EN BANC

G.R. No. 206486 – REPUBLIC OF THE PHILIPPINES, represented by the Land Transportation Office and the Department of Transportation and Communications, *petitioner*, ***versus*** **MARIA BASA EXPRESS JEEPNEY OPERATORS AND DRIVERS ASSOCIATION, INC., RIBO D. WAYOS, and TIMOTEO B. SAROL,** *respondents.*

G.R. No. 212604 – ANGAT TSUPER SAMAHAN NG MGA TSUPER AT OPERATOR NG PILIPINAS-GENUINE ORGANIZATION ("ANGAT TSUPER/STOP AND GO"), INC., with its local affiliates, QUIAPO PASIG AUV DRIVERS AND OPERATORS ASSOCIATION INC., CONCERNED OPERATORS METRO EAST TRANSPORT INC., BAYAMBANG-BAUTISTA-CARMEN, LRT MALL JODA, MUSTAI, VACATI, PMAQ TRANSPORT, VMMJODA, GOOD SAMARITAN, BAPPSODA, MMJODAI, MSMCUDOA, SAN JOAQUIN FX OPERATORS AND DRIVERS ASSOCIATION, JARDAN TRANSPORT COOPERATIVE, NHODAI, CUKRLAJODA, GRSDOA, SQBJODA, TAGUIG EXPRESS TRANSPORT OPERATORS AND DRIVERS ASSOCIATION, DAU-MALOLOS VIA NLEX DRIVERS AND OPERATORS ASSOCIATION, SAMAHAN NG MGA DRIVER AT OPERATOR NG BARANGAY GREATER LAGRO (LSDOA ASSN.), all represented by its President, PASCUAL "JUN" A. MAGNO, JR., *petitioners*, ***versus*** **JOSEPH EMILIO AGUINALDO ABAYA, in his capacity as Secretary of the DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS (DOTC), ALFONSO V. TAN, JR., in his capacity as Assistant Secretary of the LAND TRANSPORTATION OFFICE, and WINSTON M. GINEZ, in his capacity as Chairman of the LAND TRANSPORTATION FRANCHISING AND REGULATORY BOARD,** *respondents.*

PAGKAKAISA NG MGA SAMAHAN NG TSUPER AT OPERATORS NATIONWIDE (PISTON) represented by CHAIRPERSON GEORGE SAN MATEO, *petitioner-in-intervention.*

G.R. No. 212682 – XIMEX DELIVERY EXPRESS, INC., *petitioner*, ***versus*** **DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS (DOTC), herein represented by HON. JOSEPH EMILIO AGUINALDO ABAYA, LAND TRANSPORTATION OFFICE, herein represented by Assistant Secretary ALFONSO V. TAN, JR., and LAND TRANSPORTATION FRANCHISING AND REGULATORY BOARD, represented by ATTY. WINSTON M. GINEZ,** *respondents.*

G.R. No. 212800 – ERNESTO C. CRUZ, for himself and as President of the NATIONAL CONFEDERATION OF TRANSPORTWORKERS UNION, INC. (NCTU), ARNULFO D. ABRIL, for himself and as Chairman of SAMAHAN NG MGA TSUPER AT OPERATOR SA STARMALL EDSA CROSSING KALENTONG AT ANNEX, INC.

(STOMECKA) and EMMANUEL G. FEROLINO, for himself and as President of ZAPOTE BACOOR TALABA BINAKAYAN KAWIT BACAO TANZA JEEPNEY OPERATORS AND DRIVERS ASSOCIATION, INC. (ZABATABINKABATAN JODA), *petitioners, versus* **DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS (DOTC), LAND TRANSPORTATION OFFICE and LAND TRANSPORTATION FRANCHISING AND REGULATORY BOARD,** *respondents.*

PHILIPPINE NATIONAL TAXI OPERATORS ASSOCIATION (PNTOA), *petitioner-in-intervention.*

Promulgated:

August 16, 2022

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CONCURRING OPINION

CAGUIOA, *J*.:

The subject of these consolidated cases are two administrative issuances concerning traffic regulation: *first,* Department Order (D.O.) No. 2008-39, titled "*Revised Schedule of LTO Fines and Penalties for Traffic and Administrative Violations,*"[1] issued by the Department of Transportation and Communications (DOTC),[2] through the Land Transportation Office (LTO);[3] and *second,* Joint Administrative Order (JAO) No. 2014-01, titled "*Revised Schedule of Fines and Penalties for Violations of Laws, Rules and Regulations Governing Land Transportation,*" jointly issued by the LTO and the Land Transportation Franchising and Regulatory Board (LTFRB), with the approval of the DOTC, effectively superseding D.O. No. 2008-39.[4]

In essence, these regulations prescribe the penalties and rates for the violation of traffic rules and regulations.

Respondents in G.R. No. 206486 specifically assail D.O. No. 2008-39 for being oppressive and confiscatory in nature.[5] Meanwhile, petitioners in G.R. Nos. 212604, 212682, 212800 and the petitions-in-intervention primarily allege that the succeeding regulation, JAO No. 2014-01, is *ultra*

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1 *Rollo* (G.R. No. 206486), Vol. I, pp. 143-152.

2 Now, the Department of Transportation (DOTr), following the creation of the Department of Information and Communications Technology (DICT) by virtue of Republic Act No. 10844, AN ACT CREATING THE DEPARTMENT OF INFORMATION AND COMMUNICATIONS TECHNOLOGY, DEFINING ITS POWERS AND FUNCTIONS APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES, dated May 23, 2016.

3 *Ponencia*, p. 4.

4 Id. at 8.

5 Id. at 4-7.

vires, there being no valid delegation of legislative power to the DOTC, the LTFRB, and the LTO to prescribe rates for the violation of traffic regulations.[6]

The *ponencia* finds that the questions raised against D.O. No. 2008-39 and JAO No. 2014-01 are ripe and justiciable. The validity of the challenged regulations is also ultimately upheld, as D.O. No. 2008-39 and JAO No. 2014-01 were validly issued pursuant to the DOTC's rule-making authority and in line with its function of regulating the transportation system.[7] The *ponencia* likewise rejects petitioners' submissions that the regulations are vague and overbroad, as the violations alleged to be ambiguous are easily discernible from a reasonable reading thereof.[8]

I concur with respect to the procedural and substantive rulings of the *ponencia*.

The *ponencia* correctly rules that there is an actual case or controversy. I submit this Concurring Opinion to expound on my position that petitioners in G.R. Nos. 212604, 212682, 212800, and the petitions-in-intervention, were able to establish the requisites for judicial review. I also reiterate my position in *Calleja v. Executive Secretary*[9] (*Calleja*) that the vagueness doctrine should not be confined to free speech cases.

Furthermore, I agree with the ruling on the substantive issues, especially with respect to the DOTC's authority to prescribe rates for the violation of traffic rules, and that neither D.O. No. 2008-39 nor JAO No. 2014-01 is vague or overbroad. However, I respectfully submit that the powers of the DOTC, in prescribing and imposing penalties for violations of land transportation laws, are circumscribed by the authority of the Metropolitan Manila Development Authority (MMDA) to set traffic policies in Metro Manila. This includes the administration of a single ticketing system, the imposition and collection of fines and penalties for all kinds of traffic violations, and the confiscation, suspension, and revocation of drivers' licenses in the enforcement of such traffic laws and regulations.[10]

I.

Briefly, the relevant antecedents that resulted in the filing of the present petitions before the Court should be restated to provide the appropriate context for my concurrence with the *ponencia*'s ruling on the procedural issues.

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6 Id. at 11-13.
7 Id. at 43-44.
8 Id. at 50-59.
9 G.R. Nos. 252578, 252579, 252580, 252585, 252613, 252623, 252624, 252646, 252702, 252726, 252733, 252736, 252741, 252747, 252755, 252759, 252765, 252767, 252768, UDK 16663, 252802, 252809, 252903, 252904, 252905, 252916, 252921, 252984, 253018, 253100, 253118, 253124, 253242, 253252, 253254, 254191 & 253420, December 7, 2021, accessed at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67914>.
10 R.A. No. 7924, AN ACT CREATING THE METROPOLITAN MANILA DEVELOPMENT AUTHORITY, DEFINING ITS POWERS AND FUNCTIONS, PROVIDING FUNDING THEREFOR AND FOR OTHER PURPOSES (approved March 1, 1995), Sec. 5(f).

G.R. No. 206486

On March 4, 2009, a couple of drivers, who were members of the Maria Basa Express Jeepney Operators and Drivers Association, Inc. (Maria Basa), were apprehended by LTO officers for "out of line"[11] operations, a traffic violation penalized under D.O. No. 2008-39 with a fine of ₱6,000.00 for the first offense. Finding D.O. No. 2008-39 oppressive, the President of Maria Basa, together with the drivers, filed a petition before Branch 5, Regional Trial Court of Baguio City (RTC) to challenge the constitutionality of D.O. No. 2008-39. The President and the drivers of Maria Basa argued that it was confiscatory in nature and allowed the LTO to simultaneously act as an arresting officer, prosecutor, and judge. They further stated that the challenged regulation was anti-poor, oppressive, and prejudicial to the livelihood of public utility vehicle operators and drivers.[12]

The RTC, in its Decision dated May 2, 2012, declared the provisions null and void. It found that D.O. No. 2008-39 was issued for the purpose of generating funds, and as such, encroached on the legislative's power to tax. Aggrieved, the Office of the Solicitor General (OSG), on behalf of the Republic of the Philippines (Republic), filed a petition for *certiorari* before the Court of Appeals (CA). However, the CA dismissed the Rule 65 petition for being an improper remedy. Thus, the Republic filed the present petition for review on *certiorari*, docketed as G.R. No. 206486, questioning the CA's dismissal of its petition and the RTC's decision striking down the challenged regulation.[13]

G.R. Nos. 212604, 212682, 212800

During the pendency of the petition in G.R. No. 206486 with this Court, JAO No. 2014-01 took effect on June 19, 2014, effectively superseding D.O. No. 2008-39. The prescribed fines for violations of traffic regulations and rules governing land transportation were higher compared to D.O. No. 2008-39. Soon after, the subsequent petitions for *certiorari* assailing its constitutionality were filed with the Court.[14] Petitioners' main arguments are summarized as follows:

> (1) Angat Tsuper Samahan ng mga Tsuper at Operator ng Pilipinas-Genuine Organization, Inc. ("Angat Tsuper/Stop and Go") (Angat Tsuper), petitioner in G.R. No. 212604, assails JAO No. 2014-01 for being *ultra vires*, as there was no valid delegation of legislative power to the DOTC, the LTO, and the LTFRB. Angat Tsuper likewise argues that JAO

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[11] N.B. "Out of line" operations refer to the operation of public utility vehicles outside of the approved route for the trip (See LTFRB Memorandum Circular No. 2006-023, Exemptions for Out of Line Operations, April 7, 2006).

[12] *Ponencia*, pp. 6-5.

[13] Id. at 7-8; *rollo* (G.R. No. 206486), Vol. I, pp. 22-41.

[14] *Ponencia*, p. 8.

No. 2014-01 is vague and ambiguous and violates its right to due process.[15]

(2) Ximex Delivery Express, Inc. (Ximex), petitioner in G.R. No. 212682, primarily avers that JAO No. 2014-01 is arbitrary, oppressive, and confiscatory. As in G.R. No. 212604, Ximex assails JAO No. 2014-01 for being vague and overbroad, and for violating the equal protection clause.[16]

(3) National Confederation of Transportworkers Union, Inc. (NCTU), petitioner in G.R. No. 212800, argues that the quasi-legislative power of the DOTC does not include prescribing penalties for violations of laws governing land transportation. NCTU also argues that neither the LTO nor the LTFRB possesses the power of subordinate legislation, and as such, neither can prescribe the fines and penalties for violations of land transportation laws.[17]

(4) Pagkakaisa ng mga Samahan ng Tsuper at Operators Nationwide (PISTON) and the Philippine National Taxi Operators Association (PNTOA) joined petitioners in G.R. Nos. 212604 and 212800, respectively, by filing their petitions-in-intervention. PISTON and PNTOA allege that the fines prescribed in JAO No. 2014-01 are excessive and confiscatory. PISTON further reiterates that the issuance is *ultra vires* and should be struck down under the void for vagueness principle.[18] PNTOA, meanwhile, argues that the challenged regulation violates the equal protection clause and the substantive due process rights of operators.[19]

Prior to ruling on the substantive issues, the *ponencia* emphasizes that the exercise of the Court's power of judicial review necessitates the presence of the following requisites: (1) an actual case or controversy calling for the exercise of judicial power; (2) the person challenging the act must have "standing"; (3) the question of constitutionality must be raised at the earliest possible opportunity; and (4) the issue of constitutionality must be the very *lis mota* of the case.[20] All of these requisites were deemed as present in this case.

The *ponencia* holds that petitioners in G.R. Nos. 212604, 212682, 212800, and the petitions-in-intervention were able to "convincingly [show] a palpable presence of an actual and substantial controversy,"[21] there being opposing legal claims that are susceptible of judicial resolution. The *ponencia*

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15 Id. at 10.
16 Id.
17 Id. at 11.
18 Id. at 11-12.
19 Id.
20 Id. at 21.
21 Id. at 22.

also states that the Court need not wait for petitioners to be charged with a violation of JAO No. 2014-01 because at the time of the filing of the present petitions, the challenged regulation was already in effect. Petitioners, who are drivers and operators of public utility vehicles, would most likely suffer from the increase in the fines for traffic violations prescribed in JAO No. 2014-01.[22]

As earlier stated, I fully agree with the *ponencia*'s position on these procedural issues.

The Court had occasion to rule in *Araullo v. Aquino III*[23] that the remedies of *certiorari* and prohibition are available to correct any grave abuse of discretion amounting to lack or excess of jurisdiction by any branch or instrumentality of the Government, even if the subject of the controversy was not an exercise of judicial, quasi-judicial or ministerial functions. This is in line with the expanded power of judicial review vested in the Court. Thus, as long as the requirements for judicial review are sufficiently met, the Court must not refrain from exercising its authority.[24]

Whenever the *certiorari* jurisdiction of the Court is invoked, as petitioners in G.R. Nos. 212604, 212682, 212800, and the petitions-in-intervention here have invoked, there must be a *prima facie* showing of grave abuse of discretion in the assailed governmental act which, in essence, is the actual case or controversy.[25]

In *Province of North Cotabato v. GRP Peace Panel on Ancestral Domain*[26] (*Province of North Cotabato*) where the constitutionality of the draft Memorandum of Agreement on the Ancestral Domain (MOA-AD) was challenged, the Court defined an "actual case or controversy" as follows:

> An actual case or controversy involves **a conflict of legal rights, an assertion of opposite legal claims, susceptible of judicial resolution as distinguished from a hypothetical or abstract difference or dispute.** There must be a **contrariety of legal rights that can be interpreted and enforced on the basis of existing law and jurisprudence.** The Court can decide the constitutionality of an act or treaty only when a proper case between opposing parties is submitted for judicial determination.[27] (Emphasis supplied)

This definition of an actual case or controversy was echoed in *Belgica v. Executive Secretary*[28] (*Belgica*), which involved a petition for *certiorari*

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22 Id. at 22-24.
23 752 Phil. 716 (2014).
24 Id. at 532.
25 *Pangilinan v. Cayetano*, G.R. Nos. 238875, 239483 & 240954, March 16, 2021, accessed at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67374>.
26 589 Phil. 387 (2008).
27 Id. at 481.
28 G.R. No. 210503, October 8, 2019, 922 SCRA 23. The Court held:

> Jurisprudence defines an actual case or controversy as "one which '**involves a conflict of legal rights, an assertion of opposite legal claims, susceptible of judicial resolution as distinguished from a hypothetical or abstract difference or dispute.**'"

and prohibition against the lump-sum discretionary funds in the 2014 General Appropriations Act (GAA), and in *Spouses Imbong v. Ochoa, Jr.*[29] (*Imbong*), which resolved the constitutionality of Republic Act (R.A.) No. 10354, otherwise known as the Responsible Parenthood and Reproductive Health Act of 2012 (RH Law).

However, Associate Justice Amy C. Lazaro-Javier (Justice Lazaro-Javier) objects to the phrases "evident clash of the parties' legal claims" and "clear showing of conflicting legal rights" as standards for an actual case or controversy for purportedly over-expanding its meaning. In her view, the reality of a "multi-cultural and multi-opinionated society such as ours"[30] would always give rise to a clash of legal claims, legal rights, and legal obligations. Justice Lazaro-Javier further argues that under this definition, any position genuinely advocated by any individual would be deemed an actual case or controversy.[31]

With respect, I disagree. These standards should not be indiscriminately abandoned simply by virtue of the possibility that plaintiffs may bring cases that are not truly justiciable.

At the onset, it should be emphasized that these phrases should not be read in isolation. The presence of an "actual case or controversy" is not hinged only on the existence of "[conflicting] legal rights," "assertion of opposite legal claims," and "contrariety of legal rights." These are further qualified by the requirement that the conflict must be susceptible of judicial resolution, or that the Court can adjudicate the controversy on the basis of law and jurisprudence.

Furthermore, corollary to the requirement of an actual case or controversy is the ripeness of the issue for adjudication. And a case is

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Subsumed in the requirement of an actual case or controversy is the requirement of ripeness, and "[f]or a case to be considered ripe for adjudication, it is a prerequisite that something has then been accomplished or performed by either branch before a court may come into the picture, **and the petitioner must allege the existence of an immediate or threatened injury to himself as a result of the challenged action**." To be sure, the Court may not wield its power of judicial review to address a hypothetical problem. "Without any completed action **or a concrete threat of injury to the petitioning party**, the act is not yet ripe for adjudication." (Emphasis and underscoring supplied) (pp. 53-54)

29 732 Phil. 1 (2014). The Court stated:

> An actual case or controversy means an existing case or controversy that is appropriate or ripe for determination, not conjectural or anticipatory, lest the decision of the court would amount to an advisory opinion. The rule is that courts do not sit to adjudicate mere academic questions to satisfy scholarly interest, however intellectually challenging. **The controversy must be justiciable — definite and concrete, touching on the legal relations of parties having adverse legal interests. In other words, the pleadings must show an active antagonistic assertion of a legal right, on the one hand, and a denial thereof, on the other; that is, it must concern a real, tangible and not merely a theoretical question or issue.** There ought to be an actual and substantial controversy admitting of **specific relief through a decree conclusive in nature**, as distinguished from an opinion advising what the law would be upon a hypothetical state of facts. (Emphasis supplied) (p. 123)

30 Concurrence of Associate Justice Amy C. Lazaro-Javier, p. 3.

31 Id.

considered ripe for adjudication when "something had then been accomplished or performed by either branch x x x and the petitioner [alleges] the existence **of an immediate or threatened injury to itself as a result of the challenged action**."[32] The Court, in *Samahan ng mga Progresibong Kabataan (SPARK) v. Quezon City*[33] (*SPARK*), notably found that there exists an actual case or controversy "given the evident clash of the parties' legal claims."[34] Furthermore, since the curfew ordinances subject of the case in *SPARK* were already operative, the Court held that "[t]he purported threat or incidence of injury is, therefore, not merely speculative or hypothetical but rather, real and apparent."[35] In this regard, the Court held that the requirement of ripeness is satisfied when the petitioner is able to show that "he has sustained **or is immediately in danger** of sustaining some direct injury as a result of the act complained of."[36]

With these principles in mind, the Court is not bound by an overly expansive definition of a justiciable controversy. Rather, the standards to determine the existence of an actual case are couched in terms that are general enough to allow the Court to exercise its power of judicial review when warranted, but are adequately specific to allow the Court to dismiss purely speculative claims or those that merely seek advisory opinions.

On this point, it bears noting that in *Province of North Cotabato*, the Court rejected the argument that there was no justiciable controversy because of the preliminary nature of the MOA-AD being challenged in that case. The Court held that "[c]oncrete acts under the MOA-AD are not necessary to render the present controversy ripe."[37] In other words, the fact that the MOA-AD was not yet effective did not negate the ripeness of the controversy. It was sufficient that the petitions alleged acts or omissions on the part of therein respondents that exceed the Constitution or violate their mandate under the law:

> **As the petitions allege acts or omissions on the part of respondent that exceed their authority, by violating their duties under E.O. No. 3 and the provisions of the Constitution and statutes, the petitions make a *prima facie* case for *Certiorari*, Prohibition, and *Mandamus*, and an actual case or controversy ripe for adjudication exists.** When an act of a branch of government is seriously alleged to have infringed the Constitution, it becomes not only the right but in fact the duty of the judiciary to settle the dispute.[38] (Emphasis and underscoring supplied)

Here, petitioners in G.R. Nos. 212604, 212682, 212800, and the petitions-in-intervention aver that the challenged issuances conflict with various provisions of the Constitution. They filed their respective petitions

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32 *Province of North Cotabato v. GRP Peace Panel on Ancestral Domain*, supra note 26, at 481.
33 815 Phil. 1067 (2017).
34 Id. at 1091.
35 Id.
36 Id. Emphasis and underscoring supplied.
37 *Province of North Cotabato v. GRP Peace Panel on Ancestral Domain*, supra note 26, at 483.
38 Id. at 486.

after the issuance of JAO No. 2014-01, which effectively superseded D.O. No. 2008-39. Their petitions raise several issues, which the *ponencia* pared down to the following:

> (1) Whether D.O. No. 2008-39 and JAO No. 2014-01 are unconstitutional for having been issued in the absence or in excess of the DOTC, the LTO, and the LTFRB's quasi-legislative power;
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> (2) Whether D.O. No. 2008-39 and JAO No. 2014-01 are unconstitutional for being an invalid exercise of police power;
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> (3) Whether D.O. No. 2008-39 and JAO No. 2014-01 are unconstitutional for being vague and overbroad;
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> (4) Whether D.O. No. 2008-39 and JAO No. 2014-01 are unconstitutional for violating the substantive due process rights of drivers and public utility operators; and
>
> (5) Whether D.O. No. 2008-39 and JAO No. 2014-01 are unconstitutional for violating the equal protection clause.[39]

A plain reading of these issues would show that the petitions are able to establish a *prima facie* case for grave abuse of discretion on the part of the DOTC, the LTO, and the LTFRB. They assail the authority of the DOTC, the LTO, and the LTFRB to impose sanctions and fix the rates for traffic violations, as these agencies purportedly acted in excess of their mandates under their respective governing laws. Furthermore, by issuing the challenged regulations, respondents allegedly violated the Constitution.

The foregoing issues also patently show an "evident clash of the parties' legal claims"[40] that the Court may properly adjudicate. Petitioners in G.R. Nos. 212604, 212682, 212800, and the petitions-in-intervention assert the unconstitutionality of JAO No. 2014-01, a question of law evidently susceptible of judicial resolution. The DOTC, the LTO, and the LTFRB, for their part, insist that they possess the legal authority or the delegated legislative power to enact JAO No. 2014-01. They also dispute petitioners' assertions that the provisions of JAO No. 2014-01 are vague and overbroad, confiscatory, and excessive.[41] In this regard, whether the DOTC, the LTO, and the LTFRB possess delegated legislative authority is answered by referring to the relevant statutes creating these agencies — again, a question of law evidently susceptible of judicial resolution. Furthermore, whether there is a violation of substantive due process rights and the equal protection clause, or whether the provisions of D.O. No. 2008-39 and JAO No. 2014-01 are vague and overbroad, may be resolved by an examination of the assailed

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39 *Ponencia*, p. 13.

40 *Samahan ng mga Progresibong Kabataan (SPARK) v. Quezon City*, supra note 33, at 1091.

41 *Rollo* (G.R. No. 212604), Vol. I, pp. 195-201.

regulations against the relevant provisions of the Constitution. Still again, another question of law evidently susceptible of judicial resolution.

The Court's ruling in *Inmates of the New Bilibid Prison v. De Lima*[42] (*Inmates of the New Bilibid Prison*) is also instructive:

> **There is an actual case or controversy in the case at bar <u>because there is a contrariety of legal rights that can be interpreted and enforced on the basis of existing law and jurisprudence</u>.** Respondents stand for the prospective application of the grant of GCTA, TASTM, and STAL while petitioners and intervenors view that such provision violates the Constitution and Article 22 of the RPC. **The legal issue posed is ripe for adjudication as the challenged regulation has a direct adverse effect on petitioners and those detained and convicted prisoners who are similarly situated.** There exists an immediate and/or threatened injury and they have sustained or are immediately in danger of sustaining direct injury as a result of the act complained of. In fact, while the case is pending, petitioners are languishing in jail. If their assertion proved to be true, their illegal confinement or detention in the meantime is oppressive. With the prisoners' continued incarceration, any delay in resolving the case would cause them great prejudice. Justice demands that they be released soonest, if not on time.
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> There is no need to wait and see the actual organization and operation of the MSEC. Petitioners Edago, *et al.*, correctly invoked Our ruling in *Pimentel, Jr. v. Hon. Aguirre*. There, We dismissed the novel theory that people should wait for the implementing evil to befall on them before they could question acts that are illegal or unconstitutional, and held that "**[by] the mere enactment of the questioned law or the approval of the challenged action, the dispute is said to have ripened into a judicial controversy <u>even without any other overt act</u>**." Similar to *Pimentel, Jr.*, the real issue in this case is whether the Constitution and the RPC are contravened by Section 4, Rule 1 of the IRR, not whether they are violated by the acts implementing it. **<u>Concrete acts are not necessary to render the present controversy ripe. An actual case may exist even in the absence of tangible instances when the assailed IRR has actually and adversely affected petitioners. The mere issuance of the subject IRR has led to the ripening of a judicial controversy even without any other overt act.</u>** If this Court cannot await the adverse consequences of the law in order to consider the controversy actual and ripe for judicial intervention, the same can be said for an IRR. Here, petitioners need not wait for the creation of the MSEC and be individually rejected in their applications. They do not need to actually apply for the revised credits, considering that such application would be an exercise in futility in view of respondents' insistence that the law should be prospectively applied. If the assailed provision is indeed unconstitutional and illegal, there is no better time than the present action to settle such question once and for all.[43] (Emphasis and underscoring supplied)

Thus, much in the same way that therein petitioners in *Inmates of the New Bilibid Prison* need not await concrete acts to render the controversy ripe, the Court need not wait for petitioners to be charged with a violation of JAO

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42 G.R. Nos. 212719 & 214637, June 25, 2019, 905 SCRA 599.
43 Id. at 619-621.

No. 2014-01 before the case is considered ripe for adjudication. At the risk of repetition, petitioners in G.R. Nos. 212604, 212682, 212800, and the petitions-in-intervention argue that JAO No. 2014-01 is unconstitutional for violating their due process rights and the equal protection clause. They further argue that the regulation is *ultra vires* and is an excessive exercise of police power. As the DOTC, the LTO, and the LTFRB are accused of having infringed the Constitution by the issuance of JAO No. 2014-01, and its predecessor regulation, D.O. No 2008-39, the effectivity of these regulations already poses an immediate threat to petitioners. It must be emphasized that petitioners are drivers and operators of public utility vehicles who are in danger of being apprehended or penalized with the new regulation on traffic violations.

As well, the Court need not await any further concrete act or for the "implementing evil to befall" petitioners, who are drivers and operators of public utility vehicles. This would only be an "exercise in futility" as the alleged constitutional defects of JAO No. 2014-01 are not made any more apparent should any of the petitioners be apprehended for any of these traffic violations. This holds especially true for the issue on whether Congress indeed granted respondents the authority to set rates for traffic violations. Thus, I maintain that the only material fact is the issuance and the effectivity of the challenged regulations.

Neither is this case any less ripe because petitioners did not exhaust the administrative remedies available under Executive Order (E.O.) No. 292[44] or in JAO No. 2014-01. These rules obviously cannot provide the reliefs sought by petitioners, all of whom claim that JAO No. 2014-01 should be struck down for being unconstitutional.

To be clear, I do not have any disagreement with the position of Senior Associate Justice Marvic M.V.F. Leonen[45] and Justice Lazaro-Javier[46] that there should always be an actual case or controversy for the Court to exercise its power of judicial review. This is a constitutional requirement that the Court cannot simply disregard.[47] However, I cannot subscribe to the proposed reformulation of rules for determining the presence of an actual case or controversy ripe for judicial adjudication that straightjackets the Court's manner of taking cognizance of cases. Requiring actual and concrete facts for all cases would indiscriminately increase the bar for plaintiffs to bring cases before the courts, no matter how flagrant the constitutional violation.

Furthermore, this approach not only undermines the Court's expanded power of judicial review, but renders nugatory the reliefs that can be granted, which by their very nature must be secured before an overt act takes place. For instance, in an action for declaratory relief under Rule 63 of the Rules of

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44 ADMINISTRATIVE CODE of 1987, approved on July 25, 1987.
45 See Separate Opinion of Senior Associate Justice Marvic M.V.F. Leonen, pp. 4-6.
46 See Concurrence of Associate Justice Amy C. Lazaro-Javier, pp. 2-4.
47 CONSTITUTION, Art. VIII, Sec. 1.

Court, a plaintiff interested under a written instrument, whose rights are affected by a governmental regulation, must initiate the petition before breach or violation thereof. Any breach, before the action for declaratory relief is filed, is sufficient to bar the action as this already constitutes an actionable violation.[48] Similarly, it is incongruous to require concrete facts in an action for quieting of title, which may be brought by a plaintiff with a legal or equitable title to a real property effectively in anticipation that another deed, claim, encumbrance, or proceeding casting cloud on his or her title is actually invalid or inoperative.[49] In these cases, the existence of overt acts, or concrete facts or violations is not always equivalent to the existence of a justiciable controversy.

To be sure, petitioners did not file their petitions in anticipation of respondents' issuance of a regulation increasing the fines for traffic violations. Neither did they speculate as to the contents of the regulation, nor the authority of the DOTC, the LTO, and the LTFRB to impose such regulation. The *ponencia* itself judiciously passes upon each question and arrives at the conclusion that the challenged regulations are valid. The *ponencia* does this without having to speculate or create abstract and hypothetical scenarios. Certainly, it is the practice of proceeding to discuss the merits of the substantive arguments raised in the petition, even after ruling that the case is not justiciable, that the Court lends itself to abstractions.[50]

Notably, in *Pimentel, Jr. v. Aguirre*[51] (*Pimentel*), the Court resolved a petition for *certiorari* and prohibition to annul an administrative order issued by the President, which requires local government units to reduce their expenditures by 25% of their authorized regular appropriations for non-personal services. The order further reduced the amount of internal revenue allotment to be withheld from local government units. Former Associate Justice Santiago M. Kapunan dissented from the majority, arguing that the case was premature as the conduct has not yet occurred and the challenged construction was not adopted by the administering agency. The Court, refuting the supposed prematurity of the petitions, held that:

> This is a rather novel theory — that people should await the implementing evil to befall on them before they can question acts that are illegal or unconstitutional. **Be it remembered that the real issue here is whether the Constitution and the law are contravened by Section 4 of AO 372, not whether they are violated by the acts implementing it.** In the unanimous *en banc* case *Tañada v. Angara*, this Court held that when an act of the legislative department is seriously alleged to have infringed the Constitution, settling the controversy becomes the duty of this Court. By the mere enactment of the questioned law or the approval of the challenged action, the dispute is said to have ripened into a judicial controversy even

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48 *Ollada v. Central Bank*, 115 Phil. 284, 291 (1962), cited in the Dissenting Opinion of Associate Justice Alfredo Benjamin S. Caguioa in *Department of Health v. Philippine Tobacco Institute, Inc.*, G.R. No. 200431, July 31, 2021, accessed at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/68029>.

49 See *Salvador v. Patricia, Inc.*, 799 Phil. 116 (2016).

50 See Separate Concurring Opinion of Associate Justice Florentino P. Feliciano in *Gascon v. Arroyo*, 258-A Phil. 354 (1989).

51 391 Phil. 84 (2000).

without any other overt act. Indeed, even a singular violation of the Constitution and/or the law is enough to awaken judicial duty. Said the Court:

> In seeking to nullify an act of the Philippine Senate on the ground that it contravenes the Constitution, the petition no doubt raises a justiciable controversy. Where an action of the legislative branch is seriously alleged to have infringed the Constitution, it becomes not only the right but in fact the duty of the judiciary to settle the dispute. "The question thus posed is judicial rather than political. The duty (to adjudicate) remains to assure that the supremacy of the Constitution is upheld." Once a "controversy as to the application or interpretation of a constitutional provision is raised before this Court x x x, it becomes a legal issue which the Court is bound by constitutional mandate to decide."
>
> x x x x
>
> As this Court has repeatedly and firmly emphasized in many cases, it will not shirk, digress from or abandon its sacred duty and authority to uphold the Constitution in matters that involve grave abuse of discretion brought before it in appropriate cases, committed by any officer, agency, instrumentality or department of the government.[52] (Emphasis and underscoring supplied)

Likewise, in *Imbong*, the Court also held that an actual case or controversy exists and that the same is ripe for judicial determination because the RH Law and its implementing rules were already enacted at the time of the filing of the petition. The Court further stated that the medical practitioners and providers are "**in danger of being criminally prosecuted**"[53] by virtue of the effectivity of the law.[54]

Later, in *Belgica*, the Court deemed the challenge to the constitutionality of the 2014 GAA justiciable even if the petition for *certiorari*

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52 Id. at 107-108.

53 *Spouses Imbong v. Ochoa, Jr.*, supra note 29, at 125. Emphasis supplied.

54 See *Council of Teachers and Staff of Colleges and Universities of the Philippines v. Secretary of Education*, 841 Phil. 724, 787 (2018), where the Court held that there is a justiciable controversy because "[t]he assailed laws and executive issuances have already taken effect and petitioners herein, who are faculty members, students and parents, are individuals directly and considerably affected by their implementation."; *Didipio Earth-Savers' Multi-Purpose Association, Inc. v. Gozun*, 520 Phil. 457, 472 (2006), where the Court held:

> In the instant case, there exists a live controversy involving a clash of legal rights as Rep. Act No. 7942 has been enacted, DAO 96-40 has been approved and an [FTAA has] been entered into. The FTAA holders have already been operating in various provinces of the country. Among them is CAMC which operates in the provinces of Nueva Vizcaya and Quirino where numerous individuals including the petitioners are imperiled of being ousted from their landholdings in view of the CAMC FTAA. In light of this, the court cannot await the adverse consequences of the law in order to consider the controversy actual and ripe for judicial intervention. Actual eviction of the land owners and occupants need not happen for this Court to intervene.

See also *Saguisag v. Ochoa, Jr.*, 777 Phil. 280, 351 (2016) where the Court deemed "the performance of an official act by the Executive Department that led to the entry into force of an executive agreement [as] sufficient to satisfy the actual case or controversy requirement."

was not prompted by any finding of irregularity by the Commission on Audit. The Court held that the implementation of the alleged unconstitutional provisions of the 2014 GAA might result in the "**possible** misapplication of public funds which cause '**injury or hardship to taxpayers**,'"[55] and as such, the controversy was ripe.

I thus agree with the *ponencia* that petitioners in G.R. Nos. 212604, 212682, 212800, and the petitions-in-intervention need not be charged first under JAO No. 2014-01 before they can have standing to sue. Petitioners were able to establish sufficient interest in the outcome of the controversy as frequent drivers or operators of motor vehicles who are more vulnerable to being penalized under JAO No. 2014-01 with the higher fines prescribed therein. **Notably, the penalties under JAO No. 2014-01 for first-time colorum violators include a fine of ₱1,000,000.00 for buses, ₱200,000.00 for trucks and vans, ₱120,000.00 for sedans, and ₱50,000.00 for jeepneys, coupled with the impoundment of the motor vehicle for three months.**[56] **These are, by any measure, huge amounts or penalties that entail punishing financial burdens — especially taking into consideration the situation of petitioners as drivers and operators of motor vehicles.**

Likewise, the failure to display the International Symbol of Accessibility and the failure to designate seats for persons with disabilities are penalized with a fine of ₱50,000.00 for the first offense, ₱75,000.00 for the second offense, and ₱100,000.00 for the third offense. Again, these are certainly huge sums of money, the imposition of which would directly or materially affect petitioners as they would have to pay these gargantuan sums should the validity of JAO No. 2014-01 prevail.

Parenthetically, in *Falcis III v. Civil Registrar General*,[57] the Court emphasized that for exceptional suits filed by taxpayers, legislators, or concerned citizens, the party must claim some kind of injury-in-fact. This requirement of standing, taken together with the requisite justiciable controversy, further restricts the filing of baseless and hypothetical suits before the courts. Be that as it may, the required injury-in-fact should not be construed to mean that petitioners must be apprehended under the challenged regulation before they can have standing to sue. As the Court stated:

> Even for exceptional suits filed by taxpayers, legislators, or concerned citizens, this Court has noted that the party must claim some kind of injury-in-fact. For concerned citizens, it is an allegation that the continuing enforcement of a law or any government act has denied the party some right or privilege to which they are entitled, **or that the party *will be* subjected to some burden or penalty because of the law or act being complained of**. For taxpayers, they must show "sufficient interest in preventing the illegal expenditure of money raised by taxation[.]" Legislators, meanwhile, must show that some government act infringes on

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55 *Belgica v. Executive Secretary*, supra note 28, at 54. Emphasis supplied.
56 JAO No. 2014-01, Title IV(1).
57 G.R. No. 217910, September 3, 2019, 917 SCRA 197.

> the prerogatives of their office. **Third-party suits must likewise be brought by litigants who have "sufficiently concrete interest" in the outcome of the dispute.**[58] (Emphasis and underscoring supplied)

In fine, the *ponencia* is correct in giving due course to the challenge on D.O. No. 2008-39 and JAO No. 2014-01. The Court must remain steadfast in exercising its power of judicial review, especially when called upon to rule on the Executive or Legislative's alleged infringement of the Constitution. When a co-equal branch is alleged to have violated the Constitution or a statute, as in this case, it is the illegal or unconstitutional act of such co-equal branch that becomes subject of the controversy for the adjudication of the Court. Thus, any such requirement of concrete facts is satisfied by the enactment or issuance of the statute or regulation being challenged.

II.

Petitioners argue that JAO No. 2014-01 is vague and overbroad. Among the portions of JAO No. 2014-01 that petitioners particularly assail is with respect to colorum violations. Angat Tsuper asserts that JAO No. 2014-01 fails to indicate who will be held liable for colorum violations, as it does not allegedly indicate whether it is the owner or operator, or the driver of the public utility vehicle that should pay the penalty. PISTON also raises the same issue, going further by arguing that the violations for failure to provide proper body markings and failure to provide fair discount also does not indicate who should be held liable for the penalties.[59] The *ponencia* rejects these arguments, holding that the terms in JAO No. 2014-01 are unambiguous and may be easily understood by reconciling it with the other related regulations issued by the LTFRB.[60]

Prior to ruling on the alleged vagueness and overbreadth of the challenged regulations, the *ponencia* reiterates that the Court "shall not stay its hand from assessing the constitutionality of [a] statute or regulation by the mere theory that the same is void for being vague."[61] Again, I fully concur with this position. It is time for the Court to shift away from the restrictive application of the vagueness doctrine *vis-à-vis* non-speech regulating measures.

A statute or regulation is considered overbroad when it sweeps unnecessarily broadly and invades the area of protected freedoms.[62] Meanwhile, a vague statute is primarily offensive to the right to due process because it fails to provide fair notice of the conduct being prohibited or penalized.[63] As a consequence, law enforcers are granted unbridled discretion

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58 Id. at 356-357.
59 *Ponencia*, p. 50.
60 Id. at 50-59.
61 Id. at 53.
62 *Chavez v. Commission on Elections*, 480 Phil. 915, 929 (2004).
63 See Dissenting Opinion of Associate Justice Dante O. Tinga in *Spouses Romualdez v. COMELEC*, 576 Phil. 357, 423 (2008); *People v. Dela Piedra*, 403 Phil. 31, 47-48 (2001).

in carrying out its provisions, encouraging the arbitrary arrest and convictions of individuals.[64]

It is true that the overbreadth doctrine is generally applied to statutes that infringe on the freedom of speech because of the chilling effect that results from the operation of an overbroad statute. In the same manner, a vague statute that regulates speech and other forms of expression operates to inhibit the exercise of these freedoms. It is in this sense that the vagueness and overbreadth doctrines are related.[65] But even if these doctrines are related, it should be emphasized that the void-for-vagueness doctrine is not exclusive to cases involving speech. As mentioned, the "fair notice" standard is the main criteria to determine the application of the void-for-vagueness doctrine.

Thus, in *SPARK*, the Court markedly passed upon the vagueness challenge against various curfew ordinances, which obviously did not involve the exercise of freedom of speech and expression. The challenge was anchored on the supposed absence of standards for law enforcers to identify suspected curfew violators, consequently allowing the unbridled enforcement of the ordinance. The Court, in *SPARK*, found the arguments of petitioners unconvincing, ruling that even in the absence of such parameters in the curfew ordinances, law enforcers are still bound by the provisions of the Juvenile Justice and Welfare Act of 2006[66] in apprehending violators.

In *Estrada v. Sandiganbayan*[67] (*Estrada*), the Court was asked to determine whether the Plunder Law is vague for failing to provide a statutory definition of the terms describing the prohibited conduct. In no uncertain terms, the Court rejected the vagueness challenge not because the Plunder Law is not a speech-regulating measure, but because there was fair notice of the prohibited conduct, which may be ascertained from the plain reading of its text.

To emphasize, it is well-settled that "[t]he void for vagueness doctrine is premised on due process considerations."[68] On this basis, the Court has often subjected laws or regulations that do not involve speech to the vagueness challenge. Thus, I pointed out in *Calleja* that the Court should refrain from adhering to its incoherent pronouncements where the vagueness challenge against a non-speech regulating measure is rejected solely because the case does not involve free speech. As in *SPARK* and *Estrada*, the Court can refer to the text of the regulation and conclude that the provisions of JAO No. 2014-01 may be fully understood by reading its entirety or in conjunction with related regulations.

In this regard, the *ponencia* aptly holds:

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64 See *People v. Dela Piedra*, id. at 48.

65 Separate Concurring and Dissenting Opinion of Associate Justice Alfredo Benjamin S. Caguioa in *Calleja v. Executive Secretary*, supra note 9.

66 R.A. No. 9344, dated April 28, 2006.

67 421 Phil. 290 (2001).

68 *Samahan ng mga Progresibong Kabataan (SPARK) v. Quezon City*, supra note 33, at 1095.

> Contrary to the argument of petitioners Angat Tsuper and Ximex, the clear language of Title IV(1) may be interpreted in its ordinary acceptation: that in terms of colorum violations involving public utility vehicles (*PUVs*), the penalty shall be suffered by operators who are holders or previous holders of CPCs; effectually, if a second apprehension is made on a vehicle involving the same operator, it shall automatically be counted as a second offense. On the other hand, penalties by private motor vehicles which operate as PUVs absent the requisite authority shall be counted against the registered owner and, in case of a corporation, against its stockholders and directors.
>
> In a similar manner, Title IV(2) through (2) and (8), when read together with the last paragraphs of Title IV, makes it easily discernible that fines and penalties shall be counted against operators and not against a particular motor vehicle or CPC, regardless of whether the latter holds or [is] a non-holder of a CPC, *viz.*:
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> x x x x
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> On another point, there is likewise dearth in merit in alleging vagueness under Title IV(7). A plain reading of the provision does not yield an interpretation that JAO No. 2014-01 penalizes operators for deliberately hiring drivers that "possess qualities that are unfit to serve the riding public." x x x
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> x x x x
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> **Acts are not rendered uncertain merely due to general terms used therein or due to the failure to define each and every word used, given that they may be read in harmony with other issuances, as in this case, to shed light on its proper meaning and implementation.**
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> In terms of Title IV(18), there appears to be nothing vague when the provision is understood alongside paragraphs 39 to 42 of LTFRB Memorandum Circular No. 2011-004, which lays down with specificity the requirements of the signboard, which, upon a careful reading of its terms, have been required for the benefit of the riding public, who cannot be expected to recall each and every route undertaken, and who should be apprised on the riding capacity of the PUVs on the road in the most accessible manner, to wit:
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> x x x x
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> Finally, Title IV(19) is fully appreciated if reconciled with paragraph 26 of LTFRB Memorandum Circular No. 2011-004. While PUJs and PUBs have no designated terminal, it is imperative that for purposes of loading and unloading freight or passengers, they should stop either at a curb or in any designated area, for which the Court can only surmise to be for purposes of safety and orderliness.[69] (Emphasis supplied)

Again, the Court should not lose sight of the fact that the vagueness doctrine is underpinned by due process considerations of fair and proper notice. It is high time that the Court finally and simply take the bull by the horns. Hence, the *ponencia* is a move in the appropriate direction by ruling

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69 *Ponencia*, pp. 54-59.

that JAO No. 2014-01 is patently clear, without having to preface the ruling that the vagueness challenge is improper.

III.

With respect to the substantive issues, the *ponencia* upholds the authority of the DOTC, the LTO, and the LTFRB to prescribe rules and regulations to enforce laws governing land transportation, including the penalties for the violations thereof. Under E.O. No. 125-A,[70] the DOTC and the LTO were vested with the power to prescribe rules and regulations to enforce laws on land transportation, including the penalties for the violations thereof. The LTFRB, meanwhile, was authorized by virtue of E.O. No. 202[71] to regulate the certificates of public convenience (CPCs) awarded to motor vehicles, as well as to adjust fares, rates, and charges relating to the operation of land transportation services provided by motor vehicles. According to the *ponencia*, these laws likewise provide sufficient standards by which these administrative agencies may exercise their delegated legislative power. Thus, the assailed traffic regulations are declared by the *ponencia* as not *ultra vires*.[72]

I agree with the *ponencia*. The grant of rule-making powers to administrative agencies has long been recognized as an exception to the non-delegability of legislative power.[73] In view of the growing complexity and variety of public functions, the legislature may delegate the discretion to determine how the law may be enforced and fill in the gaps for its implementation. Certainly, prescribing penalties for the violation of traffic rules and regulations is within the authority of the DOTC, through the LTO and the LTFRB, having been charged with the duty to implement laws relating to land transportation.

That said, my concurrence is subject to the submission that with the enactment of R.A. No. 7924, or the MMDA Law, it is the MMDA that is the primary authority on traffic policies **in Metro Manila**.

The creation of the MMDA was aimed at centralizing the delivery of metro-wide services within Metro Manila — services that have a metro-wide impact and which transcends local political boundaries. This includes the delivery of transport and traffic management services, or:

> x x x **the formulation, coordination, and monitoring of policies, standards, programs and projects to rationalize the existing transport operations**, infrastructure requirements, the use of thoroughfares, and promotion of safe and convenient movement of persons and goods; provision for the mass transport system and the institution of a system to

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70 Amendments to E.O. No. 125, dated April 13, 1987.

71 CREATING THE LAND TRANSPORTATION FRANCHISING AND REGULATORY BOARD, dated June 19, 1987.

72 *Ponencia*, pp. 29-36.

73 *Pantaleon v. MMDA*, G.R. No. 194335, November 17, 2020, accessed at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67017>; see also *People v. Maceren*, 169 Phil 437, 447-448 (1997).

> regulate road users; **administration and implementation of all traffic enforcement operations, traffic engineering services and traffic education programs, including the institution of a single ticketing system in Metropolitan Manila.**"[74] (Emphasis supplied)

In order to effectively carry out its functions, the MMDA was explicitly granted the authority to "set the policies concerning traffic in Metro Manila"[75] and to "[i]nstall and administer a single ticketing system, fix, impose and collect fines and penalties for all kinds of violations of traffic rules and regulations."[76]

The MMDA is mandated to exercise this authority through the Metro Manila Council, composed of the mayors of the cities and municipalities comprising Metro Manila, the president of the Metro Manila Vice Mayors League, and the president of the Metro Manila Councilors League. The Council is responsible for promulgating rules and regulations, and setting policies for the delivery of basic services within its jurisdiction.[77] Notably, the Secretary of the DOTC (now, the DOTr) , the Department of Public Works and Highways, Department of Tourism, Department of Budget and Management, Housing and Urban Development Coordinating Council, and Philippine National Police or their duly authorized representatives, attend meetings of the Council as non-voting members.[78] In this manner, the MMDA can coordinate its policies with its stakeholders and the relevant offices with overlapping functions.

Thus, there is a clear legislative intent to grant the MMDA with the power to set the policies concerning traffic in Metro Manila, and the duty to coordinate and regulate the implementation of all programs and projects concerning traffic management. This is further apparent from Section 5(f) of the MMDA Law, which specifically mentions that the MMDA has the authority to "impose and collect fines and penalties for all kinds of violations of traffic rules and regulations x x x in the enforcement of such traffic laws and regulations, the provisions of RA 4136[79] x x x to the contrary notwithstanding." In all, while the DOTr, through the LTO, is authorized to "[e]stablish and prescribe the corresponding rules and regulations for the enforcement of laws governing land transportation x x x including the penalties for violations thereof, and for the deputation of appropriate law enforcement agencies in pursuance thereof,"[80] its authority is circumscribed by that of the MMDA with respect to traffic management in Metro Manila.

To be clear, this does not negate the authority of the DOTr, the LTO, and the LTFRB, to prescribe rules for the enforcement of laws governing land transportation. But within the jurisdiction of the MMDA, the MMDA's

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74 R.A. No. 7924, Sec. 3(b).
75 Id. at Sec. 5(e).
76 Id. at Sec. 5(f).
77 Id. at Sec. 6(d).
78 Id. at Sec. 4.
79 R.A. No. 4136 refers to the "LAND TRANSPORTATION AND TRAFFIC CODE."
80 E.O. No. 125-A, Sec. 1, amending E.O. No. 125, Sec. 5.

mandate and authority to impose and prescribe the appropriate penalties for violations of traffic rules should prevail over these agencies. While the MMDA's functions may overlap with these agencies, it should be emphasized that its creation is premised on the need to coordinate metro-wide services that transcend territorial boundaries, which is particularly relevant for transport and traffic management. Verily, while I agree that D.O. No. 2008-39 and JAO No. 2014-01 are not *ultra vires*, I submit that with respect to the regulation of traffic in Metro Manila, the primary policymaking body is still the MMDA.

All told, I concur with the *ponencia* especially with respect to the resolution of the procedural issues, as well as with the application of the vagueness doctrine to the challenged regulation. To my mind, the power of judicial review was rightfully exercised as this ultimately fulfills the Court's role in the system of checks and balances. It should be emphasized that concomitant to the expanded power of judicial review is the duty to determine the validity of any legislative or executive action. As the final arbiter of legal controversies, there should be no question on the propriety of the Court's exercise of this power whenever an act of a government agency or instrumentality is alleged to have infringed the Constitution or the law.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

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