

RADIOWEALTH INC., PETITIONER, VS. MANUEL AGREGADO, IN HIS CAPACITY AS AUDITOR GENERAL OF THE PHILIPPINES, CASIMIRO L. DACANAY, MARIANO VASQUEZ, AND FERNANDO DIZON, AS CHAIRMAN A...

G.R. No. L-3066. May 22, 1950

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PER CURIAM:

This is one more case which directly affects this court but which it can not avoid. From necessity, we are forced, to our regret, to proceed in deciding it, there being no other tribunal authorized to act. (2 Constitutional Limitations, Cooley, 870.) The question refers to the purchase and installation charges:, totaling P585.00, of a Webster Teletalk, Model 206 MA, and Webster Telehome speakers.

Under date of January 7, 1949, the Clerk of the Supreme Court certified that the purchase of this apparatus and its installation on the second and third floor of the Malacañan Annex, which houses the Supreme Court, were of urgent character and necessary to public service. On January 10, 1949, C.L. Dacanay, Chairman of the Property Requisition Committee appointed by the, President, disapproved the purchase and installation as "contrary to the provisions of paragraph four (4) of Executive Order Ho. 302, series of 1940, and the policy adopted by the Cabinet last year, discontinuing open market purchases," and "also a violation of the requirements of Executive Order No. 298, series of 1940." On February 7, 1949, Radio wealth, Inc., the vendor of the equipment and its accessories, took the matter up with the Auditor General with the request that the payment be approved. Radio wealth, Inc. informed the Auditor General that treasury warrant No. V-116470 was in the process of issuance to cover this account but that the auditor for the Supreme Court refused to countersign the warrant. The Auditor General on February 11 referred the papers to the Chief Justice with this comment:

"The purchase of emergency supplies, materials, furniture and equipment for the use of the National Government is governed by Section 2044 of the Revised Administrative Code, Executive Order No. 298, series of 1940, Executive Order No. 302 (paragraph [6], series of 1940, and Department of Finance Order No. 7, series of 1945. It is alleged in the attached papers that the purchase by the Supreme Court of one (1) Webster Teletalk Model 206 MA and six (6) Webster Telehome Speakers, which includes installation, labor and materials, was made because of their need for an emergency, but there is no evidence to show that the requirements of the law and/or regulations aforecited had been complied with. This observation in audit has to be brought out because the Constitution enjoins the Auditor General to audit "in accordance with law and administrative regulations." In this particular" case, Executive Order No. 302 constitutes one of the administrative regulations covering the procedure to be followed in making regular and emergency purchases of supplies, materials, furniture and equipment for the National Government which, of course, includes the Supreme Court.

"In this connection, attention is invited to the enclosed copy of the 3rd indorsement and enclosure of the Office of the President to the Supreme Court, dated October 12, 1947, on a similar case of emergency purchase made by the Supreme Court from Bookman, Incorporated, which is self-explanatory."

The offshoot of the Auditor General's decision was the filing of the present petition for review by Radio wealth, Inc. praying, upon the facts above stated.

"(1) That the Property Requisition Committee be declared dissolved, and its powers be left to be performed by the Auditor General alone, as before under the Constitution; and that Executive Order No. 43, dated February 7, 1947, and other Orders effectuating such unlawful delegation of constitutional powers be declared unconstitutional;

"(2) That the respondent Auditor General be ordered to countersign the treasury warrant Annex F, in view of the nullity and inapplicability of the Executive Orders under which said respondent withholds countersignature."

The Auditor General disclaims that his decision is in any way premised on or influenced by the Property Requisition Committee Chairman's action. The Solicitor General appearing for the Auditor General states that the property requisition committee's actuation is irrelevant to the disposal of this case and that it is only the Auditor General's ruling which should be reviewed under Rule 45 of the Rules of Court.

Nevertheless, as the Auditor General's ruling is predicated on the same legal provisions and executive and administrative orders which the property requisition committee invokes as its authority to pass upon the Court's requisitions for supplies, this authority will inevitably have to be dragged into the case. And it is just as well that we go into it if only because cases of this kind which did not reach the Auditor General, have arisen in the past, and such cases would arise in the future if we did not expand this opinion to comprehend the property requisition committee's presumed authority to pass on the expenditure under consideration.

The distribution of powers is a fundamental maxim of constitutional law and essential to the separation of the three branches of government, separation which, though incomplete, is one of the chief characteristics of our Constitution. This principle is too well known to require elucidation. It suffices to say that in accordance with this principle the Supreme Court is independent of executive or legislative control as the Executive and the Congress are of the judiciary.

But it is said that the Court's independence is limited to the exercise of judicial functions and that purchase of property does not belong to this category. This contention formulates the respondents' major premise on which the following discussion will largely center.

This court had occasion to intervene, in *Province of Tarlac, etc. vs. Gale*, 26 Phil. 338, in a conflict between a judge of first instance and provincial officers over the disposition of the courthouse and other equipment. As that case is analogous to the case at bar in its fundamental and animating features, it will be appropriate to quote at length from it. The Court, speaking through Mr. Justice Moreland, said:

"2. Department of Government; Judiciary.—The judiciary being one of the coordinate branches of the Government, its preservation in its integrity and effectiveness is necessary in the present form of government.

"3. Executive and Legislative.—The three departments of Government, the executive, legislative, and judicial, are not only coordinate, they are coequal and coimportant. While interdependent, in the sense that each is unable to perform its functions fully and adequately without the other, they are, nevertheless, in the most important sense independent of each other; that is to say, one department may not control or even interfere with another in the exercise of its special functions. The quality of government consists in their remaining thus independent.

"4. Powers.—Under the acts of the Legislature of the Philippine Islands, the judiciary has the power to maintain its existence, and whatever is reasonably necessary to that end courts constituting the judiciary may do or order done. They have power to preserve their integrity, maintain their dignity, and to insure effectiveness in the

administration of justice.

"5. Duties of Provincial Officers.—The judiciary may not be deprived of any of its essential attributes and none of them may be seriously weakened by the act of any person or official. The power to interfere is the power to control, and the power to control is the power to abrogate. Officials of the Government who owe a duty to the courts under the law cannot deprive the courts of anything which is vital to their functions, nor can such officials by the exercise of any judgment or discretion of their own escape an obligation to the courts which the law lays upon them.

"6. Powers of Courts of Fiscal Insatance; Court Room, Furnituers, etc.—Provincial officials who, by virtue of the statute, are under an obligation to the Court of First Instances of their province to furnish court room, furniture, fixtures, supplies, equipment, etc., when, in the serious and deliberate judgment of the court, they, or any of them, are necessary for the adequate administration of justice, cannot escape that obligation except by permission of the court.

"7. Duties of Provincial Boards and Provincial Officers.—Section 13 of Act No. 83, which provides that it shall be the duty of the provincial board to provide by construction or purchase or renting suitable offices for the provincial officers, and a courthouse containing a room or rooms suitable for the holding of court and for offices for the court officials * * *, is mandatory and imposes upon the provincial board or provincial officials, as the case may be, a duty which they cannot evade at their pleasure.

"8. Id.; Id.; Id.—While, under said section, the provincial board may exercise certain discretion in regulating the size of the court room, or the cost of the same, or the material of which it is constructed, and the kind and quantity of furniture which is placed therein, nevertheless, the court room and offices, and the furniture and fixtures therein must be of such a character as to permit the court to exercise its functions in a reasonably effective manner, and must not be such as to impede in a material manner the administration of justice. When a conflict in judgment arises between the provincial officials and the court that of the provincial officials must yield, the court being the only official which, in the last analysis, may determine under the law quoted what is necessary for its efficiency.

"9. Id.; Id.; Id.—If the provincial officials furnish to a court a room which, in the judgment of the court, is clearly inadequate and its use would seriously interfere with the orderly and dignified administration of justice, the court may refuse to accept it, and, on the refusal of the provincial officials to furnish accommodations which the court considers adequate, it has the power to procure them either directly by renting or by order to the officials whose duty it is, under the law, to furnish them. The power lies with the judge, and with him alone, to determine ultimately what is really essential for the administration of justice.

"10. Id.; Id.; Id.—When an adequate court room has once been furnished and is in the possession of the court, the court has power to prevent its occupation, in whole or in part, by other persons to the serious detriment of the court business; and if such occupation occurs, the court may order the intruders ejected and all partitions which have been erected, dividing the court room into parts, removed.

"11. Id.; Id.; Id.—The provincial board has power to assign a particular room or rooms to a Court of First Instance, and may change the assignment after the same has been made when such change is reasonably necessary, provided the new rooms are reasonably adequate for the purposes of the cototo The court may, however, refuse to be dispossessed of its old rooms until it has been furnished with others reasonably fit and proper for the due administration of justice.

"12. Id.; Id.; Id.—Section 10 of Act No. 83, which requires the provincial officials to furnish to the court such furniture, fixtures, and supplies as may be necessary for the proper administration of justice, is mandatory; and while a certain discretion lies with the officials who furnish the articles referred to, such as deals with color, form, style, quantity, etc., that discretion is always subject to the paramount authority of the court which, as in the case of quarters, is always the final authority determining what is necessary and essential for the proper

administration of justice.

"13.Id.; Id.; Id.— If the provincial officials refuse to furnish the articles mentioned in the statute in sufficient quantity or at the proper time, the court has power either to purchase those things directly or, by proper proceedings, to compel the officials to perform the duty imposed upon them by law. In either case, the purchase price of the articles thus found necessary will be a legal charge on the province." (Syllabus)

We reiterate this rule. If there is any difference between the Gale case and the case before us it is that the reasoning in the former applies with peculiar and greater force in the latter because the Supreme Court derives its powers directly and immediately from the Constitution whose "distributive clause" deals mainly with the central government and finds little observance in municipal corporations or in other units of local governments. (12 C. J. 804.)

Contrary to the respondents' theory, the prerogatives of this Court which the Constitution secures against interference includes not only the powers to adjudicate causes but all things that are reasonably necessary for the administration of justice. So, we believe, it is within its power free from encroachment by the Executive to acquire books and other office equipment reasonably needed to the convenient transaction of its business. These implied, inherent, or incidental powers are as essential to the existence of the Court as the powers specifically granted. Without the power to provide itself with appropriate instruments for the performance of its duties, the express powers which the Constitution endows it with would become useless. The Court could not maintain its independence and dignity as the Constitution intends if the Executive personally or through subordinate officials could determine for the Court what it should have or use in the discharge of its functions, and when and how it should obtain them.

The Court's independence of the legislative branch with regard to the acquisition of fixtures, supplies and equipment is bound up with and subject to its dependence upon the Congress for appropriation. The interrelation between the Court and the Congress in this regard is not so easy to define. (Fortunately there is no conflict between the Legislature and the Court to complicate the issues in this case.) But it is our considered opinion that this Court is supreme and independent of the Executive in this sphere. In the requisition for fixtures, equipment and supplies both the executive and judicial departments are on the same footing. They derive their authority from the same source and represent the sovereignty in equal degree. It stands to reason that the Chief Executive has no more authority to encroach on the Supreme Court in the choice of the instruments needed to carry on its functions than the Court has to dictate to the Executive what, when and how to get his.

An interesting question might present itself if the Congress should invest the executive department with power to make regulations for the Supreme Court as well as for the former's offices regarding the purchase and acquisition of materials. That question again is not here, as will be seen shortly. The several executive and administrative orders which the Auditor General gives as basis for refusing to countersign the warrant proposed to be issued, are not based on express legislation. Parenthetically we understand that these executive and administrative orders are not being applied to the legislative department. If our information is correct, this one more argument against the respondents' insistence in extending the operation of those orders to the Supreme Court. The Legislature's independence of the Executive is no greater than the Court's.

Section 2041 of the Revised Administrative Code regulates the purchase of government supplies and directs that such purchase should be effected through the Bureau of Supply. Section 204 creates general exceptions to the provisions of the preceding section by authorizing purchase in the open market and without the interference of the Bureau of Supply when the materials or supplies are to be used in the construction, repair or maintenance of a public work upon the occasion of any emergency involving danger to life or property, or in any case where the location of the work is remote from Manila.

Sections 2041-2044 speak of departments, bureaus, and offices. They do not speak of the legislature or the Supreme Court, and it is our understanding that they were not intended to embrace either of these branches of the government. We take the word "departments" in these sections to mean the several divisions among which are distributed the functions and duties deriving upon the Chief Executive. The Supreme Court is neither a department, a bureau nor an office within the meaning of the said sections. This is a strict construction. But being in "derogation of the independence of one of the two coordinate departments of government, these sections must be interpreted strictly and doubts must be resolved in favor of that construction which would be more in harmony with the" tenets of the fundamental law.

It is argued that Sections 2041 et seq of the Revised Administrative Code and the executive and administrative orders above, mentioned are not being enforced upon the court but upon the clerk of court. The fallacy of this argument is that it overlooks the fact that the clerk is not an officer separate and distinct from the court. The clerk of court is an officer of the court entirely subordinate thereto and working under its orders. He has no functions or duties conferred by law independent of the court.

No one denies the power of the Auditor General to audit, in accordance with law and administrative regulations, expenditures of funds or property pertaining to or, held in trust by the government or the provinces or municipalities thereof. (Section 2, Article XI, Constitution of the Philippines.) Neither does the Court claim exemption from the authority vested upon the Auditor General by the Constitution to examine, audit and settle all accounts of the government or to bring to the attention of the proper administrative officer expenditures of funds or property which, in his opinion, are irregular, unnecessary, excessive and extravagant. (Section 3, Article XI, Constitution of the Philippines.)

On the other hand, it can not be pretended that this authority is absolute. The constitutional provisions herein cited themselves defines the limits of the Auditor General's powers, and the Constitution provides a remedy against his actions when they transcend those bounds. The Auditor General's decisions in cases affecting an executive department, bureau, office or officer are appealable to the President, and in those affecting the rights of private citizens to the Supreme Court. The Auditor General's authority to audit and disapprove this Court's expenditures has to be limited to the conditions prescribed by the Constitution, or statute, if there be one, which did not invade the Court's independence. Executive and administrative orders and regulations promulgated by officers who have no jurisdiction under the law or the Constitution over the Court, can give no justification or validity to the Auditor General's decisions. In the absence of express and valid legislation, (and by valid legislation we mean one which does not unreasonably infringe upon the legitimate prerogatives of the Supreme Court), the Auditor General may not question the court's expenditures except when they are, in the words of the organic law, "irregular, unnecessary, excessive and extravagant." Outside of these exceptions his duty to approve the payments is mandatory; and even when the objection, is that the expenditures are irregular, unnecessary, excessive or extravagant, his decisions are not final.

The Auditor General's ruling under review does not criticize the expenditure in question on any of the above grounds. In reality, the reasonable necessity of the purchase and installation of a teletalk and telehome speakers in the offices of the Chief Justice and of the clerk of court has been explained in the clerk's statement; the cost of the equipment and labor has been certified to be the lowest obtainable on the market, and there is appropriation from which the items may lawfully be paid for.

The petition is granted, without costs.

Moran, C.J., Ozaeta, Pablo, Bengzon, Tuason, Montemayor, and Reyes, JJ., concur.

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