

G.R. No. L-1405

EN BANC

[G.R. No. L-1405. July 31, 1948]

**BENJAMIN ABUBAKAR, PETITIONER, VS. THE AUDITOR GENERAL,
RESPONDENT.**

D E C I S I O N

BENGZON, J.:

We are asked to overrule the decision of the Auditor General refusing to authorize the payment of Treasury Warrant No. A-2S67376 for P1,000 which was issued in favor of Placido S. Urbanes on December 10, 1941, but is now in the hands of herein petitioner Benjamin Abubakar.

For his refusal the respondent gave two reasons: first, because the money available for the redemption of treasury warrants issued before January 2, 1942, is appropriated by Republic Act No. 80 (Item F-IV-8) and this warrant does not come within the purview of said appropriation; and second, because one of the requirements of his office had not been complied with, namely, that it must be shown that the holders of warrants covering payment or replenishment of cash advances for official expenditures (and this warrant is) received them in payment of definite government obligations.

Finding the first reason to be sufficiently valid we shall not discuss, nor pass upon the second.

There is no doubt as to the authenticity and date of the treasury warrant. There is no question that it was regularly indorsed by the payee and is now in the custody of the herein petitioner who is a private individual. On the other hand, it is admitted that the warrant was originally made payable to Placido S. Urbanes *in his capacity as disbursing officer* of the Food Administration for "additional cash advance for Food Production Campaign in La Union" (Annex A). It is thus apparent that this is a treasury warrant issued in favor of a *public officer or employee* and held in possession by a private individual. Such being the

case, the Auditor General can hardly be blamed for not authorizing its redemption out of an appropriation specifically for “treasury warrants issued * * * *in favor of and held in possession by private individuals*”. (Republic Act No. 80, Item F-IV-8.) This warrant was *not issued* in favor of a *private individual*. It was issued in favor of a *government employee*.

The distinction is not without a difference. Outstanding treasury warrants issued prior to January 2, 1942, amount to more than four million pesos. The appropriation herein mentioned is only for P1,790,000. Obviously Congress wished to provide for redemption of one class of warrants — those issued to private individuals — as distinguished from those issued in favor of government officials. Basis for the discrimination is not lacking. Probably the Government is not so sure that those warrants to officials have all been properly used by the latter during the Japanese occupation or maybe it wants to conduct further inquiries as to the equities of the present holders thereof.

The petitioner argues that he is a holder in good faith and for value of a negotiable instrument and is entitled to the rights and privileges of a holder in due course, free from defenses. But this treasury warrant is not within the scope of the negotiable instruments law. For one thing, the document bearing on its face the words “payable from the appropriation for food administration”, is actually an order for payment out of “a particular fund,” and is not unconditional, and does not fulfill one of the essential requirements of a negotiable instrument. (Section 3 last sentence and section 1[b] of the Negotiable Instruments Law.) In the United States, government warrants for the payment of money are not negotiable instruments nor commercial paper ^[1].

Anyway the question here is not whether the Government should eventually pay this warrant, or is ultimately responsible for it, but whether the Auditor General erred in refusing to permit payment out of the particular appropriation in Item F-IV-8 of Republic Act No. 80. We think that he did not. Petition dismissed, with costs.

Parás, Actg. C.J., Feria, Pablo, Perfecto, Briones, and Padilla, JJ., concur.

^[1] Logan County Bank vs. Farmers’ National Bank, 155 Pac., 561; Velvet Ridge School District No. 91 vs. Bank of Searcy, 137 S. W., 907; Marshall vs. State, 102 So., 650.
