

FIRST DIVISION

[G.R. NO. 161594, February 08, 2007]

**FERTILIZER AND PESTICIDE AUTHORITY (FPA), PETITIONER,
VS. MANILA PEST CONTROL COMPANY (MAPECON) AND
WOODROW CATAN, RESPONDENTS.**

D E C I S I O N

PUNO, CJ.:

On appeal are the Decision ^[1] dated July 31, 2003 and the Resolution ^[2] dated January 8, 2004 of the Court of Appeals, in CA-G.R. CV No. 67175. The Court of Appeals affirmed the decision of the Regional Trial Court (RTC) of Dumaguete City, which ruled that the Fertilizer and Pesticide Authority (FPA) did not have jurisdiction or regulatory power over the acts and business operations of Manila Pest Control Company (MAPECON).

Petitioner FPA is an attached agency of the Department of Agriculture. It was created pursuant to Presidential Decree (P.D.) No. 1144, "Creating the Fertilizer and Pesticide Authority and Abolishing the Fertilizer Industry Authority," that took effect on May 30, 1977.

Respondent MAPECON is a franchised and licensed urban pest control operator, and duly accredited by the National Committee on Urban Pest Control (NCUPC). MAPECON and its branches nationwide are licensed and accredited to engage in the manufacture, distribution, and application of its 38 patented pest control products. It has operated its urban pest control business since the 1960s. Respondent Woodrow Catan is the MAPECON Dumaguete City branch manager.

Upon the request of Pablo Turtal, Jr., Manager of Supreme Pest Control (SUPESCON) who was holding office in Sibulan, Negros Oriental, Vicente Lañohan, the FPA Dumaguete Office Provincial Coordinator, issued an undated certificate that MAPECON-Dumaguete City branch had no license to operate, and that its pesticide products were not registered with the FPA. Thus, it could not engage in pest control operation "until such time that this above-mentioned business entity can secure a license from the [FPA]." ^[3] Lañohan also sent a letter to the Department of Trade and Industry, Dumaguete Office, dated December 29, 1993, wherein he requested the office to suspend the processing, approval, and/or release of the business trade name registration of MAPECON because of its alleged violation of the provisions of P.D. No. 1144. ^[4]

Using the certificate issued by Lañohan, Turtal sent letters to respondents' current and prospective clients, urging them to desist from dealing with respondent MAPECON. As a result, respondent claimed that it was disqualified and prohibited from participating in several private and public biddings, and that almost all of the winning bids had been awarded to SUPESCON, the pest control business of Turtal.

Respondents MAPECON and Catan filed a complaint [5] on January 18, 1994, for injunction with a prayer for preliminary mandatory injunction and/or restraining order and damages, against Vicente Lañohan and Pablo Turtal, Jr., before the RTC of Dumaguete City. Respondents sought to enjoin Lañohan and Turtal from disturbing their business operations and from requiring them to obtain a license from the FPA; and to desist from prohibiting respondents from participating in any and all private and public biddings. Respondents also sought payment of damages for the alleged evident bad faith of Lañohan and Turtal, who had allegedly conspired in easing respondents out of business.

In an Order dated January 19, 1994, the trial court restrained Lañohan and Turtal, their agents, and all persons acting for them, for 20 days, "from stopping and disturbing in any form, the business operation of plaintiffs as described in said complaint, from requiring plaintiffs to obtain a license and/or permit from the [FPA], and to cease and desist immediately from prohibiting plaintiffs from participating in any and all private and public bidding related to its business." [6]

On January 27, 1995, respondents MAPECON and Catan filed an amended complaint, [7] which impleaded the FPA and its officers Francisco C. Cornejo and Nicholas R. Deen, Executive Director III and Deputy Executive Director III, respectively, as defendants. Respondents alleged in their amended complaint that Cornejo and Deen, as officers of the FPA, had also sent letters to several clients of MAPECON, advising them to desist from dealing with the company, because it had no license to engage in pest control. Respondents further claimed that, despite knowledge of the pendency of the instant case, Cornejo and Deen had issued certifications and released news items stating, among other things, that MAPECON had no license to operate from the FPA. Lastly, respondents MAPECON and Catan alleged that they were being eased out of business, and that their good name and reputation were being destroyed by Cornejo and Deen, in connivance with the other defendants.

On March 9, 2000, the RTC ruled in favor of respondents MAPECON and Catan. The dispositive portion of the decision reads:

WHEREFORE, in view of all the foregoing considerations and finding the restraining order prayed for by the plaintiff to be meritorious and well-founded, it is hereby ordered that defendants Vicente Lañohan as an agent of FPA and Pablo Turtal, Jr. as the Manager of SUPESCON and their representatives and other persons working for and in their behalf, to cease and desist immediately from stopping and disturbing in any form the business operations of the plaintiff, from requiring plaintiff to obtain a license and/or permit from the FPA and from prohibiting plaintiff from participating in any and all private and public biddings related to its business. No pronouncement as to damages and costs.

SO ORDERED. [8]

Petitioner and Vicente Lañohan appealed to the Court of Appeals, which affirmed the decision of the trial court. The appellate court also denied petitioner and Lañohan's motion for reconsideration.

Hence, this appeal. Petitioner raises a lone issue for resolution, which is whether the acts or business operations of respondent MAPECON are under the jurisdiction or regulatory power of petitioner FPA.

In defending its jurisdiction, petitioner FPA invokes P.D. No. 1144 which created it. It cites Sections 8 and 9 of said law, to wit:

Section 8. *Prohibitions Governing Sale and Use of Fertilizers and Pesticides.* It shall be unlawful for any handler of pesticides, fertilizer, and other agricultural chemicals or for any farmers, planter or end-user of the same as the case may be:

(a) To engage in any form of production, importation, distribution, storage and sale in commercial quantities without securing from the FPA a license therefor;

(b) To use any pesticide or pesticide formulation on crops, livestock, and the environment in a manner contrary to good agricultural practices as hereinabove defined;

(c) To deal in pesticides and/or fertilizers which have not been previously registered with FPA, or which registration has expired or has been suspended or revoked;

(d) To adulterate pesticides formulation and fertilizer grade;

(e) To impose as a condition for the purchase of fertilizer, the simultaneous purchase of pesticide for other agricultural chemical inputs and vice-versa;

(f) To mislabel or make claims which differ in substance from the representation made in connection with a product's registration or from its actual effectiveness; and

(g) To violate such other rules and regulations as may be promulgated by FPA.

Section 9. *Registration and Licensing.* No pesticides, fertilizers, or other agricultural chemical shall be exported, imported, manufactured, formulated, stored, distributed, sold or offered for sale, transported, delivered for transportation or used unless it has been duly registered with the FPA or covered by a numbered provisional permit issued by FPA for use in accordance with the conditions as stipulated in the permit. Separate registrations shall be required for each active ingredient and its possible formulations in the case of pesticides or for each fertilizer grade in the case of fertilizer.

No person shall engage in the business of exporting, importing, manufacturing, formulating, distributing, supplying, repacking, storing, commercially applying, selling, marketing, of any pesticides, fertilizer and other agricultural chemicals except under a license issued by the FPA.

The FPA, in the pursuit of its duties and functions, may suspend, revoke, or modify the registration of any pesticide, fertilizer and other agricultural chemicals after due notice and hearing.

Petitioner also cites Ministry of Health Administrative Order No. 39, s. 1979, which delisted "pesticide, insecticide and other economic poisons as household hazardous substances under Category V" from those subject to the licensing and registration requirements of the Food and Drug Administration. According to the Administrative Order, "under [P.D.] No. 1144 dated May 30, 1977, creating the [FPA], it was found desirable 'to have one Agency to regulate . . . pesticide labelling, distribution, storage, transportation, use and disposal.'" [9]

Further, petitioner invokes the Memorandum of Agreement (MOA) dated July 15, 1980 between the Ministry of Health (MOH) and the FPA, represented by then Ministry of Agriculture, which stated that the FPA shall have jurisdiction over the registration of household pesticides, insecticides and other economic poisons; the registration of handlers of household pesticides; and the accreditation of all commercial pest control operators.

Lastly, petitioner argues that P.D. No. 1144, which requires the registration of pesticides with, and the licensing of their handlers by the FPA, is a special law. On the contrary, the laws invoked by respondents are laws of general application which cannot excuse respondent MAPECON from complying with a special law.

Respondents, on the other hand, contend that their products are duly patented with the Philippine Patent Office and registered with the MOH per P.D. No. 552 (Sanitation in Tourist Facilities), P.D. No. 865 (New Sanitation Code), and Health Circular No. 155, s. 1975. Respondents' products are also registered with the Ministry of Public Works per P.D. No. 1096 (New Building Code), the Ministry of Labor per P.D. No. 442 (Labor Code), and with the Philippine Investors and the Ministry of Finance per P.D. No. 1423 (Philippine Inventors Incentive Act).

We affirm the decision of the Court of Appeals.

We hold that the FPA has jurisdiction only over agricultural pesticides, not over urban pest control products. "Pesticides" in P.D. No. 1144 refer only to those used in farming and other agricultural activities, as distinguished from pesticides used in households, business establishments, and offices in urban areas. The preamble of P.D. No. 1144 provides the first glimpse of this interpretation. It reads as follows:

WHEREAS, it is Government policy to provide adequate **assistance to the agricultural sector** in line with the national objective of increasing **food production**;

WHEREAS, **fertilizer and pesticides** are vital inputs in **food production** and must be supplied in adequate quantities at reasonable costs;

WHEREAS, improper pesticide usage presents serious risks to users, handlers, and the public in general because of the inherent toxicity of these compounds which are, moreover, potential environmental contaminants;