

LUZ FARMS, PETITIONER, VS. THE HONORABLE SECRETARY OF THE DEPARTMENT OF AGRARIAN REFORM, RESPONDENT.

G.R. No. 86889. December 04, 1990

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for prohibition with prayer for restraining order and/or preliminary and permanent injunction against the Honorable Secretary of the Department of Agrarian Reform for acting without jurisdiction in enforcing the assailed provisions of R.A. No. 6657, otherwise known as the Comprehensive Agrarian Reform Law of 1988 and in promulgating the Guidelines and Procedure Implementing Production and Profit Sharing under R.A. No. 6657, insofar as the same apply to herein petitioner, and further from performing an act in violation of the constitutional rights of the petitioner.

As gathered from the records, the factual background of this case, is as follows:

On June 10, 1988, the President of the Philippines approved R.A. No. 6657, which includes the raising of livestock, poultry and swine in its coverage (Rollo, p. 80).

On January 2, 1989, the Secretary of Agrarian Reform promulgated the Guidelines and Procedures Implementing Production and Profit Sharing as embodied in Sections 13 and 32 of R.A. No. 6657 (Rollo, p. 80).

On January 9, 1989, the Secretary of Agrarian Reform promulgated its Rules and Regulations implementing Section 11 of R.A. No. 6657 (Commercial Farms). (Rollo, p. 81).

Luz Farms, petitioner in this case, is a corporation engaged in the livestock and poultry business and together with others in the same business allegedly stands to be adversely affected by the enforcement of Section 3(b), Section 11, Section 13, Section 16(d) and 17 and Section 32 of R.A. No. 6657 otherwise known as Comprehensive Agrarian Reform Law and of the Guidelines and Procedures Implementing Production and Profit Sharing under R.A. No. 6657 promulgated on January 2, 1989 and the Rules and Regulations Implementing Section 11 thereof as promulgated by the DAR on January 9, 1989 (Rollo, pp. 2-36).

Hence, this petition praying that aforesaid laws, guidelines and rules be declared unconstitutional. Meanwhile, it is also prayed that a writ of preliminary injunction or restraining order be issued enjoining public respondents from enforcing the same, insofar as they are made to apply to Luz Farms and other livestock and poultry raisers.

This Court in its Resolution dated July 4, 1989 resolved to deny, among others, Luz Farms' prayer the issuance of a preliminary injunction in its Manifestation dated May 26 and 31, 1989. (Rollo, p. 98).

Later, however, this Court in its Resolution dated August 24, 1989 resolved to grant said Motion for Reconsideration regarding the injunctive relief, after the filing and approval by this Court of an injunction bond in the amount of P100,000.00. This Court also gave due course to the petition and required the parties to file their respective memoranda (Rollo, p. 119).

The petitioner filed its Memorandum on September 6, 1989 (Rollo, pp. 131-168).

On December 22, 1989, the Solicitor General adopted his Comment to the petition as his Memorandum (Rollo, pp. 186-187).

Luz Farms questions the following provisions of R.A. 6657, insofar as they are made to apply to it:

(a) Section 3(b) which includes the “raising of livestock (and poultry)” in the definition of “Agricultural, Agricultural Enterprise or Agricultural Activity.”

(b) Section 11 which defines “commercial farms” as “private agricultural lands devoted to commercial, livestock, poultry and swine raising x x x.”

(c) Section 13 which calls upon petitioner to execute a production-sharing plan.

(d) Section 16(d) and 17 which vest on the Department of Agrarian Reform the authority to summarily determine the just compensation to be paid for lands covered by the Comprehensive Agrarian Reform Law.

(e) Section 32 which spells out the production-sharing plan mentioned in Section 13 -?

"x x x (W) hereby three percent (3%) of the gross sales from the production of such lands are distributed within sixty (60) days of the end of the fiscal year as compensation to regular and other farmworkers in such lands over and above the compensation they currently receive: Provided, That these individuals or entities realize gross sales in excess of five million pesos per annum unless the DAR, upon proper application, determine a lower ceiling.

In the event that the individual or entity realizes a profit, an additional ten (10%) of the net profit after tax shall be distributed to said regular and other farmworkers within ninety (90) days of the end of the fiscal year. x x x."

The main issue in this petition is the constitutionality of Sections 3(b), 11, 13 and 32 of R.A. No. 6657 (the Comprehensive Agrarian Reform Law of 1988), insofar as the said law includes the raising of livestock, poultry and swine in its coverage as well as the Implementing Rules and Guidelines promulgated in accordance therewith.

The Constitutional provision under consideration reads as follows:

ARTICLE XIII

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AGRARIAN AND NATURAL RESOURCES REFORM

Section 4. The State shall, by law, undertake an agrarian reform program founded on the right of farmers and regular farmworkers, who are landless, to own directly or collectively the lands they till or, in the case of other farmworkers, to receive a just share of the fruits thereof. To this end, the State shall encourage and undertake the just distribution of all agricultural lands, subject to such priorities and reasonable retention limits as the Congress may prescribe, taking into account ecological, developmental, or equity considerations, and subject to the payment of just compensation. In determining retention limits, the State shall respect the rights of small landowners. The State shall further provide incentives for voluntary land-sharing.

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Luz Farms contended that it does not seek the nullification of R.A. 6657 in its entirety. In fact, it acknowledges the correctness of the decision of this Court in the case of the Association of Small Landowners in the Philippines, Inc. vs. Secretary of Agrarian Reform (G.R. 78742, 14 July 1989) affirming the constitutionality of the Comprehensive Agrarian Reform Law. It, however, argued that Congress in enacting the said law has transcended the mandate of the Constitution, in including land devoted to the raising of livestock, poultry and swine in its

coverage (Rollo, p. 131). Livestock or poultry raising is not similar to crop or tree farming. Land is not the primary resource in this undertaking and represents no more than five percent (5%) of the total investment of commercial livestock and poultry raisers. Indeed, there are many owners of residential lands all over the country who use available space in their residences for commercial livestock and raising purposes, under "contract-growing arrangements," whereby they supplement the requirements of meat processing corporations and other commercial livestock and poultry raisers (Rollo, p. 10). Lands support the buildings and other amenities attendant to the raising of animals and birds. The use of land is incidental to but not the principal factor or consideration in productivity in this industry. Excluding backyard raisers, about 80% of those in commercial livestock and poultry production occupy five hectares or less. The remaining 20% are mostly corporate farms (Rollo, p. 11).

On the other hand, the public respondent argued that livestock and poultry raising is embraced in the term "agriculture" and the inclusion of such enterprise under Section 3(b) of R.A. 6657 is proper. He cited that Webster's International Dictionary, Second Edition (1954), defines the following words:

"Agriculture - the art or science of cultivating the ground and raising and harvesting crops, often, including also, feeding, breeding and management of livestock, tillage, husbandry, farming.

It includes farming, horticulture, forestry, dairying, sugarmaking x x x.

Livestock - domestic animals used or raised on a farm, especially for profit.

Farm - a plot or tract of land devoted to the raising of domestic or other animals." (Rollo, pp. 82-83).

The petition is impressed with merit.

The question raised is one of constitutional construction. The primary task in constitutional construction is to ascertain and thereafter assure the realization of the purpose of the framers in the adoption of the Constitution (J.M. Tuazon & Co. vs. Land Tenure Administration, 31 SCRA 413 [1970]).

Ascertainment of the meaning of the provision of Constitution begins with the language of the document itself. The words used in the Constitution are to be given their ordinary meaning except where technical terms are employed in which case the significance thus attached to them prevails (J.M. Tuazon & Co. vs. Land Tenure Administration, 31 SCRA 413 [1970]).

It is generally held that, in construing constitutional provisions which are ambiguous or of doubtful meaning, the courts may consider the debates in the constitutional convention as throwing light on the intent of the framers of the Constitution. It is true that the intent of the convention is not controlling by itself, but as its proceeding was preliminary to the adoption by the people of the Constitution the understanding of the convention as to what was meant by the terms of the constitutional provision which was the subject of the deliberation, goes a long way toward explaining the understanding of the people when they ratified it (Aquino, Jr. v. Enrile, 59 SCRA 183 [1974]).

The transcripts of the deliberations of the Constitutional Commission of 1986 on the meaning of the word "agricultural," clearly show that it was never the intention of the framers of the Constitution to include livestock and poultry industry in the coverage of the constitutionally-mandated agrarian reform program of the Government.

The Committee adopted the definition of "agricultural land" as defined under Section 186 of R.A. 3844, as land devoted to any growth. Including but not limited to crop lands, saltbeds, fishponds, idle and abandoned land (Record, CONCOM, August 7, 1986, Vol. III, p. 11).

The intention of the Committee is to limit the application of the word "agriculture." Commissioner Jamir proposed to insert the word "ARABLE" to distinguish this kind of agricultural land from such lands as commercial and industrial lands and residential properties because all of them fall under the general classification of the word "agricultural". This proposal, however, was not considered because the Committee contemplated that agricultural lands are limited to arable and suitable agricultural lands and therefore, do not include commercial, industrial and residential lands (Record, CONCOM, August 7, 1986, Vol. III, p. 30).

In the interpellation, then Commissioner Regalado (now a Supreme Court Justice), posed several questions, among others, quoted as follows:

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"Line 19 refers to genuine reform program founded on the primary right of farmers and farmworkers. I wonder if it means that leasehold tenancy is thereby proscribed under this provision because it speaks of the primary right of farmers and farmworkers to own directly or collectively the lands they till. As also mentioned by Commissioner Tadeo, farmworkers include those who work in piggeries and poultry projects.

I was wondering whether I am wrong in my appreciation that if somebody puts up a piggery or a poultry project and for that purpose hires farmworkers therein, these farmworkers will automatically have the right to own eventually, directly or ultimately or collectively, the land on which the piggeries and poultry projects were constructed. (Record, CONCOM, August 2, 1986, p. 618).

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The questions were answered and explained in the statement of then Commissioner Tadeo, quoted as follows:

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"Sa pangalawang katanungan ng Ginoo ay medyo hindi kami nagkaunawaan. Ipinaalam ko kay Commissioner Regalado na hindi namin inilagay ang agricultural worker sa kadahilanang kasama rito ang piggery, poultry at livestock workers. Ang inilagay namin dito ay farm worker kaya hindi kasama ang piggery, poultry at livestock workers (Record, CONCOM, August 2, 1986, Vol. II, p. 621).

It is evident from the foregoing discussion that Section II of R.A. 6657 which includes "private agricultural lands devoted to commercial livestock, poultry and swine raising" in the definition of "commercial farms" is invalid, to the extent that the aforecited agro-industrial activities are made to be covered by the agrarian reform program of the State. There is simply no reason to include livestock and poultry lands in the coverage of agrarian reform (Rollo, p. 21).

Hence, there is merit in Luz Farms' argument that the requirement in Sections 13 and 32 of R.A. 6657 directing "corporate farms" which include livestock and poultry raisers to execute and implement "production-sharing plans" (pending final redistribution of their landholdings) whereby they are called upon to distribute from three percent (3%) of their gross sales and ten percent (10%) of their net profits to their workers as additional compensation is unreasonable for being confiscatory, and therefore violative of due process (Rollo, p. 21).

It has been established that this Court will assume jurisdiction over a constitutional question only if it is shown that the essential requisites of a judicial inquiry into such a question are first satisfied. Thus, there must be an actual case or controversy involving a conflict of legal rights susceptible judicial determination, the constitutional question must have been opportunely raised by the proper party, and the resolution of the question is unavoidably necessary to the decision of the case itself (Association of Small Landowners of the Philippines, Inc. v. Secretary of Agrarian Reform, G.R. 78742; Acuna v. Arroyo, G.R. 79310; Pabico v. Juico, G.R. 79744; Manaay v. Juico, G.R. 79777, 14 July 1989, 175 SCRA 343).

However, despite the inhibitions pressing upon the Court when confronted with constitutional issues, it will not hesitate to declare a law or act invalid when it is convinced that this must be done. In arriving at this conclusion, its only criterion will be the Constitution and God as its conscience gives it in the light to probe its meaning and discover its purpose. Personal motives and political considerations are irrelevancies that cannot influence its decisions. Blandishment is as ineffectual as intimidation, for all the awesome power of the Congress and Executive, the Court will not hesitate "to make the hammer fall heavily," where the acts of these departments, or of any official, betray the people's will as expressed in the Constitution (*Association of Small Landowners of Philippines, Inc. v. Secretary of Agrarian Reform*, G.R. 78742; *Acuna v. Arroyo*, G.R. 79310; *Pabico v. Juico*, G.R. 79744; *Manayay v. Juico*, G.R. 79777, 14 July 1989).

Thus, where the legislature or the executive acts beyond the scope of its constitutional powers, it becomes the duty of the judiciary to declare what the other branches of the government had assumed to do as void. This is the essence of judicial power conferred by the Constitution "(I)n one Supreme Court and in such lower courts as may be established by law" (Art. VIII, Section 1 of the 1935 Constitution; Article X, Section I of the 1973 Constitution and which was adopted as part of the Freedom Constitution, and Article VIII, Section 1 of the 1987 Constitution) and which power this Court has exercised in many instances (*Demetria v. Alba*, 148 SCRA 208 [1987]).

PREMISES CONSIDERED, the instant petition is hereby GRANTED. Sections 3(b), 11, 13 and 32 of R.A. No. 6657 insofar as the inclusion of the raising of livestock, poultry and swine in its coverage as well as the Implementing Rules and Guidelines promulgated in accordance therewith, are hereby DECLARED null and void for being unconstitutional and the writ of preliminary injunction issued is hereby MADE permanent.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Gancayco, Padilla, Bidin, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

Feliciano, J., on leave.

Sarmiento, J., see separate opinion.

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SEPARATE OPINION

SARMIENTO, J.:

I agree that the petition be granted.

It is my opinion however that the main issue on the validity of the assailed provisions of R.A. 6657 (the Comprehensive Agrarian Reform Law of 1988) and its Implementing Rules and Guidelines insofar as they include the raising of livestock, poultry, and swine in their coverage can not be simplistically reduced to a question of constitutional construction.

It is a well-settled rule that construction and interpretation come only after it has been demonstrated that application is impossible or inadequate without them. A close reading however of the constitutional text in point,

specifically, Sec. 4, Art. XIII, particularly the phrase, "xxx in case of other farmworkers, to receive a just share of the fruits thereof," provides a basis for the clear and possible coverage of livestock, poultry, and swine raising within the ambit of the comprehensive agrarian reform program. This accords with the principle that every presumption should be indulged in favor of the constitutionality of a statute and the court in considering the validity of a statute should give it such reasonable construction as can be reached to bring it within the fundamental law.[1]

The presumption against unconstitutionality, I must say, assumes greater weight when a ruling to the contrary would, in effect, defeat the laudable and noble purpose of the law, i.e., the welfare of the landless farmers and farmworkers in the promotion of social justice, by the expedient conversion of agricultural lands into livestock, poultry, and swine raising by scheming landowners, thus, rendering the comprehensive nature of the agrarian program merely illusory.

The instant controversy, I submit, boils down to the question of whether or not the assailed provisions violate the equal protection clause of the Constitution (Article II, section 1) which teaches simply that all persons or things similarly situated should be treated alike, both as to rights conferred and responsibilities imposed.[2]

There is merit in the contention of the petitioner that substantial distinctions exist between land directed purely to cultivation and harvesting of fruits or crops and land exclusively used for livestock, poultry and swine raising, that make real differences, to wit:

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No land is tilled and no crop is harvested in livestock and poultry farming. There are no tenants nor landlords, only employers and employees.

Livestock and poultry do not sprout from land nor are they "fruits of the land."

Land is not even a primary resource in this industry. The land input is inconsequential that all the commercial hog and poultry farms combined occupy less than one percent (1%) (0.4% for piggery, 0.2% for poultry) of the 5.45 million hectares of land supposedly covered by the CARP. And most farms utilize only 2 to 5 hectares of land.

In every respect livestock and poultry production is an industrial activity. Its use of an inconsequential portion of land is a mere incident of its operation, as in any other undertaking, business or otherwise.

The fallacy of defining livestock and poultry production as an agricultural enterprise is nowhere more evident when one considers that at least 95% of total investment in these farms is in the form of fixed assets which are industrial in nature.

These include (1) animal housing structures and facilities complete with drainage, waterers, blowers, misters and in some cases even piped-in music; (2) feedmills complete with grinders, mixers, conveyors, exhausts, generators, etc.; (3) extensive warehousing facilities for feeds and other supplies; (4) anti-pollution equipment such as bio-gas and digester plants augmented by lagoons and concrete ponds; (5) deepwells, elevated water tanks, pumphouses and accessory facilities; (6) modern equipment such as sprayers, pregnancy testers, etc.; (7) laboratory facilities complete with expensive tools and equipment; and a myriad other such technologically advanced appurtenances.

How then can livestock and poultry farmlands be arable when such are almost totally occupied by these structures?

The fallacy of equating the status of livestock and poultry farmworkers with that of agricultural tenants surfaces when one considers contribution to output. Labor cost of livestock and poultry farms is no more than

4% of total operating cost. The 96% balance represents inputs not obtained from the land nor provided by the farmworkers -- inputs such as feeds and biochemicals (80% of the total cost), power cost, cost of money and several others.

Moreover, livestock and poultry farmworkers are covered by minimum wage law rather than by tenancy law. They are entitled to social security benefits where tenant-farmers are not. They are paid fixed wages rather than crop shares. And as in any other industry, they receive additional benefits such as allowances, bonuses, and other incentives such as free housing privileges, light and water.

Equating livestock and poultry farming with other agricultural activities is also fallacious in the sense that like the manufacturing sector, it is a market for, rather than a source of agricultural output. At least 60% of the entire domestic supply of corn is absorbed by livestock and poultry farms. So are the by-products of rice (rice-bran), coconut (copra meal), banana (banana pulp meal), and fish (fish meal).[3]

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In view of the foregoing, it is clear that both kinds of lands are not similarly situated and hence, can not be treated alike. Therefore, the assailed provisions which allow for the inclusion of livestock and poultry industry within the coverage of the agrarian reform program constitute invalid classification and must accordingly be struck down as repugnant to the equal protection clause of the Constitution.

[1] In re Guarina, 24 Phil. 37; Yu Cong Eng v. Trinidad, 70 L. ed., p. 1059.

[2] Ichong v. Hernandez, 101 Phil. 1155.

[3] Rollo, 29-30.

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