

**GAUDENCIO A. BEGOSA, PLAINTIFF-APPELLEE, VS. CHAIRMAN,
PHILIPPINE VETERANS ADMINISTRATION; AND MEMBERS OF THE
BOARD OF ADMINISTRATORS, PHILIPPINE VETERANS
ADMINISTRATION, DEFEND...**

G.R. No. L-25916. April 30, 1970

Ponente: FERNANDO, J.

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FERNANDO, J.:

Plaintiff Gaudencio A. Begosa, now appellee, sought the aid of the judiciary to obtain the benefits to which he believed he was entitled under the Veterans' Bill of Rights.[1] To such a move, there was an insistent objection, both vigorous and persistent, on the part of defendants, the chairman and the members of the Philippine Veterans Administration, now appellants. The lower court, then presided by the then Judge, now Justice of the Court of Appeals, the Honorable Edilberto Soriano, found for plaintiffs, after a careful and meticulous study of the applicable statutory provisions. Not being satisfied with such a judgment, defendants appealed, relying once more on the principal grounds raised below that plaintiff should have exhausted his administrative remedies before coming to court and that he was in fact suing the State without its consent having been obtained. As neither defense is sufficiently meritorious, we affirm the lower court decision.

As noted in such decision, appellee's complaint was predicated on his having been "an enlisted man in good standing of the Philippine Commonwealth Army, inducted in the service of the USAFFE" and having taken "active participation in the battle of Bataan" as well as the "liberation drive against the enemy" thereafter having become "permanent-ly incapacitated from work due to injuries he sustained in line of duty * * *.[2] It was likewise asserted in his complaint that after having submitted all the supporting papers relative to his complaint, there was a disapproval on the part of defendants on the ground of his having been dishonorably discharged, although such an event did not take place until almost five years after the end of the war on November 7, 1950 and while he was in the service of a different organization that such a penalty was imposed on him.[3]

Then came the allegation that there was an approval on his claim on September 2, 1964 but effective only as of October 5 of that year, and for amounts much less than that to which he was entitled under the law. [4] The relief sought was the payment, as of the date to which he believed his right to pension should have been respected, of the sums, which he felt were legally due and owing to him.

The then Judge Soriano noted that there was an admission of certain allegations to the complaint with others being denied, and that the following affirmative and special defenses were interposed: "Defendants' answer admits certain allegations of said complaint, while denying others; sets up the following affirmative and special defenses: (1) payment of disability pension under Republic Act No. 65, as amended, by the Philippine Veterans Administration commences from the date the proper application therefor is approved; (2) plaintiff has not exhausted all administrative remedies before resorting to court action, hence the present action is premature; (3) inasmuch as the instant action pertains to money claim against the Government, it must first be presented before

the Auditor General as provided by existing law on the matter (C. A. 327); and (4) plaintiff's claim is in reality a suit against the Government which cannot be entertained by this Court for lack of jurisdiction because the Government has not given its consent, * * *." [5] The case was then submitted on an agreed statement of facts and the respective memoranda of the parties.

In the decision now on appeal, the question of when appellee is entitled to his pension as well as how much it would amount to were fully discussed by the lower court. Thus, as to the former: "From the facts just set out, it will be noted that plaintiff filed his said claim for disability pension as far back as March 4, 1955; that it was erroneously disapproved on June 21, 1955, because his dishonorable discharge from the Army was not a good or proper ground for the said disapproval, and that on reconsideration asked for by him on November 1, 1957, which he continued to follow up, the Board of Administrators, Philippine Veterans Administration, composed of herein defendants, which took over the duties of the Philippine Veterans Board, finally approved his claim on September 2, 1964, at the rate of P30.00 a month." [6] After stating that in fairness and good conscience the said claims could be made effective as of June 21, 1955, when it was erroneously disapproved by appellants, and not on September 2, 1964 when it was approved on reconsideration, as appellee should not for obvious reason be made to suffer for the error of another, the then Judge Soriano observed further: "Had it not been for the said error, it appears that there was no good ground to deny the said claim, so the latter was valid and meritorious even as of the date of its filing on March 4, 1955, hence to make the same effective only as of the date of its approval on September 2, 1964 - according to defendant's stand - would be greatly unfair and prejudicial to plaintiff. This is especially true in the light of the well-known intent of the legislature in passing these pension laws of war veterans, and the no less well-known spirit in which they should be construed or interpreted by the courts in favor of their beneficiaries." [7]

On the question of how much plaintiff should receive according to law, the appealed decision contains the following: "The next question for resolution refers to the monthly rate or amount to which plaintiff is entitled by way of pension. According to plaintiff, he should be given a disability pension of P50.00 a month from June 21, 1955 (the effective date of his claim as above found by this Court) until June 21, 1957, and P100.00 a month for life from June 22, 1957 (when Section 9 of Republic Act No. 65, as amended by Republic Act No. 1362, was further amended by Republic Act No. 1920). This contention, is well taken because the very letter of the Philippine Veterans Administration to plaintiff (Annex F of the [Agreed Statement of Facts]) contains the following 'Note: Re-rating is not required, permanent disability.' By 'Permanent disability', as this Court understands it, is meant that plaintiff is permanently incapacitated from work. Under Section 9 of Republic Act No. 65, as amended by Republic Act No. 1362, which was the law in force when plaintiff's claim for pension should have been approved on June 21, 1955, he was entitled to a pension of P50.00 a month as such permanently incapacitated person, which monthly rate or amount was increased to P100. 00 a month when the said Section 9 was further amended by Republic Act No. 1920 on June 22, 1957. [8] Why the action of appellants in the form of resolution could not prevail as against the law was made clear by the decision in this wise: "For one thing, the said resolution may not change or amend the meaning of the term 'permanent disability' as used by Congress itself in enacting the said Section 9 of Republic Act No. 65, as amended. For another, as of June 21, 1955 and as of June 21, 1957, plaintiff was already entitled to the said pension of P50.00 and P100.00 a month respectively, and his said right cannot be adversely affected by a resolution which was allegedly adopted only in 1963." [9] Necessarily, there was in the decision likewise a recognition of the monthly allowance for each of appellee's unmarried minor, children below 18 years of age at the time he was entitled to the pension to which under the statute he could validly lay claim.

After rejecting as untenable the defenses that there was no exhaustion of administrative remedies, that the action is in the nature of money claim which should first be presented before the Auditor General, and that said action is

in reality a suit against the Government without the latter's consent, the decision concludes with the following: "[Wherefore], judgment is; hereby rendered in accordance with the prayer of plaintiff's amended complaint, to wit, that defendants make plaintiff's pension effective June 21, 1955 at the rate of P50.00 a month up to June 21, 1957 at the rate of P100.00 a month, plus P10. 00 a month each for his four unmarried minor children below 18 years old from June 22, 1957 up to September 1, 1964; and the difference of P70. 00 a month, plus P10.00 for his one unmarried minor child below 18 years old from September 2, 1954, and thereafter, with costs against said defendants." [10]

Appellants elevated the matter to us. The careful and painstaking way in which the controlling statutory provisions were considered and applied by the then Judge Soriano must have impelled them to place their faith in the alleged failure to respect the doctrines of non-suability and exhaustion of administrative remedies to obtain a reversal. The appealed decision, however, as will now be shown, is not subject to such a reproach. The appeal then, as noted at the outset, is not to be attended with success.

1. The fourth assignment of error assails what it considers to be the failing of the lower court in not holding that the complaint in this case is in effect a suit against the State which has not given its consent thereto. We have recently had occasion to reaffirm the force and primacy of the doctrine of non-suability. [11] It does not admit of doubt, then, that if the suit were in fact against the State, the lower court should have dismissed the complaint. Nor is it to be doubted that while ostensibly an action may be against a public official, the defendant may in reality be the government. As a result, it is equally well-settled that where a litigation may have adverse consequences on the public treasury, whether in the disbursements of funds or loss of property, the public official proceeded against not being liable in his personal capacity, then the doctrine of non-suability may appropriately be invoked. It has no application, however, where the suit against such a functionary had to be instituted because of his failure to comply with the duty imposed by statute appropriating public funds for the benefit of plaintiff or petitioner. Such is the present case.

The doctrine announced by us in *Ruiz v. Cabahug* [12] finds relevance: "We hold that under the facts and circumstances alleged in the amended complaint, which should be taken on its face value, the suit is not one against the Government, or a claim against it, but one against the officials to compel them to act in accordance with the rights to be established by the contending architects, or to prevent them from making payment and recognition until the contending architects have established their respective rights and interests, in the funds retained and in the credit for the work done." [13] As a matter of fact, in an earlier case where we sustained the power of a private citizen claiming title to and right of possession of a certain property to sue an officer or agent of the government alleged to be illegally withholding the same, we likewise expressed this caveat: "However, and this is important, where the judgment in such a case would result not only in the recovery of possession of the property in favor of said citizen but also in a charge against or financial liability to the Government, then the suit should be regarded as one against the government itself, and, consequently, it cannot prosper or be validly entertained by the courts except with the consent of said Government." [14]

2. Nor is the third assignment of error to the effect that the lower court did not require appellee to exhaust his administrative remedies before coming to court any more persuasive. An excerpt from the leading case of *Gonzales v. Hechnova*, [15] the opinion being penned by the present Chief Justice, clearly demonstrates why appellants' argument in this respect is unavailing: "Respondents assail petitioner's right to the reliefs prayed for because he 'has not exhausted all administrative remedies available to him before coming to court. We have already held, however, that the principle requiring the previous exhaustion of administrative remedies is not applicable 'where the question in dispute is purely a legal one', or where the controverted act is 'patently illegal' or was performed without jurisdiction or in excess of jurisdiction, or where the respondent is a department

secretary, whose acts as an alter ego of the President bear the implied or assumed approval of the latter, unless actually disapproved by him, or where there are circumstances indicating the urgency of judicial intervention." [16] The Gonzales doctrine, it is to be noted, summarized the views announced in earlier cases. [17] The list of subsequent cases reiterating such a doctrine is quite impressive. [18] To be more specific, where there is a stipulation of facts, as in this case, the question before the lower court being solely one of law and on the face of the decision, the actuation of appellants being' patently illegal, the doctrine of exhaustion of administrative remedies certainly does not come into play.

3. The other errors assigned, namely the alleged failure of the lower court to comply with the law in fixing the amounts to which appellee is entitled instead of following the rules and regulations on veterans' benefits promulgated by appellants and the alleged interference with, the purely discretionary matter of a coordinate administrative agency, the Philippine Veterans Administration, can easily be disposed of. It is to be admitted that appellants as chairman and members of the Philippine Veterans Administration, formerly the Philippine Veterans Board, are officials of an administrative body. [19] Nor may exception be taken to the general principle that as much as possible the courts should view with the utmost sympathy the exercise of power of administrative tribunals whether in its rule-making or adjudicatory capacity. It has often been announced, and rightly so, that as much as possible the findings of these regulatory agencies which are expected to acquire expertise by their jurisdiction being confined to specific matters, deserve to be accorded respect and finality. There is a limit, however, to such a deference paid to the actuations of such bodies. Clearly, where there has been a failure to interpret and apply the statutory provisions in question, judicial power should assert itself. Under the theory of separation of powers, it is to the judiciary, and to the judiciary alone, that the final say on questions of law in appropriate cases coming before it is vested.

When the then Judge Soriano, therefore, as he was called upon to do, saw to it that there was strict compliance with the amounts of pension required by the law to be granted plaintiff and disregarded the regulation promulgated under the rule-making power of appellants, the effect of which would make appellee suffer the consequences of an error committed by them, it cannot be truly said that his decision may be assailed as being offensive to authoritative doctrines. On the contrary, it can stand the test of the utmost scrutiny. Precisely because the commands of the law were duly carried out, it cannot be set aside.

WHEREFORE, the decision of the then Judge Edilberto Soriano of the Court of First Instance of Manila promulgated on January 22, 1966, is affirmed. Without pronouncement as to costs.

Concepcion, Reyes, JBL, Dizon, Makalintal, Zaldivar, Ruiz Castro, and Villamor, JJ., concur.
Teehankee, J., in the result.
Barredo, J., on leave.

[1] Republic Act No. 65 (1946) as amended by Republic Act Nos. 1362 (1955) and 1920 (1957).

[2] Decision, Record on Appeal, p. 100.

[3] Complaint, pars. 4 & 6, Ibid, pp. 2-3.

[4] Ibid, pars. 10, 11 & 12.

[5] Decision, Record on Appeal, pp. 101-102.

[6] Ibid, pp. 104-105.

[7] Ibid, pp. 105-106.

[8] Ibid, pp. 107-108.

[9] Ibid, p. 108.

[10] Ibid, pp. 110-111.

[11] Cf. Providence Washington Insurance Co. v. Republic, L-26386, Sept. 30, 1969, 29 SCRA 598; Firemen's Fund Insurance Co. v. United States Lines Co., L-26533, Jan. 30, 1970; Switzerland General Insurance Company, Ltd. v. Republic, L-27389, March 30, 1970.

[12] 102 Phil. 110 (1957). This case was cited with approval in *Moreno v. Macadaeg*, L-17908, April 23, 1963, 7 SCRA 700.

[13] Ibid, p. 116.

[14] *Syquia v. Almeda Lopez*, 84 Phil. 312, 319 (1949) affirmed in *Marvel Building Corp. v. Phil. War Damage Commission*, 85 Phil. 27 (1949) and *Johnson v. Turner*, 94 Phil. 807 (1954). Such a doctrine goes back to *Tan Te v. Bell*, 27 Phil 354 (1914). Cf. *L. S. Moon v. Harrison*, 43 Phil. 27 (1922).

[15] L-21897, October 22, 1963, 9 SCRA 230.

[16] Ibid, pp. 235-236.

[17] *Santiago v. Cruz*, 98 Phil. 168 (1955); *Diego v. Court of Appeals*, 102 Phil. 494 (1957); *Lemos v. Castañeda*, L-16287, Oct. 27, 1961, 3 SCRA 284; *Kimpo V. Tabañr*, L-16476, Oct. 31, 1961, 3 SCRA 423; *Corpus v. Cuaderno*, L-17860, March 30, 1962, 4 SCRA 749; *Tapales v. President & Board of Regents*, L-17523, March 30, 1963, 7 SCRA 553; *Marinduque Iron Mines Agents, Inc. v. Secretary*, L-15982, May 31, 1963, 8 SCRA 179; *Tiongco v. Lauchang*, L-17598, Sept. 30, 1963, 9 SCRA 125.

[18] *Nat. Dev. Co. v. Collector of Customs*, L-19180, Oct. 31, 1963, 9 SCRA 429; *Buena v. Patanao*, L-13882, Dec. 27, 1963, 9 SCRA 794; *Borja v. Moreno*, L-16487, July 31, 1964, 11 SCRA 568; *Gonzales v. Prov. Auditor*, L-20568, Dec. 28, 1964, 12 SCRA 711; *Talisay-Silay Milling Co. v. Bunuan*, L-16933, Dec. 29, 1964, 12 SCRA 733; *De Lara v. Cloribel*, L-21653, May 31, 1965, 14 SCRA 269; *Cariño v. Agricultural Credit & Coop. Financing Adm.*, L-19808, Sept. 29, 1966, 18 SCRA 183; *Abaya v. Villegas*, L-25641, Dec. 17, 1966, 18 SCRA 1034; *Dauan v. Sec. of Agriculture*, L-19547, Jan. 31, 1967, 19 SCRA 223; *Gravador v. Mamigo*, L-24989, July 21, 1967, 20 SCRA 742; *Millares v. Subido*, L-23281, Aug. 10, 1967, 20 SCRA 954; *Mitra v. Subido*, L-21691, Sept. 15, 1967, 21 SCRA 127; *Aragon v. Peralta*, L-21390, Nov. 18, 1967, 21 SCRA 937; *Pray. Board v. Guzman*, L-23523, Nov. 18, 1967, 21 SCRA 957; *Phil. Medical Association v. Board*, L-25135, Sept. 21, 1968, 25 SCRA 29; *Altarejos v. Molo*, L-25726, Oct. 21, 1968, 25 SCRA 550; *Miguel v. Catalina*, L-23072, Nov. 29, 1968, 26 SCRA 234; *Azur v. Provincial Board*, L-22333, Feb. 27, 1969, 27 SCRA 50; *Escalante v. Subido*, L-22013, Nov. 28, 1969, 30 SCRA 398.

[19] In the United States the predecessor agency of its Veterans Administration was created as far back as 1789, the reason being accord-ing to Davies, "the job of determining which claimants were entitled to be paid was not assigned to the courts because what was needed was a staff of low-paid clerks, not a few high-paid judges with all the cumbersome droppings of the courtroom." Davies on Administrative Law, p. 10 (1951).

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