

SECOND DIVISION

[G.R. No. 154048, November 27, 2009]

**STANFILCO EMPLOYEES AGRARIAN REFORM BENEFICIARIES
MULTI-PURPOSE COOPERATIVE, PETITIONER, VS. DOLE
PHILIPPINES, INC. (STANFILCO DIVISION), ORIBANEX
SERVICES, INC. AND SPOUSES ELLY AND MYRNA ABUJOS,
RESPONDENTS.**

D E C I S I O N

BRION, J.:

Before this Court is the petition for review on *certiorari*^[1] filed by petitioner Stanfilco Employees Agrarian Reform Beneficiaries Multi-Purpose Cooperative (SEARBEMCO). It assails:

(a) the decision^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 66148 dated November 27, 2001; and

(b) the CA's resolution^[3] of June 13, 2002 in the same case, denying SEARBEMCO's motion for reconsideration.

THE FACTUAL ANTECEDENTS

On January 29, 1998, SEARBEMCO, as seller, and respondent DOLE Philippines, Inc. (Stanfilco Division) (DOLE), as buyer, entered into a Banana Production and Purchase Agreement^[4] (BPPA). The BPPA provided that SEARBEMCO shall sell exclusively to DOLE, and the latter shall buy from the former, all Cavendish bananas of required specifications to be planted on the land owned by SEARBEMCO. The BPPA states:

The SELLER agrees to sell exclusively to the BUYER, and the BUYER agrees to buy all Cavendish Banana of the Specifications and Quality described in EXHIBIT "A" hereof produced on the SELLER'S plantation covering an area of 351.6367 hectares, more or less, and which is planted and authorized under letter of instruction no. 790 as amended on November 6, 1999 under the terms and conditions herein stipulated. The SELLER shall not increase or decrease the area(s) stated above without the prior written approval of the BUYER. However, the SELLER may reduce said area(s) provided that if the SELLER replaces the reduction by planting bananas on an equivalent area(s) elsewhere, it is agreed that such replacement area(s) shall be deemed covered by the Agreement. If the SELLER plants an area(s) in excess of said 351.6367 hectares, the parties may enter into a separate agreement regarding the production of said additional acreage. SELLER will produce banana to the maximum

capacity of the plantation, as much as practicable, consistent with good agricultural practices designed to produce banana of quality having the standards hereinafter set forth for the duration of this Banana Production and Purchase Agreement.

SEARBEMCO bound and obliged itself, *inter alia*, to do the following:

V. SPECIFIC OBLIGATIONS OF THE SELLER

x x x

p.) Sell exclusively to the BUYER all bananas produced from the subject plantation, except those rejected by the BUYER for failure to meet the specifications and conditions contained in Exhibit "A" hereof. **In the case of any such rejected bananas, the SELLER shall have the right to sell such rejected bananas to third parties, for domestic non-export consumption.** The SELLER shall only sell bananas produced from the plantation and not from any other source. [Emphasis supplied.]

Any dispute arising from or in connection with the BPPA between the parties shall be finally settled through arbitration. To quote the BPPA:

IX. ARBITRATION OF DISPUTE

All disputes arising in connection with this Agreement shall be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by three (3) Arbitrators appointed in accordance with said Rules. The Arbitration shall be held in a venue to be agreed by the parties. Judgment upon the award rendered may be entered in any Philippine Court having jurisdiction or application may be made to such court for judicial acceptance of the award and as order of enforcement, as the case may be.

On December 11, 2000, DOLE filed a complaint with the Regional Trial Court^[5] (RTC) against SEARBEMCO, the spouses Elly and Myrna Abujos (*spouses Abujos*), and Oribanex Services, Inc. (*Oribanex*) for specific performance and damages, with a prayer for the issuance of a writ of preliminary injunction and of a temporary restraining order. DOLE alleged that SEARBEMCO sold and delivered to Oribanex, through the spouses Abujos, the bananas rejected by DOLE, in violation of paragraph 5(p), Article V of the BPPA which limited the sale of rejected bananas for "domestic non-export consumption." DOLE further alleged that Oribanex is likewise an exporter of bananas and is its direct competitor.

DOLE narrated in its complaint how SEARBEMCO sold and delivered the rejected bananas to Oribanex through the spouses Abujos:

9.) That, however, on April 12, 2000 at about 5:00 o'clock in the afternoon, [DOLE] through its authorized security personnel discovered that defendant SEARBEMCO, in violation of Section 5(p) Article V of the Banana Production and Purchase Agreement, packed the bananas rejected by [DOLE] in boxes marked "CONSUL" in Packing Plant 32 in DAPCO Panabo and sold and delivered them to defendant Abujos;

10.) That about 373 "CONSUL" marked boxes were packed and knowingly sold by defendant SEARBEMCO to ORIBANEX SERVICES, INC. through defendants Abujos who carried and loaded the same on board a blue Isuzu Canter bearing plate no. LDM 976 and delivered to defendant ORIBANEX for export at the TEFASCO Wharf covered by Abujos Delivery Receipt, a copy of which is hereto attached as Annex "B";

11.) That the following day, April 13, 2000, again the same security found that defendant SEARBEMCO continued to pack the bananas rejected by plaintiff in boxes marked as "CONSUL" and, in violation of paragraph 5(p) Article V of the Banana Production and Purchase Agreement, sold and delivered them to defendant ORIBANEX SERVICES, INC., for export, through defendants Abujos;

12.) That about 648 "CONSUL" marked boxes were packed and knowingly sold by defendant SEARBEMCO to ORIBANEX SERVICES, INC., through defendants Abujos who carried and loaded the same on board a red Isuzu Forwarder, bearing plate no. LCV 918, and delivered to defendant ORIBANEX for export at the TEFASCO Wharf covered by Abujos Delivery Receipt, a copy of which is hereto attached and marked as Annex "C";

13.) That the sale of a total of 712 boxes of rejected bananas covering April 12 and 13, 2000, or any other dates prior thereto or made thereafter by defendant SEARBEMCO to defendant ORIBANEX SERVICES, INC. through defendant Abujos is in utter violation of the Agreement between plaintiff [DOLE] and defendant SEARBEMCO that SEARBEMCO may sell bananas rejected by plaintiff to parties for domestic non-export consumption only.

SEARBEMCO responded with a motion to dismiss on the grounds of lack of jurisdiction over the subject matter of the claim, lack of cause of action, failure to submit to arbitration which is a condition precedent to the filing of a complaint, and the complaint's defective verification and certification of non-forum shopping.^[6] SEARBEMCO argued that:

1) the Department of Agrarian Reform Adjudication Board (*DARAB*) has exclusive jurisdiction over the action filed by DOLE, pursuant to Sections 1 and 3(e) of Administrative Order

No. 09, Series of 1998^[7] (AO No. 9-98) and Section 5(a) and (c) of Administrative Order No. 02, Series of 1999^[8] (AO No. 2-99) of the Department of Agrarian Reform (*DAR*), since the dispute between the parties is an agrarian dispute within the exclusive competence of the *DARAB* to resolve;

2) the filing of the complaint is premature, as the dispute between DOLE and SEARBEMCO has not been referred to and resolved by arbitration, contrary to Article IX of the BPPA and Article V, Sec. 30(g)^[9] of AO No. 9-98 of the *DAR*;

3) it did not violate Section 5(p), Article V of the BPPA, since the rejected bananas were sold to the spouses Abujos who were third-party buyers

and not exporters of bananas; and

4) the complaint is fatally defective as the Board of Directors of DOLE did not approve any resolution authorizing Atty. Reynaldo Echavez to execute the requisite Verification and Certification Against Forum Shopping and, therefore, the same is fatally defective.

DOLE opposed SEARBEMCO's motion to dismiss alleging, among others, that:

1) the dispute between the parties is not an agrarian dispute within the exclusive jurisdiction of the DARAB under Republic Act No. 6657^[10] (RA No. 6657); and

2) the Arbitration Clause of the BPPA is not applicable as, aside from SEARBEMCO, DOLE impleaded other parties (*i.e.*, the spouses Abujos and Oribanex who are not parties to the BPPA) as defendants.^[11]

Subsequently, DOLE filed on February 2, 2001 an amended complaint,^[12] the amendment consisting of the Verification and Certification against forum shopping for DOLE executed by Danilo C. Quinto, DOLE's Zone Manager.

THE RTC RULING

The RTC denied SEARBEMCO's motion to dismiss in an Order dated May 16, 2001.^[13] The trial court stated that the case does not involve an agrarian conflict and is a judicial matter that it can resolve.

SEARBEMCO moved for the reconsideration of the RTC Order.^[14] The RTC denied the motion for lack of merit in its Order of July 12, 2001.^[15]

THE CA RULING

On July 26, 2001, SEARBEMCO filed a **special civil action for certiorari**^[16] with the CA alleging grave abuse of discretion on the part of the RTC for denying its motion to dismiss and the subsequent motion for reconsideration.

SEARBEMCO argued that the BPPA the parties executed is an agri-business venture agreement contemplated by DAR's AO No. 9-98. Thus, any dispute arising from the interpretation and implementation of the BPPA is an agrarian dispute within the exclusive jurisdiction of the DARAB.

In a decision dated November 27, 2001,^[17] the CA found that the RTC did not gravely abuse its discretion in denying SEARBEMCO's motion to dismiss and motion for reconsideration.

The CA ruled that "the [DAR] has no jurisdiction, under said [AO No. 9-98], over actions between [SEARBEMCO] and [DOLE] for enforcement of the said Agreement when one commits a breach thereof and for redress by way of specific performance and damages inclusive of injunctive relief."^[18] It held that the case is not an agrarian dispute within the purview of Section 3(d) of RA No. 6657,^[19] but is an action to compel SEARBEMCO to comply with its obligations under the BPPA; it

called for the application of the provisions of the Civil Code, not RA No. 6657.

The CA likewise disregarded SEARBEMCO's emphatic argument that DOLE's complaint was prematurely filed because of its failure to first resort to arbitration. The arbitration clause under the BPPA, said the CA, applies only when the parties involved are parties to the agreement; in its complaint, DOLE included the spouses Abujos and Oribanex as defendants. According to the CA, "if [DOLE] referred its dispute with [SEARBEMCO] to a Panel of Arbitrators, any judgment rendered by the latter, whether for or against [DOLE] will not be binding on the [spouses Abujos] and [Oribanex], as case law has it that only the parties to a suit, as well as their successors-in-interest, are bound by the judgment of the Court or quasi-judicial bodies."^[20]

On SEARBEMCO's argument that the Verification and Certification Against Forum Shopping under DOLE's amended complaint is defective for failure to state that this was based on "personal knowledge," the CA ruled that the omission of the word "personal" did not render the Verification and Certification defective.

SEARBEMCO moved for reconsideration of the decision, but the CA denied the motion for lack of merit in its resolution of June 13, 2002.^[21]

ASSIGNMENT OF ERRORS

In the present petition, SEARBEMCO submits that the CA erred in ruling that:

- 1.) the RTC has jurisdiction over the subject matter of the complaint of DOLE, considering that the case involves an agrarian dispute within the exclusive jurisdiction of the DARAB;
- 2.) the complaint of DOLE states a cause of action, despite the fact that SEARBEMCO has not violated any provision of the BPPA; and
- 3.) the filing of the complaint is not premature, despite DOLE's failure to submit its claim to arbitration - a condition precedent to any juridical recourse.

THE COURT'S RULING

We do not find the petition meritorious.

DOLE's complaint falls within the jurisdiction of the regular courts, not the DARAB.

SEARBEMCO mainly relies on Section 50^[22] of RA No. 6657 and the characterization of the controversy as an agrarian dispute or as an agrarian reform matter in contending that the present controversy falls within the competence of the DARAB and not of the regular courts. The BPPA, SEARBEMCO claims, is a joint venture and a production, processing and marketing agreement, as defined under Section 5 (c) (i) and (ii) of DAR AO No. 2-99;^[23] hence, any dispute arising from the BPPA is within the exclusive jurisdiction of the DARAB. SEARBEMCO also asserts that the parties' relationship in the present case is not only that of buyer and seller, but also