

## THIRD DIVISION

[ G.R. No. 166006, March 14, 2008 ]

**PLANTERS PRODUCTS, INC., Petitioner, vs. FERTIPHIL CORPORATION, Respondent.**

### DECISION

**REYES, R.T., J.:**

THE Regional Trial Courts (RTC) have the authority and jurisdiction to consider the constitutionality of statutes, executive orders, presidential decrees and other issuances. The Constitution vests that power not only in the Supreme Court but in all Regional Trial Courts.

The principle is relevant in this petition for review on *certiorari* of the Decision<sup>[1]</sup> of the Court of Appeals (CA) affirming with modification that of the RTC in Makati City, <sup>[2]</sup> finding petitioner Planters Products, Inc. (PPI) liable to private respondent Fertiphil Corporation (Fertiphil) for the levies it paid under Letter of Instruction (LOI) No. 1465.

#### The Facts

Petitioner PPI and private respondent Fertiphil are private corporations incorporated under Philippine laws.<sup>[3]</sup> They are both engaged in the importation and distribution of fertilizers, pesticides and agricultural chemicals.

On June 3, 1985, then President Ferdinand Marcos, exercising his legislative powers, issued LOI No. 1465 which provided, among others, for the imposition of a capital recovery component (CRC) on the domestic sale of all grades of fertilizers in the Philippines.<sup>[4]</sup> The LOI provides:

3. The Administrator of the Fertilizer Pesticide Authority to include in its fertilizer pricing formula a capital contribution component of not less than P10 per bag. This capital contribution shall be collected until adequate capital is raised to make PPI viable. Such capital contribution shall be applied by FPA to all domestic sales of fertilizers in the Philippines.<sup>[5]</sup> (Underscoring supplied)

Pursuant to the LOI, Fertiphil paid P10 for every bag of fertilizer it sold in the domestic market to the Fertilizer and Pesticide Authority (FPA). FPA then remitted the amount collected to the Far East Bank and Trust Company, the depository bank of PPI. Fertiphil paid P6,689,144 to FPA from July 8, 1985 to January 24, 1986.<sup>[6]</sup>

After the 1986 EDSA Revolution, FPA voluntarily stopped the imposition of the P10 levy. With the return of democracy, Fertiphil demanded from PPI a refund of the amounts it paid under LOI No. 1465, but PPI refused to accede to the demand.<sup>[7]</sup>

Fertiphil filed a complaint for collection and damages<sup>[8]</sup> against FPA and PPI with the RTC in Makati. It questioned the constitutionality of LOI No. 1465 for being unjust, unreasonable, oppressive, invalid and an unlawful imposition that amounted to a denial of due process of law.<sup>[9]</sup> Fertiphil alleged that the LOI solely favored PPI, a privately owned corporation, which used the proceeds to maintain its monopoly of the fertilizer industry.

In its Answer,<sup>[10]</sup> FPA, through the Solicitor General, countered that the issuance of LOI No. 1465 was a valid exercise of the police power of the State in ensuring the stability of the fertilizer industry in the country. It also averred that Fertiphil did not sustain any damage from the LOI because the burden imposed by the levy fell on the ultimate consumer, not the seller.

### **RTC Disposition**

On November 20, 1991, the RTC rendered judgment in favor of Fertiphil, disposing as follows:

WHEREFORE, in view of the foregoing, the Court hereby renders judgment in favor of the plaintiff and against the defendant Planters Product, Inc., ordering the latter to pay the former:

- 1) the sum of P6,698,144.00 with interest at 12% from the time of judicial demand;
- 2) the sum of P100,000 as attorney's fees;
- 3) the cost of suit.

SO ORDERED.<sup>[11]</sup>

Ruling that the imposition of the P10 CRC was an exercise of the State's inherent power of taxation, the RTC invalidated the levy for violating the basic principle that taxes can only be levied for public purpose, *viz.*:

It is apparent that the imposition of P10 per fertilizer bag sold in the country by LOI 1465 is purportedly in the exercise of the power of taxation. It is a settled principle that the power of taxation by the state is plenary. Comprehensive and supreme, the principal check upon its abuse resting in the responsibility of the members of the legislature to their constituents. However, there are two kinds of limitations on the power of taxation: the inherent limitations and the constitutional limitations.

One of the inherent limitations is that a tax may be levied only for public purposes:

The power to tax can be resorted to only for a constitutionally valid public purpose. By the same token, taxes may not be levied for purely private purposes, for building up of private fortunes, or for the redress of private wrongs. They cannot be levied for the improvement of private property, or for the

benefit, and promotion of private enterprises, except where the aid is incident to the public benefit. It is well-settled principle of constitutional law that no general tax can be levied except for the purpose of raising money which is to be expended for public use. Funds cannot be exacted under the guise of taxation to promote a purpose that is not of public interest. Without such limitation, the power to tax could be exercised or employed as an authority to destroy the economy of the people. A tax, however, is not held void on the ground of want of public interest unless the want of such interest is clear. (71 Am. Jur. pp. 371-372)

In the case at bar, the plaintiff paid the amount of P6,698,144.00 to the Fertilizer and Pesticide Authority pursuant to the P10 per bag of fertilizer sold imposition under LOI 1465 which, in turn, remitted the amount to the defendant Planters Products, Inc. thru the latter's depository bank, Far East Bank and Trust Co. Thus, by virtue of LOI 1465 the plaintiff, Fertiphil Corporation, which is a private domestic corporation, became poorer by the amount of P6,698,144.00 and the defendant, Planters Product, Inc., another private domestic corporation, became richer by the amount of P6,698,144.00.

Tested by the standards of constitutionality as set forth in the afore-quoted jurisprudence, it is quite evident that LOI 1465 insofar as it imposes the amount of P10 per fertilizer bag sold in the country and orders that the said amount should go to the defendant Planters Product, Inc. is unlawful because it violates the mandate that a tax can be levied only for a public purpose and not to benefit, aid and promote a private enterprise such as Planters Product, Inc.<sup>[12]</sup>

PPI moved for reconsideration but its motion was denied.<sup>[13]</sup> PPI then filed a notice of appeal with the RTC but it failed to pay the requisite appeal docket fee. In a separate but related proceeding, this Court<sup>[14]</sup> allowed the appeal of PPI and remanded the case to the CA for proper disposition.

### CA Decision

On November 28, 2003, the CA handed down its decision affirming with modification that of the RTC, with the following *fallo*:

IN VIEW OF ALL THE FOREGOING, the decision appealed from is hereby **AFFIRMED**, subject to the **MODIFICATION** that the award of attorney's fees is hereby **DELETED**.<sup>[15]</sup>

In affirming the RTC decision, the CA ruled that the *lis mota* of the complaint for collection was the constitutionality of LOI No. 1465, thus:

The question then is whether it was proper for the trial court to exercise its power to judicially determine the constitutionality of the subject statute in the instant case.

As a rule, where the controversy can be settled on other grounds, the

courts will not resolve the constitutionality of a law (*Lim v. Pacquing*, 240 SCRA 649 [1995]). The policy of the courts is to avoid ruling on constitutional questions and to presume that the acts of political departments are valid, absent a clear and unmistakable showing to the contrary.

However, the courts are not precluded from exercising such power when the following requisites are obtaining in a controversy before it: First, there must be before the court an actual case calling for the exercise of judicial review. Second, the question must be ripe for adjudication. Third, the person challenging the validity of the act must have standing to challenge. Fourth, the question of constitutionality must have been raised at the earliest opportunity; and lastly, the issue of constitutionality must be the very *lis mota* of the case (*Integrated Bar of the Philippines v. Zamora*, 338 SCRA 81 [2000]).

Indisputably, the present case was primarily instituted for collection and damages. However, a perusal of the complaint also reveals that the instant action is founded on the claim that the levy imposed was an unlawful and unconstitutional special assessment. Consequently, the requisite that the constitutionality of the law in question be the very *lis mota* of the case is present, making it proper for the trial court to rule on the constitutionality of LOI 1465.<sup>[16]</sup>

The CA held that even on the assumption that LOI No. 1465 was issued under the police power of the state, it is still unconstitutional because it did not promote public welfare. The CA explained:

In declaring LOI 1465 unconstitutional, the trial court held that the levy imposed under the said law was an invalid exercise of the State's power of taxation inasmuch as it violated the inherent and constitutional prescription that taxes be levied only for public purposes. It reasoned out that the amount collected under the levy was remitted to the depository bank of PPI, which the latter used to advance its private interest.

On the other hand, appellant submits that the subject statute's passage was a valid exercise of police power. In addition, it disputes the court *a quo's* findings arguing that the collections under LOI 1465 was for the benefit of Planters Foundation, Incorporated (PFI), a foundation created by law to hold in trust for millions of farmers, the stock ownership of PPI.

Of the three fundamental powers of the State, the exercise of police power has been characterized as the most essential, insistent and the least limitable of powers, extending as it does to all the great public needs. It may be exercised as long as the activity or the property sought to be regulated has some relevance to public welfare (Constitutional Law, by Isagani A. Cruz, p. 38, 1995 Edition).

Vast as the power is, however, it must be exercised within the limits set by the Constitution, which requires the concurrence of a lawful subject and a lawful method. Thus, our courts have laid down the test to determine the validity of a police measure as follows: (1) the interests of

the public generally, as distinguished from those of a particular class, requires its exercise; and (2) the means employed are reasonably necessary for the accomplishment of the purpose and not unduly oppressive upon individuals (*National Development Company v. Philippine Veterans Bank*, 192 SCRA 257 [1990]).

It is upon applying this established tests that We sustain the trial court's holding LOI 1465 unconstitutional. To be sure, ensuring the continued supply and distribution of fertilizer in the country is an undertaking imbued with public interest. However, the method by which LOI 1465 sought to achieve this is by no means a measure that will promote the public welfare. The government's commitment to support the successful rehabilitation and continued viability of PPI, a private corporation, is an unmistakable attempt to mask the subject statute's impartiality. There is no way to treat the self-interest of a favored entity, like PPI, as identical with the general interest of the country's farmers or even the Filipino people in general. Well to stress, substantive due process exacts fairness and equal protection disallows distinction where none is needed. When a statute's public purpose is spoiled by private interest, the use of police power becomes a travesty which must be struck down for being an arbitrary exercise of government power. To rule in favor of appellant would contravene the general principle that revenues derived from taxes cannot be used for purely private purposes or for the exclusive benefit of private individuals.<sup>[17]</sup>

The CA did not accept PPI's claim that the levy imposed under LOI No. 1465 was for the benefit of Planters Foundation, Inc., a foundation created to hold in trust the stock ownership of PPI. The CA stated:

Appellant next claims that the collections under LOI 1465 was for the benefit of Planters Foundation, Incorporated (PFI), a foundation created by law to hold in trust for millions of farmers, the stock ownership of PFI on the strength of Letter of Undertaking (LOU) issued by then Prime Minister Cesar Virata on April 18, 1985 and affirmed by the Secretary of Justice in an Opinion dated October 12, 1987, to wit:

"2. Upon the effective date of this Letter of Undertaking, the Republic shall cause FPA to include in its fertilizer pricing formula a capital recovery component, the proceeds of which will be used initially for the purpose of funding the unpaid portion of the outstanding capital stock of Planters presently held in trust by Planters Foundation, Inc. (Planters Foundation), which unpaid capital is estimated at approximately P206 million (subject to validation by Planters and Planters Foundation) (such unpaid portion of the outstanding capital stock of Planters being hereafter referred to as the 'Unpaid Capital'), and subsequently for such capital increases as may be required for the continuing viability of Planters.

The capital recovery component shall be in the minimum amount of P10 per bag, which will be added to the price of all