

G.R. No. L-9706

[G.R. No. L-9706. September 27, 1957]

FILIPINO BAKERS' ASSOCIATION, INC., ETC., PETITIONER, VS. HON. GREGORIO S. NARVASA, ET AL., RESPONDENTS.

D E C I S I O N

BAUTISTA ANGELO, J.:

This is a petition for *certiorari* seeking to set aside the order entered by respondent judge on September 15, 1955 denying petitioner's motion for reconsideration of a previous order of said judge and sustaining in effect the order of the court issued on February 12, 1955 holding that the Cassava Flour Law (Republic Act 657) was valid and constitutional until otherwise declared by a competent court.

Petitioner is a corporation engaged in the business of wheat flour importation since 1948 and as such is entitled to a regular allocation from the Central Bank of foreign exchange for the Importation of said commodity. On December 29, 1954, petitioner filed a petition for prohibition with preliminary Injunction in the Court of First Instance of Manila (Civil Case No. 24975) against the Price Stabilization Corporation (PRISCO), Central Bank of the Philippines, the Administrator of Economic Coordination, and the Board of Food Inspection of the Department of Health, to prohibit them from enforcing and implementing Republic Act 657, otherwise known as the Cassava Flour law, as implemented by Executive Order No. 15, series of 1954 of the President of the Philippines, Administrative Decision No. 261 of the Board of Food Inspection of the Department of Health, Administrative Order No. 918 of the PRISCO and Memorandum to Authorized Agent Banks No. 131 of the Central Bank of the Philippines. Basis of the petition is the claim that the Cassava Flour Law is oppressive, defective and unconstitutional and its enforcement would work grave injustice and irreparable Injury to petitioner. The court, then presided over by Judge Francisco E. Jose, gave due course to the petition, to which respondents filed their answer in due time. The application for injunction, was set for hearing and thereafter, the court issued an order on February 12,

1955 denying the same and holding that the law was valid and constitutional until otherwise declared by a competent court.

On June 17, 1955, Republic Act No. 1345 was approved abolishing the PRISCO and creating in its place the National Marketing Corporation, otherwise known as NAMARCO. Alleging, that under the new law (Republic Act No. 1345), the NAMARCO did not assume the power and duty of implementing the Cassava Flour Law, for said power and duty which were expressly granted to the PRISCO were excluded from the law creating the NAMARCO, and therefore, it would be an ultra vires act for the NAMARCO to continue discharging the duty and function of implementing the Cassava Flour Law, petitioner filed on August 16, 1955 an amended petition for prohibition with preliminary injunction. This amended petition alleges that, assuming the validity and constitutionality of the Cassava Flour law, the NAMARCO is powerless to implement it because the new law does not create an agency for its implementation.

In the meantime, Judge Francisco Jose went on leave, and Judge Gregorio S. Narvasa who took over deferred action on the amended petition until the return of Judge Jose, but upon urgent request of petitioner which moved for a reconsideration of the order postponing action on the amended petition, which was vigorously objected to by respondents, Judge Narvasa set the incident for hearing after which he issued, an order on September 15, 1955 stating tersely: "Respondents' opposition to petitioner's motion for reconsideration, being well-taken, is sustained, and the motion referred to denied." This is the order now subject of the present petition for *certiorari*.

This petition in effect raises the issue that Republic Act No. 1345, which abolishes the PRISCO as an agency charged with the power and duty to implement the Cassava Flour Law and creates in its place the NAMARCO, does not vest in the NAMARCO the same power and duty of implementation with the result, that, as the law now stands, there is no government agency charged with the power and duty of implementing the Cassava Flour Law.

This claim has no merit. In the first place, the legislative intent behind Republic Act No. 1345 is merely to replace the PRISCO, a purely public service corporation, with the NAMARCO, a government subsidized public corporation, which is exempt from the payment of taxes to better assure the promotion of greater participation of Filipino businessmen in the marketing business of our economy, stabilizing prices of commodities and assisting Filipino producers in the commodity support program all of which were the same

objectives of the defunct PRISCO (Annex 1). In the second place, Section 18, paragraph (b), No. 1, of said Act expressly provides that; "Any reference to the PRISCO in any existing law, or in any executive order, administrative or proclamation, of the resident shall, with respect to any duty or function assumed by the NAMARCO created in this Act, be deemed hereafter to have reference to the National Marketing Corporation (NAMARCO)." And, in the third place, this transfer of functions from PRISCO to NAMARCO can be clearly implied from several provisions of said Act which, for ready reference, we quote hereunder:

"SECTION 1. Declaration of Policy. - It is hereby declared to be the policy of Congress to assist Filipino retailers and businessmen by supplying them with merchantable goods at prices that will enable them to compete successfully in the open market so that they may greater participation system of our economy. In order to do this, it is necessary that a government corporation be created for the purpose of engaging in the activities of procurement, buying and distributions to Filipino retailers and businessmen not for the purposes of making profit but to render essential public service in order to promote the social and economic welfare of the Nation.

"SEC. 5. Special Powers. - The NAMARCO is authorized and directed:

"(a) To procure and buy commodities for distribution at reasonable prices to Filipino retailers and businessmen in order to promote their greater participation in the distribution system of the national economy;

"(b) To stabilize the prices of commodities in short supply by supplying commodities to the general public at fair prices through Filipino businessmen;"

"(c) x x x x x x x x x x

"(d) To establish and operate distribution offices and at officers and/or to enter into contract with wholesale business throughout the Philippines for the purchase and distribution of such commodities that may be deemed essential for carrying out the purposes of the

corporation authorized in this Act.

" x x x x x x x x x x

"SEC. 18. Transitory Provisions.—

(a) The NAMARCO shall retain the existing regional provincial sales organization of the Price Stabilization Corporation (PRISCO): Provided, however, That as sales and distribution methods are changed or improved any such oat lets could be eliminated: ?Provided, further, That there shall be in each provinces at least one provincial sales organization or agency.

"(b) x x x x x x x x x x

"(1) x x x x x x x x x x

"(2) The personnel, records, cash, such needed equipment, rights and contracts of the PRISCO involving real estate, fixed assets and stock in trade are hereby transferred to, vested in, and assumed by the NAMARCO and all the business concerning obligations and liabilities for the PRISCO or real estate, fixed assets, and stock, in the trade shall be liquidated, assumed and continued by the NAMARCO. x x x' (Underlining supplied).

It appearing that the provisions of Republic Act No.1345, otherwise known as the NAMARCO law, explicitly authorize the NAMARCO to continue the implementation of the Cassava Flour Law (Republic Act 657), it follows that the reference to FRISCO in Republic Act No. 657, as implemented by Executive Order No. 15, series of 1954 of the President of the Philippines, Administrative Decision No. 261 of the Board of Food Inspection of the Department of Health, Administrative Order No. 916 of the FRISCO and Memorandum to Authorized Agent banks No. 131 of the Central Bank of the Philippines which tend to implement the Cassava Flour law, shall likewise be understood as having reference to the NAMARCO as new agency charged with the power and duty of its implementation.

Having reached the foregoing conclusion, it follows that the amended petition filed by petitioner on August 16, 1955 has no legal basis. Consequently, respondent judge did not

abuse his discretion in issuing his order of September 15, 1955.

Petition is denied, with costs against petitioner.

Paras C.J., Bengzon, Padilla, Montemayor, Labrador, Concepcion, Reyes, J.B.L., Endencia, and Felix, JJ., concur.

Reyes, A., J., reserves his vote.

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