

AMERICAN INTER-FASHION CORPORATION, PETITIONER VS. OFFICE OF THE PRESIDENT, GARMENTS & TEXTILE EXPORT BOARD & GLORIOUS SUN FASHION GARMENTS MANUFACTURING CO. (PHILS.), INC., RES...

G.R. No. 92422. May 23, 1991

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

The private respondent interposed a motion for reconsideration of the October 2, 1990 resolution which referred the issues in this petition to the Sandiganbayan for proper disposition and ordered the Garments and Textile Export Board (GTEB) to refrain from conducting further proceedings in OSC Case No. 84-B-1, subject to a final determination of the merits of the respective claims of the parties herein.

The motion questions the findings that the instant petition ". . . raises matters which are incidents arising from or incidental to, or related to, several cases pending before the Sandiganbayan which pertain to funds, properties and assets alleged to have been illegally acquired or misappropriated by the members of the Marcos family and their business associates or cronies."

After a re-examination of the jurisdiction of the Sandiganbayan under Executive Order No. 14 and the issues raised in the instant petition, we resolve to set aside the October 2, 1990 resolution and grant the motion for reconsideration.

In the case of *Republic v. Sandiganbayan* (182 SCRA 911 [1990]) the Court stated:

"The jurisdiction of the Sandiganbayan has already been settled in *Presidential Commission on Good Government v. Hon. Emmanuel G. Pena, etc., et al.*, (159 SCRA 556 [1988]) where the Court held that: ' . . . Under Section 2 of the President's Executive Order No. 14 issued on May 7, 1986, all cases of the Commission regarding 'the Funds, Moneys, Assets, and Properties Illegally Acquired or Misappropriated by Former President Ferdinand Marcos, Mrs. Imelda Romualdez Marcos, their Close Relatives, Subordinates., Business Associates, Dummies-Agents or Nominees, whether civil, or criminal, are lodged within the exclusive and original jurisdiction of the Sandiganbayan' and all incidents arising from, incidental to, or related to, such cases necessarily fall likewise under the Sandiganbayan's exclusive and original jurisdiction, subject to review on certiorari exclusively by the Supreme Court.'

In reiterating the aforequoted ruling in six (6) subsequent cases (*Soriano III v. Yuzon*, 164 SCRA 226) which were decided jointly, again, the Court held that --

' . . . [T]he exclusive jurisdiction conferred on the Sandiganbayan would evidently extend not only to the principal causes of action, i.e., the recovery of alleged ill-gotten wealth, but also to 'all incidents arising from, incidental to, or related to, such cases,' such as the dispute over the sale of the shares, the propriety of the issuance of ancillary writs or provisional remedies relative thereto, the sequestration thereof, which may not be made the subject of separate actions or proceedings in another forum.'" (at p. 917-918)

Thus, in the above cited case we ruled that the motion for intervention filed by the private respondents being merely ancillary and supplemental to an existing litigation (Civil Case No. 0025) and not an independent action, the Sandiganbayan which has exclusive and original jurisdiction over Civil Case No. 0025, has likewise original and exclusive jurisdiction over the private respondent's action for intervention therein.

This can not be said, however, of the instant case.

This case arose from an April 24, 1984 ruling of the GTEB that respondent Glorious Sun was guilty of misdeclaration of imported raw materials resulting in dollar salting abroad and, therefore, its export quotas should be cancelled. Its quotas were given to two newly-formed corporations - De Soleil Apparel Manufacturing Corporation (De Soleil) and the American Inter-Fashion Corporation (AIFC). These two corporations were joint ventures of the Hongkong investors and majority stockholders of Glorious Sun on one hand and, allegedly, a member of the family and a crony of President Marcos on the other. The Office of the President set aside the GTEB decision and remanded the case for genuine hearings where due process would be accorded both parties. The petitioner now alleges that the GTEB decision is *res judicata* and that Glorious Sun was given every opportunity to be heard by the Board.

Whether or not the Malacañang decision suffers from grave abuse of discretion is the question before us. It must be emphasized, however, that Glorious Sun has never been sequestered. The records also show that American Inter-Fashion's sequestration has been lifted and apparently only De Soleil remains sequestered. However, De Soleil is not a party in this petition and it appears that it is not interested in what happens to the sequestration. Significantly, it was the Glorious Sun's owner which filed the sequestration case against American Inter-Fashion and De Soleil with the PCGG.

The issue resolved by the Office of the President is not proper for the Sandiganbayan for the following reasons:

First, the 1984 cancellation of the export quotas of Glorious Sun is a main case. As a principal case it cannot be an incident of any sequestration or ill-gotten wealth case which should be referred to the Sandiganbayan. Neither petitioner American Inter-Fashion nor non-party De Soleil was in existence when the proceedings which led to this case were initiated by GTEB in 1984. The fact that the cancelled quotas were given to the hastily created corporations does not preclude an examination of the validity of the order of cancellation which led to their creation. A 1986 sequestration order (now lifted) against the then non-existent American Inter-Fashion should not be allowed to stop Glorious Sun from insisting before the proper tribunal that it was not accorded due process when its export quotas were arbitrarily stripped from it in 1984.

Second, the Sandiganbayan has no jurisdiction to ascertain whether or not the questioned Malacañang decision is tainted by grave abuse of discretion. Whether or not the Office of the President correctly reviewed a 1984 GTEB decision is not proper for the Sandiganbayan to ascertain. The Office of the President reviewed the 1984 GTEB finding that Glorious Sun was guilty of misdeclaration of denim importations. It decided that GTEB did not observe rudimentary requirements of due process when it rendered its decision. The Office of the President ordered a remand for the proper taking of evidence. The correctness of that decision is for the Supreme Court to decide and not for the Sandiganbayan.

In this regard, the petitioner itself invokes the jurisdiction of this Court under Rule 65 of the Rules of Court to correct or remedy the alleged grave abuse of discretion committed by the Office of the President. Only the Supreme Court through the petition for certiorari under Rule 65 in the exercise of its appellate jurisdiction can decide whether or not the Office of the President committed grave abuse of discretion amounting to lack of jurisdiction in issuing the questioned decision. (See *Republic v. Sandiganbayan* supra; *Dario v. Mison*, 176 SCRA 84 [1989])

With these findings, we now proceed to resolve the main issue in the petition.

As stated in the October 2, 1990 resolution, the facts of the case are as follows:

"On April 27, 1984, respondent GLORIOUS was found guilty of dollar-salting and misdeclaration of importations by the GTEB in OSC Case No. 84-B-1 and, as a result of which, the export quotas allocated to it were cancelled. Soon after the rendition of the GTEB decision, respondent GLORIOUS filed a petition for certiorari and prohibition with the Court, docketed as G. R. No. 67180, contending that its right to due process of law was violated, and that the GTEB decision was not supported by substantial evidence. Giving credence to the allegations of respondent GLORIOUS, the Court issued a resolution on June 4, 1984, ordering GTEB to conduct further proceedings in the administrative case against respondent GLORIOUS. However, on July 25, 1984, respondent GLORIOUS filed a manifestation of its intention to withdraw the petition. On August 20, 1984, the Court granted respondent GLORIOUS' motion for withdrawal. Respondent GLORIOUS filed another motion to dismiss with prejudice, which was duly noted by the Court in a resolution dated September 10, 1984.

More than two years later, on October 15, 1986, respondent GLORIOUS filed with the GTEB a petition for the restitution of its export quota allocation and requested for a reconsideration of the GTEB decision dated April 27, 1984. Once again, respondent GLORIOUS alleged that the charges against it in OSC Case No. 84-B-1 were not supported by evidence. Moreover, it alleged that the GTEB decision cancelling its export quotas was rendered as a result of duress, threats, intimidation and undue influence exercised by former Minister Roberto V. Ongpin in order to transfer GLORIOUS' export quotas to 'Marcos crony-owned' corporations De Soleil Apparel Manufacturing Corporation [DSA] and petitioner AIFC. Respondent GLORIOUS further alleged that it was coerced by Mr. Roberto Ongpin to withdraw its petition in G. R. No. 67180 and to enter into joint venture agreements paving the way for the creation of DSA and petitioner AIFC which were allowed to service respondent GLORIOUS' export quotas and to use its plant facilities, machineries and equipment.

On September 4, 1987, the GTEB denied the petition of respondent GLORIOUS. An appeal was then taken on October 5, 1987 to the Office of the President, docketed as OP Case No. 3781. At this point, petitioner AIFC sought to intervene in the proceedings and filed its opposition to GLORIOUS' appeal on November 27, 1987, claiming that the GTEB decision dated April 27, 1984 has long become final, and that a favorable action on the appeal would result in the forfeiture of the export quotas which were legally allocated to it. On September 7, 1989, the Office of the President ruled in favor of respondent GLORIOUS, finding the proceedings before the GTEB in 1984 irregular, and remanded the case to GTEB for further proceedings. The motion for reconsideration of AIFC was subsequently denied on February 20, 1990." (Rollo, Vol. III, pp. 7972-7974)

The petitioner raises the following alleged errors:

I

RESPONDENT OFFICE OF THE PRESIDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN HAVING TAKEN COGNIZANCE OF GLORIOUS SUN'S APPEAL SINCE:

- a. it amounted to an administrative review of the final judgment of the courts;
- b. Glorious Sun had long ago abandoned its right to appeal the 1984 Decision of the GTEB.

II

ASSUMING ARGUENDO THAT GLORIOUS SUN'S APPEAL WAS PROPER, THE OFFICE OF THE PRESIDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN FINDING THAT THERE WAS A VIOLATION OF GLORIOUS SUN'S RIGHT TO PROCEDURAL DUE PROCESS. (Rollo, Vol. I, pp.12-13)

As can be gleaned from the issue raised in the first assigned error, the petitioner capitalizes on the fact, that we granted a motion to withdraw the petition in G. R. No. 67180, *Glorious Sun v. GTEB* on August 20, 1984. Thus, the petitioner contends that in entertaining the appeal of private respondent GLORIOUS, the Office of the President "had unwittingly made itself a tool in a cunning move to resurrect a decision which had become final and executory more than three (3) years earlier." (Petition p. 5) The petitioner asseverates that the resolution dismissing the petition in G. R. No. 67180 was *res judicata* on the matter.

Time and again we have held that for a judgment to be a bar to a subsequent case, the following requisites must concur:¹

"... (1) it must be a final judgment; (2) the court which resolved it had jurisdiction over the subject matter and the parties; (3) it must be a judgment on the merits; and (4) there must be identity between the two cases, as to the parties, subject matter and cause of action. (*Bringas v. Hernando*, 144 SCRA 346, 359 citing the cases of *Martinez v. Court of Appeals*, 139 SCRA 558; *Carandang v. Venturansa*, 133 SCRA 344; *Pantranco North Express, Inc. v. National Labor Relations Commission*, 126 SCR 526; and *Castro v. Court of Appeals*, 95 SCRA 539 cited in *Deang v. Intermediate Appellate Court*, 154 SCRA 250 [1987]; See also *Escarte, Jr., et al. v. Office of the President of the Philippines, et al.*, G. R. No. 53668, December 4, 1990).

The crucial question before us is whether or not the final judgment in G. R. No. 67180 constitutes *res judicata* to the instant case on the ground that the final judgment in G. R. No. 67180 was a judgment on the merits.

The well-entrenched principle is that "a judgment on the merits is one rendered after a determination of which party is right, as distinguished from a judgment rendered upon preliminary or final or merely technical point." (*Deang v. Intermediate Appellate Court* supra citing *Santos v. Intermediate Appellate Court*, 145 SCRA 238, 245-246). In the later case of *Escarte Jr., et al. v. Office of the President of the Philippines, et al.*, (supra) we further stated:

.....

"As a technical legal term, 'merits' has been defined in law dictionaries as matter of substance in law, as distinguished from matter of form, and as the real or substantial grounds of action or defense in contradiction to some technical or collateral matter raised in the course of the suit. A judgment is upon the merits when it amounts to a declaration of the law as to the respective rights and duties of the parties, based upon the ultimate fact or state of facts disclosed by the pleadings and evidence, and upon which the right of recovery depends, irrespective of formal, technical or dilatory objection or contentions. (Vicente J. Francisco, *Revised Rules of Court*, Volume II, pp. 841-842)

Certainly, the dismissal of G. R. No. 67180 can not be categorized as a judgment on the merits. Our action in 1984 did not resolve anything. In fact when we heard the parties during oral arguments, GTEB was unable to present any showing of misdeclaration of imports. Concerned about the alleged railroading of the case, we directed GTEB to allow *Glorious Sun* a period not exceeding 60 days to fully disclose its evidence relative to the charges against it. The motion to withdraw the petition arose from the fears of *Mr. Nemesio Co* that not only *Glorious Sun* but his other businesses would be destroyed by the martial law regime. The motion to withdraw states that:

"... [I]t has painfully arrived at the conclusion that, without admitting the truth of the findings of respondent Board, it is but to give notice of withdrawal of its petition in this case, thereby to enable petitioner's President, *Mr. Nemesio Co*, to immediately free himself from further tension affecting his state of health. This notice is being filed under Section 1 of Rule 20 since anyway the issues in the case have not yet been formally joined. (Rollo - G. R. No. 67180, p. 580)

No issues had been joined. The movant never admitted the correctness of the Board's findings. Significantly, our resolution dismissing the petition in G. R. No. 67180 was based solely on this notice of withdrawal by the private respondent. The dismissal of the petition in G. R. No. 67180 was clearly based on a technical matter rather than on the merits of the petition. Hence, the dismissal of the petition with the factual issues hanging in mid-air cannot, under the circumstances, constitute *res judicata*.

Under its second assigned error, the petitioner assails the questioned resolutions of the Office of the President on the ground that private respondent Glorious Sun was not denied due process during the hearings held in GTEB.

Specifically, the petitioner disagrees with the Office of the President's findings that during the hearings conducted in 1984, Glorious Sun was not confronted with the evidence, which, per the records, were marked as GTEB's exhibits.

In its petition, however, the petitioner admits that the GTEB in the 1984 hearings failed to disclose to Glorious Sun vital evidence used by GTEB in arriving at its conclusion that Glorious Sun was guilty of dollar-salting. The petition states:

"... In its own Decision, the Office of the President took note of the fact that after GTEB required Glorious Sun to submit its reason why its petition for restitution of export quotas should be given due course, the former furnished the latter various relevant documents for its perusal and examination (See Annex "A"). These very same documents are constitutive of the evidence submitted by the GTEB which it considered in arriving at its 1984 Decision. With this subsequent disclosure, Glorious Sun was given all the opportunity, to comment thereon, with the end in view of convincing GTEB that its petition for restitution should be given due course. It was very clear from the 1987 GTEB Resolution (See Annex "E") that it took into consideration the arguments advanced by Glorious Sun in refutation of the GTEB evidence which were just disclosed to them. Unfortunately for Glorious Sun, despite the arguments they presented, the GTEB remained unconvinced to disturb the earlier findings. GTEB's ruling runs thus -

'However, the recommendation of the investigating panel and the decision of the Board were not based on the data you have for the simple reason that the specifications are different. On the other hand, the records made available to you earlier on which the investigating panel and the Board based their recommendation and decision show importations of other importers with the same specifications as your importations. These documents are intact and filed in orderly fashion and were again reviewed by us. The evidences are so detailed, clear and overwhelming that they show that your prices were much higher than the importations of the other Philippine importers.' (See Annex "E", p. 3)

Evidently, the protestation of Glorious Sun of non-disclosure of evidence had been effectively remedied by the subsequent accommodation by the GTEB of its request for copies of the relevant documents. After Glorious Sun had examined the same, and submitted their arguments in refutation of previous findings which were based thereon, the GTEB considered these arguments. These subsequent events, we respectfully mention, are clear indications that effective disclosure within the context of the due process clause had been more than sufficiently met. Even with a categorical statement from the GTEB that the Supreme Court case is without any bearing on the present inquiry on account of the withdrawal thereof by Glorious Sun, the move of the GTEB in this respect is a sure sign that it did not relegate to oblivion the admonition of the High Court to afford Glorious Sun 'a reasonable opportunity of having full disclosure of the evidence relative to the charge filed against it and the same opportunity to present rebuttal evidence.'" (Rollo, Vol. I, pp. 21-23)

The petitioner claims that the subsequent disclosure of the documents by GTEB to Glorious Sun in 1987 cured the defect of non-disclosure of evidence in 1984 under the constitutional provision of due process enunciated in the landmark case of *Ang Tibay v. The Court of Industrial Relations* (69 Phil. 635 [1940]) and other subsequent cases. (See *Provincial Chapter of Laguna, Nacionalista Party v. Comelec*, 122 SCRA 423 [1983]; *Mangubat v. De*

Castro, 163 SCRA 608 [1988]).

The petitioner's posture is to say the least misleading. At issue in this petition is the 1984 resolution of the GTEB. This resolution was the sole reason for stripping off Glorious Sun's export quotas and warding the export quotas to two newly and hastily created corporations, the petitioner herein and De Soleil. The petitioner can not use as an excuse the subsequent disclosure of the evidence used by the GTEB to Glorious Sun in 1987 to justify the 1984 GTEB resolution. The glaring fact is that Glorious Sun was denied due process when the GTEB failed to disclose evidence used by it in rendering a resolution against Glorious Sun. (*Ang Tibay v. The Court of Industrial Relations*, supra; *Provincial Chapter of Laguna, Nacionalista Party v. Comelec*, supra; *Mangubat v. Castro*, supra)

Moreover, as pointed out by Deputy Executive Secretary Magdangal B. Elma, the documents disclosed to Glorious Sun by GTEB in 1987 enhanced the charged that Glorious Sun was denied due process. Secretary Elma said:

"The GTEB's violation of Appellant's right to due process becomes all the more clear by documents it furnished the latter in 1987, particularly the summer of the 1983 import prices of twelve (12) importers for 100% cotton denims, 44/45" per yard, as follows

(1) Pioneer Texturizing

US\$1.65 C&F

(2) Jag & Hagger Jeans

1.90 C&F

(3) GTI Sportswear Corporation

1.678 CF

(4) Midas Diversified Export Corporation
(only one importation indicated)

1.65 C&F

(5) Glorious Sun Fashion Mgt. Mftg.
Phils., Inc: (Appellant herein)

2.00 FOB

(6) Lee (Phils.) Inc.

3.55 C&F

(7) International Garments

2.10 C&F

(8) Carousel Children's Wear Inc. A

1.50 C&F

(9) Sampaguita (no price per yard indicated)

-

(10) Pie Wynner

1.42 CF

(11) Marlu Garment Corporation -
7,997 yards priced at \$14,394.69 or
\$14,393.69 divided by 7,977 equals

1.80

(12) Levi Straus

2.66

As shown above, the, highest recorded import prices in 1983 for 100% cotton denims 44/45" per yard were as follows:

(1) Lee (Phils.) Inc.

US \$3.55 C&F

(2) Lee (Phils.) Inc.

3.13 CIF

(3) Levi Strauss

2.66

(4) International Garments

2.10 C&F

(5) Glorious Sun (Appellant)

2.00 FOB

Considering that whether the importation is CIF, C&F, CF, or FOB, the freight cost difference is only US\$0.01 per yard (tsn, Feb. 29, 1984 hearing, p. 32), it is clear that Appellant posted only the fifth highest price at US\$2.00. And since the price registered in 1983 reached a high of \$3.55 and a low of US\$1.42, Appellant's price of US\$2.00 is, on average, below the median of US\$2.485.

As indicated by the data gathered by the GTEB Secretariat on the unit price of denim fabrics imported by garment manufacturers in 1982 and 1983, the following were the highest import prices recorded:

‘FOB

:

\$ 2.9/m or \$2.65/yd.

C & F

:

3.56/yd.

CIF

:

3.13/yd.

HCV

:

2.12/m or 1.94/yd.”

(Memorandum of GTEB Raw Materials Importation Regulation Division dated March 25, 1987.)'

Apparently, the 1984 GTEB Investigating Panel picked up four importers - identified initially by letters A, B, C, and D, but subsequently identified as Pioneer Texturizing Corporation, Jag & Hagger Jeans & Sportswear, GTI Sportswear, and Midas Diversified Corporation - whose import prices were lower than that of Appellant, in order to show that Appellant's import prices was the highest. In so picking, it could, as it did, justify the cancellation of Appellant's export quotas in obedience to the instruction on the matter of then Minister Ongpin. (See Affidavit of Assistant Minister and 1984 GTEB hearing Committee Chairman Rodolfo V. Puno dated April 7, 1986, supra).

Nonetheless, the appealed decision of September 4, 1987, states:

‘However, the recommendation of the board investigating panel and the decision of the Board were not based on the data you (Appellant) have for the simple reason that the specifications are different. On the other hand, the records made available to you earlier on which the investigating panel and the Board based their recommendation and decision show importations of other importers with the same specifications as your (Appellant's) importations. These documents are intact and filed in orderly fashion and were again reviewed by us. The evidences are so detailed, clear, and overwhelming that they show that your prices were much higher than the importations of the other Philippine importers.’

The documents used by the GTEB in its 1984 decision and referred to in the 1987 decision as being 'intact' relates to what the GTEB labelled as 'Documents used by GTEB' and 'Additional Documents' which, as earlier discussed, were either not disclosed to Appellant for being privileged or unmarked as exhibits or not presented in evidence.

At any rate, the conclusions of GTEB as to the excessiveness of Appellant's import prices drew a controverting statement from its own Raw Materials Importation Regulation Division, thus:

'Considering the unit prices gathered with the unit prices of Glorious Sun would lead one to believe that Glorious Sun's prices are not exceptionally high at \$2.00/yd. (FOB). However, it should be noted that the denim fabrics are extremely heterogeneous (as can be seen in (1) above, with respect to width, construction, yarn count, weight, weave, color, and sourcing or country of origin. These factors, in one way or another affect the unit prices of the fabrics. For example, although Levi's has a higher unit price than Glorious Sun (\$2.65/yd. as against \$2.00/yd.), it should be noted that they have different sourcing. Glorious Sun imports its fabrics from Hongkong, while Levi's imports denim fabrics from Japan (this is specified by the buyer), believed to be superior in quality, thereby more expensive. The same is true for Lee Phils., which sources its denim fabrics from the U.S.A. Therefore, it would not be wise to make conclusions from the comparison of prices, without considering other factors such as those mentioned above.

Furthermore, it can be seen from (1) that some descriptions of the materials are not complete. Thus, there is not enough basis for comparing import prices.' (Memorandum dated March 25, 1987, supra; . . .)" (Rollo, Vol I, pp. 49-51)

The petitioner cites what it calls "inconsequential matters which formed the basis of the decision of the Office of the President . . . which ought to have been disregarded for lack of legal worth." (p. 22, Petition) In this regard, the petitioner cites the dissenting opinion in the case of Presidential Commission on Good Government v. Peña (159 SCRA 556 [1988]), to wit:

"I participated in the deliberations and hearings of the Glorious Sun case in 1984 and I recall that there was not the slightest scintilla of evidence to support the charges of dollar salting made by GTEB. A scrap of yellow pad paper on which were pencilled a few computations and with nothing to support them, a graph of import prices of four local importers identified only by letters, and another piece of paper with supposed 1983 prices of fabrics were the only 'proof' that the respondent Minister with all the power (he was issuing warrants of arrest) and resources at his command could produce before the Court. So patently arbitrary was the finding of dollar salting that it would have been easy for the First Division to uphold the exporter's rights. . . ." (at pp. 588-589)

The petitioner contends that this pronouncement is obiter dicta since the issue on the matter was not presented in that case.

Even assuming that the observations were obiter dicta in the Peña case, we find no legal impediment to re-examining the same conclusions which are borne by the records of the instant case since we are now confronted with the issue as to the correctness of the 1984 GTEB decision.

The petitioner also cites the affidavit of Chairman Puno. The Puno affidavit is a sworn statement dated April 7, 1986 given before the Presidential Commission on Good Government (PCGG) by Assistant Minister of Trade and Industry Rodolfo V. Puno, Chairman of the Investigating Panel created by the Ministry of Trade and Industry to conduct hearings on the dollar salting charge against the respondent. It was the "Report to the Board" (GTEB) which formed the basis of the 1984 GTEB decision finding the respondent guilty of dollar salting.

The pertinent portion of the Affidavit states:

.....

"2. Prior to the start of the investigation, I was instructed by Minister Ongpin to submit a report finding Glorious Sun (Appellant herein) guilty of dollar-salting and other violations that would justify the cancellation of Glorious Sun's export quotas which were among the most substantial and valuable in the garments industry in trouser's line.

3. After Glorious Sun submitted its evidence refuting the dollar-salting charge, I told Minister Ongpin that there was no evidence to substantiate the dollar-salting charge against Glorious Sun or any other violations of existing laws or rules. However, Minister Ongpin still instructed me to submit a report to the GTEB, of which Minister Ongpin was the Chairman, finding Glorious Sun guilty of dollar-salting. (Rodolfo Puno's Affidavit dated April 7, 1986;" (Elma Decision, Rollo, Vol. I, pp. 47-48; Emphasis supplied)

The petitioner would like to impress on this Court that the Puno affidavit is an "inconsequential matter" on the ground that the GTEB did not give credence to the affidavit. The GTEB said:

"The affidavit of Mr. Rodolfo Puno was studied and evaluated. None of the members of the committee would agree that there was any pressure or instruction from former Minister Roberto V. Ongpin to look for ways and means to remove the quotas from your company. In other words, our investigation showed that the committee chaired by Mr. Rodolfo Puno based its recommendations on the facts and documents on hand that the members were free in making their decision the way they did.

.....

It is important to dwell further on the affidavit of Mr. Rodolfo Puno who chaired the investigating panel. His participation during the investigation was so deep and his involvement as shown by his questions were so detailed that one could see the thrust of his questions and the points he wanted to bring out. It is logical to assume that his posture in the original decision was based on the points elicited during the investigation. For him to make a complete turn about now is difficult to understand especially when none of the members of the committee share his new protestation. (See Annex "E", Rollo, Vol. I, pp. 69-70)

The fact that the other members would not agree that there was pressure from Minister Ongpin to cancel the export quotas of the respondent does not mean that Mr. Puno was not telling the truth. Mr. Puno stated that he was pressured by Minister Ongpin. He did not state that the members of the Investigating Panel were pressured. Mr. Puno was the Chairman of the Investigating Panel. Hence, it is plausible that in view of his position in the Panel, he was the one pressured by Minister Ongpin. There is every reason to suspect that even before Glorious Sun was investigated, a decision to strip it of its quotas and to award them to friends of their administration had already been made. At the very least, Mr. Puno's "complete turn about" casts doubts on the veracity and fairness of the Investigating Panel's Report to GTEB which formed the basis for the 1984 GTEB decision. Hence, the need for further proceedings before the GTEB.

Findings of administrative agencies are accorded respect and finality, and generally should not be disturbed by the courts. This general rule, however, is not without exceptions:

"As recently reiterated, it is jurisprudentially settled that absent a clear, manifest and grave abuse of discretion amounting to want of jurisdiction, the findings of the administrative agency on matters falling within its competence will not be disturbed by the courts. Specifically with respect to factual findings, they are accorded respect, if not finality, because of the special knowledge and expertise gained by these tribunals from handling the specific matters falling under their jurisdiction. Such factual findings may be disregarded only if they "are not supported by evidence; where the findings are initiated by fraud, imposition or collusion; where the procedures, which lead to the factual findings are irregular; when palpable errors are committed; or when grave abuse of discretion arbitrariness or capriciousness is manifest." (Mapa v. Arroyo, 175 SCRA 76 [1989])

Contrary to the petitioner's posture, the record clearly manifests that in cancelling the export quotas of the private respondent GTEB violated the private respondent's constitutional right to due process. Before the cancellation in 1984, the private respondent had been enjoying export quotas granted to it since 1977. In effect the private respondent's export quota allocation which initially was a privilege evolved into some form of property right which should not be removed from it arbitrarily and without due process only to hurriedly confer it on another. Thus, in the case of *Mabuhay Textile Mills Corporation v. Ongpin* (141 SCRA 437, 437 [1986]), we stated:

"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. . . . " (Emphasis supplied)

The decision penned by Deputy Executive Secretary Magdangal B. Elma and the resolution penned by Acting Deputy Executive Secretary Mariano Sarmiento II are not tainted in the slightest by any grave abuse of discretion. They outline in detail why the private respondent was denied due process when its export quotas were cancelled by GTEB. The findings are supported by the records.

Finally, American Inter-Fashion is hardly the proper party to question the Malacañang decision. It was incorporated after the incidents in this case happened. It was created obviously to be the recipient of export quotas arbitrarily removed from the rightful owner. It was sequestered precisely because of the allegation that it is a crony corporation which profited from an act of injustice inflicted on another private corporation.

PREMISES CONSIDERED, the motion for reconsideration is GRANTED. The instant petition is DISMISSED. The questioned decision and resolution of the Office of the President are hereby affirmed.

SO ORDERED.

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

Paras, J., no part. I'm related to one counsel.

Feliciano, J., please see concurring statement.

Sarmiento, J., no part: Deputy Executive Secretary Sarmiento is my son.

Griño-Aquino, J., no part.

CONCURRING OPINION

FELICIANO, J.:

I concur in the result reached by the Court, that is, that petitioner American Inter-fashion Corporation has failed to show any grave abuse of discretion or act without or in excess of jurisdiction on the part of the public respondent Office of the President in rendering its decision in OP Case No. 3781 dated 7 September 1989. That decision directed the Garments and Textile Export Board ("GTEB") to reopen OSC Case No. 84-B-1 and to review a decision rendered therein by the GTEB on 27 April 1984 ordering revocation of the export quota allocation of private respondent Glorious Sun Fashion Garments Manufacturing Company (Philippines), Inc. ("Glorious Sun") and disqualifying its officials from availing of export quotas in the garment business.

At the same time, it seems useful to record the consensus of the Court reached during its deliberation on this case that, firstly, there is nothing in the present decision that in any way modifies the rule in *Presidential Commission on Good Government v. Hon. Emmanuel G. Peña, etc., et al.* (159 SCRA 556 [1988]). Secondly, such conclusions as the GTEB may reach in respect of the factual and legal issues involved in OSC Case No. 84-B-1, relate to the administrative charges against private respondent Glorious Sun for misdeclaration of importations, and will not bind the Sandiganbayan in resolving Civil Cases Nos. 0002 and 0081 presently pending before the Sandiganbayan, involving charges of acquisition of "ill-gotten" wealth by members of the Marcos family and their business associates or cronies.

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