

**BLUE BAR COCONUT PHILIPPINES; CAGAYAN DE ORO OIL CO;
CENTRAL VEGETABLE OIL MANUFACTURING CO.; COCONUT OIL
MANUFACTURING (PHIL.) INC.; GRANEXPORT CORPORATION;
IMPERIAL VEGETABLE ...**

G.R. No. L-47051. July 29, 1988

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a petition for certiorari, prohibition and mandamus with preliminary mandatory injunction to annul certain actions of respondents, the then Acting Chairman of the Commission on Audit and the Auditor of the Philippine Coconut Authority (PCA); to prevent them from doing specified acts and to compel them to allow the payment by the PCA of the petitioners' subsidy claims.

On June 30, 1973, the then President of the Philippines issued Presidential Decree No. 232 creating a Philippine Coconut Authority, with a governing board of eleven members, which was later reduced to nine by Presidential Decree No. 271 and finally to only seven by Presidential Decree No. 623.

On August 20, 1973, the President issued Presidential Decree No. 276 establishing a coconut stabilization fund. Under this decree, the Philippine Coconut Authority, in addition to its powers granted under Presidential Decree No. 232, was authorized to formulate and immediately implement a stabilization scheme for coconut-based consumer goods, along the following general guidelines:

"a) A levy, initially, of P15.00 per 100 kilograms of copra rescada or its equivalent in other coconut products, shall be imposed on every first sale, in accordance with the mechanics established under R.A. 6260, effective at the start of business hours on August 10, 1973.

"The proceeds from the levy shall be deposited with the Philippine National Bank or any other government bank to the account of the Coconut Consumers Stabilization Fund, as a separate trust fund which shall not form part of the general fund of the government.

"b) The Fund shall be utilized to subsidize the sale of coconut based products at prices set by the Price Control Council, under rules and regulations to be promulgated by the Philippine Consumers Stabilization Committee." (Section 1, subparagraphs a and b, P.D. 276).

Section 1 of the Rules and Regulations governing the collection and disposition of the Coconut Consumers Stabilization Fund (CCSF) promulgated by the Coconut Consumer Stabilization Committee provides that the collection of levy in every first sale of copra rescada or its equivalent in terms of whole nuts shall take effect on August 10, 1973. Section 2 of the Rules also states:

"Start of Collection. -- Starting Monday, August 20, 1973, all copra exporters, oil millers and desiccators (hereinafter referred to as end-users) shall remit the collection of the levy to the Committee on the basis of their receipt of delivery starting August 10, 1973 up to and including Friday, August 17, 1973. Every Monday

there-after, the end-user shall remit to the Committee all collections on their weekly receipt of deliveries from Saturday through Friday. x x x.

"Further, that contracts entered into on or before August 9, 1973 shall not be subject to levy; provided, however, that balances undelivered to warehouses by September 10, 1973, and balances undelivered shipside by September 30, 1973 of such contracts shall be subject to the levy (Annex "A" of petition)." (pp. 484-485, Rollo)

The petitioners are all end-users and as such, are levy-collectors and remitters.

On January 8, 1975, the Governing Board of the PCA issued Resolution No. 01-75 which reduced the rate of levy from P70.00 to P40.00 per 100 kilograms of copra and P110.00 to P70.00 per metric ton of husked nuts. The resolution was effective January 11, 1975.

In the meantime, on December 26, 1974, the President issued Presidential Decree No. 623 further amending Presidential Decree No. 232, as amended, by reducing the number and changing the composition of the PCA Governing Board to seven (7) members only.

On January 29, 1975, the same Governing Board of the PCA which issued the January 8, 1975 Resolution No. 01-75 issued Resolution No. 018-75 which deferred collection of the CCSF levies from the desiccated coconut industry for a period not exceeding six (6) months.

The reduced Governing Board of the PCA, constituted under PD No. 623, qualified only on February 26, 1975.

Sometime in 1976, the respondent Acting Chairman of the Commission on Audit initiated a special audit of coconut end-user companies, which include herein petitioners, with respect to their Coconut Consumers Stabilization Fund levy collections and the subsidies they had received. As a result of the initial findings of the Performance Audit Office with respect only to the petitioners, respondent Acting COA Chairman directed the Chairman, the Administrator, and the Military Supervisor of PCA and the Manager of the Coconut Consumers Stabilization Fund, in various letters to them (Annexes G-2, H, I, J, L and N of petition) to collect the short levies and overpaid subsidies, and to apply subsidy claims to the settlement of short levies should the petitioners fail to remit the amount due.

Reacting to published reports in the issue of Bulletin Today dated March 5, 1977 regarding the above findings of the respondent COA Chairman, the petitioners, as members of the Coconut Oil Refiners Association, Inc., and other allied associations, wrote on March 8, 1977 a letter to the said Chairman requesting reconsideration of his action. The petitioners alleged that the supposed overpayments and/or deficiencies in their remittances were due to the Chairman's refusal to recognize the validity of the resolution passed in January 1975 by the then Governing Board of the PCA.

A follow-up letter contesting the bases for the COA findings was sent by the petitioners to the respondent COA Chairman on April 14, 1977.

On March 11, 1977, PCA Administrator Luis R. Baltazar wrote the petitioners' counsel informing him that the management of the PCA was willing to pay the disputed subsidy claims provided they are approved by the representative of the Commission on Audit, herein respondent PCA Auditor.

The respondent PCA Auditor, however, refused to act on the matter on the ground that the petitioners' counsel had already written the respondent Acting COA Chairman.

On April 4, 1977, the petitioners' counsel wrote respondent COA Chairman a letter stating their arguments regarding the disputed subsidy claims.

On May 9, 1977, the petitioners' counsel wrote the respondent COA Chairman requesting early action on their March 8, 1977 letter of reconsideration.

On July 15, 1977, the Chairman of the COA Issue Committee composed of the Philippine Coconut Oil Producers Association, Inc. (PCOPA), Coconut Oil Refiners Association (CORA), Association of Philippine Coconut Desiccators (APCD), and Soap Detergent Association of the Philippines (SDAP) wrote a letter to PCA Administrator Luis Baltazar requesting him to make representations with the COA to release the disputed subsidy payments "pending resolution of the assessments" and proposing that they be allowed to put up an appropriate bond equivalent to the amounts withheld. Baltazar indorsed the letter to the respondent COA Chairman.

On August 24, 1977, the COA Chairman wrote PCA Administrator Baltazar that the COA had no objection to the release of the subsidy payments pending final resolution of the issues involved in the claims provided that the end-users posted a bond equal to the aggregate amount of the disputed claims, issued by a surety company mutually acceptable to the COA and PCA and certified to be in good standing by the Insurance Commission.

On September 5, 1977, the COA Chairman again wrote the PCA Administrator. In his letter, the COA Chairman enumerated the following conditions under which the bonds to be posted by the coconut end-users companies would be accepted:

"a.

That what will be covered by the bond shall pertain to the short levy relating to 'ultra vires' - 'void ab initio' - issue only. Deficiencies based on other reasons shall be settled immediately by direct payment to CCSF or applying what has been withheld, if any.

"b.

That the amount of the bond shall be equivalent to the total short levy (not merely on the amounts withheld).

"c.

That the bond shall be issued by a surety company of good standing duly certified by the Insurance Commissioner and acceptable to both the PCA and the COA.

"d.

That the bond shall have no expiry date but will be contingent upon the final decision of the issue by the President of the Philippines.

"e.

That it shall be a condition in the bond that if the decision of the President is adverse to the coconut end-user companies, they shall unconditionally agree as principals to pay in cash immediately the full amount of short levy.

"f.

That what has already been with-held as of July 13, 1977 and applied to the short levy shall not be refunded, the filing and approval of bond notwithstanding." (p. 34, Rollo)

A copy of the letter was sent to the United Coconut Association of the Philippines.

On September 20, 1977, the petitioners through the Chairman (COA Issue Committee, SDAP/CORA/APCD/PCOPA) wrote the PCA Administrator informing him that in a meeting of all those concerned, "it was the consensus that the terms and conditions set by Acting Chairman Tantuico are unacceptable."

On the ground that their letter request for reconsideration dated March 8, 1977 was deemed denied by the September 5, 1977 letter of the COA Chairman to PCA Administrator Baltazar, the petitioners instituted the instant petition for certiorari, prohibition and mandamus with preliminary injunction.

The petitioners contend that the respondents, COA Acting Chairman Francisco Tantuico, Jr., and PCA Auditor have absolutely no jurisdiction to --

"1. Assess the CCSF levy against petitioners and to make them personally liable for the payment thereof;

"2. Cause the withholding of the payments of petitioners' subsidy reimbursement claims;

"3. Set-off petitioners' subsidy reimbursement payments against alleged CCSF levy remittance shortages;

"4. Institute a retention scheme of subsidy reimbursement claims which adversely affect even companies not subject to levy;

"5. Audit private corporations like petitioners;

"6. Deny to the petitioners, in effect, their constitutional right to appeal to the Supreme Court an adverse decision of the Commission on Audit." (p. 41, Rollo)

In a resolution dated August 2, 1978, the case was endorsed to the Court en banc which set the case for hearing. However, before the actual hearing could be held, the Solicitor General filed a motion to cancel hearing and suspend proceedings, stating:

"This case is set for hearing on November 21, 1978 at 3:00 o'clock in the afternoon.

"The principal issue in this case is whether or not the two resolutions of the Philippine Coconut Authority (Resolutions Nos. 01-75 and 018-75) issued by its governing board after December 26, 1974 when Presidential Decree No. 623 was promulgated but before February 26, 1975 when the PCA Board was formally reorganized under PD 623, are null and void, which issue is dependent on the intent behind said Decree.

"The Solicitor General has consulted the President of the Philippines on the intent behind Presidential Decree No. 623, which he has conveyed to the Commission on Audit, on the basis of which the Commission on Audit is now reviewing the matter.

"The undersigned counsel are therefore constrained to move, as they hereby move, that action on the instant

proceedings be suspended or held in abeyance until the COA shall have acted on the matter, which action the undersigned counsel will bring to the Court's attention as soon as received, to aid the Court in the resolution of this case." (pp. 345-346, Rollo).

The motion was granted. The petitioners had no objection but manifested that considering the length of time that this case has been pending, the COA should be required to set and finish reviewing the matter within a reasonable period of time.

Thereafter, the Solicitor General filed a motion praying that the matter in issue be remanded to the Commission on Audit for appropriate action consistent with the intent behind PD No. 623 based on the following ground:

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"After having been apprised by undersigned counsel that it was not the intention of the President of the Philippines by the issuance of said P.D. No. 623 to abolish the Governing Board of the Philippine Coconut Authority (PCA) as originally consti-tuted but merely to reorganize it by including in its composition the required management and financial expertise, and neither was it the intention to paralyze the conduct of PCA's business and operations by rendering it without a Governing Board in the interim period, from the effectivity of said P.D. No. 623 on December 26, 1974, until the formal organization on February 26, 1975 of the Board, as reconstituted under said P.D. No. 623, the respondent Acting Chairman of the Commission on Audit informed undersigned counsel that the Commission was reconsidering its earlier stand on the matter and that it would take appropriate action in the premises consistent with its reconsidered position." (pp. 357-358, Rollo).

After considering the aforesaid motion and the petitioners' comment that "instead of the case being remanded to the Commission on Audit, the respondents just be given leave to take the 'appropriate action,' consistent with the Presidential intent in enacting P.D. No. 623, they contemplate to do, and after the appropriate action will have been taken by respondents, the parties shall submit to this Court the appropriate motion and manifestation," as well as the reply of the respondents, we resolved to grant the motion. We directed the Commission on Audit to review the matters raised in this case, to take appropriate action in the premises, and, thereafter, to submit the appropriate action taken to the Court within thirty (30) days from notice of resolution.

The Solicitor General then filed a manifestation to the effect that:

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"2. In a Memorandum dated May 7, 1979, respondent Acting Chairman of the Commission on Audit, thru the Commission's General Counsel, directed the Corporate Auditor of the Philippine Coconut Authority 'to release the amount withheld from the subsidy claims of coconut end-user companies for their short levy deficiencies as affected by the two resolutions in question,' copy of which memorandum said respondent also furnished the Administrator of the Authority under a letter to him dated May 14, 1979.

"3. The PCA Administrator had already ordered the department concerned to prepare the necessary vouchers. For his part, the Auditor-in-Charge of the PCA informed the undersigned counsel that his office 'would process claims for the release of subsidy payments withheld' but that as of yesterday, May 31, 1979 'none has been submitted for audit.' He has, moreover, requested the proper officials of the COA Central Office to file specimen signature cards with the PCA depository, United Coconut Planters Bank, since he anticipates that the claims checks would, in some cases, be beyond the counter-signing authority of the Resident Auditor." (pp. 374-375, Rollo).

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The Solicitor General filed another manifestation that the petitioners have already started refiling their claims and that about 50% of them had been/or are being processed by the Corporate Auditor's Office.

Because of the foregoing, the Solicitor General filed a motion to dismiss the petition giving two (2) grounds: (1) the primary issue respecting the validity of the resolutions Nos. 01-75 and 018-75 issued by the Governing Board of the Philippine Coconut Authority is now moot and academic; and (2) the incidental issues are factual in nature, the resolution of which requires presentation of evidence, and petitioners may file appropriate pleadings with the Commission on Audit where they may adduce evidence relevant to the issues. The Solicitor General manifested that on the basis of present evidence, or lack of it, the respondent COA Chairman is not in a position to change his stand on the incidental issues.

It is to be noted that the petitioners opposed the motion to dismiss which was filed on the ground "that there are no factual issues left. The remaining issues all revolve on the question -- After the Philippine Coconut Authority -- the authority vested by law to implement the stabilization scheme for the coconut industry under P.D. 276, which includes the collection of the levy to support the Stabilization Fund - had acted, can the Commission on Audit say that the rules and decisions of the PCA are erroneous and nullify them, to the prejudice of petitioners who obediently complied with said rules and decisions?"

The above issue was raised when the respondent COA Chairman disregarded the two resolutions (Resolution Nos. 01-75 and 018-75) of the PCA Governing Board on the ground that the latter had no more authority to issue such resolutions because of P.D. 623 which reduced the composition of the Governing Board. The respondent COA Chairman contended that the questioned resolutions were ultra vires, hence cannot be enforced. It was actually the refusal of the COA Chairman to recognize the two questioned resolutions which led to the filing of this petition.

In short, whether or not the respondent COA Chairman was correct in disregarding the two resolutions of the PCA Governing Board for being ultra vires is the main issue in this petition. This issue became academic when the then President of the Philippines informed the Solicitor General that the Governing Board of the PCA would continue to function until the formal organization of the new Governing Board. Following this ruling, the respondent COA Chairman reconsidered his earlier stand and allowed the petitioners to get their subsidy claims which he had earlier refused. In effect, the respondent COA Chairman eventually acknowledged the validity of the two questioned PCA resolutions.

The issue, therefore, on whether or not the respondent COA Chairman may disregard the PCA rules and decisions has become moot.

In their Comment to the motion of the Solicitor General praying that the matter in issue be remanded to the Commission on Audit for appropriate action consistent with the aforementioned Presidential intent behind P.D. 623, and in their Memorandum, the petitioners listed the other issues involved in the petition as follows:

"Whether or not the respondent Acting Chairman and respondent PCA Auditor acted without jurisdiction and/or with grave abuse of discretion when they imposed the Coconut Consumers Stabilization Fund (CCFS) levy on oral contracts which the PCA itself, the government agency implementing P.D. 276, considered as exempt because they were perfected prior to the levy;

"Whether or not the respondents acted without jurisdiction and/or grave abuse of discretion in that they applied and continued to apply the CCFS levy rate prevailing at the time of delivery, and refused to apply the rate prevailing at the time of the perfection of the contract, as decided by PCA;

"Whether or not the respondents acted without jurisdiction and/or with grave abuse of discretion when they imposed the CCFS levy on a delivery under an exempt contract just because such delivery was slightly delayed, whereas the PCA did not impose the levy under the circumstances in view of force majeure situation;

"Whether or not the respondent Acting Chairman acted with lack of jurisdiction and/or with grave abuse of discretion in disallowing the moisture content deduction on the ground that the moisture meter used by one of

the petitioners was not certified and in thus imposing the CCFS levy on such disallowed deduction, whereas the PCA allowed the moisture content deduction and did not impose the levy on the ground that the transaction was not the one contemplated in R.A. 1365, where a registered moisture meter is to be used;

"Whether or not the respondent Acting Chairman acted without jurisdiction and/or grave abuse of discretion when he declared that there were subsidy overpayments:

"a)

On deliveries beyond the allocation period, whereas delivery on these sales was authorized by the PCA Military Supervisor, which authorization was approved by the Coconut Consumers Stabilization Committee, such delivery beyond the allocation period being the practice; and because he insists that the settlement price should be based on open market prices in all coconut trading areas, whereas the Price Settlement Committee constituted by PCA, which is charged with the function of determining the settlement price, determines the settlement price by considering the price in Metro Manila only, said practice having been adopted for reasons of convenience and necessity; otherwise the PCA has to check the prices all over the Philippines." (pp. 360-362, Rollo)

Undoubtedly, the issues raised involve both factual and legal considerations aside from requiring specialized and technical knowledge.

As the Solicitor General observed:

"Not all the issues raised in the petition are purely legal. Thus, petitioners contend:

"1.

That respondents acted arbitrarily when they withheld 20% of subsidy reimbursement claims of petitioners Liberty Oil Factory and Pacific Oil Products, Inc., since said petitioners were allegedly only refiners, and therefore, not levy-remitters. The matter of whether or not said petitioners were only refiners is a question of fact.

"2.

That respondents acted without jurisdiction and/or with grave abuse of discretion when they imposed levy on alleged oral contracts which are exempt because the same were allegedly perfected prior to the imposition of levy (pp. 60-61 of petition). Respondent COA Acting Chairman (thru his Audit Team) did not believe that there were such oral contracts at all on or before August 9, 1973 on the sole basis of a purported certification of the Manager of petitioner Royal Manufacturing Company, Inc., as to the existence of the alleged oral contracts (pp. 6-7 of Annex G-2 of petition). Whether or not such alleged oral contracts really existed is a question of fact that was likewise raised in petitioners' motion for reconsideration which should first be finally resolved by respondents.

"3.

That respondents acted without jurisdiction and/or grave abuse of discretion when they imposed levy on a delivery under an alleged exempt contract, 'just because such delivery was slightly delayed' allegedly due to 'force majeure' (pp. 68-69 of petition). Whether or not the delay was really caused by 'force majeure' presents a factual issue.

4.

That respondents acted without jurisdiction when they ruled that the settlement price of copra in some provinces or places exceeds the open market price, which situation resulted in the overpayment of subsidy to petitioners (pp. 74-75, id.) Petitioners further contend that respondent COA Acting Chairman has no authority to substitute his judgment on the settlement price since that is allegedly the sole prerogative of the Price Settlement Committee constituted by PCA (pp. 74-75, id.) But if this contention of petitioners is not upheld by this Honorable Court, can this Honorable Court completely resolve the matter raised when there is no fact admitted by the petitioners as to whether the settlement price of copra indeed exceeded the open market price of the same and by how much?" (pp. 490-491, Rollo)

It is readily apparent that we cannot resolve these issues on the basis of what appears in this petition. There must be substantial evidence on record from where the Court's conclusions may be drawn. As pointed out by the Solicitor General, there are no established facts presented which are intimately related to the legal issues raised by the petitioners. The well-settled principle is that this Court is not a trier of facts. "Its sole role is to apply the law based on the findings of facts brought before it." (*Aspacio v. Hon. Amado G. Inciong, et al.* G. R. No. L-49893, May 9, 1988)

The petitioners also question the respondents' authority to audit them. They contend that they are outside the ambit of respondents' "audit" power which is confined to government-owned or controlled corporations. This argument has no merit. Section 2 (1) of Article IX-D of the Constitution provides that "The Commission on Audit shall have the power, authority and duty to examine, audit, and settle all accounts pertaining to the revenues and receipts of, and expenditures or uses of funds and property, owned or held in trust by or pertaining to, the Government, or any of its subdivisions, agencies or instrumentalities, including government--owned or controlled corporation with original charters, and on a post-audit basis. x x x (d) such non-governmental entities receiving subsidy or equity directly or indirectly from or through the Government which are required by law or the granting institution to submit to such audit as a condition of subsidy or equity." (Underlining supplied) The Constitution formally embodies the long established rule that private entities who handle government funds or subsidies in trust may be examined or audited in their handling of said funds by government auditors.

In view of the above considerations, we apply the principle of primary jurisdiction:

"In cases involving specialized disputes, the trend has been to refer the same to an administrative agency of special competence. As early as 1954, the Court in *Pambujan Sur United Mine Workers v Samar Mining Co., Inc.* (94 Phil. 932, 941), held that under the sense-making and expeditious doctrine of primary jurisdiction ' . . . the courts cannot or will not determine a controversy involving a question which is within the jurisdiction of an administrative tribunal prior to the decision of that question by the administrative tribunal, where the question demands the exercise of sound administrative discretion requiring the special knowledge, experience, and services of the administrative tribunal to determine technical and intricate matters of fact, and a uniformity of ruling is essential to comply with the purposes of the regulatory statute administered.' Recently, this Court speaking thru Mr. Chief Justice Claudio Teehankee said:

"“In this era of clogged court dockets, the need for specialized administrative boards or commissions with the special knowledge, experience and capability to hear and determine promptly disputes on technical matters or essentially factual matters, subject to judicial review in case of grave abuse of discretion, has become well nigh indispensable." (*Abejo v. de la Cruz*, 149 SCRA 654, 675)." (*Saavedra, Jr., et al. v. Securities and Exchange Commission, et al.*, G.R. No. 80879, March 21, 1988)

It has also been the policy of the courts not to ignore or reject as incorrect the acts and determinations of administrative agencies unless there is a clear showing of arbitrary action or palpable and serious error. Thus, we ruled in the recent case of *Beautifont, Inc., et al. v. Court of Appeals, et al.* (G.R. No. 50141, January 29, 1988):

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"x x x The legal presumption is that official duty has been duly performed; (Sec. 5, m, 121 Rules of Court) and it is 'particularly strong as regards administrative agencies ** vested with powers said to be quasi-judicial in nature, in connection with the enforce-ment of laws affecting particular fields of activity, the proper regula-tion and/or promotion of which requires a technical or special training, aside from a good knowledge and grasp of the overall conditions, relevant to said field, containing in the nation (Pangasinan Transportation v. Public Utility Commission, 70 Phil. 221). The consequent policy and practice under-lying our Administrative Law is that courts of justice should respect the findings of fact of said administrative agencies, unless there is absolutely no evidence in support thereof or such evidence is clearly, manifestly and patently insubstantial (Heacock v. NLU, 95 Phil. 553).' (Ganitano v. Secretary of Agriculture, etc., 16 SCRA 543, cit-ing Pajo v. Ago, G.R. No. L-15414, June 30, 1960; see also, Central Bank v. Cloribel, 44 SCRA 307, 317; Macatangay v. Sec. of Public Works, 17 SCRA 31 citing Lovina v. Moreno, G.R. No. L-17821, Nov. 29, 1963; Bachrach Transportation v. Camunayan, 18 SCRA 920 citing cases: Santos v. Sec. of Public Works, 19 SCRA 637; Atlas Development Corp., v. Gozon, 20 SCRA 886; Gravador v. Mamigo, 20 SCRA 742; Rio y Cia v. WCC, 20 SCRA 1196)."

In the case at bar, the petitioners have not shown through the laying down of concrete factual foundations that the respondents' questioned acts were done with grave abuse of discretion amounting to lack of jurisdiction.

WHEREFORE, IN VIEW OF THE FOREGOING, the instant petition is hereby DISMISSED for lack of merit. No costs.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, and Medialdea, JJ., concur.

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