



N.N. s/ Atentado contra la salud p blica

C. 337. XLVIII.

Country: Argentina

Region: Americas

Year: 2012

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

Health Topics: Environmental health, Public safety

Human Rights: Right to a clean environment, Right to health

Facts

The plaintiff brought the case to the First Instance Criminal Court of Lomas de Zamora [Juzgado de Garantias n  3 de Lomas de Zamora] against three workers of the painting factory "MATRA" who presumably threw toxic substances in an area located in Esteban Echeverr a, violating Law 24 051.

The First Instance Criminal Court of Lomas de Zamora held that it had no jurisdiction to decide the lawsuit because it was federal jurisdiction according to article 58 of Law 24 051, so it send the case to the Federal First Instance Criminal Court of Lomas de Zamora. The Federal First Instance Criminal Court of Lomas de Zamora [Juzgado Federal en lo Criminal y Correccional n  2] held it was not competent to solve the case because there was no inter-provincial damage of natural resources that required federal intervention of the case. The case was sent to the Supreme Court of Justice to decide the competent Court.

Decision and Reasoning

The Supreme Court of Justice found that the competent tribunal to decide on the case was the Provincial Court because the Federal jurisdiction in an environmental claim was exceptional and only took place when inter-provincials natural resources were affected.

Decision Excerpts

"Que de los elementos de juicio obrantes en el expediente no surge que se encuentren afectadas personas o el medio ambiente fuera de los l mites de la provincia, de modo que la cuesti n se dilucida sin dificultades a favor de la radicaci n del proceso ante la justicia provincial, pues la intervenci n del fuero federal reviste car cter de excepci n y est  limitada a los casos en que, con un grado de convicci n suficiente [...] se demuestra la afectaci n ambiental interjurisdiccional, presupuesto insoslayable que no concurre en el sub lite." Paragraph 3

From the elements of the case it cannot be concluded that persons or the environment is affected outside the provincial limits, so the lawsuit should be solved in provincial justice, because the intervention of federal justice is of exceptional character and it is limited to cases that is certainly proved that the damage to inter-provincial environment, necessary condition that does not take place in the case." Paragraph 3