

**UNIVERSAL CORN PRODUCTS INC., ET AL.,
PETITIONERS-APPELLANTS, VS. RICE AND CORN BOARD, ET AL.,
RESPONDENTS-APPELLEES.**

G.R. No. L-21013. August 17, 1967

Ponente: FERNANDO, J.

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FERNANDO, J.:

Appeal from a judgment of Judge Guillermo Torres of Pasig, Rizal dated August 6, 1962, dismissing an amended petition for declaratory relief seeking a judicial declaration of illegality of the construction placed by respondent Rice and Corn Board of its Resolution No. 10 in connection with Section 2-A of Commonwealth Act No. 108. What was sought, without success, was a ruling that petitioner Universal Corn Products, Inc. could retain its co-petitioners, all aliens, in its employ, contending that a dismissal from employment on the strength of the aforesaid construction by respondents would be to give it a retroactive, and under the circumstances, an un-constitutional effect.

The amended petition of February 8, 1961 after the averments as to the petitioners and respondents alleged that pursuant to the power vested in respondent Rice and Corn Board by Section 6 of Republic Act No. 3018, Resolution No. 10 was promulgated dated November 21, 1960, a particular regulation of which specifically provides: "No person who is not a citizen of the Philippines shall be employed in any capacity in any Filipino-owned establishment engaged in any of the lines of activity in the rice and/or corn industry except technical personnel whose employment may be authorized by the President of the Philippines upon recommendation of the Rice and Corn Board." [1] Then came a paragraph that petitioner Universal Corn Products, Inc. "is a corporation the capital stock of which is wholly owned by citizens of the Philippines and is engaged in certain lines of activity covered by Republic Act No. 3018 and Resolution No. 10 of the Rice and Corn Board." [2] It was then stated that all its employees numbering over 200 are Filipinos, with the exception of co-petitioners, then holding the positions of executive vice-president, comptroller, sales manager, chief warehouseman, assistant plant superintendent, cashier, and sales supervisor, [3] and that such alien employees "have been with the Universal Corn Products, Inc. long before the enactment into law of Republic Act No. 3018 and the promulgation of Resolution No. 10 of the Rice and Corn Board." [4] The next two paragraphs would impugn the construction placed on Resolution No. 10 for its retroactivity insofar as it would be made to apply to the alien petitioners with the result that their dismissal would be called for and for its unconstitutionality insofar as such individuals and other persons similarly situated would be deprived of their means of livelihood without due process of law and would be denied the equal protection of the law. The amended petition next stressed the propriety of a judicial declaration as to the interpretation that must be placed on the aforesaid Resolution No. 10 and Section 2-A of Commonwealth Act No. 108 to avoid the taint of retroactivity and unconstitutionality. [5]

Respondents, the National Rice and Corn Board and its chairman as well as members, in their answer of March 9, 1961, in effect admitted the allegations of the petition but denied the legal conclusion asserted by petitioners to flow therefrom. More specifically, they disputed the alleged retroactive character of the construction, the truth

according to them being that regardless of the date of employment, "upon the passage of Republic Act No. 3018 and the regulation in question," which is a mere reproduction of Section 2-A of Commonwealth Act No. 108 as amended by Republic Act No. 134 "employment of aliens in the regulated industry has become unlawful and contracts of employment entered prior to the passage of Republic Act No. 3018 have become legally impossible of performance * * *." [6] Respondents likewise denied the allegation of unconstitutionality on due process and equal protection grounds, the statute being a valid measure under the police power of the State * * * . [7] There were likewise allegations as to the impropriety of the action for declaratory relief and the absence of a cause of action. [8] After invoking special defenses centered mainly on the validity under American constitutional law doctrines of the action taken by respondents, respondents prayed for the dismissal of the petition, with costs, which, as above pointed out, was granted by the lower court in the decision, now the subject of this appeal.

The decision must be affirmed. There is no valid ground for reversal. The contention that the interpretation by respondents of Resolution No. 10 and Section 2-A of Commonwealth Act No. 108 suffers from the vice of retroactivity or afflicted with the taint of unconstitutionality is far from persuasive.

On the question of the retroactivity of the construction placed by respondent Rice and Corn Board on its Resolution No. 10 in connection with Section 2-A of Commonwealth Act No. 108, it is undeniable of course that if such be the case petitioners could successfully impugn the appealed decision. For as early as 1913, this Court with Justice Moreland as ponente announced: "It is a rule of statutory construction that all statutes are to be construed as having only a prospective operation unless the purpose and intention of the Legislature to give them a retrospective effect is expressly declared or is necessarily implied from the language used. In every case of doubt, the doubt must be re-solved against the retrospective effect. The cases supporting this rule are almost without number." [9] Subsequently in 1925, this Court through Justice Malcolm reiterated the doctrine. Thus: "A sound canon of statutory construction is that a statute operates prospectively only and never retroactively, unless the legislative intent to the contrary is made manifest either by the express terms of the statute or by necessary implication. Following the lead of the United States Supreme Court and putting the rule more strongly, a statute ought not to receive a construction making it act retroactively, unless the words are so clear, strong, and imperative that no other meaning can be annexed to them, or unless the intention of the legislature cannot be otherwise satisfied. No court will hold a statute to be retroactive when the legislature has not said so." [10] That is still the rule; it has stood the test of time. [11]

It suffices to refer to the pertinent provision of Republic Act No. 3018 to show that the imputation of retroactivity lacks support in law. The act was approved on August 2, 1960 and made to take effect on January 1, 1961, except as to certain provisions specifically designated. More precisely, with reference to rules and regulations, it is provided that they could be issued by the Rice and Corn Board within thirty (30) days from the date of approval, namely, August 2, 1960; such rules and regulations which may be necessary to carry out its provision shall take effect fifteen (15) days after their publication in a newspaper of general circulation printed in Manila. [12] Barely two months ago, where it was shown that the collection of interest on a deficiency income tax assessment dated only from the effectivity of the applicable Republic Act, such deficiency income taxes in question having been assessed and unpaid before such a date, this Court, speaking through Justice J.B.L. Reyes, sustained the Court of Tax Appeals in its holding "that said Section 51(d), as amended, is not being applied retroactively as contended by petitioner herein. [13] To the same effect is this citation from *Salcedo and Ignacio v. Carpio*: [14] "We are sorry to say that this contention is not correct. To apply the provision of Republic Act No. 546 to the petitioners is not to apply it retrospectively, because to do so is to make said Act merely effective, not before, but after the date it was approved or became effective, and it will affect their continuance in office, not before but after the approval of Republic Act No. 546. The fact that they have been appointed prior thereto does not make said Act of retroactive effect."

Two recent decisions speak, similarly, *People v. Yu Bao*[15] and *People v. Ong Tin*.[16] According to the former: "Lastly, appellant would have us declare the penal provisions of Republic Act No. 1180 in the nature of an ex post facto law and, therefore, unconstitutional, if applied to his case, upon the argument that although he was not yet engaged in the retail business on May 15, 1954, he was issued a license to engage therein and had entered the retail business on May 22, 1954, prior to the approval of the Act on June 19, 1954; and yet his having so engaged, although legal at its inception has been penalized and made criminal by the law. We also find this argument unattainable. An ex post facto law is one that 'makes an act done before the passage of a law, innocent when done, criminal and punish (es) such act * * (Mekin v. Wolfe, 2 Phil. 74). Applied to appellant's case, Republic Act No. 1180 does not penalize this alien appellant for having engaged in the retail business prior to its approval; what the law penalizes is his having done so thereafter." According to the latter: "The next issue raised by defense counsel refers to the proposition that even assuming that Republic Act No. 1180 is constitutional, yet the same does not apply to the accused inasmuch as he has obtained his permit and license to engage in the retail trade before said law was approved and before it became effective. We find no merit in this contention because the acts constituting the crime for which appellant has been convicted in the case at bar were all executed after the effectivity of Republic Act No. 1180, and by no means can We consider appellant's conviction as the result of the application to him of an ex post facto law."

Petitioners are vocal in their fears that to construe Resolution No. 10 in connection with Section 2-A of Commonwealth Act No. 108 as to require the dismissal of alien personnel would be to run the risk of an unconstitutional interpretation. Such doubts and misgivings are unjustified. A recent decision of this Court, *King v. Hernaez*,[17] of far-reaching significance, ought to have stilled such misplaced apprehension. Thus: "It is hard to see how the nationalization of employment in the Philippines can run counter to any provision of our Constitution considering that its aim is not exactly to deprive a citizen of a right that he may exercise under it but rather to promote, enhance and protect those that are expressly accorded to a citizen such as the right to life, liberty and pursuit of happiness. The nationalization of an economic measure when founded on grounds of public policy cannot be branded as unjust, arbitrary or oppressive or contrary to the Constitution because its aim is merely to further the material progress and welfare of the citizens of the country. This is what we expressed in no uncertain terms in the *Ichong* case when we declared constitutional the nationalization of the retail trade. Indeed, we said there that it is a law 'clearly in the interest of the public, nay of the national security itself, and indisputably falls within the scope of police power, through which and by which the State insures its existence and security and the supreme welfare of its citizens.' True, this fundamental policy was expressed in a decision the subject of which concerns the constitutionality of the Retail Trade Act, but since the Anti-Dummy Law is but a mere complement of the former in the sense that it is designed to make effective its aims and purposes and both tend to accomplish the same objective either by excluding aliens from owning any retail trade or by banning their employment if the trade is owned by Filipinos, and the target of both is 'the removal and eradication of the shackles of foreign economic control and domination' thru the nationalization of the retail trade both in ownership and employment, the pronouncement made in one regarding its constitutionality applies equally if not with greater reason to the other both being complementary one to the other. Indeed, in nationalizing employment in retail trade the right of choice of an employer is not impaired but its sphere is merely limited to the citizens to the exclusion of those of other nationalities."

WHEREFORE, the judgment appealed from is affirmed. With costs against petitioners.

Reyes, Makalintal, Bengzon, Zaldivar, Sanchez, and Angeles, JJ., concur.

Concepcion, C.J., and Dizon, J., on official leave.

Castro, J., in the result.

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- [1] Paragraph 3, Petition.
- [2] Paragraph 4, Petition.
- [3] Paragraph 5, Petition.
- [4] Paragraph 6, Petition.
- [5] Paragraph 13, Petition.
- [6] Paragraph 4, Answer.
- [7] Paragraphs 5 & 6, Answer.
- [8] Paragraphs 6 & 9, Answer.
- [9] *Montilla v. Augustinian Corp.* (1913), 23 Phil. 220, 222.
- [10] *Segovia v. Noel* (1925), 47 Phil. 543, 546. An earlier opinion to the same effect is *In re Will of Riosa* (1918), 39 Phil. 23.
- [11] Thus *Justices Street (Asiatic Petroleum Co. v. Llanes* [1926], 49 Phil. 466, 469-470; *De Mesa v. Collector of Internal Revenue* [1929], 53 Phil. 342, 345), *Imperial (La Paz Ice Plant & Cold Storage Co., Inc. v. Bordman & Iloilo Commercial & Ice Co.* [1938], 65 Phil. 401, 406-407; *La Previsora Filipina v. Ledda* [1938], 66 Phil. 573, 577; *The Manila Trading & Supply Co. v. Santos* [1938], 66 Phil. 237, 239-240), *Recto (China Ins. & Sty. Co. v. Judge* [1936], 63 Phil. 320,327), *Villa-Real (Hosana v. Diomano* [1927], 56 Phil. 742, 746), *Padilla (Tolentino v. Angeles* [1956], 99 Phil. 309, 316), *Reyes, A. (Tamayo v. Manila Hotel Co.* [1951], 101 Phil. 810, 813) *Paredes (Buyco v. PNB, L-14406, June 30, 1961; Billones v. Court, L-17566 & Villardo v. Court, L-17567, July 30, 1965)* and *Chief Justice Concepcion (Valencia v. Hon. Jose T. Surtida, L-17277, May 31, 1961).*
- [12] Section 6, Republic Act No. 3018.
- [13] *Central Azucarera de Don Pedro v. Court, L-23236 & L-23254, May 31, 1967.*
- [14] 89 Phil. 254, 258 (1951).
- [15] 103 Phil. 271, 276 (1958).
- [16] 103 Phil. 476, 480 (1958).
- [17] L-14859, March 31, 1962.

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