

## **EN BANC**

**[ G.R. NO. 164171, February 20, 2006 ]**

**HON. EXECUTIVE SECRETARY, HON. SECRETARY OF THE DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS (DOTC), COMMISSIONER OF CUSTOMS, ASSISTANT SECRETARY, LAND TRANSPORTATION OFFICE (LTO), COLLECTOR OF CUSTOMS, SUBIC BAY FREE PORT ZONE, AND CHIEF OF LTO, SUBIC BAY FREE PORT ZONE, PETITIONERS, VS. SOUTHWING HEAVY INDUSTRIES, INC., REPRESENTED BY ITS PRESIDENT JOSE T. DIZON, UNITED AUCTIONEERS, INC., REPRESENTED BY ITS PRESIDENT DOMINIC SYTIN, AND MICROVAN, INC., REPRESENTED BY ITS PRESIDENT MARIANO C. SONON, RESPONDENTS.**

**[G.R. NO. 164172 ]**

**HON. EXECUTIVE SECRETARY, SECRETARY OF THE DEPARTMENT OF TRANSPORTATION AND COMMUNICATION (DOTC), COMMISSIONER OF CUSTOMS, ASSISTANT SECRETARY, LAND TRANSPORTATION OFFICE (LTO), COLLECTOR OF CUSTOMS, SUBIC BAY FREE PORT ZONE AND CHIEF OF LTO, SUBIC BAY FREE PORT ZONE, PETITIONERS, VS. SUBIC INTEGRATED MACRO VENTURES CORP., REPRESENTED BY ITS PRESIDENT YOLANDA AMBAR, RESPONDENT.**

**[G.R. NO. 168741]**

**HON. EXECUTIVE SECRETARY, HON. SECRETARY OF FINANCE, THE CHIEF OF THE LAND TRANSPORTATION OFFICE, THE COMMISSIONER OF CUSTOMS, AND THE COLLECTOR OF CUSTOMS, SUBIC SPECIAL ECONOMIC ZONE, PETITIONERS, VS. MOTOR VEHICLE IMPORTERS ASSOCIATION OF SUBIC BAY FREEPORT, INC., REPRESENTED BY ITS PRESIDENT ALFREDO S. GALANG, RESPONDENT.**

### ***DECISION***

**YNARES-SANTIAGO, J.:**

The instant consolidated petitions seek to annul and set aside the Decisions of the Regional Trial Court of Olongapo City, Branch 72, in Civil Case No. 20-0-04 and Civil Case No. 22-0-04, both dated May 24, 2004; and the February 14, 2005 Decision of the Court of Appeals in CA-G.R. SP. No. 83284, which declared Article 2, Section 3.1 of Executive Order No. 156 (EO 156) unconstitutional. Said executive issuance prohibits the importation into the country, inclusive of the Special Economic and Freeport Zone or the Subic Bay Freeport (SBF or Freeport), of used motor vehicles,

subject to a few exceptions.

The undisputed facts show that on December 12, 2002, President Gloria Macapagal-Arroyo, through Executive Secretary Alberto G. Romulo, issued EO 156, entitled "PROVIDING FOR A COMPREHENSIVE INDUSTRIAL POLICY AND DIRECTIONS FOR THE MOTOR VEHICLE DEVELOPMENT PROGRAM AND ITS IMPLEMENTING GUIDELINES." The challenged provision states:

**3.1 The importation into the country, inclusive of the Freeport, of all types of used motor vehicles is prohibited, except for the following:**

3.1.1 A vehicle that is owned and for the personal use of a returning resident or immigrant and covered by an authority to import issued under the No-dollar Importation Program. Such vehicles cannot be resold for at least three (3) years;

3.1.2 A vehicle for the use of an official of the Diplomatic Corps and authorized to be imported by the Department of Foreign Affairs;

3.1.3 Trucks excluding pickup trucks;

1. with GVW of 2.5-6.0 tons covered by an authority to import issued by the DTI.
2. With GVW above 6.0 tons.

3.1.4 Buses:

1. with GVW of 6-12 tons covered by an authority to import issued by DTI;
2. with GVW above 12 tons.

3.1.5 Special purpose vehicles:

1. fire trucks
2. ambulances
3. funeral hearse/coaches
4. crane lorries
5. tractor heads and truck tractors
6. boom trucks
7. tanker trucks
8. tank lorries with high pressure spray gun
9. refers or refrigerated trucks
10. mobile drilling derricks
11. transit/concrete mixers
12. mobile radiological units
13. wreckers or tow trucks
14. concrete pump trucks
15. aerial/bucket flat-form trucks
16. street sweepers
17. vacuum trucks
18. garbage compactors
19. self loader trucks

20. man lift trucks
21. lighting trucks
22. trucks mounted with special purpose equipment
23. all other types of vehicle designed for a specific use.

The issuance of EO 156 spawned three separate actions for declaratory relief before Branch 72 of the Regional Trial Court of Olongapo City, all seeking the declaration of the unconstitutionality of Article 2, Section 3.1 of said executive order. The cases were filed by herein respondent entities, who or whose members, are classified as Subic Bay Freeport Enterprises and engaged in the business of, among others, importing and/or trading used motor vehicles.

**G.R. No. 164171:**

On January 16, 2004, respondents Southwing Heavy Industries, Inc., (Southwing) United Auctioneers, Inc. (United Auctioneers), and Microvan, Inc. (Microvan), instituted a declaratory relief case docketed as Civil Case No. 20-0-04,<sup>[1]</sup> against the Executive Secretary, Secretary of Transportation and Communication, Commissioner of Customs, Assistant Secretary and Head of the Land Transportation Office, Subic Bay Metropolitan Authority (SBMA), Collector of Customs for the Port at Subic Bay Freeport Zone, and the Chief of the Land Transportation Office at Subic Bay Freeport Zone.

SOUTHWING, UNITED AUCTIONEERS and MICROVAN prayed that judgment be rendered (1) declaring Article 2, Section 3.1 of EO 156 unconstitutional and illegal; (2) directing the Secretary of Finance, Commissioner of Customs, Collector of Customs and the Chairman of the SBMA to allow the importation of used motor vehicles; (2) ordering the Land Transportation Office and its subordinates inside the Subic Special Economic Zone to process the registration of the imported used motor vehicles; and (3) in general, to allow the unimpeded entry and importation of used motor vehicles subject only to the payment of the required customs duties.

Upon filing of petitioners' answer/comment, respondents SOUTHWING and MICROVAN filed a motion for summary judgment which was granted by the trial court. On May 24, 2004, a summary judgment was rendered declaring that Article 2, Section 3.1 of EO 156 constitutes an unlawful usurpation of legislative power vested by the Constitution with Congress. The trial court further held that the proviso is contrary to the mandate of Republic Act No. 7227 (RA 7227) or the Bases Conversion and Development Act of 1992 which allows the free flow of goods and capital within the Freeport. The dispositive portion of the said decision reads:

WHEREFORE, judgment is hereby rendered in favor of petitioner declaring Executive Order 156 [Article 2, Section] 3.1 for being unconstitutional and illegal; directing respondents Collector of Customs based at SBMA to allow the importation and entry of used motor vehicles pursuant to the mandate of RA 7227; directing respondent Chief of the Land Transportation Office and its subordinates inside the Subic Special Economic Zone or SBMA to process the registration of imported used motor vehicle; and in general, to allow unimpeded entry and importation of used motor vehicles to the Philippines subject only to the payment of the required customs duties.

SO ORDERED.<sup>[2]</sup>

From the foregoing decision, petitioners sought relief before this Court *via* a petition for review on certiorari, docketed as G.R. No. 164171.

**G.R. No. 164172:**

On January 20, 2004, respondent Subic Integrated Macro Ventures Corporation (MACRO VENTURES) filed with the same trial court, a similar action for declaratory relief docketed as Civil Case No. 22-0-04,<sup>[3]</sup> with the same prayer and against the same parties<sup>[4]</sup> as those in Civil Case No. 20-0-04.

In this case, the trial court likewise rendered a summary judgment on May 24, 2004, holding that Article 2, Section 3.1 of EO 156, is repugnant to the constitution.<sup>[5]</sup> Elevated to this Court via a petition for review on certiorari, Civil Case No. 22-0-04 was docketed as G.R. No. 164172.

**G.R. No. 168741**

On January 22, 2003, respondent Motor Vehicle Importers Association of Subic Bay Freeport, Inc. (Association), filed another action for declaratory relief with essentially the same prayer as those in Civil Case No. 22-0-04 and Civil Case No. 20-0-04, against the Executive Secretary, Secretary of Finance, Chief of the Land Transportation Office, Commissioner of Customs, Collector of Customs at SBMA and the Chairman of SBMA. This was docketed as Civil Case No. 30-0-2003,<sup>[6]</sup> before the same trial court.

In a decision dated March 10, 2004, the court *a quo* granted the Association's prayer and declared the assailed proviso as contrary to the Constitution, to wit:

WHEREFORE, judgment is hereby rendered in favor of petitioner declaring Executive Order 156 [Article 2, Section] 3.1 for being unconstitutional and illegal; directing respondents Collector of Customs based at SBMA to allow the importation and entry of used motor vehicles pursuant to the mandate of RA 7227; directing respondent Chief of the Land Transportation Office and its subordinates inside the Subic Special Economic Zone or SBMA to process the registration of imported used motor vehicles; directing the respondent Chairman of the SBMA to allow the entry into the Subic Special Economic Zone or SBMA imported used motor vehicle; and in general, to allow unimpeded entry and importation of used motor vehicles to the Philippines subject only to the payment of the required customs duties.

SO ORDERED.<sup>[7]</sup>

Aggrieved, the petitioners in Civil Case No. 30-0-2003, filed a petition for certiorari<sup>[8]</sup> with the Court of Appeals (CA-G.R. SP. No. 83284) which denied the petition on February 14, 2005 and sustained the finding of the trial court that Article 2, Section 3.1 of EO 156, is void for being repugnant to the constitution. The dispositive portion thereof, reads:

WHEREFORE, the instant petition for certiorari is hereby DENIED. The assailed decision of the Regional Trial Court, Third Judicial Region, Branch 72, Olongapo City, in Civil Case No. 30-0-2003, accordingly, STANDS.

SO ORDERED.<sup>[9]</sup>

The aforequoted decision of the Court of Appeals was elevated to this Court and docketed as G.R. No. 168741. In a Resolution dated October 4, 2005,<sup>[10]</sup> said case was consolidated with G.R. No. 164171 and G.R. No. 164172.

Petitioners are now before this Court contending that Article 2, Section 3.1 of EO 156 is valid and applicable to the entire country, including the Freeport. In support of their arguments, they raise procedural and substantive issues bearing on the constitutionality of the assailed proviso. The **procedural issues** are: the lack of respondents' *locus standi* to question the validity of EO 156, the propriety of challenging EO 156 in a declaratory relief proceeding and the applicability of a judgment on the pleadings in this case.

Petitioners argue that respondents will not be affected by the importation ban considering that their certificate of registration and tax exemption do not authorize them to engage in the importation and/or trading of **used cars**. They also aver that the actions filed by respondents do not qualify as declaratory relief cases. Section 1, Rule 63 of the Rules of Court provides that a petition for declaratory relief may be filed before there is a breach or violation of rights. Petitioners claim that there was already a breach of respondents' supposed right because the cases were filed more than a year after the issuance of EO 156. In fact, in Civil Case No. 30-0-2003, numerous warrants of seizure and detention were issued against imported used motor vehicles belonging to respondent Association's members.

Petitioners' arguments lack merit.

The established rule that the constitutionality of a law or administrative issuance can be challenged by one who will sustain a direct injury as a result of its enforcement<sup>[11]</sup> has been satisfied in the instant case. The broad subject of the prohibited importation is "**all types of used motor vehicles**." Respondents would definitely suffer a direct injury from the implementation of EO 156 because their certificate of registration and tax exemption authorize them to trade and/or import new and used **motor vehicles and spare parts**, except "used cars."<sup>[12]</sup> Other types of motor vehicles imported and/or traded by respondents and not falling within the category of **used cars** would thus be subjected to the ban to the prejudice of their business. Undoubtedly, respondents have the legal standing to assail the validity of EO 156.

As to the propriety of declaratory relief as a vehicle for assailing the executive issuance, suffice it to state that any breach of the rights of respondents will not affect the case. In *Commission on Audit of the Province of Cebu v. Province of Cebu*,<sup>[13]</sup> the Court entertained a suit for declaratory relief to finally settle the doubt as to the proper interpretation of the conflicting laws involved, notwithstanding a violation of the right of the party affected. We find no reason to deviate from said ruling mindful of the significance of the present case to the national economy.