



Republic of the Philippines
Supreme Court

Manila

THIRD DIVISION

EMMANUEL B. MORAN, JR.,
(Deceased), substituted by his
widow, **CONCORDIA V. MORAN,**
Petitioner,

- versus -

G.R. No. 192957

Present:

VELASCO, JR., J., *Chairperson,*
PERALTA,
VILLARAMA, JR.,
REYES, and
JARDELEZA, JJ.

OFFICE OF THE PRESIDENT
OF THE PHILIPPINES, AS
REPRESENTED BY THE
HONORABLE EXECUTIVE
SECRETARY EDUARDO R.
ERMITA and PGA CARS, INC.,
Respondents.

Promulgated:

September 29, 2014

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DECISION

VILLARAMA, JR., J.:

Before us is a petition for review on certiorari assailing the Resolutions dated March 13, 2009¹ and June 25, 2010,² of the Court of Appeals (CA) in CA-G.R. SP No. 107059. In the Resolution dated March 13, 2009, the CA outrightly struck down the petition for certiorari that the petitioner had filed to annul and set aside the Decision³ dated April 3, 2007, and Order⁴ dated October 22, 2008 of the Office of the President (OP) in O.P. Case No. 06-E-195. Meanwhile, in the Resolution dated June 25, 2010, the CA denied the petitioner's motion for reconsideration.

From the records, the following facts emerge:

¹ *Rollo*, pp. 37-38. Penned by Associate Justice Arturo G. Tayag with Associate Justices Hakim S. Abdulwahid and Ricardo R. Rosario concurring.

² *Id.* at 40-41. Penned by Associate Justice Ricardo R. Rosario with Associate Justices Hakim S. Abdulwahid and Ramon M. Bato, Jr. concurring.

³ *Id.* at 60-70. Penned by Executive Secretary Eduardo R. Ermita.

⁴ *Id.* at 71-73.

On February 2, 2004, the late Emmanuel B. Moran, Jr. filed with the Consumer Arbitration Office (CAO) a verified complaint against private respondent PGA Cars, Inc. pursuant to the relevant provisions of Republic Act No. 7394 (RA 7394), otherwise known as the Consumer Act of the Philippines. Docketed as DTI Administrative Case No. 04-17, the complaint alleged that the private respondent should be held liable for the product imperfections of a BMW car which it sold to complainant.

On September 23, 2005, the CAO rendered a Decision⁵ in favor of complainant and ordered the private respondent to refund the purchase price of the BMW car in addition to the payment of costs of litigation and administrative fines:

WHEREFORE, in view of the foregoing, the respondent is hereby found guilty for violation of the aforequoted provisions and [is] hereby ordered to perform the following:

1. To refund the purchase price of the subject vehicle in the amount of three million three hundred seventy five thousand pesos (P3,375,000.00);
2. To pay complainant the amount of five thousand pesos (P5,000.00) as costs of litigation;
3. To pay an administrative fine in the amount of P10,000.00 payable at 4th flr., DTI Cashier, 361 Sen. Gil Puyat Ave., Makati City.

SO ORDERED.⁶

On October 19, 2005, the private respondent sought reconsideration of the Decision but the CAO denied the motion in an Order⁷ dated January 19, 2006. Thus, the private respondent appealed to the Secretary of the Department of Trade and Industry (DTI), the quasi-judicial agency designated by Article 165⁸ of RA 7394 to entertain appeals from the adverse decisions and orders of the CAO. However, in a Resolution⁹ dated April 28, 2006, the DTI Secretary dismissed the appeal of the private respondent who then filed an appeal with the herein public respondent OP.

On April 3, 2007, the OP granted the appeal, reversed the DTI Secretary's Resolution, and dismissed the complaint. The OP ruled that the DTI erred in holding the private respondent liable for product defects which issue was never raised by the complainant and because the private

⁵ Id. at 48-54.

⁶ Id. at 54.

⁷ Id. at 55-57.

⁸ ART. 165. *Appeal from Orders*. – Any order, not interlocutory, of Consumer arbitration officer, becomes final and executory unless appealed to the Department Secretary concerned within fifteen (15) days from receipt of such order. An appeal may be entertained only on any of the following grounds:

- a) grave abuse of discretion;
- b) the order is in excess of the jurisdiction or authority of the consumer arbitration office;
- c) the order is not supported by the evidence or there is serious error in the findings of facts.

⁹ *Rollo*, pp. 58-59.

respondent was not the manufacturer, builder, producer or importer of the subject BMW car but only its seller. As such, it could not be held liable especially since none of the circumstances under Article 98¹⁰ of RA 7394 were present in the case. The OP further ruled that the private respondent could also not be held liable for product imperfections because the product was never proven to be unfit or inadequate under the conditions laid down by law. Neither was there any inconsistency in the information provided in the container or product advertisements/messages. More, it was only after the lapse of a considerable time (nearly 10 months) since the purchase of the car and after it had been driven for 12,518 kilometers, that the complainant first complained about it. The vehicle never once broke down before then and the complainant could not, in fact, point to any specific part that is defective.

Complainant filed a motion for reconsideration with the OP, but the OP denied said motion in an Order dated October 22, 2008. On November 25, 2008, complainant received a copy of the Order denying his motion for reconsideration.

On January 23, 2009, complainant filed a petition for certiorari with the CA and alleged lack of jurisdiction on the part of the OP for ruling on cases involving a violation of RA 7394. On March 13, 2009, the CA dismissed the petition for certiorari on the ground that it was a wrong mode of appeal and for the failure of the petitioner to state material dates. On June 25, 2010, the CA likewise denied the motion for reconsideration filed by the petitioner.

Since the original complainant Emmanuel B. Moran, Jr. passed away on May 17, 2010, his widow, Concordia V. Moran filed the present petition for review on certiorari on August 9, 2010.

Petitioner argues that the CA erred in denying the petition for certiorari which alleged error of jurisdiction on the part of the OP. She contends that in cases alleging error of jurisdiction on the part of the OP, the proper remedy is to file a petition for certiorari with the CA because appeal is not available to correct lack of jurisdiction. Moreover, even though appeal is available, it is not considered as the plain, speedy, and adequate legal remedy.

Further, the petitioner claims that the OP lacked appellate jurisdiction to review decisions of the DTI in cases involving a violation of RA 7394

¹⁰ ART. 98. *Liability of Tradesman or Seller.* – The tradesman/seller is likewise liable, pursuant to the preceding article when:

- a) it is not possible to identify the manufacturer, builder, producer or importer;
- b) the product is supplied, without clear identification of the manufacturer, producer, builder or importer;
- c) he does not adequately preserve perishable goods. The party making payment to the damaged party may exercise the right to recover a part of the whole of the payment made against the other responsible parties, in accordance with their part or responsibility in the cause of the damage effected.

based on Article 166¹¹ thereof, which expressly confers appellate jurisdiction to review such decisions of the DTI to the proper court through a petition for certiorari. Hence, the OP cannot be deemed as the “proper court” within the purview of Article 166.

On the other hand, private respondent argues that the CA was correct in denying the petition for certiorari since this was an improper remedy in view of the availability of an appeal from the OP. Furthermore, the private respondent confirms the appellate jurisdiction of the OP over the DTI based on the constitutional power of control of the OP over Executive Departments and the well-entrenched doctrine of exhaustion of administrative remedies.

Meanwhile, the public respondent, through the Office of the Solicitor General (OSG), claims that the availability of an appeal from the OP precluded the petitioner from availing of the extraordinary remedy of certiorari. Even though there is an allegation of error of jurisdiction, the OSG avers that appeal still takes precedence over a petition for certiorari as long as the same is at the disposal of the petitioner. However, in the present case, the OSG claims that the OP acted within its jurisdiction in deciding the case on appeal from the DTI Secretary as Article 166 of RA 7394 must yield to the constitutional power of control of the OP over Executive Departments. The OSG also cites the doctrine of exhaustion of administrative remedies to support the appellate jurisdiction of the OP over the DTI.

Is the CA correct in dismissing the petition for certiorari on the ground that petitioner resorted to a wrong mode of appeal?

We rule in the negative.

Under the Consumer Act (RA 7394), the DTI has the authority and the mandate to act upon complaints filed by consumers pursuant to the State policy of protecting the consumer against deceptive, unfair and unconscionable sales, acts or practices.¹² Said law provided for an arbitration procedure whereby consumer complaints are heard and investigated by consumer arbitration officers whose decisions are appealable to the DTI Secretary.¹³ Article 166 thereof provides:

¹¹ ART. 166. *Decision on Appeal*. – The Secretary shall decide the appeal within thirty (30) days from receipt thereof. The decision becomes final after fifteen (15) days from receipt thereof unless a petition for certiorari is filed with the proper court.

¹² ART 2. *Declaration of Basic Policy*. — It is the policy of the State to protect the interests of the consumer, promote his general welfare and to establish standards of conduct for business and industry. Towards this end, the State shall implement measures to achieve the following objectives:

- a) protection against hazards to health and safety;
- b) protection against deceptive, unfair and unconscionable sales acts and practices;
- c) provision of information and education to facilitate sound choice and the proper exercise of rights by the consumer;
- d) provision of adequate rights and means of redress; and
- e) involvement of consumer representatives in the formulation of social and economic policies.

¹³ ART. 165. *Appeal from Orders*. – Any order, not interlocutory, of the Consumer arbitration officer, becomes final and executory unless appealed to the Department Secretary concerned within fifteen

ART. 166. *Decision on Appeal.* – The Secretary shall decide the appeal within thirty (30) days from receipt thereof. The decision becomes final after fifteen (15) days from receipt thereof unless a petition for certiorari is filed with the **proper court**. (Emphasis supplied.)

In his motion for reconsideration from the OP's Decision dated April 3, 2007 which reversed and set aside the resolution dated April 28, 2006 of the DTI Secretary, complainant Emmanuel B. Moran, Jr. raised the issue of lack of jurisdiction of the OP, not being the proper court referred to in Article 166 of R.A. 7394. The OP, however, denied his motion on the ground that the President's power of control over the executive department grants him the power to amend, modify, alter or repeal decisions of the department secretaries. On the other hand, the CA, in dismissing outright the petition for certiorari filed by Moran, Jr., implicitly sustained such reasoning when it held that the proper remedy from an adverse order or judgment of the OP is a petition for review under Rule 43 of the 1997 Rules of Civil Procedure, as amended.

We reverse the CA.

The procedure for appeals to the OP is governed by Administrative Order No. 18,¹⁴ Series of 1987. Section 1 thereof provides:

SECTION 1. **Unless otherwise governed by special laws**, an appeal to the Office of the President shall be taken within thirty (30) days from receipt by the aggrieved party of the decision/resolution/order complained of or appealed from... (Emphasis supplied.)

In *Phillips Seafood (Philippines) Corporation v. The Board of Investments*,¹⁵ we interpreted the above provision and declared that “a decision or order issued by a department or agency need not be appealed to the Office of the President when there is a special law that provides for a different mode of appeal.” Thus:

Petitioner further contends that from the decision of respondent BOI, appeal to the Office of the President should be allowed; otherwise, the constitutional power of the President to review acts of department secretaries will be rendered illusory by mere rules of procedure.

The executive power of control over the acts of department secretaries is laid down in Section 17, Article VII of the 1987 Constitution. The power of control has been defined as the “power of an officer to alter or modify or nullify or set aside what a subordinate officer had done in the performance of his duties and to substitute the judgment of the former for that of the latter.”

(15) days from receipt of such order. An appeal may be entertained only on any of the following grounds:

a) grave abuse of discretion;
b) the order is in excess of the jurisdiction or authority of the consumer arbitration officer;
c) the order is not supported by the evidence or there is serious error in the findings of facts.

¹⁴ Entitled “Prescribing Rules and Regulations Governing Appeals to the Office of the President of the Philippines,” issued on February 12, 1987.

¹⁵ 597 Phil. 649, 662 (2009).

Such “executive control” is not absolute. The definition of the structure of the executive branch of government, and the corresponding degrees of administrative control and supervision is not the exclusive preserve of the executive. **It may be effectively limited by the Constitution, by law, or by judicial decisions. All the more in the matter of appellate procedure as in the instant case.** Appeals are remedial in nature; hence, constitutionally subject to this Court’s rule-making power. The Rules of Procedure was issued by the Court pursuant to Section 5, Article VIII of the Constitution, which expressly empowers the Supreme Court to promulgate rules concerning the procedure in all courts.

Parenthetically, Administrative Order (A.O.) No. 18 expressly recognizes an exception to the remedy of appeal to the Office of the President from the decisions of executive departments and agencies. Under Section 1 thereof, a decision or order issued by a department or agency need not be appealed to the Office of the President when there is a special law that provides for a different mode of appeal. **In the instant case, the enabling law of respondent BOI, E.O. No. 226, explicitly allows for immediate judicial relief from the decision of respondent BOI involving petitioner’s application for an ITH. E.O. No. 226 is a law of special nature and should prevail over A.O. No. 18.**¹⁶ (Emphasis supplied.)

In this case, a special law, RA 7394, likewise expressly provided for immediate judicial relief from decisions of the DTI Secretary by filing a petition for certiorari with the “proper court.” Hence, private respondent should have elevated the case directly to the CA through a petition for certiorari.

In filing a petition for certiorari before the CA raising the issue of the OP’s lack of jurisdiction, complainant Moran, Jr. thus availed of the proper remedy.

Certiorari is an extraordinary remedy available in extraordinary cases where a tribunal, board or officer, among others, completely acted without jurisdiction. Ineluctably, a judgment rendered without jurisdiction over the subject matter is void.¹⁷ While errors of judgment are correctible by appeal, errors of jurisdiction are reviewable by certiorari.¹⁸ Considering that the OP had no jurisdiction to entertain private respondent’s appeal, certiorari lies to correct such jurisdictional error. The CA thus erred in dismissing the petition for certiorari on the ground of being an improper remedy.

Further, we hold that the Resolution dated April 28, 2006 of the DTI Secretary had become FINAL and EXECUTORY with private respondent’s failure to appeal the same within the 15-day reglementary period.

¹⁶ Id. at 661-662.

¹⁷ *Arcelona v. Court of Appeals*, 345 Phil. 250, 266 (1997).

¹⁸ *Ongsitco v. Court of Appeals*, 325 Phil. 1069, 1076 (1996).

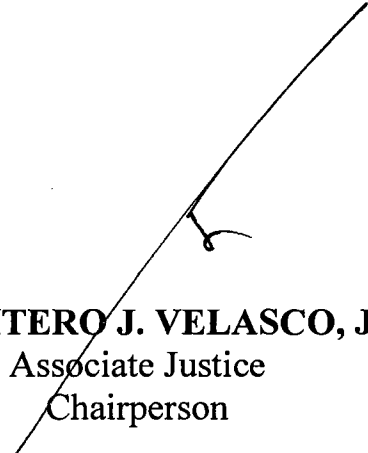
WHEREFORE, the petition for review on certiorari is **GRANTED**. The Resolutions dated March 13, 2009 and June 25, 2010 in CA-G.R. SP No. 107059 are **REVERSED** and **SET ASIDE**. The Decision dated April 3, 2007 and Order dated October 22, 2008 of the Office of the President are hereby declared **NULL** and **VOID**. Consequently, the Resolution dated April 28, 2006 of the DTI Secretary is hereby **REINSTATED** and **UPHELD**.


No pronouncement as to costs.

SO ORDERED.



MARTIN S. VILLARAMA, JR.
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson


DIOSDADO M. PERALTA
Associate Justice


BIENVENIDO L. REYES
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice

A T T E S T A T I O N

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.

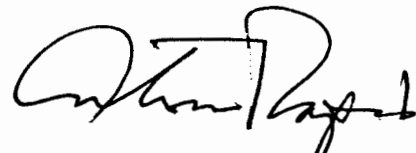


PRESBITERO J. VELASCO, JR.

Associate Justice
Chairperson, Third Division

C E R T I F I C A T I O N

Pursuant to Section 13, Article VIII of the 1987 Constitution and the Division 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.



ANTONIO T. CARPIO
Acting Chief Justice

