

HI CEMENT CORPORATION, PETITIONER, VS. PRICE CONTROL COUNCIL, THE SECRETARY OF COMMERCE AND INDUSTRY, THE SECRETARY OF AGRICULTURE AND NATURAL RESOURCES, THE SECRETARY OF HEALTH...

G.R. No. L-34082. April 27, 1972

Ponente: FERNANDO, J.

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FERNANDO, J.:

In this petition for prohibition filed on September 22, 1971, challenging the legality of the controlled price set by the principal respondent, the Price Control Council as well as the constitutionality of the Price Control Act,[1] the grounds are set forth as follows: "1. The aforementioned 'controlled price' was established and subsequently extended without affording Petitioner and other cement manufacturers a chance to be heard; is therefore in violation of 'procedural due process of law' and in contravention of the express provision of Republic Act No. 6124 itself; and is, hence, void and unenforceable; 2. Granting arguendo that the said 'controlled price' for cement was valid, the same is not embraced in the retrospective provision of the new Price Control Law, RA No. 6361, which extends the period of effectivity of the 'maximum prices * * * established by the Price Control Council under Republic Act No. 6124 and enforced as of June 30, 1971'; because said retrospective provision contemplates and embraces only those 'maximum prices' which were established by the defunct PCC for an indefinite period, and which lapsed only with the lapse of the law itself; but it does not contemplate nor embrace the case of cement, where the defunct PCC explicitly ordered that its controlled 'maximum price' was to last only until June 30, 1971; 3. On the other hand, if said 'controlled price' of cement is deemed embraced by the said retrospective provision of the new Price Control Law, then said provision constitutes an invalid assumption by Congress of quasi-judicial functions, because it extends, in effect, the 'controlled price' for cement beyond the period explicitly specified and delimited by the defunct Price Control Council; 4. The said retrospective provision of the new Price Control Law was enacted by Congress without affording Petitioner and other parties concerned a chance to be heard; said provision having been introduced as a mere 'amendment from the floor' which was presented and voted upon in just one day; 5. The membership of the Price Control Council under the new Law, RA No. 6361, is 'discriminatory' and violative of 'equal protection of the laws,' because while there are 'three representatives of consumers, 'there's no representative of producers; 6. The new Price Control Law, R.A. No. 6361, which is 'punitive' in nature, has not yet been duly published in the Official Gazette; and, hence, not yet enforceable; 7. The new Price Control Council has not yet been duly constituted, for not even one of the 'three representatives of consumers' has as yet been appointed; and, therefore, said council may not yet act officially, as a body; and 8. The aforementioned 'controlled price' is oppressive and confiscatory, and violative of 'substantial due process of law,' because it is much lower than Petitioner's 'production cost,' and the average 'production cost' of all cement manufacturers." [2]

In view of the serious due process questions raised, both in its substantive as well as procedural aspects, not to mention the alleged infringement of the equal protection guarantee, this Court on January 11, 1972 issued the

following resolution: "The respondents are hereby required to file an answer to the petition for prohibition with restraining order and/or preliminary injunction, within ten (10) days from notice hereof, and not to move to dismiss the petition." [3]

It was not until March 16, 1972 that an answer was filed on behalf of all the respondents. It set up the special defenses of non-exhaustion of administrative remedies, failure to state a cause of action, and the absence of any unconstitutional taint in the new Price Control Act.

One day before the petition was set for hearing, on April 6, 1972, the following manifestation was filed by petitioner: "1. The principal basis of the petition in the present case is the legal issue regarding the validity and enforceability of the 'maximum manufacturer's price of Portland cement, ex-plant, at P4.30 per bag', which was set by the defunct Price Control Council, under Rep. Act No. 6124; 2. The petitioner questioned the right and authority of the present Price Control Council to continue enforcing said manufacturer's price of P4.30 per bag, on the following grounds: - (a) Said price was set, as of June 30, 1971 in violation of procedural due process, because the extension of its effectivity up to June 30, 1971 was the result of a series of five (5) consecutive 'extensions' which were ordered by the defunct Price Control Council *motu proprio* 'in executive meetings', without giving notice to any of the cement manufacturers and without affording the latter a chance to be heard * * * notwithstanding a letter of protest by the 'Cement Association of the Philippines' and an injunction order' issued by Judge Hilarion U. Jarencio of the Court of First Instance of Manila; (b) The aforementioned manufacturer's price of P4.30 per bag was explicitly set until June 30, 1971 only, as per the fifth extension issued *motu proprio* by the defunct Price Control Council; and, therefore, said price is not embraced by the 'rollback provision' of the new Price Control Law, R.A. 6361. The main thrust of petitioner's argument is that, after June 30, 1971, there was no longer any controlled price of cement; and that it became incumbent upon the new Price Control Council to set a new controlled price, if it so desires; 3. On February 23, 1972, the Price Control Council did set a new 'producer's price' for cement, to wit, P4.75 per bag, ex-plant, nationwide; 4. This recent action by the Price Control Council radically changed the factual aspect of the present case, and has removed the basis of petitioner's legal contention; 5. However, the order of the Price Control Council setting the producer's price of cement at P4.75 per bag constitutes an implied but eloquent admission of the substantial validity of petitioner's contention that the price of P4.30 per bag was not a fair controlled price; 6. Petitioner is inclined to believe that the filing of the present petition is not in vain, if but for the probability that the present case helped in hastening the setting by the Price Control Council of a new controlled price for cement; 7. Petitioner hereby manifests that it does not consider the new controlled price of P4.75 per bag as a fair controlled price; and petitioner, together with other cement companies, will pursue the necessary steps to secure a really fair treatment from the government. However, the arena of legal action is no longer the present case, but the case before the Price Control Council, with all the concomitant legal remedies afforded therein." [4]

There was this petitory part: " * * * [P]etitioner hereby manifests that it is no longer interested in pursuing the present petition, but will seek remedies in some other fields of legal action."

WHEREFORE, as thus prayed for, this petition is dismissed without pronouncement as to costs.

Reyes, J.B.L., Acting C.J., Makalintal, Zaldivar, Castro, Teehankee, Barredo, and Makasiar, JJ., concur.

Antonio, J., took no part.

Concepcion, C.J., on official leave.

[1] Rep. Act No. 6361 (1971).

[2] Petition, pp. 2-3.

[3] Resolution dated January 11, 1972.

[4] Manifestation, pp. 1-2.

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