# WILLIAM C. DAGAN, CARLOS H. REYES, NARCISO MORALES, BONIFACIO MANTILLA, CESAR AZURIN, WEITONG LIM, MA. TERESA TRINIDAD, MA. CARMELITA FLORENTINO, PETITIONERS, VS. PHILIPPINE RAC...

*G.R. No. 175220. February 12, 2009*

Ponente: TINGA, J.

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**TINGA, J.:**

The subject of this petition for certiorari is the decision[1] of the Court of Appeals in CA- G.R. SP No. 95212, affirming in toto the judgment[2] of the Regional Trial Court of Makati in Civil Case No. 04-1228.

The controversy stemmed from the 11 August 2004 directive[3] issued by the Philippine Racing Commission (Philracom) directing the Manila Jockey Club, Inc. (MJCI) and Philippine Racing Club, Inc. (PRCI) to immediately come up with their respective Clubs' House Rule to address Equine Infectious Anemia (EIA) [4] problem and to rid their facilities of horses infected with EIA. Said directive was issued pursuant to Administrative Order No. 5[5] dated 28 March 1994 by the Department of Agriculture declaring it unlawful for any person, firm or corporation to ship, drive, or transport horses from any locality or place except when accompanied by a certificate issued by the authority of the Director of the Bureau of Animal Industry (BAI).[6]

In compliance with the directive, MJCI and PRCI ordered the owners of racehorses stable in their establishments to submit the horses to blood sampling and administration of the Coggins Test to determine whether they are afflicted with the EIA virus. Subsequently, on 17 September 2004, Philracom issued copies of the guidelines for the monitoring and eradication of EIA.[7]

Petitioners and racehorse owners William Dagan (Dagan), Carlos Reyes, Narciso Morales, Bonifacio Montilla, Cezar Azurin, Weitong Lim, Ma. Teresa Trinidad and Ma. Carmelita Florentino refused to comply with the directive. First, they alleged that there had been no prior consultation with horse owners. Second, they claimed that neither official guidelines nor regulations had been issued relative to the taking of blood samples. And third, they asserted that no documented case of EIA had been presented to justify the undertaking.[8]

Despite resistance from petitioners, the blood testing proceeded. The horses, whose owners refused to comply were banned from the races, were removed from the actual day of race, prohibited from renewing their licenses or evicted from their stables.

When their complaint went unheeded, the racehorse owners lodged a complaint before the Office of the President (OP) which in turn issued a directive instructing Philracom to investigate the matter.

For failure of Philracom to act upon the directive of the OP, petitioners filed a petition for injunction with application for the issuance of a temporary restraining order (TRO). In an order[9] dated 11 November 2004, the trial court issued a TRO.

Dagan refused to comply with the directives because, according to him, the same are unfair as there are no implementing rules on the banning of sick horses from races. Consequently, his horses were evicted from the stables and transferred to an isolation area. He also admitted that three of his horses had been found positive for EIA.[10]

Confronted with two issues, namely: whether there were valid grounds for the issuance of a writ of injunction and whether respondents had acted with whim and caprice in the implementation of the contested guideline, the trial court resolved both queries in the negative.

The trial court found that most racehorse owners, except for Dagan, had already subjected their racehorses to EIA testing. Their act constituted demonstrated compliance with the contested guidelines, according to the trial court. Hence, the acts sought to be enjoined had been rendered moot and academic.

With respect to the subject guidelines, the trial court upheld their validity as an exercise of police power, thus:

> The Petitioner's submission that the subject guidelines are oppressive and hence confiscatory of proprietary rights is likewise viewed by this Court to be barren of factual and legal support. The horseracing industry, needless to state, is imbued with public interest deserving of utmost concern if not constant vigilance. The Petitioners do not dispute this. It is because of this basic fact that respondents are expected to police the concerned individuals and adopt measures that will promote and protect the interests of all the stakeholders starting from the moneyed horse-owners, gawking bettors down to the lowly maintainers of the stables. This is a clear and valid exercise of police power with the respondents acting for the State. Participation in the business of horseracing is but a privilege; it is not a right And no clear acquiescence to this postulation can there be than the Petitioners' own undertaking to abide by the rules and conditions issued and imposed by the respondents as specifically shown by their contracts of lease with MCJI.[11]

Petitioners appealed to the Court of Appeals. In its Decision dated 27 October 2006, the appellate court affirmed in toto the decision of the trial court.

The appellate court upheld the authority of Philracom to formulate guidelines since it is vested with exclusive jurisdiction over and control of the horse- racing industry per Section 8 of Presidential Decree (P.D.) No. 8. The appellate court further pointed out that P.D. No. 420 also endows Philracom with the power to prescribe additional rules and regulations not otherwise inconsistent with the said presidential decree[12] and to perform such duties and exercise all powers incidental or necessary to the accomplishment of its aims and objectives.[13] It similarly concluded that the petition for prohibition should be dismissed on the ground of mootness in light of evidence indicating that petitioners had already reconsidered their refusal to have their horses tested and had, in fact, subsequently requested the administration of the test to the horses.[14]

Aggrieved by the appellate court's decision, petitioners filed the instant certiorari petition[15] imputing grave abuse of discretion on the part of respondents in compelling petitioners to subject their racehorses to blood testing.

In their amended petition,[16] petitioners allege that Philracom's unsigned and undated implementing guidelines suffer from several infirmities. They maintain that the assailed guidelines do not comply with due process requirements. Petitioners insist that racehorses already in the MJCI stables were allowed to be so quartered because the individual horse owners had already complied with the Philracom regulation that horses should not bear any disease. There was neither a directive nor a rule that racehorses already lodged in the stables of the racing clubs should again be subjected to the collection of blood samples preparatory to the conduct of the EIA tests,[17] petitioners note. Thus, it came as a surprise to horse owners when told about the administration of a new Coggins Tests on old horses since the matter had not been taken up with them.[18] No investigation or at least a summary proceeding was conducted affording petitioners an opportunity to be heard.[19] Petitioners also aver


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that the assailed guidelines are ultra vires in that the sanctions imposed for refusing to submit to medical examination are summary eviction from the stables or arbitrary banning of participation in the races, notwithstanding the penalties prescribed in the contract of lease.[20]

In its Comment,[21] the PRCI emphasizes that it merely obeyed the terms of its franchise and abided by the rules enacted by Philracom.[22] For its part, Philracom, through the Office of the Solicitor-General (OSG), stresses that the case has become moot and academic since most of petitioners had complied with the guidelines by subjecting their race horses to EIA testing. The horses found unafflicted with the disease were eventually allowed to join the races.[23] Philracom also justified its right under the law to regulate horse racing.[24] MJCI adds that Philracom need

not delegate its rule-making power to the former since MJCI's right to formulate its internal rules is subsumed under the franchise granted to it by Congress.[25]

In their Reply,[26] petitioners raise for the first time the issue that Philracom had unconstitutionally delegated its rule-making power to PRCI and MJCI in issuing the directive for them to come up with club rules. In response to the claim that respondents had merely complied with their duties under their franchises, petitioners counter that the power granted to PRCI and MJCI under their respective franchises is limited to: (1) the construction, operation and maintenance of racetracks; (2) the establishment of branches for booking purposes; and (3) the conduct of horse races.

It appears on record that only Dagan had refused to comply with the orders of respondents. Therefore, the case subsists as regards Dagan.

Petitioners essentially assail two issuances of Philracom; namely: the Philracom directive[27] and the subsequent guidelines addressed to MJCI and PRCI.

The validity of an administrative issuance, such as the assailed guidelines, hinges on compliance with the following requisites:

- Its promulgation must be authorized by the legislature;

- It must be promulgated in accordance with the prescribed procedure;

- It must be within the scope of the authority given by the legislature;

- It must be reasonable.[28]

All the prescribed requisites are met as regards the questioned issuances. Philracom's authority is drawn from P.D. No. 420. The delegation made in the presidential decree is valid. Philracom did not exceed its authority. And the issuances are fair and reasonable.

The rule is that what has been delegated cannot be delegated, or as expressed in the Latin maxim: potestas delegate non delegare potest. This rule is based upon the ethical principle that such delegated power constitutes not only a right but a duty to be performed by the delegate by the instrumentality of his own judgment acting immediately upon the matter of legislation and not through the intervening mind of another.[29] This rule however admits of recognized exceptions[30] such as the grant of rule-making power to administrative agencies. They have been granted by Congress with the authority to issue rules to regulate the implementation of a law entrusted to them. Delegated rule-making has become a practical necessity in modern governance due to the increasing complexity and variety of public functions.[31]

However, in every case of permissible delegation, there must be a showing that the delegation itself is valid. It is


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valid only if the law (a) is complete in itself, setting forth therein the policy to be executed, carried out, or implemented by the delegate; and (b) fixes a standard--the limits of which are sufficiently determinate and determinable--to which the delegate must conform in the performance of his functions. A sufficient standard is one which defines legislative policy, marks its limits, maps out its boundaries and specifies the public agency to apply it. It indicates the circumstances under which the legislative command is to be effected.[32]

P.D. No. 420 hurdles the tests of completeness and standards sufficiency.

Philracom was created for the purpose of carrying out the declared policy in Section 1 which is "to promote and direct the accelerated development and continued growth of horse racing not only in pursuance of the sports development program but also in order to insure the full exploitation of the sport as a source of revenue and employment." Furthermore, Philracom was granted exclusive jurisdiction and control over every aspect of the conduct of horse racing, including the framing and scheduling of races, the construction and safety of race tracks, and the security of racing. P.D. No. 420 is already complete in itself.

Section 9 of the law fixes the standards and limitations to which Philracom must conform in the performance of its functions, to wit:

> Section 9. Specific Powers. Specifically, the Commission shall have the power:
>
> - To enforce all laws, decrees and executive orders relating to horse- racing that are not expressly or implied repealed or modified by this Decree, including all such existing rules and regulations until otherwise modified or amended by the Commission;
>
> - To prescribe additional rules and regulations not otherwise inconsistent with this Decree;
>
> - To register race horses, horse owners or associations or federations thereof, and to regulate the construction of race tracks and to grant permit for the holding of races;
>
> - To issue, suspend or revoke permits and licenses and to impose or collect fees for the issuance of such licenses and permits to persons required to obtain the same;
>
> - To review, modify, approve or disapprove the rules and regulations issued by any person or entity concerning the conduct of horse races held by them;
>
> - To supervise all such race meeting to assure integrity at all times. It can order the suspension of any racing event in case of violation of any law, ordinance or rules and regulations;
>
> - To prohibit the use of improper devices, drugs, stimulants or other means to enhance or diminish the speed of horse or materially harm their condition;
>
> - To approve the annual budget of the omission and such supplemental budgets as may be necessary;
>
> - To appoint all personnel, including an Executive Director of the Commission, as it may be deem necessary in the exercise and performance of its powers and duties; and
>
> - To enter into contracts involving obligations chargeable to or against the funds of the Commission. (Emphasis supplied)

Clearly, there is a proper legislative delegation of rule-making power to Philracom. Clearly too, for its part Philracom has exercised its rule-making power in a proper and reasonable manner. More specifically, its discretion to rid the facilities of MJCI and PRCI of horses afflicted with EIA is aimed at preserving the security and integrity of horse races.

Petitioners also question the supposed delegation by Philracom of its rule- making powers to MJCI and PRCI.

There is no delegation of power to speak of between Philracom, as the delegator and MJCI and PRCI as delegates. The Philracom directive is merely instructive in character. Philracom had instructed PRCI and MJCI to "immediately come up with Club's House Rule to address the problem and rid their facilities of horses infected with EIA." PRCI and MJCI followed-up when they ordered the racehorse owners to submit blood samples and subject their race horses to blood testing. Compliance with the Philracom's directive is part of the mandate of PRCI and MJCI under Sections 1[33] of R.A. No. 7953[34] and Sections 1[35] and 2[36] of 8407.[37]

As correctly proferred by MJCI, its duty is not derived from the delegated authority of Philracom but arises from the franchise granted to them by Congress allowing MJCI "to do and carry out all such acts, deeds and things as may be necessary to give effect to the foregoing."[38] As justified by PRCI, "obeying the terms of the franchise and abiding by whatever rules enacted by Philracom is its duty."[39]

More on the second, third and fourth requisites.

As to the second requisite, petitioners raise some infirmities relating to Philracom's guidelines. They question the supposed belated issuance of the guidelines, that is, only after the collection of blood samples for the Coggins Test was ordered. While it is conceded that the guidelines were issued a month after Philracom's directive, this circumstance does not render the directive nor the guidelines void. The directive's validity and effectivity are not dependent on any supplemental guidelines. Philracom has every right to issue directives to MJCI and PRCI with respect to the conduct of horse racing, with or without implementing guidelines.

Petitioners also argue that Philracom's guidelines have no force and effect for lack of publication and failure to file copies with the University of the Philippines (UP) Law Center as required by law.

As a rule, the issuance of rules and regulations in the exercise of an administrative agency of its quasi-legislative power does not require notice 7and hearing.[40] In Abella, Jr. v. Civil Service Commission,[41] this Court had the occasion to rule that prior notice and hearing are not essential to the validity of rules or regulations issued in the exercise of quasi-legislative powers since there is no determination of past events or facts that have to be established or ascertained.[42]

The third requisite for the validity of an administrative issuance is that it must be within the limits of the powers granted to it. The administrative body may not make rules and regulations which are inconsistent with the provisions of the Constitution or a statute, particularly the statute it is administering or which created it, or which are in derogation of, or defeat, the purpose of a statute.[43]

The assailed guidelines prescribe the procedure for monitoring and eradicating EIA. These guidelines are in accord with Philracom's mandate under the law to regulate the conduct of horse racing in the country.

Anent the fourth requisite, the assailed guidelines do not appear to be unreasonable or discriminatory. In fact, all horses stabled at the MJCI and PRCI's premises underwent the same procedure. The guidelines implemented were undoubtedly reasonable as they bear a reasonable relation to the purpose sought to be accomplished, i.e., the complete riddance of horses infected with EIA.

It also appears from the records that MJCI properly notified the racehorse owners before the test was conducted.[44] Those who failed to comply were repeatedly warned of certain consequences and sanctions.

Furthermore, extant from the records are circumstances which allow respondents to determine from time to time the eligibility of horses as race entries. The lease contract executed between petitioner and MJC contains a proviso reserving the right of the lessor, MJCI in this case, the right to determine whether a particular horse is a qualified horse. In addition, Philracom's rules and regulations on horse racing provide that horses must be free from any


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contagious disease or illness in order to be eligible as race entries.

All told, we find no grave abuse of discretion on the part of Philracom in issuing the contested guidelines and on the part MJCI and PRCI in complying with Philracom's directive.

WHEREFORE, the petition is DISMISSED. Costs against petitioner William Dagan.

**SO ORDERED.**

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio Morales, Azcuna, Chico-Nazario, Velasco, Jr., Nachura, Leonardo De Castro, Brion, and Peralta, JJ., concur.

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[1]Rollo, pp. 46-62; penned by Associate Justice Rebecca De Guia-Salvador, concurred in by Associate Justices Magdangal M.De Leon and Ramon R. Garcia.

[2] Records (Vol. II), pp. 482-487; presided by Zenaida T. Galapate-Laguilles.

[3] Records (Vol. 1), p. 32.

[4] Rollo, p. 18. Equine Infectious Anemia (EIA) is an infectious and potentially fatal viral disease of members of the horse family. The equine infectious anemia virus (EIAV) is categorized as a lentivirus: it contains genetic RNA material, which it uses to produce DNA. This DNA is then incorporated into the genetic makeup of infected cells. Identified in France in 1843 and first tentatively diagnosed in the United States in 1888, EIA has commanded a great deal of attention over the years. No vaccine or treatment exists for the disease. EIAV is the first lentivirus-induced disease proven to be transmitted by insects. ( http://www.aphis.usda.gov/lpa/pubs/fsheet_faq_notice/fs_aheia.html)

[5] Id. at 33.

[6] Id. at 19.

[7] Records (Vol. 1), pp. 178-181.

[8] See petitioners' letter dated 8 October 2004; rollo, pp. 33-35.

[9] Records (Vol. 1), pp. 210-214; presided by Pairing Judge Oscar B. Pimentel.

[10]Records (Vol. 2), p. 484.

[11] Id. at 486.

[12] Presidential Decree No. 420 (1974), Sec. 9(b).

[13] Presidential Decree No. 420 (1974), Sec. 10(e).

[14] Rollo, pp. 55 and 60.

[15] Id. at 3-17.

[16] Id. at 78-131.

[17] Id. at 95.

[18] Id. at 97.

[19] Id. at 109.


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[20] Id. at 111. Under the Contract of Lease, failing or refusing to submit to medical examination or drug testing is considered a minor offense punishable by reprimand for the first offense, fine and/or suspension for the second offense and expulsion for the third offense. Id. at 30.

[21] Id. at 285-293.

[22] Id. at 290.

[23] Id. at 332-333.

[24] Id. at 334.

[25] Id. at 350-351.

[26] Id. at 361-400.

[27] Id. at 18.

[28] Hon. Executive Secretary, et. al. v. Southwing Heavy Industries, Inc., G.R. No. 164171. 20 February 2006, 482 SCRA 673, 686.

[29] Abakada Guro Party-list v.Ermita, G.R. No. 168056, 1 September 2005, 469 SCRA 115-116; Sandoval v. Pagcor, 400 Phil. 307 (2000).

[30] The other exceptions are:

- Delegation of tariff powers to the President under Section 28(2) of Article VI of the Constitution;

- Delegation of emergency powers to the President under Section 23(2) of Article VI of the Constitution;

- Delegation to the people at large;

- Delegation to local governments. See Santiago v. Comelec, 336 Phil. 848, 898 (1998), citing People v. Vera, 65 Phil. 56 (1937).

[31] Department of Agrarian Reform v. Sutton, G.R. No. 162070, 19 October 2005, 473 SCRA 392.

[32] Supra note 23.

[33] Sec. 1.The Philippine Racing Club, Inc., a corporation duly organized and registered under the laws of the Republic of the Philippines, hereinafter called the grantee or its successors is hereby granted the right, notwithstanding any provision of law to the contrary, privilege and authority to construct, operate and maintain, one race track in the Municipality of Makati, Metro Manila, or anywhere within the provinces of Rizal, Laguna and Cavite, establish such branches thereof for booking purposes anywhere in the country, and hold or conduct horse races therein with bettings whether on the results of the races or other forms of gaming derived therefrom, and either directly or by means of mechanical, electric and/or computerized totalizator and to do and carry out all such acts, deeds and things as may be necessary to give effect to the foregoing: provided, that in case of transfer of the race track from Makati, Metro Manila, such shall be subject to the approval of the host province or city/municipality to where it would transfer , through a public hearing to be conducted by the local government unit concerned.

The races to be conducted by the grantee shall be under the supervision and regulation of the Philippine Racing Commission, which shall enforce the laws, rules and regulations governing horse racing, including the framing and scheduling of races, the construction and safety of the race track, the allocation of prizes of winning horses, and the security of racing as provided in Presidential Decree No. 420, as amended: Provided, That the Games and

Amusement Board shall continue to supervise and regulate betting in horse races as provided in Section 6, 8, 11, 15 and 24 of Republic Act Numbered Three hundred and nine, as amended, and all the racing officials and personnel to be employed by the grantee shall be duly licensed as such by the said Games and Amusements Board in accordance with Section 5 of the same Act. (Emphasis supplied)

[34] Entitled "An Act Amending R.A. No. 6632 Entitled `An Act Granting the Philippine Racing Club, Inc. a Franchise to Operate and Maintain a Race Track for Horse Racing in the Province of Rizal' and Extending the said Franchise by Twenty- Five (25) Years from the Expiration of the Term thereof."

[35] Section 1. Nature and Scope of Franchise.--Any provision of law to the contrary notwithstanding, there is hereby granted to Manila Jockey Club, Inc., a corporation duly organized and registered under the laws of the Philippines, hereinafter called the grantee or its assigns or its successors, for a period of twenty-five (25) years from the approval of this Act, the right, privilege and authority to construct, operate and maintain one racetrack in any place within the City of Manila or any place within the provinces of Bulacan, Cavite or Rizal, establish such branches thereof for booking purposes anywhere in the country, and hold or conduct horse races therein with bettings either directly or indirectly by means of mechanical, electric and/or computerized totalizator and to do and carry out all such acts, deeds and things as may be necessary to give effect to the foregoing: provided, that in case of transfer of the racetrack from the City of Manila, such transfer shall be subject to the approval of the host province or city/municipality to where it would transfer, through a public hearing to be conducted by the local government unit concerned.

[36] Section 2. Authority of the Philippine Racing Commission and the Games and Amusement Board.-The races to be conducted by the grantee shall be under the supervision and regulation of the Philippine Racing Commission, which shall enforce the laws, rules and regulations governing horse racing, including the framing and scheduling of races, the construction and safety of the racetrack, the allocation of prizes of winning horses, and the security of racing as provided in Presidential Decree No. 420, as amended: Provided, That the Games and Amusement Board shall continue to supervise and regulate betting in horse races as provided in Sections 6, 8, 11, 15 and 24 of Republic Act No. 309, as amended. (Emphasis supplied)

[37] Entitled "An Act Amending R.A. No. 6631 Entitled `An Act Granting Manila Jockey Club, Inc. a Franchise to Construct, Operate and Maintain a Racetrack for Horse Racing in the City of Manila or Any Place within the provinces of Bulacan, Cavite or Rizal' and Extending the said Franchise by Twenty-Five (25) Years from the Expiration of the Term thereof."

[38] Rollo, p. 350.

[39] Id. at 230.

[40] Agpalo, Ruben E., Philippine Administrative Law, 2004 Edition, p. 156.

[41] G.R. No. 152574, 17 November 2004, 442 SCRA 507.

[42] Id. at 530.

[43] Smart Communications, Inc. v. National Telecommunications Commission, 456 Phil. 145 (2003).

[44] Rollo, p. 230.


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