

### Title: Carolino v. Senga, G.R. No. 189868, April 20, 2015

### Facts:

1. **Retirement and Beginning of Pension**:

- Jeremias A. Carolino, husband of petitioner Adoracion Carolino, retired from the Armed Forces of the Philippines (AFP) on December 1, 1976, as a Colonel under General Order No. 1208. His retirement was pursuant to Sections 1(A) and 10 of Republic Act (RA) No. 340, as amended. He received a monthly pension of P18,315 beginning December 1976.

2. **Pension Termination**:

- In March 2005, Jeremias's pension was stopped. On June 3, 2005, he inquired from the AFP about this, only to be informed via a letter that his pension was terminated due to his loss of Filipino citizenship based on a Disposition Form dated October 29, 2004.

- The termination was said to be in compliance with Sections 4, 5, and 6 of RA No. 340 and Presidential Decree (PD) No. 1638, which terminated pensions for retirees who lost Filipino citizenship and according to the AFP policies.

3. **Legal Proceedings - Regional Trial Court**:

- On August 24, 2006, Jeremias filed a Petition for Mandamus at the Regional Trial Court (RTC) of Quezon City seeking reinstatement to the retired list and the payment of withheld pension.

- The RTC of Quezon City, Branch 220, ruled in favor of Jeremias on February 26, 2007, ordering the AFP to resume his pension payments and give back pay from March 2005. The AFP's motion for reconsideration was denied on May 25, 2007.

4. **Appeal to the Court of Appeals**:

- The AFP appealed to the Court of Appeals (CA). During the pendency of the appeal, Jeremias passed away on September 30, 2007, and his wife Adoracion Carolino substituted him.

- The CA reversed the RTC decision on May 25, 2009, ruling that PD No. 1638, which terminated pensions upon loss of Filipino citizenship, applied to Jeremias's case. Petitioner's motion for reconsideration was denied on September 10, 2009.

5. **Supreme Court Petition**:

- Adoracion Carolino filed a petition with the Supreme Court (SC) under Rule 45 to review and reverse the CA's decision.

### Issues:

1. **Retroactivity of PD No. 1638**:

- Whether PD No. 1638, which includes provisions terminating the pensions of retirees who lose Filipino citizenship, can be applied retroactively to Jeremias A. Carolino, who retired under RA No. 340 before PD No. 1638 was enacted.

2. **Use of Mandamus**:

- Whether mandamus was a proper remedy to compel the AFP to reinstate Jeremias's pension under RA No. 340.

**### Court's Decision:**

The Supreme Court ruled in favor of petitioner Adoracion Carolino, overturning the CA's decision, for reasons detailed below:

1. **Non-Retroactivity of PD No. 1638**:

- Article 4 of the Civil Code states that laws have no retroactive effect unless expressly provided. PD No. 1638, enacted in 1979, contains no provision for retroactive application. Jeremias retired under RA No. 340 in 1976.

- Section 33 of PD No. 1638 indicates that nothing in the decree should reduce any retirement benefits being received under existing laws, reinforcing that vested rights must be protected.

2. **Vested Rights**:

- Upon retirement under RA No. 340, Jeremias had acquired a vested right to his pension. Vested rights are shielded by the due process clause which prevents their annulment by subsequent laws unless state police powers justify it.

- Sections 33 and 35 of PD No. 1638 explicitly protect already vested rights and benefits. Therefore, RA No. 340 remains governing for Jeremias's pension, which should not have been terminated based on PD No. 1638.

3. **Appropriateness of Mandamus**:

- Mandamus is applicable to compel the performance of a duty that is clear and ministerial. The AFP's duty to reinstate Jeremias's pension payments meets this criterion, as the right to the pension under RA No. 340 was established and unambiguous.

- Moreover, the purely legal nature of the issue (whether RA No. 340 or PD No. 1638 applies) negates the requirement for exhausting administrative remedies.

**### Doctrine:**

1. **Retroactive Application of Laws**:

- Laws shall have no retroactive effect unless explicitly stated (Article 4, Civil Code). PD No. 1638 has no retroactive application affecting retirees who vested rights under RA No. 340 before its enactment.

2. **Protection of Vested Rights**:

- Vested rights to retirement benefits cannot be revoked by subsequent legislation (Sections 33 and 35 of PD No. 1638).

3. **Mandamus**:

- Mandamus is proper when there is a clear legal right to the performance of an act and a corresponding duty, which is ministerial on the part of the respondent.

### Class Notes:

1. **Article 4 of the Civil Code**:

- Importance of laws' prospective application unless explicitly stated otherwise.

2. **Sections 33 and 35 of PD No. 1638**:

- Explicit protection of vested rights in retirement benefits, preventing reduction or elimination by the decree's provisions.

3. **Mandamus (Rule 65, Section 3, Rules of Court)**:

- Requirements for mandamus to lie: clear legal right, ministerial duty, and no other plain, speedy, and adequate remedy.

### Historical Background:

The case reflects the turbulence in Filipino legal development, where changes in law—in this context, via executive decree under the Martial Law era—have substantial effects on long-established rights, such as retirement benefits. This case underscores the interplay between newer legal orders and pre-existing rights and the continuous effort to protect retirees from adverse retroactive impacts of new laws.