

**THE GOODYEAR TIRE AND RUBBER CO. OF THE PHILIPPINES, LTD.,
PETITIONER-APPELLANT, VS. THE HONORABLE TEOFILO REYES,
SR., IN HIS CAPACITY AS ACTING SECRETARY OF COMMERCE AND
INDUST...**

G.R. No. L-30063. July 02, 1983

Ponente: FERNANDO, C.J.

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FERNANDO, C.J.:

In this appeal by both petitioners Goodyear Tire and Rubber Co. of the Philippines and intervenor Firestone Tire and Rubber Co. of the Philippines,[1] the lower court holding that as to certain customers, "proprietary planters, persons engaged in the exploitation of natural resources," and "employees and officers of the petitioner," they are engaged in retail business, the legal question raised was set at rest by Presidential Decree No. 714[2] amending the Retail Trade Nationalization Law which took effect without presidential approval.[3] As originally worded, the term "retail business" covers "any act, occupation or calling of habitually selling direct to the general public merchandise, commodities or goods for consumption, but shall not include: (a) a manufacturer, processor, laborer or worker selling to the general public the products manufactured, processed or produced by him if his capital does not exceed five thousand pesos, or (b) a farmer or agriculturist selling the product of his farm." [4] Under the aforesaid Presidential Decree, which took effect on May 28, 1975, two more paragraphs were included. They are: "(c) a manufacturer or processor selling to the industrial and commercial users or consumers who use the products bought by them to render service to the general public and/or to produce or manufacture goods which are in turn sold to them; (d) a hotel-owner or keeper operating a restaurant irrespective of the amount of capital, provided that the restaurant is necessarily included in, or incidental to, the hotel business." [5]

Petitioner Goodyear Tire and Rubber Company of the Philippines as well as intervenor Firestone Tire and Rubber Company of the Philippines, as noted in the decision now on appeal, sold their rubber products to certain types or class of customers as follows: "(a) The Government of the Republic of the Philippines and all its instrumentalities and/or agencies, who use the Rubber Products to render essential services to the country and to the general public. (b) Public utilities, such as bus fleets, taxi fleets, jeepney fleets, freight lines, etc., and power and communications companies, who use Rubber Products to render essential services to third parties and the general public for compensation. (c) Agricultural enterprises, proprietary planters, agricultural processing plants, and agricultural cooperatives, who use the Rubber Products to perform essential services to third parties and to the general public for valuable consideration and profit. (d) Logging, mining, and other entities and persons engaged in the exploitation of natural resources. (e) Automotive assembly plants, who buy the Rubber Products in bulk for use in the assembly of automotive equipment, and who resell the same to third parties and to the general public without alteration or change at a profit as the assembled automotive equipment and vehicles are sold. (f) Industrial and Commercial enterprises, engaged in manufacturing and sales of prime and essential commodities to third parties and the general public for a profit, who buy the Rubber Products for use in their manufacturing and sales operations. (g) Employees and officers of the petitioner-intervenor." [6]

To repeat as to the above-named customers, the court a quo held that petitioner and intervenor were not exempt from the provisions of Republic Act No. 1180, although ruling in their favor insofar as the other customers were concerned, thus making permanent the preliminary injunction issued. Respondent Acting Secretary of Commerce and Industry likewise appealed.

As the facts in *Goodrich* are not dissimilar both as to the nature of the business and the customers, a similar conclusion is indicated. This Court in that decision categorically stated: "It is clear from the above that proprietary planters and persons engaged in the exploration of natural resources are included within the aforesaid amendment. The lower court decision, however, is in accordance with law insofar as employees and officers of petitioner are concerned. As thus modified, the decision calls for affirmance."^[7] We do so again.

WHEREFORE, the lower court decision is affirmed declaring that petitioner and intervenor are not engaged in retail business within the purview of Section 4 of Republic Act No. 1180 and Presidential Decree No. 714, except as to its sales to its employees and officers. The injunction issued is likewise made permanent but subject to the above qualification. No costs.

Teehankee, Aquino, Concepcion Jr., Guerrero, Abad Santos, Plana, Escolin, Relova and Gutierrez, Jr., JJ., concur. Makasiar, J., took no part.

Melencio-Herrera and Vasquez, JJ., are on official leave.

De Castro, J., is on sick leave.

[1] Respondent was the then Acting Secretary of Commerce and Industry Teofilo Reyes, Sr.

[2] (1975).

[3] Republic Act No. 1180 (1954).

[4] *Ibid*, Section 4.

[5] Presidential Decree No. 714, Section 4, pars. (c) and (d).

[6] Decision, Joint Record on Appeal, 213-214.

[7] *B.F. Goodrich Phils., Inc. v. Reyes, Sr.*, L-30067, April 10, 1983.

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