

**PHILIPPINE VIRGINIA TOBACCO ADMINISTRATION, PETITIONER,
VS. COURT OF INDUSTRIAL RELATIONS, REUEL ABRAHAM,
MILAGROS ABUEG, AVELINO ACOSTA, CAROLINA ACOSTA, MARTIN
AGSALUD, JOSEFI...**

G.R. No. L-32052. July 25, 1975

Ponente: FERNANDO, J.

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FERNANDO, J.:

The principal issue that calls for resolution in this appeal by certiorari from an order of respondent Court of Industrial Relations is one of constitutional significance. It is concerned with the expanded role of government necessitated by the increased responsibility to provide for the general welfare. More specifically, it deals with the question of whether petitioner, the Philippine Virginia Tobacco Administration, discharges governmental and not proprietary functions. The landmark opinion of the then Justice, now Chief Justice, Makalintal in *Agricultural Credit and Cooperative Financing Administration v. Confederation of Unions in Government Corporations and Offices*, points the way to the right answer.[1] It interpreted the then fundamental law as hostile to the view of a limited or negative state. It is antithetical to the *laissez faire* concept. For as noted in an earlier decision, the welfare state concept "is not alien to the philosophy of [the 1935] Constitution." [2] It is much more so under the present Charter, which is impressed with an even more explicit recognition of social and economic rights.[3] There is manifest, to recall Laski, "a definite increase in the profundity of the social conscience," resulting in "a state which seeks to realize more fully the common good of its members." [4] It does not necessarily follow, however, just because petitioner is engaged in governmental rather than proprietary functions, that the labor controversy was beyond the jurisdiction of the now defunct respondent Court. Nor is the objection raised that petitioner does not come within the coverage of the Eight-Hour Labor Law persuasive.[5] We cannot then grant the reversal sought. We affirm.

The facts are undisputed. On December 20, 1966, claimants, now private respondents, filed with respondent Court a petition wherein they alleged their employment relationship, the overtime services in excess of the regular eight hours a day rendered by them, and the failure to pay them overtime compensation in accordance with Commonwealth Act No. 444. Their prayer was for the differential between the amount actually paid to them and the amount allegedly due them.[6] There was an answer filed by petitioner Philippine Virginia Tobacco Administration denying the allegations and raising the special defenses of lack of a cause of action and lack of jurisdiction.[7] The issues were thereafter joined, and the case set for trial, with both parties presenting their evidence.[8] After the parties submitted the case for decision, the then Presiding Judge Arsenio T. Martinez of respondent Court issued an order sustaining the claims of private respondents for overtime services from December 23, 1963 up to the date the decision was rendered on March 21, 1970, and directing petitioner to pay the same, minus what it had already paid.[9] There was a motion for reconsideration, but respondent Court en banc denied the same.[10] Hence this petition for certiorari.

Petitioner Philippine Virginia Tobacco Administration, as had been noted, would predicate its plea for the reversal

of the order complained of on the basic proposition that it is beyond the jurisdiction of respondent Court as it is exercising governmental functions and that it is exempt from the operation of Commonwealth Act No. 444.[11] While, to repeat, its submission as to the governmental character of its operation is to be given credence, it is not a necessary consequence that respondent Court is devoid of jurisdiction. Nor could the challenged order be set aside on the additional argument that the Eight-Hour Labor Law is not applicable to it. So it was, at the outset, made clear.

1. A reference to the enactments creating petitioner corporation suffices to demonstrate the merit of petitioner's plea that it performs governmental and not proprietary functions. As originally established by Republic Act No. 2265,[12] its purposes and objectives were set forth thus: "(a) To promote the effective merchandising of Virginia tobacco in the domestic and foreign markets so that those engaged in the industry will be placed on a basis of economic security; (b) To establish and maintain balanced production and consumption of Virginia tobacco and its manufactured products, and such marketing conditions as will insure and stabilize the price of a level sufficient to cover the cost of production plus reasonable profit both in the local as well as in the foreign market; (c) To create, establish, maintain, and operate processing, warehousing and marketing facilities in suitable centers and supervise the selling and buying of Virginia tobacco so that the farmers will enjoy reasonable prices that secure a fair return of their investments; (d) To prescribe rules and regulations governing the grading, classifying, and inspecting of Virginia tobacco; and (e) To improve the living and economic conditions of the people engaged in the tobacco industry." [13] The amendatory statute, Republic Act No. 4155,[14] renders even more evident its nature as a governmental agency. Its first section on the declaration of policy reads: "It is declared to be the national policy, with respect to the local Virginia Tobacco industry, to encourage the production of local Virginia tobacco of the qualities needed and in quantities marketable in both domestic and foreign markets, to establish this industry on an efficient and economic basis, and to create a climate conducive to local cigarette manufacture of the qualities desired by the consuming public, blending imported and native Virginia leaf tobacco to improve the quality of locally manufactured cigarettes." [15] The objectives are set forth thus: "To attain this national policy the following objectives are hereby adopted: 1. Financing; 2. Marketing; 3. The disposal of stocks of the Agricultural Credit Administration (ACA) and the Philippine Virginia Tobacco Administration (PVTa) at the best obtainable prices and conditions in order that a reinvigorated Virginia tobacco industry may be established on a sound basis; and 4. Improving the quality of locally manufactured cigarettes through blending of imported and native Virginia leaf tobacco; such importation with corresponding exportation at a ratio of one kilo of imported to four kilos of exported Virginia tobacco, purchased by the importer-exporter from the Philippine Virginia Tobacco Administration." [16]

It is thus readily apparent from a cursory perusal of such statutory provisions why petitioner can rightfully invoke the doctrine announced in the leading Agricultural Credit and Cooperative Financing Administration decision[17] and why the objection of private respondents with its overtones of the distinction between constituent and ministrant functions of governments as set forth in *Bacani v. National Coconut Corporation*[18] is futile. The irrelevance of such a distinction considering the needs of the times was clearly pointed out by the present Chief Justice, who took note, speaking of the reconstituted Agricultural Credit Administration, that functions of that sort "may not be strictly what President Wilson described as 'constituent' (as distinguished from 'ministrant'), such as those relating to the maintenance of peace and the prevention of crime, those regulating property and property rights, those relating to the administration of justice and the determination of political duties of citizens, and those relating to national defense and foreign relations. Under this traditional classification, such constituent functions are exercised by the State as attributes of sovereignty, and not merely to promote the welfare, progress and prosperity of the people – these latter functions being ministrant, the exercise of which is optional on the part of the government." [19] Nonetheless, as he explained so persuasively: "The growing complexities of modern

society, however, have rendered this traditional classification of the functions of government quite unrealistic, not to say obsolete. The areas which used to be left to private enterprise and initiative and which the government was called upon to enter optionally, and only 'because it was better equipped to administer for the public welfare than is any private individual or group of individuals,' continue to lose their well-defined boundaries and to be absorbed within activities that the government must undertake in its sovereign capacity if it is to meet the increasing social challenges of the times. Here as almost everywhere else the tendency is undoubtedly towards a greater socialization of economic forces. Here of course this development was envisioned, indeed adopted as a national policy, by the Constitution itself in its declaration of principle concerning the promotion of social justice."^[20] Thus was laid to rest the doctrine in *Bacani vs. National Coconut Corporation*,^[21] based on the Wilsonian classification of the tasks incumbent on government into constituent and ministrant in accordance with the laissez faire principle. That concept, then dominant in economics, was carried into the governmental sphere, as noted in a textbook on political science,^[22] the first edition of which was published in 1898, its author being the then Professor, later American President, Woodrow Wilson. He took pains to emphasize that what was categorized by him as constituent functions had its basis in a recognition of what was demanded by the "strictest [concept of] laissez faire, [as they] are indeed the very bonds of society."^[23] The other functions he would minimize as ministrant or optional.

It is a matter of law that in the Philippines, the laissez faire principle hardly commanded the authoritative position which at one time it held in the United States. As early as 1919, Justice Malcolm in *Rubi vs. Provincial Board*,^[24] could affirm: "The doctrines of laissez faire and of unrestricted freedom of the individual, as axioms of economic and political theory, are of the past. The modern period has shown a widespread belief in the amplest possible demonstration of government activity."^[25] The 1935 Constitution, as was indicated earlier, continued that approach. As noted in *Edu vs. Ericta*:^[26] "What is more, to erase any doubts, the Constitutional Convention saw to it that the concept of laissez-faire was rejected. It entrusted to our government the responsibility of coping with social and economic problems with the commensurate power of control over economic affairs. Thereby it could live up to its commitment to promote the general welfare through state action."^[27] Nor did the opinion in *Edu* stop there: "To repeat, our Constitution which took effect in 1935 erased whatever doubts there might be on that score. Its philosophy is a repudiation of laissez-faire. One of the leading members of the Constitutional Convention, Manuel A. Roxas, later the first President of the Republic, made it clear when he disposed of the objection of Delegate Jose Reyes of Sorsogon, who noted the 'vast extensions in the sphere of governmental functions' and the 'almost unlimited power to interfere in the affairs of industry and agriculture as well as to compete with existing business' as 'reflections of the fascination exerted by [the then] current tendencies' in other jurisdictions. He spoke thus: "My answer is that this constitution has a definite and well defined philosophy, not only political but social and economic. *** If in this Constitution the gentlemen will find declarations of economic policy they are there because they are necessary to safeguard the interests and welfare of the Filipino people because we believe that the days have come when in self-defense, a nation may provide in its constitution those safeguards, the patrimony, the freedom to grow, the freedom to develop national aspirations and national interests, not to be hampered by the artificial boundaries which a constitutional provision automatically imposes."^[28]

It would be then to reject what was so emphatically stressed in the Agricultural Credit Administration decision about which the observation was earlier made that it reflected the philosophy of the 1935 Constitution and is even more in consonance with the expanded role of government accorded recognition in the present Charter if the plea of petitioner that it discharges governmental function were not heeded. That path this Court is not prepared to take. That would be to go backward, to retreat rather than to advance. Nothing can thus be clearer than that there is no constitutional obstacle to a government pursuing lines of endeavor, formerly reserved for private enterprise.

This is one way, in the language of Laski, by which through such activities, "the harsh contrast which [does] obtain between the levels of the rich and the poor" may be minimized.[29] It is a response to a trend noted by Justice Laurel in *Calalang vs. Williams*[30] for the humanization of laws and the promotion of the interest of all component elements of society so that man's innate aspirations, in what was so felicitously termed by the First Lady as "a compassionate society" be attained.[31]

2. The success that attended the efforts of petitioner to be adjudged as performing governmental rather than proprietary functions cannot militate against respondent Court assuming jurisdiction over this labor dispute. So it was mentioned earlier. As far back as *Tabora vs. Montelibano*,[32] this Court, speaking through Justice Padilla, declared: "The NARIC was established by the Government to protect the people against excessive or unreasonable rise in the price of cereals by unscrupulous dealers. With that main objective there is no reason why its function should not be deemed governmental. The Government owes its very existence to that aim and purpose – to protect the people." [33] In a subsequent case, *Naric Worker's Union vs. Hon. Alvendia*,[34] decided four years later, this Court, relying on *Philippine Association of Free Labor Unions vs. Tan*,[35] which specified the cases within the exclusive jurisdiction of the Court of Industrial Relations, included among which is one that involves hours of employment under the Eight-Hour Labor Law, ruled that it is precisely respondent Court and not ordinary courts that should pass upon that particular labor controversy. For Justice J.B.L. Reyes, the ponente, the fact that there were judicial as well as administrative and executive pronouncements to the effect that the Naric was performing governmental functions did not suffice to confer competence on the then respondent Judge to issue a preliminary injunction and to entertain a complaint for damages, which as pointed out by the labor union, was connected with an unfair labor practice. This is emphasized by the dispositive portion of the decision: "Wherefore, the restraining orders complained of, dated May 19, 1958 and May 27, 1958, are set aside, and the complaint is ordered dismissed, without prejudice to the National Rice and Corn Corporation's seeking whatever remedy it is entitled to in the Court of Industrial Relations." [36] Then, too, in a case involving petitioner itself, *Philippine Virginia Tobacco Administration*,[37] where the point in dispute was whether it was respondent Court or a court of first instance that is possessed of competence in a declaratory relief petition for the interpretation of a collective bargaining agreement, one that could readily be thought of as pertaining to the judiciary, the answer was that "unless the law speaks clearly and unequivocally, the choice should fall on the Court of Industrial Relations." [38] Reference to a number of decisions which recognized in the then respondent Court the jurisdiction to determine labor controversies by government-owned or controlled corporations lends support to such an approach.[39] Nor could it be explained only on the assumption that proprietary rather than governmental functions did call for such a conclusion. It is to be admitted that such view was not previously bereft of plausibility. With the aforecited *Agricultural Credit and Cooperative Financing Administration* decision rendering obsolete the *Bacani* doctrine, it has, to use a Wilsonian phrase, now lapsed into "innocuous desuetude." [40] Respondent Court clearly was vested with jurisdiction.

3. The contention of petitioner that the Eight-Hour Labor Law[41] does not apply to it hardly deserves any extended consideration. There is an air of casualness in the way such an argument was advanced in its petition for review as well as in its brief. In both pleadings, it devoted less than a full page to its discussion. There is much to be said for brevity, but not in this case. Such a terse and summary treatment appears to be a reflection more of the inherent weakness of the plea rather than the possession of an advocate's enviable talent for concision. It did cite Section 2 of the Act, but its very language leaves no doubt that "it shall apply to all persons employed in any industry or occupation, whether public or private . xxx" [42] Nor are private respondents included among the employees who are thereby barred from enjoying the statutory benefits it cited *Marcelo vs. Philippine National Red Cross*[43] and *Boy Scouts of the Philippines vs. Araos*. [44] Certainly, the activities to which the two above public corporations devote themselves can easily be distinguished from that engaged in by petitioner. A reference

to the pertinent sections of both Republic Acts 2265 and 2155 on which it relies to obtain a ruling as to its governmental character should render clear the differentiation that exists. If as a result of the appealed order, financial burden would have to be borne by petitioner, it has only itself to blame. It need not have required private respondents to render overtime service. It can hardly be surmised that one of its chief problems is paucity of personnel. That would indeed be a cause for astonishment. It would appear, therefore, that such an objection based on this ground certainly cannot suffice for a reversal. To repeat, respondent Court must be sustained.

WHEREFORE, the appealed Order of March 21, 1970 and the Resolution of respondent Court en banc of May 8, 1970 denying a motion for reconsideration are hereby affirmed. The last sentence of the Order of March 21, 1970 reads as follows: "To find how much each of them [private respondents] is entitled under this judgment, the Chief of the Examining Division, or any of his authorized representative, is hereby directed to make a reexamination of records, papers and documents in the possession of respondent PVTA pertinent and proper under the premises and to submit his report of his findings to the Court for further disposition thereof." Accordingly, as provided by the New Labor Code, this case is referred to the National Labor Relations Commission for further proceedings conformably to law. No costs.

Makalintal, C.J., Castro, Barredo, Antonio, Esguerra, Aquino, Concepcion, Jr., and Martin, JJ., concur.

Makasias and Muñoz Palma, JJ., took no part.

Teehankee, J., is on official leave.

[1] L-21484, November 29, 1969, 30 SCRA 649.

[2] *Alalayan vs. National Power Corporation*, L-24396, July 29, 1968, 24 SCRA 172, 182.

[3] It suffices to note the more detailed provisions on social justice and protection to labor in Article II of the Constitution and the categorical requirement in Section 12 of Article XIV that the State "formulate and implement an agrarian reform program aimed at emancipating the tenant from the bondage of the soil and achieving the goals enunciated in this Constitution."

[4] Cf. Laski, *The State in Theory and Practice* 269 (1935).

[5] Com. Act No. 444 (1939).

[6] Cf. *Petition*, par. V.

[7] Cf. *Ibid*, par. VI.

[8] Cf. *Ibid*, par. VIII.

[9] Cf. *Ibid*, par. IX.

[10] Cf. *Ibid*, pars. X-XII.

[11] Commonwealth Act No. 444 as amended by the Eight-Hour Labor Law. It was approved on June 20, 1959.

[12] It was approved and took effect on June 19, 1959.

[13] Commonwealth Act No. 2265, Section 2.

[14] It was approved and took effect on June 20, 1964.

[15] Republic Act No. 4155, Section 1.

[16] Ibid, Section 2.

[17] L-21484, November 29, 1969, 30 SCRA 649.

[18] 100 Phil. 468 (1956).

[19] 30 SCRA 649, 661-662.

[20] Ibid, 662.

[21] 100 Phil. 468 (1956).

[22] The State (1898).

[23] Ibid, 42.

[24] 39 Phil. 660.

[25] Ibid, 717-718.

[26] L-32096, October 24, 1970, 35 SCRA 481.

[27] Ibid, 491.

[28] Ibid, 491-492.

[29] Laski, op. cit., 75.

[30] 70 Phil. 726 (1940).

[31] Cf. Philippine Air Lines, Inc. vs. Philippine Air Lines Employees Association, L-24626, June 28, 1974, 57 SCRA 489 and Almira vs. B.F. Goodrich Philippines, Inc., L-34974, July 25, 1974, 58 SCRA 120.

[32] 98 Phil. 800 (1956).

[33] Ibid, 806.

[34] 107 Phil. 404 (1960).

[35] 99 Phil. 854 (1956).

[36] Ibid, 411.

[37] Philippine Virginia Tobacco Administration vs. Judge Honorato B. Masakayan, L-29538, November 29, 1972, 48 SCRA 187.

[38] Ibid, 191.

[39] Cf. Price Stabilization Corp. vs. Court of Industrial Relations, L-14613, Nov. 30, 1962, 6 SCRA 745; National Development Co. vs. Court of Industrial Relations, L-15422, Nov. 30, 1962, 6 SCRA 763; Manila Railroad Co. vs. Court of Industrial Relations, L-18389, Jan. 31, 1963, 7 SCRA 174; Insular Sugar Refining Corp. vs. Court of Industrial Relations, L-19247, May 31, 1963, 8 SCRA 270; National Shipyards and Steel Corp. vs. Court of Industrial Relations, L-17874, Aug. 31, 1963, 8 SCRA 781; Manila Railroad Co. vs. Court of Industrial Relations, L-17871, Jan. 31, 1964, 10 SCRA 120; National Waterworks and Sewerage Authority vs. NWSA Consolidated Unions, L-18938, Aug. 31, 1964, 11 SCRA 766; National Shipyards and Steel Corporation vs. Court of Industrial Relations, L-20838, July 30, 1965, 14 SCRA 755; Government Service Insurance System vs. Olase, L-19988, Jan. 5, 1967, 19 SCRA 1; National Shipyards and Steel Corporation vs. Court of Industrial

Relations, L-21675, May 23, 1967, 20 SCRA 134; National Waterworks and Sewerage Authority vs. NWSA Consolidated Union, L-26894, Feb. 28, 1969, 27 SCRA 227; Agricultural Credit and Cooperative Financing Administration vs. Confederation of Unions, L-21484, Nov. 29, 1969, 30 SCRA 649; National Power Corporation vs. National Power Corporation Employees and Workers Association, L-26169, June 30, 1970, 33 SCRA 806; Philippine Charity Sweepstakes Employees Association vs. Court of Industrial Relations, L-34688, Aug. 30, 1972, 46 SCRA 754; National Waterworks and Sewerage Authority vs. NWSA Consolidated Union, L-32019, Oct. 26, 1973, 53 SCRA 432.

[40] There are overtones of the Bacani doctrine in SSS Employees Association vs. Soriano, L-18081, November 18, 1963, 9 SCRA 511 and GSIS vs. GSIS Employees Association, L-17185, February 28, 1964, 10 SCRA 269. It should be obvious that to the extent that they relied on the distinction between constituent and ministrant functions, they are now, in the language of Frankfurter, "derelicts in the sea of constitutional law."

[41] Commonwealth Act No. 444.

[42] The relevant portion of Section 2 of Com. Act No. 444 reads as follows: "This Act shall apply to all persons employed in any industry or occupation, whether public or private, with the exception of farm laborers, laborers who prefer to be paid on piece work basis, managerial employees, outside sales personnel, domestic servants, persons in the personal service of another and members of the family of the employer working for him."

[43] 101 Phil. 545 (1957).

[44] 101 Phil. 1080 (1958).

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