



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

CHRIS ART L. NORMANDY,
OWNER, VALKYRIE
CONSTRUCTION,
Petitioner,

- versus -

MARY ANN CABAILO,
Respondent.

G.R. No. 264268

Present:

CAGUIOA, J., *Chairperson*,
INTING, *Acting Chairperson*,
GAERLAN,
DIMAAMPAO, and
SINGH, JJ.

Promulgated:

July 22, 2024

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DECISION

SINGH, J.:

This is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court filed by petitioner Chris Art L. Normandy (**Normandy**) assailing the Amended Decision,² dated August 24, 2022, of the Court of Appeals (CA) in CA-G.R. SP No. 14190. The CA affirmed the Decision, dated December 20, 2019, and the Resolution, dated December 11, 2020, of the Office of the Secretary of Trade and Industry to the effect that Normandy violated Section

* On official leave.

** Per Special Order No. 3116 dated July 18, 2024.

¹ *Rollo*, pp. 13–38.

² *Id.* at 39–65. Penned by Associate Justice Bautista G. Corpin, Jr. and concurred in by Associate Justices Mercedita G. Dadole-Ygnacio and Eleuterio L. Bathán of the Special Former Eighteenth Division, Court of Appeals, Cebu City.

35 of the Contractors' License Law,³ and that the Department of Trade and Industry (**DTI**) has jurisdiction over the same.

The Facts

The respondent Mary Ann Cabailo (**Cabailo**) filed a Complaint⁴ before the DTI Regional Office VI against Normandy, the owner of Valkyrie Construction (**Valkyrie**), for violation of Section 35 of Republic Act No. 4566.

Cabailo alleged that she hired Normandy to construct the second floor of her house in Estanzia Subdivision, Barangay Mandalagan, Bacolod City for a contract price of PHP 1.2 million.⁵

The construction began on May 3, 2016. However, in November 2017, Normandy stopped the works contending that it was already completed. Cabailo was taken aback because the construction was allegedly defective and incomplete. Consequently, she refused to make the full payment until Normandy rectified the defects.⁶

Cabailo then engaged the services of Engineer William S. Ibarido II (**Engr. Ibarido**), a civil engineer, to inspect her house and reassess the works done by Normandy. Engr. Ibarido's assessment revealed the use of substandard construction materials, poor and defective workmanship, and incomplete construction.⁷

Meanwhile, Cabailo discovered that Normandy was, at the time of his engagement, not a duly licensed contractor under the Philippine Construction Accreditation Board (**PCAB**).⁸ Consequently, Cabailo claimed that Normandy misled her that his DTI business registration authorized him to

³ Republic Act No. 4566 (1965). An Act Creating the Philippine Licensing Board for Contractors, Prescribing its Powers, Duties and Functions, Providing Funds Therefor, and for Other Purposes states: Sec. 35. Penalties. – Any contractor who, for a price, commission, fee or wage, submits or attempts to submit a bid to construct, or contracts to or undertakes to construct, or assumes charge in a supervisory capacity of a construction work within the purview of this Act, without first securing a license to engage in the business of contracting in this country; or who shall present or file the license certificate of another, give false evidence of any kind to the Board, or any member thereof in obtaining a certificate or license, impersonate another, or use an expired or revoked certificate or license shall be deemed guilty of misdemeanor, and shall, upon conviction, be sentenced to pay a fine of not less than [PHP 500.00] but not more than [PHP 5000.00].

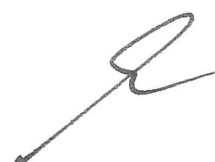
⁴ *Rollo*, pp. 75–81.

⁵ *Id.* at 76.

⁶ *Id.* at 76–77.

⁷ *Id.* at 77–78.

⁸ *Id.* at 78.



engage in the construction business, and that his work as a contractor was illegal due to the lack of a PCAB license.⁹

For his part, Normandy claimed that when Cabailo engaged his services, she was fully aware that he was still in the process of applying for his license before the PCAB.¹⁰

On June 14, 2018, the Office of the Building Official of Bacolod City issued a Certificate of Completion, which was conformed to by Cabailo. Subsequently, a Certificate of Occupancy, dated January 24, 2017, was issued. However, despite the completion, Cabailo refused to pay the balance in the amount of PHP 581,500.00.¹¹

Normandy further alleged that it was the parties' understanding that the project will be financed by the proceeds of a loan in the amount of PHP 1,459,600.00 that Cabailo will obtain from the Home Mutual Development Fund (**HMDF**). However, Normandy discovered that despite the release of the loan by the HMDF, and despite verbal and written demands, no payment was made by Cabailo. Hence, Normandy filed a Complaint for Recovery of Sum of Money against Cabailo before the Regional Trial Court (**RTC**).¹²

The case before the RTC was dismissed after the parties entered into a compromise agreement. However, Normandy was surprised to find out that during their negotiations for the amicable settlement before the RTC, Cabailo had already filed the Complaint before the DTI.¹³

In a Decision,¹⁴ dated August 3, 2018, the DTI's Office of the Adjudication Officer ruled that Normandy is not guilty of violating the provisions of deceptive, unfair and unconscionable sales act or practices of the Consumer Act of the Philippines for Cabailo's failure to provide evidence to show that Normandy was involved in the alleged misrepresentation regarding the PCAB license of Valkyrie.¹⁵ However, Normandy was held guilty for violating Republic Act No. 4566 for engaging in the business of contracting without first having secured a PCAB license.¹⁶ The dispositive portion of the Decision reads as follows:

⁹ *Id.* at 78–79.

¹⁰ *Id.* at 42–43.

¹¹ *Id.* at 43.

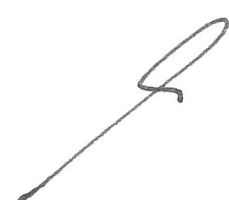
¹² *Id.* at 42–43.

¹³ *Id.* at 44.

¹⁴ *Id.* at 82–89. Penned by Acting Adjudication Officer Felisa Judith L. Degala.

¹⁵ *Id.* at 86.

¹⁶ *Id.* at 88.



WHEREFORE, foregoing premises considered, this office finds Respondent CHRIS ART NORMANDY not guilty of violating the provisions of deceptive, unfair[,] and unconscionable sales act or practices of the Consumer Act of the Philippines and the Rules and Regulations Implementing the same.

However, Respondent CHRIS ART NORMANDY and/or VALKYRIE CONSTRUCTION AND SUPPLIES is hereby found guilty for violating [Republic Act No.] 4566 for engaging in the business of contracting without first having secured a PCAB license to conduct business of contracting in this country.

As a consequence thereof, this office hereby orders that:

- a) CHRIST ART NORMANDY and/or VALKYRIE CONSTRUCTION AND SUPPLIES must cease and desist from operating its contracting business until he has obtained his PCAB license;
- b) VALKYRIE CONSTRUCTION AND SUPPLIES Certificate of Business Name Registration be cancelled;
- c) CHRIS ART NORMANDY and/or VALKYRIE CONSTRUCTION AND SUPPLIES application for the registration of the same or another business name be withheld by DTI if the nature thereof is the same as that mentioned in this case;
- d) CHRIST ART NORMANDY and/or VALKYRIE CONSTRUCTION AND SUPPLIES must pay a one-time Administrative Fine of [PHP 50,000.00], Philippine currency, either in cash or in the form of Company or Managers check and the additional administrative fine of not more than [PHP 1,000.00] for each day of continuing violation at the DTI VI Cashiers Office, 2nd Floor, Department of Trade and Industry Building, cor. J.M. Basa – Gen. Macario Peralta Avenue, Iloilo City.

Let a copy of this Decision be furnished to the DTI-Negros Occidental office which is hereby directed to disseminate copy hereof to the Head of Business Permit and Licensing Office/Business Permit Division of the Local Government Unit of Bacolod City for their appropriate action.

SO ORDERED.¹⁷ (Emphasis in the original)

Normandy filed a Motion for Partial Reconsideration, but this was denied.¹⁸

¹⁷ *Id.* at 88–89.

¹⁸ *Id.* at 46.



Normandy appealed the case to the Office of the Secretary of Trade and Industry, arguing that the DTI has no jurisdiction over the complaint and that the action has already prescribed.¹⁹

Citing Rule III, Section 3 of DTI Department Administrative Order No. 07-06, the Office of the Secretary of Trade and Industry held that it is the DTI, and not the PCAB, which has jurisdiction over cases involving persons or entities engaging in construction without a valid PCAB license, which is a violation of a Trade and Industry Law, thus:

Trade and Industry Law means any Act, Batas Pambansa, Presidential Decree, General Order, Letter of Instructions, Executive order, and other similar issuances as well as any and all amendments thereto, which regulates trade and industry activities, the violation of which subjects the offender to criminal or administrative penalties or civil liability or does not subject the offender to any penalty, sanction, or liability at all, and which law or issuance is subject to the implementation, administration, execution or enforcement of the Department, such as those enumerated in Section 1 of Ministry Order No. 69, Series of 1983, as amended and Department Administrative Order No. 3, Series of 1993.

It is settled that administrative regulations enacted by administrative agencies to implement and interpret the law which they are entrusted to enforce have the force of law and are entitled to respect. Such rules and regulations partake of the nature of a statute and are just as binding as if they have been written in the statute itself. As such, they have the force and effect of law and enjoy the presumption of constitutionality and legality until they are set aside with finality in an appropriate case by a competent court.

Clear from Rule III, Section 3 of DTI [Department Administrative Order] 7, Series of 2006 that complaints involving persons or entities engaging in construction without a valid PCAB license shall be adjudicated by the DTI, on the ground that it is a violation of a trade and industry law subject to the implementation, administration, execution or enforcement of the DTI.

Accordingly, DTI has jurisdiction over the instant complaint.²⁰

The said Office further held that since the complaint was filed on May 2, 2018, it was filed within the two-year prescriptive period since the transaction was consummated on February 7, 2017, the date when the Office of the Building Official of Bacolod issued the Certificate of Occupancy.²¹

¹⁹ *Id.* at 94.

²⁰ *Id.* at 96–97.

²¹ *Id.* at 99.



Normandy filed a Motion for Reconsideration with Manifestation, but this was denied on the ground that no motion for reconsideration is allowed for cases of violation of the Consumer Act.²²

Thereafter, Normandy filed a Petition under Rule 43 of the Rules of Court with the CA.

The Ruling of the CA

In its Decision,²³ dated September 30, 2021, the CA granted the Rule 43 Petition and determined that the DTI has no jurisdiction over Cabailo's complaint. The CA however, affirmed the DTI Adjudication Officer's conclusion that there was no evidence linking Normandy to the alleged misrepresentation concerning the possession of a PCAB license.²⁴ The case was resolved as follows:

WHEREFORE, the Petition is **GRANTED**. The *Decision*[.] dated December 20, 2019[.] issued by the Department of Trade and Industry (DTI) is **REVERSED and SET ASIDE**. The complaint filed against Petitioner is **DISMISSED**.

SO ORDERED.²⁵ (Emphasis in the original)

Cabailo filed a Motion for Reconsideration.

In its Amended Decision, dated August 24, 2022, the CA granted the Motion and reversed its earlier Decision:

WHEREFORE, premises considered, the respondent's Motion for Reconsideration is **GRANTED**. The Court's *Decision*[.] dated September 30, 2021[.] is **REVERSED and SET ASIDE** and a new one is entered whereby the petition is **DISMISSED** and the *Decision*[.] dated December 20, 2019[.] and the *Resolution*[.] dated December 11, 2020[.] of the Office of the Secretary of Trade and Industry are **AFFIRMED**, to the effect that the said Office correctly dismissed the petitioner's appeal and affirmed the Decision dated August 3, 2018 of the Acting Adjudication Officer of the DTI.

SO ORDERED.²⁶

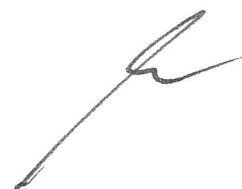
²² *Id.* at 47.

²³ *Id.* at 66–74.

²⁴ *Id.* at 72–73.

²⁵ *Id.* at 73.

²⁶ *Id.* at 64.



The CA held, in relevant part:

Under [Presidential Decree] No. 1746, jurisdiction and supervision over the PCAB was lodged with the Construction Industry Authority of the Philippines (CIAP), an attached agency to what is now the DTI. The CIAP was vested with the power to “establish procedures, guidelines[,] and criteria for fair and expeditious adjudication and settlement of claims and disputes in contract implementation” while the PCAB had the authority to “investigate such violations of [the Contractors’ License Law] and the regulations thereunder as may come to its knowledge.” However, it was the DTI itself, pursuant to the Administrative Code of 1987, which was authorized to “[a]dministratively adjudicate and impose reasonable fines and penalties for violation of existing trade and industry laws.”

It is true, however, that [Rule 11, Sec. 11.3 (bb)] of the January 24, 1989 Implementing Rules and Regulations (IRR) of the Contractors’ License Law would have vested the PCAB with jurisdiction over this case:

SEC. 11.3. Jurisdiction. –

The [Philippine Contractors Accreditation Board]
shall have jurisdiction over:

[. . .]

b) Any of the following offenses of misdemeanor by
any person, of:

[. . .]

bb) Submitting or attempting to submit a bid to
construct, or entering into contract or
undertaking to construct, or assuming charge in a
supervisory capacity of a construction work,
without first securing a license;

However, since the CIAP and the PCAB are both under the DTI, at present time, [Rule 11, Sec. 11.3 (bb)] of the January 24, 1989 IRR of the Contractors’ License Law is no longer effective in view of the repealing clause in [Rule XVII, Sec. 3] of DTI DAO No. 07-06 which states:

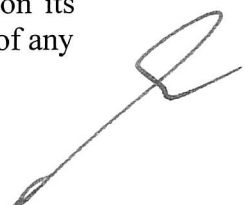
Sec. 3. Repealing Clause. – (a) The following DTI
orders are hereby repealed:

[. . .]

(b) All other Department Administrative Orders,
Department Orders, other issuances, or parts thereof
which are inconsistent with this Order are hereby
likewise repealed or amended accordingly.

Besides that, the jurisdiction of the PCAB is defined in Secs. 29 and 32 of the Contractors’ License Law which read:

SEC. 29. Jurisdiction. – The Board shall, upon its
own motion or upon the verified complaint in writing of any



person, investigate the action of any contractor and may suspend or revoke any license if the holder thereof has been guilty of or has committed any one or more of the acts or omission constituting causes for disciplinary action.

SEC. 32. Jurisdiction. – The lapsing or suspension of a license by operation of law, by order or decision of the Board or other competent authority, or the voluntary surrender of a license shall not deprive the Board of jurisdiction to proceed with any investigation of or action or disciplinary proceedings against such license, or to render a decision suspending or revoking it.

Clearly then, for the PCAB to exercise its jurisdiction, the person complained of must be a licensee, which is not the case here. Therefore, there is nothing in the Contractors' License Law which vests the PCAB with jurisdiction over this case.

....

Interestingly, the act complained of is defined by Sec. 35 of the Contractors' License Law which reads:

SEC. 35. Penalties. – Any contractor who, for a price, commission, fee[,] or wage, submits or attempts to submit a bid to construct, or contracts to or undertakes to construct, or assumes charge in a supervisory capacity of a construction work within the purview of this Act, without first securing a license to engage in the business of contracting in this country; or who shall present or file the license certificate of another, give false evidence of any kind to the Board, or any member thereof in obtaining a certificate or license, impersonate another, or use an expired or revoked certificate or license shall be deemed guilty of misdemeanor, and shall, upon conviction, be sentenced to pay a fine of not less than [PHP 500.00] but not more than [PHP 5,000.00].

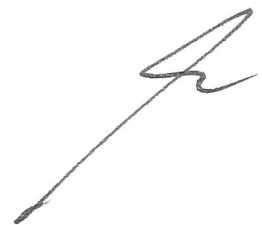
Again, DTI DAO No. 07-06 treats “cases involving persons or entities engaging in construction without a valid PCAB license” as a violation of a Trade and Industry Law. As an administrative rule and regulation, DTI DAO No. 07-06 should “have the force of law and [is] entitled to respect.” Thus, notwithstanding the fact that the violative act is defined by Sec. 35 of the Contractors' License Law, the provision itself should be deemed a Trade and Industry Law such that administrative jurisdiction over a violation thereof falls with the DTI.²⁷

Hence, this Petition.

The Issue

Whether the CA erred in affirming that the DTI has jurisdiction over the complaint filed against Normandy.

²⁷ *Id.* at 52–56.



The Ruling of the Court

The Court grants the Petition.

Jurisdiction is defined as the power and authority of a court to hear, try, and decide a case. In order for the court or an adjudicative body to have authority to dispose of the case on the merits, it must acquire, among others, jurisdiction over the subject matter.²⁸

The Contractors' License Law vests upon the PCAB the jurisdiction to investigate the action of any contractor:

Sec. 29. Jurisdiction. – The Board shall, upon its own motion or upon the verified complaint in writing of any person, *investigate the action of any contractor* and may suspend or revoke any license if the holder thereof has been guilty of or has committed any one or more of the acts or omission constituting causes for disciplinary action. (Emphasis supplied)

As defined in the same law, a contractor is “*any person* who undertakes or offers to undertake or purports to have the capacity to undertake or submits a bid to, or does himself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck[,] or demolish any building, highway, road, railroad, excavation[,] or other structure, project, development[,] or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith.”²⁹

Since the law uses the term “any person,” the CA erred when it ruled that the person complained of must be a licensee for the PCAB to exercise its jurisdiction. Basic is the rule in statutory construction that where the law does not distinguish, the courts should not distinguish. Where the law is free from ambiguity, the court may not introduce exceptions or conditions where none is provided from considerations of convenience, public welfare, or for any laudable purpose; neither may it engraft into the law qualifications not contemplated.³⁰

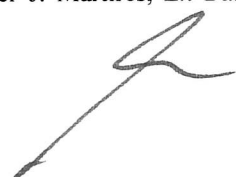
To bolster this, Section 35 of the same law states:

SEC. 35. Penalties. – *Any contractor who*, for a price, commission, fee[,] or wage, submits or attempts to submit a bid to construct, or contracts to or undertakes to construct, or assumes charge in a supervisory capacity of a construction work within the purview of this Act, *without first securing*

²⁸ *Berbano v. Heirs of Tapulao*, 855 Phil. 571, 576 (2019) [Per J. Lazaro-Javier, Second Division].

²⁹ Republic Act. No. 4566 (1965), sec. 9(b). (Emphasis supplied)

³⁰ *Ifurung v. Ombudsman Carpio Morales*, 831 Phil. 135, 184–185 (2018) [Per J. Martires, *En Banc*]. (Citations omitted)



a license to engage in the business of contracting in this country; or who shall present or file the license certificate of another, give false evidence of any kind to the Board, or any member thereof in obtaining a certificate or license, impersonate another, or use an expired or revoked certificate or license shall be deemed guilty of misdemeanor, and shall, upon conviction, be sentenced to pay a fine of not less than [PHP 500.00] but not more than [PHP 5,000.00]. (Emphasis supplied)

The phrasing is significant because it highlights that the term “contractor” encompasses individuals engaging in contracting activities, regardless of whether they have obtained a license or not.

The phrase “without first securing a license” clearly indicates that the law anticipates situations where individuals might be operating as contractors without having the required license. By using the term “any contractor” in this context, the law does not limit the jurisdiction of the PCAB to only those contractors who are already licensed. Instead, it broadly applies to anyone engaging in contracting activities, licensed or not.

Therefore, the Contractors’ License Law presupposes that the term “contractor” is inclusive of both licensed and unlicensed individuals or entities.

As regards the PCAB’s powers and duties, the same law provides:

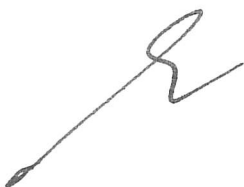
Sec. 5. Powers and duties of the Board. The Board is vested with authority to issue, suspend[,] and revoke licenses of contractors, *to investigate such violations of this Act and the regulations thereunder as may come to its knowledge* and, for this purpose, issue subpoena and subpoena duces tecum to secure appearance of witnesses in connection with the charges presented to the Board, and to discharge such other powers and duties affecting the construction industry in the Philippines.

The Board may, with the approval of the President of the Philippines, issue such rules and regulations as may be deemed necessary to carry out the provisions of this Act, to adopt a code of ethics for contractors and to have an official seal to authenticate its official documents. (Emphasis supplied)

Consequently, the IRR of the Contractors’ License Law stipulates that the PCAB has jurisdiction over cases whereby one engages in the business of contracting without first having secured a PCAB license:

Sec. 11.3. Jurisdiction – The Board shall have jurisdiction over:

....



(b) Any of the following offenses of misdemeanor *by any person*, of:

....

(bb) Submitting or attempting to submit a bid to construct, or *entering into contract or undertaking to construct*, or assuming charge in a supervisory capacity of a construction work, *without first securing a license[.]*³¹ (Emphasis supplied)

From the afore-quoted provisions of the Contractors' License Law and its IRR, it is clear that the PCAB indeed has jurisdiction over the act complained of by Cabailo.

Necessarily, the complaint, for having been filed with the DTI, must be dismissed on this ground. The DTI's lack of subject matter jurisdiction over the case renders any action in relation to the complaint null and void and of no effect.

Further, well-settled is the rule that in case of conflict between a statute and an administrative order, the former must prevail. A rule or regulation must conform to and be consistent with the provisions of the enabling statute in order for such rule or regulation to be valid.³² The rule-making power of an administrative agency may not be used to abridge the authority given to it by Congress or by the Constitution. Nor can it be used to enlarge the power of the administrative agency beyond the scope intended. Constitutional and statutory provisions control with respect to what rules and regulations may be promulgated by administrative agencies and the scope of their regulations.³³

Clearly, for a rule or regulation to be considered valid, it must align with and not contradict the provisions outlined in the enabling statute because an administrative agency must operate within the confines of the authority delegated to them by law.

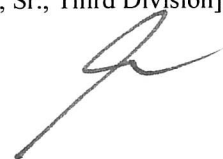
In this case, there exists a conflict between the Contractors' License Law, a statute, and DTI DAO No. 07-06, an administrative issuance. Therefore, the reliance of the CA on DTI DAO No. 07-06, is misplaced.

ACCORDINGLY, the Petition for Review on *Certiorari* is **GRANTED**. The Amended Decision, dated August 24, 2022, of the Court of Appeals in CA-G.R. SP No. 14190 is **REVERSED**. Accordingly, the complaint filed against CHRIS ART L. NORMANDY is **DISMISSED** on the

³¹ Implementing Rules and Regulations of Republic Act. No. 4566 (1965), sec. 11.3, Contractors' License Law.

³² *Department of Agrarian Reform v. Carriedo*, 778 Phil. 656, 682 (2016) [Per J. Jardeleza, Third Division].

³³ *Department of Agrarian Reform v. Uy*, 544 Phil. 308, 330 (2007) [Per J. Callejo, Sr., Third Division].



ground of lack of jurisdiction on the part of the Department of Trade and Industry.

SO ORDERED.



MARIA FILOMENA D. SINGH
Associate Justice

WE CONCUR:

On official leave
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice



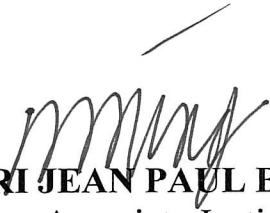
SAMUEL H. GAERLAN
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice

ATTESTATION

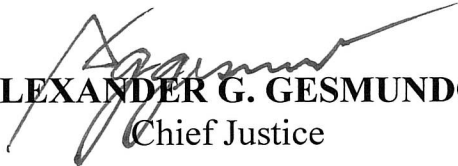
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



HENRI JEAN PAUL B. INTING
Associate Justice
Acting Chairperson, Third Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Acting Chairperson’s Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court’s Division.


ALEXANDER G. GESMUNDO
Chief Justice

