

An Analysis of Supreme Court Decisions with Economic Impact

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39 *ATENEOLJ*. 219 (1994)

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This Note contends that there have been instances wherein the Court appears to have departed from a tradition of passivity to one of actively participating in charting the course of the Philippine economy. According to it, the Court's interventionist and legitimizing roles send conflicting signals to the economic-business sector regarding governmental policies. It aims to delve into five Supreme Court decisions which have made a considerable impact on the economy, namely: *Krivenko v. Register of Deeds*, *Ichong v. Hernandez*, *Palting v. San Jose Petroleum*, *Garcia v. Board of Investments*, and *Garcia v. Executive Secretary*.

The Author first provides a background on the role of the Supreme Court in upholding the Constitution and its judicial power. He notes the nature of the Supreme Court as a passive arbiter and silent policymaker, and the fact that there is an absence of any express grant to the Court of any specific economic role. However, the Author recognizes the indirect participation of the Supreme Court in influencing policy through judicial review. The cases are discussed by providing the factual considerations under which such cases were decided. Certain principles are also discussed including the necessity of addressing constitutional issues and the political question doctrine. The Note then discusses how the Court in each of the cases justified their restraint or activism in deciding such cases.

The Author notes that the Court upheld a common policy of economic protectionism in deciding the mentioned cases along with the effects of Court's involvement in shaping economic policy. The Note concludes by saying that confusion may result. On the one hand, there is executive pronouncement on the encouragement of foreign investment. On the other hand, there is the judicial practice of staunchly promoting a nationalist, protectionist economic policy. It is also recognized that the Court lacks the economic expertise to delve into influencing economic policies. The Note recommends the adoption measures to address the problem of judicial zeal in cases involving technical economic matters.