

**MABUHAY TEXTILE MILLS CORPORATION, PETITIONER, VS.
MINISTER ROBERTO V. ONGPIN, ALFREDO PIO DE RODA, JR.,
EDGARDO L. TORDESILLAS, RAMON J. FAROLAN, GARMENTS AND
TEXTILE EXPORT BO...**

G.R. No. 67784. February 28, 1986

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This petition for certiorari seeks to annul the decision of the Intermediate Appellate Court dated January 6, 1984 which upheld the cancellation of petitioner's export quota allocations and the suspension of its officers even as it set aside the basis of such cancellation and suspension on the ground of violation of due process.

Petitioner Mabuhay Textile Mills Corporation (Mabuhay) is a corporation engaged in the garments and textile import business for the last twenty-seven years. Among the government requirements for engaging in this type of business are the export quota allocations issued by the respondent Garments and Textile Export Board.

Sometime in 1982, the Board granted export quota allocations for 1983 to the petitioner. These export quotas have been granted annually to the petitioner since 1976. They are automatically renewed every year provided the grantee has utilized its quotas during the previous years.

On March 2, 1983, the petitioner received a letter from the Board informing it that its 1983 export quota allocations were revoked effective February, 1983. Furthermore, its major stockholders and officers were also disqualified from engaging in business activities involving garment and textile exports. The decision of the Board was based on the following initial findings of the Bureau of Customs, to wit:

"1. Two 40-footer containers declared to consist of 210 bales of acrylic staple fiber weighing 48.211 kgs. with a value (including taxes and duties) of P1,240,857.00 arrived from Kobe, Japan on 12 February 1983 on board the S/S Breadeverette.

"2. Examination of the shipment reveals the following:

"a. About 100 bales of acrylic staple fibers were found in the first half of the containers; and

"b. Assorted textile piece goods for blouses, shirts and dresses were found midway through the containers.

"3. The estimated value of the actual contents of the 2 containers is P2.5 million."

The Bureau of Customs conducted an investigation pursuant to the above initial findings. On July 25, 1983, it rendered a decision absolving the petitioner from any irregularity relative to the subject shipment in the initial findings. It ruled:

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"During the hearing, it was shown that Mr. James Dy, Executive Vice-President of Mabuhay contacted the

shipper in Japan, Daiwa Trading Co., Ltd. demanding explanation for the textile contents of the shipment and the shipper answered that those (sic) was an interchange in the loading of the materials destined for Manila and another shipment destined for Indonesia (Exh. "O" and Stipulation No. 9).

"Subsequently, Mr. Dy wrote another letter to the Chief, CIID (Exh. "P" enclosing therewith two letters from Daiwa Trading Co., Ltd. dated February 21, 1983 and February 25, 1983 explaining the supposed interchanging of the materials destined for Manila and that destined for Indonesia (Exhs. "P-1" and "P-2"); a copy of a Bill of Lading of Samudera Indonesia Shipping Line for the S/S' OCEAN PRIMA' purportedly covering 150 crate piece goods consigned to 'P.T. GADING AJU DJAZA JL' of Jakarta (Exhs. "P-3" & "J-A"); a photo of an invoice addressed to 'P.T. GADING AJU DJAZA JL' containing a detailed description of assorted design/color of the fabrics and their corresponding values (Exhs. "P-4" and "5-B") and a photocopy of a Packing List (Exh. "P-5" also "5-C") containing the description and yardage of the fabrics mentioned in the aforementioned invoice. The aforementioned photocopies of the shipping documents were sent by DAIWA TRADING CO., LTD., to Mabuhay for purposes of explaining the alleged interchanging of the materials in the two shipments and which Mabuhay, through its Executive Vice-Presidents, submitted to the CIID.

"Thereafter, through a series of communications with customs authorities in Jakarta and a personal inspection in Jakarta by the Commissioner of Customs, while he was there, it was discovered that no such containers with Nos. ICSU-4868538 and ICSU-5219207 containing 110 bales of acrylic staple fiber was on board the 'OCEAN PRIMA' and that Bill of Lading No. CJ-4 covers a shipment of steel sheets (Exh. "0-4"; Exhs. "R" to "R-2") thus debunking the claim of interchanged shipments by DAIWA TRADING CO., LTD.

"The claimant, on the other hand, showed during the hearing that it opened a letter of credit for the importation of 42,000 kilos of Acrylic Staple Fiber C8 3D V64 at US\$1.6 per kilo. (Exh. "1") based on a Pro Forma Invoice of Daiwa Trading Co., Ltd. (Exh. "1-A"). Upon receipt of the shipping documents, i.e., the Invoice (Exh. "D"); the Packing List (Exh. "C") and the Bill of Lading (Exh. "B" also Exh. "1") wherein it is indicated that the shipment was Shipper's Load & Count' (Exh. "1-A"), the same were given to its broker in line with its used business practice, for the purpose of filing the import entry.

"When the claimant received information that the shipment contained fabrics which it did not import, an explanation was required from the shipper, DAIWA TRADING CORPORATION, LTD. The latter, in two letters addressed to the claimant (Exhs. "P-1" and "P-2" also Exhs. "4" & "5") alleged that there was an interchange of materials in the shipment to the claimant and another shipment consigned to a customer in Indonesia. Also sent to the claimant by Daiwa were photocopies of a Bill of Lading (Exh. "P-3"); and Invoice (Exh. "P-4") and a packing list (Exh. "P-5") supposedly covering a shipment of piece goods consigned to 'P.T. GADING AJU DJAZA JL' which the claim-ant forthwith submitted to the CIID. Later, in the letter dated March 14, 1983, addressed to the Claimant, the shipper admitted its culpability in claimant interchanging the shipments (Exh. "8"). Thereafter, the Claimant filed a suit against the shipper for the damages caused to it by the latter's action and petitioned for the issuance of a Writ of Preliminary Attachment (Exh. "7" to "7-6").

"A careful scrutiny of the facts and the circumstances attendant to the case show that the Mabuhay Textile Mills have no participation in the irregularity relative to the subject shipment. The same was exported to the Philippines under a 'Shipper's load and Count' Bill of Lading (Exh. "1-A") which means that it was the shipper who was responsible for putting the contents inside the container. The spurious documents (Exhs. "P-3", "P-4" and "P-5") came from the shipper, Daiwa Trading Co., Ltd. and were forwarded by Mabuhay to the Bureau of Customs for checking and evaluation. Lastly, and most important, Daiwa Trading Co., Ltd., in a letter to Mabuhay dated March 14, 1983 (Exh. """) admitted that its staff was responsible for the story about the supposed mix-up with the alleged shipment to Indonesia.

"However, good faith should not be isolated alone on the part of importer/consignee, but it should be proven also on the part of the supplier/ exporter. It should be reckoned that in matter of importation there are two primary personalities involved, the supplier and the importer. The supplier in order to maintain his credibility

to his client-importer, should exercise an utmost care and extreme caution in shipping orders of his importer otherwise there is always the risk of losing huge amount of investment capitalized by his importers which ultimately produce tremendous damages on the part of the importer similar to the instant case. He must maintain his honest relationship to his importers. Within the contemplation of the Customs Code, the defense of the importer of good faith must be mutually tie-up with the supplier. A good faith of the importer does not in anyway offset the damage committed by the supplier/exporter for it is crystal clear on the provision of Section 2530 (1) 3, 4 of the Tariff and Customs Code, the liability of the exporter is explicit, thus:

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"(3) On the strength of a false documents or affidavit executed by the owner, importer, exporter or consignee concerning the importation of such articles;

"(4) On the strength of a false invoice or other documents executed by the owner, importer, exporter or consignee concerning the importation or exportation of such articles;

"If Mabuhay is prejudiced by such actions, its recourse is against the exporter by way of damages and other remedies provided by law, as in fact, Mabuhay have so done by filing of the corresponding complaint against the exporter and petitioning for the issuance of the necessary Writ of Attachment."

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On the basis of such decision, the petitioner, on August 10, 1983, moved to reconsider the revocation of its export quota allocations and the disqualification of its officers from the export business. As the Board failed to reply to such a request, two similar letters were sent by the petitioner on September 13 and 23, 1983 respectively. Again, the Board did not reply.

Finally on September 26 and 29, 1983, two letters were respectively sent by the Board to the petitioner informing the latter that it had referred petitioner's letters to the Commissioner of Customs for comment.

On October 14, 1983, the Commissioner of Customs responded through a letter-comment addressed to the Board stating the following:

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"Kindly be informed that seizure proceedings are proceedings instituted against the articles or goods. Whenever a decision is rendered in a seizure proceeding, it is final and conclusive as to the goods but not as to the persons involved therein where another proceeding is necessary. Hence, any findings made in a seizure proceeding, with respect to the culpability or non-culpability of the persons involved, cannot be considered binding as to affect the judgment that may be rendered in another. Seizure proceedings cannot make a final and conclusive pronouncement as to the guilt or innocence of persons."

On October 19, 1983, petitioner filed an action for prohibition and injunction with preliminary injunction and restraining order against the Board. On October 24, 1983, the trial court issued a restraining order directing the Board and its officials to desist and to stop from implementing the decision revoking the petitioner's export quota allocations and from disqualifying its principal stockholder and officers from engaging in the textile and garment export business.

The Board moved to reconsider but the same was denied. On November 14, 1983, the lower court issued a writ of preliminary injunction. This, notwithstanding, the next day, the Board denied petitioner's request for reinstatement "on the basis of the above letter (the letter of the Commissioner of Customs dated October 14, 1983) and for the reason that no new issues had been presented to warrant the reinstatement."

After hearing, the trial court rendered judgment in favor of the petitioner, and among others directed the Board to

issue to the petitioner within two days from service of the writ, Textile Export Clearances Nos. 23292, 22583 and 14321, and to issue the pertinent clearances with respect to the textile export shipments of the petitioner after filing of the required papers and documents. In its decision, the trial court stated:

"The summary revocation of the export quotas and export authorizations issued in favor of the petitioner without hearing violates not only the above-mentioned provisions of the Rules and Regulations of the respondent board but also the 'due process of law' clause of the Constitution of the Philippines to the effect that 'no person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied equal protection of the laws.' (Article IV, Sec. 1, New Constitution). According to Daniel Webster in the Dartmouth College case, due process is the equivalent of the law; a law which hears before it condemns, which proceeds upon inquiry and renders judgment only after trial. The meaning is that every citizen shall hold his life, liberty, property, and immunities under the protection of the general rules which govern society.' (cited in Philippine Constitutional Law, p. 168 by Neptali Gonzales, 1975 ed.)

"Administrative due process requires that there be an impartial tribunal constituted to determine the right involved; that due notice and opportunity to be heard be given; that the procedure at the hearing be consistent with the essentials of a fair trial; and that the proceedings be conducted in such a way that there will be opportunity for a court to determine whether the applicable rules of law and procedure were observed.' (42 Am. Jur. p. 451, cited by Neptali Gonzales, p. 183, Philippine Constitutional Law)."

The Board appealed the decision to the Intermediate Appellate Court.

On January 4, 1984, the appellate court modified the trial court's decision. It affirmed all the findings of fact of the court and held that the petitioner was denied due process by the Board when it cancelled the export quota allocations. It set aside the letters of the Board dated March 2, 1983 and November 14, 1983. However, the appellate court ordered the Board to give the petitioner and its officers due hearing to determine whether or not any of its rules and regulations had been violated as to warrant the imposition of any penalty against them. Until such hearings were held, the petitioner's export quota allocations were to remain cancelled and its officers suspended. This modification is now the subject of this petition.

The petitioner contends that the appellate court committed grave abuse of discretion when it ordered a new hearing to be conducted unnecessarily since even without controverting evidence, the evidence on record relied upon by the Board failed miserably to measure up to the requisite of "substantial evidence."

This contention has no merit.

Executive Order No. 823 provides, among others:

"The GTEB shall have the following powers and functions:

"h. In case of violations of its rules and regulations, cancel or suspend quota allocations, export authorizations and licenses for the operation of bonded garment manufacturing warehouses." (Sec. 2[h] Exec. Order No. 823 amended Sec. 3[h] of Exec. Order No. 537).

Likewise, under its Rules and Regulations, said Executive Order provides:

"Rules and Regulations:

"Section III. Penalties. Any act or misrepresentation or violation of these Rules and Regulations shall, after due hearing, constitute sufficient ground for the imposition of a fine of not more than ten per cent (10%) of the gross FOB value of the goods exported or to be exported or for a total or partial forfeiture of the offender's Export Quota, Export Authorization and Export License and permit or temporary disqualification from enjoying the privilege to export under all Agreements on textiles, without prejudice to any liabilities under

other applicable laws. (Sec. III, Part III, Rules and Regulations).

It is clear from the above provisions that the respondent Board is the body charged with the function of granting export quota allocations, issuing licenses to operate bonded warehouses and revoking or cancelling the same. Correspondingly, it is also authorized to conduct hearings to determine whether or not violations have been committed by the grantee. The Board acted arbitrarily when, after acting solely upon the initial findings of the Bureau of Customs, it issued the questioned order but once the basis for its action proved non-existent, it refused to lift its erroneous and unfounded order.

However, since the Board has reason to believe that the petitioner might have violated its rules and regulations in connection with the importation of materials for the petitioner's garment industry then it has the discretion to conduct a proper hearing to determine the petitioner's culpability or non-culpability. It does not have to rely on the findings of other agencies to discharge this function.

In its second assignment of error, the petitioner maintains that the appellate court erred in allowing the implementation of the orders of the respondent Board when such orders were set aside for having been issued without a hearing.

There is merit in this contention.

The appellate court should have reversed and set aside the cancellation of petitioner's export quota allocations and the suspension of its officers since the very bases of these measures were set aside because of lack of due process. As the trial court correctly pointed out:

"It is worthwhile to note that the basis of the revocation of the export quotas and export authorizations issued in favor of the petitioner was based on the initial findings of the Bureau of Customs regarding certain shipments but subsequently the acting collector of customs of the port of Manila, Mr. Bienvenido P. Alano, Jr., cleared the petitioner of any wrongdoing and declared that it had no participation in the irregularities relative to the subject shipments. (Decision dated July 25, 1983, Exhibit "A"). The decision of the acting collector of customs of the port of Manila became final on August 18, 1983. The basis of the revocation has, therefore, become ineffective and unenforceable so that the revocation has no more leg to stand on.

"The petitioner has shown by its evidence and the allegations of its verified petition that it is entitled to the reliefs demanded and the whole or part of such reliefs consists in restraining the commission or continuance of the acts complained of and that great or irreparable injury would result to the petitioner before the trial or termination of this case. It has been shown by the evidence presented during the hearing for the issuance of the writs of preliminary injunction prayed for by the petitioner that foreign companies with whom the petitioner have entered into contracts regarding its export business like Itoman (U.S.A.) Inc., New York, N. Y., and the C. ITOH and Co., Ltd. Tokyo, Japan, have threatened to cancel their contracts with the petitioner and to sue the latter for damages if it cannot comply with its commitments to them (Exhs. "I" and "J"), thereby showing that the petitioner would suffer great and irreparable injury if the injunctions prayed for will not be granted. Aside from this, the 700 employees and workers of the petitioner will be practically jobless and they and their families will suffer greatly for the duration of this case if the injunctions will not be granted."

To hold that there was a violation of petitioner's right to due process but at the same time sustain the end results of such violation would be tantamount to denying the right to due process just the same. Indeed, the importance of this right which is guaranteed by the Constitution cannot be stressed strongly enough. In the case of *Bacus v. Ople*, (132 SCRA 690, 704), we ruled:

"The principle of due process furnishes a standard to which governmental action should conform in order to impress it with the stamp of validity. Fidelity to such standard must of necessity be the overriding concern of government agencies exercising quasi-judicial functions. Although a speedy administration of action implies a

speedy trial, speed is not the chief objective of a trial. Respect for the rights of all parties and the requirements of procedural due process equally apply in proceedings before administrative agencies with quasi-judicial perspective in administrative decision making and for maintaining the vision which led to the creation of the administrative office. (Citing *Amberto v. Court of Appeals*, 89 SCRA 240 and *Baguio Country Club Corporation v. National Labor Relations Commission*, 118 SCRA 557).

Equally important are the requisites of due process in administrative proceedings reiterated in the case of *Halili v. Court of Industrial Relations*, (136 SCRA 112, 131):

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"x x x It is a settled rule that in administrative proceedings, or cases coming before administrative tribunals exercising quasi-judicial powers, due process requires not only notice and hearing, but also the consideration by the administrative tribunal of the evidence presented; the existence of evidence to support the decision; its substantiality; a decision based thereon or at least contained in the record and disclosed to the parties, such decision by the administrative tribunal resting on its own independent consideration of the law and facts of the controversy; and such decision acquainting the parties with the various issues involved and the reasons therefor (*Ang Tibay v. Court*, 69 Phil. 635, cited on p. 84, *Philippine Constitutional Law*, Fernando, 1984 ed.)."

In the case at bar, the petitioner was never given the chance to present its side before its export quota allocations were revoked and its officers suspended. While it is true that such allocations as alleged by the Board are mere privileges which it can revoke and cancel as it may deem fit, these privileges have been accorded to petitioner for so long that they have become impressed with property rights especially since not only do these privileges determine the continued existence of the petitioner with assets of over P80,000,000.00 but also the livelihood of some 700 workers who are employed by the petitioner and their families. As the appellate court correctly pointed out:

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"x x x This reliance on the 'right privilege' dichotomy has long been denigrated by leading lights in administrative law as 'too crude for consistent application' by courts. Indeed, considering the total topography of this case, the resort to the right-privilege distinction is too feeble a refutation of the fact that there has been a disregard of the due process requirement of the Constitution by the petitioner Board. For the irrefutable fact is that the private respondent has long been granted its export allocations on their basis, valuable contracts calling for textile export shipments have been concluded between the private respondent and foreign corporation. Stated otherwise, these export allocations can not anymore be categorized as mere 'privilege' but are already impressed with property rights of the private respondent. They cannot be arbitrarily revoked without causing a collision with the constitutional call that there must be due process before anybody can be denied his right to property."

Neither can the petitioner's request for reinstatement be considered as substantial compliance with the due process requirement so much so that any defect in the initial cancellation of the export quota allocations by the Board is deemed to have been cured by petitioner's request for reinstatement; an action which is alleged by the Board as being tantamount to a motion for reconsideration.

It should be noted that no reply was given by the Board when petitioner requested for reinstatement of its allocations until an action for injunction was filed by petitioner. Only then did the Board deny petitioner's request on the basis of the letter of the Commissioner of Customs that his findings were not conclusive as to the persons involved therein and on the ground that no new issues were presented by herein petitioner.

How can petitioner present any "new issues" when it was never given the chance by the Board? Furthermore, the only reason the petitioner knew why its export quota allocations had been cancelled was the initial findings of the

Bureau of Customs which were made the sole basis by the Board for such cancellation. It is only but logical that petitioner would only touch on this issue and nothing else. Thus, such request for reinstatement and the subsequent denial by the Board can hardly be considered a motion for reconsideration that "cured" the non-observance of due process. Again, as pointed out by the appellate court:

"Nor are We persuaded by the proposition that the subsequent requests for restoration of its export allocations made by the private respondent cured the due process deficiency on the part of the Board. The requests for restoration rest on the allegation of the private respondent and its principal officers that they had no hand in the illicit importation of the apprehended shipment. The allegation is buttressed by the decision itself of the Acting Collector of Customs of the Port of Manila holding that '... a careful scrutiny of the facts and the circumstance attendant to the case show that the Mabuhay Textile Mills have no participation in the irregularity relative to the subject shipment.' It may be technically true that this statement does not settle the criminal culpability of the private respondent and its officers for as pointed out by petitioner Brig. Gen Ramon Farolan, Acting Commissioner of Customs, a decision in a seizure proceedings is '... final and conclusive as to the goods but not as to the persons involved therein where another proceeding is necessary.' But this all the more sharpens the need for a real hearing where the private respondent and its officers should be given a fair opportunity to establish their innocence '...a factual issue that cannot be resolved by mere resolution of its requests for reinstatement on the basis of information known to the Board but unknown to the private respondent such as the exchange of communications between petitioner Farolan and the Director General of Customs of Indonesia. Indeed even in judicial proceedings, the irreducible rule is that the dismissal of an action upon a motion to dismiss constitutes a denial of due process of law if from a consideration of the pleadings it appears that there are issues of fact which cannot be decided without a trial of the case on the merits. In quasi-judicial proceedings, the counterpart rule is that where an adjudicative fact is at issue, a trial-type hearing ought to be held. (*Londoner v. Denver*, 210 US 373, 386, 28 S. Ct. 708, 714, 52 L. ed. 1103 [1908]).

While there is no controlling and precise definition of due process, the guidelines laid down in the *Ang Tibay v. Court case*, supra, and all subsequent cases reiterating the same furnish an unavoidable standard to which government action must conform in order that any deprivation of life, liberty, and property, in each appropriate case, may be valid. (See *Eastern Broadcasting Corporation v. Dans, Jr.*, 137 SCRA 628).

WHEREFORE, IN VIEW OF THE FOREGOING, the petition is GRANTED and the decision of the appellate court dated January 6, 1984 and its order of June 6, 1984 are SET ASIDE. The respondent Board is hereby ordered to conduct a hearing where the petitioner is accorded due process to determine whether or not the petitioner has violated any of its rules and regulations. Pending such hearing, and to maintain the status quo ante of the parties, the Board is directed to issue Textile Export Clearances in favor of the petitioner without prejudice to the revocation of the same if the petitioner is found to be guilty of any such violation. No costs.

SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Plana, Dela Fuente, and Patajo, JJ., concur.

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