



ATTY. ROBERTO A. DEMIGILIO
Saturdays 9:00AM-12:00PM
 Reference: "Administrative Law: Text and Cases" by De Leon (7th Ed. 2013)

A. Introduction

1. Concept of Administrative law

Administrative Law - the branch of modern law under which the executive department of the government, acting in a quasi-legislative or quasi-judicial capacity, interferes with the conduct of the individual for the purposes of promoting the well-being of the community.

2. Scope of Administrative Law

Quiz No. 1, Question No. 1



Administrative authorities – all those public officers and organs (i.e. administrative agencies) of the government that are charged with the amplification, application and execution of the law, but do not include, by virtue of the doctrine of separation of powers, Congress and regular courts.

3. Classification of Administrative Law as to its purpose

(a) **Adjective or procedural administrative law** - establishes the procedure which an agency must or may follow in the pursuit of its legal purpose; derived from constitution or statute or agency regulations

(b) **Substantive administrative law** - derived from the same sources as procedural but its contents are different in that the law establishes primary rights and duties

As modern life become more complex, the subjects of government regulations correspondingly increased, necessitating expansion of public administration attended by experts in their respective fields.

Birth of administrative law is inevitable in ever changing society. It is a result of necessity arising from complexities of a modern age. There is a need to extend some judicial functions and lose its exclusivity to the courts.

a) Fusion of different powers of government in administrative agencies

- Investigative powers
- Quasi-legislative powers
- Quasi-judicial powers

4. Administrative process

It includes whole of the series of acts of an administrative agency whereby the legislative delegation of a function is made effectual in particular situations; embraces matters concerning procedure in the disposition of both routine and contested matters, and the matter in which determinations are made, enforced, and reviewed.

5. Relation between administrative agencies and courts

Collaborative instrumentalities

- courts may entertain action brought before them, but call to their aid the appropriate administrative agency on questions within its administrative competence

6. Administration of government distinguished from administrative justice

Administration of government	Administration of justice
By administrative officers	By judicial officers
Decision of controversies between individuals and government	Not necessarily from result of any controversy
Q: "what is the law?" to determine whether they are competent to act	Q: what law applies to the set of facts and controversies brought before it



7. Administration as an organization distinguished from government

Administration	Government
aggregate of those persons in whose hands the reins of government are entrusted by the people for the time being	institution or aggregate of institutions by which an independent society makes and carries out those rules of action which are necessary to enable men to live in a civilized state

B. Nature and Organization of Administrative Agencies

1. Creation, reorganization and abolition of administrative agencies

May be created by:

- Constitutional provisions
- Statutes passed by Congress
- By authority of law

How abolished/altered:

- If created by Constitution, by Constitutional amendment
- If created by statute, by statutory repeal, provided it was done in good faith and without grave abuse of discretion

Reorganizations in this jurisdiction have been regarded as valid provided they are pursued in good faith. As a general rule, a reorganization is carried out in "good faith" if it is for the purpose of economy or to make bureaucracy more efficient. In that event, no dismissal (in case of a dismissal) or separation actually occurs because the position itself ceases to exist. And in that case, security of tenure would not be a Chinese wall. Be that as it may, if the "abolition," which is nothing else but a separation or removal, is done for political reasons or purposely to defeat style of tenure, or otherwise not in good faith, no valid "abolition" takes place and whatever "abolition" is done, is void *ab initio*. There is an invalid "abolition" as where there is merely a change of nomenclature of positions, or where claims of economy are belied by the existence of ample funds.¹

N.B.

Duly executed acts of an administrative agency can have valid effects even beyond life span of said agency.

President was vested powers by the Congress to reorganize executive agencies and redistribute functions and particular transfers.

¹ *Dario v. Mison*, G.R. No. 81954, August 8, 1989

a) Meaning of administrative agency

Administrative Agency – is an agency exercising some significant combination of executive, legislative and judicial powers.

Administrative agency	Court
Large organization staffed by men who are deemed to become something of experts in their fields	A tribunal which is presided by one or more jurists learned in law
Performs variety of functions	Performs only judicial functions
Uses degree of discretion in arriving at a decision	Governed by fixed rules in arriving at a decision

b) Types of administrative agencies

- i. **Offering gratuity, grant or special privilege**
(Ex. SSS, GSIS, PAO)
- ii. **Performing business service**
(Ex. BIR, BoC, LRA)
- iii. **Regulating business affected with public interest**
(Ex. PNR, NFA, NHA)
- iv. **Regulating private businesses and individuals**
(Ex. LTFRB, ERB, HLURB)
- v. **Adjusting individual controversies because of strong social policy**
(Ex. SEC, MTRCB, GAB)

2. Administrative Organization

Department - refers to an executive department created by law.

Instrumentality - agency of the National Government, including regulatory agencies, chartered institutions and government owned and controlled corporational charter, and vested by law with functions relating to specific constitutional policies or objectives.

Office - refers to any major functional unit of a department or bureau including regional office; may also refer to any position held or occupied by individual persons, whose functions are defined by law or regulation.

Chartered Institutions - organized or operating under a special charter.



Regulatory agency - refer to agency expressly vested with jurisdiction to regulate, administer, or adjudicate matters affecting substantial rights and interest of private persons, the principal power of which are exercised by a collective body, such as commission, board, or council.

Bureau – refers to any principal subdivision or unit of any department; any principal subdivisions of the department performing a single major function or closely related function.

Government-owned and/or controlled corporations (GOCCs) - refer to any agency organized as a stock or non-stock corporation, vested with functions relating to public needs whether governmental or proprietary in nature, and owned by the government directly or through its instrumentalities either wholly, or where applicable as in the case of stock corporations, to the extent of at least 50% of its capital stock.

a. Administrative Relationships

Supervision and Control

Authority to:

- act directly whenever a specific function is entrusted by law or regulation to a subordinate
- review, approve, reverse or modify acts and decisions of subordinate officials or unit;

Administrative supervision

It shall govern the administrative relationship between a department or its equivalent and regulatory agencies or other agencies as may be provided by law.

- It shall be limited to the authority of department or its equivalent to generally oversee the operations without interfering with day to day activities.

Attachment

This refers to the lateral relationship between the department or its equivalent and the attached agency or corporation for purposes of policy and program coordination. (Key: lateral)

b. Relationship of government owned and controlled corporations to the Department

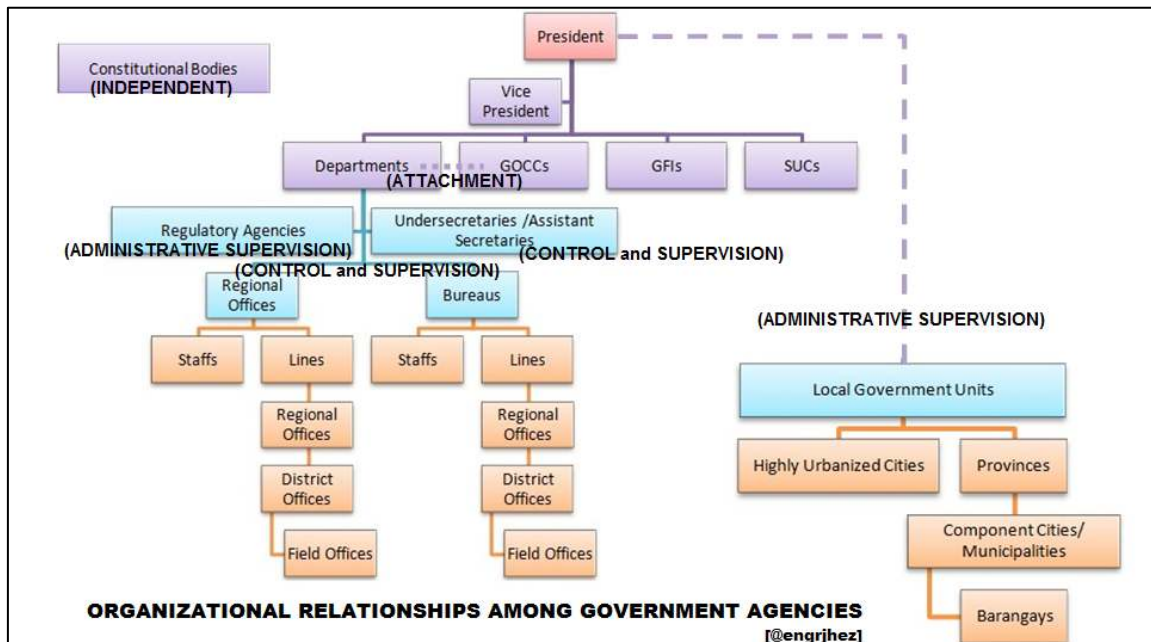
Quiz No. 1, Question No. 3

[Ans. See "Attachment"]

c. Relationship of regulatory agencies to the department

Quiz No. 1, Question No. 2

[Ans. See "Administrative Supervision"]





Doctrine of Qualified Political Agency

A Department Secretary is an *alter ego* of the President; the acts of the former are deemed “acts of the President himself” unless disapproved or reprobated by the latter.

Under the doctrine of qualified political agency “...which recognizes the establishment of a single executive, all executive and administrative organizations are adjuncts of the Executive Department, the heads of the various executive departments are assistants and agents of the Chief Executive, and, except in cases where the Chief Executive is required by the Constitution or law to act in person or the exigencies of the situation demand that he act personally, the multifarious executive and administrative functions of the Chief Executive are performed by and through the executive departments, and the acts of the Secretaries of such departments, performed and promulgated in the regular course of business, are, unless disapproved or reprobated by the Chief Executive presumptively the acts of the Chief Executive.”

This doctrine is corollary to the control power of the President provided in the Constitution. Control is said to be the very heart of the power of the presidency. As head of the Executive Department, the President, however, may delegate some of his powers to the Cabinet members except when he is required by the Constitution to act in person or the exigencies of the situation demand that he acts personally. The members of Cabinet may act for and in behalf of the President in certain matters because the President cannot be expected to exercise his control (and supervisory) powers personally all the time. Each head of a department is, and must be, the President's *alter ego* in the matters of that department where the President is required by law to exercise authority.²

C. Powers and Functions of Administrative Agencies

1. Meaning of powers and functions; the difference

Function – that which one is bound or one's business to do.

Power – means by which function is fulfilled. It refers to means/tools to perform a function.

2. What constitutes administrative power or function

The term is a convenient rather than technical term.

The term “**administrative functions**”, as used in Section 12, Article VIII of the Constitution, prohibiting the designation of members of the judiciary to any agency performing quasi-judicial or administrative functions, is defined as referring “to the executive machinery of the government and the performance by that machinery of governmental acts. It refers to the management actions, determinations, and orders of the executive officials as they administer laws and try to make government effective. There is an element of positive action, of supervision or control.

Another definition: **Administrative functions** are those which involve the regulation and control over the conduct and affairs of individuals for their own welfare and the promulgation of rules and regulations to better carry out the policy of the legislature or such as are devolved upon the administrative agency by the organic law of its existence.³

3. Classification of powers

a) As to nature

Investigatory or Inquisitorial

Power of the administrative body to inspect the records and premises, and investigate the activities of persons or entities coming under its jurisdictions, or to secure, or to require the disclosure of information by means of accounts, records, reports, statements, testimony of witness, production of documents, or otherwise.

Quasi-Legislative or Rule-Making

Statutory grant of rule-making power to administrative agencies is a valid exception to the rule on non-delegation of legislative power.

Conditions:

There are two accepted tests to determine whether or not there is a valid delegation of legislative power, viz, the completeness test and the sufficient standard test. Under the first test, the law must be complete in all its terms and conditions when it leaves the legislature such that when it reaches the delegate the only thing he will have to do is enforce it. Under the sufficient standard test, there must be adequate guidelines or stations in the law to map out the boundaries of the delegate's authority and prevent the delegation from running riot. Both tests are intended to prevent a total transference of legislative authority to the delegate, who is not allowed to step into the shoes of the legislature and exercise a power essentially legislative.⁴ (*underscoring supplied*)

² *Joson v. Executive Secretary*, G.R. No. 131255, May 20, 1998

³ *In re Rodolfo U. Manzano*, 166 SCRA 246 (1988)

⁴ *Eastern Shipping Lines v. POEA*, 166 SCRA 533 (1988)



Quasi-Judicial or Adjudicatory

[It is] required to **investigate facts** or ascertain the existence of facts, **hold hearings**, **weigh evidence**, and **draw conclusions** from them as basis for their official action and exercise of discretion in a judicial nature.

b) Discretionary powers, *defined*

Discretionary Powers – power or right conferred upon them by law, acting officially under certain circumstances, according to the dictates of their own judgment and conscience, and not controlled by the judgment or conscience of others.

c) Ministerial power, *defined*

Ministerial Powers – performed in a duty which has been positively imposed by law and its performance required at a time and in a manner or upon conditions specifically designated, the duty to perform under the conditions specified not being dependent upon the officer's judgment or decision. (*e.g. duty of Register of Deeds to just register deeds before it as long as the requirements are complete*)

The duty of a sheriff to execute a valid writ is ministerial and not discretionary. A purely **ministerial act** or duty is one which an officer or tribunal performs in the context of a given set of facts, in a prescribed manner and without regard to the exercise of his own judgment upon the propriety or impropriety of the act done. A **discretionary act**, on the other hand, is a faculty conferred upon a court or official by which he may decide the question either way and still be right.⁵

D. Investigatory Powers

1. Scope

- Inspect records and premises
- Investigate activities of persons or entities under its jurisdiction;⁶
- Require disclosure of information by testimonies
- Recommend for proper action

2. Distinguished from judicial functions

The test of judicial function is not the exercise of judicial discretion, but the power and authority to

⁵ *De Guzman Jr. v. Mendoza*, 453 SCRA 565 (2005)

⁶ *Secretary of Justice v. Lantion*, 322 SCRA 160 (2000)

adjudicate upon the rights and obligations of the parties before it.⁷

3. Scope and extent of investigative powers

- Initiation of investigation
- Conduct of investigation
- Inspection and examination
- Access to accounts, records, reports or statements
- Requiring attendance of witness, giving testimony, production of evidence
- Hearing (optional)
- Contempt proceedings
- Relaxed application of technical rules of procedure and evidence

4. Right to counsel

Right to counsel is not always imperative in administrative investigations. **Administrative investigations and hearings are not part of a criminal prosecution.**

N.B.

Exclusionary rule in custodial investigation NOT applicable in administrative proceedings.

E. Rule-making Powers

1. Binding force and effect

A valid rule or regulation duly promulgated by an administrative agency has the force and effect of law and is binding on the agency and on all those dealing with the agency. It is law and enjoys the same presumption of validity and constitutionality given to statutes.

2. Prospective/ retroactive applications

Statutes, as well as their implementing rules and regulations, operate prospectively, unless the legislative intent to the contrary is made manifest either by express terms of the statute or by necessary implication.

⁷ *Ruperto v. Torres [unrep.]*, 100 Phil 1098 (1957)



3. Limitations on Rule-making power

- a. It may not make rules and regulations which are inconsistent with the Constitution or a statute;
- b. It may not, amend, alter, modify, extend, supplant, enlarge or expand, restrict or limit the provisions or coverage of the statute;
- c. It must be within the limits of the powers granted to it;
- d. It must be uniform in operation, reasonable, and must not be unfair or discriminatory

4. Limitations on rule-making power

- a. Should be consistent with the Constitution or statute the agency is administering
- b. May not amend, alter, modify, supplant, enlarge or expand, restrict or limit the statute provisions.
- c. Law prevails in case of discrepancy or conflict between the law and rule

5. "Rules and regulations" and "orders or rulings" distinguished

<i>Rules and Regulations</i>	<i>Orders or Rulings</i>
Broader; predominantly legislative in character	Narrower; predominantly judicial in character
Formulation of guidelines pertaining to a statute in all applicable situations	Application or interpretation of a rule or statute to a particular situation
Does not dispose of a particular controversy	Decide and dispose of a particular controversy

6. KINDS OF RULE-MAKING POWERS/ RULES AND REGULATIONS

- a. Supplementary or detailed legislation
- b. Interpretative legislation
- c. Contingent legislation or determination

<i>Legislative Rules</i>	<i>Interpretative Rules</i>
Form of subordinate legislation which creates new law	Merely interprets existing law or provide guidelines therein
Requires express delegation of law	May be exercised by necessity or implication
May include statutory sanctions in case of non-compliance	Only statutory interpretations and does not have any statutory sanctions
Has the same force and effect as its statute	Administrative findings of law, at best merely advisory

7. Ordinance power of the President

- a. *Executive Orders*
 - o General or permanent in character in exercise of his constitutional or statutory power
- b. *Administrative Orders*
 - o Relates to a particular aspects of governmental operations
- c. *Proclamations*
 - o Declaring status or condition of public moment or interest
- d. *Memorandum Orders*
 - o Matters of administrative detail or of subordinate or temporary interest which concern only a particular officer or office of government
- e. *Memorandum Circulars*
 - o Relating to internal administration calling for special attention for information or compliance of existing law or rules

8. REQUISITES FOR VALIDITY OF ADMINISTRATIVE RULES AND REGULATIONS

- a. Must have been issued on the authority of law;
- b. Must not be contrary to law and the Constitution;
- c. Must be promulgated in accordance with the prescribed procedure; and
- d. Must be reasonable.

9. TESTS APPLIED IN DETERMINING THE VALIDITY OF RULES

- a. A rule is invalid if it exceeds the authority conferred to it
- b. A rule is invalid if it conflicts with the governing statute
- c. A rule is void if it extends or modifies the statute
- d. A rule is void if it has no reasonable relationship to the statutory purpose
- e. Courts will set aside rules deemed to be arbitrary or unreasonable or unconstitutional



10. REQUISITES FOR VALIDITY OF ADMINISTRATIVE RULES AND REGULATION WITH PENAL SANCTIONS

- a. The law must itself provide for the imposition of a penalty for its violation;
- b. It must fix or define such penalty;
- c. The violation for which the rules and regulations impose a penalty must be punishable or made a crime under the law itself; and
- d. It must be published in the Official Gazette.

The **doctrine of operative fact** is an exception to the general rule, such that a judicial declaration of invalidity may not necessarily obliterate all the effects and consequences of a void act prior to such declaration. xxx The actual existence of a statute, prior to such a determination of unconstitutionality, is an operative fact and may have consequences which cannot justly be ignored. The past cannot always be erased by a new judicial declaration. The effect of the subsequent ruling as to invalidity may have to be considered in various aspects, with respect to particular relations, individual and corporate, and particular conduct, private and official.² (*emphasis and underscoring supplied*)

F. Adjudicatory Powers

1. General

[W]here a power rests in judgment or discretion, so that it is of judicial nature or character, but does not involve the exercise of functions of a judge, or is conferred upon an officer other than a judicial officer, it is deemed quasi-judicial.²

[Q]uasi-judicial functions a term which applies to the action, discretion, etc., of public administrative officers or bodies, who are required to investigate facts, or ascertain the existence of facts, hold hearings, and draw conclusions from them, as a basis for their official action and to exercise discretion of a judicial nature.¹⁰

The grant of original jurisdiction on a quasi-judicial agency is not implied.

The rule is that when an administrative body or agency is conferred quasi-judicial functions, all

⁸ *Commissioner of Internal Revenue v. San Roque Power Corporation*, G.R. No. 187485, October 8, 2013

⁹ *Sandoval v. COMELEC*, 323 SCRA 403 (2000), citing 35A Words and Phrases 463

¹⁰ *Midland Insurance Corporation v. IAC*, 143 SCRA 458 (1986)

controversies relating to the subject matter pertaining to its specialization are deemed to be included within its jurisdiction. **Split jurisdiction is not favored.**

Adjudicatory	Rule-making
Resembles a judicial function in deciding cases	Resembles a legislature's enactment of statutes
Declares and enforces liabilities as they stand on present or past facts	Looks to the future and changes existing condition by a new rule
Applies to specific persons or situations	Lays down general regulations that apply to or affects classes of persons or situations
Generally requires observance of notice and hearing (due process)	Generally do not require notice and hearing for its validity

2. Classification of Adjudicatory Powers

- a. Enabling
 - o e.g.. grant or denial of permit
- b. Directing
 - o e.g. assessment, reparations
- c. Dispensing
 - o e.g. sanctions deviations
- d. Summary
 - o e.g. abatement of nuisance
- e. Equitable
 - o e.g. cease and desist orders

G. Separation of Administrative and other Powers

1. Doctrine of Separation of Powers

It obtains not through express provision but by actual division in our Constitution. Each department of the government has exclusive cognizance of matters within its jurisdiction, and is supreme within its own sphere. But it does not follow from the fact that the three powers are to be kept separate and distinct that the Constitution intended them to be absolutely unrestrained and independent of each other. The Constitution has provided for an elaborate system of checks and balances to secure coordination in the workings of the various departments of the government.¹¹

2. Doctrine of Non-Delegation of Powers

This doctrine is based on the ethical principle that such a delegated power constitutes not only a right but a duty to be performed by the delegate by the instrumentality of his own judgment acting immediately upon the matter of legislation and not through the intervening mind of another.¹²

¹¹ *Angara v. Electoral Commission*, 63 Phil. 139 (1936)

¹² *U.S. v. Barrias*, 11 Phil. 327 (1908)



EXCEPTIONS to Doctrine of Non-Delegation

- Administrative functions with certain admixture of 3 powers of government
- Delegation of tariff powers and emergency powers to the President
- Delegation to people at large (initiative)
- Delegation to local governments

REQUISITES for Valid Delegation (see p.4)

- Completeness of the statute making the delegation;
- Presence of a sufficient standard

N.B.

What can be delegated is the discretion to determine **how** the law may be enforced, not **what** the law shall be.¹³

H. Administrative Proceedings

Agency Proceeding – means an agency process with respect to rule-making, adjudication and licensing.¹⁴

1. Character of Proceedings

a. Adversary in nature

- i.e. rule in favor of one person as against the other

b. Quasi-judicial/Judicial in nature

- Taking and evaluation of evidence
- Determination of facts based upon the evidence presented
- Rendering an order or decision supported by the facts proved

c. Civil, not criminal, in nature

- Not exempt from due process requirements

d. Not an action at law

- i.e. not a litigation between parties

Jurisdiction – refers to the power to hear, try and decide case before it.

2. REQUISITES OF ADMINISTRATIVE DUE PROCESS

- Right to notice, actual or constructive

- Right to reasonable opportunity to appear personally or with the assistance of counsel
- Right to a tribunal vested with competent jurisdiction
- Right to a finding or decision by that tribunal supported by substantial evidence

Cardinal Rules: Administrative Due Process

(“Ang Tibay” ruling, also see Constitutional Law 2 reviewer)

1. Right to a hearing, which includes the right to present one’s case and submit evidence in support thereof;
2. The tribunal must consider the evidence presented;
3. The decision must have something to support itself;
4. The evidence must be “substantial”; and “substantial” evidence means such a reasonable mind would accept as adequate to support a finding or conclusion;
5. The decision must be based on the evidence presented at the hearing or at least contained in the record and disclosed to the parties affected;
6. The tribunal or body or any of its judges must act on its or his own independent consideration of the law and facts of the controversy, and not simply accept the views of a subordinate in arriving at a decision;
7. The tribunal or body shall, in all controversial questions, render its decision in such a manner that the parties to the proceeding can know the various issues involved and the reason for the decision rendered.

3. Requirement of Notice and Hearing

GENERAL RULE:

Notice and hearing may be required only in exercise of judicial and quasi-judicial function, in the observance of procedural due process.

EXCEPTION:

When due process may be served by way of giving opportunity to explain one’s side and seek reconsideration of the action or ruling complained of.¹⁵ Such right to notice and hearing may also be effectively waived by the person claiming such right.

¹³ *Eastern Shipping Lines, Inc. v. POEA, supra.*

¹⁴ Administrative Code of 1987, Book VII, Section 2[14]

¹⁵ *Pontejos v. Desierto*, G.R. No. 148600, July 7, 2009



Examples:

- issuance of preventive suspension order¹⁶
- ordering closure of a bank¹⁷
- demolition of *ruinous buildings*¹⁸ and *trees in danger of falling*¹⁹
- cancellation of passport (*Suntay case*)
- extension of stay of aliens

In certain proceedings, therefore, of all administrative character, it may be stated, without fear of contradiction, that the right to a notice and hearing are not essential to due process of law.²⁰

4. When Notice and Hearing Not Required

GENERAL RULE:

Notice and hearing are not required in the exercise of executive, administrative, legislative or quasi-legislative functions affecting the public at large and those functions ministerial in nature.

EXCEPTION:

When the exercise of legislative or quasi-legislative functions affect property rights of particular individual or group of individuals.

5. Institution of Proceedings

- Ex-parte* application (informal)
- Filing of complaint (formal)
- Motu proprio* (on agency's own initiative)

6. Res judicata

Res judicata means a matter adjudged, a thing judicially acted upon or decided; a thing or matter settled by judgment. The doctrine of *res judicata* provides that a final judgment, on the merits rendered by a court of competent jurisdiction is conclusive as to the rights of the parties and their privies and constitutes an absolute bar to subsequent actions involving the same claim, demand, or cause of action. The elements of *res judicata* are (a) identity of parties or at least such as representing the same interest in both actions; (b) identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (c) the identity in the two (2) particulars is such that any judgment which may be rendered in the other action will, regardless of which party is successful, amount to *res judicata* in the action under consideration.²¹

¹⁶ *Garcia v. Molina*, G.R. No. 157383, August 10, 2010

¹⁷ *Rural Bank of San Miguel v. Monetary Board*, G.R. No. 150886, February 16, 2007

¹⁸ New Civil Code, Art. 482

¹⁹ *Id.*, Art. 483

²⁰ *Bisschop v. Galang*, G.R. No. L-18365, May 31, 1963, citing *Cornejo v. Gabriel and Provincial Board of Rizal*, 41 Phil. 188, 192-194

²¹ *Lanuza v. Court of Appeals*, 454 SCRA 54 (2005)

N.B.

The principle of *res judicata* embraces two (2) concepts: "**bar by former judgment**" and "**conclusiveness of judgment**"²²

Bar by former judgment:

- Must be a final judgment;
- Tribunal must have jurisdiction over the subject matter and parties;
- Judgment on the merits;
- Identity of parties, subject matter and cause of action

Conclusiveness of judgment:

- Bars the litigation of particular facts or issues in another litigation between the same parties on a different claim or cause of action;
- **Under this concept, the identity of causes of action is not required but merely identity of issues**²³

7. Enforcement of Administrative Determinations

GENERAL RULE: Appeal stays execution

EXCEPTION: Execution pending appeal (when expressly provided by law)

I. Judicial Review of, or Relief Against Administrative Actions

1. Concept

Agency Action – includes the whole or parts of every agency or rule, order, license, sanctions, relief or its equivalent, or denial thereof.²⁴

GENERAL RULE:

There is no inherent right to appeal from decisions of Administrative Agencies. It is merely statutory.

EXCEPTION:

Power of judicial review when Administrative Agencies acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction

²² *Smith Bell and Co. (Phils.) v. Court of Appeals*, 197 SCRA 201 (1991)

²³ *Calalang v. Registry of Deeds*, 231 SCRA 88 (1994)

²⁴ Administrative Code of 1987, Book VII Chapter 1, Section 2(15)



(Keywords: arbitrary, despotic, whimsical, capricious)

2. Doctrine of Finality of Administrative Action

No resort to courts will be allowed unless the administrative action has been completed and there is nothing left to be done in the administrative structure. A party must not only initiate the prescribed administrative proceeding, but must pursue it to its appropriate conclusion before seeking judicial intervention.

EXCEPTIONS to Doctrine of Finality:

- Interlocutory order affecting the merits of a controversy
- To grant relief to preserve the *status quo* pending further action by the administrative agency
- When it is essential to the protection of the rights asserted from the injury threatened
- When an administrative officer assumes or act in violation of the Constitution and other laws
- Where such order is not reviewable in any other way and complainant will suffer great and obvious damage if order is carried out
- To an order in excess of power contrary to specific prohibition in the statute governing the agency and thus operating as a deprivation of a right assured by the statute

3. Doctrine of Primary Administrative Jurisdiction (doctrine of prior resort)

Where there is competence or jurisdiction vested upon an administrative body to act upon a matter, no resort to the courts may be made before such administrative body shall have acted upon the matter.

REASONS:

- Take full advantage of of administrative expertise;
- Attain uniformity of application of regulatory laws

EXCEPTION:

- Issues involving questions of law

4. Doctrine of Exhaustion of Administrative Remedies

Whenever there is an available remedy provided by law, no judicial recourse can be made until all such remedies have been availed of and exhausted.

REASONS:

- If relief is first sought from an administrative agency, resort to courts may be unnecessary
- Administrative agencies should be given a chance to correct its error
- Principle of comity and convenience
- Judicial review of administrative decisions may only be availed of in special civil actions where there is no other plain, speedy and adequate remedy in the ordinary course of law.

EXCEPTIONS:

- When by the terms of the statute authorizing the administrative agency is merely permissive
- When the issue involves pure questions of law
- Where the issue raised is the constitutionality of the statute
- Where the questions involved are purely judicial
- Where there is *estoppel* on the part of the party invoking the doctrine
- If there appears an irreparable damage or injury to be suffered by a party
- Where there is no other plain, speedy, or adequate remedy in the ordinary course of law
- Where the respondent officer acted in utter disregard of due process
- Where the insistence on its observance would result in the nullification of the claim asserted
- When there are special reasons or circumstances demanding immediate judicial intervention
- Where the amount involved is relatively small, so that to require "exhaustion" would be oppressive and unreasonable
- In land cases, where the land subject of litigation is not part of the public domain
- Possessory actions involving public lands
- Where the respondent is a Department Secretary acting as an *alter ego* of the President



- Where the administrative officer has not rendered any decision or made any final finding of any sort
- Where the plaintiff in a civil action has no administrative remedy available to him
- Where a strong public interest is involved
- Other cases by reasons of equity

Doctrine of Exhaustion	Doctrine of Primary Jurisdiction
May be invoked as a defense to a judicial review, provided administrative agency has jurisdiction	Arise where both the court and administrative agency have jurisdiction to pass on a question
Concerned on the last administrative agency having superior jurisdiction	Concerned on the first administrative agency or court having jurisdiction

5. Ripeness of Judicial Review

An aspect of the “case-or-controversy” requirement is the requisite of “ripeness.” In the United States, courts are centrally concerned with whether a case involves uncertain contingent future events that may not occur as anticipated, or indeed may not occur at all. Another concern is the evaluation of the twofold aspect of ripeness: first, the fitness of the issues for judicial decision; and second, the hardship to the parties entailed by withholding court consideration. In our jurisdiction, the issue of ripeness is generally treated in terms of actual injury to the plaintiff. Hence, a question is ripe for adjudication when the act being challenged has had a direct adverse effect on the individual challenging it.²⁵ (*emphasis supplied*)

[I]t is a prerequisite that something had then been accomplished or performed by either branch before a court may come into the picture, and the petitioner must allege the existence of an immediate or threatened injury to itself as a result of the challenged action. He must show that he has sustained or is immediately in danger of sustaining some direct injury as a result of the act complained of.²⁶

Ripeness Doctrine	Exhaustion Doctrine
Focused upon the nature of judicial process – upon the types of functions the courts should perform	Focused on relatively narrow question of whether the party should be required to pursue an administrative remedy before going to court
Applicable only to rule-making (quasi-legislative) issues	Applicable only to adjudicatory (quasi-judicial) issues

²⁵ *Lawyers Against Monopoly and Poverty (LAMP) v. Secretary of Budget and Management et al.*, G.R. No. 164987, April 24, 2012

²⁶ *Francisco, Jr. v. Hizon*, G.R. No. 166910, October 19, 2010

6. Judicial review not trial *de novo*

Judicial review of executive or administrative decisions do not import a trial *de novo* (i.e. a review of the evidence all over again).

7. Modes of judicial review

As to method

- Direct** – the subject matter of action
- Collateral** – merely incidental to the main issue

As to nature

- Statutory** – by express provision of law
- Non-statutory** – by equitable reasons (e.g., *certiorari*, *mandamus*, *prohibition*, *quo warranto*, *habeas corpus*)

8. Substantial Evidence Rule

It holds that administrative determinations are final and conclusive upon the courts and must be sustained if supported by substantial evidence upon the whole record, even if such evidence be not overwhelming or preponderant and even if other minds equally reasonable might conceivably opine or conclude otherwise, in the absence of any of the established exceptions calling for judicial review such as proof of grave abuse of discretion, fraud or error of law.

9. Hierarchy of Evidentiary Values

In the hierarchy of evidentiary values, proof beyond reasonable doubt is at the highest level, followed by clear and convincing evidence, then by preponderance of evidence, and lastly by substantial evidence, in that order.²⁷

Proof beyond reasonable doubt

Proof beyond reasonable doubt does not mean the degree of proof excluding the possibility of error and producing absolute certainty. Only moral certainty or “that degree of proof which produces conviction in an unprejudiced mind” is required.²⁸ (*underscoring supplied*)

²⁷ *Dela Cruz v. Malunao*, A.M. No. P-11-3019, March 20, 2012, citing *Manalo v. Roldan-Confessor*, G.R. No. 102358, 19 November 1992

²⁸ *People v. Angus, Jr.*, G.R. 178778, August 3, 2010



Clear and convincing evidence

This standard of proof is derived from American common law. It is less than proof beyond reasonable doubt (for criminal cases) but greater than preponderance of evidence (for civil cases). The degree of believability is higher than that of an ordinary civil case. Civil cases only require a preponderance of evidence to meet the required burden of proof.²⁹

Preponderance of evidence

It means evidence adduced by one side which is, as a whole, superior to or has greater weight or more convincing than that which it is offered in opposition to it; at bottom, it means probability of truth.³⁰ (*underscoring supplied*)

Substantial evidence

Substantial evidence is more than a mere scintilla of evidence. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, even if other minds equally reasonable might conceivably opine otherwise. xxx Hence, it is not for the reviewing court to weigh the conflicting evidence, determine the credibility of witnesses, or otherwise substitute its judgment for that of the administrative agency with respect to the sufficiency of evidence.³¹ (*underscoring supplied*)

10. Liability of Administrative Agencies and Officers

GENERAL RULE:

Administrative Agencies and Officers, including their subordinates, are immune from any suit arising from the performance of their governmental functions.

EXCEPTION:

When the performance of official functions will result in a charge or financial liability against the government.³²

Official Immunity	State Immunity
Applies to public officers and their subordinates	Applies to the state and government
Protects public officers in the performance of government functions	Purpose is to protect the sovereign from any liability
May be sued without consent, especially when sued in his personal capacity	May be sued only with its consent
A suit is against a public officer when a judgment therein would impose a personal liability against such officer	A suit is against the state when a judgment therein would impose a financial liability or obligation of the government ³³

As to liability against tort

GENERAL RULE:

State, including its political subdivisions cannot be held liable for torts.

EXCEPTION:

Provinces, cities and municipalities shall be liable for damages for the death of, or injuries suffered by, any person by reason of the defective condition of roads, streets, bridges, public buildings, and other public works under their control or supervision.³⁴

(NOTE: no longer part of outline)

ENJOY THE MIDTERM EXAMS

(September 13, 2014)

²⁹ *Tankeh v. DBP et al.*, G.R. No. 171428, November 11, 2013

³⁰ *Vitarich Corporation v. Losin*, G.R. No. 181560, November 15, 2010, citing *Jison v. Court of Appeals*

³¹ *Miro v. Vda. De Erederos et al.*, G.R. Nos. 172532, 172544, 172545, November 20, 2013

³² *Department of Health v. Phil. Pharmawealth, Inc.* 518 SCRA 240 (2006)

³³ *Syquia v. Almeda Lopez*, 84 Phil. 312 (1949)

³⁴ New Civil Code, Art. 2189