

## EN BANC

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

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

[G.R. NO. 97855. JUNE 19, 1997]

**PHILIPPINE FEDERATION OF FISHFARM PRODUCERS, INC.,  
PETITIONER, VS. THE HONORABLE SECRETARY OF THE  
DEPARTMENT OF AGRARIAN REFORM, RESPONDENT.**

### R E S O L U T I O N

**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.<sup>[1]</sup>

Petitioners Atlas Fertilizer Corporation,<sup>[2]</sup> Philippine Federation of Fishfarm Producers, Inc. and petitioner-in-intervention Archie's Fishpond, Inc. and Arsenio Al. Acuna<sup>[3]</sup> 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<sup>[4]</sup> 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,<sup>[5]</sup> 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."  
(Underscoring Supplied)
- (b) Section 11 which defines "commercial farms" as private agricultural lands devoted to fishponds and prawn ponds x x x."  
(Underscoring Supplied)