

CORAZON S. SAYCO, EMILIO YULO, ILUMINADA VDA. DE LOCSIN, ESTRELLA VDA. DE JESENA, JOSE MA. KILAYKO, IRVING VILLASOR, ANGEL VILLASOR, OSCAR MARTIN, NARCISO AGUDON, SOCORRO TUVILL...*G.R. No. 55798. July 20, 1985*

Ponente: FERNANDO, C.J.

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This Court, on December 3, 1982, issued the following resolution: "This is a special civil action for prohibition filed by petitioner-Planters against the Philippine Sugar Commission, hereinafter referred to as PHILSUCOM, and National Sugar Trading Corporation, hereinafter referred to as NASUTRA. It is admitted that the NASUTRA is a wholly-owned subsidiary of the PHILSUCOM as its trading arm. It is the contention of petitioner-Planters that the power of the PHILSUCOM to act as the single buying and selling agency of sugar on the quedan-permit level with the end in view of promoting effective merchandising and distribution of sugar, as well as its power to determine from time to time the floor-ceiling price of sugar which will give the planters, millers, traders, wholesalers, and retailers a fair return of their investments, could result in its being oppressive in character and thus clearly violative of petitioners' constitutional right. At the hearing, it was admitted by the distinguished counsel for petitioners, Juan M. Hagad, that there is no question of unconstitutionality of Presidential Decree No. 388, as amended, but that there could be unconstitutional application in effect, raising a due process question citing the above allegation in its petition. Respondents, in their Answer, opened with a Preliminary Statement worded thus: 'Before traversing the specific allegations of the petition, respondents beg the indulgence' of this Court to state certain vital facts necessary to put the issues of this case in their perspective. More specifically, in support of its prayer to dismiss the petition on the ground of lack of merit to the claim of unconstitutional application, they contended: 'It is to be noted that while PHILSUCOM or its designated buying affiliate is required to determine a "floor-ceiling price" which would assure the producers not only payment of cost of production but a "fair-return on their investments" such price is made "subject to prevailing world market prices with respect to export sugar and prevailing domestic prices with respect to domestic sugar." Thus, where the prevailing world market price and prevailing domestic prices are equal to, or below the cost of production, the PHILSUCOM or its buying affiliate is not required to pay the floor-ceiling price which would cover cost of production and a fair return on investment. Notwithstanding this, to assure the survival of the sugar industry in those times where the prevailing world market prices and domestic prices are below the cost of production, NASUTRA paid the producers an amount no lower than the cost of production, including a fair return on investment. In order to avoid this experience, NASUTRA adopted in the sale of export sugar what is called a protective pricing policy — under which NASUTRA sold 50% of the export sugar over a period of four years at a minimum price of US\$0.22 per pound to achieve certainty of price above production cost that would allow forward planning and afford protection from drastic falls in prices, and left the other 50% to go with the price fluctuations in the open market — which policy is an exercise of prudent business judgment. At the oral argument, Solicitor General Estelito P. Mendoza explained further how by virtue of such arrangement, even at times when

the sugar industry faces a crisis with export proceeds at a low mark, planters would be able to get more than the prevailing price in the world market. The Court can take judicial notice of the fact that at present, the situation is much worse than ever before, the latest figures indicating that the downward trend has not been arrested but has persisted. It is in that light that reliance was justly placed by the Solicitor General on the previously decided cases of *Suarez v. Mt. Arayat Sugar Co.*; *Lutz v. Araneta*; and *Association de Agricultures de Talisay-Silay, Inc. v. Talisay-Silay Milling Co., Inc.*, all indicative of the settled doctrine that the sugar industry is one affected with public interest and that therefore a police power measure, unless to be shown arbitrary or oppressive, is to be sustained. There is no such showing in this case. Rather, planters have no valid cause for complaint. Neither can it be said that there is an unconstitutional application, especially at present when the sugar industry enjoys the advantage of Philippine sugar being sold at more than three times prevailing prices owing to contracts entered into by PHILSUCOM still valid and subsisting. At any rate, the main complaint of the planters that their voice is not heard in determining the allocation of the price obtained for sugar could be attended to in an administrative forum. In case the PHILSUCOM is deaf to such entreaties, there is still the remedy of an appeal to the President. Without prejudice to an extended opinion, therefore, this petition is dismissed. No costs. TEEHANKEE, J., dissenting, voted to grant petitioners' just and basic plea that respondents be prohibited from selling any sugar without the previous consent of the sugar planters to whom such sugar rightfully belongs, and reserved the right to file a separate opinion."^[1]

Thereafter a motion for reconsideration was filed by petitioners. There was the express admission that "while petitioners do not assail the validity of the decree, they respectfully point out that nothing in the decree by any stretch of logic empowers PHILSUCOM to claim petitioners' sugar for its own merely by means of a directive to the sugar mills to issue in its name all warehouse receipts covering both planters' and mills' sugar. This, we must stress, PHILSUCOM did on its own responsibility, without any authority from PD No. 388."^[2] It appears clear, therefore, that petitioners did not raise any question as to the validity of the Decree. Rather the basis was the alleged ultra vires character of the transfer of ownership with the issuance of the warehouse receipts in the name of PHILSUCOM.

They did seek, however, to stamp what for them was an ultra vires actuation with constitutional overtones. They alleged deprivation of property without due process of law, contending that "PHILSUCOM never 'bought' the sugar of producers on the quedan-permit level, contrary to respondents' claim."^[3]

There is, however, no need to resolve the motion for reconsideration. On February 21, 1985, Presidential Decree No. 1971 was issued. Section 6 thereof reads as follows: "In furtherance of the purposes and objectives of this Decree, the Commission shall cause the conversion of the National Sugar Trading Corporation (NASUTRA) into a private corporation to be called the Philippine Sugar Marketing Corporation (PHILSUMA) not later than December 31, 1985. PHILSUMA, which will be the sole marketing agency for the sugar industry, will be owned 100% by sugar producers (planters and millers) in proportion to their actual production."^[4]

With the issuance of such Decree and its implementation in accordance with the resolution in *Ledesma v. Philippine Sugar Commission* ^[5] the suit against the former Philippine Sugar Commission and the National Sugar Trading Corporation has become in effect moot and academic.

WHEREFORE, the motion for reconsideration is denied and the petition dismissed for having become moot and academic.

Makasiar, Melencio-Herrera, Plana, Relova, Gutierrez, Jr., De la Fuente, Cuevas, and Alampay, JJ., concur.

Teehankee, J., maintains his dissent here and in the cited case of *Ledesma*.

Aquino and Concepcion Jr., JJ., in the result. Abad Santos and Escolin, JJ., no part.

[1] Resolution of this Court dated December 3, 19X2.

[2] Motion for Reconsideration. 8.

[3] Ibid., 4.

[4] Presidential Decree No. 1971. Section 3 (1985).

[5] G.R. No. 70442. Ma 16. 1985.

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