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# [ G.R. No. 175220, February 12, 2009 ]

## WILLIAM C. DAGAN, CARLOS H. REYES, NARCISO MORALES, BONIFACIO MANTILLA, CESAR AZURIN, WEITONG LIM, MA. TERESA TRINIDAD, MA. CARMELITA FLORENTINO, PETITIONERS, VS. PHILIPPINE RACING COMMISSION, MANILA JOCKEY CLUB, INC., AND PHILIPPINE RACING CLUB, INC., RESPONDENTS

## D E C I S I O N

**TINGA, J.:**

The subject of this petition for certiorari is the decision[1] of the Court of Appeals in CA- G.R. SP No. 95212, affirming *in toto* the judgment[2] of the Regional Trial Court of Makati in Civil Case No. 04-1228.

The controversy stemmed from the 11 August 2004 directive[3] issued by the Philippine Racing Commission (Philracom) directing the Manila Jockey Club, Inc. (MJCI) and Philippine Racing Club, Inc. (PRCI) to immediately come up with their respective Clubs' House Rule to address Equine Infectious Anemia (EIA) [4] problem and to rid their facilities of horses infected with EIA. Said directive was issued pursuant to Administrative Order No. 5 [5] dated 28 March 1994 by the Department of Agriculture declaring it unlawful for any person, firm or corporation to ship, drive, or transport horses from any locality or place except when accompanied by a certificate issued by the authority of the Director of the Bureau of Animal Industry (BAI).[6]

In compliance with the directive, MJCI and PRCI ordered the owners of racehorses stable in their establishments to submit the horses to blood sampling and administration of the *Coggins Test* to determine whether they are afflicted with the EIA virus. Subsequently, on 17 September 2004, Philracom issued copies of the guidelines for the monitoring and eradication of EIA.[7]

Petitioners and racehorse owners William Dagan (Dagan), Carlos Reyes, Narciso Morales, Bonifacio Montilla, Cezar Azurin, Weitong Lim, Ma. Teresa Trinidad and Ma. Carmelita Florentino refused to comply with the directive. First, they alleged that there had been no prior consultation with horse owners. Second, they claimed that neither official guidelines nor regulations had been issued relative to the taking of blood samples. And third, they asserted that no documented case of EIA had been presented to justify the undertaking.[8]

Despite resistance from petitioners, the blood testing proceeded. The horses, whose owners refused to comply were banned from the races, were removed from the actual day of race, prohibited from renewing their licenses or evicted from their

stables.

When their complaint went unheeded, the racehorse owners lodged a complaint before the Office of the President (OP) which in turn issued a directive instructing Philracom to investigate the matter.

For failure of Philracom to act upon the directive of the OP, petitioners filed a petition for injunction with application for the issuance of a temporary restraining order (TRO). In an order[9] dated 11 November 2004, the trial court issued a TRO.

Dagan refused to comply with the directives because, according to him, the same are unfair as there are no implementing rules on the banning of sick horses from races. Consequently, his horses were evicted from the stables and transferred to an isolation area. He also admitted that three of his horses had been found positive for EIA.[10]

Confronted with two issues, namely: whether there were valid grounds for the issuance of a writ of injunction and whether respondents had acted with whim and caprice in the implementation of the contested guideline, the trial court resolved both queries in the negative.

The trial court found that most racehorse owners, except for Dagan, had already subjected their racehorses to EIA testing. Their act constituted demonstrated compliance with the contested guidelines, according to the trial court. Hence, the acts sought to be enjoined had been rendered moot and academic.

With respect to the subject guidelines, the trial court upheld their validity as an exercise of police power, thus:

> The Petitioner's submission that the subject guidelines are oppressive and hence confiscatory of proprietary rights is likewise viewed by this Court to be barren of factual and legal support. The horseracing industry, needless to state, is imbued with public interest deserving of utmost concern if not constant vigilance. The Petitioners do not dispute this. It is because of this basic fact that respondents are expected to police the concerned individuals and adopt measures that will promote and protect the interests of all the stakeholders starting from the moneyed horse-owners, gawking bettors down to the lowly maintainers of the stables. This is a clear and valid exercise of police power with the respondents acting for the State. Participation in the business of horseracing is but a privilege; it is not a right And no clear acquiescence to this postulation can there be than the Petitioners' own undertaking to abide by the rules and conditions issued and imposed by the respondents as specifically shown by their contracts of lease with MCJI.[11]

Petitioners appealed to the Court of Appeals. In its Decision dated 27 October 2006, the appellate court affirmed *in toto* the decision of the trial court.

The appellate court upheld the authority of Philracom to formulate guidelines since it is vested with exclusive jurisdiction over and control of the horse- racing industry per Section 8 of Presidential Decree (P.D.) No. 8. The appellate court further pointed

out that P.D. No. 420 also endows Philracom with the power to prescribe additional rules and regulations not otherwise inconsistent with the said presidential decree[12] and to perform such duties and exercise all powers incidental or necessary to the accomplishment of its aims and objectives.[13] It similarly concluded that the petition for prohibition should be dismissed on the ground of mootness in light of evidence indicating that petitioners had already reconsidered their refusal to have their horses tested and had, in fact, subsequently requested the administration of the test to the horses.[14]

Aggrieved by the appellate court's decision, petitioners filed the instant certiorari petition[15] imputing grave abuse of discretion on the part of respondents in compelling petitioners to subject their racehorses to blood testing.

In their amended petition,[16] petitioners allege that Philracom's unsigned and undated implementing guidelines suffer from several infirmities. They maintain that the assailed guidelines do not comply with due process requirements. Petitioners insist that racehorses already in the MJCI stables were allowed to be so quartered because the individual horse owners had already complied with the Philracom regulation that horses should not bear any disease. There was neither a directive nor a rule that racehorses already lodged in the stables of the racing clubs should again be subjected to the collection of blood samples preparatory to the conduct of the EIA tests,[17] petitioners note. Thus, it came as a surprise to horse owners when told about the administration of a new *Coggins Tests* on old horses since the matter had not been taken up with them.[18] No investigation or at least a summary proceeding was conducted affording petitioners an opportunity to be heard.[19] Petitioners also aver that the assailed guidelines are *ultra vires* in that the sanctions imposed for refusing to submit to medical examination are summary eviction from the stables or arbitrary banning of participation in the races, notwithstanding the penalties prescribed in the contract of lease.[20]

In its Comment,[21] the PRCI emphasizes that it merely obeyed the terms of its franchise and abided by the rules enacted by Philracom.[22] For its part, Philracom, through the Office of the Solicitor-General (OSG), stresses that the case has become moot and academic since most of petitioners had complied with the guidelines by subjecting their race horses to EIA testing. The horses found unafflicted with the disease were eventually allowed to join the races.[23] Philracom also justified its right under the law to regulate horse racing.[24] MJCI adds that Philracom need

not delegate its rule-making power to the former since MJCI's right to formulate its internal rules is subsumed under the franchise granted to it by Congress.[25]

In their Reply,[26] petitioners raise for the first time the issue that Philracom had unconstitutionally delegated its rule-making power to PRCI and MJCI in issuing the directive for them to come up with club rules. In response to the claim that respondents had merely complied with their duties under their franchises, petitioners counter that the power granted to PRCI and MJCI under their respective franchises is limited to: (1) the construction, operation and maintenance of racetracks; (2) the establishment of branches for booking purposes; and (3) the conduct of horse races.

It appears on record that only Dagan had refused to comply with the orders of respondents. Therefore, the case subsists as regards Dagan.

Petitioners essentially assail two issuances of Philracom; namely: the Philracom directive[27] and the subsequent guidelines addressed to MJCI and PRCI.

The validity of an administrative issuance, such as the assailed guidelines, hinges on compliance with the following requisites:

1. Its promulgation must be authorized by the legislature;

2. It must be promulgated in accordance with the prescribed procedure;

3. It must be within the scope of the authority given by the legislature;

4. It must be reasonable.[28]

All the prescribed requisites are met as regards the questioned issuances. Philracom's authority is drawn from P.D. No. 420. The delegation made in the presidential decree is valid. Philracom did not exceed its authority. And the issuances are fair and reasonable.

The rule is that what has been delegated cannot be delegated, or as expressed in the Latin maxim: *potestas delegate non delegare potest*. This rule is based upon the ethical principle that such 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.[29] This rule however admits of recognized exceptions[30] such as the grant of rule-making power to administrative agencies. They have been granted by Congress with the authority to issue rules to regulate the implementation of a law entrusted to them. Delegated rule-making has become a practical necessity in modern governance due to the increasing complexity and variety of public functions. [31]

However, in every case of permissible delegation, there must be a showing that the delegation itself is valid. It is valid only if the law (a) is complete in itself, setting forth therein the policy to be executed, carried out, or implemented by the delegate; and (b) fixes a standard--the limits of which are sufficiently determinate and determinable--to which the delegate must conform in the performance of his functions. A sufficient standard is one which defines legislative policy, marks its limits, maps out its boundaries and specifies the public agency to apply it. It indicates the circumstances under which the legislative command is to be effected. [32]

P.D. No. 420 hurdles the tests of completeness and standards sufficiency.

Philracom was created for the purpose of carrying out the declared policy in Section 1 which is "to promote and direct the accelerated development and continued growth of horse racing not only in pursuance of the sports development program but also in order to insure the full exploitation of the sport as a source of revenue and employment." Furthermore, Philracom was granted exclusive jurisdiction and control

over every aspect of the conduct of horse racing, including the framing and scheduling of races, the construction and safety of race tracks, and **the security of racing**. P.D. No. 420 is already complete in itself.

Section 9 of the law fixes the standards and limitations to which Philracom must conform in the performance of its functions, to wit:

> Section 9. Specific Powers. Specifically, the Commission shall have the power:
>
> a. **To enforce all laws, decrees and executive orders relating to horse- racing** that are not expressly or implied repealed or modified by this Decree, including all such existing rules and regulations until otherwise modified or amended by the Commission;
>
> b. To prescribe additional rules and regulations not otherwise inconsistent with this Decree;
>
> c. **To register race horses, horse owners or associations or federations thereof**, and to regulate the construction of race tracks and **to grant permit for the holding of races;**
>
> d. **To issue, suspend or revoke permits and licenses** and to impose or collect fees for the issuance of such licenses and permits to persons required to obtain the same;
>
> e. To review, modify, approve or disapprove the rules and regulations issued by any person or entity concerning the conduct of horse races held by them;
>
> f. To supervise all such race meeting to assure integrity at all times. It can **order the suspension of any racing event in case of violation of any law, ordinance or rules and regulations**;
>
> g. **To prohibit the use of improper devices, drugs, stimulants or other means to enhance or diminish the speed of horse or materially harm their condition;**
>
> h. To approve the annual budget of the omission and such supplemental budgets as may be necessary;
>
> i. To appoint all personnel, including an Executive Director of the Commission, as it may be deem necessary in the exercise and performance of its powers and duties; and
>
> j. To enter into contracts involving obligations chargeable to or against the funds of the Commission. (Emphasis supplied)

Clearly, there is a proper legislative delegation of rule-making power to Philracom. Clearly too, for its part Philracom has exercised its rule-making power in a proper and reasonable manner. More specifically, its discretion to rid the facilities of MJCI and PRCI of horses afflicted with EIA is aimed at preserving the security and