

## FIRST DIVISION

[ G.R. No. 157498, July 15, 2005 ]

**FILIPINO METALS CORPORATION, MAXIMA STEEL MILLS CORPORATION, BUILDERS STEEL CORPORATION, UNICORN METAL CORPORATION, VENUS STEEL CORPORATION, LEGACY STEEL CORPORATION, PAG-ASA STEEL CORPORATION, MARTIAN\* STEEL CORPORATION, LUNAR\*\* STEEL CORPORATION, CEBU STEEL CORPORATION, CAPITOL STEEL CORPORATION, STEEL ASIA MANUFACTURING CORPORATION, AND GRAND ASIA CORPORATION, PETITIONERS, VS. SECRETARY OF THE DEPARTMENT OF TRADE AND INDUSTRY, SECRETARY OF THE DEPARTMENT OF AGRICULTURE, SECRETARY OF THE DEPARTMENT OF FINANCE, THE COMMISSIONER OF THE BUREAU OF CUSTOMS, AND THE CHAIRMAN OF THE TARIFF COMMISSION, RESPONDENTS.**

### DECISION

**QUISUMBING, J.:**

For review on *certiorari* is the Court of Appeals' **Decision**,<sup>[1]</sup> dated February 28, 2003, in CA-G.R. SP No. 67397, which set aside the **Order**<sup>[2]</sup> dated September 4, 2001 of the Regional Trial Court of Valenzuela City, Branch 172, in Civil Case No. 82-V-01.

The antecedent facts are as follows:

Petitioners are manufacturers of various steel products such as reinforcing bars, steel sections, and profiles. The principal raw materials for these products are steel billets, which come in various chemical and physical compositions, sourced partly from domestic producers and partly from overseas suppliers.

The domestic suppliers supply only about 15% of the country's total requirements. These are made from various scraps containing impurities. They are of inferior quality compared to the imported ones made from virgin-ore materials. Thus, petitioners are compelled to import a bulk of their raw materials from foreign suppliers.

On July 17, 2000, Republic Act No. 8800<sup>[3]</sup> was enacted codifying the provisions of Article XIX of the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization (WTO) Agreement on Safeguards. These agreements authorize the application of a safeguard measure if a product is being imported into the country in such quantities as would cause or threaten to cause serious injury to domestic producers of like or directly competitive products.

On April 6, 2001, petitioners filed with the Regional Trial Court of Valenzuela City, Branch 172, a petition for declaratory relief and/or *certiorari* and prohibition seeking to declare Rep. Act No. 8800 as unconstitutional.

The RTC judge, while holding in abeyance a ruling on the validity of Rep. Act No. 8800, found a strong case against the constitutionality of the said law sufficient to justify a preliminary injunctive relief. The dispositive portion of his questioned order reads:

WHEREFORE, upon the filing by the petitioners and petitioners in intervention of a bond in the amount of P10,000,000.00 to answer for whatever damages which the respondents and respondents in intervention may sustain by reason of the injunction if the Court should finally decide that the petitioners and petitioners in intervention were not entitled thereto, let a writ of preliminary injunction be issued restraining the respondents from enforcing Republic Act 8800 and/or its Implementing Rules and Regulations.

SO ORDERED.<sup>[4]</sup>

Not satisfied, respondents filed a petition for *certiorari* with the Court of Appeals. In its assailed decision dated February 28, 2003, the appellate court concluded that the RTC judge committed grave abuse of discretion in issuing the writ of injunction. In reversing the trial court order, the Court of Appeals reasoned thus:

Questions on the constitutionality of the law [do not] necessarily entitle a movant to have the assailed law enjoined. It would seem that respondent Judge acted with undue haste in issuing the writ of preliminary injunction *a quo*, disregarding the well-settled presumption of validity that laws enjoy. . . .

. . .

. . . The private respondents' projected loss in business is not the clear legible (*sic*) right contemplated by the rules which shall be entitled to the protection of an injunctive relief.<sup>[5]</sup>

Aggrieved, petitioners now come to this Court on a petition for review raising the following issues:

A.

WHETHER OR NOT THE COURT OF APPEALS COMMITTED A REVERSIBLE [ERROR] WHEN IT REVERSED AND SET ASIDE THE 4 SEPTEMBER 2001 ORDER OF THE REGIONAL TRIAL COURT OF VALENZUELA, THUS DISSOLVING THE WRIT OF PRELIMINARY INJUNCTION ENJOINING PUBLIC RESPONDENTS FROM IMPLEMENTING R.A. 8800, CONSIDERING THAT PETITIONERS HAVE MADE OUT A CASE OF UNCONSTITUTIONALITY STRONG ENOUGH TO OVERCOME THE PRESUMPTION OF CONSTITUTIONALITY OF R.A. 8800 FOR THE PURPOSE OF ISSUING A WRIT OF PRELIMINARY INJUNCTION.

B.

WHETHER OR NOT THE VIOLATION OF WTO AGREEMENTS WAS PROPERLY RAISED AS AN ISSUE IN THE TRIAL COURT LEVEL AS A GROUND FOR THE UNCONSTITUTIONALITY OF R.A. 8800.

C.

WHETHER OR NOT PETITIONERS HAVE ADEQUATELY SHOWN A CLEAR RIGHT TO INJUNCTIVE RELIEF.

D.

WHETHER OR NOT THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR WHEN IT FAILED TO DISMISS THE THIRD PETITION (C.A.-G.R. S.P. No. 67397) FILED BY PUBLIC RESPONDENTS WITH THE COURT OF APPEALS.<sup>[6]</sup>

Petitioners maintain that Rep. Act No. 8800 violates Article VI, Section 28 (2) of the Constitution.<sup>[7]</sup> They contend that the said provision does not authorize Congress to delegate the power to impose tariff rates, import and export quotas, tonnage and wharfage dues and other duties or imposts to persons other than the President. They further argue that Rep. Act No. 8800 impairs Philippine treaty obligations under the WTO Agreement on Safeguards. In fine, they contend that they have made out a case of unconstitutionality sufficient to entitle them to a writ of preliminary injunction. Lastly, petitioners allege that respondents engaged in forum-shopping.

Respondents, however, insist that the Court of Appeals correctly ruled that Rep. Act No. 8800 enjoys the presumption of constitutionality. They argue that the enactment of Rep. Act No. 8800 constitutes a valid delegation of legislative power. Respondents claim it is improper for petitioners to raise the issue of the alleged violation of the WTO Agreement on Safeguards since it was not raised before the Court of Appeals. They also allege that the supposed injury to be sustained by petitioners is neither grave nor irreparable. Finally, respondents deny that they engaged in forum-shopping.

At the outset, we note that the issue of constitutionality of Rep. Act No. 8800 is not raised in the instant petition. It is in fact pending litigation at the regional trial court.<sup>[8]</sup> Neither is the issue of forum-shopping allegedly committed by respondents, determinative of the case at hand.

The sole issue in this petition is whether or not the Court of Appeals erred in reversing the trial court order enjoining respondents from enforcing Rep. Act No. 8800. Simply put, should the preliminary injunction issued by the trial court be upheld?

We rule in the affirmative.

In the recent case of *Southern Cross Cement Corporation v. Philippine Cement Manufacturers Corporation*,<sup>[9]</sup> this Court intimated, but only by way of obiter dictum, that the imposition of safeguard measures should not be enjoined as that