

FORTUNATO V. BORROMELO, PETITIONER AND APPELLANT VS. GOVERNMENT SERVICE INSURANCE SYSTEM, RESPONDENT AND APPELLEE.*G.R. No. L-11001. November 23, 1960*

Ponente: DIZON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/250b204fd049/>**DIZON, J.:**

On December 15, 1949, petitioner, then an associate justice of the Court of Appeals, retired under the provisions of Act No. 2589 and received a gratuity in the total amount of P24,000.00. On August 6, 1954, after the enactment of Republic Act 1057, amending Act 910, petitioner applied for retirement under their provisions and respondent found him entitled thereto. Pursuant to Section 3 Republic Act 910, as amended, petitioner was entitled to a lump sum payment equivalent to his salary for five years, or the total amount of P60,000.00., from which, however, respondent deducted the P24,000.00 gratuity which the former had already received. Petitioner brought this action for mandamus in the Court of First Instance of Cebu to compel respondent to pay the aforementioned amount. : Sail court sustained the legality of the deduction; hence this appeal by petitioner.

The only issue here is whether the gratuity received by petitioner under the provisions of Act 2589 is deductible from the retirement benefits to which he was subsequently found to be entitled under the provisions of Republic Acts 910 and 1057.

The answer must be in the affirmative.

Section 1 of Act 2589 itself provides that any officer or employee entitled to its benefits, and "who is entitled to any benefits from any pension fund created by authority of the Philippine Legislature"-without specifying whether the pension fund was created before or after its enactment-shall be required to designate which of such benefits he desires to take advantage of, and in such case he shall be entitled only to the benefits so chosen. It is beyond question that Republic Act 910, as amended, constituted or created a pension fund or plan. Therefore, when petitioner applied for the benefits provided for in said act, as amended, he must be deemed to have made his choice. Consequently, he is entitled only to the benefits so chosen-this carrying the natural and necessary implication that the gratuity already received by him under Act 2589 must be deducted from the more extensive benefits petitioner was entitled to receive under the provisions of Act 910, as amended.

The gratuity received by petitioner under Act 2589 was obviously in consideration of his services to the government as of his retirement on December 15, 1949. It is similarly obvious that the retirement benefits he was found to be entitled to receive under the provisions of Act 910, as amended, were in consideration of the same services to the government. Therefore, for petitioner to receive full benefits under the later laws, in addition to the gratuity he had already received under Act 2589, would amount to allowing him to receive double pension for exactly the same services as consideration. The rule in construing or applying pension and gratuity laws is that, in the absence of express provision to the contrary, they will be so interpreted as to prevent any person from receiving a double compensation. (70 C.J.S., sec. 5, p. 429).

Although the facts involved in the present case are not exactly the same as those in *Espejo vs. The Auditor General, etc.* (97 Phil., 216; 51 Off. Gaz. No. 6, pp. 2863-2864), we believe that the reason for the decision in the latter is applicable to the one before us. The deduction of the gratuity already received by petitioner under Act 2589 from what he was to receive under the provisions of Act 910, as amended, is, as stated in the *Espejo* case, "justified by the common sense consideration that if the petitioner is being credited with his services prior to 1945 in computing his retirement annuity, it is but just that all retirement benefits received by him prior to that date should also be charged to his account. Otherwise, the petitioner would benefit both under Act 4051 and Republic Act 660, which is contrary to the plain intent of the law."

That Acts 910 and 1057 were enacted after petitioner's retirement is not a circumstance of sufficient weight to justify our ignoring the general policy of the State-expressed both in Act 2589 as well as in Act 910-against double pensions for the same services. To the contrary, the fact that even after petitioners' retirement under Act 2589 another pension law was enacted under which he could claim greater benefits affords a greater reason for the application of the general policy against double pensions, unless the contrary was expressly and clearly provided in the later enactment, Acts 910 and 1057 do not contain such provision. ,

Wherefore, finding the appealed judgment to be in accordance with law and the facts of the case, the same is hereby affirmed, with costs.

Paras, C.J., Bengzon, Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, Gutierrez David, and Paredes, JJ., concur.

Judgment affirmed.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.