative powers whenever the same are validly delegated by the legislature or, at present, directly conferred by the Constitution.”⁸⁹

Here, the CA affirmed the trial court’s ruling that there was no proper notice to MIPTI considering that EO 30 was not published.⁹⁰ **However, a review of the Official Gazette shows that EO 30 was actually published.** This was done on July 21, 1986, the same day that PPA implemented the order. Considering that EO 30 expressly provides for immediate effectivity, and considering further that jurisprudence recognizes the effectivity of laws that provide for immediate effectivity upon publication,⁹¹ the publication requirement was deemed satisfied when EO 30 was enforced on July 21, 1986. Thus, the appellate court erred in ruling that EO 30 is unconstitutional for not being published.

Nevertheless, even though EO 30 was published, the revocation of MIPTI’s franchise was still unconstitutional as it was done without regard to the rudiments of fair play and the standard of freedom from arbitrariness.

The standards of fair play and freedom from arbitrariness have not been observed, in violation of MIPTI’s constitutional right to due process.

As discussed, due process guarantees protection against **any form of arbitrariness** on the part of the government, including the Legislature.⁹² Any government act that militates against the ordinary norms of **justice or fair play** is considered a violation of the guaranty of due process.⁹³ This is consistent with the nature of due process as **dependent on the circumstances and the necessities of the situation**,⁹⁴ and is **anchored on fairness and equity**.⁹⁵ As described by Justice Jose C. Vitug:

⁸⁷ 230 Phil. 528 (1986).

⁸⁸ Id. at 535.

⁸⁹ Id.

⁹⁰ *Rollo* (G.R. No. 196199), p. 41.

⁹¹ In *Department of Finance v. Dela Cruz, Jr.*, 767 Phil. 611, 622 (2015), the Court held that Executive Order No. 140, which provided for effectivity “immediately upon publication” took effect upon its actual publication.

⁹² *Legaspi v. Cebu City*, supra note 77 at 106, citing Cruz, *Constitutional Law*, 2007 Ed., pp. 100-101.

⁹³ Id. at 107.

⁹⁴ *Saunar v. Ermita*, supra note 80, at 546, citing Bernas, *The 1987 Constitution of the Republic of the Philippines: A Commentary* (2003), p. 114.

⁹⁵ Id. at 555.

Like “public concern,” the term due process does not admit of any restrictive definition. Justice Frankfurter has viewed this flexible concept, aptly I believe, as being “. . . compounded by history, reason, the past course of decisions, and stout confidence in the democratic faith.” The framers of our own Constitution, it would seem, have deliberately intended, to make it malleable to the ever-changing milieu of society. Hitherto, it is dynamic and resilient, adaptable to every situation calling for its application that makes it appropriate to accept an enlarged concept of the term as and when there is a possibility that the right of an individual to life, liberty and property might be diffused. Verily, whenever there is an *imminent threat to the life, liberty or property of any person* in any proceeding conducted by or under the auspices of the State, his right to due process of law, when demanded, must not be ignored.⁹⁶ (Emphasis supplied; citations omitted)

Here, there is absolutely no doubt that the minimum standards of fair play and freedom from arbitrariness required by due process have been disregarded. The manner in which MIPTI’s franchise was revoked was so arbitrary and so despotic that it evinces an obvious lack of regard or respect to the fundamental principle of due process and to the Constitution that guarantees it. One day, it was business as usual for MIPTI. The following day, it was informed of its violations. The next day, it no longer has a business. The lack of respect is so flagrant that no person can possibly think that it is justified, or at the very least, acceptable, even if it was done in the aftermath of martial law. Indeed, the appellate court correctly called it an “injustice:”

Indeed, the sequence of events presented above are undenied and, certainly, corroborated by the documents especially as to their material dates. It is quite apparent that indeed, no inquiry was undertaken before the revocation. The swift turn of events from the time MIPTI was notified to answer the charges against it at 5:00 pm of 18 July 1986 up to the time EO No. 30 was issued revoking the franchise on 19 July 1986 only showed a predetermined plan of driving the company out of business without affording it reasonable opportunity to present its defense. That is injustice. x x x⁹⁷

Nevertheless, PPA maintains that the swift revocation of MIPTI’s franchise was necessary since “[t]he interdiction of vital port operations, and its tremendous cost to the economy, had to be abated as soon as possible.”⁹⁸ PPA is wrong. Even if the need to revoke such franchise was immediate, MIPTI’s constitutional right to due process should still have been respected. It is precisely to prevent this act of arbitrariness that the Constitution guarantees due process.⁹⁹

To add to this, there was another way in which MIPTI’s right was violated, this time, not through the President’s revocation of MIPTI’s franchise *per se*, but through PPA’s non-compliance with **Section 4(c) of PD 1284** and the **MOA** between the parties.

⁹⁶ Justice Jose C. Vitug, Separate Opinion, *Secretary of Justice v. Lantion*, 379 Phil. 165, 244 (2000).

⁹⁷ *Rollo* (G.R. No. 196199), pp. 48-49.

⁹⁸ *Rollo* (G.R. No. 196252), p. 47.

⁹⁹ See *Legaspi v. Cebu City*, supra note 77 at 106, citing Cruz, *Constitutional Law*, 2007 Ed., pp. 100-101.

It is undisputed that PPA has the power to recommend the revocation of MIPTI's franchise. This is based on Section 4(c) of PD 1284:

Section 4. The Philippine Ports Authority shall in addition have the following powers, functions and responsibilities:

x x x x

(c) Conduct periodic inspections and audit of the operation and management of the International Port Complex by MIPTI to determine the latter's compliance with the prescribed standards, rates fixed, and guidelines promulgated, and **if warranted, recommend to the President of [sic] suspension or revocation of MIPTI's franchise.** (Emphasis supplied)

While PPA may recommend the revocation of MIPTI's franchise, it is not absolute. It is limited in that PPA can only make the recommendation if "warranted," which ordinarily means with "ground," "justification," "confirmation," or "proof."¹⁰⁰ Thus, PPA cannot make the recommendation arbitrarily or out of thin air.

Further, PPA's power to recommend is also limited by the MOA which requires a "proper investigation or showing of any violation" before the exercise of such power:

Section 14.01. *Suspension or Revocation of Franchise.* - PPA shall conduct periodic inspection and audit of the operation and management of the Port Terminal to determine MIPTI's compliance with the prescribed standards, rates fixed, and guidelines promulgated under this Agreement and existing PPA issuances, as well as those which may hereafter be made, adopted, or promulgated; and **upon proper investigation or showing of any violation, if warranted, recommend the suspension or revocation of MIPTI's franchise to the President.** In case of suspension or revocation of MIPTI's franchise during its effectivity, PPA shall take over the operations and management of the Port Terminal as may be necessary. MIPTI shall see to it that the operations at the Port Terminal shall not be affected or disrupted during the period of suspension or turnover.¹⁰¹ (Emphasis supplied)

Here, it is undisputed that PPA did not conduct any investigation. While PPA insists that its decision to recommend was justified for it was under the impression that MIPTI indeed committed the violations,¹⁰² **such violations remain to be mere allegations**, the veracity of which could have been ascertained had PPA simply conducted the required investigation.

Nevertheless, it should be clarified that PPA's violation is not the cause or ground for the invalidation of EO 30. This is because PPA's recommendation is not a requirement for the President's exercise of her legislative power to

¹⁰⁰ Merriam-Webster Dictionary <<https://www.merriamwebster.com/dictionary/warrant>> (visited July 10, 2021).

¹⁰¹ *Rollo* (G.R. No. 196252), p. 79.

¹⁰² *Id.* at 45.

repeal a franchise. The only limitations for the exercise of such power are those provided in the Constitution, including that such power shall be exercised “when the public interest so requires,”¹⁰³ and that it shall be subject to the guaranty of due process.¹⁰⁴

II. The operative fact doctrine is inapplicable.

PPA argues that the revocation of MIPTI’s franchise, the consequent takeover by the PPA of its business operations, facilities and equipment, and the award to the ICTSI of the contract for development, management and operation of the Manila International Container Terminal (MICT) in 1988 should be respected because they have long been in effect even before EO 30 was declared invalid by the trial court on April 30, 2003.¹⁰⁵

This argument is specious.

As a general rule, an unconstitutional act confers no rights; it imposes no duties; it affords no protection; it creates no office; it is inoperative as if it has not been passed at all. An exception to the above rule, however, is the doctrine of operative fact, which applies as a matter of equity and fair play. This doctrine nullifies the effects of an unconstitutional law or an executive act by recognizing that the existence of a statute prior to a determination of unconstitutionality is an operative fact and may have consequences that cannot always be ignored. It applies when a declaration of unconstitutionality will impose an undue burden on those who have relied on the invalid law.¹⁰⁶

The operative fact doctrine never validates or constitutionalizes an unconstitutional law. Under the operative fact doctrine, the unconstitutional law remains unconstitutional, but the effects of the unconstitutional law, prior to its judicial declaration of nullity, may be left undisturbed as a matter of equity and fair play. In short, the operative fact doctrine affects or modifies only the effects of the unconstitutional law; not the unconstitutional law itself.¹⁰⁷

Moreover, as was pointed out in *Araullo v. Aquino*,¹⁰⁸ the use of said doctrine “must be subjected to great scrutiny and circumspection, and it cannot be invoked to validate an unconstitutional law or executive act, but is resorted to only as a matter of equity and fair play. It applies only to cases where extraordinary circumstances exist, and only when the extraordinary

¹⁰³ CONSTITUTION (1973), Art. XIV, Sec. 5.

¹⁰⁴ See *MORE Electric and Power Corp. v. Panay Electric Co., Inc.*, supra note 52, where the Court noted that the grant of franchise to MORE Electric and Power Corp. is subject to due process.

¹⁰⁵ *Rollo* (G.R. No. 196252), p. 41.

¹⁰⁶ *Film Development Council of the Philippines v. Colon Heritage Realty Corporation*, 760 Phil. 519, 552-553 (2015).

¹⁰⁷ *League of Cities of the Philippines v. Comelec*, 643 Phil. 202, 215 (2010).

¹⁰⁸ 737 Phil. 457 (2014).

circumstances have met the stringent conditions that will permit its application."¹⁰⁹

In fine, We cannot sustain the validity of the acts committed prior to the declaration of EO 30's unconstitutionality under the operative fact doctrine. It must be stressed that PD 634 and the MOA expressly mandated the PPA to conduct an investigation and to properly show violations on the part of MIPTI prior to making any recommendation to suspend or revoke MIPTI's franchise. Thus, PPA's transgressions could not be solely anchored on EO 30.

In any event, the nullification of EO 30 will not result in injustice. There was no showing that reliance to EO 30 had greatly prejudiced PPA. PPA's unlawful takeover thus entitles MIPTI to damages, which PPA has to pay as legal consequences of its unlawful act. Moreover, neither were third parties affected by their reliance on EO 30 revoking MIPTI's franchise. It will be recalled that both Metrostar and ICTSI had eventually settled the cases filed against them.

III. Damages

We shall now determine whether the CA correctly affirmed with modifications the RTC's award of damages.

Replacement cost of the seized properties.

To recall, the trial court awarded ₱180,000,000.00 as replacement cost for the equipment and properties that were wrongfully seized by PPA and could no longer be restored to MIPTI's possession. The amount was arrived at by the trial court by considering the current prices of the equipment submitted by MIPTI, which is illustrated as follows:

Equipment	No. of Units	Current Market Price as of 15 June 1988	Total Value
Prime Movers (truck, tractors)	18	₱1,500,000.00	₱27,000,000.00
Forklift (10 tonner)	1	1,200,000.00	1,200,000.00
Forklifts (3 tonner)	37	430,000.00	15,910,000.00
Chassis	45	310,000.00	13,950,000.00
Straddle Carriers	7	16,500,000.00	115,500,000.00
Exterior Tires			1,529,657.00
Interior Tires			8,900.00
Spare Parts			8,955,094.00
TOTAL			₱184,053,651.00¹¹⁰

¹⁰⁹ Id. at 621.

¹¹⁰ Records, Vol. 4, pp. 1247-1251.

In contrast, the CA found this amount bloated and was self-serving because it was merely based on the certifications prepared by the officers of MIPTI. The CA opined that the best evidence should be MIPTI's financial statement which took into account the properties' depreciation.¹¹¹ We agree with the CA.

Depreciation should be factored in the determination of the replacement cost. In *Republic v. Mupas*,¹¹² the Court explained the depreciated replacement cost method employed in appraising a property, thus:

Depreciated replacement cost approach is the "method of valuation which provides the current cost of replacing an asset with its modern equivalent asset less deductions for all physical deterioration and all relevant forms of obsolescence and optimisation." Depreciated replacement cost is a method of appraising assets that are usually not exposed to the open market. A general formula of this method is as follows:

Cost of constructing the building (s) (including fees)
 Plus: Cost of the land (including fees)
 = Total Costs
 Less: Allowance for age and depreciation
 = Depreciated Replacement Cost

Under this method, the appraiser assesses the current gross replacement of the assets, usually comprised of the land and the building. If the asset is an improvement, the appraiser assesses the cost of its replacement with a modern equivalent and deducts depreciation to reflect the differences between the hypothetical modern equivalent and the actual asset. The appraiser has to "establish the size and specification that the hypothetical buyer ideally requires at the date of valuation in order to provide the same level of productive output or an equivalent service."¹¹³ (Emphases and citations omitted)

In this case, the CA adopted MIPTI's own valuation of its properties, which took into consideration the amount of depreciation, in arriving at the replacement cost. Based on MIPTI's financial statement as of December 31, 1986, the net value of its properties were pegged at ₱19,049,710.00.¹¹⁴ During cross-examination of MIPTI's Chief Accountant, Milagros Deang, she confirmed that the properties were subjected to depreciation, *viz.*:

ATTY. DEL ROSARIO:

Q - Now, I notice that these assets you always consider the depreciation of assets in arriving at property net. In particular[,] I am pointing at your Exhibit "W" which says that the property or equipment net at cost is

¹¹¹ *Rollo* (G.R. No. 196252), pp. 87-89.

¹¹² 769 Phil. 121 (2015).

¹¹³ *Id.* at 132-134.

¹¹⁴ *Records*, Vol. 4, p. 594.

₱[19],049,710.00 and that following the formula that has been adopted in all these financial statements you always consider the depreciation. Why is that so?

A - This is presented at net because normally we present the breakdown of the acquisition plus the x x x

Q - Excuse me. So as to abbreviate the answer, the only question is, why is it that you always consider the depreciation in arriving at this property and equipment net at cost.

A - We have to because the value of the equipment is being reduced by the wear and tear of the unit and also we based on the lifespan to ten (10) years and naturally we have to consider also the value of the equipment whether it is still usable or not and for BIR purposes we have to take it as an expenses [sic].¹¹⁵

While the CA correctly determined the value of the properties to be ₱19,049,710.00, any rental payment previously received by MIPTI should be deducted therefrom. This is because affixing the payment of fair compensation as of the date of taking creates the legal fiction that MIPTI lost ownership over the seized equipment as of such date. Not being the owner thereof, MIPTI would not be entitled to any form of rentals for the use of the equipment in the interim.

After an exhaustive review of the records, it appears that MIPTI previously received rentals totaling ₱34,696,643.27, broken down as follows:

Amount	Description
₱4,696,643.27	Guaranty Fund set up by Metrostar and Allied Port Services, Inc. and transferred to MIPTI's account, as admitted by MIPTI in its Ex-Parte Manifestation and Motion dated May 9, 1989. ¹¹⁶
₱24,000,000.00	Rentals received by MIPTI through garnishment, as admitted by MIPTI in its Ex-Parte Motion to Fix Attorney's Fees dated September 7, 1992. ¹¹⁷
₱3,000,000.00	Rentals collected by MIPTI through motion, as admitted by MIPTI in its Ex-Parte Motion to Fix Attorney's Fees dated September 7, 1992. ¹¹⁸
₱3,000,000.00	Rentals collected by MIPTI from International Container Terminal Services, Inc., as evidenced by Official Receipt No. 299403 dated July 20, 1990. ¹¹⁹

Since the total amount of rentals exceeds ₱19,049,710.00 by ₱15,646,933.27, it follows that the CA's award of ₱19,049,710.00 should be deleted. Further, as an equitable relief, MIPTI should return the excess to the government through PPA.

¹¹⁵ TSN, June 15, 1994, pp. 10-11.

¹¹⁶ Records, Vol. 2, pp. 143-146. *See* records, Vol. 2, pp. 105-108, 219. While the account was initially in the name of MIPTI and PCGG, PCGG was eventually dropped after it withdrew its Complaint in Intervention (See records, Vol. 3, pp. 60-61, 64).

¹¹⁷ Records, Vol. 2, pp. 298, 469-471.

¹¹⁸ *Id.* at 303-304, 469-471.

¹¹⁹ Records, Vol. 4, pp. 487, 654.

Unrealized Profits

MIPTI likewise questions the modification based on net income after taxes made by the CA on the award for lost profits. MIPTI insists that the amount of unrealized profits should be ₱1,500,000.00 per month, reckoned on a pre-tax basis, as awarded by the trial court.¹²⁰ On the other hand, PPA claims that the amount of ₱235,247.75 is the most realistic valuation of monthly lost profits of MIPTI reckoned from the pre-termination of its franchise, on July 21, 1986 until May 18, 1988, the date when the contract between the PPA and the ICTSI for the development, management and operation of the MICT was approved by the President.¹²¹

Under Articles 2199 and 2200 of the Civil Code, actual or compensatory damages are those awarded in satisfaction of or in recompense for loss or injury sustained. They proceed from a sense of natural justice and are designed to repair the wrong that has been done. There are two kinds of actual or compensatory damages: one is the loss of what a person already possesses, and the other is the failure to receive as a benefit that which would have pertained to him. In the latter instance, the familiar rule is that damages consisting of unrealized profits, frequently referred to as “*ganacias frustradas*” or “*lucrum cessans*,” are not to be granted on the basis of mere speculation, conjecture, or surmise, but rather by reference to some reasonably definite standard such as market value, established experience, or direct inference from known circumstances.¹²²

Here, the RTC ordered PPA to pay MIPTI unrealized profits after it determined that the latter was unable to operate and earn income from its operations due to the unlawful takeover.¹²³ This was affirmed by the CA.¹²⁴ However, the RTC and the CA seem to have overlooked the fact that **the takeover was ordered by President Aquino; it was not undertaken by PPA on its own authority.** Given that the validity of EO 30 is presumed, PPA cannot be faulted for merely enforcing it. Thus, it cannot be held liable for the profits MIPTI failed to obtain by reason of the said enforcement.

Further, the RTC and the CA seem to have overlooked the fact that the property primarily involved in this case is a **franchise** – not an ordinary contract – which may be repealed by Congress when public interest so requires. This constitutional limitation negates MIPTI’s expectation of profits to be earned in the future considering that its franchise may be taken away by Congress even before its agreed-upon expiration. Thus, while unrealized profits as part of actual or compensatory damages may normally be awarded to a person for “failure to receive as benefit that which would have pertained to him [or

¹²⁰ *Rollo* (196199), pp. 20-21.

¹²¹ *Rollo* (196252), pp. 50-51.

¹²² *Casiño, Jr. v. Court of Appeals*, 507 Phil. 59, 73 (2005).

¹²³ *Rollo* (G.R. No. 196199), p. 79.

¹²⁴ *Id.* at 56.

her],”¹²⁵ this does not apply when the source of benefit is a franchise which continued subsistence is not guaranteed. As We noted in a prior case, there can be no such thing as a vested right to expectation of future profits which can be gained from possession of a franchise.¹²⁶

Concededly, the award of unrealized profits is not only anchored on the revocation of MIPTI’s franchise, but also on the seizure of MIPTI’s private properties. **However, there is no direct causation between the ownership of such private properties and the receipt of future profits;** the source of MIPTI’s profits is its services as a franchisee, not its ownership of the properties *per se*. This is highlighted by the fact that the CA’s award of unrealized profits is based on MIPTI’s previous profits as franchisee or operator in MIPTC,¹²⁷ and is further based on the remaining duration of the franchise, *i.e.*, until its supposed expiration on January 16, 2003.¹²⁸ Without direct causation, it cannot be concluded that MIPTI would have in fact continued to earn profits had its properties not been seized by PPA.

Nominal damages

As previously discussed, there was a violation of MIPTI’s rights under Section 4(c) of PD 1284 and Section 14.01 of the MOA. This entitles MIPTI to nominal damages pursuant to Article 2221 of the Civil Code.¹²⁹ As We said in a prior case:

Indeed, nominal damages may be awarded to a plaintiff whose right has been violated or invaded by the defendant, for the purpose of vindicating or recognizing that right, and not for indemnifying the plaintiff for any loss suffered by [the plaintiff]. Its award is thus not for the purpose of indemnification for a loss but for the recognition and vindication of a right. Indeed, nominal damages are damages in name only and not in fact. When granted by the courts, they are not treated as an equivalent of a wrong inflicted but simply a recognition of the existence of a technical injury. A violation of the plaintiff’s right, even if only technical, is sufficient to support an award of nominal damages. Conversely, so long as there is a showing of a violation of the right of the plaintiff, an award of nominal damages is proper.¹³⁰ (Citations omitted)

Given the value of the properties in this case, amounting to millions of pesos, We find the amount of ₱1,000,000.00 to be reasonable.

¹²⁵ *Casiño, Jr., v. Court of Appeals*, supra note 120 at 73 (2005), citing *Terminal Facilities and Services Corp. v. Philippine Ports Authority*, 428 Phil. 99, 138 (2002).

¹²⁶ *National Telecommunications Commission v. Brancomm Cable and Television Network Co.*, G.R. No. 204487, December 5, 2019, citing *Southern Luzon Drug Corporation v. Department of Social Welfare and Development*, 809 Phil. 315, 245, 350 (2017) and *Zabal v. Duterte*, G.R. No. 238467, February 12, 2019.

¹²⁷ *Rollo* (G.R. No. 196199), p. 54.

¹²⁸ *Id.* at 56.

¹²⁹ ARTICLE 2221. Nominal damages are adjudicated in order that a right of the plaintiff, which has been violated or invaded by the defendant, may be vindicated or recognized, and not for the purpose of indemnifying the plaintiff for any loss suffered by him.

¹³⁰ *Almeda v. Cariño*, 443 Phil. 182, 191 (2003).

Interest

Anent the imposition of interest, PPA argues that any accrued interest arising from the claimed actual damages for the fair and reasonable value of the seized equipment and properties of MIPTI should be reckoned not from the date of its filing of the Complaint on September 23, 1986, but from the date of the RTC Decision on April 30, 2003.

There is merit in this argument.

In *Nacar v. Gallery Frames (Nacar)*,¹³¹ the Court clarified and updated the rules on payment of legal interest, to wit:

II. With regard particularly to an award of interest in the concept of actual and compensatory damages, the rate of interest, as well as the accrual thereof, is imposed, as follows:

1. When the obligation is breached, and it consists in the payment of a sum of money, *i.e.*, a loan or forbearance of money, the interest due should be that which may have been stipulated in writing. Furthermore, the interest due shall itself earn legal interest from the time it is judicially demanded. In the absence of stipulation, the rate of interest shall be 6% *per annum* to be computed from default, *i.e.*, from judicial or extrajudicial demand under and subject to the provisions of Article 1169 of the Civil Code.

2. When an obligation, not constituting a loan or forbearance of money, is breached, an interest on the amount of damages awarded may be imposed at the *discretion of the court* at the rate of 6% *per annum*. No interest, however, shall be adjudged on unliquidated claims or damages, except when or until the demand can be established with reasonable certainty. Accordingly, where the demand is established with reasonable certainty, the interest shall begin to run from the time the claim is made judicially or extrajudicially (Art. 1169, Civil Code), but when such certainty cannot be so reasonably established at the time the demand is made, the interest shall begin to run only from the date the judgment of the court is made (at which time the quantification of damages may be deemed to have been reasonably ascertained). The actual base for the computation of legal interest shall, in any case, be on the amount finally adjudged.

3. When the judgment of the court awarding a sum of money becomes final and executory, the rate of legal interest, whether the case falls under paragraph 1 or paragraph 2, above, shall be 6% *per annum* from such finality until its satisfaction, this interim period being deemed to be by then an equivalent to a forbearance of credit.

And, in addition to the above, judgments that have become final and executory prior to July 1, 2013, shall not be disturbed and shall continue to be implemented applying the rate of interest fixed therein.¹³²

¹³¹ 716 Phil. 267 (2013).

¹³² *Id.* at 282-283.

In light of *Nacar*, we reduce the interest imposed after finality of the decision from 12% to 6%. PPA is correct in pointing out that the accrued interest should be reckoned not from the date of filing of the complaint but from the date of the RTC Decision on April 30, 2003 when the right to claim and the amount of damages can be established with reasonable certainty.

Exemplary damages, attorney's fees, and costs of suit

We also sustain the award of exemplary damages, attorney's fees, and costs of suit.

To warrant the award of exemplary damages, the wrongful act must be accompanied by bad faith and the guilty party acted in a wanton, fraudulent, reckless or malevolent manner. The requirements of an award of exemplary damages are: (1) they may be imposed by way of example in addition to compensatory damages, and only after the claimant's right to them has been established; (2) that they cannot be recovered as a matter of right, their determination depending upon the amount of compensatory damages that may be awarded to the claimant; and (3) the act must be accompanied by bad faith or done in a wanton, fraudulent, oppressive or malevolent manner.¹³³

We agree with both the RTC and the CA that PPA's arbitrary, hasty, and oppressive actions justify the award of exemplary damages. PPA acted with undue haste and without conducting any investigation; it did not even attempt to establish with certainty any violation on the part of MIPTI; neither did it grant MIPTI any opportunity to counter the charges against it. All these were manifestations of bad faith thereby warranting the award of exemplary damages.

It follows that the award of attorney's fees is in order. The power of the court to award attorney's fees under Article 2208 of the Civil Code demands factual, legal, and equitable justification. Here, MIPTI was compelled to litigate with third persons or to incur expenses to protect its rights. Moreover, there was sufficient showing of bad faith on the part of PPA. We, thus, sustain the RTC's award of exemplary damages and attorney's fees in the amounts of ₱200,00.00 and ₱500,000.00, respectively, as affirmed by the CA.

Reinstatement of MIPTI's franchise

Finally, MIPTI prays for reinstatement of its franchise while PPA opposes it since it has long expired in January 2003. In its April 30, 2003 Decision, the trial court had already resolved that the franchise cannot be reinstated because

¹³³ *Francisco v. Ferrer, Jr.*, 405 Phil. 741, 750 (2001), citing *National Steel Corporation v. Regional Trial Court of Lanao del Norte*, 364 Phil. 240, 257-258 (1999).

it had already expired on January 16, 2003. We find the disquisition of the RTC on this issue proper, *viz.*:

This Court however cannot grant plaintiff's prayer of returning to it the franchise to manage and operate the Manila International Port Terminal Complex and the operation of cargo handling and port[-]related services thereat. This has been rendered moot by the expiration of the franchise. It is not the province of the Court to make a new contract for the parties. Anyway, plaintiff is compensated by the award of damages for the injuries or loss it suffered by reason of the act of the defendant. "The fundamental principle of the law o[n] damages is that one injured by a breach of contract or by a wrongful act or negligent act or omission shall have a fair and just compensation, commensurate with the loss sustained as a consequence of the defendant's acts. x x x"¹³⁴ (Citation omitted)

To conclude, it is ironic that months after toppling a dictator who desecrated the Bill of Rights bearing the constitutional guaranty of due process, the revolutionary government carried out the same evil. There can be no excuse for it. Revolutionary or not, the government may not arbitrarily deprive a person of life, liberty, or property. This is the guaranty of the constitutional right to due process.

WHEREFORE, the September 22, 2010 Decision and the March 16, 2011 Resolution of the Court of Appeals in CA-G.R. CV No. 80775 are **AFFIRMED with MODIFICATION**:

1) **DECLARING** Executive Order No. 30, issued on July 19, 1986, **UNCONSTITUTIONAL**;

2) **DECLARING** the takeover by Philippine Ports Authority of the properties of the Manila International Ports Terminal, Inc. **ILLEGAL**;

3) **ORDERING** Philippine Ports Authority and its incumbent general manager:

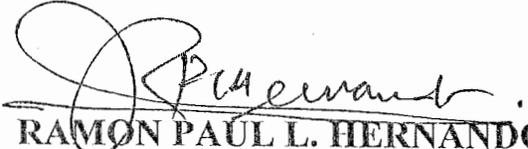
- a. To pay Manila International Ports Terminal, Inc. nominal damages of ₱1,000,000.00; and
- b. To pay Manila International Ports Terminal, Inc. exemplary damages of ₱200,000.00 and attorney's fees of ₱500,000.00 plus costs of suit; and

4) **ORDERING** Manila International Ports Terminal, Inc. to return the amount of ₱15,646,933.27, representing the excess rentals, to Philippine Ports Authority.

The amounts due shall be subject to a legal interest of six percent (6%) per *annum* from finality of this Decision until fully paid.

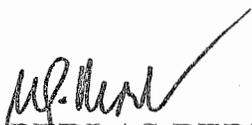
¹³⁴ *Rollo* (G.R. No. 196252), p. 115.

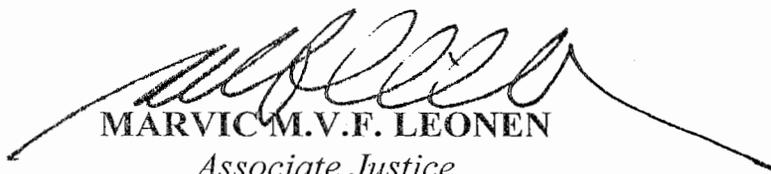
SO ORDERED.


RAMON PAUL L. HERNANDO
Associate Justice

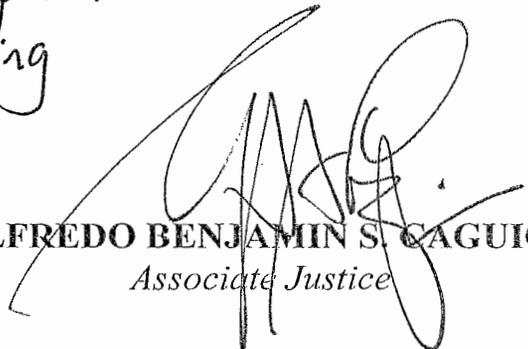
WE CONCUR:

No part.
ALEXANDER G. GESMUNDO
Chief Justice


ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice

*See Separate
Concurring*

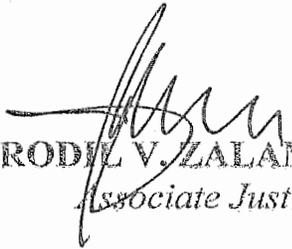

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

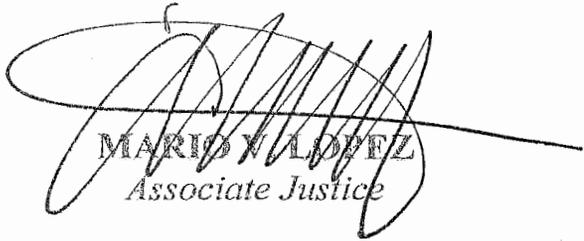
No part.
ROSMARI D. CARANDANG
Associate Justice

See Concurrency & Dismissal

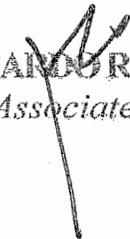
AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice

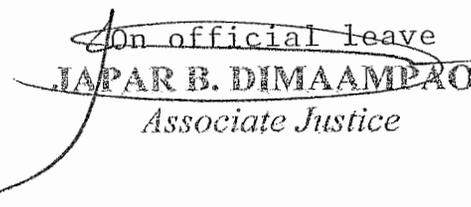

RODIL V. ZALAMEDA
Associate Justice

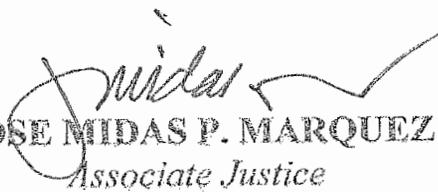

MARIO V. LOPEZ
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


RICARDO R. ROSARIO
Associate Justice

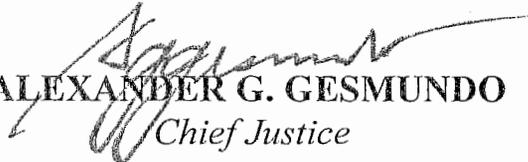

JHOSEP V. LOPEZ
Associate Justice

~~On official leave~~

JAPAR B. DIMAAPAO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice

CERTIFICATION

I certify that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court.


ALEXANDER G. GESMUNDO
Chief Justice