

FEDERICO FERNANDEZ, PLAINTIFF-APPELLANT, VS. P. CUERVA & CO., DEFENDANT-APPELLEE.*G.R. No. L-21114. November 28, 1967*

Ponente: ZALDIVAR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/556fcf208604/>**ZALDIVAR, J.:**

This is an appeal from the order of the Court of First Instance of Manila, dated January 29, 1963, in its Civil Case No. 52946, dismissing the complaint upon the ground that the action in the first two causes of action had prescribed and that it had no jurisdiction over the third cause of action.

It appears that plaintiff Federico Fernandez was employed as salesman by defendant P. Cuerva & Co. from March, 1949 to October, 1959. After his separation from the service, plaintiff filed a claim, on July 26, 1960, before Regional Office No. 4 of the Department of Labor,[1] docketed as L. S. Case No. 2940, to recover un-paid salaries and commissions, and separation pay.

During the pendency of said case, or on December 17, 1962, plaintiff again instituted a similar complaint against the same defendant with the Court of First Instance of Manila (Civil Case No. 52946) alleging, among others, that he was employed by defendant company as salesman in March, 1949 with a salary of P200.00 per month; that beginning June, 1955 until the termination of his services in October, 1959, his salary was in-creased to P300.00 monthly and was given, in addition, a commission of 10% on his sales; that the increase of P100.00 a month and the 10% commission were not actually received by him as there was a verbal understanding be-tween him and defendant company that the same would be retained by the latter as bond or deposit for the goods being handled by the former; and that because plaintiff was separated from service in October, 1959, he sought to recover the sum of P5,300.00 representing the P100.00 monthly deductions from his salary; P4,770.00 cor-responding to his 10% commissions that were withheld, and P1,500.00 as separation pay, or the total sum of P11,570.00. These three items were respectively the subject mat-ter of the first, second and third causes of action of the complaint.

On January 2, 1963, defendant filed a motion to dismiss the complaint upon the grounds that the actions had prescribed and that the court had no jurisdiction over the case. The court below, after allowing the par-ties to submit their respective memorandum on the ques-tions of prescription and jurisdiction, dismissed the case, in an order issued on January 29, 1963, holding that because the claim of plaintiff in the first two causes of action amounting to P10,070.00 represented the sum total of unauthorized deductions from his salaries and withheld commissions, under Section 10, paragraph (f) of Republic Act No. 602, otherwise known as the Mini-mum Wage Law, the action to recover the same was already barred under Section 17 of said Act inasmuch as it was not brought within three years from the time the right of action accrued; and that because the remaining claim of plaintiff was limited to his separation pay amounting only to P1,500.00, the action to collect the same was not within the original jurisdiction of the court.

On February 1, 1963, plaintiff moved to reconsider the above-mentioned order, advancing as his main argument the fact that his having filed a similar claim with Regional Office No. 4 of the Department of Labor had

sus-pended the running of the prescriptive period insofar as his claim for refund of unauthorized deductions and withheld commissions was concerned - which were the subject matters of the first and second causes of action that were dismissed by the court. The defendant filed an opposition to the motion for reconsideration. In an order dated February 15, 1963, the court denied plaintiff's motion for reconsideration. Hence this appeal by the plaintiff direct to this Court on purely questions of law.

We are in accord with the court a quo that the law applicable to the case at bar is Republic Act 602 because the bond or deposit sought to be recovered by appellant was actually the sum total of the unauthorized deductions from his salaries and withheld commissions under Section 10 thereof. Under Section 17 of said law, "any action * * * to enforce any cause of action under this Act may be commenced within three years after the cause of action accrued, and every such action shall be for-ever barred unless commenced within three years after the cause of action accrued." Since a right of action ac-crued only from the moment the right to commence the ac-tion comes into existence, and prescription begins to run from that time,[2] the question to be resolved is: When did the right of action of plaintiff accrue?

To answer the foregoing query, it is meet to recall that while the amounts withheld by defendant were actually deductions from plaintiff's salaries and un-paid commissions, they were, however, constituted as a bond or a deposit to answer for any liability that he might incur in connection with the goods handled by him. The bond and/or deposit was thus answerable for mer-chandise entrusted to plaintiff during the period of his employment with defendant. It was, therefore, not fea-sible for plaintiff to demand every month or every payday, or during the period of his employment with the com-pany the return or refund of those amounts withheld as contended by defendant, because the undertaking for which the bond or deposit was constituted was still subsisting. And so the right of plaintiff to commence an action for the return or refund of the amounts representing such bond or deposit would accrue only when the same was no longer needed, and the time when it was no longer needed only came in October, 1959 when plaintiff was separated from the service. Having ceased to be employed by the defendant, the bond put up by plaintiff thereby became unnecessary or useless.

It would seem, however, that even if We count from October, 1959 in computing the prescriptive period, plain-tiff's action to recover the amount held by defendant as bond is already barred because more than three years had elapsed by the time plaintiff instituted the present case in the court below on December 17, 1962. The record, how-ever, shows that on July 26, 1960, plaintiff filed a si-milar claim against the defendant with Regional Office No. 4 of the Department of Labor.

At this juncture, the question posed is: Did the filing by plaintiff of that claim with the regional of-fice of the Department of Labor suspend the running of the period of prescription?

Defendant answers the question in the negative. While defendant does not question the applicability to the case at bar of Article 1155 of the Civil Code, which provides that the "prescription of actions is interrupted when they are filed before the Court," nevertheless, it contends that inasmuch as plaintiff's claim was lodged with the regional office of the Department of Labor, which is not a court, the same could not be considered a judi-cial demand that would suspend the running of the pres-criptive period.

We do not agree with defendant. It is true that the claim filed by plaintiff with the regional office of the Department of Labor is not a judicial demand in the strict sense of the term "judicial demand" because the same was not instituted in a court of justice. Judicial notice, however, should be taken that on December 10, 1956, Reorganization Plan No. 20-A was promulgated pursuant to Republic Act 997, and under Section 25 of said reorganiza-tion plan each regional office of the Department of Labor was vested with original and exclusive jurisdiction over all cases affecting all money claims arising from viola-tions of labor standards on working

conditions such as unpaid wages, underpayment, overtime and separation pay, etc., to the exclusion of courts.[3] Consequently, when plaintiff wanted to enforce his claim after his dismissal from the service in October, 1959, he had no choice but to file the same with regional Office No. 4 of the Department of Labor which was the agency then empowered to take cognizance of the claim. He could not institute the action to recover his claim in the court of justice because of the provisions of Reorganization Plan No. 20-A. At least it may be said that on July 26, 1960, when plaintiff filed his claim with Regional Office No. 4 of the Department of Labor, he acted in accordance with the procedure that was then prescribed under authority of law. Under the circumstances, We believe that the filing by plaintiff of his claim before the regional office of the Department of Labor had the attributes of a judicial demand. And We say this because under the provisions of Section 25 of Reorganization Plan No. 20-A each regional office of the Department of Labor was invested with jurisdiction, similar to that of a court, to receive, determine, and adjudicate money claims arising out of employer-employee relations as specified in said section. We quote Section 25 of Reorganization Plan No. 20-A:

"Each Regional Office shall have original and exclusive jurisdiction over all cases affecting all money claims arising from violations of labor standards on working conditions, including but not restrictive to: unpaid wages, underpayment, overtime, separation pay, and maternity leave of employees/laborers, and unpaid wages, overtime, separation pay, vacation pay, and payment for medical services of domestic held." (Emphasis supplied)

It can be gathered from a reading of the above-quoted Section 25 of Reorganization Plan No. 20-A that some sort of judicial powers was conferred upon the regional offices of the Department of Labor over money claims mentioned in said section. Certainly, it can be considered that filing a money claim before a regional office of the Department of Labor pursuant to Section 25 of Reorganization Plan No. 20-A is like filing a complaint in court to enforce said money claim. We believe that the filing of a claim before an administrative agency which is vested with authority to decide said claim would produce the effect of a judicial demand for the purpose of interrupting the running of the period of prescription. The purpose of the law on prescription and the statute of limitations is to protect the person who is diligent and vigilant in asserting his right, and conversely to punish the person who sleeps on his right.[4] Indeed, it cannot be said that in the case before Us the plaintiff had slept on his right, because shortly after he was separated from the service by the defendant he filed his claim before the agency of the government that was at the time clothed with exclusive authority to pass upon his claim.

We have taken note of the fact that on June 30, 1961, Section 25 of Reorganization Plan No. 20-A had been declared unconstitutional by this Court in the case of *Corominas, et al. v. The Labor Standards Commission, et al.*, supra. It appears, however, that the plaintiff had filed his claim before Regional Office No. 4 of the Department of Labor on July 26, 1960, or about one year before said Section 25 had been declared unconstitutional. The circumstance that Section 25 of Reorganization Plan No. 20-A had been declared unconstitutional should not be counted against the defendant in the present case. In the case of *Manila Motor Co., Inc. v. Flores*, 99 Phil., 738, this Court upheld the right of a party under the Moratorium Law which had accrued in his favor before said law was declared unconstitutional by this Court in the case of *Rutter v. Esteban*, 93 Phil., 68. This Court, in its decision in the *Manila Motor* case, quoted the following doctrine:

"[t]here are several instances wherein courts, out of equity, have relaxed its operation (cf. notes in Cooley's Constitutional Limitations 8th ed., p. 383 and Notes 53 A.L.R., 273) or qualified its effects 'since the actual existence of a statute prior to such declaration is an operative fact, and may have consequences which cannot justly be ignored' (*Chicot County vs. Baster*, 308 U.S., 371) and a realistic approach is eroding the general doctrine (*Warring vs. Colpoys*, 136 Am. Law Rep., 1025, 1030)."

We believe that it is only fair and just that the fore-going doctrine should be applied in favor of the plaintiff in the present case.

We have noted in the record that it was precisely because Section 25 of Reorganization Plan No. 20-A was declared unconstitutional by this Court on June 30, 1961 that the plaintiff, without awaiting the action of Regional Office No. 4 of the Department of Labor on the claim that he filed on July 26, 1960, instituted his action in the present case in the court below on December 17, 1962. The move of plaintiff was precisely intended to protect his right of action from the adverse effect of the decision of this Court. The Regional Office No. 4 of the Department of Labor dismissed plaintiff's claim on January 16, 1963 upon the ground that it had no more jurisdiction to pass upon the claim as a result of the ruling of this Court in the Corominas case.

Considering that from October, 1959 when plaintiff was separated from the service up to July 26, 1960 when he filed his claim with Regional Office No. 4 of the Department of Labor only eight months had elapsed, and that since July 26, 1960 until the filing of the complaint in the court below on December 17, 1962 the running of prescriptive period was deemed interrupted, it is clear that plaintiff's action to enforce his claim was not yet barred by the statute of limitations when he filed his complaint in the court below. Plaintiff's action may be considered as brought before the court still within the period of three years from the time his right of action accrued in accordance with the provisions of Section 17 of Republic Act 602 (Minimum Wage Law). Only about nine months of the three-year period provided in Section 17 of Republic Act 602 may be considered as having lapsed when plaintiff commenced his action in the court below. And considering further that the amount sought to be recovered in the complaint is more than P10,000.00, it follows that the court a quo has the exclusive and original jurisdiction to entertain the action of the plaintiff. The lower court, therefore, erred when it dismissed plaintiff's complaint.

WHEREFORE, the order appealed from is set aside, and this case is remanded to the court below for further proceedings, with costs against the defendant-appellee.

IT IS SO ORDERED.

Dizon, Acting C.J., Makalintal, Bengzon, Castro, and Angeles, JJ., concur.

Concepcion, C.J., and Reyes, J., on official leave of absence.

Sanchez, J., in the result.

Fernando, J., concurs in a separate opinion.

[1] This claim was dismissed by Regional Office No. 4 of the Department of Labor only on January 16, 1963 due to the decision of the Supreme Court in *Corominas, et al. v. The Labor Standards Commission, et al.*, G.R. Nos. L-14837, L-15483, L-13940, and L-15015, promulgated on June 10, 1961, declaring Section 25 of Reorganization Plan No. 20-A unconstitutional insofar as it vests on the Regional Office of the Department of Labor the original and exclusive jurisdiction over money claims for wages, back wages, underpayment of wages, overtime and separation pay, etc.

[2] *Barles, et al. v. Ponce Enrile*, 109 Phil. 522.

[3] See *Corominas, et al. v. The Labor Standards Commission, et al.*, *supra*.

[4] *Togarao v. Garcia*, 61 Phil., 5.

Normal 150 Clean Clean 6 pt 6 pt 0 3 MicrosoftInternetExplorer4 st1:behavior:url(#ieooui) } /* Style Definitions */ table.MsoNormalTable {mso-style-name:"Table Normal"; mso-tstyle-rowband-size:0; mso-tstyle-colband-size:0; mso-style-noshow:yes; mso-style-parent:""; mso-padding-alt:0in 5.4pt 0in 5.4pt;

mso-para-margin:0in; mso-para-margin-bottom:.0001pt; mso-pagination:widow-orphan; font-size:10.0pt; font-family:"Times New Roman";}

CONCURRING OPINION

FERNANDO, J.:

The opinion of the Court penned by Justice Zaldivar, notable for its thorough and comprehensive character, deserves full concurrence. That I readily give.[1] In view however of what for me is the full acceptance by this Court that a legislative or executive measure sub-sequently annulled on constitutional grounds, while necessarily devoid as a source of legal right, should be considered as a fact from which legal consequences may attach, I would like to add a few words.

Where the assailed legislative or executive act is found by the judiciary to be contrary to the Constitution, it is null and void. As the new Civil Code puts it: "When the courts declare a law to be inconsistent with the Constitution, the former shall be void and the latter shall govern. Administrative or executive acts, orders and regulations shall be valid only when they are not contrary to the laws or the Constitution." [2] The above provision of the Civil Code reflects the orthodox view that an unconstitutional act, whether legislative or executive, is not a law, confers no rights, imposes no duties, and affords no protection.[3] This doctrine admits of qualifications, however. As the American Supreme Court stated: "The actual existence of a statute prior to such a determination [of constitutionality], is an operative fact and may have consequences which cannot always be erased by a new judicial declaration. The effect of the subsequent ruling as to invalidity may have to be considered in various aspects, - with respect to particular regulations, individual and corporate, and particular conduct, private and official." [4]

The orthodox views finds support in the well-settled doctrine that the Constitution is supreme and provides the measure for the validity of legislative or executive acts. Clearly then, neither the legislative nor the executive branch, and for that matter, much less, this Court, has power under the Constitution to act contrary to its term. Any attempted exercise of power in violation of its provisions is to that extent unwarranted and null.

The growing awareness of the role of the judiciary as the governmental organ which has the final say on whether or not a legislative or executive measure is valid leads to a more appreciative attitude of the emerging concept that a declaration of nullity may have legal consequences which the more orthodox view would deny. That for a period of time such a statute, treaty, executive order, or ordinance was in "actual existence" appears to be indisputable. What is more appropriate and logical then than to consider it as "an operative fact." With *Araneta v. Hill*, [5] *Manila Motor, Co. v. Flores*, [6] and now this decision, such a view has much more than propriety and logic in its favor. It is now settled law. That is as it ought to be.

Considering that it is one of the basic presuppositions of our constitutional polity, that the act of any branch of the government is subject to judicial scrutiny, the effect of which maybe to invalidate it for being unconstitutional, it is far from realistic, to say the least, to disregard completely its existence. More specifically, as the then Justice, now Chief Justice, Concepcion noted, while the validity of Reorganization Plan No. 20-A was debatable; it was nevertheless "presumed valid until otherwise held by final judgment of a competent court." Both reason and authority thus concur in the view that to treat the matter as if such an executive regulation had never been would be far from satisfying the ends of justice, not to say common sense.[7] To repeat, the opinion of the Court commends itself for full and unqualified approval.

[1] The *Corominas* decision, L-14837, June 30, 1961, is now authority for the nullification as being

un-constitutional of Section 25 of Reorganization Plan No. 20-A granting to regional offices original and exclusive jurisdiction over money claims of laborers. Originally, it appeared to have limited itself to declaring such grant "null and void, * * * having been made without authority of Republic Act No. 997." The later case of *Miller v. Mardo*, L-15138, July 31, 1961 expanded the ground for invalidity to include a violation of constitutional precepts.

[2] Art. 7.

[3] See *Norton v. Shelby County* (1886) 118 US 425.

[4] *Chicot County Drainage Dist. v. Baxter States Bank* (1940) 308 US 371.

[5] 93 Phil. 1002 (1953).

[6] 99 Phil. 738 (1956).

[7] *Cruz v. Cabal*, Adm. Case No. 482, Oct. 31, 1964.

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.