

**FELIPE B. OLLADA, ETC., PETITIONER AND APPELLANT VS.
CENTRAL BANK OF THE PHILIPPINES, RESPONDENT AND APPELLEE.***G. R. No. L-11357. May 31, 1962*

Ponente: DIZON, J.

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Felipe B. Ollada is a certified public accountant, having passed the examination given by the Board of Accountancy, and is duly qualified to practice his profession. On July 28, 1952 his name was placed on the rolls, of certified public accountants authorized and accredited to practice accountancy in the office of the Central Bank of the Philippines. In December, 1955, by reason of a requirement of the Import-Export Department of said bank that CPAs submit to an accreditation under oath before they could certify financial statements of their clients applying for import dollar allocations with its office, Ollada's previous accreditation was nullified.

Pursuant to the new requirement the Import-Export Department of the Central Bank issued application for accreditation of certified public accountants (CB-IED Form No. 5) and accreditation card for certified public accountants (CB-IED Form No. 6) for CPAs to accomplish under oath. Assailing said accreditation requirement on the ground that it was (a) an unlawful invasion of the jurisdiction of the Board of Accountancy, (b) in excess of the powers of the Central Bank and (c) unconstitutional in that it unlawfully restrained the legitimate pursuit of one's trade, Ollada, for himself and allegedly on behalf of numerous other CPAs, filed a petition for Declaratory Relief in the Court of First Instance of Manila to nullify said accreditation requirement.

On April 16, 1956 the Central Bank filed a motion to dismiss the petition for Declaratory Relief for lack of cause of action. Its main contention was that the Central Bank has the responsibility of administering the Monetary Banking System of the Republic and is authorized to prepare and issue, through its Monetary Board, rules and regulations to make effective the discharge of such responsibility; that the accreditation requirement alleged in the petition was issued in the exercise of such power and authority; that the purpose of such requirement is not to regulate the practice of accountancy in the Philippines but only the manner in which certified public accountants should transact business with the Central Bank.

On May 3, 1956 petitioner Ollada applied for a writ of preliminary injunction to restrain the respondent Central Bank of the Philippines from enforcing the accreditation requirement aforesaid until final adjudication of the case. In a memorandum submitted by said respondent opposing the issuance of the writ, it manifested that it was willing to delete paragraph 13 from its CB-IED Form No. 5 (Application for accreditation of certified public accountants), which required CPAs to answer the query whether they agreed, if accredited with the Import-Export Department, Central Bank of the Philippines, to follow strictly the rules and regulations promulgated by the Philippine Institute of Accountants and, if not, to state their reasons therefor, and that it was also willing to modify paragraph 14 of the same form to read as follows:

"14. Do you agree, if accredited with the Import-Export Department, to follow strictly the rules and regulations of the Central Bank of the Philippines concerning the practice of your profession as CPA, with reference to its importing licensing functions which may hereinafter be promulgated and which are not inconsistent with the

rules and regulations promulgated by the Board of Accountancy of the Philippines, and to give written notice (s) of any change (s) in your professional status as practitioner, or the name and style under which you practice your profession as Certified Public Accountant (s)? If not, state your reasons: . . ."

On May 22, 1956 the trial court required respondent to submit within ten days from notice, proof that it had deleted paragraph 13 and modified paragraph 14 of its CB-IED Form No. 5, as manifested in its memorandum, otherwise the writ of preliminary injunction prayed for by petitioner would be granted. Having complied with said order by submitting CB-ID Form No. 5 (formerly CB-IED Form No. 5) showing that paragraph 13 of CB-IED Form No. 5 had been deleted, and paragraph 14 thereof had been modified, the court, on June 27, 1956, denied the petition for preliminary injunction. On June 29, 1956, petitioner filed a motion for reconsideration alleging that, despite the deletion of paragraph 13 from respondent's CB-IED Form No. 5, it was still enforcing the rules and regulations of the Philippine Institute of Accountants in its CB-IED Form No. 6 (Accreditation card for certified public accountants) which was still a part of the questioned accreditation requirement. All this notwithstanding, however, on July 5, 1956 petitioner, in the interests of its clients, filed his application for accreditation with the CB under protest.

On July 7, 1956, the court reconsidered its previous order and issued another granting the petition for the writ of preliminary injunction upon the filing of a bond in the sum of P2,000.00 on the ground that CPAs applying for accreditation with respondent were still required to execute under oath CB-IED Form No. 6 (Accreditation card for certified public accountants) to be governed by the rules and regulations of the Philippine Institute of Accountants. In a motion for the reconsideration of this last order, respondent stated that CB-IED Form No. 6 of its Import-Export Department had been modified by CB-ID Form No. 6 wherein the requirement that the applicant should sign a statement under oath has been eliminated, and that, upon accreditation, a CPA would be governed by the rules and regulations of the Central Bank and not by those of the Philippine Institute of Accountants. The modified form (OB-ID No. 6) read as follows:

"I/We hereby agree to be governed by your rules and regulations relating to the practice of my/our profession as Certified Public Accountant (s), particularly Memorandum to Accredited CPAs No. 1 of the Central Bank of the Philippines dated June 15, 1956. Please recognize my/our certification (s) of exhibit (s), statement (s), schedule (s), or other form (s) of accountancy work issued in behalf of my/our clients under the following signature (s)."

Consequently, on July 12, 1956 the court set aside its order of July 7, 1956 granting the writ of preliminary injunction.

Finally, on July 31, 1956, the lower court, resolving the motion to dismiss filed by respondent, dismissed the complaint. The order to that effect says, in part, the following:

"The only issue in this case is whether or not the respondent Central Bank of the Philippines has the authority under its charter to require petitioner and all other certified public accountants to accredit themselves before they can transact business with respondent Import and Export Department.

"This Court is of the opinion that the respondent is not barred from promulgating internal rules and regulations necessary to carry out its purpose pursuant to the charter creating it provided, however, that such rules and regulations are not contrary to law, public morals or public policy.

"The only objectionable features of respondent's aforementioned requirement have already been eliminated by said respondent having deleted from its CB-IED Form No. 5 known as Application for Accreditation of Certified Public Accountants (Annex B of petitioner's Petition), paragraph 13 and modified paragraph 14 thereof, as well as by modifying CB-IED Form No. 6 known as Accreditation Card for Certified Public Accountants (Annex C of Petitioner's Petition).

"It appears, therefore, that after respondent had eliminated said objectionable features, the petition for declaratory relief has become groundless and should be dismissed."

Upon motion of petitioner, We issued a resolution dated November 5, 1956 granting a writ of preliminary injunction restraining respondent from requiring CPAs to comply with the accreditation requirement of its Import-Export Department, on the ground that there was nothing in the record showing that the same was issued by its Monetary Board or by someone else duly authorized by the latter.

The main issue involved in this appeal is whether upon the facts alleged in the petition for Declaratory Relief and others elicited from the parties and made of record by them prior to the issuance of the order appealed from, this case was properly dismissed.

The Monetary Board of the Central Bank has authority to prepare and issue such rules and regulations as it may consider necessary for the effective discharge of the responsibilities and exercise of the powers assigned to it and to the Central Bank under the provisions of Section 14(a), Republic Act No. 265. The Governor of the Central Bank is also authorized to delegate his power to represent the Bank "to other officers of the Bank upon his own responsibility (Sec. 17(d), Rep. Act 265).

To implement its authority to temporarily suspend or restrict sales of exchange by the Central Bank and subject all transactions in gold and foreign exchange to license by the latter (Sec. 74, Rep. Act 265), the Monetary Board approved Resolution No. 1528, Minutes No. 80 dated August 30, 1955 authorizing the Import-Export Department to revise quota allocations and to prepare revised procedures for the determination of violations of Central Bank Import-Export regulations. Among the revised procedures adopted by the aforesaid Department was its accreditation system, the purpose of which was to correct certain irregularities committed by some CPAs in their certification of the financial statements of their clients applying for dollar allocations.

As held by the lower court, "the only objectionable features of respondent's aforementioned requirement haq" already been eliminated * * * from its CB-IED Form No. 5" and that CB-IED Form No. 6 had also been modified. For this reason, the court held that "the petition for declaratory relief has become groundless" and, as a result, ordered its dismissal.

Without deciding the question of whether the petition under consideration has, in reality "become groundless", we believe that, upon the facts appearing of record, said petition was correctly dismissed.

As stated heretofore, in connection with the motion to dismiss filed by respondent, petitioner filed a written opposition in which he alleged that his petition-

"has sufficiently alleged ultimate facts which violated his right as a duly qualified and accredited Certified Public Accountant by the Board of Accountancy (which is the only Government body with absolute powers to regulate the practice of CPAs), and in addition to such allegations, he has also alleged that by virtue of the violation of his right and that of numerous CPAs, he has suffered serious injury in that the questioned requirement which is collaterally attacked by this "action (in the honest belief of the petitioner that the same) is an unlawful restraint of the free pursuit and practice of petitioner's profession as a CPA; and also that the action of the respondent Central Bank of the Philippines complained of, is also an unlawful invasion into the exclusive jurisdiction of the Board of Accountancy as the sole body vested by our laws to lay down rules and regulations for the practice of public accountancy in the Philippines. * * *

"In order to dismiss an action under the aforesaid ground, Sutherland, Code of Pleadings, Practice and Form, 167, has laid down the essential test which should serve as the controlling guide in determining whether a petition states a cause of action, to wit:

- Does the complaint show the plaintiff suffered an injury?

- Is it an injury the law recognizes as a wrong?
- Is the defendant liable for the alleged wrong?
- If the defendant is liable, to what extent is he liable and what will be legal remedy from such injury? (Sutherland, Code of Pleadings, Supra)

"It is clear from the allegations of the petition that the petitioner has sufficiently stated facts to satisfy the foregoing requisites of a pleading in order that petitioner's action should be given due course by this Court.

"Petitioner submits that the respondent's requirement complained of (CB-IED Forms No. 5 and 6), is an act of constituting a violation of the Constitution and also a violation of the petitioner's right to freely practice his profession anywhere and in any government office in the Philippines. It is undisputed that the only body that can regulate the practice of accountancy in the Philippines is the Board of Accountancy. The action thus of the respondent in requiring the accreditation of CPAs before they can practice with the Central Bank of the Philippines is an unlawful invasion into the exclusive jurisdiction of the said Board of Accountancy. Why was petitioner's right as a CPA violated by the respondent? Because the respondent's placing of a ban to CPAs including the petitioner with respect to certification of financial statements of their clients applying for dollar (\$) allocation in the Central Bank of the Philippines has resulted in the unlawful restraint in the practice of CPAs in the Office of the Central Bank of the Philippines." (Italics supplied) (Rec. on Appeal pp. 17, 18-20)

Again, in his brief petitioner reiterates the same view in the following language:

"On April 20, 1956, petitioner-appellant filed his opposition to respondent's motion to dismiss on the simple and fundamental ground that, from its face, the complaint's allegations of facts make clear showing of petitioner's rights having been violated by respondent, and that he (petitioner) has suffered serious injury therefrom that such injury is recognized by law as a wrong, and that the respondent is liable therefor to a great extent." (Italics supplied) (Petitioner's brief, p. 5)

Petitioner commenced this action as, and clearly intended it to be one for Declaratory Relief under the provisions of Rule 66 of the Rules of Court. On the question of when a special civil action of this nature would prosper, we have already held that the complaint for declaratory relief will not prosper if filed after a contract, statute or right has been breached or violated. In the present case such is precisely the situation arising from the facts alleged in the petition for declaratory relief. As vigorously claimed by petitioner himself, respondent had already invaded or violated his right and caused him injury—all these giving him a complete cause of action enforceable in an appropriate ordinary civil action or proceeding. The dismissal of the action was, therefore, proper in the light of our ruling in *De Borja vs. Villadolid*, 85 Phil., 36; 47 Off. Gaz. (5) p. 2315, and *Samson vs. Andal*, 89 Phil., 627 where we held that an action for declaratory relief should be filed before there has been a breach of a contract, statute or right, and that it is sufficient, to bar such action, that there had been a breach— which would constitute actionable violation. The rule is that an action for Declaratory Relief is proper only if adequate relief is not available through the means of other existing forms of action or proceeding (1 C.J.S. 1027-1028).

Wherefore, the order of dismissal appealed from is hereby affirmed, without prejudice to the aggrieved party seeking relief in another appropriate action. The writ of preliminary injunction issued by Us on November 5, 1956 is hereby set aside, and the motion for contempt filed by petitioner on September 30, 1957 is denied. With costs against appellant.

Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera and Paredes, JJ.; concur.

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