

**PEST MANAGEMENT ASSOCIATION OF THE PHILIPPINES (PMAP),
REPRESENTED BY ITS PRESIDENT, MANUEL J. CHAVEZ, PETITIONER,
VS. FERTILIZER AND PESTICIDE AUTHORITY (FPA), SECRETARY OF
THE...**

G.R. NO. 156041. February 21, 2007

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

This resolves the Petition for Review on Certiorari seeking to set aside the Decision[1] of the Regional Trial Court of Quezon City, Branch 90 (RTC) dated November 5, 2002.

The case commenced upon petitioner's filing of a Petition For Declaratory Relief With Prayer For Issuance Of A Writ Of Preliminary Injunction And/Or Temporary Restraining Order with the RTC on January 4, 2002. Petitioner, a non-stock corporation duly organized and existing under the laws of the Philippines, is an association of pesticide handlers duly licensed by respondent Fertilizer and Pesticide Authority (FPA). It questioned the validity of Section 3.12 of the 1987 Pesticide Regulatory Policies and Implementing Guidelines, which provides thus:

3.12 Protection of Proprietary Data

Data submitted to support the first full or conditional registration of a pesticide active ingredient in the Philippines will be granted proprietary protection for a period of seven years from the date of such registration. During this period subsequent registrants may rely on these data only with third party authorization or otherwise must submit their own data. After this period, all data may be freely cited in support of registration by any applicant, provided convincing proof is submitted that the product being registered is identical or substantially similar to any current registered pesticide, or differs only in ways that would not significantly increase the risk of unreasonable adverse effects.

Pesticides granted provisional registration under P.D. 1144 will be considered first registered in 1977, the date of the Decree.

Pesticide products in which data is still under protection shall be referred to as proprietary pesticides, and all others as commodity pesticides. (Emphasis supplied)

Petitioner argued that the specific provision on the protection of the proprietary data in FPA's Pesticide Regulatory Policies and Implementing Guidelines is unlawful for going counter to the objectives of Presidential Decree No. 1144 (P.D. No. 1144); for exceeding the limits of delegated authority; and for encroaching on the exclusive jurisdiction of the Intellectual Property Office.

On November 5, 2002, the RTC dismissed the petition for declaratory relief for lack of merit. The RTC held that "the FPA did not exceed the limits of its delegated authority in issuing the aforecited Section 3.12 of the Guidelines granting protection to proprietary data x x x because the issuance of the aforecited Section was a valid

exercise of its power to regulate, control and develop the pesticide industry under P.D. 1144”[2] and the assailed provision does “not encroach on one of the functions of the Intellectual Property Office (IPO).”[3]

Dissatisfied with the RTC Decision, petitioner resorted to filing this petition for review on certiorari where the following issues are raised:

I

WHETHER OR NOT RESPONDENT FPA HAS ACTED BEYOND THE SCOPE OF ITS DELEGATED POWER WHEN IT GRANTED A SEVEN-YEAR PROPRIETARY PROTECTION TO DATA SUBMITTED TO SUPPORT THE FIRST FULL OR CONDITIONAL REGISTRATION OF A PESTICIDE INGREDIENT IN THE PHILIPPINES;

II

WHETHER OR NOT RESPONDENT FPA IS ENCROACHING ON THE EXCLUSIVE JURISDICTION OF THE INTELLECTUAL PROPERTY OFFICE (IPO) WHEN IT INCLUDED IN ITS PESTICIDE REGULATORY POLICIES AND IMPLEMENTING GUIDELINES THE SUBJECT SEVEN-YEAR PROPRIETARY DATA PROTECTION;

III

WHETHER OR NOT SAID PROPRIETARY DATA PROTECTION IS AN UNLAWFUL RESTRAINT OF FREE TRADE;

IV

WHETHER OR NOT SAID PROPRIETARY DATA PROTECTION RUNS COUNTER TO THE OBJECTIVES OF P.D. NO. 1144;

V

WHETHER OR NOT THE REGIONAL TRIAL COURT OF QUEZON CITY, BRANCH 90, COMMITTED A REVERSIBLE ERROR WHEN IT UPHELD THE VALIDITY OF SECTION 3.12 OF THE PESTICIDE REGULATORY POLICIES AND IMPLEMENTING GUIDELINES ISSUED BY RESPONDENT FPA.

Respondents, on the other hand, maintain that the provision on the protection of proprietary data in the FPA's Pesticide Regulatory Policies and Implementing Guidelines is valid and legal as it does not violate the objectives of P.D. No. 1144; the proprietary data are a substantial asset which must be protected; the protection for a limited number of years does not constitute unlawful restraint of free trade; and such provision does not encroach upon the jurisdiction of the Intellectual Property Office.

Respondents expound that since under P.D. No. 1144, the FPA is mandated to regulate, control and develop the pesticide industry, it was necessary to provide for such protection of proprietary data, otherwise, pesticide handlers will proliferate to the detriment of the industry and the public since the inherent toxicity of pesticides are hazardous and are potential environmental contaminants.

They also pointed out that the protection under the assailed Pesticide Regulatory Policies and Implementing Guidelines is warranted, considering that the development of proprietary data involves an investment of many years and large sums of money, thus, the data generated by an applicant in support of his application for registration are owned and proprietary to him. Moreover, since the protection accorded to the proprietary data is limited in time, then such protection is reasonable and does not constitute unlawful restraint of trade.

Lastly, respondents emphasize that the provision on protection of proprietary data does not usurp the functions of

the Intellectual Property Office (IPO) since a patent and data protection are two different matters. A patent prohibits all unlicensed making, using and selling of a particular product, while data protection accorded by the FPA merely prevents copying or unauthorized use of an applicant's data, but any other party may independently generate and use his own data. It is further argued that under Republic Act No. 8293 (R.A. No. 8293), the grant of power to the IPO to administer and implement State policies on intellectual property is not exclusionary as the IPO is even allowed to coordinate with other government agencies to formulate and implement plans and policies to strengthen the protection of intellectual property rights.

The petition is devoid of merit.

The law being implemented by the assailed Pesticide Regulatory Policies and Implementing Guidelines is P.D. No. 1144, entitled Creating the Fertilizer and Pesticide Authority and Abolishing the Fertilizer Industry Authority. As stated in the Preamble of said decree, "there is an urgent need to create a technically-oriented government authority equipped with the required expertise to regulate, control and develop both the fertilizer and the pesticide industries." (Underscoring supplied) The decree further provided as follows:

Section 6. Powers and Functions. The FPA shall have jurisdiction, over all existing handlers of pesticides, fertilizers and other agricultural chemical inputs. The FPA shall have the following powers and functions:

I. Common to Fertilizers, Pesticides and other Agricultural Chemicals

x x x

4. To promulgate rules and regulations for the registration and licensing of handlers of these products, collect fees pertaining thereto, as well as the renewal, suspension, revocation, or cancellation of such registration or licenses and such other rules and regulations as may be necessary to implement this Decree;

x x x

Section 7. Power to Issue Rules and Regulations to Implement Decree. The FPA is hereby authorized to issue or promulgate rules and regulations to implement, and carry out the purposes and provisions of this Decree.

Did the FPA go beyond its delegated power and undermine the objectives of P.D. No. 1144 by issuing regulations that provide for protection of proprietary data? The answer is in the negative.

Under P.D. No. 1144, the FPA is given the broad power to issue rules and regulations to implement and carry out the purposes and provisions of said decree, i.e., to regulate, control and develop the pesticide industry. In furtherance of such ends, the FPA sees the protection of proprietary data as one way of fulfilling its mandate. In *Republic v. Sandiganbayan*,^[4] the Court emphasized that:

x x x [t]he interpretation of an administrative government agency, which is tasked to implement a statute is generally accorded great respect and ordinarily controls the construction of the courts. The reason behind this rule was explained in *Nestle Philippines, Inc. vs. Court of Appeals* in this wise:

The rationale for this rule relates not only to the emergence of the multifarious needs of a modern or modernizing society and the establishment of diverse administrative agencies for addressing and satisfying those needs; it also relates to the accumulation of experience and growth of specialized capabilities by the administrative agency charged with implementing a particular statute. In *Asturias Sugar Central, Inc. vs. Commissioner of Customs*, the Court stressed that executive officials are presumed to have familiarized themselves with all the considerations pertinent to the meaning and purpose of the law, and to have formed an independent, conscientious and competent expert opinion thereon. The courts give much weight to the government agency officials charged with the implementation of the law, their competence, expertness, experience and informed judgment, and the fact that they frequently are the drafters of the law they interpret."

x x x.[5] [Emphasis supplied]

Verily, in this case, the Court acknowledges the experience and expertise of FPA officials who are best qualified to formulate ways and means of ensuring the quality and quantity of pesticides and handlers thereof that should enter the Philippine market, such as giving limited protection to proprietary data submitted by applicants for registration. The Court ascribes great value and will not disturb the FPA's determination that one way of attaining the purposes of its charter is by granting such protection, specially where there is nothing on record which shows that said administrative agency went beyond its delegated powers.

Moreover, petitioner has not succeeded in convincing the Court that the provision in question has legal infirmities.

There is no encroachment upon the powers of the IPO granted under R.A. No. 8293, otherwise known as the Intellectual Property Code of the Philippines. Section 5 thereof enumerates the functions of the IPO. Nowhere in said provision does it state nor can it be inferred that the law intended the IPO to have the exclusive authority to protect or promote intellectual property rights in the Philippines. On the contrary, paragraph (g) of said Section even provides that the IPO shall “[c]oordinate with other government agencies and the private sector efforts to formulate and implement plans and policies to strengthen the protection of intellectual property rights in the country.” Clearly, R.A. No. 8293 recognizes that efforts to fully protect intellectual property rights cannot be undertaken by the IPO alone. Other agencies dealing with intellectual property rights are, therefore, not precluded from issuing policies, guidelines and regulations to give protection to such rights.

There is also no evidence whatsoever to support petitioner's allegation that the grant of protection to proprietary data would result in restraining free trade. Petitioner did not adduce any reliable data to prove its bare allegation that the protection of proprietary data would unduly restrict trade on pesticides. Furthermore, as held in *Association of Philippine Coconut Desiccators v. Philippine Coconut Authority*,^[6] despite the fact that “our present Constitution enshrines free enterprise as a policy, it nonetheless reserves to the government the power to intervene whenever necessary to promote the general welfare.” There can be no question that the unregulated use or proliferation of pesticides would be hazardous to our environment. Thus, in the *aforecited* case, the Court declared that “free enterprise does not call for removal of ‘protective regulations’.”^[7] More recently, in *Coconut Oil Refiners Association, Inc. v. Torres*,^[8] the Court held that “[t]he mere fact that incentives and privileges are granted to certain enterprises to the exclusion of others does not render the issuance unconstitutional for espousing unfair competition.” It must be clearly explained and proven by competent evidence just exactly how such protective regulation would result in the restraint of trade.

In sum, the assailed provision in the 1987 Pesticide Regulatory Policies and Implementing Guidelines granting protection to proprietary data is well within the authority of the FPA to issue so as to carry out its purpose of controlling, regulating and developing the pesticide industry.

WHEREFORE, the petition is DENIED. The Decision of the Regional Trial Court of Quezon City, Branch 90, in SP. Civil Case No. Q-01-42790 is AFFIRMED.

SO ORDERED.

Ynares-Santiago, (Chairperson), Callejo, Sr., Chico-Nazario, and Nachura, JJ., concur.

[1] Penned by Presiding Judge Reynaldo B. Daway.

[2] Rollo, p. 30.

[3] *Id.* at 31.

[4] 355 Phil. 181 (1998).

[5] Id. at 193-194.

[6] 349 Phil. 782 (1998).

[7] Id. at 795.

[8] G.R. No. 132527, July 29, 2005, 465 SCRA 47, 78.

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