



REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF AGRICULTURE  
**FERTILIZER AND PESTICIDE AUTHORITY**

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P.O. Box 2582, Q.C.

December 14, 2007

**MEMORANDUM CIRCULAR NO. 01**

**TO : ALL CONCERNED**

**SUBJECT : ADVISORY ON THE RETURN/TRANSFER OF JURISDICTION OVER  
URBAN PEST CONTROL OPERATORS AND HOUSEHOLD  
PESTICIDES**

Effective immediately, FPA jurisdiction over activities concerning Pest Control Operators (PCO), specifically, pest exterminators and the pesticides they use for their operation, shall be returned/transferred to the Bureau of Food and Drugs (BFAD) of the Department of Health, pursuant to the Decision of the Supreme Court in G.R. 161594 dated February 8, 2007, entitled FPA vs. Mapecon declaring that "urban pest control operators and their urban pesticides are excluded from coverage of the FPA."

Pursuant therewith, licensing, accreditation, inspection, training and related activities concerning PCO-exterminator category and the registration, monitoring, inventory, sampling and other pertinent activities involving household pesticides handled by PCO-exterminators and those for use by the general public shall now be under the jurisdiction of the BFAD.

FPA, in coordination with BFAD shall endeavor for an orderly transition. Records of all pending applications for product registration, licenses, accreditations, import permits, inspections, cases of violations submitted to FPA prior to the effectivity of the transfer shall be turned-over to BFAD for their appropriate actions.

For your information and guidance, until further notice.

  
**NORITO R. GICANA, CESO IV**  
Executive Director



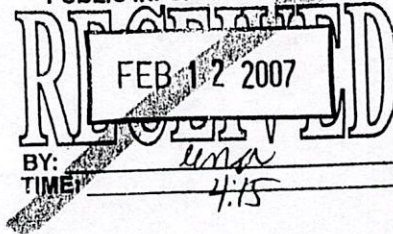


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Republic of the Philippines  
Supreme Court  
Manila

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE



FIRST DIVISION

FERTILIZER and PESTICIDE  
AUTHORITY (FPA),

Petitioner,

G.R. No. 161594

Present:

PUNO, CJ., Chairperson,  
SANDOVAL-GUTIERREZ,  
CORONA,\*  
AZCUNA, and  
GARCIA, JJ.

- versus -

MANILA PEST CONTROL  
COMPANY (MAPECON) and  
WOODROW CATAN,

Respondents.

Promulgated:

FEB 08 2007

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DECISION

PUNO, CJ.:

On appeal are the Decision<sup>1</sup> dated July 31, 2003 and the Resolution<sup>2</sup> 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,

\* On leave.

1 CA rollo, pp. 78-90.

2 CA rollo, p. 129.

*mp*



"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]."<sup>3</sup> 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.<sup>4</sup>

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.

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Respondents MAPECON and Catan filed a complaint<sup>5</sup> 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.

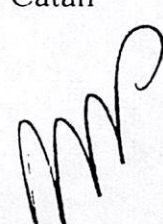
In an Order dated January 19, 1994, the trial court restrained Lañohan and Turtal, their agents, and all persons acting for them, for 20 days, "from stopping and disturbing in any form, the business operation of plaintiffs as described in said complaint, from requiring plaintiffs to obtain a license 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."<sup>6</sup>

On January 27, 1995, respondents MAPECON and Catan filed an amended complaint,<sup>7</sup> 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

<sup>5</sup> Records, pp. 1-3, Civil Case No. 10855.

<sup>6</sup> Records, p. 11.

<sup>7</sup> Records, pp. 158-162.





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.<sup>8</sup>

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

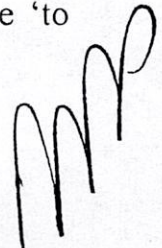
(g) To violate such other rules and regulations as may be promulgated by FPA.

**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.”<sup>9</sup>

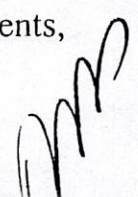
Further, petitioner invokes the Memorandum of Agreement (MOA) dated July 15, 1980 between the Ministry of Health (MOH) and the FPA, represented by then Ministry of Agriculture, which stated that the FPA shall have jurisdiction over the registration of household pesticides, insecticides and other economic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

WHEREAS, there is a need to educate the **agricultural sector** on the benefits as well as the hazards of pesticide use so that it can utilize pesticides properly to promote human welfare while avoiding dangers to health and environmental pollution;

WHEREAS, the **fertilizer and pesticide** industries have much in common in terms of clientele, distribution channels, system of application in **farmers' fields**, and technical supervision by the same **farm management** technicians under the government's **food production program**;

WHEREAS, the foregoing considerations make it desirable to have one agency to regulate fertilizer importation, manufacture, formulation, distribution, delivery, sale, transport and storage as well as pesticide labeling, distribution, storage, transportation, use and disposal;

WHEREAS, the Fertilizer Industry Authority was created by Presidential Decree No. 135, dated 22 February 1973, and amended by Presidential Decree Nos. 517 and 669, dated 19 July 1974 and 11 March 1975 respectively, in order to regulate, control and develop the fertilizer industry but does not include the pesticide industry in its jurisdiction;

WHEREAS, there is an urgent need to create a technically-oriented government authority equipped with the required expertise to regulate, control and develop both the fertilizer and the pesticide industries;

[Emphases supplied.]

Further, P.D. No. 1144 uses the term "pesticides" always in conjunction with "fertilizers" or with the phrase "fertilizers and other agricultural chemicals/chemical inputs" or the phrase "other agricultural chemicals," thus:

Section 6. *Powers and Functions.* The FPA shall have jurisdiction, on over all existing handlers of **pesticides, fertilizers and other**



**agricultural chemical inputs.** The FPA shall have the following powers and functions:

I. Common to **Fertilizers, Pesticides and other Agricultural Chemicals.**

...

(2) To promote and coordinate all **fertilizer and pesticides research** *in cooperation with the Philippine Council for Agriculture and Resources Research* and other appropriate agencies to ensure scientific pest control in the public interest, safety in the use and handling of pesticides, higher standards and quality of products and better application methods;

...

III. **Pesticides and Other Agricultural Chemicals**

(1) To determine specific uses or manners of use for each pesticide or pesticide formulation;

(2) To establish and enforce tolerance levels and good agricultural practices for *use of pesticides in raw agricultural commodities*;

(3) To restrict or ban the use of any pesticide or the formulation of certain pesticides in specific areas or during certain periods upon evidence that the pesticide is an imminent hazard, has caused, or is causing widespread serious damage to crops, fish or livestock, or to public health and the environment;

(4) To prevent the *importation of agricultural commodities containing pesticide residues* above the accepted tolerance levels and to regulate the *exportation of agricultural products containing pesticide residue* above accepted tolerance levels;

(5) To inspect the establishment and premises of pesticide handlers to insure that industrial health and safety rules and anti-pollution regulations are followed;

(6) *To enter and inspect farmers' fields to ensure that only the recommended pesticides are used in specific crops in accordance with good agricultural practice*;

(7) To require if and when necessary, of every handler of these products, the submission to the FPA of a report stating the quantity, value of each kind of product exported, imported, manufactured, produced, formulated, repacked, stored, delivered, distributed, or sold;

(8) Should there be any extraordinary and unreasonable increases in price or a severe shortage in supply of pesticides, or imminent dangers or either occurrences, the FPA is empowered to impose such controls as may be necessary in the public interest, including but not limited to such restrictions and controls as the imposition of price ceilings, controls on inventories, distribution, and transport, and tax-free importations of such pesticides or raw materials thereof as may be in short supply.



...

**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.





Aside from the use of the word "pesticides" always in conjunction with "fertilizers" or with the phrase "fertilizers and other agricultural chemicals/chemical inputs" or the phrase "other agricultural chemicals," the italicized portions of P.D. No. 1144, as quoted above, buttress the interpretation that the law applies only to pesticide use for agricultural purposes.

Further, Section 1 of P.D. No. 1144 reads:

Section 1. *Creation of the Fertilizer and Pesticide Authority.* The Fertilizer and Pesticide Authority, hereinafter referred to as the FPA, is hereby created and **attached to the Department of Agriculture** for the purpose of **assuring the agricultural sector of adequate supplies of fertilizer and pesticide at reasonable prices**, rationalizing the manufacture and marketing of fertilizer, protecting the public from the risks inherent in the use of pesticides, and **educating the agricultural sector in the use of these inputs.**

Significantly, the above-quoted provision of P.D. No. 1144 sets the parameters of the powers and duties of the FPA. First, the FPA is designated as an attached agency of the Department of Agriculture. Urban pest control or pesticide use in households, offices, hotels and other commercial establishments has nothing to do with agriculture. Second, it spells out the purposes for which the FPA was created, viz: "for the purpose of assuring the agricultural sector of adequate supplies of fertilizer and pesticide at reasonable prices, rationalizing the manufacture and marketing of fertilizer, protecting the public from the risks inherent in the use of pesticides, and educating the agricultural sector in the use of these inputs." All these purposes limit the jurisdiction of the FPA to agricultural pesticides.

We go back to the basics of statutory construction. In interpreting the meaning and scope of a term used in the law, a review of the whole law must be made, and its intendment must be given effect.<sup>10</sup> The various provisions of P.D. No. 1144 show its consistent intent to apply the term "pesticides"

<sup>10</sup> Ruperto G. Martin, Handbook on Statutory Construction, 1970 ed., p. 78.



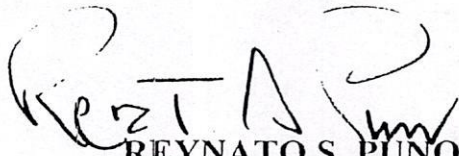


only to agricultural use. Thus, urban pest control operators and their urban pesticides are excluded from its coverage.

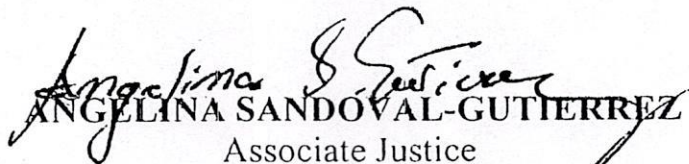
Finally, we note that petitioner FPA, through House Bill No. 18740 filed in 1991, attempted to amend certain provisions of P.D. No. 1144 to expand its powers and functions by including urban pest control in its jurisdictional scope. Unfortunately for petitioner, House Bill No. 18740 did not pass. It was rejected by the bicameral committee. The amendment would result in petitioner FPA's usurpation of other governmental agencies' authority.<sup>11</sup>

**IN VIEW WHEREOF**, the petition is **DENIED** and the Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 67175, dated July 31, 2003 and January 8, 2004, respectively, are **AFFIRMED**.

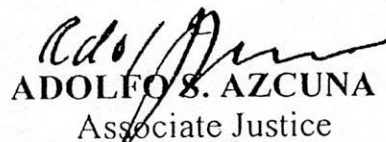
**SO ORDERED.**

  
**REYNATO S. PUNO**  
Chief Justice

WE CONCUR:

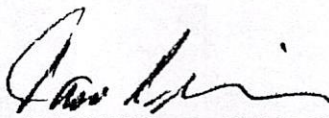
  
**ANGELINA SANDOVAL-GUTIERREZ**  
Associate Justice

(on leave)  
**RENATO C. CORONA**  
Associate Justice

  
**ADOLFO S. AZCUNA**  
Associate Justice

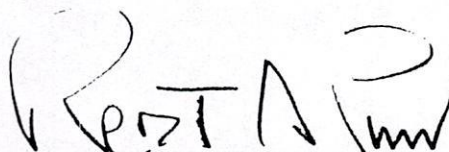
<sup>11</sup> Records, p. 413.



  
CANCIO C. GARCIA  
Associate Justice

### CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
REYNATO S. PUNO  
Chief Justice