EN BANC

G.R. No. 215650 – AUGUSTO L. SYJUCO, JR., Petitioner, **v. JOSEPH EMILIO A. ABAYA, in his capacity as SECRETARY OF THE DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS, et al.,** Respondents.

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G.R. No. 215653 – BAGONG ALYANSANG MAKABAYAN, represented by its SECRETARY GENERAL RENATO REYES, JR., et al., Petitioners, **v. JOSEPH EMILIO A. ABAYA, in his capacity as SECRETARY OF THE DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS, et al.,** Respondents.

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G.R. No. 215703 – UNITED FILIPINO CONSUMERS AND COMMUTERS, INC., represented by its PRESIDENT, RODOLFO B. JAVELLANA, JR., Petitioner, **v. JOSEPH EMILIO A. ABAYA, in his capacity as SECRETARY OF THE DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS, et al.,** Respondents.

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G.R. No. 215704 – BAYAN MUNA REPRESENTATIVE NERI JAVIER COLMENARES et al., Petitioners, **v. JOSEPH EMILIO A. ABAYA, in his capacity as SECRETARY OF THE DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS, et al.,** Respondents.

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G.R. No. 216735 – JOSEPH VICTOR G. EJERCITO et al., Petitioners, **v. WINSTON M. GINEZ, in his capacity as CHAIRPERSON OF THE LAND TRANSPORTATION FRANCHISING AND REGULATORY BOARD, et al.,** Respondents.

Promulgated:

March 28, 2023

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SEPARATE CONCURRING OPINION

LEONEN, *J.*:

I agree with the *ponencia.*

This Court's pronouncement in *Vigan Electric Light Co., Inc. v. Public Service Commission*[1] is clear. Notice and hearing are generally not mandated in quasi-legislative acts *unless the law provides otherwise.*[2]

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1 119 Phil. 304 (1964) [Per J. Concepcion, *En Banc*].

2 *Id.*

When the law explicitly demands a notice and hearing, the administrative agency cannot disregard these requirements on the reason that the act is done in furtherance of a quasi-legislative function. The notice and hearing become imperative and components of procedural due process. Ultimately, due process is not only conditioned on notice and hearing but on the constitutional mandate under Article III, Section 1. This constitutional provision is the basis for all State policy.

Rate-fixing is a task specifically delegated to administrative agencies possessing the specialization and technical knowledge in their field. Part of this sensitive function involves the exercise of the administrative agencies' sound discretion. However, the rate imposed must still be just and reasonable. It should not be discriminatory and confiscatory.

It must be emphasized that it is the public who will eventually bear the burden of the rate increase. Thus, the public must be given full information why there is a rate adjustment and how the administrative agency determined the new rate. The public must have an opportunity to be heard and to contest the fare increase. Without a reasonable explanation and a meaningful dialogue between the public and respondents, the core of public participation mandated by the Administrative Code is transgressed.

I

"[J]udicial review is the courts' power to decide on the constitutionality of exercises of power by the other branches of government and to enforce constitutional rights."[3]

This Court's duty is expressed in the Constitution. In Article VIII, Section 1:

> SECTION 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.
>
> Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.[4]

The 1987 Constitution introduced the expanded scope of judicial power.[5] Under the expanded scope, courts are not only bound to "settle actual controversies involving rights which are legally demandable and

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3 *Falcis III v. Civil Registrar General*, G.R. No. 217910, September 3, 2019 [Per J. Leonen, *En Banc*].

4 CONST., art. VIII, sec. 1.

5 *Kilusang Mayo Uno v. Aquino III*, G.R. No. 210500, April 2, 2019 [Per J. Leonen, *En Banc*].

enforceable[,]" but are also expected "to determine if any government branch or instrumentality has acted beyond the scope of its powers, such that there is grave abuse of discretion."[6]

In *GSIS Family Bank Employees Union v. Villanueva*,[7] we explained that the expanded scope intends to prevent courts from declining review based on the political question doctrine.

> Jurisprudence has consistently referred to these two (2) as the court's traditional and expanded powers of judicial review.
>
> Traditional judicial power is the court's authority to review and settle actual controversies or conflicting rights between dueling parties and enforce legally demandable rights. An actual case or controversy exists "when the case presents conflicting or opposite legal rights that may be resolved by the court in a judicial proceeding."
>
> On the other hand, the framers of the 1987 Constitution deliberately expanded this Court's power of judicial review to prevent courts from seeking refuge behind the political question doctrine and turning a blind eye to abuses committed by the other branches of government.[8]

Further, prior to the 1987 Constitution, *certiorari* petitions under Rule 65 are strictly applied to correct only "errors of jurisdiction of judicial and quasi-judicial bodies."[9] With the expanded scope of judicial review, this Court has allowed Rule 65 as a vehicle for petitions invoking the Court's expanded jurisdiction based on its power to relax its rules.[10] In *Association of Medical Clinics for Overseas Workers, Inc. v. GCC Approved Medical Centers Association, Inc.*:[11]

> In contrast, existing Court rulings in the exercise of its expanded jurisdiction have allowed the direct filing of petitions for *certiorari* and prohibition with the Court to question, for grave abuse of discretion, actions or the exercise of a function that violate the Constitution. The governmental action may be questioned regardless of whether it is quasi-judicial, quasi-legislative, or administrative in nature. The Court's expanded jurisdiction does not do away with the actual case or controversy requirement for presenting a constitutional issue, but effectively simplifies this requirement by merely requiring a *prima facie* showing of grave abuse of discretion in the exercise of the governmental act.[12]

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6 *Id.*
7 G.R. No. 210773, January 23, 2019 [Per J. Leonen, Third Division].
8 *Id.*
9 *Association of Medical Clinics for Overseas Workers, Inc. v. GCC Approved Medical Centers Association, Inc.*, 802 Phil. 116, 136 (2016) [Per J. Brion, *En Banc*].
10 *Id.* at 139.
11 *Id.*
12 *Id.* at 149.

Clearly, the text of Article VIII, Section 1 does not distinguish the cause for grave abuse. Any governmental act which violates a statute or treaty is grave abuse of discretion. More so, this Court is not precluded from resolving Rule 65 petitions against government bodies that do not exercise judicial, quasi-judicial, or ministerial functions.[13] In *Araullo v. Aquino III*:[14]

> With respect to the Court, however, the remedies of *certiorari* and prohibition are necessarily broader in scope and reach, and the writ of *certiorari* or prohibition may be issued to correct errors of jurisdiction committed not only by a tribunal, corporation, board or officer exercising judicial, quasi-judicial or ministerial functions but also to set right, undo and restrain any act of grave abuse of discretion amounting to lack or excess of jurisdiction by any branch or instrumentality of the Government, even if the latter does not exercise judicial, quasi-judicial or ministerial functions. This application is expressly authorized by the text of the second paragraph of Section 1, supra.
>
> Thus, petitions for *certiorari* and prohibition are appropriate remedies to raise constitutional issues and to review and/or prohibit or nullify the acts of legislative and executive officials.[15]

Nevertheless, this Court's expanded jurisdiction does not tantamount to abandonment of the requisites of justiciability. Constitutional adjudication is still subject to limitations. *In Angara v. Electoral Commission*:[16]

> The Constitution is a definition of the powers of government. Who is to determine the nature, scope and extent of such powers? The Constitution itself has provided for the instrumentality of the judiciary as the rational way. And when the judiciary mediates to allocate constitutional boundaries, it does not assert any superiority over the other departments; it does not in reality nullify or invalidate an act of the legislature, but only asserts the solemn and sacred obligation assigned to it by the Constitution to determine conflicting claims of authority under the Constitution and to establish for the parties in an actual controversy the rights which that instrument secures and guarantees to them. This is in truth all that is involved in what is termed "judicial supremacy" which properly is the power of judicial review under the Constitution. Even then, this power of judicial review is limited to actual cases and controversies to be exercised after full opportunity of argument by the parties, and limited further to the constitutional question raised or the very *lis mota* presented. Any attempt at abstraction could only lead to dialectics and barren legal questions and to sterile conclusions of wisdom, justice or expediency of legislation. More than that, courts accord the presumption of constitutionality to legislative enactments, not only because the legislature is presumed to abide by the Constitution but also because the judiciary in the determination of actual cases and controversies must reflect the wisdom and justice of the people as

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13 *Kilusang Magbubukid ng Pilipinas v. Aurora Pacific Economic Zone and Freeport Authority*, G.R. Nos. 198688 & 208282, November 24, 2020 [Per J. Leonen, *En Banc*].

14 752 Phil. 716 (2014) [Per J. Bersamin, *En Banc*].

15 *Id.* at 531.

16 63 Phil. 139 (1936) [Per J. Laurel, *En Banc*].

> expressed through their representatives in the executive and legislative departments of the government.[17]

For a controversy to be deemed justiciable, the following must be sufficiently demonstrated by the petitioner:

> "(1) an actual case or controversy over legal rights which require the exercise of judicial power; (2) standing or locus standi to bring up the constitutional issue; (3) the constitutionality was raised at the earliest opportunity; and (4) the constitutionality is essential to the disposition of the case or its *lis mota*."[18]

There is an actual case or controversy "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."[19] The suit must involve a "definite and concrete dispute touching on the legal relations of the parties who have adverse legal interests."[20]

This requirement prevents this Court from making "hypothetical pronouncements on abstract, contingent[,] and amorphous issues"[21] and from rendering a mere advisory opinion without practical use or value.[22] Therefore, this Court will not pass upon the validity of an act of government or a statute without a showing of actual injury.[23]

Even under the expanded scope of judicial review, the requirement of actual case or controversy is not dispensed with. In *Falcis III v. Civil Registrar General*:

> Basic in litigation raising constitutional issues is the requirement that there must be an actual case or controversy. This Court cannot render an advisory opinion. We assume that the Constitution binds all other constitutional departments, instrumentalities, and organs. We are aware that in the exercise of their various powers, they do interpret the text of the Constitution in the light of contemporary needs that they should address. A policy that reduces this Court to an adviser for official acts by the other departments that have not yet been done would unnecessarily tax our resources. It is inconsistent with our role as final arbiter and adjudicator and weakens the entire system of the Rule of Law. Our power of judicial review is a duty to make a final and binding construction of law. This power should generally be reserved when the departments have exhausted any and all acts that would remedy any perceived violation of right. The rationale that defines the extent of our doctrines laying down exceptions to

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17 *Id.* at 158–159.
18 *National Federation of Hog Farmers, Inc. v. Board of Investments*, G.R. No. 205835, June 23, 2020 [Per J. Leonen, *En Banc*].
19 *Republic v. Mupas*, 769 Phil. 21, 225 (2015) [Per J. Brion, *En Banc*].
20 *Id.*
21 *Kilosbayan, Inc. v. Guingona, Jr.*, 302 Phil. 107, 210 (1994) [Per J. Davide, Jr., *En Banc*].
22 *Republic v. Mupas*, 769 Phil. 21, 225 (2015) [Per J. Brion, *En Banc*].
23 *Kilosbayan, Inc. v. Guingona, Jr.*, 302 Phil. 107, 210 (1994) [Per J. Davide, Jr., *En Banc*].

> our rules on justiciability are clear: Not only should the pleadings show a convincing violation of a right, but the impact should be shown to be so grave, imminent, and irreparable that any delayed exercise of judicial review or deference would undermine fundamental principles that should be enjoyed by the party complaining or the constituents that they legitimately represent.[24]

Meanwhile, "[l]egal standing is a party's personal and substantial interest in the case such that he [or she] has sustained, or will sustain, direct injury as a result of its enforcement."[25] A litigant's interest in the case must be "material interest, an interest in issue affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest."[26] Similar to an actual case or controversy, the requirement of legal standing ensures that a party is "seeking a concrete outcome or relief that may be granted by courts."[27] In *Kilusang Magbubukid ng Pilipinas v. Aurora Pacific Economic Zone and Freeport Authority*,[28] we explained:

> A direct injury is required to be shown to guarantee that the filing party has a "personal stake in the outcome of the controversy and, in effect, assures 'that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions.'" Thus, the person praying for a judicial remedy must show "a legal interest or right to it, otherwise, the issue presented would be purely hypothetical and academic."[29]

Further, the constitutional issue should have been raised at the earliest opportunity. This means that the litigant should have immediately raised the issue in the proceedings in the lower court.[30] Lastly, the constitutional issue must be the *lis mota* of the case, meaning, a litigant must show that the resolution of the constitutional questions is necessary to resolve the case.[31]

Here, petitioners have demonstrated the petitions' justiciability.

First, there is an actual case given the conflict of legal rights asserted by petitioners against respondents. Specifically, petitioners claimed that their constitutional right to due process was violated when respondents established a rate hike without prior notice and hearing. Moreover, Department Order No. 2014-014 has already been implemented since January 4, 2015.

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24 *Falcis III v. Civil Registrar General*, G.R. No. 217910, September 3, 2019 [Per J. Leonen, *En Banc*].
25 *Id.*
26 *Id.*
27 *Id.*
28 G.R. Nos. 198688 & 208282, November 24, 2020 [Per J. Leonen, *En Banc*].
29 *Id.*
30 *Arceta v. Mangrobang*, 476 Phil. 106, 115 (2004) [Per J. Quisumbing, *En Banc*].
31 *Id.*

Second, petitioners have the legal standing to sue considering that they represent members who are regular commuters directly affected by the fare increase.

Third, petitioners have raised the issue of constitutionality at the earliest opportunity when they directly filed the Petition before this Court. Lastly, the constitutionality of the approval of the rate hike and issuance of Department Order No. 2014-014 is at the core of the disposition of the Petitions.

However, respondents stressed that the Petitions must be dismissed for violating the doctrine of exhaustion of administrative remedies and hierarchy of courts.

When acts of administrative agencies are assailed, the ripeness of the case for adjudication is ensured under the doctrine of exhaustion of administrative remedies.[32] Under this doctrine, petitioners must have exhausted all remedies available to them under the law before raising their case before this Court. This allows the administrative agency to exercise its power to its full extent and correct or reconsider its actions. Otherwise, it would be premature for courts to review the case.[33] In *Diocese of Bacolod v. Comelec*,[34] we explained:

> The doctrine that requires respect for the hierarchy of courts was created by this court to ensure that every level of the judiciary performs its designated roles in an effective and efficient manner. Trial courts do not only determine the facts from the evaluation of the evidence presented before them. They are likewise competent to determine issues of law which may include the validity of an ordinance, statute, or even an executive issuance in relation to the Constitution. To effectively perform these functions, they are territorially organized into regions and then into branches. Their writs generally reach within those territorial boundaries. Necessarily, they mostly perform the all-important task of inferring the facts from the evidence as these are physically presented before them. In many instances, the facts occur within their territorial jurisdiction, which properly present the 'actual case' that makes ripe a determination of the constitutionality of such action. The consequences, of course, would be national in scope. There are, however, some cases where resort to courts at their level would not be practical considering their decisions could still be appealed before the higher courts, such as the Court of Appeals.[35]

However, this doctrine admits certain exceptions. This Court possesses full discretion to assume jurisdiction if there are exceptional compelling reasons. *Diocese of Bacolod* summarized these exceptions:

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32 *Kilusang Mayo Uno v. Aquino III*, G.R. No. 210500, April 2, 2019 [Per J. Leonen, *En Banc*].
33 *Id.*
34 751 Phil. 301 (2015) [Per J. Leonen, *En Banc*].
35 *Id.* at 329–330.

> (1) when there are genuine issues of constitutionality that must be addressed at the most immediate time;
> (2) when the issues involved are of transcendental importance;
> (3) cases of first impression;
> (4) the constitutional issues raised are better decided by the Court;
> (5) exigency in certain situations;
> (6) the filed petition reviews the act of a constitutional organ;
> (7) when petitioners rightly claim that they had no other plain, speedy, and adequate remedy in the ordinary course of law that could free them from the injurious effects of respondents' acts in violation of their right to freedom of expression; [and]
> (8) the petition includes questions that are "dictated by public welfare and the advancement of public policy, or demanded by the broader interest of justice, or the orders complained of were found to be patent nullities, or the appeal was considered as clearly an inappropriate remedy."[36]

Similar to the doctrine on exhaustion of administrative remedies, the doctrine on hierarchy of courts ensures that this Court remains a court of last resort.[37] This doctrine restricts parties from going directly to this Court when relief may be obtained from the lower courts.[38] It is also grounded on practical judicial policy to prevent "inordinate demands upon the Court's time and attention which are better devoted to those matters within its exclusive jurisdiction, as well as to prevent the congestion of the Court's dockets."[39]

This doctrine, however, is not an inflexible rule. A direct invocation of this Court's original jurisdiction is allowed when there are compelling reasons or when the issues raised are pure questions of law.[40] In *Aala v. Uy*,[41] we enumerated the exceptions to the doctrine on hierarchy of courts. Thus:

> Immediate resort to this Court may be allowed when any of the following grounds are present: (1) when genuine issues of constitutionality are raised that must be addressed immediately; (2) when the case involves transcendental importance; (3) when the case is novel; (4) when the constitutional issues raised are better decided by this Court; (5) when time is of the essence; (6) when the subject of review involves acts of a constitutional organ; (7) when there is no other plain, speedy, adequate remedy in the ordinary course of law; (8) when the petition includes questions that may affect public welfare, public policy, or demanded by the broader interest of justice; (9) when the order complained of was a patent nullity; and (10) when the appeal was considered as an inappropriate remedy.[42]

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36 *Gios-Samar, Inc. v. Department of Transportation and Communications*, 849 Phil. 120, 173 (2019) [Per J. Jardeleza, *En Banc*], *citing The Diocese of Bacolod v. Commission on Elections*, 751 Phil. 301, 331–335 (2015) [Per J. Leonen, *En Banc*].

37 *Aala v. Uy*, 803 Phil. 36, 54 (2017) [Per J. Leonen, *En Banc*].

38 *Id.*

39 *Id.*

40 *Id.* at 57.

41 *Id.*

42 *Id.*

Here, petitioners invoked the jurisdiction of this Court without appealing before respondents and without first seeking recourse before the Regional Trial Court and Court of Appeals, which have concurrent jurisdiction to issue writs of *certiorari* and prohibition. In proceeding to file directly before this Court, petitioners have disregarded the doctrines of exhaustion of administrative remedies and hierarchy of courts.

Notwithstanding, the Petitions fall under some of the recognized exceptions. Specifically, the Petitions raised issues which directly affect public welfare. Daily commuters who use LRT 1, LRT 2, and MRT already bore the burden of the rate increase. It has been almost eight years since the increase took effect. Further, as pointed out by the *ponencia*, the Petitions present an issue of transcendental importance given the paramount public interest involved.

Although I agree, it must be stressed that bypassing the judicial hierarchy is not justified by simply raising issues of transcendental importance.

In *Gios-Samar, Inc. v. Department of Transportation and Communications*,[43] we have clarified that to invoke the exception of transcendental importance, petitioners must raise pure questions of law. Ultimately, the factor which allows this Court to excuse the violation of judicial hierarchy is the nature of the question raised in the petition and not the invocation of special and important reasons.[44]

In *Gios-Samar*, this Court took time to go through a long line of cases where exceptions to the hierarchy of courts were allowed. And in those cases, there were clear factual parameters which allowed this Court to resolve the controversies. Thus:

> An examination of the cases wherein this Court used "transcendental importance" of the constitutional issue raised to excuse violation of the principle of hierarchy of courts would show that resolution of factual issues was not necessary for the resolution of the constitutional issue/s. These cases include *Chavez v. Public Estates Authority*, *Agan, Jr. v. Philippine International Air Terminals Co., Inc.*, *Jaworski v. Philippine Amusement and Gaming Corporation*, *Province of Batangas v. Romulo*, *Aquino III v. Commission on Elections*, *Department of Foreign Affairs v. Falcon*, *Capalla v. Commission on Elections*, *Kulayan v. Tan*, *Funa v. Manila Economic & Cultural Office*, *Ferrer, Jr. v. Bautista*, and *Ifurung v. Carpio-Morales*. In all these cases, there were no disputed facts and the issues involved were ones of law.

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43 G.R. No. 217158, March 12, 2019 [Per J. Jardeleza, *En Banc*].
44 *Id.*

> In *Agan*, we stated that "[t]he facts necessary to resolve these legal questions are well established and, hence, need not be determined by a trial court." In Jaworski, the issue is whether Presidential Decree No. 1869 authorized the Philippine Amusement and Gaming Corporation to contract any part of its franchise by authorizing a concessionaire to operate internet gambling. In *Romulo*, we declared that the facts necessary to resolve the legal question are not disputed. In *Aquino III*, the lone issue is whether RA No. 9716, which created an additional legislative district for the Province of Camarines Sur, is constitutional. In *Falcon*, the threshold issue is whether an information and communication technology project, which does not conform to our traditional notion of the term "infrastructure," is covered by the prohibition against the issuance of court injunctions under RA No. 8975. Similarly, in *Capalla*, the issue is the validity and constitutionality of the Commission on Elections' Resolutions for the purchase of precinct count optical scanner machines as well as the extension agreement and the deed of sale covering the same. In *Kulayan*, the issue is whether Section 465 in relation to Section 16 of the Local Government Code authorizes the respondent governor to declare a state of national emergency and to exercise the powers enumerated in his Proclamation No. 1-09. In *Funa*, the issue is whether the Commission on Audit is, under prevailing law, mandated to audit the accounts of the Manila Economic and Cultural Office. In *Ferrer*, the issue is the constitutionality of the Quezon City ordinances imposing socialized housing tax and garbage fee. In *Ifurung*, the issue is whether Section 8 (3) of RA No. 6770 or the Ombudsman Act of 1989 is constitutional.
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> More recently, in *Aala v. Uy*, the Court *En Banc*, dismissed an original action for *certiorari*, prohibition, and mandamus, which prayed for the nullification of an ordinance for violation of the equal protection clause, due process clause, and the rule on uniformity in taxation. We stated that, not only did petitioners therein fail to set forth exceptionally compelling reasons for their direct resort to the Court, they also raised factual issues which the Court deems indispensable for the proper disposition of the case. We reiterated the time-honored rule that we are not a trier of facts: "[T]he initial reception and appreciation of evidence are functions that [the] Court cannot perform. These are functions best left to the trial courts."
>
> To be clear, the transcendental importance doctrine does not clothe us with the power to tackle factual questions and play the role of a trial court. The only circumstance when we may take cognizance of a case in the first instance, despite the presence of factual issues, is in the exercise of our constitutionally-expressed task to review the sufficiency of the factual basis of the President's proclamation of martial law under Section 18, Article VII of the 1987 Constitution. The case before us does not fall under this exception.[45]

In this case, the factual allegations of the case are clear and straightforward. The questions raised by petitioners are pure questions of law. Thus, while it is apparent that petitioners disregarded the judicial hierarchy and the administrative remedies, this Court may proceed to resolve the controversies raised in the Petitions. The facts that constitute the

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[45] *Id.*

Petitions are sufficient to equip this Court to settle the issues raised without needing further factual parameters.

Further, petitioners are not questioning the wisdom of the rate increase but its legality. Specifically, petitioners assail the authority of the Department of Transportation and Communications Secretary to implement the fare increase, and the lack of notice and hearing in violation of the due process clause under the Constitution.

Lastly, respondents contend that the remedies of *certiorari* and prohibition are not proper modes of review and assail the Executive department's economic policy decisions, including which sectors to subsidize. They aver that the grant or withdrawal of government subsidy is purely a discretionary prerogative of the Executive department.[46] In other words, respondents submit that this is a question of policy which cannot be reviewed by this Court. This is untenable.

Respondents cannot evade the review of the rate increase on the basis of a policy question. To reiterate, the question raised by the Petitions is a pure question of law which may be taken cognizance by this Court. Petitioners are mainly questioning the procedure taken by respondents in approving and implementing the rate increase. This goes into the applicable law and rules mandated to be followed by respondents in approving the rate adjustment. Thus, respondents cannot raise the political question doctrine.

II

Article III, Section 1 of the Constitution mandates due process:

> ARTICLE III
>
> Bill of Rights
>
> SECTION 1. 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.[47]

Due process means "a law which hears before it condemns."[48] It essentially entails "idea of fair play."[49] Due process has both procedural and substantive elements. In *Ermita-Malate Hotel and Motel Operators*

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46 *Ponencia*, p. 12.
47 CONST., art. III, sec. 1.
48 *Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*, 836 Phil. 205, 262 2018 [Per J. Leonen, *En Banc*].
49 *Id.* at 265.

Association, Inc v. The Honorable City Mayor of Manila,[50] this Court elucidated:

> There is no controlling and precise definition of due process. It furnishes though a standard to which governmental action should conform in order that deprivation of life, liberty or property, in each appropriate case, be valid. What then is the standard of due process which must exist both as a procedural and as substantive requisite to free the challenged ordinance, or any government action for that matter, from the imputation of legal infirmity; sufficient to spell its doom? It is responsiveness to the supremacy of reason, obedience to the dictates of justice. Negatively put, arbitrariness is ruled out and unfairness avoided. To satisfy the due process requirement, official action, to paraphrase Cardozo, must not outrun the bounds of reasons and result in sheer oppression. Due process is thus hostile to any official action marred by lack of reasonableness. Correctly has it been identified as freedom from arbitrariness. It is the embodiment of the sporting idea of fair play. It exacts fealty "to those strivings for justice" and judges the act of officialdom of whatever branch "in the light of reason drawn from considerations of fairness that reflect [democratic] traditions of legal and political thought." It is not a narrow or "technical conception with fixed content unrelated to time, place and circumstances," decisions based on such a clause requiring a "close and perceptive inquiry into fundamental principles of our society." Questions of due process are not to be treated narrowly or pedantically in slavery to form or phrases.[51]

The procedural aspect of due process is concerned with "government action adhering to the established process when it makes an intrusion into the private sphere."[52] In *Medenilla v. Civil Service Commission*:[53]

> "Due process of law implies the right of the person affected thereby to be present before the tribunal which pronounces judgment upon the question of life, liberty, and property in its most comprehensive sense; to be heard, by testimony or otherwise, and to have the right of controverting, by proof, every material fact which bears on the question of the right in the matter involved."
>
> The essence of due process is the opportunity to be heard. The presence of a party is not always the cornerstone of due process. What the law prohibits is not the absence of previous notice but the absolute absence thereof and lack of opportunity to be heard.[54]

Meanwhile, substantive due process "requires that laws be grounded on reason and be free from arbitrariness."[55] There must be a sufficient

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50 127 Phil. 306 (1967) [Per J. Fernando, *En Banc*].

51 *Id.* at 318–319.

52 *Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*, G.R. No. 202275, July 17, 2018 [Per J. Leonen, En Banc].

53 272 Phil. 107 (1991) [Per J. Gutierrez, Jr., *En Banc*].

54 *Id.* at 115.

55 *Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*, 836 Phil. 205, 265 (2018) [Per J. Leonen, *En Banc*].

justification for depriving a person of life, liberty, or property.[56] In *Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*:[57]

> Essentially, substantive due process is satisfied if the deprivation is done in the exercise of the police power of the State. Called "the most essential, insistent and illimitable" of the powers of the State, police power is the "authority to enact legislation that may interfere with personal liberty or property in order to promote the general welfare." In the negative, it is the "inherent and plenary power in the State which enables it to prohibit all that is hurtful to the comfort, safety, and welfare of society." "The reservation of essential attributes of sovereign power is ... read into contracts as a postulate of the legal order."[58]

Generally, procedural due process requires notice and hearing. Notice and hearing are essential components of administrative due process, and it is a right guaranteed by the Constitution. Due process is not only conditioned on notice and hearing but on the constitutional mandate under Article III, Section 1. Due process is the basis for all State policy.

In *Globe Telecom Inc. v. National Telecommunications Commission*:[59]

> Notice and hearing are the bulwark of administrative due process, the right to which is among the primary rights that must be respected even in administrative proceedings. The right is guaranteed by the Constitution itself and does not need legislative enactment. The statutory affirmation of the requirement serves merely to enhance the fundamental precept. The right to notice and hearing is essential to due process and its non-observance will, as a rule, invalidate the administrative proceedings.[60]

However, the requirement of previous notice and hearing is limited by the nature of act of the administrative agency. When the agency acts pursuant to its quasi-judicial function, notice and hearing are required. This does not generally apply in an administrative agency's exercise of quasi-legislative power.

Quasi-judicial or administrative adjudicatory power is the "power of the administrative agency to adjudicate the rights of persons before it."[61] It is the "power to hear and determine questions of fact to which the legislative policy is to apply and to decide in accordance with standards laid down by the law itself in enforcing and administering the same law."[62] In *Heirs of*

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56 *Id.*
57 *Id.*
58 *Id.* at 265–266.
59 479 Phil. 1 (2004) [Per J. Tinga, Second Division].
60 *Id.* at 38.
61 *Heirs of Zoleta v. Land Bank of the Philippines*, 816 Phil. 389, 411 (2017) [Per J. Leonen, Second Division].
62 *Id.*

Zoleta v. Land Bank of the Philippines,[63] we explained the rationale behind the grant of quasi-judicial power. Thus:

> Quasi-judicial power is vested in administrative agencies because complex issues call for "technical knowledge and speed in countless controversies which cannot possibly be handled by regular courts." Congress may, by law, grant administrative agencies the exclusive original jurisdiction over cases within their competence. Consistent with their specialized but narrowly limited competencies, the scope of the quasi-judicial power vested in administrative agencies is delineated in an agency's enabling statute:
>
> In general, the quantum of judicial or quasi-judicial powers which an administrative agency may exercise is defined in the enabling act of such agency. In other words, the extent to which an administrative entity may exercise such powers depends largely, if not wholly, on the provisions of the statute creating or empowering such agency.[64]

Meanwhile, quasi-legislative power is "the power of an administrative agency to make rules and regulations that have the force and effect of law so long as they are issued within the confines of the granting statute."[65]

An administrative agency's exercise of quasi-legislative power is limited by the standard and the manner of the exercise prescribed in the law. Thus, the administrative agency's determination and establishment of rates must be both "non-confiscatory and must have been established in the manner prescribed by the legislature[.]"[66] In *Philippine Communications Satellite Corp. v. Alcuaz*:[67]

> Fundamental is the rule that delegation of legislative power may be sustained only upon the ground that some standard for its exercise is provided and that the legislature in making the delegation has prescribed the manner of the exercise of the delegated power. Therefore, when the administrative agency concerned, respondent NTC in this case, establishes a rate, its act must both be non-confiscatory and must have been established in the manner prescribed by the legislature; otherwise, in the absence of a fixed standard, the delegation of power becomes unconstitutional. In case of a delegation of rate-fixing power, the only standard which the legislature is required to prescribe for the guidance of the administrative authority is that the rate be reasonable and just. However, it has been held that even in the absence of an express requirement as to reasonableness, this standard may be implied.[68]

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63 *Id.*

64 *Id.* at 411–412.

65 *Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*, 836 Phil. 205, 233 (2018) [Per J. Leonen, *En Banc*].

66 *Philippine Communications Satellite Corp. v. Alcuaz*, 259 Phil. 707, 715 (1989) [Per J. Regalado, *En Banc*].

67 *Id.*

68 *Id.*

Rate-fixing is a function which may be legislative or adjudicative. In *Vigan Electric Light Co., Inc v. Public Service Commission*,[69] this Court made a categorical pronouncement that rate-fixing is of a legislative character when the rules or rates "are meant to apply to all enterprises of a given kind throughout the Philippines."[70]

In *Vigan Electric Light Co., Inc.*, this Court ruled that the rate-fixing partakes of a quasi-judicial function because the rate was exclusively applied to petitioner after a finding of fact.[71] Further, this Court underscored that the applicable statute explicitly requires notice and hearing.[72] Thus, previous notice and hearing are required. The applicable law in that case, Commonwealth Act No. 146, is clear:

> Indeed, Sections 16 (c) and 20 (a) of Commonwealth Act No. 146 explicitly require notice and hearing. The pertinent parts thereof provide:
>
> > "SEC. 16. The Commission shall have the power, upon proper notice and hearing in accordance with the rules and provisions of this Act, subject to the limitations and exceptions mentioned and saving provisions to the contrary:
> >
> > xxx xxx xxx
> >
> > "(c) To fix and determine individual or joint rates, tolls, charges classifications, or schedules thereof, as well as commutation, mileage, kilometrage, and other special rates which shall be imposed, observed, and followed thereafter by any public service: Provided, That the Commission may, in its discretion, approve rates proposed by public services provisionally and without necessity of any hearing; but it shall call a hearing thereon within thirty days thereafter, upon publication and notice to the concerns operating in the territory affected: Provided, further, that in case the public service equipment of an operator is used principally or secondarily for the promotion of a private business, the net profits of said private business shall be considered in relation with the public service of such operator for the purpose of fixing the rates.
> >
> > "Sec. 20 Acts requiring the approval of the Commission. — Subject to established limitations and exceptions and saving provisions to the contrary, it shall be unlawful for any public service or for the owner, lessee or operator thereof, without the approval and authorization of the Commission previously had —
> >
> > "(a) To adopt, establish, fix, impose, maintain, collect or carry into effect any individual or joint rates, commutation,

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69 119 Phil. 304 (1964) [Per J. Concepcion, *En Banc*].
70 *Id.* at 305.
71 *Id.*
72 *Id.*

> mileage or other special rate, toll, fare, charge, classification or itinerary. The Commission shall approve only those that are just and reasonable and not any that are unjustly discriminatory or unduly preferential, only upon reasonable notice to the public services and other parties concerned, giving them a reasonable opportunity to be heard, . . ."
>
> Since compliance with law must be presumed, it should be assumed that petitioner's current rates were fixed by respondent after proper notice and hearing. Hence, a modification of such rates cannot be made, over petitioner's objection, without such notice and hearing, particularly considering that the factual basis of the action taken by respondent is assailed by petitioner.[73]

The Court reiterated this position in *Central Bank of the Philippines v. Cloribel*,[74] where we held that previous notice and hearing are constitutionally required in a judicial or quasi-judicial proceeding. This is due to the fact that quasi-judicial proceedings are "generally dependent upon a past act or event which has to be established or ascertained."[75] This is not applicable in quasi-legislative proceedings where it is "not essential to the validity of general rules or regulations promulgated to govern future conduct of a class of persons or enterprises, *unless the law provides otherwise*[.]"[76]

Nevertheless, this pronouncement does not dilute the importance of due process in quasi-legislative rate-fixing. The exercise of quasi-legislative power is still conditioned on due process.

In *Kilusang Mayo Uno Labor Center v. Garcia, Jr.*,[77] this Court underscored the burden and implications of rate hikes to the public.

> Moreover, rate making or rate fixing is not an easy task. It is a delicate and sensitive government function that requires dexterity of judgment and sound discretion with the settled goal of arriving at a just and reasonable rate acceptable to both the public utility and the public. Several factors, in fact, have to be taken into consideration before a balance could be achieved. A rate should not be confiscatory as would place an operator in a situation where he will continue to operate at a loss. Hence, the rate should enable public utilities to generate revenues sufficient to cover operational costs and provide reasonable return on the investments. On the other hand, a rate which is too high becomes discriminatory. It is contrary to public interest. A rate, therefore, must be reasonable and fair and must be affordable to the end user who will utilize the services.
>
> Given the complexity of the nature of the function of rate-fixing and its far-reaching effects on millions of commuters, government must not relinquish this important function in favor of those who would benefit and

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73 *Id.* at 312–313.
74 150-A Phil. 86 (1972) [Per J. Concepcion, Second Division].
75 *Id.* at 101.
76 *Id.*
77 309 Phil. 358 (1994) [Per J. Kapunan, First Division].

> profit from the industry. Neither should the requisite notice and hearing be done away with. The people, represented by reputable oppositors, deserve to be given full opportunity to be heard in their opposition to any fare increase.[78]

When the law clearly demands notice and hearing, the administrative agency cannot disregard these requirements on the reason that the act is done in furtherance of a quasi-legislative function. The notice and hearing become imperative and components of procedural due process. Thus, when the law mandates that public participation through notice and hearing should be observed, this cannot be ignored by the administrative agency, even if the act is quasi-legislative in character.

Here, the fixing of rates for the base fare in LRT 1, LRT 2, and MRT is done in exercise of the Department of Transportation and Communications' quasi-legislative function. The increase of rates is not merely applied to a specific user or segment of users. The rate hike is applied across the board. Respondent Light Rail Transit Authority pointed this out and concluded that notice and hearing are not required.

Respondent is mistaken.

While, ordinarily, notice and hearing are not mandated in quasi-legislative acts, the applicable statute in rate adjustments explicitly requires prior notice and hearing. Thus, these requirements must be satisfied by respondents.

As pointed out by the *ponencia,* Section 9, Chapter 2, Book VII of the Administrative Code of 1987 requires the publication of the proposed rates in a newspaper of general circulation at least two weeks prior to the first hearing. The provision is clear:

> SECTION 9. Public Participation. — (1) If not otherwise required by law, an agency shall, as far as practicable, publish or circulate notices of proposed rules and afford interested parties the opportunity to submit their views prior to the adoption of any rule.
>
> *(2) In the fixing of rates, no rule or final order shall be valid unless the proposed rates shall have been published in a newspaper of general circulation at least two (2) weeks before the first hearing thereon.*
>
> (3) In case of opposition, the rules on contested cases shall be observed. (Emphasis supplied)[79]

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78 *Id.* at 378.

79 Executive Order No. 292 (1987), Book VII, Chapter 2, sec. 2.

In this case, no public consultations were conducted for the fare increase for MRT. While there were public consultations for LRT 1 and LRT 2 fare increase, the consultations were for the rate increase in 2011 and 2013, which failed to materialize. Thus, the rate increase implemented in Department Order No. 2014-014 of the then Department of Transportation and Communications does not comply with the requirements prescribed by the law. This transgresses petitioners' constitutional right to due process.

More so, respondents failed to provide basis for the increase of rates. While respondents insist that this is due to the reduction of government subsidy, which is a discretion of the Executive, it must be underscored that the decision to increase the rate imposes a huge burden on the public. The 50 to 87% increase in the fare is arbitrary.

Rate-fixing is a task specifically delegated to administrative agencies possessing the specialization and technical knowledge in their field. Part of this sensitive function involves the exercise of the administrative agencies' sound discretion. However, the rate presented must still be just and reasonable. It should not be discriminatory and confiscatory.

This is the rationale behind the requirement of public participation under the Administrative Code. It must be emphasized that it is the public who will ultimately bear the burden of the rate increase. Thus, the public must be given full information why there is a rate adjustment and how respondents determined the new rate. The public must have an opportunity to be heard and to contest the fare increase. Without a reasonable explanation and a meaningful dialogue between the public and respondents, the core of public participation mandated by the Administrative Code is transgressed.

ACCORDINGLY, I vote to grant the Petitions.

MARVIC M.V.F. LEONEN
Senior Associate Justice