

ANTONIO G. PACHECO, CONFEDERATION OF SUGAR PRODUCERS ASSOCIATIONS, INC., TIMOTEY Y. CONSING, JR., ASSOCIATION OF INTEGRATED MILLERS, INC., PHILIPPINE SUGAR MILLERS ASSOCIATION, ...

G.R. No. 124863. June 19, 2000

Ponente: PARDO, J.

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PARDO, J.:

The case is an appeal via certiorari[1] seeking review of the decision of the Court of Appeals dismissing the petition for mandamus to compel the Sugar Regulatory Administration [SRA] to issue rules and regulations governing the importation of sugar.

On May 28, 1986, the President of the Philippines issued Executive Order No. 18 creating a Sugar Regulatory Administration with the following powers and functions:

"(A) To recommend the establishment of a sugar production coefficient and a production quota which shall be attached to the land for each planter;

"(B) To institute regulations for implementation, controlling and monitoring the production quotas;

"(C) To establish domestic, export and reserve allocations;

"(D) To explore and expand the domestic market and foreign markets for sugar and by-products, to assure mutual benefits to consumers and producers, and to promote and maintain a proper balance of production of sugar and its by-products;

"(E) To institute, implement and regulate an orderly system of queuing, disposition and withdrawals of various forms of sugar from warehouse;

"(F) To evaluate and recommend to the President new projects involving the production of sugar and its by-products and other products derived from sugarcane and sugar;

"(G) To issue permits and licenses and collect corresponding fees and levies on the processing and manufacture of sugar and its by-products and other products derived from sugarcane and sugar;

"(H) To enter, make and execute routine contracts as may be necessary for or incidental to the attainment of its purposes between any persons, firm, public or private, and the Government of the Philippines;

"(I) To do all such other things, transact such other business and perform necessary, incidental or conducive to the attainment of the purposes of the Sugar Regulatory Administration." [2]

On October 18, 1994, petitioners filed with the Court of Appeals a petition for mandamus to compel the Sugar Regulatory Administration to issue rules and regulations governing the importation of sugar pursuant to Executive Order No. 18, series of 1986 creating the Sugar Regulatory Administration. [3]

After due proceedings, on November 17, 1995, the Court of Appeals rendered a decision[4] ruling that mandamus does not lie to compel SRA to issue rules and regulations to regulate sugar importation in the absence of a specific legal authority to do so vested in it under E. O. No. 18, and, accordingly, dismissed the petition.

On December 11, 1995, petitioners moved for reconsideration of the decisions;[5] however, on April 24, 1996, the Court of Appeals denied the motion.[6]

Hence, this petition.[7]

The issue raised is whether mandamus lies to compel the Sugar Regulatory Administration to issue rules and regulations governing sugar importation.

The petition must fail. The Court of Appeals correctly ruled that the court may not compel the Sugar Regulatory Administration to issue rules and regulations governing the importation of sugar in the absence of "a standard for the control and regulation of sugar importation" vested in it under the law.[8] In other words, it is not the ministerial duty of the SRA specifically enjoined by law to issue rules and regulations governing sugar importation. Mandamus lies to compel the performance of a clear legal duty[9] or a ministerial duty imposed by law upon the defendant or respondent to perform the act required[10] that the law specifically enjoins as a duty resulting from office, trust or station.[11] A clear legal right is one that is founded or granted by law.[12] Unless the right to relief is clear, mandamus will not issue. If there is any discretion as to the taking or non-taking of the action sought, there is no clear legal duty. Petitioners failed to prove that they have a clear legal right. They have failed to point to any specific provision in Executive Order No. 18 vesting in the Sugar Regulatory Administration the power to regulate sugar importation. That is not a power expressly or impliedly vested in the SRA by law.

Such being the case, the remedy is not mandamus. The remedy is legislative, which is to ask Congress to enact legislation expressly vesting such power in the SRA.

WHEREFORE, the Court DENIES the petition and AFFIRMS the decision of the Court of Appeals. No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

[1] Under Rule 45 of the 1964 Revised Rules of Court.

[2] 82 Official Gazette No. 40, pp. 4726-4727 (1986)

[3] Docketed as CA-G.R. SP No. 35492.

[4] Petition, annex "A", Rollo, pp. 27-33.

[5] Petition, Annex "B", Rollo, pp. 34-47.

[6] Petition, Annex "C", Rollo, p. 49.

[7] Rollo, pp. 3-25. On February 12, 1997, we gave due course to the petition (Rollo, p. 106)

[8] Cf. Olsen & Co. vs. Herstein, 32 Phil. 520 (1915)

[9] University of San Agustin vs. Court of Appeals, 230 SCRA 761 (1994); Palileo vs. Ruiz Castro, 85 Phil. 272 (1950)

[10] Tangonan vs. Paño, 137 SCRA 245 (1985)

[11] Repacom vs. Morfe, 120 SCRA 460 (1983); Sagun vs. PHHC, 162 SCRA 411 (1988)

[12] Palileo vs. Ruiz Castro, *supra*, Note 9.

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