Republic of the Philippines
Supreme Court
Manila

**SECOND DIVISION**

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| **EXECUTIVE SECRETARY, SECRETARY OF FINANCE, COMMISSIONER OF CUSTOMS, DISTRICT COLLECTOR OF CUSTOMS, Port of Aparri, Cagayan, DISTRICT COLLECTOR OF CUSTOMS, Port of San Fernando, La Union, and HEAD OF THE LAND TRANSPORTATION OFFICE,** Petitioners, | **G.R. No. 199324**<br><br>CARPIO, *J.*, Chairperson, BRION, DEL CASTILLO, PEREZ, and PERLAS-BERNABE, *JJ.* |
| - versus - | |
| **FORERUNNER MULTI RESOURCES, INC.,** Respondent. | Promulgated:<br><br>JAN 07 2013 |

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# DECISION

**CARPIO, *J.*:**

## The Case

We review[1] a ruling[2] of the Court of Appeals enjoining the government from enforcing, *litis pendentia*, a ban on the importation of used motor vehicles.

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1 Under Rule 45 of the 1997 Rules of Civil Procedure.

2 Decision dated 27 June 2011 and Resolution denying reconsideration dated 14 November 2011, penned by Associate Justice Agnes Reyes-Carpio with Associate Justices Fernanda Lampas Peralta and Priscilla J. Baltazar-Padilla, concurring.

## The Facts

Executive Order No. 156 (EO 156)[3], issued by President Gloria Macapagal-Arroyo (President Arroyo) on 12 December 2002, imposes a partial ban on the importation of used motor vehicles.[4] The ban is part of several measures EO 156 adopts to "accelerate the sound development of the motor vehicle industry in the Philippines."[5] In *Executive Secretary v. Southwing Heavy Industries, Inc*. and two related petitions[6] (collectively, *Southwing*), we found EO 156 a valid executive issuance enforceable throughout the Philippine customs territory, except in the Subic Special Economic and Freeport Zone in Zambales (Subic Freeport) by virtue of its status as a "separate customs territory" under Republic Act No. 7227.[7]

Respondent Forerunner Multi Resources, Inc. (respondent), a corporation engaged in the importation of used motor vehicles via the ports of Aparri, Cagayan and San Fernando, La Union, sued the government in the Regional Trial Court of Aparri, Cagayan (trial court) to declare invalid EO 156, impleading petitioner public officials as respondents.[8] Respondent attacked EO 156 for (1) having been issued by President Arroyo *ultra vires*; (2) trenching the Due Process and Equal Protection Clauses of the Constitution; and (3) having been superseded by Executive Order No. 418 (EO 418),[9] issued by President Arroyo on 4 April 2005, modifying the tariff rates of imported used motor vehicles. Respondent sought a preliminary injunctive writ to enjoin, *litis pendentia*, the enforcement of EO 156.

## The Ruling of the Trial Court

Acting on respondent's application for preliminary injunctive remedy, the trial court granted relief, initially by issuing a temporary restraining order followed by a writ of preliminary injunction granted in its Order of

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3 Entitled "Providing for a Comprehensive Industrial Policy and Directions for the Motor Vehicle Development Program and its Implementing Guidelines."

4 Exempted from the ban's coverage are personal vehicles of returning residents or immigrants, diplomatic vehicles, trucks, buses, and special purpose vehicles (Section 3.1.1 to Section 3.1.5).

5 EO 156, 13th Whereas Clause.

6 G.R. No. 164172 (*Executive Secretary v. Subic Integrated Macro Ventures Corp*.) and G.R. No. 168741 (*Executive Secretary v. Motor Vehicle Importers Association of Subic Bay Freeport, Inc.*), all reported in 518 Phil. 103 (2006).

7 We held in *Southwing*: "In sum, the Court finds that Article 2, Section 3.1 of EO 156 is void insofar as it is made applicable to the presently secured fenced-in former Subic Naval Base area as stated in Section 1.1 of EO 97-A. *Pursuant to the separability clause of EO 156, Section 3.1 is declared valid insofar as it applies to the customs territory or the Philippine territory outside the presently secured fenced-in former Subic Naval Base area* as stated in Section 1.1 of EO 97-A. x x x" (id. at 133; emphasis supplied).

8 Docketed as SCA II-4677 for the writs of certiorari and prohibition.

9 Entitled: "Modifying the Tariff Nomenclature and Rates of Import Duty on Used Motor Vehicles Under Section 104 of the Tariff and Customs Code of 1978 (Presidential Decree No. 1464, as Amended)."

27 November 2008.[10] On petitioners' motion, however, the trial court reconsidered its Order and lifted the injunctive writ on 7 July 2010. The trial court grounded its ruling on *Southwing* which it considered as negating any "clear and unmistakable legal right" on the part of respondent to receive the "protection of a writ of preliminary injunction."[11]

Respondent elevated the case to the Court of Appeals in a certiorari petition.

## The Ruling of the Court of Appeals

The Court of Appeals granted certiorari, set aside the trial court's Order of 7 July 2010 and reinstated its Order of 27 November 2008. In the appellate court's estimation, the trial court committed grave abuse of discretion in lifting the preliminary injunctive writ it earlier issued. The appellate court held that the implementation of EO 156 "would put petitioner in a financial crisis."[12] As authority, the appellate court invoked by analogy this Court's ruling in *Filipino Metals Corporation v. Secretary of the Department of Trade and Industry.*[13]

Petitioners are now before this Court charging the Court of Appeals with having committed an error of law in reinstating the preliminary injunctive writ for respondent. They argue that *Southwing* controls the case, precluding the Court of Appeals from recognizing a clear legal right of respondent to import used motor vehicles.

Respondent counters that the doctrinal import of *Southwing* was weakened by the subsequent issuance of EO 418, allegedly repealing EO 156. Respondent invokes our minute Resolution of 15 November 2010 denying the petition in G.R. No. 187475 (*Executive Secretary v. Feniz [CEZA] International, Inc.*) as judicial confirmation of the supposed repeal.

As prayed for by petitioners, we issued a temporary restraining order on 16 January 2012 against the Court of Appeals' ruling.

## The Issue

The question is whether the Court of Appeals erred in granting preliminary injunctive relief to respondent to enjoin enforcement of EO 156.

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10 Branch 6 of the trial court initially refused to issue a writ of preliminary injunction but Branch 10, to which the case was re-raffled, reconsidered in the Order of 27 November 2008.

11 *Rollo*, p. 212.

12 Id. at 23.

13 502 Phil. 191 (2005).

## The Court's Ruling

We hold that it was error for the Court of Appeals to grant preliminary injunctive relief to respondent. We set aside the Court of Appeals' ruling and reinstate the trial court's Order of 7 July 2010.

### *Respondent Without Clear Legal Right to Import Used Motor Vehicles*

It is a deeply ingrained doctrine in Philippine remedial law that a preliminary injunctive writ under Rule 58[14] issues only upon a showing of the applicant's "clear legal right"[15] being violated or under threat of violation by the defendant.[16] "Clear legal right," within the meaning of Rule 58, contemplates a right "clearly founded in or granted by law."[17] Any hint of doubt or dispute on the asserted legal right precludes the grant of preliminary injunctive relief.[18] For suits attacking the validity of laws or issuances with the force and effect of law, as here, the applicant for preliminary injunctive relief bears the added burden of overcoming the presumption of validity inhering in such laws or issuances.[19] These procedural barriers to the issuance of a preliminary injunctive writ are rooted on the equitable nature of such relief, preserving the status quo while, at the same time, restricting the course of action of the defendants even before adverse judgment is rendered against them.

Respondent sought preliminary injunctive relief as ancillary to its principal cause of action to invalidate EO 156. Respondent's attack on EO 156, however, comes on the heels of *Southwing* where we passed upon and found EO 156 legally sound, albeit overextended in application. We found EO 156 a valid police power measure addressing an "urgent national concern":

> There is no doubt that the issuance of the ban to protect the domestic industry is a reasonable exercise of police power. The deterioration of the local motor manufacturing firms due to the influx of

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14 1997 Rules of Civil Procedure.

15 Also variously phrased as "clear unmistakable right" (*Equitable PCI Bank, Inc. v. OJ-Mark Trading, Inc*., G.R. No. 165950, 11 August 2010, 628 SCRA 79, 89) or "clear and positive right" (*Valley Trading Co., Inc. v. Court of First Instance of Isabela, Branch 11*, 253 Phil. 494, 499 [1989]).

16 *Angela Estate, Inc. v. Court of First Instance of Negros Occidental,* 133 Phil. 561 (1968) *reiterated in Locsin v. Climaco,* 136 Phil. 216 (1969); *Bacolod Murcia Milling Co., Inc. v. Capitol Subdivision, Inc*., 124 Phil. 128 (1966); *Dizon v. Yatco,* 121 Phil. 180 (1965).

17 *Boncodin v. National Power Corporation Employees Consolidated Union (NECU),* 534 Phil. 741, 754 (2006).

18 *Sps. Arcega v. Court of Appeals,* 341 Phil. 166 (1997).

19 *Valley Trading Co., Inc. v. Court of First Instance of Isabela, Branch 11*, supra; *Tablarin v. Gutierrez*, 236 Phil. 768 (1987); *Vera v. Arca*, 138 Phil. 369 (1969).

> imported used motor vehicles is an urgent national concern that needs to be swiftly addressed by the President. In the exercise of delegated police power, the executive can therefore validly proscribe the importation of these vehicles. x x x[20]

The narrow ambit of this review precludes us from passing upon the merits of the constitutional and administrative issues respondent raised to attack EO 156. Nevertheless, we have no hesitation in holding that whatever legal right respondent may possess *vis* à *vis* the operation of EO 156, we find such legal right to be doubtful by force of the *Southwing* precedent. Until reversed or modified by this Court, *Southwing* makes conclusive the presumption of EO 156's validity. Our holding is bolstered by respondent's failure to remove its case from the confines of such ruling.

In arriving at a contrary conclusion, the Court of Appeals dwelt on the "grave and irremediable" financial losses respondent was poised to sustain as a result of EO 156's enforcement, finding such prejudice "inequitable."[21] No doubt, by importing used motor vehicles in contravention of the ban under EO 156, respondent risked sustaining losses. Such risk, however, was self-imposed. Having miscalculated its chances, respondent cannot look to courts for injunctive relief against self-inflicted losses which are in the nature of *damnum absque injuria*. Injunction will not issue on the mere possibility that a litigant will sustain damage, without proof of a clear legal right entitling the litigant to protection.[22]

Nor does our ruling in *Filipino Metals* furnish doctrinal support for respondent. We sustained the trial court's issuance of a preliminary injunctive writ in that case to enjoin the enforcement of Republic Act No. 8800 (RA 8800) delegating to a cabinet member the power to adopt measures to address prejudicial importations in contravention of relevant international agreements. We grounded our ruling on the fact that the petitioners, which principally argued that RA 8800 violates Article VI, Section 28(2) of the Constitution (limiting Congress' delegation of the power to fix trade quotas to the President), "have established a strong case for the unconstitutionality of [RA 8800]."[23] In short, the petitioners in *Filipino Metals* discharged the burden of overcoming the presumption of validity accorded to RA 8800, warranting the issuance of a preliminary injunctive writ in their favor. *Southwing* forecloses a similar finding for respondent.

Lastly, we find no merit in respondent's submission that EO 418 repealed EO 156, removing the legal bar to its importation of used motor

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[20] Supra note 6 at 129.

[21] *Rollo*, pp. 22-23.

[22] *Talisay-Silay Milling Co., Inc. v. CFI of Negros Occidental*, 149 Phil. 676 (1971); *Bacolod Murcia Milling Co., Inc. v. Capitol Subdivision, Inc.*, supra note 16.

[23] Supra note 13 at 200.

vehicles. The question of whether EO 418 repealed EO 156 was already settled in our Resolution dated 22 August 2006 denying reconsideration of our ruling in *Southwing*. The respondents in those cases, importers of used motor vehicles via the Subic Freeport, had espoused the theory presently advanced by respondent. We rejected the proffered construction of the two issuances:

> The subsequent issuance of E.O. No. 418 increasing the import duties on used motor vehicles *did not alter the policy of the executive department to prohibit the importation of said vehicles*. x x x [T]here is nothing in the text of E.O. No. 418 which expressly repeals E.O. No. 156. The Congress, or the Office of the President in this case, is presumed to know the existing laws, such that whenever it intends to repeal a particular or specific provision of law, it does so expressly. *The failure to add a specific repealing clause indicates that the intent was not to repeal previous administrative issuances*. x x x
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> [E].O. No. 156 is very explicit in its prohibition on the importation of used motor vehicles. On the other hand, E.O. No. 418 merely modifies the tariff and nomenclature rates of import duty on used motor vehicles. Nothing therein expressly revokes the importation ban. (Italicization supplied)

Contrary to respondent's claim, our minute Resolution dated 15 November 2010 denying the petition in *Feniz* did not have the effect of modifying much less reversing our holding in *Southwing*. The petition in *Feniz* sought a review of the ruling of the trial court striking down Section 2 of EO 418. The trial court found such provision, which imposed additional specific duty of ₱500,000 on each imported used motor vehicle, void for having been issued by President Arroyo *ultra vires*. Neither the validity of EO 156 nor the alleged repeal by EO 418 of EO 156 was the *lis mota* in *Feniz*.

**WHEREFORE**, we **GRANT** the petition. We **SET ASIDE** the Decision dated 27 June 2011 and the Resolution dated 14 November 2011 of the Court of Appeals. The Order dated 7 July 2010 of the Regional Trial Court of Aparri, Cagayan, Branch 10, is **REINSTATED**. The temporary restraining order issued on 16 January 2012 is made **PERMANENT**.

**SO ORDERED**.

**ANTONIO T. CARPIO**
Associate Justice

**WE CONCUR:**

**ARTURO D. BRION**
Associate Justice

**MARIANO C. DEL CASTILLO**
Associate Justice

**JOSE PORTUGAL PEREZ**
Associate Justice

**ESTELA M. PERLAS-BERNABE**
Associate Justice

## ATTESTATION

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

**ANTONIO T. CARPIO**
Associate Justice
Chairperson

## CERTIFICATION

Pursuant to Section 13, Article VIII of the 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.

**MARIA LOURDES P. A. SERENO**
Chief Justice