

HILARION BERONILLA, PETITIONER, VS. GOVERNMENT SERVICE INSURANCE SYSTEM, ITS BOARD OF TRUSTEES, ET AL., RESPONDENTS.

G.R. No. L-21723. November 26, 1970

Ponente: BARREDO, J.

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BARREDO, J.:

A special civil action for prohibition seeking to declare Resolution No. 1497 of the Board of Trustees of the respondent Government Service Insurance System of August 9, 1963 to the effect that petitioner "Mr. (Hilarion) Beronilla be considered compulsorily retired from the service (as Auditor of the Philippine National Bank) effective January 14, 1963" as null and void for having been issued, in the words of the petition, "in excess of the powers granted to it by law, a want on abuse of discretion, violation of contracts, removal or forced retirement without due process of law and to declare all acts heretofore taken in implementation thereof also void, and to prohibit said respondent and its representatives from carrying out or implementing the aforesaid resolution." Acting on petitioner's prayer for preliminary injunction, on August 26, 1963, this Court issued the writ prayed for upon petitioner's filing an injunction bond in the amount of P1,000.00.

At the time of the filing of the present petition on August 23, 1963, petitioner was acting as and performing the duties of Auditor of the Philippine National Bank. Before that, he had occupied many other positions in the government and had been a member of the GSIS during all times required by law.

In his application for employment, his applications for life and retirement insurance as well as his application to be allowed to take civil service examinations, ten times from 1917 to 1925, petitioner uniformly indicated that his date of birth is January 14, 1898. He also indicated the same date of birth in his Member's Service Record which he submitted to the GSIS on October 29, 1954 pursuant to the provisions of Section 13-A, Republic Act No. 660.

On September 29, 1959, he requested the Commissioner of Civil Service, thru the Auditor General, that his date of birth indicated in the records be changed to January 14, 1900. According to the petition, it was only in 1955, before the demise of his mother that petitioner discovered that his true date of birth is January 14, 1900; that his mother told him that in 1916, his uncle, Alvaro Beronilla, purchased a cedula for him showing in the same that he was already 18 years old for the reason that his uncle wanted to take advantage of his being able to vote for him in La Paz, Abra in 1919, when he would be already twenty-one years of age and the uncle a candidate for vice-president of the municipality; that since then he had been looking for people who could attest to his true date of birth and it was only in September, 1959 that he came upon two old persons of their town, Felix Alberne and Ricardo Lalin who could do so; that the former had been a member of the provincial board and the latter is a retired justice of the peace; and that his letter to the Civil Service Commissioner was supported by the affidavits of these two persons. This letter was endorsed by the Commission to the GSIS for action "without the intervention of the Civil Service Commission."

In the GSIS, petitioner's letter-request was referred to the Legal Counsel who, on October 22, 1959, denied the

same since "all official records point to January 14, 1898 as the birthday of Mr. Hilarion Beronilla." Upon learning of this denial, petitioner submitted additional evidence to support his request. This evidence consisted of photostat copies of the yearbooks of the Philippine Institute of Accountants in 1954 and 1958 wherein his date of birth is shown as January 14, 1900. This additional evidence notwithstanding, on March 21, 1960 the Legal Counsel reiterated his former denial. Whereupon, on May 21, 1960 petitioner appealed to the General Manager of the System who at that time was Mr. Rodolfo Andal. Upon favorable recommendation of the 2nd Assistant General Manager, Mr. F. G. Araña, in a memorandum dated May 30, 1960, on June 2, 1960, Mr. Andal placed "OK." at the foot thereof over his initials, thus indicating approval of the requested change.

Based on this action of the General Manager, notes of the adjustment of the date of birth of petitioner to January 14, 1900 were sent to the Auditor General and the Commissioner of Civil Service and the proceeds of petitioner's policy was re-computed. The Legal Counsel whose title and rank had been meanwhile changed to Assistant General Manager for Legal Affairs later communicated the aforesaid decision of the General Manager to the Philippine National Bank on November 2, 1962 and the Deputy Auditor General on November 12, 1962, by letter and indorsement, respectively. As emphasized by petitioner, in the letter to the Philippine National Bank, it is stated that "his date of birth has been adjusted by this office, after careful study and deliberation." On the other hand, in the 2nd indorsement to the Deputy Auditor General, it was made clear that relative to petitioner's life insurance policy No. N-2065 which had matured on November 30, 1957, corresponding adjustment or recomputation of the maturity value had been effected on the basis of his changed date of birth. In the meantime, upon application of petitioner, on October 1, 1960, he was issued a new life policy No. 335778 indicating his date of birth as January 14, 1900. Regarding his above-mentioned policy No. N-2065, on July 7, 1960, demand was made upon petitioner to pay the System additionally the sum of P131.09, due to the adjustment of his date of birth, which demand, petitioner promptly complied with.

Almost three years after Mr. Andal approved the change of petitioner's date of birth, more specifically, on May 6, 1963, Mr. Ismael Mathay, then Auditor of the Central Bank detailed to the Philippine National Bank, wrote the Board of Trustees of the GSIS about the service of petitioner and stated that "in the course of the audit of the transactions of the Philippine National Bank, it was found that Mr. Hilarion Beronilla has been continuously paid since January 15, 1963, his salary allowances and other fringe benefits as Auditor of said Bank notwithstanding the fact that Mr. Beronilla has attained his sixty-fifth (65th) birthday last January 14, 1963, the date of his automatic and compulsory retirement from the government service as fixed under Republic Act No. 3096 approved June 16, 1961." Acting on this letter, the Board referred the same to Assistant General Manager and Actuary, Dr. Manuel Hizon, then in charge of the Claims Department. The latter submitted a memorandum on August 6, 1963 stating the facts and evidence in the GSIS records concerning the determination of the date of birth of petitioner, including the actions aforementioned taken thereon by Mr. Andal and the Legal Counsel. On August 9, 1963, the Board adopted the disputed resolution without even notifying petitioner of Mr. Mathay's letter and without giving him any opportunity to be heard regarding the same.

Upon these facts, it is the theory of petitioner that the approval by General manager Andal of his request for the change of the date of his birth in the official records of the GSIS from January 14, 1898 to January 14, 1900, after the same had been previously denied by the Legal Counsel, could not be legally altered or modified by the Board of Trustees, not only because the power to decide such matter finally is legally lodged in the General Manager and not in the Legal Counsel, nor in the Board, but also because even if the Board were assumed to have authority to review the acts of the General Manager, it was either guilty of laches or estopped from revising the same; and, furthermore, in approving the resolution in dispute, the Board of Trustees had denied due process to petitioner and impaired the obligations of the contract between petitioner and the GSIS regarding his retirement. In other words, the main issue before Us in this case is one of power and does not call for Our determination of whether

petitioner's real date of birth is January 14, 1898 or January 14, 1900. Accordingly, all We have to decide is whether or not the GSIS Board of Trustees acted within its power when it reversed the approval by General Manager Andal of petitioner's request for the change of his date of birth, taking all circumstances into account including petitioner's allegations of *res adjudicata*, laches, estoppel, denial of due process and unconstitutional impairment of contractual obligations. After carefully going over the facts on record and considering all pertinent legal principles and statutory provisions, particularly Commonwealth Act 186, the Charter of the GSIS, as amended, together with the relevant resolutions of the Board of Trustees, We have decided to uphold the superior authority of the Board over the General Manager and to dismiss this petition.

We do not deem it necessary to pass upon petitioner's initial proposition, pressed vigorously, to be sure, to the effect that as between the previous denial by the Legal Counsel and the subsequent approval by General Manager Andal of his request for the change of his date of birth in the records, the latter, which was precisely the action on his appeal from the Legal Counsel's denial, should prevail. Even granting it to be true that, pursuant to what is generally the practice and the rule, applications for retirement annuities in the GSIS are subject to final approval by the General Manager after its being approved by one of the Assistant General Manager's and/or one or two Department Managers,[1] it is clear to Us that under the GSIS charter, the General Manager's approval is not beyond review and reprobation by the Board of Trustees. It must be borne in mind that under Section 16 of said charter, the System "shall be managed by the Board of Trustees" and Section 17 adds that the Board "shall have the following powers and authority: (a) to adopt by-laws, rules and regulations for the administration of the System and the transaction of its business." On the other hand, the extent of the functions and powers of the General Manager are defined in Section 18 as follows:

"SEC. 18. Personnel. - The Board shall have the power to appoint a general manager, who shall be a person of recognized experience and capacity in the subject of life and social insurance, and who shall be the chief executive officer of the System, one or more assistant general managers, one or more managers, a medical director, and an actuary, and fix their compensation. The general manager shall, subject to the approval of the Board, appoint additional personnel whenever and wherever they may be necessary to the effective execution of the provisions of this Act, fix their compensation, remove, suspend, or otherwise discipline them, for cause. He shall have the power to prescribe their duties, grant leave, prescribe certain qualifications to the end that only competent persons may be employed, and appoint committees: Provided, however, That said additional personnel shall be subject to existing Civil Service laws, rules and regulations.

x x x x"

It is thus obvious that by express statutory authority, the Board of Trustees directly manages the System and the General Manager is only the chief executive officer of the Board. In the exercise of its power to adopt rules and regulations for the administration of the System and the transaction of its business, the Board may lodge in the General Manager the authority to act on any matter the Board may deem proper, but in no wise can such conferment of authority be considered as a full and complete delegation resulting in the diminution, much less exhaustion, of the Board's own statutorily-based prerogative and responsibility to manage the affairs of the System and, accordingly, to decide with finality any matter affecting its transactions or business. In other words, even if the Board may entrust to the General Manager the power to give final approval to applications for retirement annuities, the finality of such approval cannot be understood to divest the Board, in appropriate cases and upon its attention being called to a flaw, mistake or irregularity in the General Manager's action, of the authority to exercise its power of supervision and control which flows naturally from the ultimate and final responsibility for the proper management of the System imposed upon it by the charter. Incidentally, it may be added that the force of this principle is even more true insofar as the GSIS is concerned, for the fiduciary character of the management of the System is rendered more strict by the fact that the funds under its

administration are partly contributed by the thousands upon thousands of employees and workers in all the branches and instrumentalities of the government. It is indeed well to remember at all times that the System and, particularly, its funds do not belong to the government, much less to any administration which may happen to be temporarily on the saddle, and that the interests of the mass of its members can only be duly safeguarded if the administrators of the System act with utmost fidelity and care. Not for nothing is its controlling and managing board called the Board of Trustees. It results, therefore, that the first contention of petitioner cannot be sustained and We hold that any authority conferred upon the General Manager by the Board of Trustees notwithstanding, the said Board may in appropriate cases and in the exercise of its own sound discretion review the actions and decisions of the General Manager. The mere fact that the re-resolution granting the authority expressly gives the character of finality to the General Manager's acts does not constitute such a representation to third persons dealing with the System that such finality is definite even vis-a-vis the Board as to create any estoppel, for the simple reason that it is not legally possible for the Board to divest itself of an authority which the charter of the System places under its direct responsibility. From another point of view, since the law clearly vests the management in the Board and makes the General Manager only its chief executive officer, all parties dealing with the System must be deemed to be on guard regarding the ultimate authority of the Board to modify or reverse any action of the General Manager and they cannot complain should the Board exercise its powers in the premises.

Petitioner posits, however, that even assuming that the Board may have the power to reverse or modify any action of the General Manager in the exercise of his authority, because of the failure of the Board to act from June 2, 1960, when General Manager Andal acted favorably on his request to August 9, 1963, when the Board approved the herein impugned Resolution No. 1497, or for more than three years, during which time corresponding adjustments were made in his GSIS records, payment and life insurance policies and due notices were served by the GSIS itself on all parties concerned on the basis of his changed date of birth, respondent should be considered as guilty of laches or held in estoppel to change or alter the action of Mr. Andal. While petitioner's posture is not entirely without logic, it falls short of the requirements for the successful invocation of the pleas of laches and estoppel. We have carefully considered the lengthy and rather impressive discussion by petitioner of these points in his petition, memorandum and reply to respondent's memorandum as well as the equally detailed and authority-supported contrary arguments in the answer and memorandum of the respondent, and We have arrived at the conclusion that petitioner's position cannot be sustained.

It may be stated at the outset that petitioner's twin points of laches and estoppel actually boil down in this particular case to nothing more than estoppel by silence. With this clarification, it is meet to recall that "mere innocent silence will not work estoppel. There must also be some element of turpitude or negligence connected with the silence by which another is misled to his injury" (Civil Code of the Philippines by Tolentino, Vol. IV, p. 600) and that "the doctrine of estoppel having its origin in equity and therefore being based on moral and natural justice, its applicability to any particular case depends, to a very large extent, upon the special circumstances of the case." (Mirasol v. Municipality of Tabaco, 43 Phil. 610, 614) Important also it is not to overlook that as regards the actuations of government officials, the general rule is that their mistakes and omissions do not create estoppel. (Republic vs. Philippine Long Distance Telephone Co., L-18841, January 27, 1969, citing Pineda vs. Court of First Instance of Tayabas, 52 Phil. 803, 807; and Benguet Consolidated Mining Co. vs. Pineda, 98 Phil. 711, 724. See also: Republic vs. Philippine Rabbit Bus Lines, Inc., L-26862, March 30, 1970, and the cases therein cited.)

Moreover, in computing the period of alleged silence or inaction of the Board, what is relevant is not the actual or, what petitioner calls, imputable knowledge of said Board of the favorable action of Mr. Andal. Even if such knowledge had come earlier than May 6, 1963, the date of Mr. Mathay's letter, what is decisive is that it was only thru Mr. Mathay's letter that the Board got notice of the error in Mr. Andal's action. Precisely because it was not

incumbent upon the Board, as petitioner himself alleges, to spontaneously or in the ordinary course review the action of the General Manager, any knowledge thereof by the Board, whether actual or imputable, could not, in logic and conscience, have placed the Board on notice of any error or irregularity therein. Consequently, the immediate steps taken by the Board to have the facts alleged in Mr. Mathay's letter verified are inconsistent with the charge of unreasonable delay, much more of laches.

The compulsory retirement of government officials and employees upon their reaching the age of 65 years is founded on public policy which aims by it to maintain efficiency in the government service and at the same time give to the retiring public servants the opportunity to enjoy during the remainder of their lives the recompense, inadequate perhaps for their long service and devotion to the government, in the form of a comparatively easier life, freed from the rigors of civil service discipline and the exacting demands that the nature of their work and their relations with their superiors as well as the public would impose upon them. Needless to say, therefore, the officials charged with the duty of implementing this policy cannot be too careful in insuring and safeguarding the correctness and integrity of the records they prepare and keep. In this case, all that the Board has done is to set aside what it found to be an erroneous decision of the General Manager in approving the change of date of petitioner's birth, because from the evidence before it, the Board was convinced that the originally recorded date of birth should not be disturbed. We cannot see where the charged inequity of such action of the Board could lie.

Above all, it is a must consideration whenever principles of equity are invoked that for such invocation to succeed, it must appear that if the plea is not heeded, the party making the plea will suffer, in truth and in fact, inequity and injury, whether pecuniary or moral or, at least, in a juridical sense. Such is not the case with petitioner. Examining the circumstances of this case, We see nothing inequitable to petitioner in the questioned resolution of the Board of Trustees. For decades back, repeatedly and uniformly, petitioner made it appear in all material government and public records and in all his representations to respondent System that his date of birth is January 14, 1898. His rather belated request for a change of said date to January 14, 1900 which would unquestionably favor his interests, pecuniarily or otherwise, and correspondingly adversely affect those of the System and, of course, its members, was duly investigated and found not to be sufficiently grounded to merit favorable action by the Legal Counsel in whom is lodged the authority to evaluate such request. True this negative action was reversed by the General Manager, albeit by virtue of a procedure not strictly in accordance with the established one as outlined in footnote 1 of this opinion, but on the other hand, the favorable action of the General Manager was in turn reversed by the Board of Trustees, the final legal authority in the System, upon its being informed of the error thereof. It is to be noted that, after all, it was always the petitioner who made representations to the respondent System as to his date of birth, and not the other way around. All that the System did was to take his representations for what they were worth. He was not believed by the Legal Counsel, but the General Manager did; on the other hand, the authority higher than the General Manager found the action of the General Manager erroneous. Under these circumstances, how could the System be in estoppel, where the conflicting representations are of the petitioner rather than of the System?

Anent petitioner's contention that he was denied due process when the Board of Trustees acted on the letter of Mr. Mathay without notifying him thereof or hearing him thereon, suffice it to say that since there is no showing that under the procedure established in the GSIS, such notice and hearing are required, considering that the System operates as a business corporation and generally notice and hearing are not indispensable for due process in corporations, and in any event, inasmuch as what was considered by the Board was nothing more than petitioner's own conflicting representations, and if petitioner really believed he should have been heard, he could have filed a motion for reconsideration or reopening, it cannot be said that indeed he had not had due opportunity to pre-sent his side.

Finally, as regards petitioner's argument that the Board's resolution in question constitutes an impairment of the obligations of his contract of insurance, it is obvious that the constitutional injunction that is evidently the basis of such argument refers to the legislature and not to resolutions even of government corporations. Besides, petitioner's life insurance policy, apart from not having any real relevance in this case, what is involved being his retirement, contains specific provisions contemplating the correction of any error or mistake in the date of birth of the insured. On the other hand, the retirement of government employees is imposed by law and is not the result of any contractual stipulation.

WHEREFORE, the petition in this case is dismissed, with costs against petitioner, and the writ of preliminary injunction issued herein is hereby dissolved.

Reyes, J.B.L., Makalintal, Zaldivar, and Teehankee, JJ., concur.

Concepcion, C.J., and Fernando, J., concur in the result.

Ruiz Castro, J., reserves his vote.

Villamor, J., inhibits himself.

Dizon and Makasiar, JJ., on official leave of absence.

[1] With respect to the procedure for approval of applications for retirement, the Board of Trustees has from time to time approved the following resolutions:

1. On January 15, 1952, Resolution No. 15 providing:

"In order to expedite action on applications for retirement annuities, the Board resolved to authorize the Manager of the Administrative Department of the System to process and approve such applications, subject to final approval of the General Manager and Actuary." (Emphasis supplied)

2. On March 24, 1954, Resolution No. 145 as follows:

"2. Retirement Applications

"Retirement applications shall be approved by the General Manager, Administrative Department, the Assistant General Manager, and the Associate Actuary and Acting Manager, Production Department.

"In the following cases, approval of the following officials shall also be required in addition to those named hereinabove:

a. No beneficiary or where there is legal problem involved - By the Legal Officer.

b. No premium payments - By the Manager, Accounting Department."

3. On November 3, 1954, Resolution No. 627 reading:

"Retirement applications shall be approved by the 3 officials as follows: Manager, Claims Department, either one of the Assistant General Managers, and either the Actuary or Associate Actuary.

"In the following cases, approval of the following officials shall also be required in addition to those named hereinabove:

a. No beneficiary or where there is legal problem involved - By the Legal Officer.

b. No premium payments - By the Manager, Accounting Department."

4. On July 3, 1957, Resolution No. 1591 thus:

"Where the records show conflicting dates of birth of an applicant for retirement and no birth or baptismal certificate can be submitted due to its loss or destruction, the matter is referred to the Corporate Counsel of the System, together with all secondary evidence in relation to the date of birth of the applicant. The Corporate Counsel in turn determines the correct date of birth, for purposes of retirement and life insurance, after evaluating the relative evidentiary value of the documents submitted, in accordance with the Rules of Court." (Underscoring Supplied)

It is the theory of petitioner that Resolutions Nos. 627 and 1591 must be understood as subject to the condition in Resolution No. 15 that the approval of the other subordinate managers or officials referred to therein must be approved by the General Manager whose action shall be final. Respondents deny this, specially as regards Resolution No. 1591 which they claim makes the Corporate Counsel of the System the final authority on the matters therein mentioned, which include controversies or discrepancies as to the date of birth of any applicant for retirement. The Court sees no necessity, as stated in the above opinion, of passing on this secondary issue, the same being subordinate, after all, to the main proposition that the General Manager's decision is subject to the review and final action of the Board of Trustees.

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