

FIRST DIVISION

[G.R. NO. 163088, July 20, 2006]

**PHILIPPINE COCONUT AUTHORITY, PETITIONER, VS. PRIMEX
COCO PRODUCTS, INC., RESPONDENT.**

D E C I S I O N

CALLEJO, SR., J.:

This is a petition for review on *certiorari* of the Decision^[1] of the Court of Appeals (CA) dated October 9, 2002 in CA-G.R. SP No. 60129, and Resolution dated March 19, 2004 denying the motion for reconsideration of the said decision.

The Antecedents

On August 28, 1982, Executive Order (E.O.) No. 826 was issued by the President of the Philippines. Section 1 thereof reads:

Section 1. Prohibition. Except as herein provided, no government agency or instrumentality shall hereafter authorize, approve, or grant any permit or license for the establishment or operations of new desiccated coconut processing plants, including the importation of machinery or equipment for the purpose. *In the event of a need to establish a new plant, or expand the capacity, relocate or upgrade the efficiencies of any existing desiccated plant, the Philippine Coconut Authority may, upon proper determination of such need and evaluation of the condition relating to:*

- a. the existing market demand;
- b. the production capacity prevailing in the country or locality;
- c. the level and flow of raw materials; and
- d. other circumstances which may affect the growth or viability of the industry concerned.

may authorize or grant the application for the establishment or expansion of capacity, relocation or upgrading of efficiencies of such desiccated coconut processing plant, subject to the approval of the President.^[2]
(Emphasis supplied)

On October 28, 1987, the Philippine Coconut Authority (PCA) adopted Resolution No. 058-87 authorizing the establishment and operation of additional PCA plants in view of the increasing demand for desiccated coconuts (DCN) in the world market. The opening of new plants was made subject to implementing guidelines and approval of the President.

Primex Coco Products, Inc. (Primex, for brevity) is a domestic corporation engaged in the manufacture of desiccated coconut. On September 25, 1990, it filed an application for registration with the PCA as a new exporter/trader/manufacturer of

DCN and paid the sum of P600.00 as registration fee. However, PCA did not immediately issue the corresponding certificate of registration. This prompted Primex to file a petition for mandamus against the PCA and its then Administrator Charles Avila before the Regional Trial Court (RTC) of Lucena City, Branch 59. The case was docketed as Civil Case No. 91-39.

On August 31, 1992, the court rendered judgment in favor of Primex and ordered the PCA to act on the application. Consequently, the PCA Governing Board held a meeting on October 20, 1992 during which it adopted Resolution No. 044-92 approving the application for registration of Primex subject to its compliance with the necessary requirements and pertinent regulations of the PCA and the final approval of the President of the Philippines. The Resolution reads:

RESOLVED, that upon recommendation of Management, the grant of permit to PRIMEX COCO PRODUCTS, INC. to operate a desiccated coconut processing plant in Barrio Mangilag, Candelaria, Quezon, pursuant to Board Resolution No. 058-87 and Presidential Memorandum dated February 11, 1988, and under existing Administrative Order No. 002, Series of 1991, be and is hereby authorized and approved, subject to compliance with the necessary requirement and pertinent regulations of the Authority.

RESOLVED FINALLY, that the opening of the new desiccated coconut processing of PRIMEX COCO PRODUCTS, INC. shall be subject to the final approval of the President of the Philippines as provided under PCA Board Res. No. 058-87.^[3]

However, on November 5, 1992, seven (7) PCA processing companies belonging to the Association of Philippine Coconut Desiccators (APCD) filed with the RTC a petition for prohibition with a plea for injunctive relief to enjoin the PCA from processing and issuing a license to Primex. On November 25, 1992, the court issued a writ of preliminary injunction against the PCA. The latter complied and refrained from processing and issuing a license to Primex.^[4]

On March 24, 1993, the PCA Governing Board issued Resolution No. 018-93 entitled "Policy Declaration Deregulating the Establishment of New Coconut Processing Plants." It is provided therein that, henceforth, PCA shall no longer require any coconut oil mill, coconut oil refinery, coconut desiccator, coconut product processor/factory, coconut fiber plant or any similar coconut processing plant to apply with PCA and the latter shall no longer issue any form of license or permit as a condition prior to establishment or operation of such mills or plants. It stated further that PCA shall limit itself only to simply registering the aforementioned coconut product processors for the purpose of monitoring their volumes of production, administration of quality standards with the corresponding service fees/charges.^[5] On March 25, 1993, the PCA issued Certificate of Registration No. 014254 to Primex. In the meantime, the APCD filed a petition for certiorari and mandamus against the PCA in this Court to nullify Resolution No. 018-93 on the following grounds:

I

RESPONDENT PCA'S BOARD RESOLUTION NO. 018-93 IS NULL AND VOID FOR BEING AN UNDUE EXERCISE OF LEGISLATIVE POWER BY AN

ADMINISTRATIVE BODY.

II

ASIDE FROM BEING ULTRA-VIRES, BOARD RESOLUTION NO. 018-93 IS WITHOUT ANY BASIS, ARBITRARY, UNREASONABLE AND THEREFORE IN VIOLATION OF SUBSTANTIVE DUE PROCESS OF LAW.

III

IN PASSING BOARD RESOLUTION NO. 018-93, RESPONDENT PCA VIOLATED THE PROCEDURAL DUE PROCESS REQUIREMENT OF CONSULTATION PROVIDED IN PRESIDENTIAL DECREE NO. 1644, EXECUTIVE ORDER NO. 826 AND PCA ADMINISTRATIVE ORDER NO. 002, SERIES OF 1991.^[6]

The case was docketed as G.R. No. 110526. While the case was pending in this court, the PCA renewed the registration of Primex as a coconut product processor every year from 1994 until 1998.

On February 10, 1998, the Court rendered a decision in G.R. No. 110526 declaring PCA Board Resolution No. 018-93 and all certificates of registration issued under it null and void for having been issued in excess of the power of PCA. The *fallo* of the decision reads:

WHEREFORE, the petition is GRANTED. PCA Resolution No. 018-93 and all certificates of registration issued under it are hereby declared NULL and VOID for having been issued in excess of the power of the Philippine Coconut Authority to adopt or issue.

SO ORDERED.^[7]

The Court ruled that, by approving Resolution No. 018-93, the PCA "allow[ed] not only the indiscriminate opening of new coconut processing plants but the virtual dismantling of the regulatory infrastructure whereby, forsaking controls theretofore placed in its keeping, the PCA limit[ed] its function to the innocuous one of "monitoring" compliance by coconut millers with quality standards and volumes of production. In effect, the PCA would simply be compiling statistical data on these matters, but in case of violations of standards there would be nothing much it would do. The field would be left without an umpire who would retire to the bleachers to become a mere spectator."^[8] The Court ruled that the PCA cannot renounce its power to regulate that which has been set up by the very law creating it.

With the nullification of all certificates of registration issued by the PCA, the latter was thus impelled to call for consultations with the APCD and all the parties affected by the decision, including Primex. The PCA required them to submit their respective position papers on how to implement the Court's decision. On November 23, 1998, Primex submitted its Position Paper.

On January 18, 1999, the PCA issued Memorandum Circular No. 01, Series of 1999, providing guidelines for the issuance of provisional licenses for the registration of qualified DCN exporters/traders/manufacturers. Conformably, the PCA issued on January 27, 1999, Provisional Certificate of Registration No. 040805-99-P to Primex effective until June 30, 1999 only. On February 8, 1999, Primex moved for

reconsideration. It maintained that it was entitled to a certificate of registration for one year considering that it had been operating as an exporter/trader/manufacturer of DCN since September 28, 1990.^[9] It inquired from the PCA (1) whether the Memorandum Circular No. 01, Series of 1999 and the issuance of a provisional certificate of registration in its favor are to be taken as a resolution by the PCA of the issues regarding the implementation of the Decision in G.R. No. 110526, and (2) whether Primex falls under paragraph (a) of the said memorandum circular in which it would be entitled to renew the certificate of registration valid for the calendar year 1999.

On February 15, 1999, the PCA wrote Primex and informed the latter that Memorandum Circular No. 01, Series of 1999 and the issuance of provisional certificate of registration in its favor are equitable interim measures to enable the parties affected by the Supreme Court Decision to comply with subsisting PCA rules and regulations governing the establishment and operation of DCN plants, and that said measures were adopted after the consultation meetings conducted by PCA with the desiccators and after the submission of their position papers. On its second query, the PCA replied that the records of its registration office do not show that Primex has been issued any valid certificate of registration for 1990, nor any renewal thereof despite the alleged official receipt purportedly representing the registration fee. Primex was issued a certificate of registration only on March 25, 1993 or after the promulgation of the nullified PCA Resolution No. 018-93. The PCA requested Primex to furnish it with authenticated copies of the certificate of registration for year 1990 and the purported renewals thereof as mentioned in its letter for reconsideration.^[10]

On March 15, 1999, Primex wrote the PCA insisting that Certificate of Registration No. 014254 was not issued to it by virtue Resolution No. 018-93, which was nullified by the Supreme Court, but by virtue of the RTC decision in Civil Case No. 91-39 and PCA Resolution No. 044-92.^[11]

On June 15, 1999, Primex was prompted to file a petition for mandamus against the PCA and its Administrator Eduardo Escueta before the RTC of Quezon City. Primex alleged, *inter alia*, that it has established beyond doubt that there was a final and executory decision issued by the RTC of Lucena City, Branch 69 ordering the PCA to take action on its application for registration dated September 25, 1990, and that the said application has been approved by the PCA Governing Board on October 20, 1992, per Resolution No. 044-92. There is also no doubt that the certificate of registration was issued not by virtue of Resolution No. 018-93 which was declared null and void by the Supreme Court but by virtue of Resolution No. 044-92. PCA had absolutely no reason to issue only a provisional certificate of registration valid only for six (6) months or until June 30, 1999, since it (Primex) has been operating as DCN since September 28, 1990. As a result of the issuance of only a provisional certificate of registration, it would suffer damages in its domestic and export business of at least P5 million per month starting July 1, 1999.^[12]

Primex prayed that PCA be ordered to issue a renewal registration certificate valid *for calendar year 1999* under Section 3, paragraph (a) of Memorandum Circular No. 01, Series of 1999, *and yearly thereafter*; and, in the event of failure to issue renewal certificate for calendar year 1999 not later than June 30, 1999, that PCA be ordered to pay at least P5 million per month for damages to be sustained by it,

P500,000.00 as attorney's fees, P3,000.00 by way of litigation expenses, plus cost of suit.^[13]

Meanwhile, the PCA issued an Order dated June 18, 1999, granting the requests for reconsideration of concerned desiccated coconut plants and manufacturers including Primex.

Acting on the requests for reconsideration by concerned desiccated coconut plants and manufacturers whose provisional registrations issued pursuant to Memorandum Circular No. 01, Series of 1999 (Interim Guidelines for the Renewal of Registration Certificates for Year 1999) will expire on June 30, 1999, the said provisional registrations of the concerned DCN plants are hereby extended for another six (6) months, counted from June 30, 1999.

Except for the above extension period, the requirements for registration in accordance with the interim Guidelines shall remain in full force and effect and should, therefore, be complied with within the extended six (6) month period ending December 31, 1999.

The concerned DCN plants affected by this Order, including oil mills and other processors which were given provisional registrations may, therefore, file their corresponding application for renewal of Registration Certificates within five (5) days from receipt hereof.

For DCN plants, they shall further submit a sworn statement of the responsible officer of the said DCN plants on the status of their compliance with the provisions of the Interim Guidelines, PCA Administrative Order No. 002, Series of 1991 on Guided Deregulation, and such other issuances of the PCA pursuant thereto.

So Ordered.^[14]

In its Answer to the petition, the PCA claimed that it had already acted on the motion for reconsideration of Primex on June 18, 1999 and extended its provisional registration for another six months from June 30, 1999. It averred that the action of Primex was preventive because it insisted that PCA be ordered to renew its registration annually.^[15] The PCA maintained that Primex is not entitled to a certificate of registration as a matter of right every year under Section 1 of E.O. No. 826.^[16]

On January 18, 2000, the RTC rendered a Decision in favor of the petitioner and ordered the PCA to issue to Primex a regular certificate of registration not only for the calendar year 1999 but also annually thereafter upon its compliance with all the legal requirements for registration. The *fallo* of the decision reads:

WHEREFORE, this Court resolves to give DUE COURSE to the petition and to GRANT the same. Respondents Philippine Coconut Authority and its Administrator, Eduardo U. Escueta, are hereby ordered to issue to petitioner Primex Coco Products, Inc. a regular certificate of registration valid *for the calendar year 1999, renewable yearly thereafter* upon petitioner's compliance with all the legal requirements for registration.