

FILIPINO METALS CORPORATION, MAXIMA STEEL MILLS CORPORATION, BUILDERS STEEL CORPORATION, UNICORN METAL CORPORATION, VENUS STEEL CORPORATION, LEGACY STEEL CORPORATION, PAG-ASA ST...

G.R. No. 157498. July 15, 2005

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

For review on certiorari is the Court of Appeals' Decision,[1] dated February 28, 2003, in CA-G.R. SP No. 67397, which set aside the Order[2] dated September 4, 2001 of the Regional Trial Court of Valenzuela City, Branch 172, in Civil Case No. 82-V-01.

The antecedent facts are as follows:

Petitioners are manufacturers of various steel products such as reinforcing bars, steel sections, and profiles. The principal raw materials for these products are steel billets, which come in various chemical and physical compositions, sourced partly from domestic producers and partly from overseas suppliers.

The domestic suppliers supply only about 15% of the country's total requirements. These are made from various scraps containing impurities. They are of inferior quality compared to the imported ones made from virgin-ore materials. Thus, petitioners are compelled to import a bulk of their raw materials from foreign suppliers.

On July 17, 2000, Republic Act No. 8800[3] was enacted codifying the provisions of Article XIX of the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization (WTO) Agreement on Safeguards. These agreements authorize the application of a safeguard measure if a product is being imported into the country in such quantities as would cause or threaten to cause serious injury to domestic producers of like or directly competitive products.

On April 6, 2001, petitioners filed with the Regional Trial Court of Valenzuela City, Branch 172, a petition for declaratory relief and/or certiorari and prohibition seeking to declare Rep. Act No. 8800 as unconstitutional.

The RTC judge, while holding in abeyance a ruling on the validity of Rep. Act No. 8800, found a strong case against the constitutionality of the said law sufficient to justify a preliminary injunctive relief. The dispositive portion of his questioned order reads:

WHEREFORE, upon the filing by the petitioners and petitioners in intervention of a bond in the amount of P10,000,000.00 to answer for whatever damages which the respondents and respondents in intervention may sustain by reason of the injunction if the Court should finally decide that the petitioners and petitioners in intervention were not entitled thereto, let a writ of preliminary injunction be issued restraining the respondents from enforcing Republic Act 8800 and/or its Implementing Rules and Regulations.

SO ORDERED.[4]

Not satisfied, respondents filed a petition for certiorari with the Court of Appeals. In its assailed decision dated February 28, 2003, the appellate court concluded that the RTC judge committed grave abuse of discretion in issuing the writ of injunction. In reversing the trial court order, the Court of Appeals reasoned thus:

Questions on the constitutionality of the law [do not] necessarily entitle a movant to have the assailed law enjoined. It would seem that respondent Judge acted with undue haste in issuing the writ of preliminary injunction a quo, disregarding the well-settled presumption of validity that laws enjoy. . . .

. . .

. . . The private respondents' projected loss in business is not the clear legible (sic) right contemplated by the rules which shall be entitled to the protection of an injunctive relief.[5]

Aggrieved, petitioners now come to this Court on a petition for review raising the following issues:

A.

WHETHER OR NOT THE COURT OF APPEALS COMMITTED A REVERSIBLE [ERROR] WHEN IT REVERSED AND SET ASIDE THE 4 SEPTEMBER 2001 ORDER OF THE REGIONAL TRIAL COURT OF VALENZUELA, THUS DISSOLVING THE WRIT OF PRELIMINARY INJUNCTION ENJOINING PUBLIC RESPONDENTS FROM IMPLEMENTING R.A. 8800, CONSIDERING THAT PETITIONERS HAVE MADE OUT A CASE OF UNCONSTITUTIONALITY STRONG ENOUGH TO OVERCOME THE PRESUMPTION OF CONSTITUTIONALITY OF R.A. 8800 FOR THE PURPOSE OF ISSUING A WRIT OF PRELIMINARY INJUNCTION.

B.

WHETHER OR NOT THE VIOLATION OF WTO AGREEMENTS WAS PROPERLY RAISED AS AN ISSUE IN THE TRIAL COURT LEVEL AS A GROUND FOR THE UNCONSTITUTIONALITY OF R.A. 8800.

C.

WHETHER OR NOT PETITIONERS HAVE ADEQUATELY SHOWN A CLEAR RIGHT TO INJUNCTIVE RELIEF.

D.

WHETHER OR NOT THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR WHEN IT FAILED TO DISMISS THE THIRD PETITION (C.A.-G.R. S.P. No. 67397) FILED BY PUBLIC RESPONDENTS WITH THE COURT OF APPEALS.[6]

Petitioners maintain that Rep. Act No. 8800 violates Article VI, Section 28 (2) of the Constitution.[7] They contend that the said provision does not authorize Congress to delegate the power to impose tariff rates, import and export quotas, tonnage and wharfage dues and other duties or imposts to persons other than the President. They further argue that Rep. Act No. 8800 impairs Philippine treaty obligations under the WTO Agreement on Safeguards. In fine, they contend that they have made out a case of unconstitutionality sufficient to entitle them to a writ of preliminary injunction. Lastly, petitioners allege that respondents engaged in forum-shopping.

Respondents, however, insist that the Court of Appeals correctly ruled that Rep. Act No. 8800 enjoys the presumption of constitutionality. They argue that the enactment of Rep. Act No. 8800 constitutes a valid delegation of legislative power. Respondents claim it is improper for petitioners to raise the issue of the alleged violation of the WTO Agreement on Safeguards since it was not raised before the Court of Appeals. They also allege that the supposed injury to be sustained by petitioners is neither grave nor irreparable. Finally, respondents

deny that they engaged in forum-shopping.

At the outset, we note that the issue of constitutionality of Rep. Act No. 8800 is not raised in the instant petition. It is in fact pending litigation at the regional trial court.[8] Neither is the issue of forum-shopping allegedly committed by respondents, determinative of the case at hand.

The sole issue in this petition is whether or not the Court of Appeals erred in reversing the trial court order enjoining respondents from enforcing Rep. Act No. 8800. Simply put, should the preliminary injunction issued by the trial court be upheld?

We rule in the affirmative.

In the recent case of *Southern Cross Cement Corporation v. Philippine Cement Manufacturers Corporation*,[9] this Court intimated, but only by way of obiter dictum, that the imposition of safeguard measures should not be enjoined as that would be tantamount to enjoining the collection of taxes.

Verily, as early as *Churchill and Tait v. Rafferty*,[10] the Court rejected judicial control over collection of taxes. That taxes must be collected promptly is a policy deeply entrenched in our tax system. Thus, no court is allowed to grant injunction to restrain the collection of any internal revenue tax.[11]

Rep. Act No. 8800, also known as the Safeguard Measures Act, authorize the application of a safeguard measure upon a finding that a product is being imported into the country in increased quantities as to be a substantial cause of serious injury or threat to the domestic industry.[12] Hence, the primary purpose of safeguard measures is not at all to generate revenue for the government, but to provide protection to domestic industry threatened by import surges. Thus, while suspending the collection of internal revenue taxes will definitely cripple the government, enjoining the enforcement of safeguard measures would not necessarily drain the national coffer. Note that safeguard measures are not always in the form of a tariff increase. Safeguard measures may, and in fact, usually take the form of a simple quantitative restriction on imports.[13]

Clearly, safeguard measures are not in the nature of taxes, in the sense of being the lifeblood of the national economy, such that their enforcement cannot per se be enjoined. Having settled this preliminary matter, we now look at the merits of the instant petition.

Under Rule 58, Section 3 of the Revised Rules of Court, any of the following grounds justifies the issuance of a preliminary injunction:

(a)

That the plaintiff is entitled to the relief demanded, and the whole or part of such relief consists in restraining the commission or continuance of the acts complained of, or in the performance of an act or acts, either for a limited period or perpetually;

(b)

That the commission or continuance of some act complained of during the litigation or the non-performance thereof would probably work injustice to the plaintiff; or

(c)

That the defendant is doing, threatens, or is about to do, or is procuring or suffering to be done, some act probably in violation of the plaintiff's rights respecting the subject of the action, and tending to render the judgment ineffectual.

In the instant case, the act complained of is the enforcement of Rep. Act No. 8800. Petitioners pointed out that

Rep. Act No. 8800 delegated the power to fix tariffs and imposts directly to the Secretary of the Department of Trade and Industry. Moreover, they showed that Rep. Act No. 8800 impairs Philippine treaty obligations under the WTO Agreement on Safeguards.[14]

We have ruled that when the petitioner assailing a statute has made out a case of unconstitutionality strong enough to overcome, in the mind of the judge, the presumption of validity, in addition to a showing of a clear legal right to the remedy sought, the court should issue a writ of preliminary injunction.[15]

After a careful consideration of the submission by the parties, we are convinced that petitioners herein have established a strong case for the unconstitutionality of Rep. Act No. 8800 sufficient for the grant of a preliminary injunction. Note, however, that a writ of preliminary injunction is issued merely to preserve the status quo ante.[16] Its sole objective is to preserve the status quo until the merits of the case can be heard fully. It is generally availed of to prevent actual or threatened acts, until the merits of the case can be disposed of.[17]

Respondents tenaciously argue that Rep. Act No. 8800 enjoys the presumption of validity and constitutionality until proven otherwise. True, but for the purpose of issuing a provisional remedy, strictly speaking, this contention lacks relevance. Obviously, a law need not be declared unconstitutional first before a preliminary injunction against its enforcement may be granted.[18] Needless to stress, the moment a law is nullified for being unconstitutional, it ceases to exist. Thus, a writ of injunction would then become superfluous.

Only two requisites are necessary for a preliminary injunction to issue: (1) the existence of a right to be protected and (2) the facts, against which the injunction is to be directed violate said right.[19] While a clear showing of the right is necessary, its existence need not be conclusively established. In fact, the evidence required to justify the issuance of a writ of preliminary injunction need not be conclusive or complete. The evidence need only give the court an idea of the justification for the preliminary injunction, pending the decision of the case on the merits. Thus, to be entitled to the writ, petitioners are only required to show that they have an ostensible right to the final relief prayed for in their complaint.[20]

In this case, petitioners have demonstrated a clear right threatened by the questioned safeguard measures. Being in a business heavily dependent on importation of steel, they would be severely damaged once safeguard measures are applied against steel imports. Petitioners have shown, to the satisfaction of the trial court and this Court that any increase in tariffs or quantitative restriction on imports will force them to close down their respective businesses and lay off their employees.

This, to us, is sufficient to entitle petitioners to a preliminary injunction. We thus hold that the Court of Appeals erred in reversing the trial court order granting the writ of preliminary injunction.

WHEREFORE, the petition is GRANTED. The Court of Appeals' Decision, dated February 28, 2003, in CA-G.R. SP No. 67397, is REVERSED and SET ASIDE. The Order, dated September 4, 2001, of the Regional Trial Court of Valenzuela City, Branch 172, in Civil Case No. 82-V-01 is hereby REINSTATED. No pronouncement as to costs.

SO ORDERED.

Davide, Jr. C.J., (Chairman), Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

* Also referred to as Martial in some parts of the records.

** Also referred to as Lunas in some parts of the records.

[1]Rollo, pp. 145-154. Penned by Associate Justice Elvi John S. Asuncion, with Associate Justices Conrado M. Vasquez, Jr., and Sergio L. Pestaño concurring.

[2] Id. at 206-213.

[3] AN ACT PROTECTING LOCAL INDUSTRIES BY PROVIDING SAFEGUARD MEASURES TO BE UNDERTAKEN IN RESPONSE TO INCREASED IMPORTS AND PROVIDING PENALTIES FOR VIOLATION THEREOF.

[4]Rollo, p. 213.

[5] Id. at 150, 153.

[6]Id. at 305.

[7]SEC. 28. ...

(2) The Congress may, by law, authorize the President to fix within specified limits, and subject to such limitations and restrictions as it may impose, tariff rates, import and export quotas, tonnage and wharfage dues, and other duties or imposts within the framework of the national development program of the Government.

[8]Rollo, p. 213.

[9]G.R. No. 158540, 8 July 2004, 434 SCRA 65.

[10]No. 10572, 21 December 1915, 32 Phil. 580, 586.

[11] David, etc. v. Ramos, etc. and Castro, No. L-4300, 31 October 1951, 90 Phil. 351, 356.

[12] Rep. Act No. 8800.

SEC. 5. Conditions for the Application of General Safeguard Measures. - The Secretary shall apply a general safeguard measure upon a positive final determination of the Commission that a product is being imported into the country in increased quantities, whether absolute or relative to the domestic production, as to be a substantial cause of serious injury or threat thereof to the domestic industry; however, in the case of non-agricultural products, the Secretary shall first establish that the application of such safeguard measures will be in the public interest.

[13] Sec. 8, par. 2, Rep. Act No. 8800.

[14] Rollo, pp. 311-326.

[15]Valley Trading Co., Inc. v. CFI of Isabela, Br. II, G.R. No. 49529, 31 March 1989, 171 SCRA 501, 508.

[16] Los Baños Rural Bank, Inc. v. Africa, G.R. No. 143994, 11 July 2002, 384 SCRA 535, 547.

[17] Lim v. Court of Appeals, G.R. No. 111397, 12 August 2002, 387 SCRA 149, 161.

[18]See Board of Optometry v. Colet, G.R. No. 122241, 30 July 1996, 260 SCRA 88.

[19] Lopez v. Court of Appeals, G.R. No. 110929, 20 January 2000, 322 SCRA 686, 691.

[20]Supra, note 16 at 543.

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