

HORTENSIA L. STARKE, PETITIONER, VS. PHILIPPINE SUGAR COMMISSION AND NATIONAL SUGAR TRADING CORPORATION, RESPONDENTS.

G.R. No. 85997. August 19, 1992

Ponente: CRUZ, J.

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CRUZ, J.:

When this case was initiated in the trial court, the Philippine Sugar Commission (PHILSUCOM) was under PD 1192 the sole agent of the country in buying and selling sugar. Its trading arm was the National Sugar Trading Corporation, more commonly known as NASUTRA. The PHILSUCOM had the power to determine from time to time the floor ceiling price of sugar. This amount was reached by ascertaining the total anticipated cost of production per picul of sugar and adding thereto a corresponding reasonable margin of profit as set by the government agency authorized to regulate prices of commodities.

The decree required the sugar planters to deliver their crops to a mill district, or central, for milling. At the end of every milling week, a production report was prepared showing the sugar produced and the corresponding shares of the central and the sugar planters. A sugar warehouse receipt, known as a quedan, was then prepared covering production for that week and this was issued to the planters. For purposes of liquidation, the association representing the planters presented this quedan to the NASUTRA buying office for payment. NASUTRA in turn paid the planters the prices fixed by PHILSUCOM at the start of the crop year of each particular class of sugar. The association then issued individual checks to the different planter-members in amounts corresponding to their respective crops.

In the case of financed sugar planters, their sugar was covered by a consolidated quedan and the check payment issued therefor was in the name of their assignee bank. This in turn credited to the account of the individual planters their corresponding shares in the payment.

The annual sugar crop loan was paid on a weekly basis because the NASUTRA Liquidation Office verified to the bank the liquidation price of PHILSUCOM weekly. The weekly remittances corresponded to the number of piculs milled by the sugar planter.

Petitioner Hortensia Starke was a financed sugar planter whose sugarcane planting operations relied on crop loans extended by the Philippine National Bank. In the documentation of her crop loans for the years 1979-80 and 1980-81, she executed chattel mortgages in favor of PNB and deeds of assignment designating it as her agent.

PNB sold the petitioner's sugar at P90.00 per picul for crop year 1979-80 and at P115.00 per picul for crop year 1980-81. These were the liquidation prices determined by PHILSUCOM for these years. From the sales proceeds, PNB deducted the petitioner's outstanding debt and the rest was given to her as surplus. Subsequently, the petitioner received the additional amounts of P45.00 per picul for crop year 1979-80 and P57.50 per picul for crop year 1980-81 as adjustments of the above-stated liquidation prices. These amounts were derived from the export profit of PHILSUCOM over and above the break-even cost. From this profit, 50% was paid to the producers and

the 50% balance was applied to the payment of the NASUTRA loan of P2.7 billion.

It was the 50% profit used to pay the said loan that the petitioner sought to recover in a complaint she filed on October 28, 1981, with the Court of First Instance of Rizal.[1]

The petitioner alleged in her complaint that the deduction was without her consent and that neither PHILSUCOM nor NASUTRA was authorized to borrow and charge the loans to the planters. She claimed that such deduction was unreasonable, arbitrary and capricious and offensive to the due process clause.

After trial, Judge Rodolfo Ortiz rendered judgment[2] declaring that it was within the authority of PNB to sell the plaintiff's sugar for a price it deemed reasonable because Paragraph 8 of the chattel mortgages stipulated:

Paragraph 8 - Effective immediately, upon the execution of this Mortgage, the MORTGAGEE is hereby constituted and appointed attorney-in-fact of the MORTGAGOR with full power and authority x x x to store the mortgaged crops or the products into which same may have been converted in any warehouse it may choose and to cause the corresponding quedans to be used in its name; to sell or dispose of the same at the time and place for the price which the MORTGAGEE may deem convenient and reasonable and to apply the proceeds thereof to the reimbursement of its advances for the storage, insurance, transportation, and other expenses incurred by it in the exercise of this power or to the payment of the obligation of the MORTGAGOR to the MORTGAGEE. (Emphasis supplied.)

The trial court also noted that to further secure the subject crop loans, the petitioner executed a deed of assignment wherein she declared:

Par. 1 - This is to inform you that by virtue of certain document executed by the above party/ies, it/he/she/they/has/have by way of first mortgage conveyed to this bank, for valuable consideration ALL its/his/her/their sugar including those in excess of planter/s quota coming from its/his/her/their plantation/s adhered to and/or milling with that Central x x x beginning with the crop year 1979/80 and the subsequent crop years thereafter until all its/his/her/their obligation with this Bank shall have been fully liquidated.

Par. 5 - We should like to request, therefore that the corresponding quedans of the first piculs milled covering the said party/ies, net share, free from all liens and encumbrances except minor charges, such as the planter's handling and transportation expenses, etc., duly issued in the name of the Bank, be sent to us as soon as they are issued. (Emphasis supplied).

The above-stated stipulations clearly authorized the sales made by PNB to NASUTRA. When NASUTRA sold the plaintiff's sugar to the foreign market for profit, she was no longer entitled to such profit because the sugar was already owned by PHILSUCOM. The 50% profit paid to the plaintiff was not hers as a matter of right but was granted to her only in pursuance of the liberal government policy of adjusting the liquidation prices whenever the government realized profit. The purpose was to encourage production and help the planters meet escalation costs.

The petitioner appealed to the respondent court insisting that: (1) PNB was not authorized to sell her sugar to NASUTRA, which therefore never became its owner and so should deliver to her the proceeds of its sale; and (2) she was entitled to the remaining 50% of the profit used to pay the P2.7 billion loan incurred by PHILSUCOM/NASUTRA because her sugar was actually confiscated by PHILSUCOM.

On November 23, 1988, the Court of Appeals[3] affirmed the decision of the trial court in toto. The petitioner then elevated the matter to this Court in a petition for review on certiorari

The petitioner maintains that her sugar was not sold by PNB to PHILSUCOM but instead simply confiscated by the latter. The absence of a sale was testified to by Romulo Cordova, head of the buying office of NASUTRA,

who declared:

Q - Was there any contract of sale executed by the bank in favor of Nasutra when the bank sold the sugar to the plaintiff to Nasutra?

A - None that I can recall. (Emphasis supplied.)[4]

She points out that after the planters' sugar was milled, quedans were issued in the name of PHILSUCOM, which thereby acquired ownership of the sugar. Indeed, even the quedans stated:

Philippine Sugar Commission warrants that it has full and absolute title to the sugar covered by this Official Warehouse Receipt x x x. (Emphasis supplied.)

No less importantly, she says that in the case of *Corazon Zayco v. Philsucom*, G.R. No. 55798, the private respondents made the following admission:

x x x

Viewed from another angle, the planter is in effect disposing of his product when he causes the conversion of his cane to sugar because it is at this point that the obligation to issue a quedan covering it arises.[5]

This was binding against them under Rule 129, Sec. 2 of the Rules of Court reading as follows:

Sec. 2. Judicial Admissions. – Admissions made by the parties in the pleadings, or in the course of the trial or other proceedings do not require proof and cannot be contradicted unless previously shown to have been made through palpable mistake.

Her position is that as ownership of her sugar was transferred not during liquidation but when the sugar quedans were placed in the name of PHILSUCOM, the latter actually confiscated her property without just compensation and in violation of due process.

The petitioner further contends that even if there was in fact a sale, the authority of PNB to sell in her behalf was in the concept of a pactum commisorium, which is prohibited by law. As for NASUTRA, it was merely acting as her agent when it sold the sugar to the export market and so had no right to apply part of her profit to the payment of its own loan.

Summarizing, she says that since her export sugar was 11,529.85 piculs for the 1979-1980 crop year, at the cost of P45.00 per picul, or a total of P518,843.25, and her export sugar for 1980-1981 crop year was 13,785.90 piculs, at the cost of P57.50 per picul, or a total of P792,689.25, the private respondents have to refund to her the sum of P1,311,532.50, representing the balance of the cost of her sugar for the two crop years.

We observe at the outset that the petitioner is not questioning the constitutionality of PD 388 as amended by PD 1192,* which created the PHILSUCOM and designated it as the single buying and selling agency of sugar on the quedan level and authorized it to fix its price. The validity of the decree must therefore be presumed.

Sec. 2 (d and e) of the decree empowered the PHILSUCOM:

(d) To act as the single buying and selling agency of sugar on the quedan-permit level, in order to promote the effective merchandising and distribution of sugar;

(e) 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 on their investments; Provided, That in determining the floor-ceiling price, the Commission shall take into account the total anticipated cost of production per picul of sugar plus a corresponding reasonable margin of profit set by the Price Control Council or any other government agency authorized to regulate prices of commodities and service after taking into consideration the effects of

devaluation and other economic factors affecting production, processing, marketing, transportation and other related expenses including the minimum wage for agricultural and industrial workers; Provided, that the floor-ceiling price established by the Commission shall be adjusted in direct relation to significant changes in the cost of production as determined by the Commission and the Consumers Price Index prepared by the Central Bank of the Philippines; Provided, however, that the determination of the ceiling price shall be subject to prevailing world market prices with respect to export sugar and prevailing domestic prices with respect to domestic sugar;

In light of these provisions, the petitioner's contention that her sugar was illegally confiscated cannot prosper.

It is not denied that the official warehouse receipts were indeed in the name of PHILSUCOM and contained a warranty that it had absolute title to the amount of sugar indicated therein. Even so, it is also undeniable that the payments were actually made to the planters by NASUTRA in behalf of PHILSUCOM in exchange for their sugar, as evidenced by the payment voucher issued by NASUTRA, which was admitted as an exhibit in the trial court.[6] How could there have been confiscation when there was payment? The petition contains no allegation that the sugar stored in the mills was ever taken by PHILSUCOM without prior payment,** or that PHILSUCOM ever refused such payment on the ground that the quedans were already in its name.

As PHILSUCOM was then the sole buyer and seller of sugar in the country, it is understandable why the quedans were directly issued in its name. This was a measure intended merely to facilitate the sale of the sugar by avoiding the intermediate step of issuing the quedans in the name of the planters before transferring them in the name of PHILSUCOM.

The next question is whether there was indeed a sale between PNB and NASUTRA.

When Cordova testified that there was no sale that he could recall, he was obviously referring to a written contract of sale. In fact, the question put to him was whether a contract of sale had been "executed" between PNB and NASUTRA. This matter was clarified in his later testimony when he declared on additional re-direct examination:

Q - Now, you said that you are not aware of a contract between the PNB and NASUTRA with respect to the sale of sugar. When you said you are not aware of the contract, what contract did you have in mind?

A - The written contract.[7]

The voucher issued by NASUTRA to PNB, which has not been challenged by the petitioner, sufficiently proves the sale of the sugar by PNB to NASUTRA as agent of PHILSUCOM. PHILSUCOM acquired ownership of the commodity when NASUTRA paid PNB for it, and it was at this point that the petitioner irrevocably ceased to have control of the sugar she had already sold. Whatever PHILSUCOM or NASUTRA decided thereafter to do with the sugar was no longer her concern. PHILSUCOM or its agent NASUTRA had the discretion to sell the commodity and to dispose of the proceeds of the sale in the manner it saw fit regardless of the petitioner's will or objection. The fact that they shared with the planters 50% of the profit realized from the sale is no indication, nor was it an admission, that the petitioner was a party to the sale. As previously stated, the additional amount was given as a bonus or gratuity, in implementation of the announced policy of PHILSUCOM to provide incentives to the sugar planters.

The non-participation of PNB in the pricing of the sugar did not affect the validity of the sale because the price of the commodity had already been determined by PHILSUCOM, pursuant to the authority conferred upon it by PD 1192.

The contention that the above-quoted stipulation contained in the chattel mortgage constitutes a pactum commisorium is also unacceptable. It has not been shown that it violates Art. 2088 of the New Civil Code, which

states:

Art. 2088. The creditor cannot appropriate the things given by way of pledge or mortgage or dispose of them. Any stipulation to the contrary is null and void.

The provision prohibits two things: first, the appropriation by the creditor of the things given by way of pledge or mortgage; and second, the disposition thereof by the creditor. In the chattel mortgage, there was no automatic appropriation by PNB of the properties mortgaged, which is what is not allowed by the quoted provision.[8] On the contrary, PNB was expressly authorized to act as the agent of the petitioner in the disposition of the mortgaged property for the benefit of the petitioner. As the respondent court correctly observed:

x x x As can be seen from the provision of the chattel mortgage, the mortgagee bank did not automatically vest in itself the ownership of the sugar belonging to the appellant. What the PNB did was merely to sell the sugar of the appellant which it could legally do considering that it was constituted under the mortgage itself (Exh. 10) to be agent or attorney-in-fact of the appellant and, to apply the proceeds thereof to the account of the latter with the bank, x x x

x x x

x x x the bank which was duly constituted as an agent or attorney-in-fact of the appellant-mortgagor merely acted as such in the disposition of appellant's sugar. The existence of the contract of agency between the PNB and the appellant can also be best illustrated when We have to consider the fact that upon receipt by the mortgagee bank of the proceeds of the sugar sold, the latter applied the same to the account of the appellant-mortgagor and any amount in excess of appellant's obligations/loans to the bank was given back to her.

Incidentally, this declaration was not questioned in the original petition but only belatedly in the petitioner's memorandum.

It is worth stressing that the P2.7 billion loan incurred by NASUTRA was intended to be used for subsidizing the sugar industry which, as this Court recognized in *Lutz v. Araneta*,^[9] is one of the pillars of the national economy.

The final issue is the materiality of the *Zayco* case, which is cited by the petitioner. The petitioners in that case, who were also sugar planters, asked the Court to prohibit the PHILSUCOM from selling their sugar without their previous consent. We initially sustained the PHILSUCOM on the basis of the police power. On the motion for reconsideration later filed by the petitioners, the Court declared that the case had become moot and academic with the issuance of PD 1971. This converted the PHILSUCOM to the Philippine Sugar Marketing Corporation (PHILSUMA) as the sole marketing agency of the sugar industry to be owned completely by the sugar producers.

The *Zayco* case is applicable to the case at bar only insofar as it pronounced that the sugar industry was affected with public interest and therefore subject to the proper exercise of the police power in the marketing and pricing of sugar. This is not the issue raised in this case. The present petition will fail on the issues herein raised, for the reasons above discussed, and not because it has become moot and academic.

WHEREFORE, the petition is DENIED and the assailed decision AFFIRMED in toto, with costs against the petitioner. It is so ordered.

Griño-Aquino, Medialdea, and Bellosillo, JJ., concur.

[1] Original record, pp. 1-3.

[2] *Ibid.*, pp. 315-326.

[3] Cacdac, Jr., J., ponente, with Castro-Bartolome and Pronove, JJ., concurring.

[4] TSN, pp. 19-20, February 25, 1983.

[5] Memorandum for PHILSUCOM/NASUTRA in G.R. No. 55798, p.11.

* PHILSUCOM, the government-organized sugar cartel, was abolished on May 18, 1986, through E.O. 18, which in turn created the Sugar Regulatory Administration.

[6] Exhibit 6 PHILSUCOM, Original record, p. 139.

** The "sugarless quedan" scandal happened much later.

[7] TSN, p. 25, February 25, 1983.

[8] Dalay vs. Aquiatin and Maximo, 47 Phil. 951.

[9] 98 Phil. 148.

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