



Rivarola, Mart n Ram n v. Rutilex Hidrocarburos Argentinos S.A.

C. 143. XLVI.

Country: Argentina

Region: Americas

Year: 2011

Court: Supreme Court of Justice [Corte Suprema de Justicia de la Naci n Argentina]

Health Topics: Disasters and emergencies, Environmental health, Public safety, Water, sanitation and hygiene

Human Rights: Right to a clean environment

Facts

The plaintiff brought the case to the Civil and Commercial Court of Zarate - Campana [Juzgado en lo Civil y Comercial N  I de Zarate - Campana] against the company Rutilex Hidrocarburos Argentinos S.A, located in Province of Buenos Aires, to be sentenced to carry out the necessary measures to cease its contaminating activities that are harmful for health and environment. At the same, it alleged liquidated damages for the harm that the company caused him because of its pollution activity.

The First Instance Court declared incompetent to decide in the case and sent the case to the First Instance Administrative Court [Juzgado en lo Contencioso Administrativo N  I del departamento judicial de Zarate - Campana] which determined it was not competent and sent the case to the Supreme Court of the Province of Buenos Aires to decide if the Civil and Commercial Court or the Administrative Court was competent. It rejected provincial jurisdiction on the case. The plaintiff filed an appeal with Federal Jurisdiction [Juzgado Federal N  I de Campana] who also stated it was not competent because of the absence of inter jurisdiction, a case where the environment in two provinces is affected, a condition in environmental cases for the Federal Jurisdiction to apply, and sent the case to the Supreme Court of Justice to solve which court is competent.

Decision and Reasoning

The Supreme Court of Justice found that the claim of the plaintiff was to obtain the cessation of environmental damage and health damage and the authorities in charge to determine if there was environmental damage and to which level it took place and to order the respondent to carry out the corresponding measures for its cessation was the province jurisdiction according to articles 4 and 5 of the National Civil and Commercial Code Procedure Code. The Federal Jurisdiction is not applicable because the condition of article 7 of law 25.675 "an act, omission or generated situation that effectively provokes degradation or contamination in inter-jurisdictional environmental resources" did not take place. The Supreme Court of Justice held that the case should continue its procedure in provincial jurisdiction.

Decision Excerpts