

RIZALINO V. DE LEON, PETITIONER, VS. PHILIPPINE NATIONAL BANK, RESPONDENT.

G.R. No. L-46470. February 28, 1978

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is a petition for certiorari to review the order of the Court of First Instance of Manila, Branch XXXVII, in Civil Case No. 101381 entitled "Rizalino V. de Leon, plaintiff versus Philippine National Bank, defendant" dismissing the complaint on the ground that said court has no jurisdiction over the case.[1]

The petitioner, Rizalino V. de Leon, filed against the Philippine National Bank with the Court of First Instance of Manila a complaint dated February 23, 1976 alleging that the plaintiff was an employee of the defendant for the last twenty-nine (29) years; that as of October 1975, the plaintiff was holding the position of assistant agent in the Rizal Agency of the defendant at Pasig, Rizal; that during the period of twenty-nine (29) years of continuous service, the plaintiff had never been the subject of any administrative complaint and his record with the defendant is clean; that as of October 1975, when the plaintiff was assistant agent at the Rizal agency of the defendant at Pasig, Rizal, said plaintiff was receiving as a basic salary P1,210.00 a month plus fringe benefits of P778.00, more or less, a month or P33,356.00 a year, more or less; that on October 24, 1975, the plaintiff was forced to retire from the service of the defendant by a resolution of its Board of Directors dated October 22, 1975; that as of October 24, 1975, the plaintiff was only 53 years of age and had at least 12 years more of service before reaching the compulsory retirement age of 65 years; that the plaintiff is a permanent employee of the defendant being a second grade Civil Service eligible and with an unblemished service record; that the forced retirement of the plaintiff by the defendant had prejudiced the plaintiff in the amount of P309,228.00 which he would have received from the bank for the next 12 years even if he were not promoted during all that period; that the plaintiff was also separated from the bank for no cause or reason and as a result thereof had suffered mental anguish; and that because of the unjustified action of the defendant, the plaintiff would find it difficult if not impossible to obtain another job with any bank or financial institution in the Philippines.[2]

The defendant, Philippine National Bank, filed an answer dated April 2, 1976 alleging as special and affirmative defenses that the complaint states no cause of action; that plaintiff's separation from the service of the defendant was made pursuant to the government's reorganization plan and in compliance with the directive of the President of the Philippines under Letter of Instruction No. 309 dated August 22, 1975; that plaintiff has not exhausted all the administrative remedies to enforce his claim under Administrative Order No. 370 dated October 24, 1975 by which a committee was created to review the cases of officials and employees dismissed from the services; that having failed to appeal his case to the Appeals Committee created under Administrative Order No. 370, the plaintiff is deemed to have waived whatever objection he may have against his separation from the service; that the plaintiff is estopped from questioning his separation from the service inasmuch as he has collected from the defendant his retirement benefits amounting to P86,655.35; that the plaintiff has expressly waived his right to be heard on appeal in his letter dated November 12, 1975; that the plaintiff has shown himself to be intemperate,

tactless and has held a feeling of universal hostility towards his subordinates so much so that he was warned to be more "temperate and tactful in his dealings with his subordinates and clients of the defendant and repetition of the act of challenging to a gun fight, or one of similar nature, would be dealt with more severely"; and that the court has no jurisdiction over the case for the reason that plaintiff's separation from the service was in pursuance of a Letter of Instruction issued by the President of the Philippines.[3]

The defendant filed a motion to dismiss dated May 4, 1976, on the grounds that the complaint states no cause of action and that the lower court lacked jurisdiction to try the case.[4]

The defendant amended the motion to dismiss alleging as additional ground that the defendant is not the proper party in interest that must defend this action.[5]

The amended motion to dismiss was set for hearing during which the respondent bank presented the following documentary evidence: a) A copy of the list that appeared on September 23, 1975 in the newspaper Bulletin Today marked as Exhibit 1, the name of the petitioner in the list being marked as Exhibit 1-A; b) A copy of the official telegram dated October 3, 1975, marked as Exhibit 2, which stated that the lists appearing in the newspapers are considered authentic lists of those officials and employees separated from the service by the President of the Philippines; c) A copy of Administrative Order No. 370 dated October 24, 1975 creating the committee to review the cases of the officials and employees dismissed from the service on September 19, 1975 marked as Exhibit 3; and, d) A copy of the letter of petitioner, Rizalino V. de Leon, dated November 12, 1975, informing respondent bank that he is not making an appeal to the Appeals Committee, marked as Exhibit 4.

In an order dated January 31, 1977, the respondent judge presiding Branch XXVII of the Court of First Instance of Manila dismissed Civil Case No. 101381 for the reason that the lower court has no jurisdiction over the case under General Order No. 3 and General Order No. 3-A of the President of the Philippines, without pronouncement as to costs.[6]

The motion for reconsideration of the plaintiff was denied. Hence this petition was filed.

The petitioner contends that Letter of Instruction No. 309 is non-existent and even assuming that said Letter of Instruction No. 309 exists, it does not have an automatic effect on the defendant which is a private corporation governed by the Corporation Law. Petitioner avers that in view thereof, the lower court has jurisdiction to try Civil Case No. 101381.[7]

Despite General Order No. 3 and General Order No. 3-A, the lower court, presided by the respondent judge, has jurisdiction over this case. Courts have jurisdiction over all cases where a person claims to have been denied due process of law as guaranteed by the constitution. However, we sustain the order dismissing Civil Case No. 101381 on the ground that plaintiff, petitioner herein, has waived whatever right he had by reason of his separation from the service of the Philippine National Bank.

The record discloses that on September 19, 1975, the petitioner, Rizalino V. de Leon, was one of those separated from the service; that his name appears on the list of persons separated from the service published in the newspapers on September 23, 1975; that on October 3, 1975, the Office of the President released an official telegram to the effect that the lists appearing in the newspapers are considered authentic and the officials and employees appearing therein were deemed separated from the service effective on the date of the publication of the list; that on October 22, 1975, the respondent, Philippine National Bank, implementing the Presidential directive, passed Resolution No. 634 classifying those separated from the service into whether they are entitled or not to receive compensation benefits; that the petitioner was one of those separated from the service entitled to receive compensation benefits; that he received the total amount of P86,655.35; that Administrative Order No.

370 dated October 24, 1975 created a Committee on Appeals to review the cases of the officials and employees dismissed from the service on September 19, 1975; and that the petitioner wrote a letter dated November 12, 1975 informing the respondent bank that said petitioner is not making an appeal to the Appeals Committee.

It is thus seen that the petitioner has not raised a timely objection to his retirement before reaching the age of 65 years. Not only has he failed to appeal to the Appeals Committee created by Administrative Order No. 370 but he wrote the Philippine National Bank a letter dated November 12, 1975 stating that he is not making an appeal to the Appeals Committee. And finally the petitioner received his separation pay. It is clear from the foregoing that the petitioner has waived whatever rights he might have had by reason of his separation from the service of the Philippine National Bank. He is estopped to question his retirement before reaching the age of 65 years.

WHEREFORE, the order appealed from is hereby affirmed, without pronouncement as to costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Muñoz Palma, and Guerrero, JJ., concur.

[1] Rollo, pp. 65-67.

[2] Rollo, pp. 20-23.

[3] Rollo, pp. 25-27.

[4] Rollo, pp. 28-32.

[5] Rollo, pp. 45-54.

[6] Rollo, pp. 65-67.

[7] Memorandum for the Petitioner, pp. 8-10.

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