

FELIPE M. ROLDAN, PLAINTIFF AND APPELLANT, VS. PHILIPPINE VETERANS BOARD, ET AL., DEFENDANTS AND APPELLEES.

G.R. No. L-11973. June 30, 1959

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

Plaintiff Roldan is appealing the decision of the Court of First Instance of Manila, dismissing his complaint on the ground that the action brought against the members of the Philippine Veterans Board, which was a mere agency of the government, was in effect a suit against the state and that it was done without its consent.

The facts in this case are not controverted. Roldan was a first grade Civil Service eligible. On March 26, 1953, he was appointed clerk in the Philippine Veterans Board with compensation at the rate of P2,160 a year, and he entered upon the performance of his duties. Defendant Antonio F. Garcia, acting Administrative Officer of the Philippine Veterans Board of which he was a member and signing for the Chairman, in a letter dated March 10, 1954 addressed to Roldan, among other things, said:

"In this connection, attention may be invited to the provision of section 2 of Act 2589 and the Cabinet Resolution dated December 23, 1946, reiterating its former policy against the reinstatement in the service of officers and employees of the Government who have retired under existing retirement Acts and also to the provision of Sec. 6 of Republic Act 728, which states that 'no person shall be appointed or reinstated in the service when he is already fifty seven years of age, etc.'"

"In view of the foregoing, and as you were already fifty-seven (57) years of age on March 11, 1953, you are hereby advised that your services in the Board will terminate effective at the close of business on March 25, 1954."

So, Roldan was separated from the service on March 25, 1954 and in his place Juan Domingo was appointed. Roldan initiated Quo Warranto proceedings against Domingo in Civil Case No. 25603 of the CFI of Manila. The trial court in said case decided in favor of Roldan, declaring his ouster to have been illegal. The dispositive part of the decision reads thus:

"IN VIEW WHEREOF, granted; judgment is rendered declaring Juan Domingo not entitled to said office, and declaring plaintiff, Felipe M. Roldan, as the person legally entitled and with authority to exercise the same; and the Court orders that plaintiff be restored to said position. Costs against defendant."

Said decision became final and was executed resulting in the reinstatement of Roldan to his former position on September 24, 1955.

For the period of about 18 months that he was out of the service due to his separation therefrom on March 25, 1954, Roldan filed the present action against the Philippine Veterans Board and its five members to recover his back wages during said period plus moral damages in the amount of P5,000.00 including P600.00 for attorneys fees. The trial court, through Judge Luis B. Reyes, dismissed the complaint on the ground that Republic Act No. 65 creating the Philippine Veterans Board made said Board a mere agency of the Government to carry out the

purposes of said Act No. 65; that the salaries of the employees of said Board, like that of the plaintiff, were appropriated every year by law and that the salary corresponding to the position of Roldan for the period from March 26, 1954, when separated from the service, until September 24, 1955, when he was reinstated, had already been paid to Juan N. Domingo, the defendant over whom he won in the Quo Warranto Proceeding; and that neither the Philippine Veterans Board nor its members can provide for the payment of Roldan's back wages, having no power to do so under the law, Congress being the only body that can make the appropriation. In support of its ruling the trial court cited the case of Metropolitan Transportation Service (Metran) vs. Paredes, 79 Phil., 819.

After a careful study of the case we agree with the trial court that the ruling laid down in the case of Metropolitan Transportation Service (Metran) vs. Paredes, supra, is directly applicable. In that case the Metran was created by an Executive Order shortly after liberation in order to provide transportation service for the government and its employees. It would appear that as a result of a collision resulting in damages[^] action was brought against it to recover damages. This Court held that the Metran was a mere office or agency of the government, unincorporated and possessing no juridical personality under the law, incapable of suing or being sued and that a claim against it would in effect be a suit against the government, which suit may not prosper without the government's consent. In the case of Metran, the latter was a mere agency of the government operating under the Bureau of Public Works. In the present case, the Philippine Veterans Board was created and functioned under the Department of National Defense. It is also a mere agency of the government. It is not a body corporate and politic in deed and in law, incapable of suing or being sued.

Appellant contends that the Philippine Veterans Board is a juridical entity within the meaning of Article 44 of the Civil Code, which reads as follows:

"Art. 44. The following are juridical persons:

- (1) The state and its political subdivisions;
- (2) Other corporation, institutions and entities for public interest or purpose, created by law; their personality begins as soon as they have been constituted according to law;
- (3) Corporations, partnerships and associations for private interest or purpose to which the law grants a juridical personality, separate and distinct from that of each shareholder, partner or member."

Counsel for the appellant merely quotes the above-reproduced article without giving reasons why the Philippine Veterans Board is included in its provisions. A juridical person is a "being of legal existence, susceptible of rights and obligations, or of being subject of juridical relations" (2 Sanchez Roman, p. 119, quoted in Padilla's Civil Code Annotated, Vol. 1, 94, 1956 Ed.).

It is clear that the Philippine Veterans Board which was created under Section 7 of Republic Act No. 65 under the Department of National Defense to carry into effect the purpose of said act and to take charge of effectuating the duties assigned to it by law, which Board is composed of a chairman and four other members to be appointed by the President with the consent of the Commission on Appointment from among veterans of the Philippine Army and of recognized or deserving guerrilla organizations, which members are entitled to per diems of P15 each for every meeting actually attended, may not be considered a juridical person within the meaning of the law, capable of being sued, especially for the recovery of back salaries, which salaries are appropriated only by Congress. So, a suit like the present one against the Board is in reality an action against the government itself.

In the case of Syquia vs. Almeda Lopez, et al., (84 Phil., 312; 47 Off. Gaz., 665), we held that a suit against an officer of a government by a private citizen which would result in a charge against or financial liability to the

government must be regarded as a suit against the government itself, and it cannot prosper or be entertained by the Court except with the consent of said government. In the present case, a judgment in favor of Roldan for the payment of his back salaries for the period of 18 months when he was out of the service cannot be a charge against the Philippine Veterans Board or against its members for the reason that the board member acting as chairman in effecting the separation of Roldan from the service, assuming the same to be illegal, acted officially and in the name of the government. Naturally, any judgment in favor of Roldan would mean a charge to or a liability against the Philippine Government.

In view of the foregoing, the decision appealed from is hereby affirmed, with costs against appellant.

Paras, C. J., Bengzon, Padilla, Bautista Angelo, Concepcion, Endencia, and Barrera, JJ., concur.

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