

GIL BALBUNA, ET AL., PETITIONERS AND APPELLANTS VS. THE HON. SECRETARY OF EDUCATION, ET AL., RESPONDENTS AND APPELLEES.

G.R. No. L-14283. November 29, 1960

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Appeal by members of the "Jehovahs' Witnesses" from a decision of the Court of First Instance of Capiz, dated June 23, 1958, dismissing their petition for prohibition and mandamus against the Secretary of Education and the other respondents.

The action was brought to enjoin the enforcement of Department Order No. 8, s. 1955, issued by the Secretary of Education, promulgating rules and regulations for the conduct of the compulsory flag ceremony in all schools, as provided in Republic Act No. 1265. Petitioners appellants assail the validity of the above Department Order, for it allegedly denies them freedom of worship and of speech guaranteed by the Bill of Rights; that it denies them due process of law and the equal protection of the laws; and that it unduly restricts their rights in the upbringing of their children. Since the brief for the petitioners-appellants assails Republic Act No. 1265 only as construed and applied, the issue ultimately boils down to the validity of Department Order No. 8, s. 1955, which promulgated the rules and regulations for the implementation of the law.

This case, therefore, is on all fours with *Gerona, et al., vs. Secretary of Education, et al.*, 106 Phil., 2; 57 Off. Gaz., (5) 820, also involving Jehovahs' Witnesses,, and assailing, on practically identical" grounds, the validity of the same Department Order above mentioned. This Court discerns no reasons for changing its stand therein, where we said:

"In conclusion, we find and hold that the Filipino flag is not an image Jhat requires religious veneration; rather, it is a symbol of the Republic of the Philippines, of sovereignty, an emblem of freedom, liberty And national unity; that the flag salute is not a religious ceremony but an act and profession of love and allegiance and pledge of loyalty to the fatherland which the flag stands for; that by authority of the Legislature, the Secretary of Education was duly authorized to promulgate Department Order No. 8, series of 1955; that the requirement of observance of the flag' ceremony or salute provided for in said Department Order No. 8 does not violate the Constitutional provisions about freedom of religion and exercise of religion; that compliance with the non-discriminatory and reasonable rules and regulations and school discipline, including observance of the flag ceremony, is a prerequisite to attendance in public schools; and that for failure and refusal to participate in the flag ceremony, petitioners were properly excluded and dismissed from the public school they were attending."

However, in their memorandum, petitioners-appellants raise the new issue that Department Order No. 8 has no binding force and effect, not having been published in the Official Gazette as allegedly required by Commonwealth Act 638, Article 2 of the New Civil Code, and Section 11 of the Revised Administrative Code. %We see no merit in this contention. The assailed Department Oxder, being addressed only to the Directors of Public and Private Schools, and educational institutions under their supervision, can not be said to be of general

application. Moreover, as observed in *People vs. Que Po Lay*, 94 Phil., 640; 50 Off. Gaz., X10) 4850 (affirmed in *Lim Hoa Ting vs. Central Bank*, 104 Phil., 573; 55 Off. Gaz., [6] 1006),—

"the laws in question (Commonwealth Act 638 and Act 2930) do not require the publication of the circulars, regulations or notices therein mentioned in order to become binding and effective. All that said two laws provide is that laws, regulations, decisions of the Supreme Court and Court of Appeals, notices and documents required by law to be published shall be published in the Official Gazette but said two laws do not say that unless so published they will be of no force and effect. In other words, said two acts merely y enumerate and make a list of what should be published in the Official Gazette, presumably, for the guidance of the different branches of the government issuing the same, and of the Bureau of Printing."

It is true, as held in the above cases, that pursuant to Article 2 of the New Civil Code and Section 11 of the Revised Administrative Code, statutes or laws shall take effect fifteen days following the completion of their publication in the Official Gazette, unless otherwise provided. It is likewise true that administrative rules and regulations, issued to implement a law, have the force of law. Nevertheless, the cases cited above involved circulars of the Central Bank which provided for penalties for violations thereof and that was the primary factor that influenced the rationale of those decisions. In the case at bar, Department Order No. 8 does not provide any penalty against those pupils or students refusing to participate in the flag ceremony or otherwise violating the provisions of said order. Their expulsion was merely the consequence of their failure to observe school discipline which the school authorities are bound to maintain. As observed in *Gerona vs. Secretary of Education*, supra,

"* * * for their failure or refusal to obey school regulations about the flag salute, they were not being prosecuted. Neither were they being criminally prosecuted under threat of penal sanction. If they chose not to obey the flag salute regulation, they merely lost the benefits of public education being maintained at the expense of their fellow citizens, nothing more. * * *. Having elected not to comply with the regulations about the flag salute, they forfeited their right to attend public schools,"

Finally, appellants contend that Republic Act No. 1265 is unconstitutional and void for being an undue delegation of legislative power, "for its failure to lay down any specific and definite standard by which the Secretary of Education may be guided in the preparation of those rules and regulations which he has been authorized to promulgate." With this view we again disagree. Sections 1 and 2 of the Act read as follows:

"Section 1. All educational institutions shall henceforth, observe daily flag ceremony, which shall be simple and dignified and shall include the playing or singing of the Philippine National Anthem.

"Section 2. The Secretary of Education is hereby authorized and directed to issue or cause to be issued rules and regulations for the proper conduct of the flag ceremony herein provided."

In our opinion, the requirements above-quoted constitute an adequate standard, to wit, simplicity and dignity of the flag ceremony and the singing of the National Anthem— specially when contrasted with other standards heretofore upheld by the Courts: "public interest" (*People vs. Rosenthal*, 68 Phil. 328) ; "public welfare" (*Municipality of Car-dona vs. Binangonan*, 36 Phil. 547); "interest of law and order" (*Rubi vs. Provincial Board*, 39 Phil., 669; justice and equity and the substantial merits of the case" (*Int. Hardwood vs. Pafigil Federation of Labor*, 70 Phil. 602) ; or "adequate and efficient instruction" (*P.A.C.U. vs. Secretary of Education*, 97 Phil., 806; 51 Off. Gaz., 6230). That the Legislature did not specify the details of the flag ceremony is no objection to the validity of the statute, for all that is required of it is the laying down of standards and policy that will limit the discretion of the regulatory agency. To require the statute to establish in detail the manner of exercise of the delegated power would be to destroy the administrative flexibility that the delegation is intended to achieve.

Wherefore, the decision appealed from is affirmed. Costs against petitioner-appellants.

Paras, C.J., Padilla, Bautista, Angelo, Labrador, Barrera, Gutierrez David, Peredes, and Dizon, JJ., concur.
Judgment affirmed.

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