

## SECOND DIVISION

[ G.R. Nos. 115786-87, February 05, 1996 ]

**PHILIPPINE PORTS AUTHORITY AND MANILA FLOATING SILO CORPORATION, PETITIONERS, VS. THE HONORABLE COURT OF APPEALS, HON. REGINO T. VERIDIANO II IN HIS CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF MANILA, BRANCH 31; MARINA PORT SERVICES, INC. (NOW ASIAN TERMINALS, INC.); HON. SERGIO D. MABUNAY, IN HIS CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF MANILA, BRANCH 24; KATIPUNAN NG MGA MANGGAGAWA SA DAUNGAN; HON. WILLIAM M. BAYHON, IN HIS CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF MANILA, BRANCH 23, AND CHAMBER OF CUSTOMS BROKERS, INC., RESPONDENTS.**

### DECISION

**ROMERO, J.:**

Presidential Decree No. 1818 was issued on January 16, 1981 in the name of public interest. It applies to "other areas of activity equally critical to the economic development effort of the nation, in order not to disrupt or hamper the pursuit of essential government projects," the provision in Presidential Decree No. 605 banning the courts from issuing preliminary injunctions in cases involving concessions, licenses and other permits issued by public administrative officials or bodies for the exploitation of natural resources. The principal provision of P.D. No. 1818 states:

"SECTION 1. No court in the Philippines shall have jurisdiction to issue any restraining order, preliminary injunction, or preliminary mandatory injunction in any case, dispute, or controversy involving an infrastructure project, or a mining, fishery, forest or other natural resource development project of the government, including among others public utilities for the transport of the goods or commodities, stevedoring and arrastre contracts, to prohibit any person or persons, entity or government official from proceeding with, or continuing the execution or implementation of any such project, or the operation of such public utility, or pursuing any lawful activity necessary for such execution, implementation or operation."<sup>[1]</sup>

Noting the "indiscriminate issuance of restraining orders and court injunctions against the National Power Corporation and other government public utility firms in gross violation of Sec. I of P.D. 1818" and the ruling in National Power Corporation v. Hon. Abraham Vera<sup>[2]</sup> vesting the "protective mantle" of said decree on the

National Power Corporation "for the higher interest of public service," on March 5, 1993, Court Administrator Ernani Cruz Paño issued Circular No. 13-93 requiring all clerks of court of the lower courts "to immediately furnish this Office copies of any restraining orders and/or writs of injunction against the National Power Corporation or other government public utility firms."

Invoking primarily these legal provisions, petitioners herein question the issuance by the Court of Appeals of a writ of preliminary injunction which, in effect, enjoins the implementation of a contract between petitioners Philippine Ports Authority (PPA) and Manila Floating Silo Corporation (MAFSICOR) for the setting up of floating bulk terminal facilities at the South Harbor of the Port of Manila. The issuance of said writ being contrary to the mandate of P. D. No. 1818, in the interest of justice, we have embarked on an in-depth review of the records of the case to determine the cause for the nonapplication of the aforequoted provisions of said decree.<sup>[3]</sup>

On June 27, 1980, PPA and Ocean Terminal Services, Inc. (OTSI) entered into a management contract<sup>[4]</sup> whereby the former granted the latter the "exclusive right to manage and operate stevedoring services at the South Harbor." OTSI and the PPA entered into a supplemental management contract on November 2, 1983 on the same services.

On March 10, 1987, PPA also granted the Marina Port Services, Inc. (MPSI) the "exclusive management and operation of arrastre and container terminal handling services in all piers, slips and wharves at the South Harbor Terminal, Port of Manila."<sup>[5]</sup>

Thereafter, Enrique C. Araneta, a principal stockholder of OTSI, sold his shares of stock therein to Harbor Facilities, Inc. (HFI) represented by its chairman, Arturo V. Rocha and Arc C. A. Terminals and Port Services, Inc. In the parties' memorandum of agreement dated March 16, 1990, as amended by the agreement of March 20, 1991,<sup>[6]</sup> they agreed that:

"11. Upon the full payment of the amount herein stipulated, the BUYERS shall have OTSI assign to the SELLER, its franchise to operate a Floating Grains Terminal at the South Harbor. In consideration for this assignment, the BUYERS shall have the option to own forty percent (40%) of the business of operating the Floating Grains Terminal. If the BUYERS do not exercise this option, the SELLER shall pay to OTSI a franchise fee in the amount of THIRTY THOUSAND PESOS (P30,000.00) a month. All stevedoring services and labor shall be exclusively provided by OTSI. The parties shall execute a more detailed agreement on this matter subsequent to the full payment herein before stipulated."<sup>[7]</sup>

It appears, however, that during this period, the PPA had allocated to three different companies, through separate contracts, the following services: (a) stevedoring, to OTSI through the aforesaid contract of June 27, 1980 and the supplemental management contract of November 2, 1983; (b) arrastre, to MPSI through the earlier mentioned contract of March 10, 1987, and (c) warehousing, to 7-R Port

Services, Inc. under a lease agreement dated January 29, 1987.<sup>[8]</sup>

On November 28, 1991, the PPA Board of Directors renewed the contract of March 10, 1987 with the MPSI for another fifteen (15) years. Section 14.01 of the contract required the MPSI to "cause integration of storage, arrastre and stevedoring services at the South Harbor." Consequently, OTSI and 7-R Port Services assigned their respective stevedoring and warehousing services to MPSI. In the deed of assignment dated January 16, 1992, duly conformed to by the PPA, OTSI described itself as the "exclusive stevedoring operator of the South Harbor" by virtue of the Management Contract of November 27, 1980.<sup>[9]</sup> A pertinent provision of the deed of assignment stated:

"1. The ASSIGNOR hereby assigns in favor of the ASSIGNEE, all of the ASSIGNORS (sic) rights, privileges, interest, and participation, including all duties and obligations, under the above-mentioned Management Contract and Supplemental Management Contract with respect to, and insofar as it applies to, the stevedoring functions at South Harbor;" (italics supplied.)

MPSI having absorbed and integrated the three services, on March 13, 1992, it entered into a contract for cargo handling services with PPA.<sup>[10]</sup> The material provisions of the contract stated:

"Section 1.02. Coverage - The CONTRACTOR shall have the duty and responsibility of providing and rendering arrastre and container terminal handling services on all cargoes discharged from or loaded unto vessels in all piers, slips and wharves at the South Harbor Terminal and stevedoring services at Berths 3 and 4 in Pier 3 and on all RORO vessels, or at such areas that the AUTHORITY may designate from time to time.

The CONTRACTOR shall likewise have the authority to provide and render stevedoring and storage services upon approval by the Board of Directors of the AUTHORITY of the DEEDS OF ASSIGNMENT by and between Ocean Terminal Services, Inc. (OTSI) and MPSI and 7-R and MPSI, copies of which are hereto attached as Annexes 'B' and 'C', respectively, which form part of this Contract.<sup>[11]</sup>

Section 2.01. Cargo Handling Services - It shall be the duty and responsibility of the CONTRACTOR to manage, operate and render the following services:

- a) Arrastre;
- b) Container terminal handling;
- c) Stevedoring;
- d) Storage Management, and

e) Other related services authorized in writing by the AUTHORITY.[12]

Section 2.02. Arrastre- Arrastre services shall refer to the receiving, handling and checking as well as the custody and delivery of conventional, breakbulk or stripped/stuffed containerized cargo over piers or wharves, in transit sheds/warehouses and open storage areas. Details of these services are those defined and enumerated in section 1.01 para d) of PPA Administrative Order No. 10-81, dated April 13, 1981, hereto attached as Annex 'D'. [13]

Section 2.03. Stevedoring- Stevedoring services means all work performed on board vessel, that is the process or act of loading and unloading cargo, stowing inside hatches, compartments and on deck or open cargo spaces on board vessel. Related services to stevedoring are the activities of rigging ship's gear, opening and closing of hatches, securing cargo stored on board by lashing, shoring and trimming. All these activities are undertaken by stevedore gangs which are headed by gang bosses and composed of winchmen, signalmen and as many number of stevedores as may be predetermined by the kinds of cargo to be handled and in some cases assisted by ship's crew. [14]

Section 2.04. Container Terminal Handling -Container terminal handling shall refer to the services of handling container discharged or loaded unto vessels. [15]

Section 2.05. Storage - refers to the storing of containers, bulk and break bulk cargoes in all storage areas at the South Harbor. [16]

Around two weeks later, or on April 2, 1992, PPA entered into a contract with petitioner MAFSICOR whereby it granted MAFSICOR the "right, privilege, responsibility and authority to provide, operate and manage floating bulk terminal facilities for bulk cargoes bound for South Harbor, Port of Manila," with the proviso that "the use or availment of such floating terminal facilities shall not be compulsory to bulk shippers, consignees or importers." MAFSICOR therein undertook to "deliver and anchor at the berth determined by the AUTHORITY the initial floating bulk terminal facility or vessel with a minimum length overall (LOA) of 700 feet and an aggregate unloading capacity of 1,000 metric tons per hour" within one year from the approval of the contract. [17]

The parties entered into the said contract "as an interim alternative service facility, pending the actual implementation of the land-based bulk handling terminal," considering that the floating bulk terminal facilities "will greatly benefit the general public and port users in terms of higher operational efficiency and lower handling costs." [18] Thus, the contract also provides as follows:

"Section 1.01. Effectivity and Term. - This Contract shall take effect upon approval by the Board of Directors of the Authority and shall remain in full force and effect for a period of five (5) years, renewable for such period as may be agreed upon by the parties and in no case beyond the

full operationalization or actual implementation of the land-based bulk terminal plant for the Port of Manila; Provided, that the effectivity of this Contract, may nonetheless be modified, suspended or terminated in accordance with the pertinent provisions hereof and in the manner herein provided. In case of pre-termination by reason of the full operationalization of the land-based terminal, the CONTRACTOR, by mutual agreement of the parties herein, may transfer its operations at such areas or ports requiring its services or facilities."

Barely four months later or on July 30, 1992, PPA and MPSI entered into an agreement wherein the former authorized the latter to construct a land-based bulk grain and compatible storage terminal in Mariveles, Bataan.<sup>[19]</sup>

Over a month thereafter or on September 8, 1992, the PPA and MAFSICOR signed a supplemental agreement<sup>[20]</sup> with the following specific provisions:

"Section 5.02. Manpower and Equipment Requirement - The CONTRACTOR undertakes to hire the stevedoring services of the authorized stevedoring contractor in South Harbor, the Ocean Terminal Services, Inc. (OTSI), who shall provide adequate manpower as may be required by the CONTRACTOR's operations. The CONTRACTOR shall utilize only qualified stevedores provided by OTSI with the proper training and experience to work or operate on board vessels. Gang composition per working hatch shall be covered under such guidelines as may be promulgated by the AUTHORITY. Further, the CONTRACTOR shall provide the specialized cargo handling equipment as the nature of the cargo and/or the technical requirements of operations may demand."

Alleging that the PPA-MAFSICOR contract is "in complete derogation of MPSI's rights under the contract of March 13, 1992 and only serves to promote chaos, instability and labor unrest in the South Harbor" and that, having invested US\$27,000,000 pursuant to said contract, it would lose 50% of its projected P40,000,000 to P45,000,000 gross revenues in wheat and soybean for July 1993 to June 1994 upon the operation of the floating grains terminal, on August 5, 1993, MPSI filed a petition against PPA and MAFSICOR for "declaratory relief, final injunction with prayer for temporary restraining order and preliminary prohibitory injunction" in the Regional Trial Court of Manila. Docketed as Civil Case No. 93-67096, the petition prayed with particularity as follows:

"WHEREFORE, in view of the foregoing, plaintiff prays that:

- 1) Immediately upon the filing, hereof, if the same be sufficient in form and substance, plaintiff prays for the issuance forthwith of a Temporary Restraining Order directing defendant (sic) to maintain the status quo and to prevent the defendant MAFSICOR from bringing in the floating bulk terminal scheduled to arrive in the South Harbor, Port of Manila in the middle of August 1993 to enjoin, prohibit and stop defendants, its