

ATLAS FERTILIZER CORPORATION, PETITIONER, VS. THE HONORABLE SECRETARY OF THE DEPARTMENT OF AGRARIAN REFORM, RESPONDENT.

G.R. No. 93100. June 19, 1997

Ponente: ROMERO, J.

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ROMERO, J.:

Before this Court are consolidated petitions questioning the constitutionality of some portions of Republic Act No. 6657 otherwise known as the Comprehensive Agrarian Reform Law.[1]

Petitioners Atlas Fertilizer Corporation,[2] Philippine Federation of Fishfarm Producers, Inc. and petitioner-in-intervention Archie's Fishpond, Inc. and Arsenio Al. Acuna[3] are engaged in the aquaculture industry utilizing fishponds and prawn farms. They assail Sections 3 (b), 11, 13, 16 (d), 17 and 32 of R.A. 6657, as well as the implementing guidelines and procedures contained in Administrative Order Nos. 8 and 10 Series of 1988 issued by public respondent Secretary of the Department of Agrarian Reform as unconstitutional.

Petitioners claim that the questioned provisions of CARL violate the Constitution in the following manner:

1. Sections 3 (b), 11, 13, 16 (d), 17 and 32 of CARL extend agrarian reform to aquaculture lands even as Section 4, Article XIII of the constitution limits agrarian reform only to agriculture lands.
2. The questioned provisions similarly treat of aquaculture lands and agriculture lands when they are differently situated, and differently treat aquaculture lands and other industrial lands, when they are similarly situated in violation of the constitutional guarantee of the equal protection of the laws.
3. The questioned provisions distort employment benefits and burdens in favor of aquaculture employees and against other industrial workers even as Section 1 and 3, Article XIII of the Constitution mandate the State to promote equality in economic and employment opportunities.
4. The questioned provisions deprive petitioner of its government-induced investments in aquaculture even as Sections 2 and 3, Article XIII of the Constitution mandate the State to respect the freedom of enterprise and the right of enterprises to reasonable returns on investments and to expansion and growth.

The constitutionality of the above-mentioned provisions has been ruled upon in the case of Luz Farms, Inc. v. Secretary of Agrarian Reform[4] regarding the inclusion of land devoted to the raising of livestock, poultry and swine in its coverage.

The issue now before this Court is the constitutionality of the same above-mentioned provisions insofar as they include in its coverage lands devoted to the aquaculture industry, particularly fishponds and prawn farms.

In their first argument, petitioners contend that in the case of Luz Farms, Inc. v. Secretary of Agrarian Reform,[5] this Court has already ruled impliedly that lands devoted to fishing are not agriculture lands. In aquaculture, fishponds and prawn farms, the use of land is only incidental to and not the principal factor in productivity and,

hence, as held in “Luz Farms,” they too should be excluded from R.A. 6657 just as lands devoted to livestock, swine, and poultry have been excluded for the same reason. They also argue that they are entitled to the full benefit of “Luz Farms” to the effect that only five percent of the total investment in aquaculture activities, fishponds, and prawn farms, is in the form of land, and therefore, cannot be classified as agricultural activity. Further, that in fishponds and prawn farms, there are no farmers, nor farm workers, who till lands, and no agrarian unrest, and therefore, the constitutionally intended beneficiaries under Section 4, Art. XIII, 1987 Constitution do not exist in aquaculture.

In their second argument, they contend that R.A. 6657, by including in its coverage, the raising of fish and aquaculture operations including fishponds and prawn ponds, treating them as in the same class or classification as agriculture or farming violates the equal protection clause of the Constitution and is, therefore, void. Further, the Constitutional Commission debates show that the intent of the constitutional framers is to exclude “industrial” lands, to which category lands devoted to aquaculture, fishponds, and fish farms belong.

Petitioners also claim that Administrative Order Nos. 8 and 10 issued by the Secretary of the Department of Agrarian Reform are, likewise, unconstitutional, as held in “Luz Farms,” and are therefore void as they implement the assailed provisions of CARL.

The provisions of CARL being assailed as unconstitutional are as follows:

- (a) Section 3(b) which includes the “raising of fish in the definition of “Agricultural, Agricultural Enterprise or Agricultural Activity.” (Underscored Supplied)
- (b) Section 11 which defines “commercial farms” as private agricultural lands devoted to fishponds and prawn ponds x x x.” (Underscored Supplied)
- (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 at 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, determines a lower ceiling.

In the event that the individual or entity realizes a profit, an additional ten percent (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”

While the Court will not hesitate to declare a law or an act void when confronted squarely with constitutional issues, neither will it preempt the Legislative and the Executive branches of the government in correcting or clarifying, by means of amendment, said law or act. On February 20, 1995, Republic Act No. 7881[6] was approved by Congress. Provisions of said Act pertinent to the assailed provisions of CARL are the following:

“Section 1. Section 3, Paragraph (b) of Republic Act No. 6657 is hereby amended to read as follows:

“Sec. 3. Definitions. -- For the purpose of this Act, unless the context indicates otherwise:

“(b) Agriculture, Agricultural Enterprise or Agricultural Activity means the cultivation of the soil, planting of crops, growing of fruit trees, including the harvesting of such farm products and other farm activities and

practices performed by a farmer in conjunction with such farming operations done by persons whether natural or juridical.”

Sec. 2. Section 10 of Republic Act No. 6657 is hereby amended to read as follows:

“Sec. 10. Exemptions and Exclusions.--

xxx xxx xxx

“b) Private lands actually, directly and exclusively used for prawn farms and fishponds shall be exempt from the coverage of this Act: Provided, That said prawn farms and fishponds have not been distributed and Certificate of Land Ownership Award (CLOA) issued to agrarian reform beneficiaries under the Comprehensive Agrarian Reform Program.

“In cases where the fishponds or prawn farms have been subjected to the Comprehensive Agrarian Reform Law, by voluntary offer to sell, or commercial farms deferment or notices of compulsory acquisition, a simple and absolute majority of the actual regular workers or tenants must consent to the exemption within one (1) year from the effectivity of this Act. When the workers or tenants do not agree to this exemption, the fishponds or prawn farms shall be distributed collectively to the worker-beneficiaries or tenants who shall form a cooperative or association to manage the same.

“In cases where the fishponds or prawn farms have not been subjected to the Comprehensive Agrarian Reform Law, the consent of the farm workers shall no longer be necessary, however, the provision of Section 32-A hereof on incentives shall apply.”

Sec. 3. Section 11, paragraph 1 is hereby amended to read as follows:

“Sec. 11. Commercial Farming.-- Commercial Farms, which are private agricultural lands devoted to salt beds, fruit farms, orchards, vegetable and cut-flower farms, and cacao, coffee and rubber plantations, shall be subject to immediate compulsory acquisition and distribution after ten (10) years from the effectivity of this Act. In the case of new farms, the ten-year period shall begin from the first year of commercial production and operation, as determined by the DAR. During the ten-year period, the Government shall initiate steps necessary to acquire these lands, upon payment of just compensation for the land and the improvements thereon, preferably in favor of organized cooperatives or associations, which shall thereafter manage the said lands for the workers-beneficiaries.”

Sec. 4. There shall be incorporated after Section 32 of Republic Act No. 6657 a section to read as follows:

“Sec. 32-A. Incentives.-- Individuals or entities owning or operating fishponds and prawn farms are hereby mandated to execute within six (6) months from the effectivity of this Act, an incentive plan with their regular fishpond or prawn farm workers’ organization, if any, whereby seven point five percent (7.5%) of their net profit before tax from the operation of the fishpond or prawn farms are distributed within sixty (60) days at the end of the fiscal year as compensation to regular and other pond workers in such ponds over and above the compensation they currently receive.

“In order to safeguard the right of the regular fishpond or prawn farm workers under the incentive plan, the books of the fishpond or prawn owners shall be subject to periodic audit or inspection by certified public accountants chosen by the workers.

“The foregoing provisions shall not apply to agricultural lands subsequently converted to fishponds or prawn farms provided the size of the land converted does not exceed the retention limit of the landowner.”

The above-mentioned provisions of R.A. No. 7881 expressly state that fishponds and prawn farms are excluded from the coverage of CARL. In view of the foregoing, the question concerning the constitutionality of the assailed provisions has become moot and academic with the passage of R.A. No. 7881.

WHEREFORE, the petition is hereby DISMISSED.
SO ORDERED.

Narvasa, C.J., Regalado, Davide, Jr., Melo, Puno, Vitug, Mendoza, Hermosisima, Jr., Panganiban, and Torres, Jr., JJ., concur.
Padilla, Bellosillo, Kapunan, and Francisco, JJ., on leave.

[1] Herein referred to as CARL.

[2] G.R. No. 93100.

[3] G.R. No. 97855.

[4] 192 SCRA 51 (1990).

[5] Supra.

[6] An Act Amending Certain Provisions of Republic Act No. 6657, Entitled “An Act Instituting A Comprehensive Agrarian Reform Program To Promote Social Justice And Industrialization, Providing The Mechanism For Its Implementation, And For Other Purposes.

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