

## **EMILIANO O. OZAETA AND REMIGIO CASTILLO, PETITIONERS, VS. OIL INDUSTRY COMMISSION, ESSO PHILIPPINES, INC., MOBIL OIL PHILIPPINES, INC., CALTEX PHILIPPINES, INC., GETTY OIL (PHIL...**

*G.R. Nos. L-34574-79. June 30, 1980*

Ponente: CONCEPCION JR., J.

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### **CONCEPCION JR., J.:**

Petition for prohibition with preliminary injunction, to restrain the respondent Oil Industry Commission from hearing and deciding the motions for provisional relief of respondents Esso Philippines, Inc., Mobil Oil Philippines, Inc., Caltex Philippines, Inc., Getty Oil (Philippines) Inc., Shell Philippines, Inc., Filoil Refinery Corporation and Filoil Marketing Corporation for temporary increases in the prices of petroleum products on the contention that the respondent Commission does not have the power, without hear-ing or in summary proceedings under its Rules, to, grant the pro-visional increase.

From November 12, 1971 up to and until November 18, 1971, the respondent oil companies each filed separate applications with the respondent Commission for the setting of maximum selling prices of gasoline and other petroleum products. These applications were docketed as OIC Cases Nos. 01-06. In the same cases, the respondent oil companies filed separate motions for provisional relief praying for an order allowing them to raise the prices of their products pending the final determination of their applications for the fixing of a maximum rate of return.

After the issuance by the respondent Commission of a "Notice of Public Hearing" — stating that the aforementioned applications and motions have been filed, outlining the proposed increases of wholesale prices over current prices and setting the preliminary hearing on December 2, 1971 -- the petitioners filed, on December 1, 1971, an opposition to the applications for prices increase and another opposition to the motions for provisional relief. In the latter opposition, the petitioners alleged that:

"1. The Oil Industry Commission has no authority to grant provisional increases in the prices of petroleum products.

"2. Section 2, Rule 13 of the Rules of Practice and Procedure of the Oil Industry Commission is not applicable to instant motions.

"3. The motions have no merit."

On December 14, 1971, respondent Shell Philippines Inc. filed a rejoinder to petitioners' opposition to the motion for provisional relief, and on December 17, 1971, respondent Esso Philippines, Inc. filed a reply to the said opposition.

In an Order dated December 20, 1971,[1] the respondent Commission denied petitioners' opposition to the motions for provisional relief and asserted its jurisdiction to hear said motions. It stated in the second paragraph of the Order that:

"It may be mentioned that the motions for provisional relief seek interim remedies interlocutory in nature which may be granted prior to final decision on the merits of the applications for increase in prices of petroleum products. Such interlocutory order may even be issued ex-parte, but the Commission opted to conduct a hearing on the aforesaid motions for provisional relief, with notice to all parties affected affording them the opportunity to oppose and to adduce evidence."

The respondent Commission, in the same Order, re-set the hearing on the motions for provisional relief, jointly with the pre-hearing on the basic applications for price increase, on December 28, 1971.

On this date, December 28, 1971, the petitioners filed a Motion for the reconsideration of the respondent Commission's order dated December 20, 1971 on the ground that "(T)he Oil Industry Commission Act withholds from the Commission the authority to grant provisional increases in prices."

After the respondent Esso Philippines, Inc. filed an opposition to petitioners' motion for reconsideration on December 29 1971, the respondent Commission, in an Order dated January 7, 1972,[2] denied petitioners' motion for reconsideration "for the reason that this Commission is vested with sufficient powers to perform such acts as may be necessary or conducive to the exercise of its functions and powers and the discharge of its duties under the Act (Sec. 8 [f] RA 6173)". In the same orders, the respondent Commission re-set the pre-trial of the cases on January 17, 1972.

Forthwith, and before the scheduled pre-trial date, the instant petition was filed on January 14, 1972 praying that the respondent Commission be declared without jurisdiction to grant provisional or temporary increases in the price of oil products and that its Orders dated December 20, 1971 and January 7, 1972 be annulled and set aside. Included therein was the prayer that, pending final determination of this petition, the respondent Commission be enjoined from proceeding with the hearing of respondent oil companies' Motions for Provisional Relief without prejudice to the respondent Commission's hearing of the main applications for price increase. And the Court, on January 21, 1972, issued the following Restraining Order:[3]

"NOW, THEREFORE, effective immediately and until further orders from this Court, You (respondent Oil Industry Commission) are hereby enjoined from conducting a hearing on "provisional relief" (or provisional rates) and from acting thereon - until further orders from this Court. How-ever, the Court leaves it free for the Commission to continue to hear and act on the main application for price increases of the respondent oil companies."

Meanwhile, before the issuance by the Court of its Restraining Order, the respondent Commission, on January 17, 1972, issued an Order[4] in the following tenor:

"Considering the inability of the parties to obtain admission or stipulation of facts and documents for the purpose of expediting the proceedings at the pre-trial, let the applications be set for hearing on the merits on January 20, 21, 24, 26 and 28, 1972, all at 9:30 A.M. at the Philsugin Building, North Avenue, Quezon City." (italics supplied)

And on January 24, 1972, the respondent Commission issued another Order[5] which, in part, read:

"xxx. It is evident from the temporary restraining order issued by the Supreme Court that this Commission was not directed to dismiss the motions for provisional relief, but was only enjoined from conducting a hearing and from acting thereon, and that the Supreme Court has yet to render a decision on the issue of the authority of this Commission to grant provisional relief.

"At any rate, even without the Supreme Court's restraining order this Commission has decided not to act ex-parte on said motions for provisional relief and instead hear the basic applications on the merits." (Italics supplied)

In due time, the respondents filed their respective Answers to the Petition and, with the permission of the Court, their respective Memoranda in lieu of oral argument. The respondent Commission submitted its Memorandum on November 16, 1972 but before that date, or on September 18, 1972, it rendered a decision<sup>[6]</sup> of fourteen pages on the basic applications of the respondent oil companies the dispositive portion of which states that:

"WHEREFORE, this Commission, after considering all the evidence adduced by applicants and oppositors in these cases as well as its own studies of the petroleum industry, and applying the provisions of Republic Act No. 6173, otherwise known as the Oil Industry Commission Act, and having determined that the current market prices of petroleum products do not provide a fair and reasonable rate of return, hereby authorize the applicants an across-the board increase of not more than two centavos (P0.02 per liter in the current posted wholesale prices, ex-storage plant, of all locally-refined petroleum products, except liquefied petroleum gas, the increase to be reflected as an upward adjustment of not ex-ceeding two centavos (P0.02 per liter of product in the retail price of the said products based on the actual retail prices prevailing as of September 15, 1972; Provided: That the prices both wholesale and retail of all imported petroleum products sold locally shall remain at levels prevailing as of the same date."

The respondent Commission and the respondent oil companies now contend either in their Answers or in their Memoranda – apart from their averment that the respondent Commission has authority to grant the provisional relief prayed for in OIC Cases Nos. 01-06 – that the instant petition has become moot and academic.

The contention must be sustained.

As early as January 17, 1972, even before the issuance by the Court of its Restraining Order, the respondent Commission already intimated, when it set the applications for hearing on the merits on five successive dates, that it is not going to act on respondent companies' motions for provisional relief even if it had earlier, in the Orders dated December 20, 1971 and January 7, 1972, asserted its authority to act on the said motions. As it has intended, the respondent Commission, as shown in the Order dated January 24, 1972, decided, even if there was no Restraining Order from the Court, "not to act ex-parte on said motions for provisional relief and instead hear the basic applications on their merits." And, on September 18, 1972, as just stated, the respondent Commission decided on the merits these basic applications. Plainly, the action sought to be prohibited by the instant petition — hearing and trial by the respondent Commission of respondent oil companies' motions for provisional relief — is no longer forthcoming. There is no longer any actual controversy between the parties that must be settled. Perforce, the petition must be declared moot and academic.

And We do not see any overriding reason to look forward to the future and into the possible actuations of the respondent Commission in situations similar to the one at bar. We see no necessity in ruling on the merits of the petition and We reiterate the consistent holding of the Court that its duty is to decide actual controversies and not mere hypothetical cases.<sup>[7]</sup>

Parenthetically, We observe that the petitioners themselves appear to have recognized the mootness of their case when, after having secured five extensions of time within which to file their memorandum, they only later filed a manifestation that they are waiving the filing of such memorandum.

WHEREFORE, the petition should be, as it is hereby dismissed for being moot and academic. The temporary restraining order heretofore issued is hereby set aside. With costs against the petitioner.

### **SO ORDERED.**

Barredo, (Chairman), Abad Santos, and De Castro,<sup>[\*]</sup> JJ., concur.  
Aquino, J., in the result.

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[\*] Mr. Justice Pacifico P. de Castro, a member of the First Division was designated to sit in the Second Division.

[1] Rollo, p. 107.

[2] Id., p. 121.

[3] Id., p. 125.

[4] Id., p. 157.

[5] Id., pp. 158-159.

[6] The matter was elevated to the Court in *Ozaeta vs. Oil Industry Commission*, Nos. L-35812-17, February 23, 1973, 40 SCRA 409 where the Court denied petitioners' Motion To Recall Order of Remand and Urgent Omnibus Motion noting that a mere perusal of the new decision rendered by the Oil Industry Commission pursuant to the resolution of the Court dated December 29, 1972, ordering a remand of the cases for further study by the Commission, "indicate the care and circumspection with which the various issues, to which reference was made in our December 29, 1972 resolution, has been considered and passed upon." The decision in Nos. L-35812-17 was cited in *Imbong vs. Oil Industry Commission*, Nos. L-34725-30, January 17, 1974, 55 SCRA 95, another case related to the petition at bar, where the petition for mandamus which sought to compel the Oil Industry Commission to allow inspection by the petitioners of respondent oil companies' books of accounts was dismissed for being moot and academic.

[7] In the matter of the Estate of Jose Ma. Ceballos, deceased-Angel Ortiz, appellant, No. 4190, December 17, 1908, 12 Phil. 271; *Garron vs. Arca and Pineda*, No. 4209, April 18, 1951, 88 Phil. 490; *Estate of Jose Castillo y Refuerzo*, G.R. No. L-15815, No. 29, 1960; *Villacarlos vs. Jimenez*, No. L-16437, December 29, 1962, 6 SCRA 966.

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