

LUIS ACHONDOA, PLAINTIFF-APPELLANT, VS. PROVINCE OF MISAMIS OCCIDENTAL, DEFENDANT-APPELLEE.

G.R. No. L-10375. March 30, 1962

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Plaintiff seeks to recover from defendant the sum of P20,000.00, plus legal interest thereon from September 20, 1950, and attorney's fees in the amount of P6,000.00.

Defendant set up as a defense that the provincial treasurer was not authorized by defendant to secure any loan from plaintiff or from any other person to pay the salaries of its employees and since the deposit made by plaintiff consists of emergency notes and the same was not withdrawn prior to 1950 the provincial treasurer registered said notes pursuant to Republic Act No. 22 in the name of defendant without its knowledge or consent. Defendant further avers that under the graduated scale of redemption provided in Republic Act No. 369 the redemption value of the amount deposited is less than P5,000.00.

After trial, the court a quo rendered decision holding that the provincial treasurer had no authority under the law to receive the amount claimed either as a deposit or as a loan and so his act was ultra vires and cannot bind the province of Misamis Occidental. Wherefore, it absolved the defendant from the complaint. However, since the money advanced by the treasurer was used by defendant in paying its officials and employees who served during the occupation, the court suggested that ways and means be devised by the corresponding authorities whereby plaintiff may be reimbursed of the equivalent of the money he had advanced which should be determined taking into account the scale of values that may be adopted inasmuch as defendant has benefited from the transaction.

Defendant has appealed directly to this Court on questions of law.

Sometime in June, 1945, after the American forces of liberation had occupied the province of Misamis Occidental and its civil government has been restored plaintiff was prevailed upon by the provincial treasurer of said province to deposit in his office the amount of P20,000.00 in emergency notes which was used to pay 50 % of the salaries of the employees of the province who were retained in the service during the occupation. The question to be determined is whether the province of Misamis Occidental is bound by the act of the provincial treasurer in securing the money from the plaintiff and so whether it can be legally obliged to return the same to the plaintiff.

It is contended that the money taken from the plaintiff by the provincial treasurer was in the form of a loan as evidenced by the receipts issued in relation thereto wherein it appears the words "deposit for safekeeping" followed by the following statement: "to be withdrawn in installments as per agreement provided there will be available cash." As a matter of fact, plaintiff contends, the trial court found that the money was used to pay 50% of the salaries of the employees who were retained by the province during the war. The money given being in the form of a loan and defendant having been benefited therefrom it is but fair that it be returned to the plaintiff even if the provincial treasurer is not authorized by law to borrow money in the exercise of his functions.

This contention cannot be sustained. Section 2089 of the Revised Administrative Code which prescribes the functions and duties of the provincial treasurer does not contain any provision which may authorize him to borrow money from a third person or entity even if it may be needed to pay the expenses of the province for such power devolves upon the provincial government itself (Section 2086, Revised Administrative Code). Thus from said Section 2089 it may be inferred that one of the functions of the provincial treasurer is to "have charge of the disbursement of all provincial funds and other funds the custody of which may be entrusted to him by law or other competent authority" (d) and if he finds that the funds in his possession are not sufficient to cover the expenses of the provincial government his duty is to apprise the provincial board of such[^] shortage in order that it may devise ways and means to remedy the situation (a), and if notwithstanding such step the provincial board cannot remedy the situation what the provincial treasurer should do is to suspend the payment of any expenditure if by doing so he may incur in an overdraft, but he does not have the power to cover the shortage by borrowing money because such power has been withheld from him (Section 615, Revised Manual of Instruction to Treasurers). It is evident that the act of the provincial treasurer in securing a loan from the plaintiff is ultra vires and hence is not binding on the province.

In the circumstances, we find correct the following pronouncement of the trial court:

"Whether we consider the transaction between the plaintiff Luis Achondoa and the Province of Misamis Occidental, as a deposit or a loan, the conclusion is indubitable that said transaction is not sanctioned by law as it is not within the power of the Provincial Treasurer either to receive such deposit or to obtain such a loan. Considering, therefore, that the action of the Provincial Treasurer of Misamis Occidental or of his Assistant is ultra vires, such action cannot obligate or bind the province of Misamis Occidental.

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"In the interest of justice, therefore, this Court suggests to the corresponding authorities of the National Government including the Legislative to find ways and means so that the plaintiff may be paid the equivalent amount of money representing the P20,000.00 which was deposited with the office of the Provincial Treasurer under a just scale of values, once it is determined, the kind of emergency money which the plaintiff had deposited with the province" of Misamis Occidental by and thru the request of the office of the Provincial Treasurer."

WHEREFORE, the decision appealed from is affirmed, without costs.

Padilla, Labrador, Concepcion, Barrera, Paredes, Dizon, and De Leon, JJ., concur.

Bengzon, C.J., took no part.

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