

AMADO B. PARREÑO, PLAINTIFF AND APPELLANT, VS. HON. JAMES P. MCGRANERY, ATTORNEY GENERAL OF THE UNITED STATES, DEFENDANT AND APPELLEE.

G. R. No. L-4263. March 12, 1953

Ponente: TUASON, J.

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TUASON, J.:

This is an appeal from an order of Honorable Eduardo D. Enriquez, Judge of the Court of First Instance of Negros Occidental, dismissing the complaint on the grounds that the court had no jurisdiction of the person of the defendant and of the subject matter of the action.

The suit was brought by Amado B. Parreño against the Philippine Alien Property Administrator, later substituted by the Attorney General of the United States, to collect the sum of P13,063 out of the proceeds of real and personal properties of Kokichi Ishiwata, a Japanese national, which had been vested in and transferred to the defendant. The amount was alleged to be due for legal services rendered by the plaintiff to Ishiwata before the outbreak of the recent world war. In the complaint the plaintiff asked for, and Honorable Jose Teodoro, Sr., Judge of another branch of the same court, issued a writ of attachment, which was levied on one of the vested lots and its improvements.

It is a widely accepted principle of international law, which is made a part of the law of the land (Article II, Section 3, of the Constitution, that a foreign state may not be brought to suit before the courts of another state or its own courts without its consent. This principle was expressly recognized by the courts of the Philippines in various cases, among which were *Syquia vs. Lopez*,^[1] et al., G. R. No. L-1648; *Marvel Building Corp. vs. Philippine War Damage Commission*,^[2] G. R. No. L-1822; *Marquez Lim vs. Nelson*,^[3] et al., G. R. No. L-2412.

Plaintiff and appellant, however, in his sole assignment of error contends that "this action is not a suit against the United States," pointing out that "the decisive test is whether or not the claim of the plaintiff should it be granted or awarded will constitute a charge against or financial liability to the Treasury of the United States Government," and that by his allegations the relief sought is not to be satisfied from that source.

That a suit against the Attorney General of the United States to establish a claim under the Trading with the Enemy Act of October 6, 1917, falls within the rule of government immunity to suit is not open to question. (*Banco Mexicano vs. Deutsche Bank*, 263 U. S. 591, 603; *Henkels vs. Sutherland*, 271 U. S. 298; *Becker Steel Co. vs. Cummings*, 296 U. S. 74, 78; *Cummings vs. Deutsche Bank*, 300 U. S. 115, 118; *Von Bruning vs. Sutherland*, 29 F. [2d] 631.) In *Banco Mexicano vs. Deutsche Bank*, supra, the Court said:

"* * * we agree with the Court of Appeals that this suit is in effect a suit against the United States of America and all of its conditions must obtain." And in *Cummings vs. Deutsche Bank*, supra: "* * * The title acquired by the United States was absolute and unaffected by definitions of duties or limitations upon the power of the Custodian or the Treasurer of the United States. * * * To the extent that the argument rests upon the assumption * * * that the United States did not acquire absolute title, it is fallacious and need not be noticed."

This principle was expressly followed in this jurisdiction in the case of Miguel Socco Reyes vs. Philippine Alien Property Administrator [*] et al., G. R. No. L-2879, where it was said: "* * * The Philippine Alien Property Administrator was not a debtor of Teizo Mori, because the latter had been divested of any title or interest in the properties formerly owned by him and registered in his name after Vesting Order No. P-7 had been executed, and because the said properties after Vesting Order No. P-7 had been executed, and after they had been sold, the proceeds realized from the sale thereof, belonged to the Government of the United States of America."

As an alternative proposition appellant calls attention to Section 3 of United States Public Law No. 485, otherwise known as Philippine Property Act of 1946, which provides in effect that any suit authorized under section 9 (a) of the Trading With the Enemy Act, like the present suit, may be brought in the courts of the Philippines if the action arises with respect to property located in the Philippines at the time of the vesting. But by United States Public Law No. 671 approved on August 8, 1946, which came to be known as Section 34 of the Trading With the Enemy Act, there was enacted a procedure for the equitable payment by the Custodian of debt claims and for review by the District Court for the District of Columbia of any disallowance by the said Custodian. Providing that "suits for the satisfaction of debt claims shall not be instituted, prosecuted or further maintained except in conformity with this section," the new enactment superseded or amended section 9(a) of the Trading With the Enemy Act, so that no claims in any court other than the District Court for the District of Columbia against the Custodian may thereafter be allowed. Section 34 has been construed to extend even to suits already validly commenced under section 9(a). See *Cabell vs. Clark*, 162 F. [2d] 153.

It is asserted that Section 34 "could not in any way repeal or abrogate the provisions of the Property Act of 1946 vesting jurisdiction on Courts of First Instance to try and hear cases against an officer of the Property Alien Administration, after the granting of its (Philippine) independence on July 4, 1946."

As a general proposition, the right of the government to withdraw its consent to be sued can not seriously be challenged. In the particular case at bar, there was the circumstance that the continuation of the Trading With the Enemy Act in the Philippines after July 1, 1946, was agreed upon by the United States and the Philippine Governments, and Section 34 was implicitly if not expressly accepted by the latter. At the time there remained a large amount of Japanese property in the Philippines which had not been vested or liquidated and which, according to the desire of both governments, was to be transferred to the Philippine Government after settlement of all claims against it and its former owners and in line with international obligations; and it was believed and agreed that the only government which could vest such property and should have jurisdiction in this field was that of the United States. See Joint Statement of President Roxas and Ambassador McNutt printed in House (U. S.) Report No. 2296; Press Release August 22, 1946, Statement by United States Ambassador Paul V. McNutt; Philippine Property Act of 1946; Proclamation of (Philippine) Independence; Statement of President Roxas contained in Senate (U. S.) Report No. 1578; Joint Statement of President Roxas and United States Commissioner Paul V. McNutt quoted in House (U. S.) Report No. 2296 and Senate (U. S.) Report No. 1578.

As to the amendment of the Trading With the Enemy Act, the change was calculated to accomplish no more than an improvement of the procedure in the settlement and liquidation of debt claims mainly in the interest of the claimants themselves. Whereas under section 9(a) payment was allowed under the principle of "first come, first served", Section 34 has set up an orderly scheme of priorities and equitable distribution of the assets among the creditors. Senate Report No. 1839 and House Report No. 2398, both of the 79th United States Congress, 2nd Session, explained: "[Subsections 34(e) and (f)] provide that the United States District Court for the District of Columbia shall be the forum for review. Since the procedure calls for a marshaling of claims and since, on review, the court may have to give consideration to the entire account, it would cause a serious breakdown in administrative and judicial proceedings if debt claim determinations were reviewed by the several district courts

throughout the country. It is believed that the matter must be centralized and no injustice should result."

The order dismissing the complaint is therefore affirmed with costs against the plaintiff and appellant.

Paras, C. J., Pablo, Padilla, Reyes, Bautista Angelo, Feria, Bengzon, Montemayor, Jugo and Labrador, JJ., concur.

[1] 84 Phil., 312.

[2] 85 Phil., 27.

[3] 87 Phil., 328.

[*] 86 Phil., 181.

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