Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PHILIPPINE INSTITUTE OF PETROLEUM, INC., ISLA LPG CORPORATION, PTT PHILIPPINES CORPORATION AND TOTAL (PHILIPPINES) CORPORATION, Petitioners,	**G.R. No. 266310** Present: GESMUNDO, *C.J.*, *Chairperson*, HERNANDO, ZALAMEDA, ROSARIO, and MARQUEZ, *JJ.*
- versus -	
DEPARTMENT OF ENERGY, Respondent.	**Promulgated:** JUL 31 2024

x----------x

DECISION

HERNANDO, *J.*:

Before the Court is a Petition for Review on *Certiorari*[1] assailing the Decision[2] and the Resolution[3] of the Court of Appeals (CA) in CA-G.R. SP No. 164764, which partly granted the Petition for *Certiorari*[4] filed by the Department of Energy (DOE). In so ruling, the CA reversed and set aside the

---

1 *Rollo*, pp. 52–82.

2 *Id.* at 93–128. The October 3, 2022 Decision in CA-G.R. SP No. 164764 was penned by Associate Justice Raymond Reynold R. Lauigan and concurred in by Associate Justices Fernanda Lampas Peralta and Pablito A. Perez of the Second Division, Court of Appeals, Manila.

3 *Id.* at 130–133. The March 3, 2023 Resolution in CA-G.R. SP No. 16474 was penned by Associate Justice Raymond Reynold R. Lauigan and concurred in by Associate Justices Fernanda Lampas Peralta and Pablito A. Perez of the Former Second Division, Court of Appeals, Manila.

4 *Id.* at 258–305.

Resolution[5] dated August 14, 2019 and the Order[6] dated December 3, 2019 of the Regional Trial Court (RTC) of Makati City, Branch 58, insofar as the same granted the application for the issuance of a writ of preliminary junction of Philippine Institute of Petroleum, Inc. (PIP), Isla LPG Corporation (Isla), PTT Philippines Corporation (PTT), and Total Philippines Corporation (TPC) (collectively, PIP et al.).[7] Further, the CA affirmed the RTC's order for the non-dismissal of the main case for the DOE's failure to establish forum shopping and *litis pendentia*.[8]

Antecedent Facts

On February 10, 1998, Republic Act No. 8479, or the Downstream Oil Industry Deregulation Act of 1998, was approved to "liberalize and deregulate the downstream oil industry in order to ensure a truly competitive market under a regime of fair prices, adequate and continuous supply of environmentally-clean and high quality petroleum products."[9] Republic Act No. 8479, particularly Section 14 thereof, granted the DOE the power to monitor and publish daily international crude oil prices, and to follow the movement of domestic oil prices. Further, the DOE Secretary was given additional powers under Sec. 15 in connection with the enforcement of Republic Act No. 8479.

Pursuant to Republic Act No. 8479, the DOE issued Department Circular No. DC2019-05-0008, or the Revised Guidelines for the Monitoring of Prices in the Sale of Petroleum Products by the Downstream Oil Industry in the Philippines (DC2019-05-0008), which requires, among others, oil companies to submit a report to the Oil Industry Management Bureau (OIMB), containing the detailed computation with corresponding explanation and supporting documents on unbundled items comprising the Oil Company Price, as provided in the prescribed format therein.[10]

On June 21, 2019, PIP, an association of businesses operating in the downstream oil industry, together with Isla, PTT, and TPC, companies which are engaged in the business of petroleum products, then filed a Petition for Declaratory Relief with Application for Temporary Restraining Order and Writ of Preliminary Injunction before the RTC of Makati City, Branch 58.[11]

---

5 CA *rollo*, pp. 59–70. The August 14, 2019 Resolution in Case No. R-MKT-19-02926-SC was penned by Presiding Judge Eugene C. Paras of Branch 58, Regional Trial Court, Makati City.

6 *Id.* at 72. The December 3, 2019 Order in Civil Case No. 19-02926 was enned by Presiding Judge Eugene C. Paras of Branch 58, Regional Trial Court, Makati City.

7 *Rollo*, pp. 127–128.

8 *Id.*

9 Republic Act No. 8479 (1998), sec. 2, Downstream Oil Industry Deregulation Act of 1998.

10 DOE Department Circular No. DC2019-05-0008 (2019), sec. 8.

11 *Rollo*, pp. 60 and 94–95.

PIP et al. alleged that DC2019-05-0008 violated their rights and is contrary to Republic Act No. 8479 because: (1) Articles II, IV, and V thereof are forms of price control, and contrary to the policy of full deregulation of the downstream oil industry; (2) Articles II, IV, and V impose impossible requirements on oil companies and other related parties; (3) Articles II, IV, and V do not find support in Republic Act No. 8479, particularly with respect to its anti-trust provisions, with the passage of Republic Act No. 10667; and, (4) DC2019-05-0008 affects PIP et al. and other entities' right to a truly competitive market, and their right against disclosure of their trade secrets and/or privileged or confidential information. Essentially, PIP et al. claimed that DC2019-05-0008 is an *ultra vires* act of the DOE and prayed that it be declared invalid in its entirety. Moreover, they also prayed for the issuance of a temporary restraining order (TRO) and a writ of preliminary injunction against the DOE.[12]

On June 27, 2019, the RTC conducted the hearing on the application for TRO.[13] In its Order dated June 28, 2019, the RTC granted PIP et al.'s application and ordered the DOE not to enforce DC2019-05-0008 for a period of 20 days from the date of the issuance of the said Order.[14]

Subsequently, on July 12, 2019, PIP et al. filed an Amended Petition for Declaratory Relief with Application for TRO and Writ of Preliminary Injunction.[15] On July 15, 2019, the RTC proceeded to hear the application for the issuance of a writ of preliminary injunction.[16]

Ruling of the Regional Trial Court

In its Resolution[17] dated August 14, 2019, the RTC, upon finding that all the requisites were present, granted PIP et al.'s prayer for the issuance of a writ of preliminary injunction. The dispositive portion of the Resolution reads:

> **WHEREFORE**, premises considered, the Court resolved to **GRANT** [PIP et al.'s] [a]pplication for issuance of Writ of Preliminary Injunction enjoining and/or prohibiting [the] Department of Energy (DOE) from implementing and enforcing the subject Department Circular No. DC2019-05-0008 until the main petition is decided. Accordingly, let a Writ of Preliminary Injunction be issued upon [PIP et al.'s] posting of a bond in the amount [PHP] 500,000.00.
>
> **SO ORDERED**.[18] (Emphasis in the original)

---

[12] *Id.* at 95–96.
[13] *Id.* at 264.
[14] *Id.* at 96 and 265.
[15] *Id.* at 60, 94, and 184–218.
[16] *Id.* at 266.
[17] *Id.* at 246–257.
[18] *Id.* at 257.

The DOE moved for reconsideration, however, the same was denied in the RTC's Order dated December 3, 2019.[19]

Aggrieved, the DOE filed a Petition for *Certiorari*[20] before the CA, alleging that the RTC committed grave abuse of discretion amounting to a lack or excess of jurisdiction when: (1) it did not dismiss the case filed by PIP et al. despite being barred by *litis pendentia* and committing deliberate and willful forum shopping, and (2) it issued the Resolution dated August 14, 2019 and Order dated December 3, 2019 considering that there was no basis for the issuance of a writ of preliminary injunction in PIP et al.'s favor.[21]

Ruling of the Court of Appeals

In its Decision[22] dated October 3, 2022, the CA partly granted the Petition.[23] The dispositive portion of the CA Decision reads:

> **WHEREFORE**, premises considered, the Petition for Certiorari is **PARTLY GRANTED**. The assailed Resolution dated 14 August 2019 and Order dated 03 December 2019 of the Regional Trial Court of Makati City, Branch 58, *Case No. R-MKT-19-02926-SC*, only in so far as the same granted [PIP et al.'s] application for issuance of a writ of preliminary injunction are **REVERSED** and **SET ASIDE**. The order for the non-dismissal of the main case for [DOE's] failure to establish forum shopping and litis pendentia is **RETAINED**, in accordance with this Court's discussion on the matter.
>
> SO ORDERED.[24] (Emphasis in the original)

As to the first issue raised, the appellate court ruled that, on the requisite of identity of parties alone, the DOE's move to have the case before the trial court dismissed must fail because deliberate forum shopping and *litis pendentia* were not established.[25] It upheld and cited the ruling of the RTC, to wit:

> [W]hile there are other cases of similar nature like the case of *Pilipinas Shell Petroleum Corporation vs. The Secretary of Department of Energy* [...] pending before the Regional Trial Court, Branch 70 of Taguig City for [n]ullification of DC2019-05-0008 and injunction; *Petron Corporation vs. Alfred Cusi, in his capacity as Secretary of Energy* [. . .] pending in Mandaluyong City[,] Branch [213] for declaratory relief with application for TRO and Writ of

---

19 *Id.* at 76.
20 *Id.* at 258-305.
21 *Id.* at 269–270.
22 *Id.* at 93–128.
23 *Id.* at 107.
24 *Id.* at 127–128.
25 *Id.* at 111.

> Preliminary Injunction, the parties are clearly different. The petitioners therein are different from the petitioners in the instant case. One of the requisites of *litis pendentia* is identity of parties or representing same interest.[26]

However, anent the issue on the writ of preliminary injunction, the appellate court found that there was no basis for the issuance thereof.[27] It sustained the argument of the DOE that there is no clear right to be violated by the implementation of DC2019-05-0008 as the same does not impose any price control nor dictate market prices to influence and regulate the oil industry.[28] Moreover, it held that the alleged damage that would be suffered by PIP et al. is "more imagined than real since these are bare allegations founded on an unclear source of right. In the absence of proof of a legal right and the injury sustained by one who seeks an injunctive writ, an order for the issuance of a writ of preliminary injunction will be nullified."[29]

PIP et al. and the DOE both filed their respective Motions for Partial Reconsideration but they were denied by the CA in its Resolution[30] dated March 3, 2023, as the grounds raised therein were a mere rehash of the issues already considered and resolved in its Decision.[31]

Hence, the instant Petition. While PIP et al. agree with the CA's decision not to dismiss the case for forum shopping and *litis pendentia*, they nevertheless insist that the CA's reversal of the RTC's issuance of a writ of preliminary injunction is erroneous.[32]

Issue

The sole issue for the Court's resolution is whether the appellate court committed grave error when it reversed and set aside the RTC's issuance of a writ of preliminary injunction.

Our Ruling

The Petition is unmeritorious.

A writ of preliminary injunction is a preservative remedy for the protection of substantial rights and interests. It is not a cause of action itself, but a mere provisional remedy adjunct to a main suit. The purpose of injunction is to

---

[26] *Id.* at 113 and 256–257.
[27] *Id.* at 113.
[28] *Id.* at 116 and 124.
[29] *Id.* at 126.
[30] *Id.* at 130–133.
[31] *Id.* at 132.
[32] *Id.* at 53.

prevent threatened or continuous irremediable injury to the parties before their claims can be thoroughly studied, and its sole aim is to preserve the status *quo* until the merits of the case are fully heard.[33]

The Rules of Court, Rule 58, Sec. 1 provides that a preliminary injunction may be granted by the court at any stage of an action or proceeding prior to the judgment or final order requiring a party or a court, agency, or a person to refrain from a particular act or acts; it may also require the performance of a particular act or acts, in which case it shall be known as a preliminary mandatory injunction. It may be issued when any of the following grounds are established:

> (a) That the applicant is entitled to the relief demanded, and the whole or part of such relief consists in restraining the commission or continuance of the act or acts complained of, or in requiring the performance of an act or acts either for a limited period or perpetually;
>
> (b) That the commission, continuance or non-performance of the act or acts complained of during the litigation would probably work injustice to the applicant; or
>
> (c) That a party, court, agency or a person is doing, threatening, or is attempting to do, or is procuring or suffering to be done some act or acts probably in violation of the rights of the applicant respecting the subject of the action or proceeding, and tending to render the judgment ineffectual.[34]

To be entitled to the issuance of an injunctive writ, the following requisites must be present: (a) the applicant must have a clear and unmistakable right to be protected, that is a right in *esse*; (b) there is a material and substantial invasion of such right; (c) there is an urgent need for the writ to prevent irreparable injury to the applicant; and, (d) no other ordinary, speedy, and adequate remedy exists to prevent the infliction of irreparable injury.[35]

As will be discussed below, the Court finds that the said requisites were not met in the present case.

PIP et al. have no clear and unmistakable right

In *Sumifru (Philippines) Corp. v. Spouses Cereño*,[36] the Court had the opportunity to discuss the concept of a clear and unmistakable right that may protected by a writ of preliminary injunction, to wit:

---

[33] *Bureau of Customs v. Court of Appeals*, G.R. No. 192809, April 26, 2021 [Per J. Hernando, Third Division].
[34] RULES OF COURT, Rule 58, sec. 3.
[35] *Bureau of Customs v. Court of Appeals*, G.R. No. 192809, April 26, 2021 [Per J. Hernando, Third Division].
[36] 825 Phil. 743 (2018) [Per J. Carpio, Second Division].

> A writ of preliminary injunction, being an extraordinary event, one deemed as a strong arm of equity or a transcendent remedy, must be granted only in the face of injury to actual and existing substantial rights. A right to be protected by injunction means a right clearly founded on or granted by law or is enforceable as a matter of law. An injunction is not a remedy to protect or enforce contingent, abstract, or future rights; it will not issue to protect a right not in *esse*, and which may never arise, or to restrain an act which does not give rise to a cause of action. When the complainant's right is doubtful or disputed, he does not have a clear legal right and, therefore, injunction is not proper. While it is not required that the right claimed by the applicant, as basis for seeking injunctive relief, be conclusively established, it is still necessary to show, at least tentatively, that the right exists and is not vitiated by any substantial challenge or contradiction.[37] (Citations omitted)

Here, PIP et al. primarily anchor their claim of a right in *esse* based on Republic Act No. 8479, Sec. 2, which provides for the full deregulation of the downstream oil industry:[38]

> SEC. 2. *Declaration of Policy.* – It shall be the policy of the state to liberalize and deregulate the downstream oil industry in order to ensure a truly competitive market under a regime of fair prices, adequate and continuous supply of environmentally-clean and high quality petroleum products. To this end, the State shall promote and encourage the entry of new participants in the downstream oil industry, and introduce adequate measures to ensure the attainment of these goals.[39]

Citing *Franco v. Energy Regulatory Commission*,[40] PIP et al. emphasize that the very reason for the enactment of Republic Act No. 8479 is to liberalize and deregulate the downstream oil industry "by promoting and encouraging the entry of new participants in the said industry and prohibiting government interference with any market aspect of the oil industry, including pricing, import and export processes and facilities and the establishment of retailers and refineries."[41]

This Court does not dispute nor question the policy behind the full deregulation of the downstream oil industry. In fact, in a number of cases, this Court has agreed on its importance. In *Garcia v. Corona*,[42] We stated that, "[t]he issues involved in the deregulation of the downstream oil industry are of paramount significance. The ramifications, international and local in scope, are complex. The impact on the nation's economy is pervasive and far-reaching. The amounts involved in the oil business are immense. Fluctuations in the

---

37 *Id.* at 750–751.
38 *Rollo*, p. 64.
39 Downstream Oil Industry Deregulation Act, sec. 2.
40 783 Phil. 740, 765–766 (2016) [Per J. Reyes, *En Banc*].
41 *Rollo*, p. 65.
42 378 Phil. 848 (1999) [Per J. Ynares-Santiago, *En Banc*].

supply and price of oil products have a dramatic effect on economic development and public welfare... The deregulation of the oil industry is a policy determination of the highest order. It is unquestionably a priority program of Government"[43]

Moreover, in *Garcia v. Executive Secretary*,[44] this Court declared that Congress, by enacting Republic Act No. 8479, determined that the objective of the law is better achieved by liberalizing the oil market, rather than continuing with a highly regulated system enforced by means of restrictive prior controls. Such legislative determination was a lawful exercise of Congress's prerogative, and one that this Court must respect and uphold. This Court cannot question the wisdom of a co-equal department's acts and do not involve itself with or delve into the policy or wisdom of a statute; it sits, not to review or revise legislative action, but to enforce the legislative will. For the Court to act on a clearly non-justiciable matter would be to debase the principle of separation of powers that has been tightly woven by the Constitution into our republican system of government.[45]

Be that as it may, it does not mean that the deregulation of the downstream oil industry is left without any kind of supervision at all. As this Court held in *Tatad v. Secretary of the Department of Energy (Tatad)*:[46]

> [O]ur free enterprise system is not based on a market of pure and unadulterated competition where the State pursues a strict hands-off policy and follows the let-the-devil devour the hindmost rule. Combinations in restraint of trade and unfair competitions are absolutely proscribed and the proscription is directed both against the State as well as the private sector. This distinct free enterprise system is dictated by the need to achieve the goals of our national economy as defined by section 1, Article XII of the Constitution which are: more equitable distribution of opportunities, income and wealth; a sustained increase in the amount of goods and services produced by the nation for the benefit of the people; and an expanding productivity as the key to raising the quality of life for all, especially the underprivileged. It also calls for the State to protect Filipino enterprises against unfair competition and trade practices.[47]

As such, Republic Act No. 8479 itself provides for measures on how to attain the liberalization of the downstream oil industry and the promotion of free competition.[48] Particularly, Sections 5 and 7 thereof provide:

---

[43] *Id.* At 859, 861.
[44] 602 Phil. 64, 76–77 (2009) [Per J. Brion, *En Banc*].
[45] *Id.*
[46] 346 Phil. 321 (1997) [Per J. Puno, *En Banc*].
[47] *Id.* at 367.
[48] Downstream Oil Industry Deregulation Act, secs. 5-10.

> SEC. 5. *Liberalization of the Industry.* – Any law to the contrary notwithstanding, any person or entity may import or purchase any quantity of crude oil and petroleum products from a foreign or domestic source, lease or own and operate refineries and other downstream oil facilities and market such crude oil and petroleum products either in a generic name or his [or her] or its own trade name, or use the same for his [or her] or its own requirement: *Provided,* That any person or entity who shall engage in any such activity shall give prior notice thereof to the DOE for monitoring purposes: *Provided, further*, That such notice shall not exempt such person or entity from securing certificates of quality, health and safety and environmental clearance from the proper governmental agencies: *Provided, furthermore*, That such person or entity shall, for monitoring purposes, report to the DOE his [or her] or its every importation/exportation: *Provided, finally*, That all oil importations shall be in accordance with the Basel Convention.
>
> SEC. 7. *Promotion of Fair Trade Practices.* – The Department of Trade and Industry (DTI) and DOE shall take all measures to promote fair trade and prevent cartelization, monopolies, combinations in restraint of trade, and any unfair competition in the industry as defined in Article 186 of the Revised Penal Code, and Articles 168 and 169 of Republic Act No. 8293, otherwise known as the "Intellectual Property Rights law". The DOE shall continue to encourage certain practices in the industry which serve the public interest and are intended to achieve efficiency and cost reduction, ensure continuous supply of petroleum products, and enhance environmental protection. These practices may include borrow-and-loan agreements, rationalized depot and manufacturing operations, hospitality agreements, joint tanker and pipeline utilization, and joint actions on oil spill control and fire prevention.
>
> The DOE shall monitor the relationship between the oil companies (refiners and importers) and their dealers, haulers and LPG distributors to help ensure the observance of fair and equitable practices and to ensure the enforcement of existing contracts: *Provided,* That the DOE shall conciliate and arbitrate any dispute that may arise with respect to the contractual relationship between the oil companies and the dealers, haulers and LPG distributors involving the dealers' mark-up, the freight rate in transporting petroleum products and the margins of LPG distributors for the protection of the public and to prevent ruinous competition: *Provided, further*, That the arbitration award of the DOE shall be subject to judicial review under existing law.

In relation thereto, Sections 14 and 15 of the law explicitly granted monitoring powers and other functions to the DOE and the DOE Secretary, to wit:

> SEC. 14. *Monitoring.* – a) The DOE shall monitor and publish daily international crude oil prices, as well as follow the movements of domestic oil prices. It shall likewise monitor the quality of petroleum products and stop the operation of businesses involved in the sale of petroleum products which do not comply with

the national standards of quality that are aligned with the international standards/protocols of quality. The Bureau of Product Standards (BPS) of the DTI, together with the Department of Environment and Natural Resources (DENR), the DOE, the Department of Science and Technology (DOST), representatives of the fuel and automotive industries and the consumers, shall set the specifications for all types of fuel and fuel-related products to improve fuel composition for increased efficiency and reduced emissions. The BPS shall also specify the allowable content of additives in all types of fuels and fuel-related products.

b) The DOE shall monitor the refining and manufacturing processes of local petroleum products to ensure that clean and safe (environment and worker-benign) technologies are applied. This shall also apply to the process of marketing local and imported petroleum products.

c) The DOE shall maintain a periodic schedule of present and future total industry inventory of petroleum products for the purpose of determining the level of supply. To implement this, the importers, refiners, and marketers are hereby required to submit monthly to the DOE their actual and projected importations, local purchases, sales and/or consumption, and inventory on a per crude/product basis.

d) Any report from any person of an unreasonable rise in the prices of petroleum products shall be immediately acted upon. For this purpose, the creation of DOE-DOJ Task Force is hereby mandated to determine within thirty (30) days the merits of the report and initiate the necessary actions warranted under the circumstances: *Provided*, That nothing herein shall prevent the said task force from investigating and/or filing the necessary complaint with the proper court or agency *motu propio*.

Upon the effectivity of this Act, the Secretaries of Energy and Justice shall jointly appoint the members of a committee who shall be tasked with the drafting of rules and guidelines to be adopted by the Task Force in the performance of its duty. These guidelines shall ensure efficiency, promptness, and effectiveness in the handling of its cases. The Task Force shall be organized and its members appointed within one (1) month from the effectivity of this Act.

e) In times of national emergency, when the public interest so requires, the DOE may, during the emergency and under reasonable terms prescribed by it, temporarily take over or direct the operation of any person or entity engaged in the Industry.

SEC. 15. *Additional Powers of the DOE Secretary.* – In connection with the enforcement of this Act, the DOE Secretary shall have the following powers:

a) To gather and compile appropriate information concerning, and to investigate from time to time the organization, business, conduct, practices, and management of any person or entity in the Industry.

b) To require, by general or special orders, persons and entities engaged in a particular activity of the Industry: (i) to file an annual or special report, or both in such form as the Secretary may prescribe; or (ii) to answer specific questions in writing, furnishing to the Secretary such information as he may require as to the organization, business, conduct, practices, management, and relation to other corporations, partnerships, and individuals of the respective persons or entities filing such reports or answer. Such reports and/or answer shall be filed with the Secretary under oath and within such reasonable time as the Secretary may prescribe;

c) Upon the direction of the President or either House of Congress, to investigate and report the facts relating to any alleged violation of this Act by any person or corporation;

d) Upon the application of the Secretary of Justice, to investigate and make recommendations for the adjustment of the business of any person or entity alleged to be violating this Act in order that such person or entity may thereafter maintain his or its organization, management, and conduct of business in accordance with laws;

e) To recommend to the proper government agency the suspension or revocation and termination of the business permit of an offender;

f) Concomitant with the policy of ensuring a continuous, adequate and economic supply of energy to exercise his [or her] powers and functions as provided under Section 5 (c) of Republic Act No. 7638;

g) To make public from time to time such portions of the information obtained by him [or her] hereunder as are in the public interest; and to make annual and special reports to Congress and to submit therewith recommendations for additional legislation; and to provide for the publication of his [or her] reports and decisions in such form and manner as may be best adapted for public information and use: *Provided*, That the Secretary shall not have any authority to make public any trade secret or any commercial or financial information which is obtained from any person or entity and which is privileged or confidential, except that the Secretary may disclose such information to officers and employees of appropriate law enforcement agencies or to any officer or employee of any such law enforcement agency upon the prior certification by an officer of any such law agency that such information will be maintained in confidence and will be used only for official law enforcement purposes: and

h) Whenever a final order has been entered against any defendant in any suit brought by the government to prevent and restrain any violation of the anti-trust provisions of this Act to make investigation, upon his [or her] initiative of the manner in which the decree has been or is being carried out, and upon the application of the Secretary of Justice, it shall be his [or her] duty to make such

> investigation. He [or she] shall transmit to the Secretary of Justice a report embodying his [or her] findings and recommendations as a result of any such investigation, and the report shall be made public at the discretion of the Secretary.

A plain reading of these provisions would readily show that it is pursuant to these powers and functions that the assailed DC2019-05-0008 was issued. Republic Act No. 8479 is clear in allowing the DOE and the DOE Secretary to require the oil companies to submit a detailed report on the petroleum products, in such form as the Secretary may prescribe, in order for the DOE to fulfill its mandated duty of monitoring and publishing daily international crude oil prices, as well as following the movement of domestic oil prices.

Given that it is quite literally the mandate of the DOE under the law, it cannot be said that PIP et al. have any clear legal right against the implementation of DC2019-05-0008. It bears noting that they themselves conceded that the DOE has indeed monitoring powers under Republic Act No. 8479.[49] Thus, as the CA aptly held:

> Here, the actual guide for implementation of [DOE's] monitoring powers as set forth in DC2019-05-0008 clearly emanated from [Republic Act No.] 8479, and therefore, the deregulation of the downstream oil industry under [Republic Act No]. 8479 did not give [PIP et al.] a clear legal right against [the DOE's] monitoring pursuant to DC2019-05-0008.
>
> In the case at bench, [PIP et al.] failed to prove how the prior notice requirement on price adjustment and implementation violated their rights when such requirements imposed by [DOE] was exercised pursuant to its monitoring power that is granted by law. DC2019-05-0008 did not even impose any price control on [PIP et al.] but merely required them to comply with the necessary notice and submission of documents.[50]

In the following section, We discuss how PIP et al. also fail to convince this Court that DC2019-05-0008 imposes any form of price control.

There is no substantial or material invasion of PIP et al.'s rights

According to PIP et al., DC2019-05-0008 is violative of their rights because it goes against the policy of full deregulation laid down in Republic Act No. 8479 as it contains provisions that are forms of a price control, such that:

---

[49] *Rollo*, p. 65.
[50] *Id.* at 124.

(a) Article II, Section 3, requires that sellers of liquid fuels and LPG notify the DOE of any adjustment, no adjustment, in the prices of such products before they could announce and implement such adjustments;

(b) Article II, Section 4, fixes the prices of liquid fuels for a week and the price of LPG for a month;

(c) Article IV and Article V, Section 8, require the submission of various cost components and the profit margin for any price adjustment or no adjustment of petroleum products, on a per liter and per product basis, with a detailed computation, explanation and supporting documents on the "cause/s or reason/s of the movement of the individual unbundled price adjustment item" and on the "unbundled items compromising the Oil Company Price";

(d) Article V, Section 9, imposes the same reportorial requirement upon LPG Retail Outlets, LPG Refillers and LPG Dealers, who may be required to submit the reports whenever required by the DOE; and,

(e) Article VI provides for stiff penalties for failure to comply with these provisions, such as imprisonment and fine, suspension or cancellation of the acknowledgement to engage in an activity in the downstream oil industry, their certificates of compliance or standard compliance certificates, which would result in suspension or cancellation of further processing of any application or request with the DOE, and recommendations to the proper government agency for the suspension or revocation and termination of their business permits.[51]

The Court is unpersuaded. A perusal of these assailed provisions would reveal that none of them take the form of a price control mechanism, contrary to what PIP et al. are suggesting:

(a) Article II, Section 3, states:

SECTION 3. Prior Notice Requirements.

For liquid fuels, Oil Companies shall notify the DOE not later than three o' clock in the afternoon (3:00 PM) of the day before the Implementation Day for any price adjustment (increase or decrease) or no adjustment, and prior to any public announcement thereof.

---

[51] *Id.* at 65–66.

> For [Liquefied Petroleum Gas (LPG)], Oil Companies shall notify the DOE not later than the end of every month for any price adjustment (increase or decrease) or no adjustment, and prior to any public announcement thereof.

Based on the above, Article II, Section 3, merely requires oil companies to notify the DOE for any price adjustment or the lack thereof.

(b) Article II, Section 4, states:

> **SECTION 4. Implementation Day.**
>
> For the purpose of effective monitoring thereby avoiding possible confusion among stakeholders and consumers, the price adjustment for liquid fuel may preferably be implemented beginning every Tuesday of the week and applicable for the next seven days (from Tuesday to the next Monday) and for LPG, beginning every first day of the month and applicable for the whole month.

Meanwhile, Article II, Section 4, simply suggests the day of implementation of the price adjustment for liquid fuel.

(c) Article IV and Article V, Section 8, state:

> **ARTICLE IV**
> **UNBUNDLED PRICE ADJUSTMENT**
>
> **SECTION 7. Formal Notice.**
>
> Oil Companies shall strictly comply with the submission of the formal notice to OIMB, as required in Section 6, Article III of this Circular, for any price adjustment or no adjustment of petroleum products subject of sale on a *per liter* and *per product basis* for liquid fuel and automotive LPG and on a per kilogram basis for household (HH) LPG, containing the detailed computation with corresponding explanation and supporting documents on the cause/s or reason/s of the movement of the individual unbundled price adjustment item as provided for in the format below:
>
> 1. International Content
>   a) Import Cost (crude or finished product);
>   b) Freight Cost;
>   c) Insurance; and
>   d) Foreign Exchange Rate
> 2. Taxes and Duties
>   a) Duties;
>   b) Excise Tax;
>   c) Value Added Tax; and
>   d) Other Imposts

3. Biofuel Cost
4. Oil Company Take Components
    a) Port Charges;
    b) Refining Cost (for crude);
    c) Storage Cost;
    d) Handling Cost;
    e) Marketing Cost
    f) Transshipment Cost;
    g) Other Costs; and
    h) Oil Company Profit Margin

ARTICLE V
UNBUNDLED OIL COMPANY PRICE AND LIQUID FUEL RETAILER'S PUMP PRICE/ HH LPG DEALER'S PICK-UP PRICE

SECTION 8. Report – Oil Company.

Within two (2) months after the effectivity of this Circular, Oil Companies shall be required to submit a report to the OIMB, *on a per liter* and *per product basis* for liquid fuel and automotive LPG and on a *per kilogram basis* for household LPG, containing the detailed computation with corresponding explanation and supporting documents on the unbundled items comprising the Oil Company Price as of December 31, 2018 as provided for in the format below for the list of designated areas attached hereto as Annex A:

A. Oil Company Price
    1. International Content
        a) Import Cost (crude or finished product);
        b) Freight Cost;
        c) Insurance; and
        d) Foreign Exchange Rate
    2. Taxes and Duties
        a) Duties;
        b) Excise Tax;
        c) Value Added Tax; and
        d) Other Imposts
    3. Biofuel Cost
    4. Oil Company Take Component
        a) Port Charges;
        b) Other Imposts;
        c) Refining Cost (for crude);
        d) Storage Cost;
        e) Handling Cost;

f) Marketing Cost;
g) Transshipment Cost;
h) Other Costs;
i) Oil Company Profit Margin; and
j) Total Oil Company Price

The above report shall remain as a continuing requirement of the downstream oil industry and strict compliance to its submission shall be required using the price as of December 31 of every year thereafter, and shall be submitted to the OIMB on or before February 28 of the succeeding year.

The same report for a specified period and in the format provided above shall be submitted whenever required by the DOE or by the DOE-Department of Justice (DOJ) Task Force for purposes of investigation. Nothing in this Circular however prevents the DOE-DOJ task force to enforce the submission of other reports which it may deem necessary for the performance of its mandate.

Article IV, Section 7, and Article V, Section 8, only require oil companies to submit a formal notice and report to the OIMB any price adjustment, or the lack thereof, of petroleum products subject of sale and a detailed computation on the unbundled items comprising the oil company price, following the prescribed format laid down in the Circular.

(d) Article V, Section 9, states:

SECTION 9. Report – Liquid Fuel (LF) Retail Outlet Price (Pump Price), LPG Refiller's Pick – Up Price and LPG Dealer's Pick-Up Price.

Whenever required by the DOE or by the DOE-DOJ Task Force, LF Retail Outlets, LPG Refiller and LPG Dealer shall submit to the OIMB an unbundled computation with corresponding explanation of the price *per liter* of all liquid fuel and automotive LPG and *price per kilogram* for household LPG sold for a specified period and in the format provided below:

(1) Oil Company Price;
(2) Hauler's Fee;
(3) Taxes;
(4) Fixed Cost;
(5) Variable Cost;
(6) Profit Margin; and
(7) Total LF Retail Price or LPG Refiller's/Dealer's Pick-up Price

LPG Dealer shall use the same computation format above, however the appropriate price for item no. 1 shall either [be] the Oil Company Price or Refiller's Pick-Up Price depending on where the LPG is sourced. Nothing in this Circular however prevents the DOE-DOJ task force to enforce the submission of other reports which it may deem necessary for the performance of its mandate.

Similar to the previous provisions, Article V, Section 9, simply imposes a reportorial requirement for LF Retail Outlets, LPG Refillers, and LPG Dealers in the format provided.

(e) Article VI, Section 11, states:

SECTION 11. Penalties.

a) Failure to comply with the provisions of the Circular shall be governed by the terms of Section 24 of Chapter VII, in relation to Section 12(a) of Chapter III and Section 15(a) of Chapter IV of [Republic Act] No. 8479 and shall be punishable in accordance therewith.
b) The DOE shall likewise have the power to suspend or cancel, the acknowledgement to engage in any activity in the Downstream Oil Industry, the Certificate of Compliance or the Standard Compliance Certificate, respectively, of the non-compliant Oil Company, LF Retail Outlet, LPG Refiller and Dealer thereby suspending or cancelling the further processing of any application or request to the DOE in relation to its downstream oil operations.
c) The DOE may further recommend to the proper government agency the suspension or revocation and termination of the business permit of the non-compliant oil company or LF Retail Outlet, LPG Refiller and Dealer.

Lastly, Article VI, Section 11, merely provides for penalties upon non-compliant companies, outlets, refillers, and dealers, which finds basis in Republic Act No. 8479.

As gleaned from the foregoing, it is implausible that these provisions can be construed as forms of price control. They neither mandate, fix, nor set restrictions on the prices for such petroleum products. They simply require oil companies to give notice and submit reports to the DOE, which is authorized under Republic Act No. 8479. Meanwhile, the penal sanctions are included to ensure the proper observance of such requirements.

At this juncture, it bears noting that PIP et al.'s own witness admitted that DC2019-05-0008 does not impose restrictions on oil prices. During the July 15, 2019 hearing before the RTC on PIP et al.'s application for the issuance of a writ of preliminary injunction, the following ensued:

Q: Mr. Witness, in the subject circular, is there a ceiling?
A: No, ma'am.

Q: Is there a price lower limit?
A: No, constant ma'am.

> Q: And the subject circular is not giving you a specific price to sell the oil?
> A: Yes, ma'am.
>
> . . .
>
> Q: Mr. Witness, [does] the Department Circular [give] a constant number that will be use[d] by the oil company?
> A: No ma'am. [52]

Moreover, PIP et al.'s own witness likewise admitted that the purported price-fixing that will result from the implementation of DC2019-05-0008 was only mere possibility, to wit:

> Q: Is the DOE going to impose a certain price [through] the subject circular?
> A: With the subject circular, there is a possibility that DOE can impose the prices because we cannot comply with what you are requiring us to do.[53]

From the above testimony, it becomes all the more apparent that there are no forms of price control under DC2019-05-0008. Consequently, there is no substantial or material invasion of PIP et al.'s right.

PIP et al. further argue that it would be improbable, if not totally impossible, for oil companies and dealers to comply with the notification and reportorial requirements, which expose them to the penalties under DC2019-05-0008. They also aver that the DOE is not authorized to inquire into the components of oil prices, specifically on matters that are considered trade secrets. They insist that should the Circular take effect and oil companies are forced to unbundle their price components, they will lose whatever advantage they have against their competitors. Moreover, they claim that, "[a]t best, [DOE] can only compel oil companies to report their total retail prices so that it can 'follow the movements of domestic oil prices.' Such information, as well as 'international crude oil prices,' are however already readily available from other sources."[54]

The Court disagrees on all points.

We fail to see how compliance with DC2019-05-0008 is impossible. While it may indeed be difficult or tedious for oil companies, surely, there is a way for them to compute and determine the required information based on the existing data or formula available to them. We find it hard to believe that the prices these oil companies release are merely made up out of the blue and without any basis

---

[52] CA *rollo*, pp. 543–545.
[53] *Rollo*, p. 68.
[54] *Id.* at 66–70.

at all; verily, there is a systematic calculation or process on how they set their prices, and it is such information that the DOE needs to collect in order for it to accomplish its mandate under Republic Act No. 8479.

To reiterate, the power of the DOE to collate relevant data in such form as the Secretary may prescribe and to require prior notification and submission of detailed reports, together with the power to impose penal sanctions, all emanate from Republic Act No. 8479. Thus, the DOE is well-within its authority to penalize non-compliant entities should they fail to abide by the requirements set forth in DC2019-05-0008. As pointed out by the DOE, through the Office of the Solicitor General, without the sanctions, the oil companies would simply treat the subject circular as a useless piece of paper.[55]

On PIP et al.'s argument that the price components enumerated in DC2019-05-0008 are trade secrets, which if revealed, will unduly affect their competitive position, the Court finds the same to be unsubstantiated. As aptly observed by the appellate court:

> As to the detailed computation to be submitted by [PIP et al.] with corresponding explanation and supporting documents on the unbundled items comprising the oil company price or whenever there is price adjustment, the information to be included showed that these pertained to data as to costs, taxes and charges. However, the submission of these data to petitioner is bereft of proof that it could unduly affect the competition in the market. Neither do We find these data as trade secrets in the absence of any competent proof to support such contention. Most importantly, [PIP et al.] failed to prove that the purported confidentiality of these information could override [the DOE's] right to monitor oil price movements, in accordance with its mandate, as specifically provided for in [Republic Act No.] 8479. Verily, the fundamental rule is that upon him [or her] who alleges rests the burden of proof. Mere allegation is not proof or evidence and [PIP et al.'s] claims of their existing rights vis-à-vis the purported violations of these rights without proof, do not merit this Court's consideration. For [PIP et al.'s] failure to show that they have clear and unmistakable rights violated by DC2019-05-0008, the . . . issuance of a writ of preliminary injunction was not proper.[56]

Furthermore, it must be pointed out that PIP et al.'s assertion is based on a mere theory that the DOE and DOE Secretary will, in fact, publicize all the data gathered if the Circular is implemented, as can be seen from the testimonies of their witnesses:

---

[55] DOE's Comment on the Petition for Review on *Certiorari* dated May 15, 2023, p. 20.
[56] *Rollo*, p. 125.

> Q: How would your competitors undermine TPC if they know your price details?
> A: ***If our competitors learn how we price our products***, they will simply reduce their prices to a level that we could not match, such as an amount below our costs.[57]
>
> . . . .
>
> Q: Mr. Witness are you sure that there will be predatory pricing under the subject circular?
> A: ***If the information is shared***, they can use the information against us and in effect as a pricing strategy, they can set their pricing below our cost and hence, predatory pricing.[58] (Emphasis supplied)

However, DC2019-05-0008 itself provides for limitations as to when data obtained from the oil companies may be released, to wit:

> **SECTION 12. Release of Data.**
>
> Release of data submitted by the Oil Companies to the DOE pursuant to this Circular shall be subject to and in accordance with the following:
>
> 1. Section 15(g) of Republic Act (R.A.) No. 8479 or the "Downstream Oil Deregulation Act of 1998;"
> 2. Section 4 of Executive Order No. 2, Series of 2016 or the "Operationalizing in the Executive Branch the people's constitutional right to information and the state policies to full public disclosure and transparency in the public service and providing guidelines therefore;" and
> 3. Section 1(5)(c) of the "DOE People's Freedom of Information Manual."

To recall, Republic Act No. 8479, Section 15(g), states:

> g) **To make public from time to time such portions of the information obtained by him [or her] hereunder as are in the public interest**; and to make annual and special reports to Congress and to submit therewith recommendations for additional legislation; and to provide for the publication of his [or her] reports and decisions in such form and manner as may be best adapted for public information and use: *Provided*, **That the Secretary shall not have any authority to make public any trade secret or any commercial or financial information which is obtained from any person or entity and which is privileged or confidential**, except that the Secretary may disclose such information to officers and employees of appropriate law enforcement agencies or to any officer or employee of any such law enforcement agency upon the prior certification by an officer of any such law agency that such information will be maintained in confidence and will be used only for official law enforcement purposes[.] (Emphasis supplied)

---

[57] *Id.* at 71.
[58] *Id.* at 72.

Meanwhile, Executive Order No. 2, Series of 2016, Section 4, provides:

> SECTION 4. Exception. Access to information shall be denied when the information falls under any of the exceptions enshrined in the Constitution, existing law or jurisprudence.

Additionally, the DOE People's Freedom of Information Manual, Section 1(5)(c), refers to a list of exceptions to access to information, which include, among others:

> 5. Information, documents or records known by reason of official capacity and are deemed as confidential, including those submitted or disclosed by entities to government agencies, tribunals, boards, or officers, in relation to the performance of their functions, or to inquiries or investigation conducted by them in the exercise of their administrative, regulatory or quasi-judicial powers, such as but not limited to the following:
>
> a. Trade secrets, intellectual property, business, commercial, financial and other proprietary information;
>
> . . . .
>
> p. Any secret, valuable or proprietary information of a confidential character known to a public officer, or secrets of private individuals.[59]

Given the above provisions, it is clear that DC2019-05-0008 recognizes that there are certain pieces of information to be collected from the oil companies that are confidential in character, which the DOE is not permitted to share to unauthorized third persons or the public. It is only when there are portions thereof that are matters of public interest is the DOE Secretary allowed under Republic Act No. 8479 to make such known to the public. After all, the law for the deregulation of the downstream oil industry was not created to protect these oil companies, it is, first and foremost, made for the sake and benefit of the public. To restate the Court's ruling in *Tatad*:

> This distinct free enterprise system is dictated by the need to achieve the goals of our national economy as defined by section 1, Article XII of the Constitution which are: more equitable distribution of opportunities, income and wealth; a sustained increase in the amount of goods and services produced by the nation for the benefit of the people; and an expanding productivity as the key to raising the quality of life for all, especially the underprivileged. It also calls for the State to protect Filipino enterprises against unfair competition and trade practices.[60]

From the foregoing, PIP et al. failed to convince this Court that the implementation of DC2019-05-0008 would result in a substantial or material invasion of PIP et al.'s rights.

---

[59] Department of Energy, *DOE People's Freedom of Information Manual*, *available at* https://www.doe.gov.ph/transparency/freedom-information (last accessed on July 16, 2024).

[60] *Tatad v. Secretary of Department of Energy*, 346 Phil. 321, 367 (1997) [Per J. Puno, *En Banc*].

There is no urgent need for the writ to prevent irreparable injury to PIP et al.

It is settled that a writ of preliminary injunction should be issued only to prevent grave and irreparable injury, that is, injury that is actual, substantial, and demonstrable.[61] Injury is deemed irreparable when there is no standard by which their amount can be measured with reasonable accuracy.[62]

In this case, PIP et al. assert that there is an urgent and paramount necessity for the issuance of a writ of preliminary injunction because of the irreparable damage that they and numerous other entities in the oil industry will incur as a result of DC2019-05-0008's violation of their right to a fully deregulated industry and right to their trade secrets.[63]

However, as extensively discussed above, PIP et al. failed to establish a substantial or material invasion of a clear and unmistakable right against the implementation of DC2019-05-0008. Since there is no legal right in the first place, there can be no irreparable injury to speak of.

In this regard, the Court upholds the ruling of the CA, to wit:

> The alleged damage that would be sustained by [PIP et al.] is more imagined than real since these are bare allegations founded on an unclear source of right. In the absence of proof of a legal right and the injury sustained by one who seeks an injunctive writ, an order for the issuance of a writ of preliminary injunction will be nullified. Where the right of one who seeks an injunctive writ is doubtful or disputed, a preliminary injunction is not proper. The possibility of irreparable damage without proof of an actual existing right is not a ground for preliminary injunction, as in the present suit.[64]

All told, the Court finds that the CA did not commit any grave error when it reversed and set aside the trial court's Resolution and Order which granted PIP et al.'s prayer for the issuance of a writ of preliminary injunction, considering that the requisites thereof were not met.

ACCORDINGLY, the instant Petition for Review on *Certiorari* is **DENIED**. The Decision dated October 3, 2022, and the Resolution dated March 3, 2023, of the Court of Appeals in CA-G.R. SP No. 164764 are **AFFIRMED.**

---

61 *Philippine Charity Sweepstakes Office v. TMA Group of Companies*, 860 Phil. 522, 555 (2019) [Per J. Reyes, A., Jr., Third Division].

62 *Bureau of Customs v. Court of Appeals*, G.R. No. 192809, April 26, 2021 [Per J. Hernando, Third Division].

63 *Rollo*, p. 78.

64 *Id.* at 125–126.

SO ORDERED.

RAMON PAUL L. HERNANDO
Associate Justice
Working Chairperson

WE CONCUR:

ALEXANDER G. GESMUNDO
Chief Justice
Chairperson

RODIL V. ZALAMEDA
Associate Justice

RICARDO R. ROSARIO
Associate Justice

JOSE MIDAS P. MARQUEZ
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13, of the Constitution, 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