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SECOND DIVISION

[G.R. No. 212687; July 20, 2022]

SECRETARY OF FINANCE, COMMISSIONER OF INTERNAL REVENUE, and REVENUE REGIONAL DIRECTOR, Bureau of Internal Revenue (BIR), Revenue Region No. 12, Bacolod City, *Petitioners*, *v*. **HON. RENATO D. MUÑEZ, in his capacity as Executive Judge of Branch 60, Regional Trial Court in Cadiz City, Negros Occidental, RURAL SUGAR PLANTERS' ASSOCIATION, INC., NORTHERN NEGROS PLANTERS ASSOCIATION, INC., CONFEDERATION OF SUGAR PRODUCERS ASSOCIATIONS, INC., UNITED SUGAR PRODUCERS FEDERATION OF THE PHILIPPINES, INC., NATIONAL FEDERATION OF SUGAR PRODUCERS (NFSP), INC. and ANTONIO G. TAMON,** *Respondents*.

R E S O L U T I O N

LAZARO-JAVIER, *J.*:

The Case

This Petition for *Certiorari*[1] seeks to nullify the following dispositions of the Regional Trial Court *(RTC)*-Branch 60, Cadiz City, in Special Civil Action (SCA) No. 88-C entitled *"In the Matter of Declaratory Relief on the Validity of BIR Revenue Regulations No. 13-2013 "Amending Section 2 (b) of Revenue Regulations No. 13-08, Relative to the Definition of Raw Sugar for Value-Added Tax purposes, Rural Sugar Planters' Association, Inc., Northern Negros Planters Association, Inc., Confederation of Sugar Producers Associations, Inc., United Sugar Producers*

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[1] This is a Petition for *Certiorari* under Rule 65 of the Rules of Court with Urgent Application for Temporary Restraining Order and/or Writ of Preliminary Injunction, *rollo*, pp. 3–58.

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Federation of the Philippines, Inc., National Federation of Sugar Producers (NFSP), Inc. v. Perfecto L. Aranas, in his capacity as the Regional Director of the Bureau of Internal Revenue for Region XII, Kim Jacinto-Henares, in her capacity as the Commissioner of Internal Revenue and Cesar V. Purisima in his capacity as the Secretary of Finance, with prayer for temporary restraining order and/or writ of preliminary injunction:

1) Consolidated Orders dated October 22, 2013[2] granting the application for a Writ of Preliminary Injunction against the implementation of Revenue Regulations No. (*RR*) 13-2013 imposing Value-Added Taxes (*VAT*) on the sale of raw sugar;

2) Order dated October 23, 2013[3] approving respondents' surety bond in the amount of ₱1,000,000.00;

3) The Writ of Preliminary Injunction[4] enjoining petitioners from implementing RR 13-2013 and preserving the *status quo ante bellum* pending determination of the case on the merits; and

4) Order dated January 14, 2014[5] denying petitioners' motion for reconsideration.

Antecedents

On September 19, 2008, the Bureau of Internal Revenue (*BIR*) issued RR 13-2008, prescribing the updated and consolidated policies and procedures for the advance payment of VAT on the

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[2] Penned by Executive Judge Renato D. Muñez, Regional Trial Court-Branch 60, Cadiz City, id. at 59–71.

[3] A surety bond was undertaken by Intra Strata Assurance Corporation, in favor of the petitioners, conditioned upon the payment to the petitioners by the respondents of all damages which the former may sustain by reason of the issuance of the writ of preliminary injunction in case the Regional Trial Court-Branch 60, Cadiz City, should finally decide that respondents are not entitled thereto, id. at 72–73.

[4] Id. at 74–76.

[5] Id. at 77–84.

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sale of refined sugar[6] pursuant to Republic Act No. 9337.[7] Under Section 2(b) thereof, "raw sugar" is defined as:

(b) Raw Sugar refers to sugar whose content of sucrose by weight in dry state, corresponds to a polarimeter reading of less than 99.5º. *Cane sugar* produced each production year shall be classified, for internal revenue purposes, as follows:

1. "A" is raw sugar which is intended for export to the United States Market.
2. "B" is raw sugar which is intended for the Domestic Market.
3. "C" is raw sugar which is reserved for, but have not yet matured for release to the Domestic Market.
4. "D" is raw sugar which is intended for export to the World Market.
5. "E" is reclassified "D" sugar for sale to Food Processors/Exporters operating Customs Bonded Warehouse (CBW) or to an enterprise located within the special processing export zone.[8]

On September 20, 2013, then Department of Finance Secretary Cesar Antonio V. Purisima (*DoF Sec. Purisima*),[9] upon

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[6] Revenue Regulations (RR) No. 13-2008 entitled "Consolidated Regulations on Advance Value-Added Tax on the Sale of Refined Sugar; Amending and/or Revoking All Revenue Issuances Issued to this Effect, and for Other Related Purposes." It prescribes the updated policies and procedures for the advance payment of value-added tax (VAT) on the sale of refined sugar, including those made by a duly accredited and registered agricultural cooperative of good standing, as well as the policies and procedures for the recognition of classification of sugar and sugar products. It also provides for a monitoring system in the processing of raw sugar into refined sugar and the withdrawal thereof from the sugar refineries/mills (Issued last September 19, 2008 by Department of Finance Secretary Margarito B. Teves, upon the recommendation of Commissioner of Internal Revenue Lilian B. Hefti).

[7] Republic Act No. 9337 (or the Reformed Value-Added Tax Law "RVAT") An Act Amending Sections 27, 28, 34, 106, 107, 108, 109, 110, 111, 112, 113, 114, 116, 117, 119, 121, 148, 151, 236, 237, and 288 of the National Internal Revenue Code of 1997, as Amended, and for Other Purposes.

[8] Revenue Regulations (RR) No. 13-2008 entitled "Consolidated Regulations on Advance Value-Added Tax on the Sale of Refined Sugar; Amending and/or Revoking All Revenue Issuances Issued to this Effect, and for Other Related Purposes, Issued on September 19, 2008.

[9] Sec. Cesar Antonio V. Purisima served as Department of Finance Secretary from June 30, 2010 to June 30, 2016. Currently, Department of Finance Secretary is Carlos G. Dominguez III.

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recommendation of Commissioner of Internal Revenue Kim S. Jacinto-Henares (*CIR Henares*),[10] issued RR 13-2013, defining raw sugar, as follows:

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Date: September 20, 2013

REVENUE REGULATIONS NO. 13-2013

SUBJECT: Amending Section 2 (b) of Revenue Regulations No. 13-08, Relative to the Definition of Raw Sugar for Value Added Tax Purposes

TO: All Internal Revenue Officers and Others Concerned

SECTION 1. Scope. - Pursuant to the provisions of Sections 6 and 244, in relation to Sections 106 and 109 (1)(A), both of the National Internal Revenue Code of 1997 (Code), as amended, these regulations are hereby promulgated to amend provisions of Revenue Regulations (RR) No. 13-08.

SECTION 2. Amendment. - Section 2(b) of RR 13-08, is hereby amended to read as follows:

> "(b) Raw Sugar refers to sugar produced by simple process of conversion of sugar cane without a need of any of mechanical or similar device such as muscovado. For this purpose, raw sugar refers only to muscovado sugar.
> Centrifugal process of producing sugar is not in itself a simple process. Therefore, any type of sugar produced therefrom is not exempt from VAT."

SECTION 3. Repealing Clause. - Any rules and regulations or parts thereof inconsistent with the provisions of these Regulations are hereby repealed, amended, or modified accordingly.

SECTION 4. Effectivity. - The provisions of these Regulations shall take effect after fifteen (15) days following publication in any newspaper of general circulation.

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[10] Commissioner of Internal Revenue Kim S. Jacinto-Henares served as Commissioner of Internal Revenue from June 30, 2010 to June 30, 2016. Currently, the Commissioner of Internal Revenue is Caesar R. Dulay.

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(SGD.) CESAR V. PURISIMA
Secretary of Finance

Recommending Approval:

(SGD). KIM S. JACINTO-HENARES
Commissioner of Internal Revenue[11]

Proceedings before the Trial Court

On October 3, 2013, respondents[12] Rural Sugar Planters' Association, Inc., Northern Negros Planters Association, Inc., Confederation of Sugar Producers Associations, Inc., United Sugar Producers Federation of the Philippines, Inc. and NFSP, Inc. initiated a petition for declaratory relief[13] to declare as unconstitutional RR 13-2013. They asserted that: (1) RR No. 13-2013 violates the due process clause[14] since its issuance was not preceded by notice, hearing, and publication, (2) They also claimed that the definition of raw sugar as ordained by RR 13-2013 violates the rule on uniformity of taxation[15] and goes against

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[11] *Rollo*, p. 85.

[12] Respondent Antonio Tamon was only included after a Motion for Intervention filed by Atty. Romeo T. Flora was granted in the Consolidated Orders dated October 22, 2013, *rollo*, p. 70.

[13] Entitled "In the Matter of Declaratory Relief on the Validity of BIR Revenue Regulations No. 13-2013 Amending Section 2(b) of Revenue Regulations No. 13-08, Relative to the Definition of Raw Sugar for Value-Added Tax purposes, Rural Sugar Planters' Association, Inc., Northern Negros Planters Association, Inc., Confederation of Sugar Producers Associations, Inc., United Sugar Producers Federation of the Philippines, Inc. and National Federation of Sugar Producers (NFSP), Inc. v. Perfecto L. Aranas, in his capacity as the Regional Director of the Bureau of Internal Revenue for Region XII, Kim Jacinto-Henares in her capacity as the Commissioner of Internal Revenue and Cesar V. Purisima in his capacity as the Secretary of Finance." Id. at 86–114.

[14] No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws. (1987 Constitution, Article II, Section 1).

[15] The rule of taxation shall be uniform and equitable. The Congress shall evolve a progressive system of taxation. (1987 Constitution, Article VI, Section 28. (1)).

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the intent of par. 2, Section 109(1)(A),[16] National Internal Revenue Code (*NIRC*), as amended, as well as the technical meaning of raw sugar as commonly understood in the industry, and as borne in the provisions of the Tariff and Customs Code of the Philippines and the old RR 13-2008.

The case was docketed as SCA No. 88-C and got raffled to the RTC-Branch 60, Cadiz City. The trial court issued a temporary restraining order (*TRO*) for seventy-two (72) hours under Order dated October 3, 2013.[17]

A summary hearing on the TRO followed, after which, on October 7, 2013 or two (2) days before the effectivity of the RR 13-2013 (October 9, 2013), the duration of the TRO was extended to seventeen (17) days or until October 23, 2013.[18]

On October 9, 2013, petitioners filed a Motion for Reconsideration with Urgent Motion for Dissolution of TRO, arguing that the twenty (20) day TRO should have been outrightly denied as respondents allegedly failed: (1) to comply with the notice requirement for filing an application for a writ of preliminary injunction; (2) to provide them (petitioners) complete copies of the petition; and (3) to demonstrate that they have an unmistakable right and will stand to suffer a great or irreparable injury should the TRO be denied. Shortly thereafter, petitioners

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[16] NIRC of 1997, Section 109. Exempt Transactions. - (1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from the value-added tax:
(A) Sale or importation of agricultural and marine food products in their original state, livestock and poultry of a kind generally used as, or yielding or producing foods for human consumption; and breeding stock and genetic materials therefor.
Products classified under this paragraph shall be considered in their original state even if they have undergone the simple processes of preparation or preservation for the market, such as freezing, drying, salting, broiling, roasting, smoking or stripping. Polished and/or husked rice, corn grits, raw cane sugar and molasses, ordinary salt and copra shall be considered in their original state; x x x.

[17] *Rollo*, pp. 115–116.

[18] Id. at 117–119.

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also filed an Urgent Motion for Early Resolution dated October 14, 2013.[19]

In their Comment/Opposition dated October 17, 2013 to the motion for reconsideration, respondents pointed out that: (a) petitioners actively participated in the hearing for injunction. Though the notice of hearing was defective, the fact that the trial court took cognizance thereof cured any defect therein; (b) petitioners' receipt of an incomplete copy of the petition was merely a result of inadvertence; and (c) the implementation of RR 13-2013 will subject them (respondents) to VAT.[20]

Petitioners then filed an Urgent Motion to Dissolve TRO and Opposition to the Application for Writ of Preliminary Injunction dated October 18, 2013,[21] arguing that: (1) there is no more TRO to be extended as it had already expired; (2) under Section 218[22] of the NIRC of 1997, there is a "no injunction" rule against tax collection; and (3) respondents failed to establish a right *in esse* to the injunctive relief prayed for.

The Ruling of the Trial Court

By Consolidated Order dated October 22, 2013,[23] the trial court granted the Writ of Preliminary Injunction against the implementation of RR 13-2013 and required respondents to procure a corresponding surety bond equivalent to ₱1,000,000.00.

The trial court ruled that the verified petition is sufficient in form and substance in accordance with Section 6, Rule 58 of

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[19] Id. at 61–62.

[20] Id. at 62–63.

[21] Id. at 120–131.

[22] National Internal Revenue Code (NIRC), Section 218. Injunction not Available to Restrain Collection of Tax. – No court shall have the authority to grant an injunction to restrain the collection of any national internal revenue tax, fee or charge imposed by this Code.

[23] Penned by Executive Judge Renato D. Muñez, Regional Trial Court-Branch 60, Cadiz City, *rollo*, pp. 59–71.

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the Rules of Court.[24] Without the writ of preliminary injunction, respondents will suffer serious and irreparable injury and damage from the implementation of RR 13-2013. Too, if not enjoined, the same will cause injustice to the respondents as the immediate threat of implementation on October 9, 2013 may render the judgment ineffectual.

Consequently, under Order dated October 23, 2013,[25] the trial court approved the surety bond procured by respondents in the amount of ₱1,000,000.00. On the same day, the trial court issued the Writ of Preliminary Injunction,[26] enjoining petitioners from implementing RR 13-2013 and preserving the *status quo ante bellum* pending determination of the case on the merits.

Petitioners' Motion for Reconsideration was denied under Order[27] dated January 14, 2014.

The Present Petition

Petitioners, through the Office of the Solicitor General (*OSG*), charged the trial court with grave abuse of discretion amounting to excess or lack of jurisdiction for issuing the writ of preliminary injunction. They invoked the following grounds: (1) Section

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[24] Rules of Court, Rule 58, Section 6. Grounds for objection to, or for motion of dissolution of, injunction or restraining order. - The application for injunction or restraining order may be denied, upon a showing of its insufficiency. The injunction or restraining order may also be denied, or, if granted, may be dissolved, on other grounds upon affidavits of the party or person enjoined, which may be opposed by the applicant also by affidavits. It may further be denied, or if granted, may be dissolved, if it appears after hearing that although the applicant is entitled to the injunction or restraining order, the issuance or continuance thereof, as the case may be, would cause irreparable damage to the party or person enjoined while the applicant can be fully compensated for such damages as he may suffer, and the former files a bond in an amount fixed by the court conditioned that he will pay all damages which the applicant may suffer by the denial or the dissolution of the injunction or restraining order. If it appears that the extent of the preliminary injunction or restraining order granted is too great, it may be modified. (6a)

[25] *Rollo*, pp. 72–73.

[26] Id. at 74–76.

[27] Id. at 77–84.

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218, NIRC, as amended, explicitly prohibits the issuance of a writ of injunction against collection of taxes; (2) the issuance of the writ of injunction would, in effect, dispose of the main case without trial; (2) the writ of injunction was issued despite respondents' utter failure to prove the essential requisites for its issuance; (3) the amount of surety bond required and posted is grossly inadequate to the extent of damage to be suffered by the government in terms of lost revenues; (4) the TRO should not have been extended for 17 days as the original TRO had already expired; and (5) the writ of injunction was issued not only against Regional Director of BIR Region XII Perfecto L. Aranas, but also against DoF Sec. Purisima and CIR Henares who all hold office outside the trial court's territorial jurisdiction in violation of Section 21(1), Batas Pambansa Blg. 129,[28] as amended.

In their Comment dated September 28, 2014,[29] respondents riposted that: (a) the "no injunction rule" only lies against collection of taxes. Here, what is being restrained is the imposition, not the collection, of taxes. More, though the effect of injunction is to hold the implementation of RR 13-2013 in abeyance, petitioners still retain the right to make a tax assessment within three (3) years;[30] (b) the essential requisites for the issuance of a writ of injunction were complied with;[31] (c) petitioners should have established the extent of damage it will allegedly suffer before it can truly claim that the surety bond posted is grossly inadequate;[32] and (d) when the trial court enjoined the other parties from implementing RR 13-2013, the same is only effective as far as the trial court's territorial jurisdiction goes.[33]

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[28] Section 21. Original jurisdiction in other cases. – Regional Trial Courts shall exercise original jurisdiction: (1) In the issuance of writs of certiorari, prohibition, mandamus, quo warranto, habeas corpus and injunction which may be enforced in any part of their respective regions; x x x.
(Batas Pambansa Blg. 129, An Act Reorganizing the Judiciary, Appropriating Funds Therefor, and for Other Purposes, Approved on August 14, 1981).

[29] *Rollo*, pp. 210–225.

[30] Id. at 213–215.

[31] Id. at 217.

[32] Id. at 217–220.

[33] Id. at 220.

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In its Reply dated November 24, 2014,[34] petitioners claimed that the issuance of the writ of injunction will cause it to lose over three (3) billion pesos in VAT collections.[35]

Meantime, respondents filed a Manifestation dated June 8, 2015,[36] informing the Court that on May 22, 2015, DoF Sec. Purisima, upon the recommendation of CIR Henares, issued RR 8-2015, amending RR 13-2008 insofar as the definition of raw sugar is concerned, *viz.*:

Section 2. Definition of Terms. - For purposes of these Regulations the following terms shall have the following meaning:

(a) Raw Cane Sugar - the natural sugar extracted from sugarcane through simple mechanical process by pressing for the juice; boiled to crystallize; filtered using centrifuge to separate these crystals, and dried, resulting to crystallize brown sugar (brown color due to natural molasses content present in sugar cane): *Provided*, that it shall refer to raw cane sugar produced from conducting only one (1) stage of filtering and centrifugal without any other further process applied thereto, such as but not limited to washing, bleaching, etc.: *Provided further*, that its color is greater than 800 ICU and that its content of sucrose by weight in dry state corresponds to a polarimeter reading of less than 99.5º.

The above definition includes muscovado which has standard specifications as produced, namely: Powder Class A – polarization of 86º minimum; Powder Class B – polarization of 77º minimum; and, Lump – polarization of 57º minimum.

Thus, only those falling under the above-definition of Raw Cane Sugar, including muscovado, are exempt from VAT, or from Percentage Tax, pursuant to Section 109(1)(A) of the Tax Code.

The Sugar Regulatory Authority represents that it collects on a biweekly basis composite samples from mills for routine quality tests. For further verification that the products produced by mills conform to the definition contained herein, the SRA shall provide the BIR with a copy of the results of said test showing the polarimeter and color reading of the Raw Cane Sugar produced, within 15 days from the end of the calendar

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[34] Id. at 237–254.

[35] Id. at 241.

[36] Id. at 275–282.

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month. The SRA shall also insure that they have in place rules and regulations requiring the "RAW CANE SUGAR" be clearly placed on *quedans* issued for products falling under this definition.

(b) Sugar - refers to sugar other than Raw Cane Sugar as defined in the preceding paragraph. This includes sugar whose content of sucrose by weight, in the dry state corresponds to a polarimeter reading of 99.5º and above and/or whose color is 800 ICU or less.

Cane Sugar produced from the following shall be presumed, for internal revenue purposes, to be refined sugar:

(1) product of a refining process,
(2) products of a Sugar Refinery, or
(3) product of a production line of a sugar mill accredited by the Bureau of Internal Revenue (Bureau or BIR may be used interchangeably in these regulations) to be producing and/or capable of producing sugar with polarimeter reading of 99.5º and above, and for which the *quedan* issued therefor as verified by the Sugar Regulatory Administration (SRA) identifies the sugar to be of a polarimeter reading of 99.5º and above.

Nonetheless, sugar produced from sugar production lines accredited by the Bureau to be capable of producing sugar with polarimeter reading of 99.5º or above shall be *prima facie* presumed to be refined sugar.[37] (Emphases supplied)

x x x x

In their Compliance dated May 14, 2021, petitioners confirmed the issuance of RR 8-2015, which has the consequent effect of restoring the VAT-exempt status of raw sugar.[38] They asserted though that the real core issue pertains to the "no injunction rule," which the lower courts should apply insofar as collection of taxes is concerned.

Our Ruling

The petition is DISMISSED on the ground of mootness.

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[37] Id. at 279–280.

[38] Id. at 291–300.

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Oclarino v. Navarro[39] is *apropos*:

> The existence of an actual case or controversy is a condition precedent for the court's exercise of its power of adjudication. An actual case or controversy exists when there is a conflict of legal rights or an assertion of opposite legal claims between the parties that is susceptible or ripe for judicial resolution. On the other hand, ***a moot and academic case is one that ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon would be of no practical value***. As a rule, courts decline jurisdiction over such a case, or dismiss it on ground of mootness; otherwise, the court would engage in rendering an advisory opinion on what the law would be upon a hypothetical state of facts.
>
> ***A case becomes moot and academic when the conflicting issue that may be resolved by the court ceases to exist as a result of supervening events.*** While it is true that this Court may assume jurisdiction over a case that has been rendered moot and academic by supervening events, the following instances must be present:
>
> (1) Grave constitutional violations;
> (2) Exceptional character of the case;
> (3) Paramount public interest;
> (4) The case presents an opportunity to guide the bench, the bar, and the public; or
> (5) The case is capable of repetition yet evading review. (Emphases and italics supplied)[40]
>
> x x x x

RR 8-2015 restored the VAT-exempt status of raw sugar previously withdrawn under the subject RR 13-2013. Surely, this development is a supervening event which renders the main action for declaratory relief against the constitutionality of the old RR 13-2013 academic. Petitioners do not refute this. Where the main action has become academic, so have the ancillary relief for TRO or writ of injunction and all related incidents, including petitioners' opposition to its issuance and the present petition seeking to nullify the writ of injunction issued by the trial court.

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[39] G.R. No. 220514, September 25, 2019.

[40] Id.

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For petitioners to insist on the resolution of how the "no injunction rule" was supposedly violated when the trial court issued the assailed writ of injunction is actually asking the Court to render an advisory opinion, resolve a hypothetical or feigned problem, or a mere academic answer, which is beyond the Court's power of review, thus:[41]

> The power of judicial review is limited to actual cases or controversies. ***Courts decline to issue advisory opinions or to resolve hypothetical or feigned problems, or mere academic questions.*** The limitation of the power of judicial review to actual cases and controversies defines the role assigned to the judiciary in a tripartite allocation of power, to assure that the courts will not intrude into areas committed to the other branches of government. An actual case or controversy involves a conflict of legal rights, an assertion of opposite legal claims, susceptible of judicial resolution as distinguished from a hypothetical or abstract difference or dispute. There must be a contrariety of legal rights that can be interpreted and enforced on the basis of existing law and jurisprudence. The Court can decide the constitutionality of an act or treaty only when a proper case between opposing parties is submitted for judicial determination. (Emphases and italics supplied)[42]

x x x x

Besides, the injunctive writ, together with petitioners' opposition, and petition for *certiorari* relative thereto are a mere adjunct to the main case for declaratory relief. Since the main case has already become academic, the ancillary relief and all incidents related thereto necessarily have become academic, as well. For the spring cannot rise above its source.[43]

So must it be.

ACCORDINGLY, the petition is **DISMISSED** on the ground of mootness.

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[41] See *Province of North Cotabato, et al. v. The Government of the Republic of the Philippines, et al.*, 589 Phil. 387, 480–481 (2008).

[42] Id.

[43] *Limkaichong v. Land Bank of the Philippines, et al.*, 792 Phil. 133, 180 (2016).

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SO ORDERED.

Leonen, S.A.J. (Chairperson), M. Lopez, J. Lopez, and *Kho, Jr., JJ.*, concur.

APPEARANCES OF COUNSEL

Romeo T. Flora for respondent Antonio G. Tamon.

Office of the Solicitor General for public respondents.

The Law Office of Mirano, Mirano, Mirano & Mirano for private respondents.