



RECEIVED
JAN 30 2020

BY: YCA
TIME: 9:36 AM

Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated December 10, 2019 which reads as follows:

“G.R. No. 240471 — Philippine Coconut Oil Producers Association [and Atty. Ben Ibuyan], petitioners, versus The Honorable Secretary of Agriculture, the Philippine Coconut Authority, and PCA Administrator Romulo J. de la Rosa, respondents.

After reviewing the Petition and its annexes, inclusive of the Court of Appeals’ (CA) Decision¹ dated June 28, 2018 in CA-G.R. CV No. 105483, the Court resolves to **DENY** the Petition and **AFFIRM** the said Decision since the petitioner, Philippine Coconut Oil Producers Association (PCOPA), failed to sufficiently show that the CA committed any reversible error in the assailed Decision as to warrant the exercise of this Court’s discretionary appellate jurisdiction.

The CA correctly dismissed the appeal of PCOPA pursuant to Section 2(c), Rule 41² and Section 2, Rule 50³ of the Rules of Court. Moreover, upon review of the records, the Court agrees with the findings of the Regional Trial Court (RTC) when it dismissed for lack of merit PCOPA’s Petition for Declaration of

¹ *Rollo*, pp. 42-53. Penned by Associate Justice Marie Christine Azcarraga-Jacob, with Associate Justices Celia C. Librea-Leagogo and Samuel H. Gaerlan concurring.

² SECTION 2. Modes of Appeal. —

x x x x

(c) *Appeal by Certiorari*. — In all cases where only questions of law are raised or involved, the appeal shall be to the Supreme Court by petition for review on *certiorari* in accordance with Rule 45. (Emphasis supplied)

³ SECTION 2. *Dismissal of Improper Appeal to the Court of Appeals*. — An appeal under Rule 41 taken from the Regional Trial Court to the Court of Appeals raising only questions of law shall be dismissed, issues purely of law not being reviewable by said court. x x x

An appeal erroneously taken to the Court of Appeals shall not be transferred to the appropriate court but shall be **dismissed outright**. (Emphasis supplied)

Nullity/Certiorari/Prohibition which sought the declaration of the Philippine Coconut Authority's (PCA) Administrative Order (AO) No. 01-1996⁴ and PCA AO No. 001, series of 1983⁵ as unenforceable or void.

In its petition before the RTC, the PCOPA alleged that PCA AO No. 01-1996 is unenforceable or void since it imposes the increased fee not for any specific service and not "for services required by law to be rendered for a fee" but to defray PCA's operating cost, contrary to Section 54⁶ of Executive Order (EO) No. 292, series of 1987.⁷ The PCOPA claimed that PCA AO No. 01-1996 is also inconsistent with EO No. 159, series of 1994⁸ which was issued pursuant to Section 54 of EO No. 292. The PCOPA contended that Presidential Decree (P.D.) No. 1854⁹ is unconstitutional because it was issued by the President even when there was a functioning Batasang Pambansa. Moreover, in its appeal before the CA, the PCOPA posited that there are factual issues for resolution.

The Court agrees with the RTC that the sole issue is whether PCA AO No. 01-1996 is unenforceable or void. The relevant

⁴ RULES AND REGULATIONS IMPLEMENTING EXECUTIVE ORDER NO. 159 DIRECTING AMONG OTHERS, GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS TO REVISE THEIR FEES AND CHARGES.

⁵ RULES AND REGULATIONS TO EFFECT AN INCREASE IN THE AMOUNT OF PCA FEE AUTHORIZED TO BE COLLECTED UNDER R.A. 1145 AND P.D. NO. 1468.

⁶ Section 54 provides:

SECTION 54. *Charges for Property Sold or Services Rendered; Refunds.* — (1) For **services required by law to be rendered for a fee**, for supplies furnished, or articles of any kind sold to other divisions of the government or to any person, the head of bureau, office or agency may, upon approval of the Secretary, charge and **collect the cost of the service**, supplies, or articles or other rate in excess of cost prescribed by law or approved by the same authority. (Emphasis supplied)

⁷ ADMINISTRATIVE CODE OF 1987.

⁸ DIRECTING ALL DEPARTMENTS, BUREAUS, OFFICES, UNITS AND AGENCIES OF THE NATIONAL GOVERNMENT, INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS, TO REVISE THEIR FEES AND CHARGES AT JUST AND REASONABLE RATES SUFFICIENT TO RECOVER AT LEAST THE FULL COST OF SERVICES RENDERED. Section 1 provides:

SECTION 1. All departments, bureaus, offices, units, and agencies, including government-owned or controlled corporations, are hereby **directed to revise their fees and charges to recover at least the full cost of services rendered.**

The **full cost of services** for the year rendered by a government department, bureau, office, unit, or agency, including government-owned or controlled corporation, **shall be equivalent to the appropriation** of said department, bureau, office, unit or agency for the year under the relevant General Appropriations Act or under the Corporate Operating Budget submitted by the government-owned or controlled corporation as approved by the Department of Budget and Management. (Emphasis supplied)

⁹ AUTHORIZING AN ADJUSTMENT OF THE FUNDING SUPPORT OF THE PHILIPPINE COCONUT AUTHORITY AND INSTITUTING A PROCEDURE FOR THE MANAGEMENT OF SUCH FUND.

provisions of Republic Act (RA) No. 1145,¹⁰ P.D. No. 1468¹¹ and P.D. No. 1854¹² clearly show that the fee shall be used for PCA's operating expenses. R.A. No. 1145 even referred to it as "service fee." Thus, the PCA fee falls within the coverage of Section 54 of E.O. Nos. 292 and 159. PCOPA cannot make its own interpretation of the above legal provisions. Moreover, the RTC even cited the Whereas Clauses of PCA AO No. 01-1996, which laid down the legal bases for the PCA fee increase, as well as the factual bases¹³ thereof, such as

¹⁰ AN ACT CREATING THE PHILIPPINE COCONUT ADMINISTRATION, PRESCRIBING ITS POWERS, FUNCTIONS AND DUTIES, AND PROVIDING FOR THE RAISING OF THE NECESSARY FUNDS FOR ITS OPERATION. Section 13 provides:

SECTION 13. Capitalization. — To raise the necessary funds to carry out the provisions of this Act and the purposes of the PHILCOA, there shall be levied a fee of ten centavos for every one hundred kilos of desiccated coconut, to be paid by the desiccating factory, coconut oil to be paid by the oil mills, and copra to be paid by the exporters, dealers or producers as the case may be. This service fee shall be collected by the PHILCOA under such rules and regulations that it shall promulgate: *Provided, however,* That pending the collection of service fee, the PHILCOA is hereby authorized to borrow from any banking institution the sum of fifty thousand pesos to be used in the organization and maintenance of this office. (Emphasis supplied)

¹¹ REVISING PRESIDENTIAL DECREE NUMBERED NINE HUNDRED SIXTY ONE. Section 3(k) provides:

SECTION 3. Power. — In the implementation of the declared national policy, the Authority shall have the following powers and functions:

x x x x

k) To impose and collect, under such rules that it may promulgate, a fee of ten centavos for every one hundred kilos of desiccated coconut, to be paid by the desiccating factory, coconut oil to be paid by the oil mills and copra to be paid by the exporters, which shall be used exclusively to defray its operating expenses; (Emphasis supplied)

¹² Sections 1 and 2 of P.D. No. 1854 provide:

SECTION 1. The PCA fee imposed and collected pursuant to the provisions of R.A. No. 1145 and Sec. 3(k), Article II of P.D. 1468, is hereby increased to three centavos per kilo of copra or husked nuts or their equivalent in other coconut products delivered to and/or purchased by copra exporters, oil millers, desiccators and other end-users of coconut products. The fee shall be collected under such rules that PCA may promulgate, and shall be paid by said copra exporters, oil millers, desiccators, and other end-users of coconut products, receipt of which shall be remitted to the National Treasury on a quarterly basis.

SECTION 2. The receipt and process of all collections pursuant to Section 1 hereof, shall be utilized exclusively for the operations of the Philippine Coconut Authority and shall be released automatically by the National Treasury upon approval by the PCA Governing Board of its budgetary requirements, as an exception to P.D. 1234 and the budgetary processes provided in P.D. 1177, as amended. (Emphasis supplied)

¹³ Some of the Whereas Clauses of PCA AO No. 01-1996 provide:

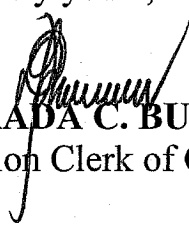
WHEREAS, for purposes of determining the just and reasonable rates to be imposed, PCA conducted studies, hearings and consultations with the concerned sectors in accordance with the Department of Finance-Department of Budget and Management Joint Circular No. 2-94 dated 14 December 1994 prescribing the Rules and Regulations implementing Executive Order No. 159;

WHEREAS, after studies, hearings and consultations, it has been determined that the actual expenses incurred by the PCA for regular services rendered necessitates an upgrading of the rate of fees, to enable it to effectively perform its mandate of pursuing the integrated development of the coconut industry to benefit all sectors concerned;

studies, hearings and consultations with the concerned sectors.

SO ORDERED.”

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court

281-B

ROMULO MABANTA BUENAVENTURA
SAYOC & DE LOS ANGELES
Counsel for Petitioner Philippine Coconut Oil
Producers Association
21st Floor, Philam Life Tower
8767 Paseo de Roxas Street
1226 Makati City

Atty. Ben I. Ibuyan
Petitioner
IBUYAN GARCIA IBUYAN
LAW OFFICES
29 Pangilinan Avenue, Pangilinan Compound
Tandang Sora, 1116 Quezon City

Public Information Office (x)
Library Services (x)
Supreme Court
(For uploading pursuant to A.M. No.
12-7-1-SC)

Judgment Division (x)
Supreme Court

Court of Appeals(x)
Manila
(CA-G.R. CV No. 105483)

OFFICE OF THE GOVERNMENT
CORPORATE COUNSEL
Counsel for Respondents
3/F MWSS Building
Katipunan Road, Balara, 1100 Quezon City

PHILIPPINE COCONUT AUTHORITY
Elliptical Road, Diliman, 1101 Quezon City

The Presiding Judge
Regional Trial Court, Branch 98
1100 Quezon City
(Civil Case No. Q-96-27056)

The Honorable Secretary
Department of Agriculture
Respondent
Elliptical Road, Diliman
1101 Quezon City

The Solicitor General
134 Amorsolo Street, Legaspi Village
1229 Makati City

UR



RIA